

No. 148-1

Division No. 1

Bella Fourche Water District

PERMIT

to appropriate water from

Spearfish Creek
Lawrence County, South Dakota

Name of applicant City of

Spearfish

Name of diversion works Spearfish

Canyon City Water Intake

Date of first receipt at office of State En-

gineer January 27 1930

Returned to applicant for Correction

19

Corrected application received

19

Date of water right

19

Recorded in Book Two Page 328

One-fifth of work to be completed

November 5, 1933

Whole work to be completed

May 10 1935

Final proof of use of water

May 10, 1935

Approved May 10 1930

Chas. A. Trimmer

State Engineer.

No. 148-1

Water Division No. 1

Belle Fourche Water District.

(Blank to be filled by the State Engineer.)

APPLICATION FOR A PERMIT

To Appropriate Water Within the State of South Dakota

RECEIVED
JAN 27 1930
OFFICE OF STATE ENGINEER
PIERRE, S. DAK.

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

1. Name of applicant City of SpearfishPostoffice address Spearfish County Lawrence State South DakotaI. If a corporation: A municipal corporation(a) Name of same City of Spearfish(b) Date and place of incorporation Special Law of 1885(c) Amount of capital stock None(d) Amount paid in None

(e) Names and addresses of directors:

J. W. Smoots, Mayor; Hubert Dickey, City Auditor; Geo. D. Blaka, Treas.;Charles Cooper, Dr. G. H. Miller; Nels Bratke; Roger Renschel; E. C.Emmerson; and Allan Toomey, Aldermen.

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

II. Method of accomplishing the work and financial resources of the applicant:

(a) Method of accomplishing the work. (Whether by contract, employment of others, or by direct labor) Principally by contract(b) Cash on hand, Current City Funds (c) Treasury stock, None(d) Bonds to be issued, \$50,000 (e) Other resources, Legal Limit of Indebtedness2. Name of diversion works Spearfish Canyon City Water Intake3. Quantity of water claimed 1.5 cubic feet per second.4. Source of water supply Spearfish Creek5. Location of point of diversion Intake to pipe line on Spearfish Creek is 820 ft. south and 360 ft. west of corner common to sections 27, 28, 33 and 34, Twp. 6 N. R. 2 E. of B.H. Mon. in Spearfish Creek bank.
(Right or left bank looking down stream.)6. Annual periods during which water is to be used Continuously7. To be used for: To supply City and inhabitants with water for domesticI. Irrigation or domestic use: and usual municipal purposes.(a) Number of acres to be irrigated desired areas within City Limits(b) Legal subdivisions to be irrigated Spearfish Normal Grounds City of Spearfish, South Dakota and

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

(c) Statement as to domestic use (giving location, etc.) The water is to be used for all domestic irrigation, manufacturing and other municipal purposes desired by the citizens of Spearfish.

II. Mining, power, manufacturing, transportation, or other purposes:

(a) Nature of use None, except such water as is purchased from the City for use in manufacturing or power plant purposes.(b) Amount of power to be generated Unknown horse power.(c) Location of plant Unknown(d) Method of developing power Unknown(e) Point where water will be returned to stream Unknown

8. Estimated cost of work on water intake
- (a) Head gate, \$ 880.00 (b) Pumping plant, \$ None
- (c) Pipe line, \$ 40,000.00 (d) Canal earth, \$ None Rock, \$ None
- (e) Other structures on Cemetery Hill, \$ 4,700.00 Total, \$

9. Description of diversion works

Nature of work: (Reservoir, dam, ditch, flume, pumping plant, etc.) Concrete intake in Spearfish Canyon. Pipe line to 20,000 gallon concrete reservoir on Cemetery Hill. Water distribution system in Spearfish.

- (a) Dam: Height _____ feet, length at bottom _____ feet, width at top _____ feet, thickness at bottom _____ feet, thickness at top _____ feet. Dam and headgate consists of a concrete box approx. 5 ft. sq. and 5 ft. depth in Spearfish Creek at upper end of pipe line with opening inside of box through which in dry seasons the entire surface flow of the creek enters the box. During flood flow of the creek a part of the water passes the box.
- (b) Reservoir: Capacity when filled 205,000 gal. Surface area at high water mark _____ acres.

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

- (c) Head gate: Width 200 above _____ feet; height _____ feet; Material _____
- (d) Canal: Total length None _____ miles.

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

(Give dimensions where reductions in size are made.)

10. Time required for completion of work At once _____ yrs.
11. Time required for complete application of water to the proposed beneficial use _____ years.
12. Choice of newspaper for publication of notice of intention to appropriate Queen City Mail

STATE OF SOUTH DAKOTA,

County of Lawrence

I, W. Smoots, being first duly sworn on my oath depose and say: That my relation to the above described undertaking is that of the duly elected and acting Mayor of the City of Spearfish that I have read the above and foregoing statement, and examined the map accompanying the same, and that I know of my own personal knowledge that the matters therein stated and shown are true.

