

WATER PERMIT NO. 1707E-1

Name of Applicant: Frawley Ranch, Inc.

Address: 12600 W Colfax, Suite B-130, Lakewood CO 80215 Phone: 303 233-4000

Amount of Water Claimed: 3.75 cfs – 502.5 AF Total Acres: NA

Source of Water Supply: three wells

Water to be used for: suburban housing development, irrigation, commercial & domestic

County: Meade

Location:

PRIORITY Date Received: 7-22-05 Application/License Fee: \$50

Corrected Application Received: Period of Annual Use: Jan 1 – Dec 31

Remarks: Extension of time request

Diversion Point: SE ¼ SW ¼, SW ¼ NW ¼, SW ¼
SW ¼ Sec 14 & SE ¼ NE ¼ Sec 15; all in T6N-
R3E

Land to be Irrigated:

Depth of Well: Madison Formation

Well Driller:

Remarks:

Type of Map:

Prepared by:

Reviewed and the Number Assigned on: 7-25-05

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

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

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>1707E-1</u> (office use only) Hydrologic Unit <u>10120203</u>
	Basin <u>Belle Fourche River</u>
	Newspaper <u>Black Hills Pioneer, Spearfish</u>

JUL 18 2005

RECEIVED

JUL 22 2005

WATER RIGHTS
PROGRAM

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

Check use(s) of water:

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

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. 1707^A-1

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.) Request a time extension for the permit (see attachment for explanation of extension)

- Name of Applicant Frawley Ranches, Inc. Phone 303-233-4000
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 12600 West Colfax, Suite B-130, Lakewood State CO 80215
(Street, RR, or Box and City) (Zip Code)
1.035 Domestic 465 Domestic 233.5 Domestic
2. Amount of water claimed 2.67 Irrigation *CES or 1200 Irrigation **GPM 269 Irrigation ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable
- Source of water supply wells from the Madison Formation
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) Well #1-SE1/4SW1/4 Section 14,
Well #2-SE1/4NW1/4 Section 14, Well #3-SW1/4SW1/4 Section 14, Well #4-SE1/4NE1/4 Section 15
All in T6N, R3E, BHM, See Enclosed Map County Lawrence
- County or counties where water will be used Lawrence
- Annual period during which water is to be used All year for domestic, May through September for irrigation
- 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)
See original application for project description and estimated water demand.

STATE OF SOUTH DAKOTA)

County of Lawrence Co. SS

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)

I, Darrell Propp 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.

Applicant's signature Darrell Propp

Subscribed and sworn to before me this 15 day of July 20 05

Notary Public signature

**ATTACHMENT TO AMENDED WELL PERMIT APPLICATION
PERMIT NO. 1707-1
FRAWLEY RANCHES, INC.**

As originally stated this development project has an estimated 10-year build-out. Currently the proposed campground is under construction and scheduled to open in the Spring of 2006. A service center, restaurant and retail store are in the planning stages.

The City of Spearfish has extended sewer and water service to the project area. For the very early stages of this project the City has the capacity to provide water. This, however, is very limited, and the additional water sources that are currently permitted and that we are requesting extensions for, will be needed.

SOUTH DAKOTA
WATER PERMIT NO. 1707E-1

Date of first receipt of application July 22, 2005.

The Water Management Board approved Water Permit No. 1707E-1 on December 7, 2005 for Frawley Ranches, Inc., 12600 West Colfax, Suite B-130, Lakewood Co 80215 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. 1707E-1 extends the length of time allowed to complete construction and put water to beneficial use as authorized by Water Permit No. 1707A-1. Water Permit No. 1707A-1 authorizes diversion of 3.705 cubic feet of water per second from three wells to be completed into the Madison aquifer (approximately 1,100 to 1,400 feet deep) located in either 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 or the 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 80 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. The dugouts receive incidental surface runoff but may be maintained using water from the wells. The total appropriation authorized by Permit Nos. 1707A-1 and is 502.5 acre-feet annually.
2. The water appropriated shall be used for the purpose of irrigation, suburban housing development, commercial and domestic use and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: May 1 – September 30 (irrigation use) and January 1 – December 31 (all other uses).
4. The date from which applicant may claim right is January 6, 2000.
5. All construction is to be completed on or before December 6, 2010.
6. Water is to be put to beneficial use on or before December 6, 2014.
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. 1707E-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. 1707E-1 may also be cancelled for nonconstruction, 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.

(continued)

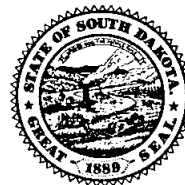
3. The wells authorized by Permit No. 1707E-1 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
4. Permit No. 1707E-1 authorizes a total annual diversion of 502.5 acre feet of water annually (233.5 acre-feet for suburban housing development, commercial, and domestic use and 269 acre-feet for irrigation use).
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 of irrigation, time constraints, or type of soil so requires, Permit No. 1707E-1 authorize a maximum diversion rate for irrigation of 2.67 cfs and an annual volume of 269 acre-feet of water for irrigation of 100 acres.
7. Water Permit No. 1707E-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 and Natural Resources

JUN 12 2006

date



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date July 22, 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. <u>1707C-1</u> to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50.00

No.

001908

By

David E. Elsh
Chief Engineer



RECEIVED
JUL 22 2005
WATER RIGHTS
PROGRAM

Roger A. Tellinghuisen • Brad P. Gordon

July 20, 2005

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

RE: Frawley Ranches, Inc.

Dear Sir or Madame:

Enclosed please find Application for Permit to Appropriate Water Within the State of South Dakota. Also enclosed please find check in the amount of \$50.00 as and for the filing fee. Please process. Thank you.

Sincerely,

TELLINGHUISEN & GORDON, P.C.

