

WATER PERMIT NO. 1608-1

Phone: 584-3333

Name of Applicant: Spearfish Canyon Foundation

Post Office Address: HC 37, Box 1387, Spearfish Canyon SD 57754-9725

Amount of Water Claimed: 0.34 cfs (150 gpm) Total Acres: _____

Source of Water Supply: groundwater

Water to be used for: commercial & fire suppression County: Lawrence

Location: near Savoy

PRIORITY Date Received: 9-8-94 Fee: \$225.00

Corrected Application Received: 9-9-94 Period of Annual Use: Jan 1 - Dec 31

Remarks: For use is a resort lodge

Diversion Point: NE 1/4 SE 1/4 Sec 36-T5N-R1E

Land to be Irrigated: _____

		36		2	

Well Log: Driller: Alexander Drilling Licensed: YES x NO _____

Depth of Well: 450 feet REMARKS: _____

Type of Map: plat Prepared By: John M. Arleth Reviewed and the Number

Assigned on: 9-9-94 By: Karen Schlaak

**SOUTH DAKOTA
WATER PERMIT NO. 1608-1**

Date of first receipt of application September 8, 1994.

Date of receipt of corrected application September 9, 1994.

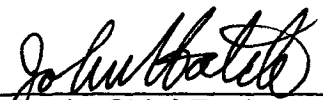
The Water Management Board approved Water Permit Application No. 1608-1 on November 30, 1994 for Spearfish Canyon Foundation, HC 37, Box 1387, Spearfish Canyon SD 57754-9725 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 1608-1 appropriates 0.34 cubic feet of water per second (150 gallons per minute) from one well (Deadwood Formation) 450 feet deep located in the NE 1/4 SE 1/4 Section 36-T5N-R1E.
2. The water appropriated shall be used for the purpose of supplying water to a resort lodge and may not exceed the amount of water needed for beneficial use for commercial use and for fire suppression.
3. The water is to be used during the following described annual period: January 1 - December 31.
4. The date from which applicant may claim right is September 8, 1994.
5. One-fifth of the construction is to be completed on or before May 30, 1997.
6. All construction is to be completed on or before November 30, 1999.
7. Water is to be put to beneficial use on or before November 30, 2003.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. If the well authorized by Permit No. 1526-1 is abandoned, the well must be plugged pursuant to Water Management Board Well Construction Rules, Chapter 74:02:04.

WATER MANAGEMENT BOARD

By: 
John Hatch, Chief Engineer
Water Rights Division
Department of Environment and Natural Resources

JAN 4 1995
date

FORM 2: Application for uses other than irrigation
(type or print)

Mail to:
Water Rights Division
Joe Foss Building
523 E Capitol
Pierre SD 57501-3181
605 773-3352

No. 1608-1 Hydrologic Unit 10120203
Basin Belle Fourche River
Newspaper Black Hills Pioneer, Box 7, Spearfish
(office use only)



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

Check use of water:

☐ Municipal ☐ Suburban Housing ☐ Recreational ☐ Institutional
☐ Rural Water System ☒ Commercial ☐ Fish & Wildlife ☐ Geothermal Heat
☐ Domestic ☐ Industrial ☐ Other _____
(over 18 gpm)

Type of Application: ☒ New ☐ Vested Right (Use predates Mar 2, 1955) ☐ Future Use Reservation
(check one) ☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____
☐ Amendment/Correction to Permit No. _____

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.) _____

1. Name of Applicant Spearfish Canyon Foundation Phone 584-3333
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address HC 37 Box 1387 Spearfish Canyon State SD 57754-9725
(Street, RR, or Box) (City) (Zip Code)

2. Amount of water claimed 0.34 *CFS or 150 **GPM ***AF
(*Cubic Feet per Second) (**Gallons per Minute) - (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Deadwood formation

4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) _____
NE1/4SE1/4 Section 36, Township 5 North, Range 1 East, Black Hills Meridian
County Lawrence

5. County or counties where water will be used Lawrence

6. Annual period during which water is to be used year round Jan 1 - Dec 31

7. Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)
Lease land and permit to build a 54 - 74 room resort lodge with intent to sell land to permit holder. The claim of 150 gpm includes water for fire suppression.

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Attach map and any other technical information. (see instructions)

STATE OF SOUTH DAKOTA)

County of LAURENCE SS

[Signature] the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Signed

Julie Bestgen

Subscribed and sworn to before me this 16th day of September 19 94

My Commission expires: 4-21-02

(type or print in ink)



1. Well Information - Proposed Construction

a) Drill Hole Diameter 8 inch Depth 84 feet

b) Casing Type steel Diameter 8" ID 8 5/8" OD Thickness 5/8 inch

c) Screen Type none - open hole Diameter _____ Thickness _____

d) Gravel Pack Thickness 84' to 450' Length of Gravel Pack none

e) Depth to Top of Water Bearing Material 10 gpm 100'-200', 80 gpm 350'-390', & 150 gpm 390'-430'

f) Depth to Water (ground surface to water level) static water level 33 feet

g) Distance to nearest existing domestic well: _____

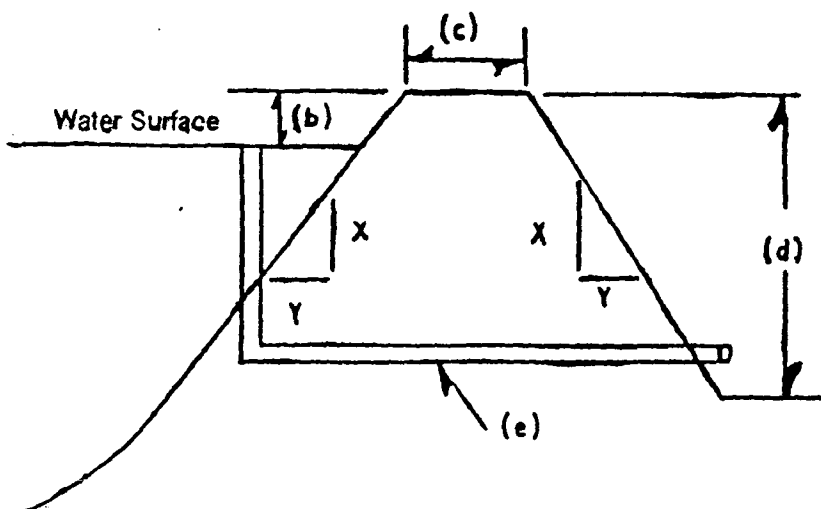
On applicants property approx. 100' - On property owned by others approx. 300' (more or less)
 this well to be abandoned, next nearest well on
 applicant's property approx. 550' (more or less).

2. **Dugout Information** this well to be abandoned, next nearest well on applicant's property approx. 550' (more or less).

- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to be shown on the map submitted with the application.

- a) If a private engineering firm or government agency was involved in the design of this dam, please give their name and address:



- b) Freeboard _____
- c) Crest Width _____
- Crest Length _____
- d) Height _____
- e) Primary Outlet Capacity _____
- If pipe, diameter _____
- f) Secondary Spillway Capacity _____
- Spillway Width _____
- g) X & Y Slope
- Upstream _____
- Downstream _____
- h) Surface Area of Impoundment _____
- i) Storage _____ Acre Feet
- j) Drainage Area Above Dam _____ Acres

RECEIPT

414268

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, September 8, 1994

RECEIVED OF Spearfish Canyon Foundation, HC 37, Box 1387, Spearfish Canyon SD 57754-9725
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. <u>1608-1</u> to Appropriate Water, to construct and to put water to beneficial use _____	225	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 _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	225 00

By John H. Hatcher
Chief Engineer

(KS)

WATERWELL LOCATION



SECTION 36

T5N R1E

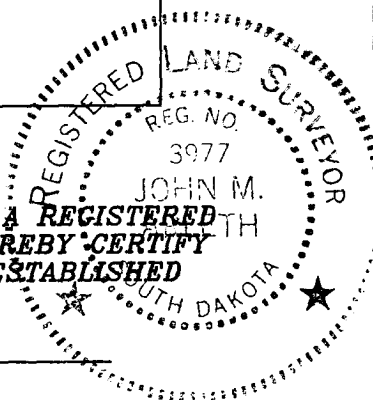
WELL LOCATION

N 62°51'39" E
169.41'

I, JOHN M. ARLETH, 382 MAIN ST., DEADWOOD, SD, BEING A REGISTERED LAND SURVEYOR IN THE STATE OF SOUTH DAKOTA, DO HEREBY CERTIFY THAT THE WATER WELL LOCATION AS SHOWN ABOVE WAS ESTABLISHED UNDER MY DIRECT SUPERVISION.

SEP. 7, 1994
DATE

JOHN M. ARLETH, RLS 3977



ARLETH &
ASSOCIATES
382 MAIN STREET
DEADWOOD, SD 57732
605-578-1637

PROJECT:
WATERWELL
LOCATION

JOB NO. 2984

DATE: SEP. 7, 1994
SCALE: 1" = 1000'
DRAWN BY: KAUCHAMPACH
APPROVED:
DWG: WELLOC

1608-1

SOUTH DAKOTA WATER WELL COMPLETION REPORT

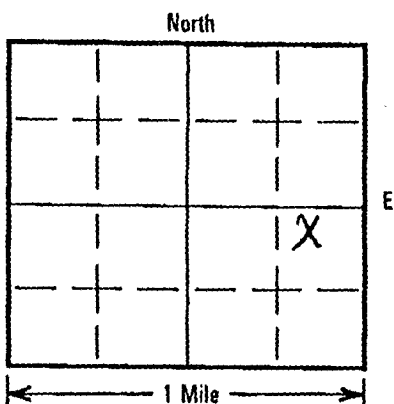
07-92

Location NE 1/4 SE 1/4 Sec 36 Twp 5N Rg 1E

County

LAWRENCE

Please mark well location with an "X"

SAVOY IN
SPEARFISH
CANYONWell Completion Date 8-17-94

LOCATION:

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? 100+ ft. from NEW SEWER (identify source).