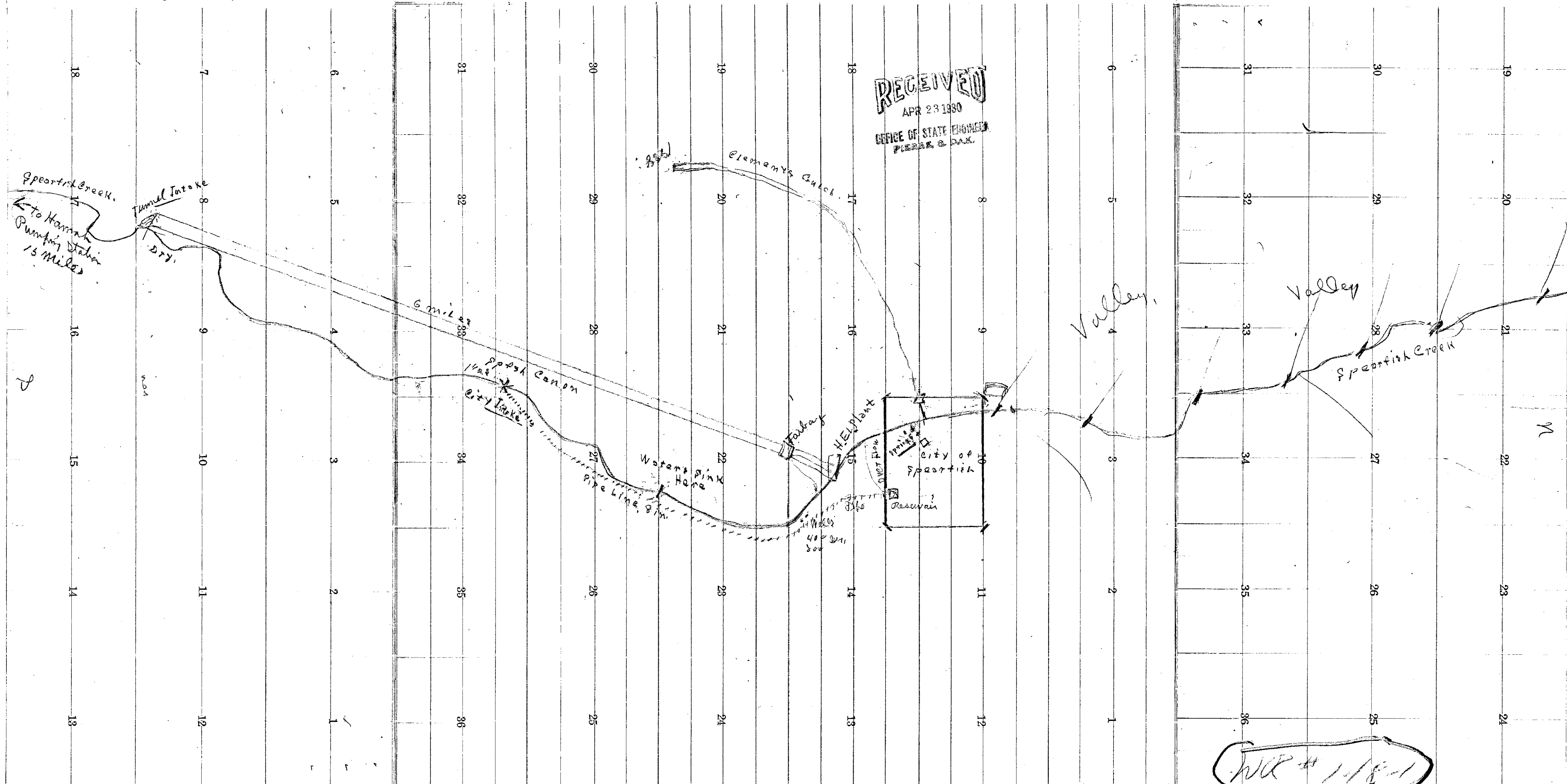
Signed _____

Subscribed and sworn to before me this 18 day of Jan. 1930

Com. Expires June 18, 1933.

Notary Public (or other qualified officer.)

167-1



NR # 1/18-1
167-1

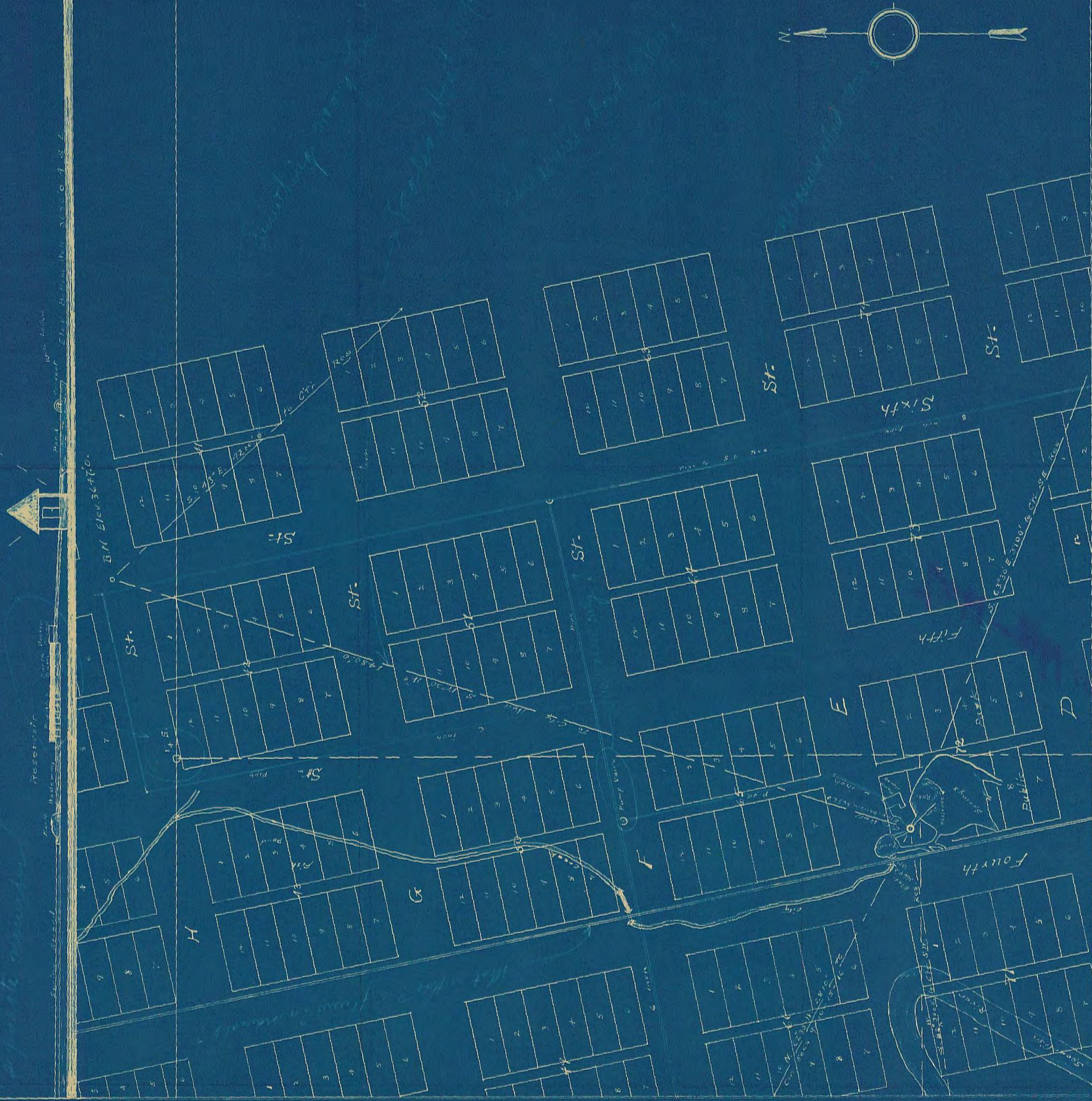
Flow 3088 ft. 5.1
Bottom S.W. Reservoir
Depth of water 10.5 ft
June 27 1928.