Roger Tellinghuisen

RAT/slc

Enc.

C: Daryll Propp
Pat Wyss
Neil Stadolski

WATER PERMIT APPLICATION NO. 1707E-1
Fawley Ranches, Inc.
AUGUST 31, 2004

In 2000, Water Permit No. 1707-1 was issued to Frawley Ranches, Inc. for a planned unit development. Water Permit No. 1707-1 was subsequently divided and reissued as Water Permit Nos. 1707A-1 and 1707B-1 to reflect the transfer of a portion of the appropriation to the City of Spearfish. Water Permit No. 1707A-1 authorized diversion of 3.705 cubic feet of water per second from three wells to be completed into the Madison aquifer (approximately 1,100 to 1,400 feet deep) to be located in either the SE $\frac{1}{4}$ SW $\frac{1}{4}$, the SW $\frac{1}{4}$ NW $\frac{1}{4}$, or the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 14 or in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec.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 $\frac{1}{4}$ Sec. 14, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec.15, NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec.22, N $\frac{1}{2}$ NW $\frac{1}{4}$ Sec.23; all in T6N-R3E. This permit authorizes three dugouts (approximately 80 acre-feet total storage capacity) located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 14, SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 15, NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec.22, and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec.23; all in T6N-R3E. The dugouts receive incidental surface runoff but may be maintained using water from the wells. In addition to irrigation, the water will be used for a suburban housing development, commercial and domestic uses. The total appropriation authorized by Water Permit No. 1707A-1 was 502.5 acre-feet of water annually.

Water Permit No. 1707-1 was approved December 6, 2000 and was to be completed on December 6, 2005, with water put to beneficial use by December 6, 2009. Water Permit No. 1707A-1 was issued July 23, 2003 and retained the priority date, completion deadline and deadline for putting water to maximum beneficial use as Water Permit No. 1707-1. Water Permit Application No. 1707E-1 proposes to extend the length of time allowed to complete construction and put water to the beneficial use to December 6, 2010 and December 6, 2014, respectively. The application, if approved, will retain the January 6, 2000 priority date assigned to Permit No. 1707A-1.

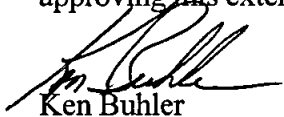
Application No. 1707E-1 is made pursuant to SDCL 46-5-26 which allows for reasonable extensions of time due to delays caused by engineering difficulties, delays caused by operation of law or delays caused by other exigent circumstances as identified by the Water Management Board. The applicant is requesting an extension of time because the development project has not yet reached full capacity.

During the September 2000, Water Management Board hearing to consider Water Permit Application No. 1707-1, a great deal of discussion centered on the fact that the project would not be completed in five years. The timeframe for construction of the project was described as "market driven" and expected to be over a 15 to 20 year period. The Board informed both the applicant and the opponents to the application that the applicant would be able to request an extension of time to complete the project because they are in the process of developing. At the hearing, the Board's attorney, Mr. Guhin, read SDCL 46-5-26 into the record and advised the board that an extension could be approved for other exigent circumstances identified by the Water Management Board. Mr. Freeman stated that exigent

circumstances in this case would be that 400 homes, a golf course, and office buildings cannot be completed within a five-year construction period.

There is no indication that the scope of this development project has changed, and therefore the Board would have no reason to believe the construction time table had changed from the time of the original application.

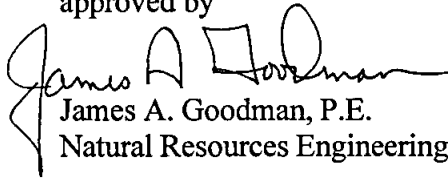
There has been only one appropriation from the Madison aquifer in Lawrence County since Water Permit No. 1707-1 was approved. Water Permit No. 1840-1, Apple Creek Development, was approved July 19, 2005, for 0.67 cfs. The site of Water Permit 1840-1 wells is over seven and one-half miles from this project. Therefore, it is unlikely that approving this extension should not affect existing water rights.



Ken Buhler

Natural Resources Engineering Specialist

approved by



James A. Goodman, P.E.

Natural Resources Engineering Director



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

www.state.sd.us/denr

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 1707E-1, Frawley Ranches, Inc.**

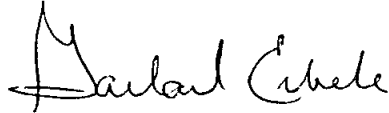
Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 1707E-1, Frawley Ranches, Inc., c/o Daryll Propp, 12600 West Colfax, Suite B-130, Lakewood CO 80215.

The Chief Engineer is recommending APPROVAL of Application No. 1707E-1 for a five year extension of time to complete construction of works including four additional years to place water to beneficial use pursuant to SDCL 46-5-26 because 1) existing rights will not be unlawfully impaired, 2) the proposed use is a beneficial use and 3) it is in the public interest with the following qualifications:

1. In accordance with SDCL 46-1-14 and 46-2A-20, Permit No. 1707E-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. 1707E-1 may also be cancelled for nonconstruction, 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. 1707E-1 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
4. Permit No. 1707E-1 authorizes a total annual diversion of 502.5 acre feet of water annually (233.5 acre-feet for suburban housing development, commercial, and domestic use and 269 acre –feet for irrigation use).
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 of irrigation, time constraints, or type of soil so requires, Permit No. 1707E-1 authorize a maximum diversion rate for irrigation of 2.67 cfs and an annual volume of 269 acre-feet of water for irrigation of 100 acres.
7. Water Permit No. 1707E-1 authorizes three dugouts with a storage capacity of 90 acre-feet of water.

See report on application for additional information.

A handwritten signature in black ink, reading "Garland Erbele". The signature is written in a cursive style with a large initial "G" and a distinct "E".