PROPOSED USE:

☐ Domestic/Stock ☐ Municipal ☒ Business ☐ Test Holes
☐ Irrigation ☐ Industrial ☐ Institutional ☐ Monitoring well

METHOD OF DRILLING:

Rotary Downhole Hammer

CASING DATA:

☒ Steel ☐ Plastic ☐ OtherIf other describe 84' - 8" I.D. Steel (8 5/8")

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>28 1/2</u> LB/FT	<u>8" ID</u> IN	<u>0</u> FT	<u>84</u> FT	<u>10</u> IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN

GROUTING DATA

Grout Type	No. of Sacks	Grout Weight	From	To
<u>Portland</u>	<u>10</u>	<u>15</u> lb./gal	<u>0</u> ft	<u>82</u> ft
<u>1-11</u>	<u>10</u>	<u>15</u> lb./gal	<u>0</u> ft	<u>82</u> ft

Describe grouting procedure 4" Remie pipeSCREEN: ☐ Perforated pipe ☐ Manufactured none - open hole
Diameter _____ IN Length 84' to 450' FEETMaterial _____
Slot Size _____ Set From _____ Feet to _____ Feet

Other information _____

WAS A PACKER OR SEAL USED? ☐ YES ☒ NOIf so, what material? Casing Drove Hard Rock

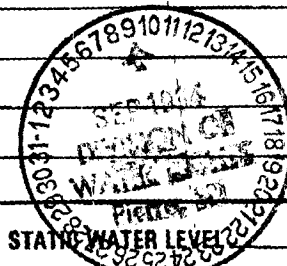
Describe packer(s) and location? _____

DISINFECTION:

Was well disinfected upon completion? _____ YES, How: chlorine solution
_____ NO, Why Not? _____Well Owner: Homestake Black Hills FoundationBusiness Name: P.O. Box 798Address: Spearfish Canyon, S.D. 577
-92

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Drift - Broken L.S.	0	84
Quartzite grey Hd.	84	100
Quartzite grey.	100	200
Fractured - H ₂ O - 10 ² gpm		
Quartzite to Shale	200	350
grey HARD		
S.S. White to Brown	350	390
Hard - H ₂ O - 80 ² gpm		
S.S. to Quartzite Hd.	390	430
Fractured H ₂ O - 150 ² gpm		
Quartzite Hard.	430	450

STATIC WATER LEVEL 33' ± Feet

If flowing: closed in pressure _____ PS

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced Flowrate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☒ Pumped w/Air Describe: 150² gpm.☐ Bailed☐ Other

Pumping Level Below Land Surface

_____ ft. After _____ Hrs. pumped _____ GPM

_____ ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate _____ GPM

REMARKS

Well Produced 100² gpm white
developing at 250 ft.This well was drilled under license # 324

And this report is true and accurate.

Drilling firm Alexander Drilling Co.

Signature of License Representative:

Roy Alexander Jr

Signature of Well Owner or Equitable Property Holder:



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 23, 1993

Denny McKay
Homestake Black Hills Foundation
Box 798
Spearfish Canyon, SD 57754-9725

Dear Mr. McKay:

As requested, pursuant to South Dakota Well Construction Standard 74:02:04:21, Homestake Black Hills Foundation is authorized to construct a test well near the Homestake Natural History & Cultural Center (approximately Sec. 36, T5N-R1E), prior to approval of a water permit. The test well must be constructed in accordance with the SD Well Construction Standards. Any test holes that are abandoned must be plugged pursuant to the SD Well Construction Standards.

Very truly yours,

JAMES A. GOODMAN, P.E.
Natural Resources Engineer
for JOHN HATCH, Chief Engineer
Water Rights Division
(605) 773-3352

9/8/94

To: Eric Gronlund

From: Jim Wainwright for Jerry Boyer at the Spearfish Canyon
Foundation

Re.: application for new well water right in Spearfish Canyon at
Savoy.

Eric:

Spoke to Rassool this AM. We federal expressed the application yesterday, but in haste I forgot to include the well driller's report. Rassool indicated this would not slow the initial review process down if I mailed it. Please let us know if there is anything we can do to expediate the process. Jerry Boyer can be reached at 584-3333.

Thanks Eric, look forward
to talking to you,

Jim Wainwright





Architecture • Civil Engineering • Environmental Engineering
Structural Engineering • Landscape Architecture • Interior Design

September 20, 1994

Bill Baer
DENR
Joe Foss Building
523 East Capitol
Pierre, SD 57501



RE: Spearfish Canyon Lodge
TSP #03942352

Dear Mr. Baer:

Enclosed is the final septic system layout for the Spearfish Canyon Lodge Project. We have incorporated the clarifications you requested as indicated in our letter of September 12, 1994, and other information based on conversations between Todd Young and your office.

The line locations have generally remained the same, and any changes in volumes or linear footage of drainfield line is noted on the drawings.

In summary, the septic system for the first 54 units will consist of two 4200 gallon septic tanks and a 1000 gallon dosing tank. The total required linear feet of drainfield is 673. The actual drainfield available as shown on plan is approximately 900 linear feet. In addition, Fields 1 and 2 have another approximately 978 linear feet available, if the future need arises. Thus providing 100% redundancy in the system.

The future 20 units will have a separate 2000 gallon septic tank with 315 linear feet of drainfield in Field 3. Field 3 has 518 linear feet available with an additional 285 linear feet in Field 4.

We have also included a stamped topo survey of the site.

Denver, CO
Minneapolis, MN
Rochester, MN
Rapid City, SD
Sioux Falls, SD
Gillette, WY
Sheridan, WY

600 Kansas City Street, Rapid City, South Dakota 57701-2712
Telephone: (605) 343-6102, FAX: (605) 343-7159

, 1994

If you have any questions or need additional information, please call.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Morcom". The signature is stylized with a large, looping initial "R" and a cursive "Morcom".

Robert A. Morcom, PE
Civil Engineering Dept. Head

RAM:ps

Enclosures

cc: Todd Young
Steve Williams



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 21, 1994

10.3 Lawrence County

ROBERT MORCOM PE
TSP
600 KANSAS CITY ST
RAPID CITY SD 57701-2712

Dear Mr. Morcom:

The Department of Environment and Natural Resources (DENR) is in receipt of final plans and specifications of the on-site wastewater system proposed to serve the Spearfish Canyon Lodge located near Savoy, South Dakota. The system has been reviewed for compliance with South Dakota's "Individual and Small On-site Wastewater Systems regulations.

The results of the review process indicates the system is in compliance with all the minimum design requirements and is hereby approved. The DENR would like to offer one comment:

1) Final grading and site landscaping should be completed to ensure that runoff from the parking areas and roadsides will be diverted away from the absorption systems.

The lifetime of this system is dependent upon proper construction and regularly scheduled maintenance. If you have any questions or comments, please feel free to contact this Office at (605) 773-3351.

Sincerely,

Raymond F. Birch, P.E.
Staff Engineer
Division of Environmental Regulation

cc: Bill Baer, DER-DENR
Tim Tollefsrud, DER-DENR
Gary Stephenson, BHRO-DENR
Roger Marshall, Northern Hills Environmental Health
Lawrence County Commission

REPORT ON WATER PERMIT APPLICATION NO. 1608-1
for Spearfish Canyon Foundation
September 15, 1994

Water Permit application No. 1608-1 proposes to appropriate 0.34 cfs (150 gpm) from one well approximately 450 feet deep located in the NE 1/4 SE 1/4 of section 36, T5N R1E in Lawrence County. The water is for commercial use at a resort lodge and for fire protection.

AQUIFER - DEADWOOD FORMATION (DDWD)

The Deadwood Formation is described as a brown to light-gray glauconitic sandstone, shale, and limestone with a basal conglomerate locally developed (DeWitt, 1989). The Deadwood underlies approximately 428,800 acres and contains an estimated 7.5 million acre feet of recoverable water in storage in Lawrence County (Allen, 1984). The Deadwood is approximately 300 feet thick in this area (Allen, 1984) but Darton measured sections 450 feet thick in Spearfish Canyon (Darton, 1925). The driller's log supplied with this application indicates that water is produced from brown and white sandstone from 350 to 430 feet below land surface. The completed well was capable of producing 150 gpm using air to develop and had a static water level of about 33 feet below land surface.

This well is drilled in the Spearfish Creek valley and the area is mapped geologically as the Deadwood Formation at the land surface. The log indicates that "drift and broken limestone" was penetrated from the land surface to 84 feet in depth. This description does not indicate the thickness or even the existence of alluvium along the creek. This is not surprising and after reviewing existing data (Well Files, 1994) it is apparent that the thickness of the alluvium can vary from nothing to about 30 feet. The aquifer is technically unconfined, in the sense that the Deadwood Formation is at the land surface but water is not produced until fractures or sandstone is encountered at depth. This suggests that confining layers exist within the Deadwood Formation.