Capacity - 150,000 Gals.
(1100 feet from Spearfish face of dam)

Capacity - 205,000 Gals.
Classified from Spearfish Cr.
Div. Division on SE 1/4 NE 1/4
Sec. 33, Twp. 6 N., Rge. 2 E., B.M.

Bottom S.W. Reservoir
Depth of water 8 ft.
June 27, 1928.

Scale - 1 inch = 20 ft.



State of South Dakota ss.

County of Lawrence ss.
upon my oath say that I, Leroy T. Leach, being duly sworn
Spearfish Pumping Station No. 1 survey, that the survey
and map thereof were made by me (or under
my direction) and that I have read the ac-
companying statement and know of my own
knowledge that the statements made therein
are true.

Leroy T. Leach, C.E.,
Registered Prof. Engr. &
Land Surveyor.
Subscribed and sworn to before me this
day of July, 1928.

Notary Public.

PLAT OF
PUMPING STATION NO. 1.
FOR CITY SUPPLY
OF

SPEARFISH

SOUTH DAKOTA

LEROY T. LEACH, C.E.,
Registered
Professional Engineer & Land Surveyor
DEADWOOD, S.D.

Scale - 1 inch = 200'

Source of water supply - Springs
Amount Available - 2,450 S. Ft.
Amount Applied For - 2 S. Ft.
Amount now used - 350 Gals. P.M.
Pump Deming Trip/lex.
Cap. 350 Gals. P.M. at 60 Rev.
P.M. Power Electric, 55 H.P.
Dam - 2 ft. high.
Location, present point of diversion
- NE 1/4 of NW 1/4 Sec. 15, Twp. 6 N.
Rge. 2 E., B.M.M.
Capacity of present diversion
reservoir - 3400 Cu. Ft.
Amount of discharge into City
well - 1 sec. foot, June 29, 1928.
Mag. Var. 15° E.

MAP TO ACCOMPANY APPLICATION OF THE CITY OF SPEARFISH S.D.

FOR
WATER RIGHTS IN SPEARFISH CANYON, IN CLEMENS
GULCH AND FROM SPEARFISH CREEK IN BLOCK 72 IN
CITY OF SPEARFISH

I, Edward K. Mather, a duly licensed surveyor do hereby certify that the accompanying map shows the location of existing sources of water supply of the Spearfish city water works and pipe lines leading to said city of Spearfish.

In Witness Whereof I have hereunto set my hand and seal this 29th day of May, 1929.

DAKOTA ENGINEERING COMPANY

Edward K. Mather
Registered Land Surveyor

State of South Dakota

SS

County of Davison

On this 29th day of May in the year 1929 before me personally appeared Edward K. Mather, known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that he executed the same.