Garland Erbele, Chief Engineer
September 29, 2005



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 7, 2005

TO: Reed Richards, PO Box 373, Deadwood SD 57732
Bob and Carol Rahja, RR 1 Box 47, Whitewood SD 57793
Andy and Kim Ridley, 11753 Anderson Rd, St. Onge SD 57779
Holly Baker, 20242 US Hwy 85, Spearfish SD 57783
Robert and Gen Harlan, 20117 Ridgefield Loop, Spearfish SD 57783
Karl F. Jensen, 19918, Dane Church Rd, Whitewood SD 57793
Douglas and Vicki Hurm, 19887 St. Onge Rd, St. Onge SD 57779
George Auer, 5 Horseshoe Lane, Spearfish SD 57783
Art Crowley, RR 1 Box 36, St. Onge SD 57779
Robert Morcom, 20131 Ridgefield Loop, Spearfish SD 57783
Dwayn Kerney, 152 Lois Street, St. Onge SD 57779

FROM: Eric Gronlund 
Water Rights Program, DENR
(605) 773-3352

SUBJECT: Frawley Ranches Water Permit

Enclosed is a copy of the report, recommendation and public notice for Water Permit Application No. 1707E-1 filed by Frawley Ranches. The application is a request to extend the length of time allowed to complete construction and put water to beneficial use as authorized by Water Permit No. 1707A-1. The permits appropriates water from the Madison Aquifer for the uses of irrigation, suburban housing development, commercial and domestic use.

The public notice of the application is scheduled to be published October 14 and 21, 2005 in the Black Hills Pioneer. The notice schedules a December 7th hearing in Pierre before the Water Management Board. Petitions to intervene in the hearing process must be submitted by November 25, 2005.

This information is being sent citizens that participated in the initial hearing on Frawley Ranches water permit application.

enclosure

Affidavit of Publication

STATE OF SOUTH DAKOTA:

COUNTY OF LAWRENCE:

Stewart Huntington of said County and State being first duly sworn, on his oath says: That the BLACK HILLS PIONEER is a legal daily newspaper of general circulation, printed and published in the City of Spearfish, in said County and State by Stewart Huntington, and has been such a newspaper during the times hereinafter mentioned; and that said newspaper has a bonafide circulation of at least 200 copies weekly, and has been published within said County in the English language for at least one year prior to the first publication of the notice herein mentioned, and is printed in whole or in part in an office maintained at the place of publication; and that I, Stewart Huntington, the undersigned, am the Publisher of said newspaper and have personal knowledge of all the facts stated in this affidavit; and that the advertisement headed:

Notice Of Hearing

On Application No. 1707E-1 to
Amend Water Permit No. 1707A-1

a printed copy of which is hereto attached, was printed and published in said newspaper for 2 successive and consecutive weeks, the first publication being made on the 14th day of Oct., 2005, and the last publication on the 21st day of Oct., 2005, that the full amount of fees charged for publishing same, to-wit: The sum of \$ 85.27, insures solely to the benefit of the publisher of the BLACK HILLS PIONEER, that no agreement or understanding for a division thereof has been made with any person and that no part thereof has been agreed to be paid to any other person whomsoever.



Subscribed and sworn to before me this 21st day of Oct., 2005



Notary Public, Lawrence County, South Dakota
My commission expires: 10-24-2010



RECEIVED
OCT 26 2005
WATER RIGHTS
PROGRAM

**NOTICE OF HEARING
on Application No.
1707E-1 to Amend
Water Permit No.
1707A-1**

Notice is given that Frawley Ranches, Inc., 12600 West Colfax, Suite B-130, Lakewood CO 80215 has filed an application to extend the length of time allowed to complete construction and put water to beneficial use as authorized by Water Permit No. 1707A-1. Water Permit No. 1707A-1 authorizes diversion of 3.705 cubic feet of water per second from three wells to be completed into the Madison aquifer (approximately 1,100 to 1,400 feet deep) located in either the SE 1/4 SW 1/4, SW 1/4 NW 1/4, SW 1/4 SW 1/4 Section 14 or the SE 1/4 NE 1/4 Section 15, all in T6N-R3E. The water will be used to irrigate 100 acres located in portions of the W 1/2 NW 1/4, SW 1/4, NE 1/4 NW 1/4 Section 14, NE 1/4, E 1/2 NW 1/4, SE 1/4 SE 1/4 Section 15, NE 1/4 NE 1/4 Section 22, N 1/2 NW 1/4 Section 23; all in T6N-R3E. This permit authorizes three dugouts (approximately 80 acre-feet total storage capacity) located in the NE 1/4 NW 1/4 Section 14, SW 1/4 NE 1/4 Section 15, NE 1/4 NE 1/4 Section 22, and NW 1/4 NW 1/4 Section 23; all in T6N-R3E. The dugouts receive incidental surface runoff but may be maintained using water from the wells. In addition to irrigation, the water will be used for a suburban housing development and commercial and domestic use. The total appropriation authorized by this permit is 502.5 acre-feet annually.

Permit No. 1707A-1 was approved December 6, 2000 and was to be completed on December 6, 2005 with water being put to beneficial use by December 6, 2009. Application No. 1707E-1 proposes to extend the time allowed to complete construction and put water to beneficial use to December 6, 2010 and December 6, 2014, respectively. If approved, this permit will retain the January 6, 2000 priority date assigned to Permit No. 1707A-1.

Application No. 1707E-1 is made pursuant to SDCL 46-5-26 which allows for reasonable extensions of time due to delays caused by engineering difficulties, delays caused by operation of law or delays caused by other exigent circumstances as identified by the Water Management Board. Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1707E-1 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) 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 Program, 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 November 25, 2005. 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 9:00 A.M. December 7, 2005 in the Matthew Training Center, Foss Building, 523 E. 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 December 7, 2005 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 November 25, 2005.