The degree of hydraulic communication between the Deadwood Formation and Spearfish creek is not established in terms of quantification but it appears the Deadwood would probably discharge water into the creek. At this site, however, it appears that the water level in the aquifer is below the level of the creek.

The Division of Water Rights does not monitor any observation wells completed into the Deadwood Formation in this area. The nearest Deadwood Formation observation well is PE-91A and is located about 16 miles south of this application (Water Rights Division, 1994). Water levels for this well do reflect climatic conditions, that is rising during wet years (recharge) and gradually declining during dry years. The period of record is

not sufficient to identify any trends nor is this well close enough to this application to document water levels for this area of interest.

REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are two existing water permits Nos. 1525-1 and 1526-1 for wells completed into the Deadwood Formation located within 1/4 mile of this application. Both of these permits are issued to Homestake Black Hills Foundation which appears to be the same as the Spearfish Canyon Foundation. The well location on water permit No. 1526-1 is about 100 feet from the well for this application. This application indicates that the well for 1526-1 will be abandoned. Interference is not expected to be a concern. Drawdown will occur but this should not adversely affect other permits.

CONCLUSIONS

1. Water is available from the Deadwood Formation.
2. The Deadwood Formation is unconfined at this location but the water producing zone as shown by the driller's log may be confined within the Deadwood Formation. Drawdown can be expected due to pumping. However, this is not expected to adversely affect existing rights.
3. The Division of Water Rights has authorized construction of a test well at this location prior to obtaining a water permit (see letter in Water Permit file 1526-1). The well has been completed and is filed with the application. The well has been completed in accordance with SD Well Construction Standards. However, in the writer's opinion the construction is deficient. Casing should have been set to the sandstone layer from 350 feet to 430 feet, if for no other reason than to protect the pump during operation.
4. The well completion report indicates that the well produced 100 gpm using air lift to develop from a depth of 250 feet. The request for 150 gpm is reasonable because the well should be able to produce more water with a pump installed than with air lift. The 150 gpm also includes water for fire suppression.
5. The well authorized by Water Permit No. 1526-1 will be abandoned. This permit can be transferred to this application or cancelled. The abandoned well must be plugged in accordance with SD Well Construction Standards.



9/7/94

To: Rassool Ahadi
From: Jerry Boyer
Spearfish Canyon Foundation

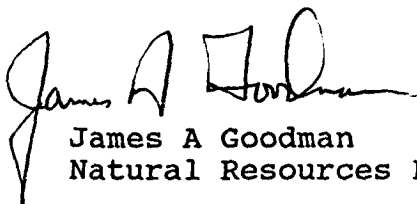
Re.: application for a new well water right in Spearfish Canyon at Savoy.

Rassool:

Enclosed is the application for the new well water right. Jim Wainwright indicated you would attempt to review the application upon its arrival to lessen any delays in the processing procedure. If you have any question, please do not hesitate to contact me at (605) 584-3333.

Appreciatively,
Jerry Boyer

6. The facility's wastewater disposal system consists of a septic system and drainfield. The plans and specifications have been approved by DENR.



James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

- Allen, J.C., D.L. Iles, A.K. Petres, Analysis of Groundwater and Streamflow Data Western Dakotas Region of South Dakota, for US Army Corps of Engineers, SD DENR, SDGS, Vermillion, SD, 57069.
- Darton, N.H., S. Paige, 1925, Central Black Hills Folio, No 219, USGS, Washington DC.
- DeWitt, E., J.A. Redden, D. Buscher, A.B. Wilson, 1989, Geologic Map of the Black Hills Area, South Dakota and Wyoming, USGS Map I-1910.
- Well Files, 1994, Unpublished Well Completion Reports Microfilm Files, SD DENR, Division of Water Rights, Pierre, SD, 57501.
- Water Rights, 1994, Unpublished Observation Well Records for the Deadwood Formation, SD DENR, Division of Water Rights, Pierre, SD, 57501.

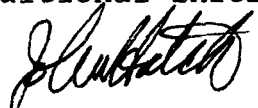
RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 1608-1, Spearfish Canyon Foundation

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Environment and Natural Resources concerning Water Permit Application No. 1608-1, Spearfish Canyon Foundation, c/o Jerry Boyer, HC 37 Box 1387, Spearfish Canyon, SD 57745-9725.

The Chief Engineer is recommending APPROVAL of Application No. 1608-1 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) in the public interest with the following qualifications:

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. If the well authorized by Permit No. 1526-1 is abandoned, the well must be plugged pursuant to Water Management Board Well Construction Rules, Chapter 74:02:04.

See report on application for additional information.


JOHN HATCH, Chief Engineer
September 26, 1994



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

September 27, 1994

Jerry Boyer
Spearfish Canyon Foundation
HC 37 Box 1387
Spearfish Canyon, SD 57754-9725

Dear Mr. Boyer:

Water Permit Application No. 1608-1 for commercial and fire suppression use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Black Hills Pioneer printed at Spearfish, SD (Ph # 605-642-2761). 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 prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice of Hearing and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has 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. The newspaper has been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 27, 1994

Black Hills Pioneer
Box 7
Spearfish, SD 57783-0007

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 1608-1 to be published twice. Please publish the first notice on September 29, 1994, with the second publication 7 days later.

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 Spearfish Canyon Foundation, c/o Jerry Boyer, HC 37 Box 1387, Spearfish Canyon, SD 57754-9725 (Ph # 605-584-3333).

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. No action may be taken on the permit application until proof of publication has been received.

Sincerely,

Eric Gronlund
Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----
FIRST TRANSMITTAL NOTICE

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

No. _____

Date _____
We are in receipt of your letter of _____ enclosing Notice of
Hearing to Appropriate Water by Application No. _____ which was first
published in our issue of _____. ENCLOSED IS A COPY OF THIS
FIRST PUBLICATION.

Name

Newspaper

Instruction to Newspaper - Publish first Notice on September 29, 1994, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 1608-1 to Appropriate Water

Notice is given that Spearfish Canyon Foundation, HC 37 Box 1387, Spearfish Canyon, SD 57754-9725 has filed an application for a water permit to appropriate 0.34 cubic feet of water per second (150 gallons per minute) from one well (Deadwood Formation) 450 feet deep located in the NE 1/4 SE 1/4 Section 36-T5N-R1E. The water is for commercial use at a resort lodge and for fire suppression.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1608-1 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by October 17, 1994. The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

The Water Management Board will consider this application at 10:30 a.m., Thursday, October 27, 1994, Floyd Matthew Training Center, Joe Foss Building 523 East Capitol, Pierre, SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The October 27, 1994, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by October 17, 1994.

Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by October 17, 1994, at the above Water Rights Division address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 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-20, 46-2A-21; 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; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. Robert E. Roberts, Secretary, Department of Environment and Natural Resources.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
 County of Lawrence) ss

I, Laurie Hardin

certify that the attached printed Notice was
 taken from the Black Hills Pioneer

printed and published in Lead, SD

County of Lawrence and State of

South Dakota. The notice was published in
 the newspaper on the following two dates:

9-29-94

10-6-94

Cost of Printing: \$ 56.29

Laurie Hardin
 (Signature)

Accts. Receivable
 (Title)

10-6-94
 (Date Signed)

NOTICE OF HEARING
 on Application No. 1608-1
 to Appropriate Water

NOTICE IS GIVEN that Spearfish Canyon Foundation, HC 37 Box 1387, Spearfish Canyon, SD 57754-9725 has filed an application for a water permit to appropriate 0.34 cubic feet of water per second (150 gallons per minute) from one well (Deadwood Formation) 450 feet deep located in the NE 1/4 SE 1/4 Section 36-T5N-R1E. The water is for commercial use at a resort lodge and for fire suppression.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1608-1 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre, SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by October 17, 1994. The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

The Water Management Board will consider this application at 10:30 a.m., Thursday, October 27, 1994, Floyd Matthew Training Center, Joe Foss Building 523 East Capitol, Pierre, SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The October 27, 1994 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by October 17, 1994.

Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by October 17, 1994, at the above Water Rights Division address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 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-20, 46-2A-21; 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; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

Robert E. Roberts, Secretary
 Department of Environment
 and Natural Resources

#778
 Sept. 29, Oct. 6





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 28, 1994

Richard Fort
HC 37 Box 2421
Lead, SD 57754

Dear Mr. Fort:

Please find enclosed a copy of the report and recommendation prepared for Water Permit Application No. 1608-1, Spearfish Canyon Foundation. A copy of the notice of hearing to be published September 29, 1994 and October 6, 1994, in the Black Hills Pioneer is also enclosed.

This information is being sent to you due to your active interest in issues in Spearfish Canyon. If you have any questions, please feel free to contact us.

Sincerely,


Eric Gronlund
Water Rights Division
605 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 28, 1994

William Taylor
Attorney at Law
310 South First Avenue
Sioux Falls, SD 57102

Dear Mr. Taylor:

Please find enclosed a copy of the report and recommendation prepared for Water Permit Application No. 1608-1, Spearfish Canyon Foundation. A copy of the notice of hearing to be published September 29, 1994 and October 6, 1994, in the Black Hills Pioneer is also enclosed.

This information is being sent to you due to your active interest in issues in Spearfish Canyon. If you have any questions, please feel free to contact us.