William R. Danforth
Notary Public, S. Dakota

DEEDED WATER RIGHTS BELONGING TO CITY OF SPEARFISH

Deed Record 51:102, 62:491, 211:398

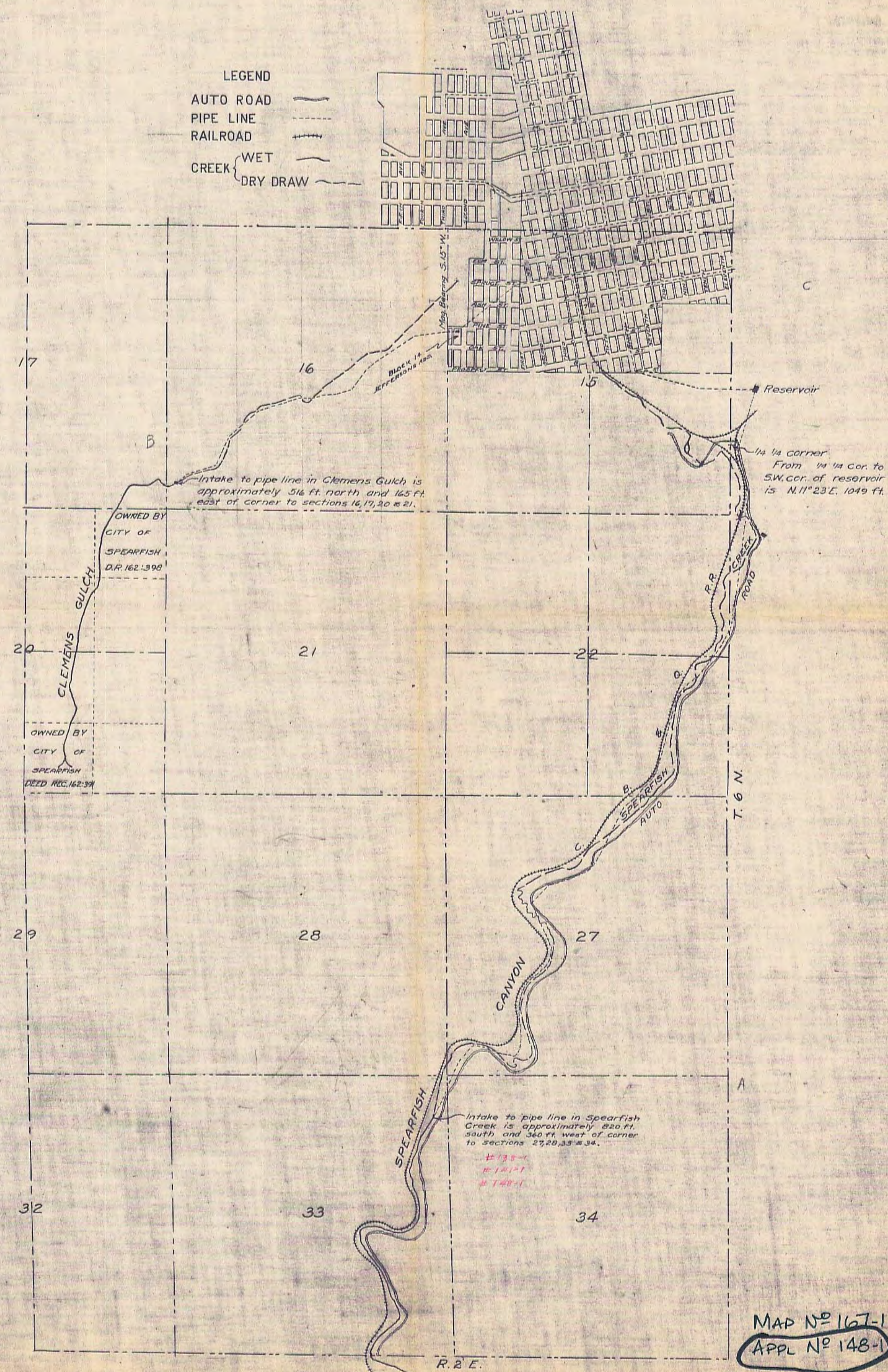
"50 inches of water from spring or stream on SW. 1/4 of SW. 1/4 section 16-6-2."

Deed Record 51:102, 62:491, 211:398

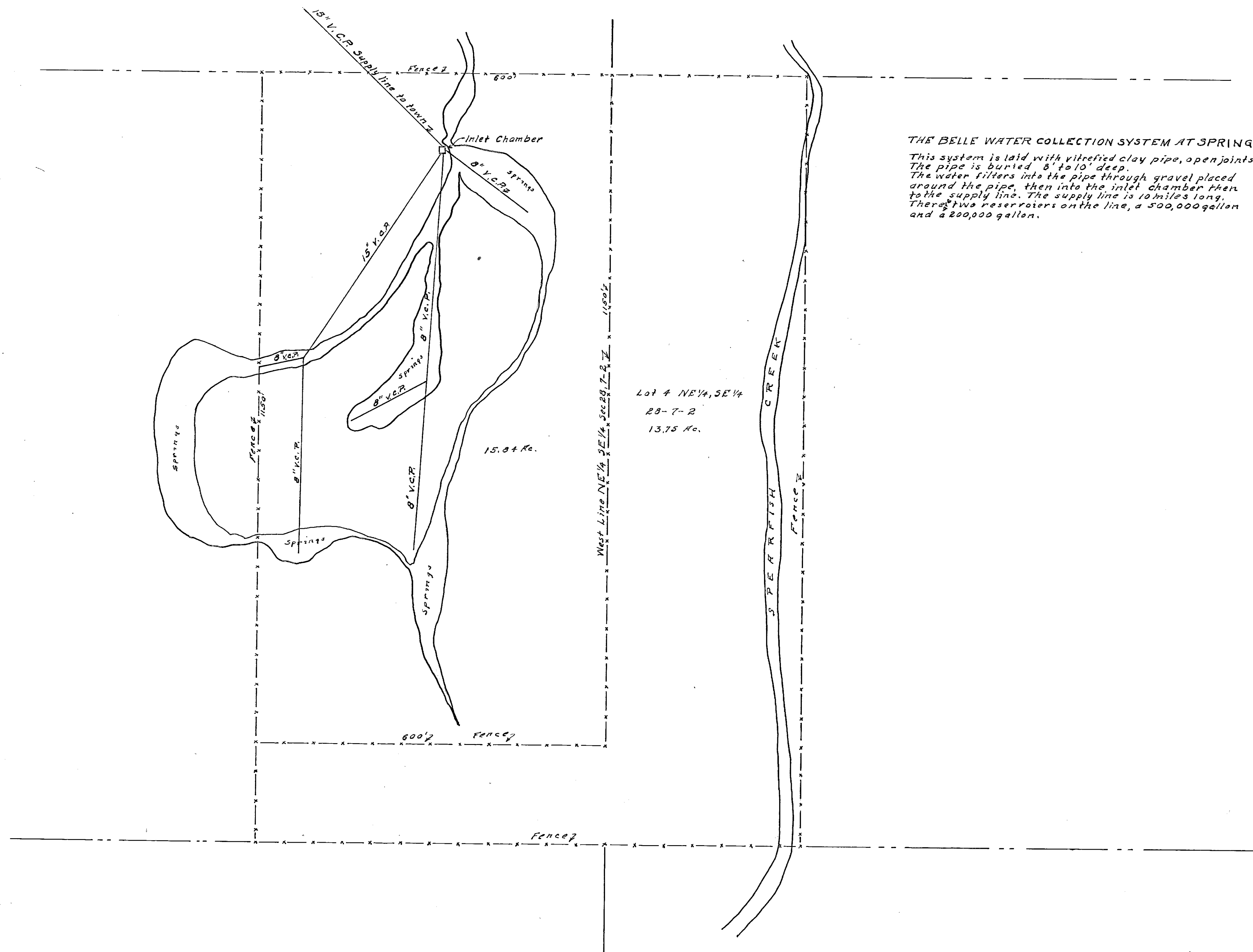
"50 inches of water from spring or stream on SE. 1/4 of SW. 1/4 section 16-6-2."