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 November 25, 2005, at the above Water Rights Program 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.

Since this application does not involve a monetary controversy in excess of \$2,500.00 or termination of a property right in accordance with SDCL 1-26-18.3, the Chief Engineer has determined this contested case may not be referred to the Office of Hearing Examiners. If any party disagrees with this determination, the Chief Engineer shall be notified by November 25, 2005.

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. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

**#220
Oct. 14, 21**

Instruction to Newspaper - Publish first Notice on October 14, 2005 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 1707E-1 to Amend Water Permit No. 1707A-1

Notice is given that Frawley Ranches, Inc., 12600 West Colfax, Suite B-130, Lakewood CO 80215 has filed an application to extend the length of time allowed to complete construction and put water to beneficial use as authorized by Water Permit No. 1707A-1. Water Permit No. 1707A-1 authorizes diversion of 3.705 cubic feet of water per second from three wells to be completed into the Madison aquifer (approximately 1,100 to 1,400 feet deep) located in either the SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 14 or the 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 80 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. The dugouts receive incidental surface runoff but may be maintained using water from the wells. In addition to irrigation, the water will be used for a suburban housing development and commercial and domestic use. The total appropriation authorized by this permit is 502.5 acre-feet annually.

Permit No. 1707A-1 was approved December 6, 2000 and was to be completed on December 6, 2005 with water being put to beneficial use by December 6, 2009. Application No. 1707E-1 proposes to extend the time allowed to complete construction and put water to beneficial use to December 6, 2010 and December 6, 2014, respectively. If approved, this permit will retain the January 6, 2000 priority date assigned to Permit No. 1707A-1.

Application No. 1707E-1 is made pursuant to SDCL 46-5-26 which allows for reasonable extensions of time due to delays caused by engineering difficulties, delays caused by operation of law or delays caused by other exigent circumstances as identified by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1707E-1 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) 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 Program, 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 November 25, 2005. 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 9:00 A.M. December 7, 2005 in the Matthew Training Center, Foss Building, 523 E. 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 December 7, 2005 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 November 25, 2005.

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 November 25, 2005, at the above Water Rights Program 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.

Since this application does not involve a monetary controversy in excess of \$2,500.00 or termination of a property right in accordance with SDCL 1-26-18.3, the Chief Engineer has determined this contested case may not be referred to the Office of Hearing Examiners. If any party disagrees with this determination, the Chief Engineer shall be notified by November 25, 2005.

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. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 6, 2005

Black Hills Pioneer
PO Box 7
Spearfish SD 57783-0007

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 1707E-1 to Appropriate Water to be published twice. Please publish the first notice on October 14, 2005 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

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 Frawley Ranches Inc., % Daryll Propp, 12600 West Clfax, Suite B-130, Lakewood Co 80215 (Ph # 303-233-4000).

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

No. 1707E-1

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

Date _____

We are in receipt of your letter of October 6, 2005 enclosing Notice to Appropriate Water by Application No. 1707E-1 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

October 6, 2005

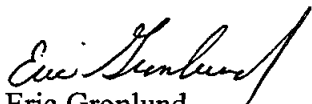
Frawley Ranches Inc
% Daryll Propp
12600 West Colfax Suite B-130
Lakewood CO 80215

Dear Mr. Propp:

Water Permit Application No. 1707E-1 for irrigation, suburban housing development, commercial & domestic use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Publisher of the Black Hills Pioneer printed at Spearfish, SD (Ph # 605-642-2761). You will need to contact the newspaper and authorize publication of this notice. 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 and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization, the publisher has been instructed to publish your notice once each week for two consecutive weeks. The newspaper has also 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

cc: Roger Tellinghuisen, 132 E Illinois Street, Spearfish SD 57783
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.

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.



JUN 12 2008

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Frawley Ranches, Inc.
c/o Daryll Propp
12600 West Colfax
Suite B-130
Lakewood CO 80215

Dear Mr. Propp:

Enclosed is Water Permit No. 1707E-1 which extends the length of time allowed to complete construction and put water to beneficial use as authorized by Water Permit No. 1707A-1.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return the completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

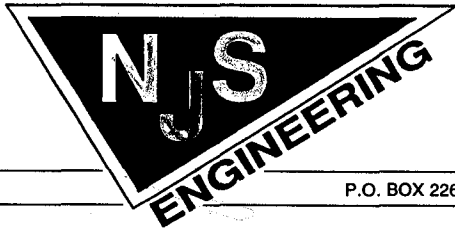
In December 2005, a Notice of Transfer of Ownership form was received for Water Permit No. 1707A-1. The water permit is now listed in the name of Elkhorn Ridge @ Frawley Ranches, LLC. In order to be consistent, we are assuming both permits should be listed in the same name. Enclosed is a partially completed Notice of Transfer form. Please complete form and return with the filing fee.

If you have any questions, please contact this office.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures



Consulting Engineers
Land Surveyors

RECEIVED 1707E-1
MAR 28 2007
WATER RIGHTS
PROGRAM

P.O. BOX 226 • 123 E. JACKSON BLVD. SUITE 1 • SPEARFISH, SOUTH DAKOTA 57783 • (605) 642-4772 • FAX (605) 642-4773

March 27, 2007
Mr. Eric Gronlund
Water Rights Program
PMB 2020
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

Re: Water Permit No. 1707E-1
Frawley Ranches, LLC

Dear Eric,

Frawley Ranches, LLC would like to change the location of one of their permitted wells and one of their irrigation dugouts. They wish to move the location of Well Number 4 from the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 15 to the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 15, approximately 1,250 feet north and 350 feet west of the present permitted location of Well Number 4.