Sincerely,


Eric Gronlund
Water Rights Division
605 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 28, 1994

Reverend Norman G. Nicholls
HC 37 Box 1377
Lead, SD 57754

Dear Reverend Nicholls:

Please find enclosed a copy of the report and recommendation prepared for Water Permit Application No. 1608-1, Spearfish Canyon Foundation. A copy of the notice of hearing to be published September 29, 1994 and October 6, 1994, in the Black Hills Pioneer is also enclosed.

This information is being sent to you due to your active interest in issues in Spearfish Canyon. If you have any questions, please feel free to contact us.

Sincerely,

Eric Gronlund
Water Rights Division
605 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 28, 1994

Gerald F. Apa, Chairman
Lawrence County Commissioners
PO Box F
Deadwood, SD 57732

Dear Mr. Apa:

Please find enclosed a copy of the report and recommendation prepared for Water Permit Application No. 1608-1, Spearfish Canyon Foundation. A copy of the notice of hearing to be published September 29, 1994 and October 6, 1994, in the Black Hills Pioneer is also enclosed.

This information is being sent to you due to your active interest in issues in Spearfish Canyon. If you have any questions, please feel free to contact us.

Sincerely,


Eric Gronlund
Water Rights Division
605 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 28, 1994

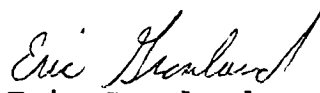
Leo Derosier, Chairman
Lawrence County Planning & Zoning
90 Sherman Street
Deadwood, SD 57732

Dear Mr. Derosier:

Please find enclosed a copy of the report and recommendation prepared for Water Permit Application No. 1608-1, Spearfish Canyon Foundation. A copy of the notice of hearing to be published September 29, 1994 and October 6, 1994, in the Black Hills Pioneer is also enclosed.

This information is being sent to you due to your active interest in issues in Spearfish Canyon. If you have any questions, please feel free to contact us.

Sincerely,


Eric Gronlund
Water Rights Division
605 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 28, 1994

Howard W. Morrison
HC 37 Box 1394
Lead, SD 57754

Dear Mr. Morrison:

Please find enclosed a copy of the report and recommendation prepared for Water Permit Application No. 1608-1, Spearfish Canyon Foundation. A copy of the notice of hearing to be published September 29, 1994 and October 6, 1994, in the Black Hills Pioneer is also enclosed.

This information is being sent to you due to your active interest in issues in Spearfish Canyon. If you have any questions, please feel free to contact us.

Sincerely,

Eric Gronlund
Water Rights Division
605 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 28, 1994

Jack R. Cole
PO Box 882
Spearfish, SD 57783

Dear Mr. Cole:

Please find enclosed a copy of the report and recommendation prepared for Water Permit Application No. 1608-1, Spearfish Canyon Foundation. A copy of the notice of hearing to be published September 29, 1994 and October 6, 1994, in the Black Hills Pioneer is also enclosed.

This information is being sent to you due to your active interest in issues in Spearfish Canyon. If you have any questions, please feel free to contact us.

Sincerely,

Eric Gronlund
Eric Gronlund
Water Rights Division
605 773-3352

enclosures

PARTIES OF RECORD

WATER PERMIT APPLICATION NO. 1608-1, SPEARFISH CANYON FOUNDATION

APPLICANT: Spearfish Canyon Foundation
 HC 37, Box 1387
 Spearfish Canyon, SD 57754-9725

 Represented by: Leslie England
 2509 Laurel Ave.
 Rapid City, SD 57701

PETITIONERS:

Ron and Lisa Jorgenson
Spearfish Canyon, Lot 36
77-179 Kekai Pl.
Kailua-Kona, HI 96740

Norman G. Nicholls, Acting Director
Spearfish Canyon Preservation Trust
HC-37, Box 1377
Lead, SD 57754

Jack R. Cole
Spearfish Canyon
P.O. Box 882
Spearfish, SD 57783

October 4, 1994

Eric Gronlund, Water Rights Division
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
Joe Foss Building, 523 East Capitol
Pierre, SD 57501-3181



RE: Water Permit Application 1608-1

Dear Eric:

In regard to the above application for the Spearfish Canyon Foundation I do not intend to intervene or oppose this but would like to make a suggestion and a comment.

You indicate that drawdown should not affect existing rights. However, I suggest that the Division should add another condition in case your assumption is incorrect. Specifically you should require that the Foundation, at its own expense, should pipe water to adjacent cabin sites should it become evident that such drawdown has negatively affected their wells.

My comment is that, since very substantial amounts of water will be removed and consumed from the Deadwood Formation, which is a likely source for springs that supply the stream further down the canyon, the Division should be seeking to add water to Spearfish Creek through other measures. This might have specific application to Phase II of the Homestake Water Rights hearings and my request for declaratory rulings to allow for additional water in Spearfish Creek.

Thanks for including me in your mailing on this.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard L. Fort".

Richard L. Fort
HC 37, Box 2421, Lead SD 57754

cc: John Hatch, Jerry Boyer, Norm Nicholls



Spearfish Canyon Preservation Trust

6. Neither the applicant or the state has personally notified other well users, in the immediate area, of this new well permit. Many times a public notice in local newspapers is overlooked by the public. Two well users, at a recent hearing on the proposed motel, testified about their concern of possible water shortage and pollution if this new well is approved. As an advocate I am acting on their behalf and have notified six adjacent land owners of the implications of this well permit.

7. There has been **no mention**, in this correspondence, by the applicant or the Chief Engineer, of another old well located on the proposed motel property. This means that the applicant will have access to two (2) wells on the proposed motel property and one (1) on the Latchstring Inn property **after** well permit 1526-1 is capped. This allows for a total of three (3) wells, for the applicant, one of which is capable of pumping in excess of 150 gallons per minute. How will the use of this older domestic well be handled? Will it be capped?

Mr. Jerry Boyer, General Manager of the Spearfish Canyon Foundation, indicated in public hearings that the new well had the capacity of pumping 200 gallons per minute. How will the owner of the new well permit (1608-1) "control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights", as you indicate in your 'recommendation'? How will the use of all of these wells be monitored? Metered by DENR? By the County? By the Applicant? (Note: the Dunbar Resort in Deadwood is going to voluntarily meter their water usage.)

Therefore, I petition the Water Management Board to consider this intervention and request a delay before a final approval of Permit 1608-1 is granted.

Thank you for your notification on this issue.

Sincerely,



Norman G. Nicholls

Acting Director

Spearfish Canyon Preservation Trust

HC-37, Box 1377

Lead, SD 57754

cc: ~~/~~Eric Gronlund, Bill Taylor, Jerry Boyer, Dick Fort

To: ~~James Goodman~~ *John Hatch* Chief engineer 10/11/94
Natural Resources Engineer
Re: Water Permit App. #1608-1



Dear ~~Mr. Goodman~~ *Mr. Hatch*

The water rights to the Spearfish Canyon foundation may adversely affect our rights to our own clean water. We are neighbors across the street and downstream from the proposed project. These are our concerns:

- 1) Our well is not as deep as the one at the lodge, so will there be any water for us?
- 2) Will our well water and the stream's water remain uncontaminated?
- 3) What will your department do if their use does infringe on our rights? How would we get water? What would they be required to do, and who would make them do it?
- 4) We want some assurances, besides speculation, that we will have quality water.

We are not available to attend a meeting if you call one, but we would be interested in working on these issues.

Sincerely,

Ron and Lisa Jorgenson
Spearfish Cnyn Lot 36
77-179 Kekai Pl.
Kailua-Kona HI, 96740

Water Rights Division - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Spearfish Canyon Foundation -- Appl. No. 1608-1

ADDRESS: COUNTY: Lawrence

DATE: 10/17/94 PHONE: 584-3333

RE: Call from Jerry Boyer

COMMENTS:

I returned Mr. Boyer's phone call. Mr. Boyer wanted to know who we had submitted petitions. I told him petitions had been received from Mr. Nicholls, Mr. and Mrs. Jorgenson and that Jack Cole was going to be faxing in a petition. I stated that Mr. Nicholls acting on behalf of the Spearfish Canyon Preservation Trust had requested an automatic delay.

Mr. Boyer stated that Leslie England would be acting as their attorney.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME:

Eric S. Henderson

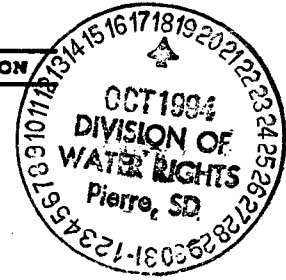
Oct 17, '94

TO: MR. JOHN HATCH, Chief
Engineer

Page 1 of 2



Dept. of Environment & Natural Resources
WATER RIGHTS DIVISION
Joe Foss Building/ 523 E. Capitol
Pierre, S.D. 57501



Dear Mr. Hatch:

Please accept this letter as my personal request to intervene in the Water Permit Application No: 1608 - 1 of the so called "Spearfish Canyon Foundation".

I am in opposition to this Permit and wish to participate in the proceedings and the Hearings before the Water Management Board.

Please mail to me a copy of the original Application.

Our topics of concern are that the Water Rights requested would be for a highly controversial commercial development in the Heart of Spearfish Canyon.

1) We would like to request a delay until at least the November Hearing date to obtain answers to many presently UNANSWERED questions concerning the project and to allow a discovery schedule.

2) There is a probability that the need for this water will never materialize.

a) The site and the applicant are presently under review by several Federal Agencies.

b) The Lawrence County P & Z Board voted 3 to 2 to DENY approval of the project at Savoy.

