

DIVISION OF WATER PERMIT NO. 1707-1

INTO 1707A-1 AND 1707B-1

On July 8, 2003, a transfer of ownership form was filed by the City of Spearfish to transfer one of the wells described in Water Permit No. 1707-1 from Frawley Ranches, Inc to the City.

Water Permit No. 1707-1 has been divided and reissued to reflect the change as follows:

Water Permit No. 1707A-1, for Frawley Ranches, Inc., 12600 West Colfax, Suite B-130, Lakewood CO 80215 authorizes diversion of 3.705 cubic feet of water per second from three of the four wells (Madison Formation) 1,100 to 1,400 feet deep located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 14 and SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15, all in T6N, R3E. The water will be used to irrigate 100 acres located in portions of the W $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 14, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 22, N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 23, all in T6N, R3E. This permit authorizes three dugouts (approximately 90 acre-feet total storage capacity) located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 14, SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15, NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 22, and NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 23, all in T6N, R3E. These dugouts receive incidental surface runoff but may also be maintained using water from the wells. In addition to irrigation, the water will be used for a suburban housing development, commercial and domestic use purposes. The total appropriation authorized by Water Permit No. 1707A-1 is 502.5 acre-feet of water annually.

Water Permit No. 1707B-1, for the City of Spearfish, 625 Fifth St., Spearfish SD 57783 authorizes diversion of 1.035 cubic feet of water per second from one of the four wells (Madison Formation) 1,100 to 1,400 feet deep located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 14 and SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15, all in T6N, R3E. The water will be used for suburban housing development, commercial and domestic use purposes. The total appropriation authorized by Water Permit No. 1707B-1 is 233.5 acre-feet of water annually.

SOUTH DAKOTA

WATER PERMIT NO. 1707A-1, FRAWLEY RANCHES, INC.

Date of first receipt of application: January 6, 2000

Water Permit No. 1707-1, for Frawley Ranches, Inc., was approved by the Water Management Board on December 6, 2000, 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. 1707-1, authorizes 4.74 cubic feet of water per second from four wells (Madison Formation) 1,100 to 1,400 feet deep located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 14 and SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15, all in T6N, R3E. The water will be used to irrigate 100 acres located in portions of the W $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 14, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 22, N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 23, all in T6N, R3E. This permit authorizes three dugouts (approximately 90 acre-feet total storage capacity) located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 14, SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15, NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 22, and NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 23, all in T6N, R3E. These dugouts receive incidental surface runoff but may also be maintained using water from the wells. In addition to irrigation, the water will be used for a suburban housing development, commercial and domestic use purposes. The total appropriation authorized by this permit is 736 acre-feet of water annually.

An ownership change for one of the wells described in Water Permit No. 1707-1 has been received by the City of Spearfish. The location of the well to be transferred to the city will be made through mutual agreement between Frawley Ranches and the City of Spearfish. Water Permit No. 1707-1 is being divided and reissued to reflect the change as follows:

Water Permit No. 1707A-1, for Frawley Ranches, Inc., 12600 West Colfax, Suite B-130, Lakewood CO 80215 authorizes diversion of 3.705 cubic feet of water per second from three of the four wells (Madison Formation) 1,100 to 1,400 feet deep located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 14 and SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15, all in T6N, R3E. The water will be used to irrigate 100 acres located in portions of the W $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 14, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 22, N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 23, all in T6N, R3E. This permit authorizes three dugouts (approximately 90 acre-feet total storage capacity) located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 14, SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15, NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 22, and NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 23, all in T6N, R3E. These dugouts receive incidental surface runoff but may also be maintained using water from the wells. In addition to irrigation, the water will be used for a suburban housing development, commercial and domestic use purposes. The total appropriation authorized by Water Permit No. 1707A-1 is 502.5 acre-feet of water annually.

Water Permit No. 1707B-1, for the City of Spearfish, 625 Fifth St., Spearfish SD 57783 authorizes diversion of 1.035 cubic feet of water per second from one of the four wells (Madison Formation) 1,100 to 1,400 feet deep located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 14 and SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15, all in T6N, R3E. The water will be used for suburban housing development, commercial and domestic use purposes. The total appropriation authorized by Water Permit No. 1707B-1 is 233.5 acre-feet of water annually.

(continued)

2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – September 30 (for irrigation) and January 1 – December 31 (for other uses).
3. The date from which applicant may claim right is January 6, 2000.
4. One-fifth of the construction is to be completed on or before June 6, 2003.
5. All construction is to be completed on or before December 6, 2005.
6. Water is to be put to beneficial use on or before December 6, 2009.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. In accordance with SDCL 46-1-14 and 46-2A-20, Permit No 1707A-1 is issued for a 20-year term. Pursuant to SDCL 46-2A-21, the 20-year term may be deleted at any time during the 20-year period or following its expiration. If the 20-year term is not deleted at the end of the term, the permit may either be cancelled or amended with a new term limitation of up to twenty years. Permit No. 1707A-1 may also be cancelled for non-construction, forfeiture, abandonment or three permit violations pursuant to SDCL 46-1-12, 46-5-37, 46-5-37.1 and ARSD 74:02:01:37.
2. The wells 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.
3. The wells authorized by Permit No. 1707A-1 shall constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) from the producing formation to the surface pursuant to SDCL 74:02:04:28.
4. Permit No. 1707A-1 authorizes a total annual diversion of 502.5 acre-feet (233.5 acre-feet for suburban housing development, commercial & domestic use and 269 acre-feet for irrigation use).