They would like to move the location of Dugout B from the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 15 to the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 15. The dimensions of permitted Dugout B was 150,000 square feet and approximately 12 feet deep. The proposed Dugout B would be approximately 100,000 square feet and 25 feet deep.

If additional information or paperwork is required, please contact me.

Very truly yours,
NJS Engineering

Neil J. Stodolski, PE/LS
President

NJS/hp

cc: Wyss Associates



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 24, 2007

Daryll Propp
Elkhorn Ridge @ Frawley Ranches
12600 West Colfax
Suite B-130
Lakewood CO 80215

Neil J. Stodolski
NJS Engineering
PO Box 226
Spearfish SD 57783

Dear Mr. Propp and Mr. Stodolski:

I am writing in regard to your request to change the location of one of the wells and a dugout authorized by Water Permit No. 1707E-1. This permit currently appropriates 3.705 cubic feet of water permit second from three wells to be completed into the Madison Aquifer for irrigation, suburban housing development, commercial and domestic use as set for in the permit. In addition the permit authorizes three dugouts with a cumulative storage capacity of 90 acre feet of water. The dugouts are to receive incidental surface runoff but if necessary may be maintained using well water.

Upon review of the request and pursuant to SDCL 46-5-13.1, I have made a finding that the additional diversion point will not increase the potential for interference with existing diversions. In make the finding "does not increase the potential for interference" is interpreted to mean potential for adverse interference. You are authorized to change the location of well No. 4 and dugout B to the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15, T6N, R3E without application or publication of a notice of hearing pursuant to SDCL 46-2A-4. This authorization does not grant an increase in either the 3.705 cfs diversion rate, an annual volume use of 502.5 acre feet or an increase in the 100 irrigated acres authorized by Water Permit No. 1707E-1.

Based on Mr. Stodolski's request, dugout B will be larger than originally proposed. Please be aware that the cumulative storage capacity from the three dugouts may not exceed 90 acre feet of water.

This request has been authorized under SDCL 46-5-13.1 for which there is no application filing fee.

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

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program, DENR

Change of Diversion Point

NAME: Elkhorn Ridge @ Frawley Ranches, LLC

ADDRESS: 12600 West Colfax, Suite B-130, Lakewood CO 80215

DATE: May 16, 2007 **COUNTY:** Lawrence County

BACKGROUND:

Water Permit No. 1707E-1 appropriates 3.705 cubic feet of water per second from three wells to be completed into the Madison Aquifer 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 the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15, T6N, R3E. The water is to be used for suburban housing development, commercial, domestic use and to irrigate 100 acres as described in the permit. The permit also authorized three dugouts with an approximate storage capacity of 90 acre feet of water 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 the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 23, T6N, R3E. The total appropriation authorized is 502.5 acre feet of water annually from the Madison Aquifer as set forth in the permit condition No. 4.

The Water Rights Program received a letter from Neil Stodolski, NJS Engineering, requesting to change the location of one of their permitted wells and one of the irrigation dugouts. NJS Engineering is a consultant for Frawley Ranches. The request is to move the well proposed to be completed in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15 to the NE $\frac{1}{4}$ NE $\frac{1}{4}$, approximately 1,250 feet north and 350 feet west of the present permitted location. The letter also requests moving the dugout from the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15 to the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15, T6N, R3E.

Water Permit No. 1707-1 was originally issued for a maximum diversion rate of 4.74 cfs and a total annual volume of 736 acre feet of water. However, the water permit was divided when there was an ownership change for one of the wells in 2003. The water permit was divided as follows:

Frawley Ranches – three wells appropriating 3.705 cfs with an annual volume of 502.5 acre feet of water.
City of Spearfish – one well appropriating 1.035 cfs with an annual volume of 233.5 acre feet of water.

The well to be transferred to the city was not formerly determined at that time. Tom Callaway with the city of Spearfish was contacted regarding the change in diversion point location and said it is acceptable to the city.

AUTHORITY:

Pursuant to SDCL 46-5-13.1, the location of a diversion point may be changed or additional diversion points may be licensed provided the following conditions are met and the potential for interference with other existing diversions is not increased:

- **Developed water source same as permitted source and no additional water appropriated**

The proposed well will still be completed into the Madison Aquifer at a depth of 1,100 to 1,400 feet deep. No additional appropriation of water is requested.

- **Review of Existing Diversions**

A review of domestic wells and existing water rights on file in the Water Rights Program records was conducted. There are a number of domestic wells surrounding Sections 14 and 15, T6N, R3E. Six wells appear to be completed into the Madison formation. Five of these six wells are south of the development and the proposed change would move the well farther from these existing wells. One domestic well drilled by a Mr. Steinmeyer is located in the NW ¼ SE ¼ of Section 10.

SDCL 46-5-13.1 states that the change of well location can not increase the potential of interference to existing rights. The Water Rights Program's has interpreted that "does not increase the potential for interference" means potential for adverse interference. In this case the proposed location of Well No. 4 will be approximately 1,250 feet closer to the Steinmeyer well on file. However, the two wells will still be one half mile apart and an adverse interference is not anticipated.

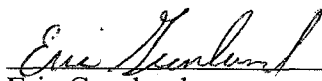
A review of existing water rights in T6N, R3E was also conducted. There are three water rights in place appropriating water from the Madison Aquifer that are not held by either Frawley Ranches or the city of Spearfish. In each case the existing wells are located to the south and allowing the change of diversion point to the north will locate the wells a greater distance apart. The change of well location will not increase the potential of interference to existing rights.

CONCLUSION

- This change in the location of the permitted well does not appropriate additional water.
- The well will be constructed into the Madison Aquifer which is the water source authorized by Water Permit No. 1707E-1.
- Existing domestic wells and prior water rights will not be adversely impacted by authorizing this change in the location of the well.