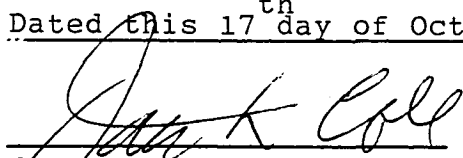
c) The Lawrence County Commissioners voted 3 to 2 to approve it. There are apparently several personal and Ordinance procedure irregularities in such approval that are now being contested in Court.

To: John Hatch

- d) There is not reasonable probability that the proposed use is in the public interest and will not dewater and pollute surrounding domestic wells, Spearfish Creek below Savoy and the domestic wells and springs of the numerous homes below Savoy.
- e) The proposed use of the water for sewage will be considerably greater than anticipated (and approved by the D.E.N.R.) which will result in more pure Spearfish Canyon water sources changed to polluted waste water.
- f) An Environmental Impact Statement should be prepared.
- g) The recommendation of the Chief Engineer does not include terms, conditions, restrictions, qualifications, quantifications, or limitations in perpetuity that are necessary and sufficient to protect the public interest.

Thank you.

Dated ththis 17 day of October, 1994

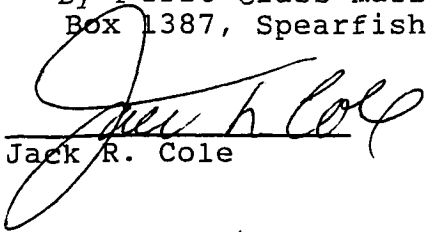


Jack R. Cole
Spearfish Canyon
P. O. Box 882
Spearfish, S. D. 57783

CERTIFICATE of SERVICE

I hereby certify that the above request was served as described below.

by FAX to John Hatch of D.E.N.R. on Oct 17th, 1994. By First Class mail to John Hatch of D.E.N.R. postmarked Oct 17th, 1994. By First Class mail to the Spearfish Canyon Foundation, HC 37, Box 1387, Spearfish Canyon, S.D. 57754 - 9725 postmarked Oct 17, 1994.



Jack R. Cole

(605) 584-3778



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 18, 1994

Jack R. Cole
Spearfish Canyon
P.O. Box 882
Spearfish, SD 57783

Dear Mr. Cole:

Per your request, enclosed is a copy of the application, and a copy of the report and recommendation on Water Permit No. 1608-1, Spearfish Canyon Foundation.

If you need further assistance, please feel free to contact Eric Gronlund at (605) 773-3352.

Sincerely,

Cheryl F. Frost
Secretary
Water Rights Division

enclosures



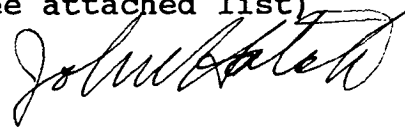
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 19, 1994

NOTICE

TO: Jerry Boyer
Spearfish Canyon Foundation
HC 37, Box 1387
Spearfish Canyon, SD 57754-9725
and Parties of Record (see attached list)

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

SUBJECT: Automatic Delay of Hearing for Water Permit Application
No. 1608-1, Spearfish Canyon Foundation

Petitions in opposition to Water Permit Application No. 1608-1 have been filed with the Water Rights Division. Petitions from the Spearfish Canyon Preservation Trust and Jack R. Cole also requested an automatic delay of the hearing. Therefore, the hearing on Application No. 1608-1 is automatically delayed pursuant to SDCL 46-2A-4 and 46-2A-5 and will not be held on October 27, 1994.

The Water Management Board will now consider Application No. 1608-1 at their November 30 and December 1, 1994, meeting. Future notice of the date, time and place of the hearing will be provided to all parties of record.

A copy of the report and recommendation is enclosed in this mailing to all petitioners. A copy of the petitions is enclosed to the applicant.

Water from the test well may not be put to beneficial use until a water permit is obtained.

Please contact Eric Gronlund, staff engineer at (605) 773-3352, if you have any questions.

enclosure

c: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on October 19, 1994, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated October 19, 1994, regarding Automatic Delay of Hearing for Water Permit Application No. 1608-1, Spearfish Canyon Foundation, along with a copy of the Parties of Record list, and a copy of the Petitions which were submitted to our office, addressed as stated below:

Jerry Boyer, Spearfish Canyon Foundation, HC 37, Box 1387,
Spearfish Canyon, SD 57754-9725.

A copy of the Notice, Parties of Record list, and a copy of the Report and Recommendation were sent to the individuals state below:

Ron and Lisa Jorgenson, Spearfish Canyon, Lot 36, 77-179 Kekai Pl.,
Kailua-Kona, HI 96740.

Jack R. Cole, Spearfish Canyon, P.O. Box 882, Spearfish, SD 57783.

Norman G. Nicholls, Acting Director, Spearfish Canyon Preservation
Trust, HC-37, Box 1377, Lead, SD 57754.

A copy of the Notice and Parties of Record list was sent to:

Leslie England, 2509 Laurel Ave., Rapid City, SD 57701.

A copy of the Notice and Parties of Record list was sent Inter-office to:

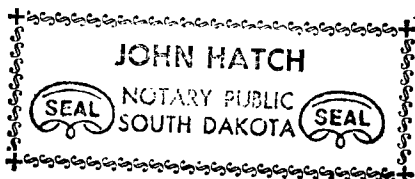
Diane Best, Assistant Attorney General, Capitol Building.

Cheryl F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 21st day of October, 1994



John Hatch
Notary Public

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

27 October 1994

Roy Alexander, Jr. and Mike Alexander
Alexander Drilling Company
P.O. Box 615
Hill City, South Dakota 57745

CERTIFIED MAIL

Dear Gentlemen:

On August 16, 1994, a number of citizens called my Department to report serious pollution occurring in Little Spearfish Creek, potentially resulting from your drilling operation near Savoy. One of my employees already in the area was sent to investigate. He observed a cloudy discharge from your drilling rig that flowed over a grassed area and then flowed into Little Spearfish Creek. He followed the cloudy water from there to the confluence of Spearfish Creek. He took water samples in Spearfish Creek upstream and downstream of the confluence with Little Spearfish Creek for total suspended solids. The sample results verify a drastic increase of total suspended solids in Spearfish Creek below the confluence.

The water quality standard for total suspended solids in Little Spearfish and Spearfish creeks is 30 parts per million. The sample taken upstream in Spearfish Creek contained a total suspended solids concentration of 10 parts per million. The sample taken downstream in Spearfish Creek contained 243 parts per million. This is eight times the water quality standard and 24 times the background concentration. It would appear that the placement of some type of water containment or retention structure was warranted and could have easily prevented pollution in the stream.

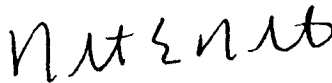
High suspended solids are very harmful to the health and vitality of streams, especially in coldwater trout streams. High concentrations of suspended solids stress fish, smother fish eggs and young fish, ruin spawning habitat, increase turbidity, deplete dissolved oxygen, and decrease feeding opportunities. It is quite possible that this year's production of trout and other fish may have been lost due to the increased solids.

Water pollution such as this is clearly unacceptable. Therefore, the purpose of this letter is to serve notice that any future incidents of this kind will not be tolerated. Any future pollution activities resulting from your operation will put your company in jeopardy of formal enforcement proceedings by the State of South Dakota, including the assessment of penalties of up to \$10,000 per day per violation.

Roy and Mike Alexander
27 October 1994
Page 2

Thank you for your cooperation in this matter. Together we can insure the continued protection of the valuable natural resources of this state that we all enjoy.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert E. Roberts". The signature is fluid and cursive, with the first name "Robert" being more prominent than the last name "Roberts".

Robert E. Roberts
Secretary

cc: Mark Keenihan, RCRO
John Hatch, WR



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 31, 1994

NOTICE

TO: Jerry Boyer
Spearfish Canyon Foundation
HC 37, Box 1387
Spearfish Canyon, SD 57754-9725
and Parties of Record (see attached list)

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

SUBJECT: Rescheduling Consideration of Water Permit Application
No. 1608-1, Spearfish Canyon Foundation

The Water Management Board will consider Water Permit Application No. 1608-1 on November 30, 1994 at 11:30 am in the Gallery E, Ramkota - Best Western, 920 West Sioux Ave., Pierre, SD. The October 27, 1994 hearing on this application was automatically delayed by a petitioner in opposition to the application.

Applicable provisions of the Notice of Hearing published September 29 and October 6, 1994, in the Black Hills Pioneer in Lead, SD will still apply at this hearing. This hearing is an adversary proceeding. Any party of record 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.

Contact Eric Gronlund, by November 21, 1994, at (605) 773-3352 to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

c: Diane Best, Assistant Attorney General
Richard L. Fort, HC 37, Box 2421, Lead, SD 57754

PARTIES OF RECORD

WATER PERMIT APPLICATION NO. 1608-1, SPEARFISH CANYON FOUNDATION

APPLICANT: Spearfish Canyon Foundation
 HC 37, Box 1387
 Spearfish Canyon, SD 57754-9725

 Represented by: Leslie England
 2509 Laurel Ave.
 Rapid City, SD 57701

PETITIONERS:

Ron and Lisa Jorgenson
Spearfish Canyon, Lot 36
77-179 Kekai Pl.
Kailua-Kona, HI 96740

Norman G. Nicholls, Acting Director
Spearfish Canyon Preservation Trust
HC-37, Box 1377
Lead, SD 57754

Jack R. Cole
Spearfish Canyon
P.O. Box 882
Spearfish, SD 57783

CERTIFICATION

I hereby certify that on October 31, 1994, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated October 31, 1994, along with a copy of the Parties of Record List, regarding Rescheduling Consideration of Water Permit Application No. 1608-1, Spearfish Canyon Foundation, addressed as stated below:

Jerry Boyer, Spearfish Canyon Foundation, HC 37, Box 1387,
Spearfish Canyon, SD 57754-9725.