Deed Record 38:577, 150:232

"A ditch out of the small spring branch of the creek running through sections 16 and 10 in T.6N., R.2E. of the B.H.M. and emptying into Spearfish Creek, the capacity of said ditch being fifty miners inches of water."



MAP OF THE SOURCE OF THE BELLE FOURCHE, SO. DAK. MUNICIPAL WATER SUPPLY, LOCATED IN THE N. 1/2 OF THE SE 1/4 OF SECTION 28 TOWNSHIP 7 NORTH OF RANGE 2 EAST OF THE BLACK HILLS MERIDIAN, ALL IN LAWRENCE COUNTY, SO. DAK. FORMERLY KNOWN AS THE SCHMIDT SPRINGS, NOW CALLED THE BELLE FOURCHE CITY SPRINGS.



THE BELLE WATER COLLECTION SYSTEM AT SPRINGS.
This system is laid with vitrefied clay pipe, open joints. The pipe is buried 8' to 10' deep. The water filters into the pipe through gravel placed around the pipe, then into the inlet chamber then to the supply line. The supply line is 10 miles long. There are two reservoirs on the line, a 500,000 gallon and a 200,000 gallon.

#167-1

RECEIVED
DEC 9 1938
OFFICE OF STATE ENGINEER
SOUTH DAKOTA

Drawn by	Barron A. Nangle
Date	11-25-1938
Office of	City Engineer.
Scale	1" = 100'

Remarks by State Engineer:

This permit is granted with the understanding that the total amount of water claimed by the City of Spearfish is in excess of the amount ordinarily required for usual municipal uses, and upon the basis that only the usual municipal requirements will be used; provided that such quantity as may be required within the limits of the appropriated amount will be available whenever, and for such duration of time as the same may be needed and required for fire protection.

STATE OF SOUTH DAKOTA
County of Hughes } ss.

Pierre, South Dakota, May 10, 1930

This is to certify that the foregoing application was received at this office at 8:00 o'clock a. m. upon the 27th day of January 1930 and that after examination it was approved subject to conditions above stated after notice duly published and hearing held.

Chas. A. Zimmerman
State Engineer.

Number of permit 148-1

Date of first receipt of application January 27, 1930

Date of return to applicant for correction 19

Date of receipt of corrected application 19

Date from which applicant may claim right January 27, 1930

Approved May 10, 1930, Recorded in Book Two Page 388

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

- 1st. The equivalent of at least one-fifth of the work above specified is to be completed on or before Nov. 5, 1933
- 2nd. The whole of said work is to be completed on or before May 10, 1935
- 3rd. The limit of time for proof of beneficial use of water appropriated in accordance herewith is May 10, 1935
- 4th. The water appropriated shall be used for the purpose of domestic use, irrigation, and other purposes desired by the City of Spearfish.
- 5th. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.
- 6th. The amount of the appropriation herein granted shall not exceed 1.5 cubic feet of water per second of time; neither shall it exceed the capacity of the above described system of diversion works, nor the least amount of water that experience may hereafter indicate as necessary for the production of crops in the exercise of the best husbandry; and further, said appropriation must be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for irrigation on or before May 10, 1935

Said water to be used during the following described annual periods.

Continuously

Witness my hand this 10th day of May 1930

Chas. A. Zimmerman
State Engineer.

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 148-1

(1) WHEREAS, On the 27th day of January A. D. 19 30
the City of Spearfish

made Water Right Application No. 148-1 for a permit to use 1.5 cubic feet per second of the waters
of Spearfish Creek

County of Lawrence, State of South Dakota, for municipal

purposes and

(2) WHEREAS, On the 10th day of May A. D. 19 30

Permit No. 148-1, with a date of priority of January 27, 1930

was issued to said applicant for the diversion of said water, and provided for the completion of construction of the water
supply system therein described on or before the 10th day of May A. D. 19 35 and for the
application to beneficial use of said water on or before the 10th day of May A. D. 19 35,

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

and;

(3) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota
relating to completion of the construction of the water supply system and is entitled to divert 1.5 cubic feet
per second of water for beneficial use and.

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

water is used for municipal purposes by the City of Spearfish

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

_____ 881 _____
the holder _____ and owner _____ of said permit No. 148-1 a water right dating from January 27, 1930
_____ to use of 1.5 _____ cubic feet per second of the waters
of Spearfish Creek

in the County of Lawrence and State of South Dakota, or so much thereof as may be necessary for the
purpose hereinafter mentioned, to be diverted at a point 820 ft. South and 360 ft. West of the NE
Corner, Section 33, T5N, R2E, which is a common diversion point for Permits
Nos. 141-1 and 138-1

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

for the purpose of municipal use

Subject to any limitations listed in Water Right Permit No. 148-1 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota

this 17th day of August A. D.

Nineteen Hundred and Seventy-two

WATER RESOURCES COMMISSION

By:

Chief Engineer, Executive Officer J.W. GRIMES

Form 15.

Permit No. 148-1

Water Division No. 1 BELLE FOURCHE RIVER Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That the City of Spearfish

_____ the holder _____ of
Permit No. 148-1, issued upon Application No. 148-1, bearing date of priority of January 27,
1930 authorizing the diversion of 1.5 cu. ft. per second of the waters of _____
Spearfish Creek County of Lawrence, State of South Dakota at _____
a point 820 ft. South and 360 ft. West of the NE Corner, Section 33, T5N, R2E
which is a common diversion point for Permits Nos. 141-1 and 138-1
_____, for municipal

purposes, has _____ complied with the provisions of the laws of the State of South Dakota relating to proof of
completion of the works of diversion set out and described in said Permit; that said works are verified as satisfactory
condition for diverting and conveying to the place of intended use 1.5 cu. ft. per second of water.