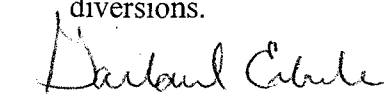
RECOMMENDED ACTION

Based on the above criteria, it is recommended that the change of the diversion point be authorized.


Eric Gronlund
Water Rights Program

The Chief Engineer makes a finding pursuant SDCL 46-5-13.1 and ARSD 74:02:01:14.01 that:

This change of diversion point will not increase the potential for adverse effects to existing diversions.


Garland Erbele, Chief Engineer
Water Rights Program



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

August 7, 2007

1707E-1

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

Dear Mr. Propp:

I am contacting you in regard to Water Permit No. 1707E-1 and the correct name that should be on the permit. Water Permit No. 1707E-1 (Frawley Ranches Inc) was approved on December 7, 2005 as an extension of time for Water Permit No. 1707A-1.

On December 21, 2005, Water Permit No. 1707A-1 was transferred (see enclosed copy) from Frawley Ranches Inc to Elkhorn Ridge @Frawley Ranches, LLC. We assume by the change of ownership on No. 1707A-1 that you wish to have No. 1707E-1 transferred to the same entity.

A "Notice of Transfer of Ownership" form was sent to you when Water Permit No. 1707E-1 was mailed out, but to date, we have not received anything back from you. In the event you no longer have the original form, enclosed is an additional partially completed change of ownership. Please complete as needed and return it to our office with required filing fee of \$2.50. The check or money order for the fee can be made payable to the Water Rights Program.

If you do not wish to have the permit transferred, please let me know.

Sincerely,

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

enclosures

c: Roger Tellinghuisen, 132 E Illinois St, Spearfish SD 57783

RECEIVED
AUG 20 2007
WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 1707E-1

Date: _____

I/We request that Water Permit No. 1707E-1

formerly owned by: Frawley Ranches Inc., 12600 W Colfax Suite B-130, Lakewood CO 80215

be transferred to: (name & address) ELKHORN RIDGE @ FRAWLEY
RANCHES, LLC

Telephone No. 303-233-4000

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

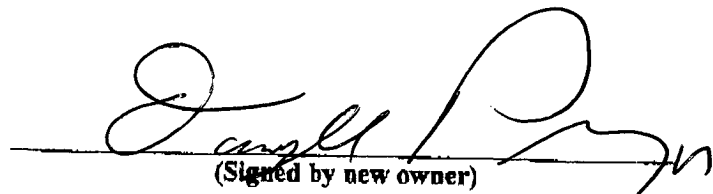
SEE ATTACHED WATER PERMIT NO. 1707E-1

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

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

A fee of Two Dollars and Fifty Cents (\$2.50) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

ELKHORN RIDGE @
I/We 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 August 27, 20 07

RECEIVED OF Elkhorn Ridge Crawley Ranches LLC 12600 W Colfax Ave # B-130 Lakewood CO 80127

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>1707E-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.

By Harold T. [Signature]

Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 31, 2007

1707E-1

Daryll Propp
Elkhorn Ridge @ Frawley Ranches LLC
12600 W Colfax Ave Suite B-130
Lakewood CO 80215

Dear Mr. Propp:

I am writing to acknowledge receipt of the ownership change you filed with Water Permit No. 1707E-1. The transfer has been completed. The permit once 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. 03143 in the amount of \$2.50 which you paid for filing the ownership change. You may keep this for your records.

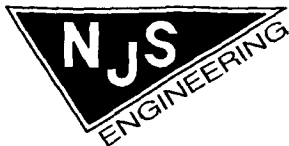
Thank you for completing the ownership change. If I can answer any questions for you, please contact me.

Sincerely,

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

enclosure

c: Roger Tellinghuisen, 132 E Illinois St, Spearfish SD 57783



Consulting Engineers
Land Surveyors

123 E. JACKSON BLVD. SUITE 1
P.O. BOX 226
SPEARFISH, SD 57783
(605) 642-4772 • Fax (605) 642-4773
njs@njsengineering.com

1707E-1
LETTER OF TRANSMITTAL

DATE 1/22/08	JOB NO. 4192.2
RE: Elkhorn Ridge Well #4	
Spearfish, SD	
RECEIVED	
JAN 23 2008	
WATER RIGHTS PROGRAM	

TO SD DENR, Water Rights Program
Attn: Eric Gronlund
Joe Foss Bldg., 523 East Capitol Avenue
Pierre, SD 57501-3181

WE ARE SENDING YOU ☒ Attached ☐ Under separate cover via mail the following items:

- ☐ Shop drawings ☐ Prints ☐ Plans ☐ Samples ☐ Specifications
☐ Copy of letter ☐ Change order ☐

COPIES	DATE	REV. NO.	DESCRIPTION
1			SD Water Well Completion Report

THESE ARE TRANSMITTED as checked below:

- ☐ For approval ☐ Approved as submitted ☐ Resubmit _____ copies for approval
☒ For your use ☐ Approved as noted ☐ Submit _____ copies for distribution
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☐ FOR BIDS DUE _____ 20 _____ ☐ PRINTS RETURNED AFTER LOAN TO US

REMARKS _____

COPY TO File

SIGNED: _____

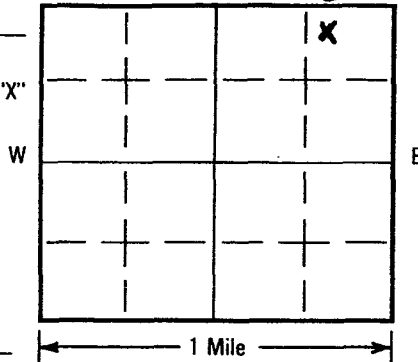
Neil J. Stodolski, PE/LS

SOUTH DAKOTA WATER WELL COMPLETION REPORT

1707E-1
07-92

Location NE 1/4 NE 1/4 Sec 15 Twp 6N Rg 3E
County Lawrence North 3

Please mark well location with an "X"



Well-Completion Date

Dec 11, 07

LOCATION:

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? Nothing Near By ft. from (identify source).