Richard L. Fort, HC 37, Box 2421, Lead, SD 57754.

Leslie England, 2509 Laurel Ave., Rapid City, SD 57701.

Ron and Lisa Jorgenson, Spearfish Canyon, Lot 36, 77-179 Kekai Pl.,
Kailua-Kona, HI 96740.

Jack R. Cole, Spearfish Canyon, P.O. Box 882, Spearfish, SD 57783.

Norman G. Nicholls, Acting Director, Spearfish Canyon Preservation
Trust, HC-37, Box 1377, Lead, SD 57754.

Copy Sent Inter-office to:

Diane Best, Assistant Attorney General, Capitol Building.

Cheryl F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 1st day of November, 1994



John Hatch
Notary Public

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001

LESLIE J. ENGLAND
(ALSO ADMITTED IN COLORADO)

LAW FIRM OF
LESLIE JAMES ENGLAND
2509 LAUREL AVENUE
RAPID CITY, SOUTH DAKOTA 57701

TELEPHONE (605) 341-7600
FAX (605) 342-8058

November 7, 1994



James A. Goodman, Natural Resources Engineer
Department of Environment and Natural Resources
Joe Foss Bldg.
523 East Capitol
Pierre, SD 57501

Re: Well Water Permit Application No. 1608-1
Spearfish Canyon Foundation

Dear Mr. Goodman:

As discussed recently in Pierre, I wanted to get any additional information you may have concerning this upcoming permit hearing. Do you have an Engineering Report from the South Dakota School of Mines Hydrologist referenced in Objector Nichols' letter of opposition, or any other information from such experts? Please provide a copy of the letter in Water Permit File 1526-1 authorizing this test well.

Also, in conclusion No. 3 of your Report, is the well casing legally deficient in the Department's opinion?

Finally, please provide plans and specifications of the facilities waste water disposal system. Also, if you have any further information concerning Steve Pirner's concern about discharge into Spearfish Creek, please provide any written documentation regarding same.

Yours very truly,

A handwritten signature in black ink, appearing to be "LJE", with a long horizontal flourish extending to the right.

Leslie J. England

LJE/kmr

cc: Diane Best, Assistant Attorney General
Jerry J. Boyer, General Manager, Spearfish Canyon Foundation
Eric Gronlund, DENR



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 16, 1994

Leslie J. England
2509 Laurel Avenue
Rapid City, SD 57701

Dear Mr. England:

I am writing in response to your November 7, letter to Jim Goodman on Spearfish Canyon Foundation's water permit application.

Item No. 1 of Mr. Nichols' petition to intervene claims the proposed use will tend to deplete the stream flow in Spearfish Creek and the Deadwood aquifer. We do not have any report that supports Mr. Nichols' claim.

Enclosed is a copy of Mr. Goodman's letter authorizing construction of a test well. The well completed by Alexander Drilling for commercial use at the Resort Lodge was completed in accordance with SD Well Construction Standards. Mr. Goodman's statement in the report, that the construction was deficient, is his opinion and is intended to inform the applicant of potential operational problems.

During construction of the well, this Department received complaints of pollution occurring in Spearfish Creek, that potentially were the result of the drilling operation. I have enclosed a copy of a letter to Alexander Drilling Company from Secretary Roberts addressing this pollution occurrence. Also enclosed is a copy of Department approval of the wastewater systems compliance with minimum design requirements.

Very truly yours,

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

enclosures

c: Diane Best, Assistant Attorney General



To: John Hatch, Chief Engineer
Water Rights Division

11/15/94

Dear Mr. Hatch,

On November 30th, the Water Management Board will be considering the water permit application No. 1608-1 for the Spearfish Canyon Foundation. Since I cannot be there in person, this letter is to express concerns on issues that must be addressed.

The people who live in Spearfish Canyon do so at the mercy of the mining companies and especially Homestake. Homestake tells us they have done a lot of good in preserving the canyon, and I have no reason to doubt that. But, now a foundation has been formed supposedly for the good of the canyon, yet admittedly to turn a profit from it. This appendage of the Homestake mine seeks now your approval to remove the underground water.

We do not know the outcome of such water removal and its disposal back into the ground. Should you approve this water permit, who will clean up the water should it get contaminated? How will we know how much water is being removed from the three (or four?) wells? Will frequent tests be done to monitor the underground water level and the quality of the nearby water? Who will provide us with clean domestic water if dry years should deplete the source? In the event of a mishap, the Spearfish Canyon Foundation could vanish as quickly as it was established, leaving homeowners destitute.

We cannot prove the project's water will leave neighbors unaffected. So, if you do approve this project, please address their liability; construct a safety net for the canyon and its residents.

Sincerely,

Lisa Jorgenson
Spearfish Canyon Lot 36
77-179 Kekai Pl.
Kailua-Kona HI 96740



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 23, 1994

Lisa Jorgenson
77-179 Kekai Pl.
Kailua-Kona, HI 96740

Dear Mrs. Jorgenson:

I am writing in response to your November 15, 1994, letter concerning Water Permit Application No. 1608-1 for the Spearfish Canyon Foundation. A copy of your letter and original petition will be given to the Water Management Board at the November 30, 1994, hearing.

The Water Management Board has the responsibility to regulate and control the use of waters of the state according to the principles of beneficial use and priority of appropriation based on South Dakota Water Rights Law. The Board will hear testimony, consider the evidence, and, ultimately, make a ruling on this water permit application.

If you have any questions, please contact Eric Gronlund at (605) 773-3352.

Very truly yours,

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

LESLIE J. ENGLAND
(ALSO ADMITTED IN COLORADO)

LAW FIRM OF
LESLIE JAMES ENGLAND
2509 LAUREL AVENUE
RAPID CITY, SOUTH DAKOTA 57701

TELEPHONE (605) 341-7600
FAX (605) 342-8058

November 29, 1994

Diane Best
Assistant Attorney General
Attorney General's Office
500 East Capitol
Pierre, SD 57501

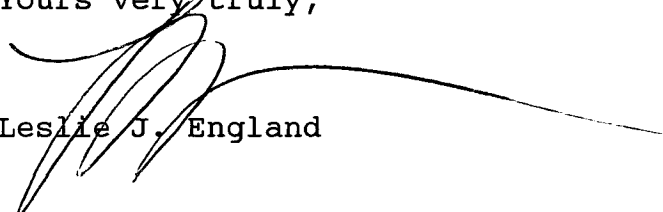
Re: Well Water Permit Application 1608-1, Spearfish Canyon
Foundation

Dear Ms. Best:

In response to Jack Cole's request to continue the above-referenced hearing from 11:30 a.m., November 30, 1994, to 9:00 a.m. December 1, 1994, unfortunately, the Applicant, Spearfish Canyon Foundation, is not in a position to agree to a continuance because of scheduling constraints of its Director, Jerry Boyer on Thursday.

Also, enclosed for filing please find a Subpoena for Mr. Ray Birchem, PE, Department of Environment and Natural Resources, requiring his attendance at the above-referenced hearing on November 30, 1994, at 11:30 a.m. at the Ramkota Inn.

Yours very truly,



Leslie J. England

LJE/kmr

Enclosure: As Stated
cc: Jerry Boyer, Spearfish Canyon Foundation
John Hatch, DENR

STATE OF SOUTH DAKOTA

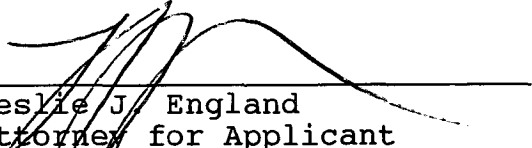
BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF)
WATER PERMIT APPLICATION 1608-1,) **SUBPOENA**
SPEARFISH CANYON FOUNDATION)
)

**TO: RAY BIRCHEM, P.E., DEPARTMENT OF ENVIRONMENT AND NATURAL
RESOURCES**

You are hereby commanded to attend the above-named Hearing at the Ramkota Inn in the City of Pierre, State of South Dakota, on the 30th day of November, 1994, at 11:30 a.m. of said day, then and there to give testimony to the Water Management Board as a witness on the part of Applicant, Spearfish Canyon Foundation, in said action pending in the above-captioned matter.

Issued in the name of the South Dakota Water Management Board, on this 29th day of November 1994.