Date August 17, 1972

WATER RESOURCES COMMISSION

By:

J.W. GRIMES, Executive Officer

NOTE:

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

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

Name of Applicant (Same as Form 2) CITY OF SPEARFISHPost Office Address _____, State S. DAK

If a Corporation show date and place of incorporation _____

13. Notice of Appropriation (If available)

Date of Posting JANUARY 27, 1930 Date of Recording MAY 10, 1930

Recording Data _____

14. Date of start of construction of water supply system SPRING 193015. Date that water was first applied to beneficial use SUMMER 193016. Name of owner of original water supply system CITY OF SPEARFISH17. Amount of water originally applied to beneficial use 1.5 c. f. s.

18. Present Use of Water

Amount of water now being used 1.5 c. f. s.Date that this amount of water was first used SUMMER 1930

19. Chronological History of Water 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, R. EARL SCHULTZ, the applicant, certify that I have read the foregoing and that the matters herein stated are true.

Signed

R. Earl SchultzSubscribed and sworn to before me this 20th day of JULY, 1932

Jan Herington
(Notary Public or other qualified Officer)

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

Permit No. 148-1Water Division 1 BELLE FOURCHE RIVER Water DistrictREPORT OF EXAMINATION OF WORKS
AND/OR APPLICATION OF WATER TO BENEFICIAL USE

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

I have this day made a thorough examination of the water use system constructed by THE CITY OF SPEARFISH of _____ holder _____
 of Permit No. 148-1, bearing date of priority of JANUARY 27, 1930
 authorizing the diversion of 1.5 cu. ft. per second of the waters of SPEARFISH CREEK
 for MUNICIPAL purposes, in LAWRENCE County.

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

The Water Use System consists of:

A. Works used to divert the water:

CONCRETE INTAKE STRUCTURE WITH
5'X5'X5' INTAKE BOX

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

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

C. Works used to apply water to beneficial use.

550,000 GALLON STORAGE RESERVOIR
W/ 8" LINE TO CITY MAINSThe system is in the following condition: GOOD

The point of diversion is located AT A POINT IN SECTION 33, T6N, R2E
WHENCE NE CORNER OF SAID SECTION BEARS N22°53'E, 1893.5 FEET

The works are capable of diverting and conveying to the place of use 1.5
 cu. ft. per second of water which is to be used for MUNICIPAL USE

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

comprising a total of _____ acres of land.

Date

MAY 10, 1972

(Signature)

Paul M. Jensen
 WATER RIGHT SPECIALIST
 WATER RESOURCES COMMISSION

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA }
 County of Lawrence } ss

I, Arthur Misselina being duly sworn, deposes and says the annexed printed copy of Notice Intention 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, Lawrence County of Lawrence and State of South Dakota,

That the said notice was published in said newspaper on the following dates:

February 26, 1930, March 5, March 12,
March 19, 1930

In each and every issue of the full number thereof, the first publication being made on the 26 day of Feb. 1930 and the last publication on the 19th day of March 1930, upon which days or times of publication aforesaid the newspaper was regularly published, and that during the whole time of said publication he was the printer and publisher of the said newspaper.

Arthur Misselina

Subscribed and sworn to before me this 20th day of March A.D. 1930

My Commission Expires October 17, 1930

Notary Public Lawrence County, N.D.

Form 9--Notice of Intention to appropriate Water.

Notice No. 148-1
 (First Publication Feb. 26, 1930)

APPROPRIATION OF WATER

Office of the State Engineer,
 Pierre, S. Dak., Feb. 20, 1930
 Notice is hereby given that City of Spearfish whose post office address is Spearfish, Lawrence County, S. Dak., has made an application in accordance with the provisions of the Irrigation laws of South Dakota for a permit to appropriate for beneficial use 1.5 cubic feet of water per second of time from Spearfish Creek through the Spearfish Canyon City Water Intake the point of diversion of which is to be located upon the bank of said stream in the NE 1/4 of the N. 20 1/2 of section 33, Township 6 North, Range 2 East, N. 12 W. said water to be used for the purpose of all domestic irrigation and other municipal purposes desired by the citizens of Spearfish.

This application will be taken up by the State Engineer at his office at Pierre for consideration and appropriate action upon the 23rd day of April, 1930, at 9 a. m. at which time all persons who believe that the prior rights would be injuriously affected, or that the allowance of the permit would be detrimental to the public welfare, and also parties making the application and to be benefited, are notified to be present either by sworn affidavit or in person for the purpose of presenting any relative testimony, Charles A. Trimmer, State Engineer (Feb. 28 March 5, 1930)

RECEIVED

APR 3 1930

OFFICE OF STATE ENGINEER,
 PIERRE, S. DAK.

In the Matter of the application of the
City of Spearfish for water right
Spearfish Creek.

PROTEST

Come now the undersigned on behalf of themselves and all others similarly situated and respectfully protest against the allowance of a water right by the State Engineer to the City of Spearfish, being permit No. 112-1, for 1.5 cu. ft. of water per second of time from the waters of Spearfish Creek to be taken out of Spearfish Creek at a point located upon the bank of said stream in the N.E. $\frac{1}{4}$ of the N.E. $\frac{1}{4}$ of Section 33, Township 6, North, Range 2 East, B.H.M. for the person and upon the ground set forth in the accompanying affidavit which is made a part of this protest.

Dated this ____ day of April, 1930.