PROPOSED USE:

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

METHOD OF DRILLING:

Rotary - Mud & Air

CASING DATA:

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>42.50 LB/FT</u>	<u>16 IN</u>	<u>0 FT</u>	<u>38 FT</u>	<u>18 IN</u>
<u>40.50 LB/FT</u>	<u>10 3/4 IN</u>	<u>+2 FT</u>	<u>1065 FT</u>	<u>13 3/4 IN</u>
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN

GROUTING DATA

Grout Type	No. of Sacks	Grout Weight	From	To
<u>Cement</u>	<u>20</u>	<u>14 lb./gal</u>	<u>0 ft</u>	<u>38 ft</u>
<u>Cement</u>	<u>300/140</u>	<u>115/15 lb./gal</u>	<u>0 ft</u>	<u>1065 ft</u>

Describe grouting procedure Pressure grouted through casing

SCREEN:

☐ Perforated pipe ☐ Manufactured

Diameter _____ IN Length _____ FEET

Material _____

Slot Size _____ Set From _____ Feet to _____ Feet

Other information _____

WAS A PACKER OR SEAL USED? ☐ YES ☒ NO

If so, what material? _____

Describe packer(s) and location? _____

DISINFECTION: Was well disinfected upon completion?

☒ YES, How: chlorine solution
☐ NO, Why Not? _____

Laboratory sent to for water quality analysis _____

Well Owner: City of Spearfish

Business Name: Elkhorn Ridge Well #4

Address: 625 Fifth Street

Spearfish SD 57783

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
<u>Spearfish</u>	<u>0</u>	<u>292</u>
<u>Minnekahta</u>	<u>292</u>	<u>328</u>
<u>Opeche</u>	<u>328</u>	<u>435</u>
<u>Minnekahta</u>	<u>435</u>	<u>1017</u>
<u>Madison</u>	<u>1017</u>	<u>1325</u>

STATIC WATER LEVEL 223 Feet

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced Flowrate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☐ Pumped

Describe: Air Development

☐ Bailed

☒ Other _____

Pumping Level Below Land Surface

760 ft. After 5 Hrs. pumped 150 GPM

_____ ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate _____ GPM

REMARKS

RECEIVED

JAN 23 2008

WATER RIGHTS PROGRAM

This well was drilled under license # 331

And this report is true and accurate.

Drilling firm Taylor Drilling

Signature of License Representative: _____

Signature of Well Owner or Equitable Property Holder: _____

Date: 1/18/08

RECEIVED

JAN 14 2008

Well Name	Elkhorn	WATER RIGHTS PROGRAM
Location	NE ¼ sec. 15, T. 6 N., R. 3 E., Lawrence County, South Dakota Northeast of I-90 Exit 17	
Total Depth	1325 ft	
Drilling Firm	Taylor Drilling Company	
Drilling Date	November, 2007	

WELL LOG

<u>Depth (ft)</u>	<u>Description</u>	<u>Formation</u>
0 - 40	weathered red silt	Spearfish (at land surface)
40 - 50	red siltstone	
50 - 60	red siltstone	
60 - 70	red siltstone	
70 - 80	red siltstone	
80 - 90	red siltstone and shale	
90 - 100	red siltstone	
100 - 110	red siltstone and white gypsum	
110 - 120	red siltstone and gray to white gypsum	
120 - 130	red siltstone	
130 - 140	red siltstone	
140 - 150	red siltstone	
150 - 160	red siltstone	
160 - 170	red siltstone	
170 - 180	red siltstone	
180 - 190	red siltstone	
190 - 200	light red siltstone	
200 - 210	light red siltstone	
210 - 220	red siltstone	
220 - 230	red siltstone	
230 - 240	light red siltstone	
240 - 250	red siltstone	
250 - 260	red siltstone	
260 - 270	red siltstone	
270 - 280	red siltstone	
280 - 300	red siltstone and dark gray to purple limestone	base of Spearfish top of Minnekahta (~ 290 ft)
300 - 310	dark gray limestone	