Leslie J. England
Attorney for Applicant
2509 Laurel Avenue
Rapid City, SD 57701
(605)341-7600

CERTIFICATE OF SERVICE

I, Leslie J. England, hereby certify that I served a true and correct copy of the foregoing Subpoena by facsimile and U.S. Mail this 29th day of November 1994, on the following persons:

Ron Birchem, P.E.
Water Rights Division
Department of Environment and Natural Resources
Joe Foss Building
523 E. Capitol
Pierre, SD 57501-3181

John Hatch, Chief Engineer
Water Rights Division
Department of Environment and Natural Resources
Joe Foss Building
523 E. Capitol
Pierre, SD 57501-3181

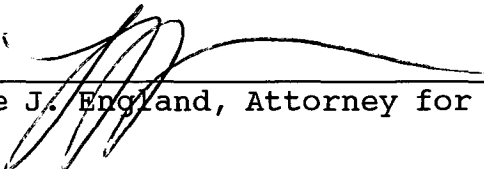
Diane Best, Assistant Attorney General
Attorney General's Office
500 East Capitol
Pierre, SD 57501

and by U.S. Mail only to the following persons:

Ron and Lisa Jorgenson
Spearfish Canyon, Lot #36
77-179 Kekai Place
Kailua-Kona, HI 96740

Jack R. Cole
Spearfish Canyon
P.O. Box 882
Spearfish, SD 57783

Norman Nichols
Spearfish Canyon
HC 37, Box 1377
Lead, SD 57754



Leslie J. England, Attorney for Applicant



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

JAN 4 1995

Jerry Boyer
Spearfish Canyon Foundation
HC 37 Box 1387
Spearfish Canyon, SD 57754-9725

Dear Mr. Boyer:

Enclosed is Water Permit No. 1608-1 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Also enclosed is Form 10, Notice of Completion of Works and Application of Water to Beneficial Use, which you are to complete and submit to the Chief Engineer when you have completed the system and/or have put the water to beneficial use. An inspection can then be scheduled so that the Water License may be issued, thus completing your acquisition of a Water Right.

Very truly yours,

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

enclosures

PLEASE NOTE: Certain changes can be made in your permit within the five year construction period, usually without affecting the priority date provided an application to amend your permit is made within the five year period - i.e. changes in location or number of diversion points (wells) or location of land to be irrigated. Well locations for wells into the same aquifer can be moved up to 660 feet without application.

Applications to amend a permit after the five year construction period will be assigned a new priority date. Applications to change water sources, to add lands or increase original diversion rates, if approved will usually receive the date of the new application as a priority date regardless of the five year construction period.

Water Rights Division - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit Nos. 1526-1 and 1608-1

ADDRESS: COUNTY:

DATE: 8/4/95 TELEPHONE:

RE: Call from Jerry Boyer

COMMENTS:

Mr. Boyer called with two issues to discussed.

First, he stated that in accordance with Qualification No. 2 on Permit No. 1608-1 has been plugged in accordance with Well Construction Standard Rules.

Secondly, he said that the Spearfish Canyon Foundation sold the lodge to Spearfish Canyon Resorts, LLC. He asked what the process is for changing the name on Permit No. 1608-1. I explained the transfer of ownership form and stated I would send him a partially completed form.

Finally, I brought to his attention the application which is still pending on the well utilized for the lawn around the Latchstring. He asked that I send him a copy of the file and he would get moving on it.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME:

Eric Handberg



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 4, 1995

Jerry Boyer
Spearfish Canyon Foundation
HC 37, Box 1387
Spearfish Canyon, SD 57754-9725

Dear Jerry:

Please find enclosed a copy a partially completed transfer of ownership form. As we discussed, filing this completed form is necessary for changing the name on Water Permit No. 1608-1 from Spearfish Canyon Foundation to Spearfish Canyon Resorts, LLC.

I have also enclosed a copy of our file on the pending water permit application for a well that serves for lawn watering at the cultural center. This application was put on hold by Jim Wainwright back in 1991. Please let me know whether proceed with processing the application. Prior to proceeding, check over the application to see if all the information is correct. One thing that comes to mind is that the name of the applicant may have changed.

Finally, you stated that the well authorized by Water Permit No. 1526-1 was abandoned and subsequently plugged as set forth in Qualification No. 2 of Water Permit No. 1608-1. I forgot to ask you whether Permit No. 1526-1 can be cancelled. If the well is plugged and water is no longer used for the snowmobile concession then the permit is subject to cancellation. However, if the snowmobile concession has been moved and is served by a new well then a change of diversion application may need to be filed. The concession may be provided by the well authorized by No. 1608-1, in which case Permit No. 1526-1 can be cancelled..

Please feel free to contact me if you have any questions.

Sincerely,

Eric Gronlund
Water Rights Program
605 773-3352

enclosures

Water Rights Division - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit No. 1526-1, Homestake Natural History and Cultural Center

ADDRESS: COUNTY: Lawrence

DATE: 8/11/95 TELEPHONE:

RE: Call from Jerry Boyer

COMMENTS:

Jerry Boyer called in response to my August 4, 1994 letter. Mr. Boyer stated that the well authorized by Water Permit No. 1526-1 for the snowmobile concession was plugged. The Lodge is physically now where the snowmobile concession was located. The snowmobile concession has been moved across the Forest Service road and will act as a winter sports center. The concession will be provided water by Water Permit No. 1608-1 for the Spearfish Canyon Lodge. Water Permit No. 1608-1 is for commercial use and will serve the foundation office, fire hall and winter sports center in addition to the Lodge itself.

I stated that since the well authorized by Water Permit No. 1526-1 was plugged and the winter sports center is now supplied its water needs by Water Permit No. 1608-1 that Permit No. 1526-1 could be subject to cancellation. Mr. Boyer stated that Water Permit No. 1526-1 could be cancelled. He asked that the notice of cancellation be sent to him. I stated that Permit No. 1526-1 will be scheduled for cancellation at the October 4, 1995 Board meeting.

The notice of cancellation should be sent to:

Jerry Boyer
Spearfish Canyon Foundation
HC 37, Box 1387
Spearfish Canyon, SD 57754-9725

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: Eric Handland

NOTICE OF TRANSFER OF OWNERSHIP

No. _____

TO: Chief Engineer
Water Rights Division, DWR
523 East Capitol
Pierre, SD 57501-3181

Date: AUGUST 10, 1995I/We request that Water Permit/~~Right~~ No. 1608-1formerly owned by: Spearfish Canyon Foundation, HC 37, Box 1387, Spearfish Canyon, SD 57754-9725be transferred to: (name & address) SPEARFISH CANYON RESORTS, LLC,
BOX 705, SPEARFISH, SD 57783 (telephone No.) 605-642-2525
(CRICH HARR)

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

well NE1/4 SE1/4 Section 36, T5N, R1E

I/We understand that the validity of Water Permit/~~Right~~ No. 1608-1 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).

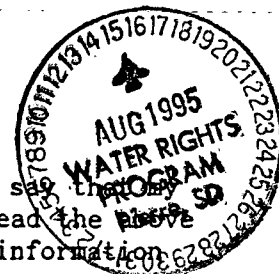
You are requested to file this "Notice of Transfer" in the appropriate file at the Division of Water Rights, as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is attached to cover the filing fees as required under SDCL 46-2-13.

STATE OF SOUTH DAKOTA)

County of Lawrence)

I/We JEFFREY J. BOYER, PRESIDENT being first duly sworn on my oath depose and say that the relation to the above described undertaking is that of Owner, that I have read the foregoing statement, and that I know of my own personal knowledge that the information herein stated is true.



[Signature]

(Signed)

PRESIDENT

Subscribed and sworn to before me this 10 day of Aug., 1995.

Expires
Dec. 27, 1995

[Signature]

(Notary Public)

NOTE: Water permits may be cancelled for nonconstruction within the five year construction period. Once a water permit is developed and the water used, the permit becomes a water 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.

Form 10

**NOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USE**Date Sept. 9, 1998TO: Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

FROM:

Spearfish Canyon Reservoir, LLC
(name)P.O. Box 1705
(address)Spearfish, S.D. 57783
(city, state, zip)605-642-2525
(phone)

I have completed the construction of the water use system and I have put the water to beneficial use to the maximum extent it is going to be used.

Water Permit No. 1608-1 states that the water use system is to be constructed by11-30-1999 (date), and water is to be put to beneficial use by 11-30-2003 (date).

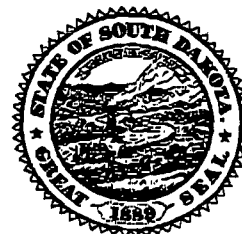
The water use system was completed on

7-1-1995
(date)

Applying the water to beneficial use was completed on

7-1-1995
(date)

You may schedule an investigation so that the water license may be issued.

(signature)



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

October 26, 1999

1608-1

Spearfish Canyon Resorts
%Jerry Boyer
P.O. Box 705
Spearfish, SD 57783

Dear Mr. Boyer:

The investigation of your water use system was conducted on September 9, 1998, by Ken Buhler, staff engineer. The investigation included the extent of application of water to beneficial use, as developed under Water Permit No. 1608-1. Your final water right document, the Water License, can now be issued.

Statutes require that we charge a \$50.00 fee for the investigation and issuance of the Water License. Upon receipt of the \$50.00 fee from you, we will begin processing your Water License.

**Please remit fee to:
Department of Environment & Natural Resources
Water Rights Program
523 E. Capitol
Pierre, SD 57501-3181**

Sincerely,

Cheryl F. Frost
Secretary
Water Rights Program
(605) 773-3352

NOTE: On check or money order, please specify your permit number. This will insure proper handling of the fee.

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

NE 416277

Pierre, November 29, 19 99

RECEIVED OF Spearfish Canyon Resorts LLC, P.O. Box 705, Spearfish, SD 57783
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use _____		
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. <u>1608--1</u>	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	50 00

By John Hatch
Chief Engineer

Permit No. 1608-1
Belle Fourche River - Water District

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

TO: Chief Engineer, Water Rights Program, DENR, Foss Bldg., Pierre, SD 57501

I have this day, **September 9, 1998**, made a thorough examination of the water use system constructed by **Spearfish Canyon Resorts, LLC, (formerly Spearfish Canyon Foundation)** of **PO Box 705, Spearfish, SD, 57783** holder of Permit No. **1608-1**, bearing the priority of **September 8, 1994** authorizing the diversion of **0.34** cu. ft. per second of the waters of **groundwater** for **commercial use and for fire suppression** purposes, in **Lawrence** County.