N. B. Berner	Ervin Krause
Wm. H. Hest	M. J. Bodew
Wm. G. Lasse	J. H. Lamme
Pella Cummings	J. A. Kiersey
Ja. E. Ingdahl	F. H. Lienau
George Jeffery	Conrad Kuhn
E. J. Bergrest	Stanley Tetreault
E. H. Cerven	Ignac. H. Canady
Wm. Miller	Tom Henwood
St. Matthews	
Bill Weisk	
Walter Mann	
Ole Olson	
Thorvald Olsson	
D. H. Krogh	
Geo. Van Afferen	
John Brakke	
George Olsson	
Tommy Shaker	
Geo. Broth	
J. E. Grehn	
E. J. Garbutt	
H. H. Troph	
Mrs. Rhoda Burleson	
Christopher Olson	

In the Matter of the Application of the
City of Spearfish for Water Right on
Spearfish Creek.

AFFIDAVIT

STATE OF SOUTH DAKOTA
COUNTY OF LAWRENCE

ss.

W. F. Berner, Joe Hitzel, Wm. C. Stabe, Rollo Cummings, J. A. Vaughn,
George Jeffery, C. F. Ernest, A. C. Gage, E. M. Owen, F. O. Miller, F. W. Mathews,
F. W. Ward, Walter Mann, Ole Oleson, Thorvald Oleson, D. H. Vrooman, Jacob
Weber, Geo. Van Offeven, John Bralder, George Oleson, Teney Soper, Geo. Brost,
J. O. Minton, E. J. Garhart, H. H. Floyd, Mrs. Maud Burleson, Christopher
Oleson, Emil Krause, W. A. Bodan, J. H. Lemars, J. A. Kinney, F. H. Lienau,
Conrad Kain, Stanley Tetrault, Yerro H. Condy and Tom Herwood,

being first duly sworn, each for himself, and not one for the other, depose
and say, that the City of Spearfish has a population of some thirteen or four-
teen hundred inhabitants, and has already filed with the State Engineer notice
No. 149-1 for the appropriation of water, seeking to appropriate 3.0 cu. ft. of
water per second of time from the surface and underflow in Clemens Gulch through
the Clemens Gulch City Water Intake, the point of diversion of which is to be
located upon the right bank of said stream in the S.W. 1/4 of S.W. 1/4 of Section 15,
Township 6 North, Range 2 East B.H.M., and has also filed with the State Engineer
application No. 150-1 for the appropriation of water to the amount of 1.0 Cu. Ft.
of water per second of time from the Springs Near Spearfish Creek through the
Spearfish Creek City Water Intake, the point of diversion of which is to be lo-
cated upon the right bank of said stream in Block 72, City of Spearfish, in the
N.W. 1/4 of Section 15, Township 6 North, Range 2 East, B.H.M., against which ap-
plication Nos. 149-1 and 150-1 this affiant makes no protest.

Affiant further says that he is the owner of farm lands along Spanish Creek and has been using the water from said Spanish Creek through himself and his predecessors for many years last past, and that irrigation is necessary in this semi-arid region for the best production of crops, and that all of the waters of said Spanish Creek have long since been appropriated and used for irrigating crops during the irrigation season, and there is at this time no more appropriated water in the Spanish Creek.

That said waters so appropriated for irrigation purposes by affiant and others similarly situated have existed for many years and said rights have become fixed and determined by location, appropriation and by judicial decisions fixing the rights and amounts of water to be used by each of the parties irrigating lands as aforesaid.

That about the month of May, 1919, the City of Spanish made application for 1.10 cu.ft. of water per second of time, seeking to divert the waters of Spanish Creek from practically the same point where they are now seeking to divert 1.5 cu.ft. of water as shown by notice of intention to appropriate water No. 148-1 aforesaid, but said application was never followed up, nor in any manner completed.

That the appropriation of 1.5 cu.ft. of the water of Spanish Creek would be detrimental and injurious to the interests of affiant and all others similarly situated who were using the waters of Spanish Creek for irrigation purposes, and affiant verily believes and therefore alleges the fact to be that the appropriation of said 1.5 cu.ft. of water per second of time is not necessary in supplying the inhabitants of Spanish for a reasonable and proper amount of water.

WHEREFORE; affiant would respectfully request that application No. 148-1 for the appropriation of 1.5 cu.ft. of water per second of time from the waters of Spanish Creek be denied.

Dated this 17 day of April, 1930.

H. F. Bauer
 Joe Higley
 J. R. Sasse
 Rella Cummings
 J. A. Vaughan
 George Jeffery
 C. H. Ernest
 A. C. Gage
 E. H. Dwyer
 W. V. Miller
 E. H. Matthews
 B. W. West
 Walter Mamm.
 Ole Oleson.
 Thomsen Oleson
 D. H. Vrooman
 Jacob Thibet
 Geo. Van Offeren
 John Brakke
 George Oleson
 Torrey Acker
 Geo. Brost
 J. L. Mahfken
 E. J. Garhart
 H. H. Thied
 Mrs. Rhoda Burleson
 Christopher Oleson
 Camil Krause
 M. J. Bodan
 J. H. Lammers
 J. A. Kierney
 H. H. Lienau
 Conrad Kuhn
 Stanley Tetrault
 Isaac H. Grunley
 Tom Herwood.

[Handwritten signature]



DEPARTMENT OF WATER & NATURAL RESOURCES

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

148-1

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

148-1



CITY OF SPEARFISH

722 MAIN STREET, SPEARFISH, SOUTH DAKOTA 57783

November 19, 1991



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

Re: Water Right #'s 141-1 (1.1cfs); 149-1 (.44cfs); 138-1
(.5 cfs); 148-1 (1.5 cfs); 150-1 (1.0 cfs)

Dear Mr. Hatch:

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

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

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

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

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

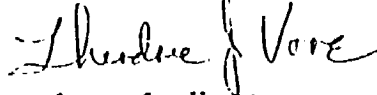


John Hatch
November 8, 1991
Page 2

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

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

Respectfully Requested,

A handwritten signature in dark ink, appearing to read "Theodore J. Vore". The signature is fluid and cursive, with the first name "Theodore" written in a larger, more prominent script than the last name "Vore".