(continued)

Qualifications continued:

5. Frawley Ranches shall report to the Chief Engineer annually the amount of water withdrawn each year from the Madison Formation for suburban housing development, commercial and domestic uses at the development. In addition, this permit is approved subject to the irrigation water use questionnaire being submitted each year for the land being irrigated under this Permit.
6. Pursuant to SDCL 46-5-6, which allows a greater diversion rate and volume if the method or irrigation, time constraints, or type of soils so required, Permit No. 1707A-1 authorizes a maximum diversion rate for irrigation of 2.67 cfs and an annual volume of 269 acre-feet for irrigation of 100 acres.
7. Water Permit No. 1707A-1 authorizes three dugouts with a storage capacity of 90 acre-feet of water.

WATER MANAGEMENT BOARD

By: Garland Erbele

Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment & Natural Resources

JUL 23 2003

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

JUL 23 2003

1707A-1

Daryll Propp
Frawley Ranches Inc
Suite B-130
12600 W Colfax
Lakewood CO 80215

Dear Mr. Propp:

Enclosed is your Water Permit No. 1707A-1. The City of Spearfish filed an ownership change for one of the four wells described in Water Permit No. 1707-1. The water permit has been divided and reissued as No. 1707A-1, Frawley Ranches Inc and 1707B-1, City of Spearfish.

Frawley Ranches Inc. retains authority to construct three wells to be used for irrigation, suburban housing development, commercial and domestic use purposes, as outlined in Water Permit No. 1707A-1. All construction for this project is to be completed on or before December 6, 2005 unless an application for an extension of time is filed prior to this date. The request for an extension of time will need to be public noticed and considered by the Water Management Board.

If you have any questions concerning the division of Water Permit No. 1707-1 and reissuance as Water Permit Nos. 1707A-1 and 1707B-1, please contact Eric Gronlund with our program at (605) 773-3352.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program

enclosure



Roger A. Tellinghuisen • Brad P. Gordon • Eric J. Strawn

December 20, 2005

RECEIVED

DEC 21 2005

WATER RIGHTS
PROGRAM

Water Rights Program
Joe Foss Building
523 E. Capitol
Pierre, SD 57501-3181

RE: Frawley Ranches, Inc.

Dear Sir or Madame:

Enclosed please find Notice of Transfer of Ownership concerning the above captioned matter. Also enclosed please find check in the amount of \$2.50 as and for the filing fee. Please process. Thank you.

Sincerely,

TELLINGHUISEN & GORDON, P.C.

A handwritten signature in cursive script that reads 'Roger'.

Roger Tellinghuisen

RAT/slc
Enc.

SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 14 and SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15, all in T6N, R3E. The water will be used to irrigate 100 acres located in portions of the W $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 14, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 22, N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 23, all in T6N, R3E. This permit authorizes three dugouts (approximately 90 acre-feet total storage capacity) located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 14, SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15, NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 22, and NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 23, all in T6N, R3E. These dugouts receive incidental surface runoff but may also be maintained using water from the wells. In addition to irrigation, the water will be used for a suburban housing development, commercial and domestic use purposes. The total appropriation authorized by Water Permit No. 1707A-1 is 502.5 acre-feet of water annually.

SD EForm - 0495 V1 NOTICE OF TRANSFER OF OWNERSHIP

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

Water Right/Permit No. 1707A-1

Date: _____

I/We request that Water Right/Permit No. 1707A-1 formerly owned by:
FRAWLEY RANCHES, INC. be transferred to:

New Owner Name: ELKHORN RIDGE @ FRAWLEY RANCHES, LLC

Address: 12600 WEST COLFAX AVENUE, SUITE B-130

City, State, Zip LAKEWOOD CO 80215 Telephone No. _____

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

SEE ATTACHED

RECEIVED
DEC 21 2005

☒ I understand that the validity of Water Right/Permit No. 1707A-1 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

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

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

I, ELKHORN RIDGE@FRAWLEY RANCHES, LLC, the new owner, certify that the above information is true and correct.

(Signed by new owner)

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

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date December 21, 20 05

RECEIVED OF Tellinghuisen & Gordon PC, 132 E Illinois St., 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	2.50	
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 <u>1707A--1</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	2.50

No. 002102

By Darland Ebel
Chief Engineer gm



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

January 13, 2006

1707A-1

Roger Tellinghuisen
Tellinghuisen & Gordon PC
132 E Illinois St
Spearfish SD 57783

Dear Mr. Tellinghuisen:

I am writing in follow-up to the ownership change you filed for Water Permit No. 1707A-1. The transfer has been completed. The water permit formerly listed in the name of Frawley Ranches Inc., is now listed in the name of Elkhorn Ridge @ Frawley Ranches, LLC.

Enclosed is your Receipt No. 002102 in the amount of \$2.50. If I can answer any questions for you, please contact me.

Sincerely,

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

enclosure

c: Elkhorn Ridge @ Frawley Ranches LLC