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

A. Works used to divert the water:

Water is diverted with a Grundfos submersible pump from an 8 5/8 -inch diameter well 450 feet deep, located 2563 feet north and 151 feet west of the south east corner of Sec. 36, T5N-R1E (NE¼ NE¼ NE¼ SE¼ Sec. 36, T5N-R1E).

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

Water is transported to place through 100 feet of buried 4-inch diameter PVC pipeline.

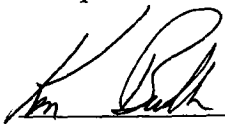
C. Works used to apply water to beneficial use:

Water is applied to beneficial use for sanitary and culinary purposes by the business and for lawn watering.

The system is in the following condition **good**. The point of diversion is located **NE¼NE¼NE¼SE¼ Sec. 36, T5N-R1E**. The works are capable of diverting and conveying to the place of use **0.34** cu. ft. per second of water which is to be used for **commercial use and fire suppression**. The license should be issued for **0.34** cfs.

Applicable permit qualifications have been complied with: **yes**

Exceptions to compliance are: **na**



Ken Buhler
Natural Resources Engineer
DENR, Water Rights Program

10/13/99

Date

REPORT ON INSPECTION OF PERMIT NO. 1608-1

Other permit(s) associated with the project: none

NAME & ADDRESS OF INSPECTION CONTACT Roger Buchholz, PO Box 705, Spearfish, SD,
57783

RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE: Maintenance Supervisor

NAME & ADDRESS OF PERMIT HOLDER: Spearfish Canyon Resourts, LLC
PO Box 705
Spearfish, SD 57783

DATE OF INSPECTION: September 9, 1998

DIVERSION POINT LEGAL LOCATION: 2563 feet north and 151 feet west of the south east
corner of Sec. 36, T5N-R1E (NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 36, T5N-R1E)

WELL INFORMATION:

- 1) Well Drilling Firm: Alexander Drilling
- 2) No. of Wells one
- 3) Depth(s) 450 feet
- 4) Well log is available yes

Casing:

- 1) Diameter 8 5/8 O.D. inches
- 2) Length 84 feet
- 3) Type steel

Screen:

- 1) Type none- open hole completion
- 2) Length 368 feet
- 3) Static water level 33 feet

Pump:

- 1) Make Grundfos
- 2) Model submersible
- 3) Size 8
- 4) Capacity 150 GPM

DISTRIBUTION LINES OR CANALS:

1) Type PVC 2) Size 4 inches 3) Length 100 feet

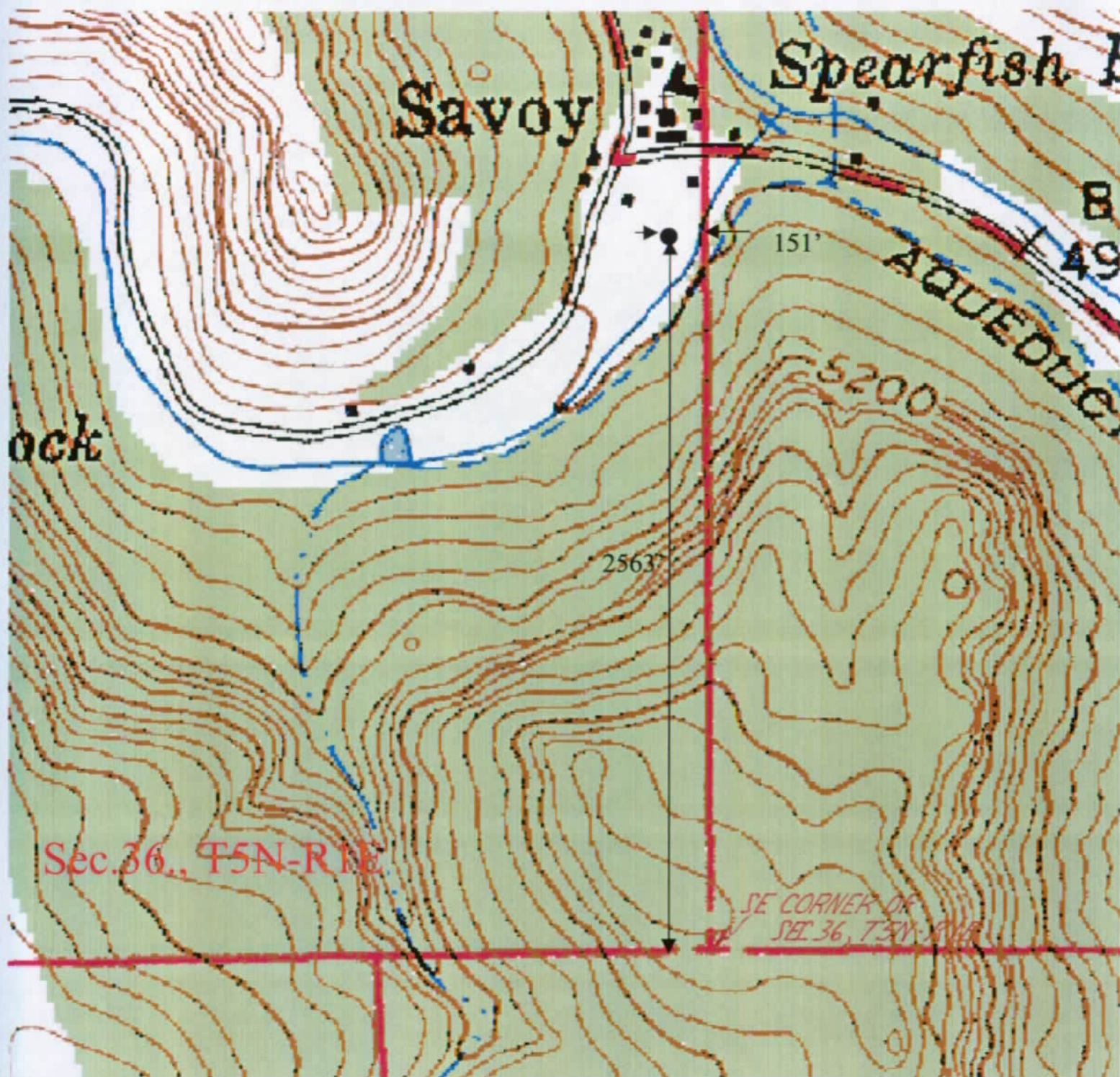
SYSTEM INFORMATION:

Water is pumped from the well to six 110-gallon pressure tanks. Water is drawn from the pressure tanks for use in Spearfish Canyon Lodge including irrigating the 1.75 acres of lawn surrounding the building.

PERMIT QUALIFICATIONS AND REGULATIONS:

- 1) Special qualifications to permit being abided by yes
 - 2) All structures, wells and lands on map yes
 - 3) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period na
-

Water Right No. 1608-1



300 0 300 600 Feet



Ken Buhler

Ken Buhler
Natural Resources Engineer
Water Rights Program

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 1608-1

(1) Spearfish Canyon Foundation, PO Box 705, Spearfish SD 57783 made Application No. 1608-1, September 8, 1994 for a water permit to divert 0.34 cubic feet of water per second from groundwater (one well), Lawrence County, South Dakota for commercial and fire suppression purposes. Permit No. 1608-1, with a priority date of September 8, 1994 was approved November 30, 1994 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before November 30, 1999 and for the application to beneficial use of said water on or before November 30, 2003.

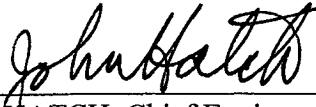
The permit holder submitted a *Notice of Completion of Works and Application of Water to Beneficial Use* on July 13, 1999. The *Notice* stated the diversion system was completed on July 1, 1995 and the water placed to beneficial use on July 1, 1995.

On August 15, 1995, Water Permit No. 1608-1 was transferred to Spearfish Canyon Resorts.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 0.34 cubic feet of water per second for beneficial use. The location of the diversion point is 2,536 feet north and 151 feet west of the southeast corner of Section 36-T5N-R1E (NE ¼ SE ¼).

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to supply water to the business and lawn watering.

(4) Pursuant to South Dakota Water Law 46-5-30.1 Spearfish Canyon Resorts, PO Box 705, Spearfish SD 57783 the holder and/or owner of Water Right No. 1608-1 is issued a license to appropriate water, the right to use 0.34 cubic feet of water per second from groundwater (one well) with a priority date of September 8, 1994 from the location specified in (2) of this license for commercial and fire suppression purposes. This license is subject to any limitations or qualifications listed in Water Right No. 1608-1 and subject to South Dakota State Law.



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

DEC 10 1999

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

DEC 10 1999

1608-1

Spearfish Canyon Resorts
%Rich Harr, Managing Director
P.O. Box 705
Spearfish, SD 57783

Dear Mr. Harr:

Enclosed is Water License No. 1608-1. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 416277 in the amount of \$50.00 which you paid for the investigation and issuance of the Water License.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 1608-1, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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. If you have any questions, please contact our office.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Program
(605) 773-3352

ks
enclosures