Theodore J. Vore
Public Works Administrator
CITY OF SPEARFISH

TJV/bsk



December 12, 1991

14/8-1

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

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

Dear Mr. Vore:

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

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

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

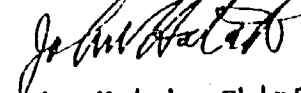
December 18, 1991
Theodore J Vore
Page 2 of 2

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

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

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

Very truly yours,



John Hatch, Chief Engineer
Water Rights Division
605 773-352



CITY OF SPEARFISH

722 MAIN STREET, SPEARFISH, SOUTH DAKOTA 57733

December 29, 1993

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



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

Dear Mr. Hatch:

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

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

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

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

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

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



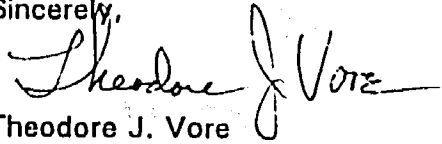
PUBLIC WORKS, 642-8271 • PLANNING & ZONING, 642-8277 • LIBRARY, 642-4645
WASTE WATER TREATMENT PLANT, 642-5764 • FINANCE OFFICE, 642-7775 • POLICE DEPT., 642-2755

EX-100-2010

John Hatch
December 29, 1993
Page 2

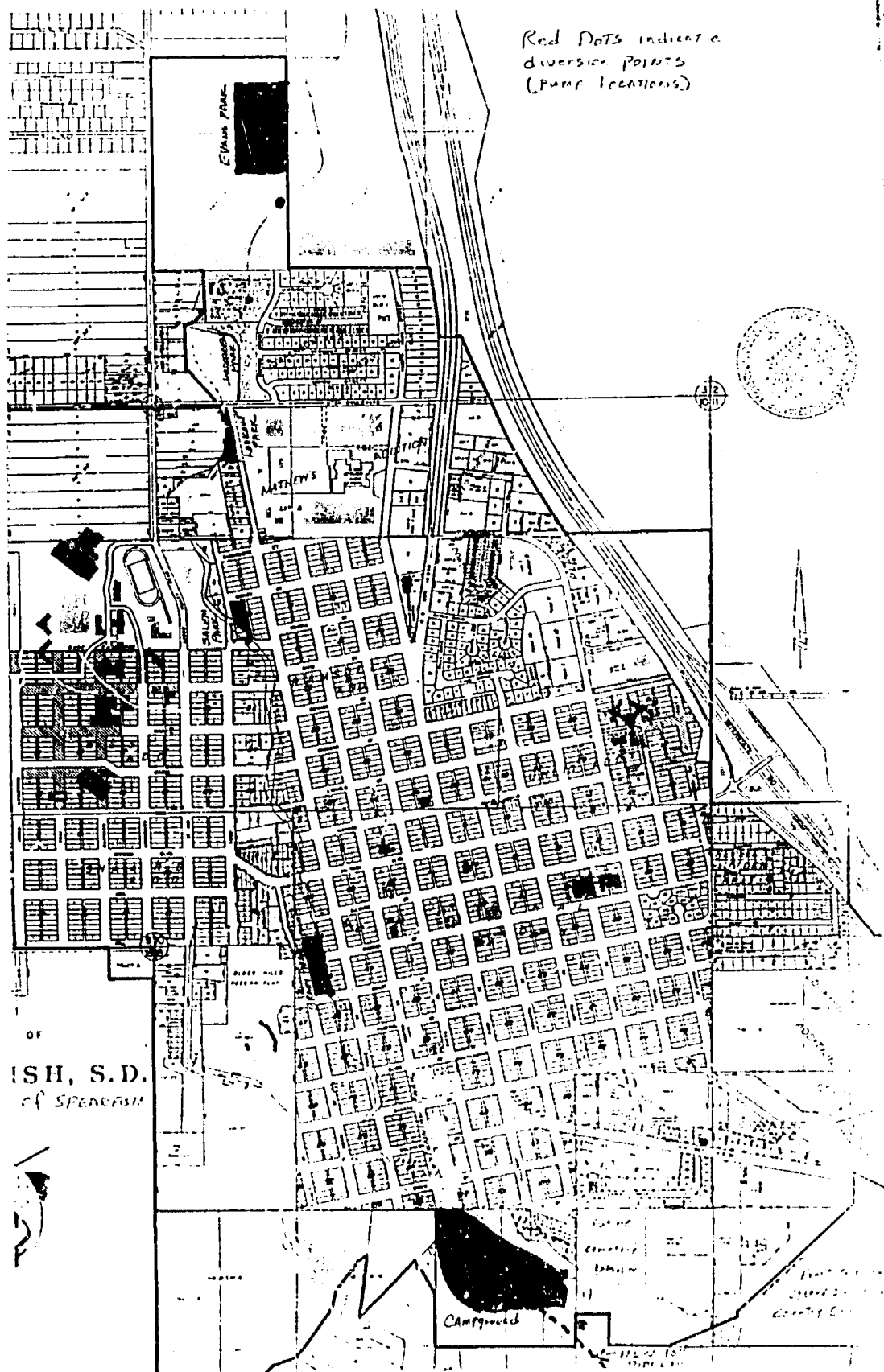
Please advise us as to any changes or further requests the City of Spearfish should make to secure our above referenced Water Rights.

Sincerely,

A handwritten signature in cursive script that reads "Theodore J. Vore". The signature is written in dark ink and is positioned above the printed name and title.

Theodore J. Vore
Public Works Administrator
CITY OF SPEARFISH

TJV/bsk





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 31, 1994

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

Dear Mr. Vore:

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

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

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

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

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

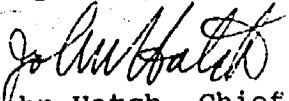
148-1

Theodore J Vore
January 31, 1994
Page 2

reviewed on a case by case basis to determine if approval could be recommended.

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

Very truly yours,


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

enclosures