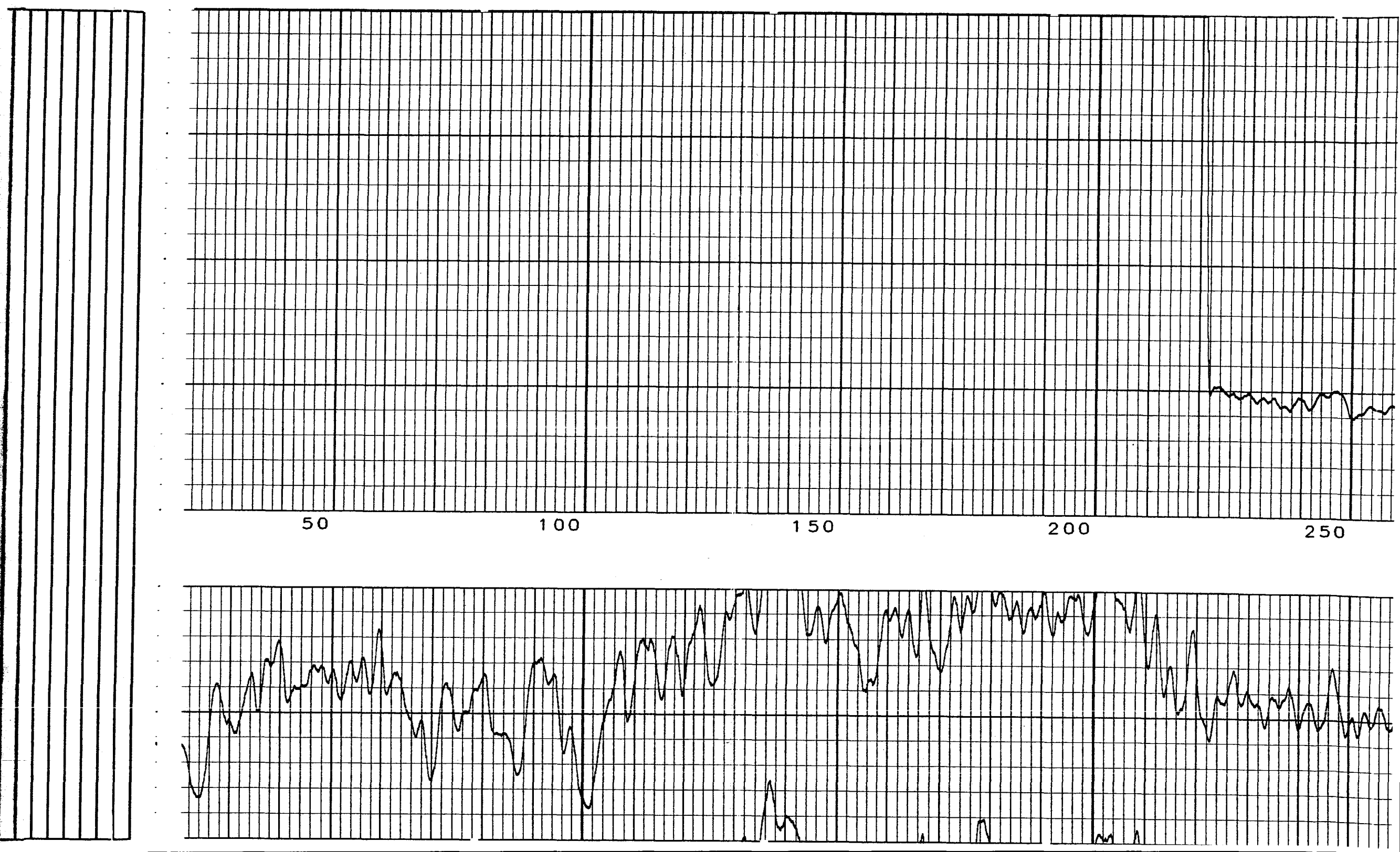
310 - 320	gray to dark gray limestone	
320 - 330	light gray to pink limestone	
330 - 340	some pink limestone; much red siltstone and shale	base of Minnekahta top of Opeche (~335 ft)
340 - 350	red siltstone and shale	
350 - 360	red siltstone and shale	
360 - 370	dark red siltstone and shale; some white gypsum	
370 - 380	red siltstone and shale; some white gypsum	
380 - 390	red siltstone and shale	
390 - 400	red siltstone and shale	
400 - 420	red siltstone and shale	
420 - 430	red and purple siltstone	
430 - 440	red siltstone; much purple dolomite	base of Opeche top of Minnelusa (~ 435 ft)
440 - 460	light purple dolomite	
460 - 470	light gray dolomite	
470 - 480	light gray to pink dolomite	
480 - 490	tan sandstone	
490 - 500	red sandstone	
500 - 510	red to tan sandstone	
510 - 520	red to tan sandstone	
520 - 530	tan sandstone	
530 - 540	tan to light red sandstone	
540 - 550	tan sandstone	
550 - 560	tan sandstone	
560 - 570	red to tan sandstone	
570 - 580	red sandstone and silt	
580 - 590	red sandstone and silt; some gray dolomite	
590 - 600	red to tan sandstone	
600 - 610	light red to tan sandstone	
610 - 620	red sandstone	
620 - 630	red siltstone; sandstone; some dolomite	
630 - 640	dolomite; some siltstone	
640 - 650	red siltstone	
650 - 660	red siltstone	
660 - 670	red siltstone	
670 - 680	red siltstone; some gray dolomite	
680 - 690	red siltstone; much gray dolomite	
690 - 700	pink to gray dolomite	
700 - 710	pink to gray dolomite	

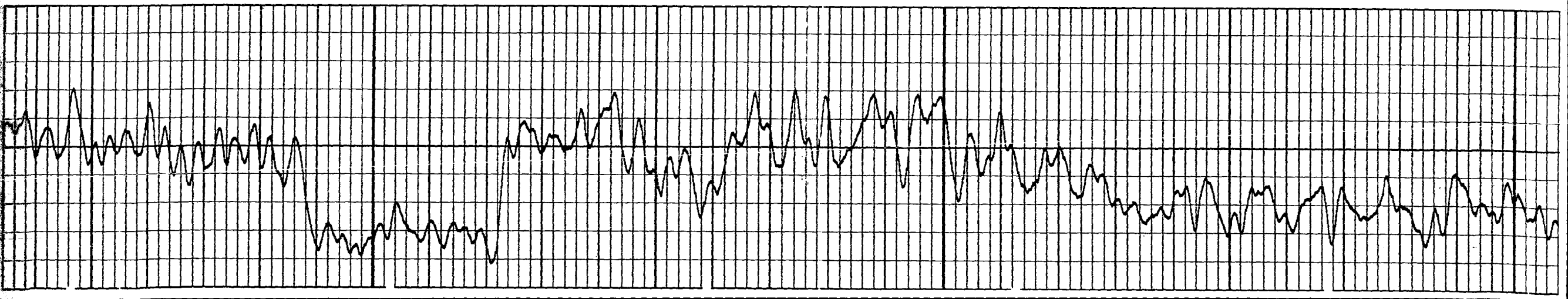
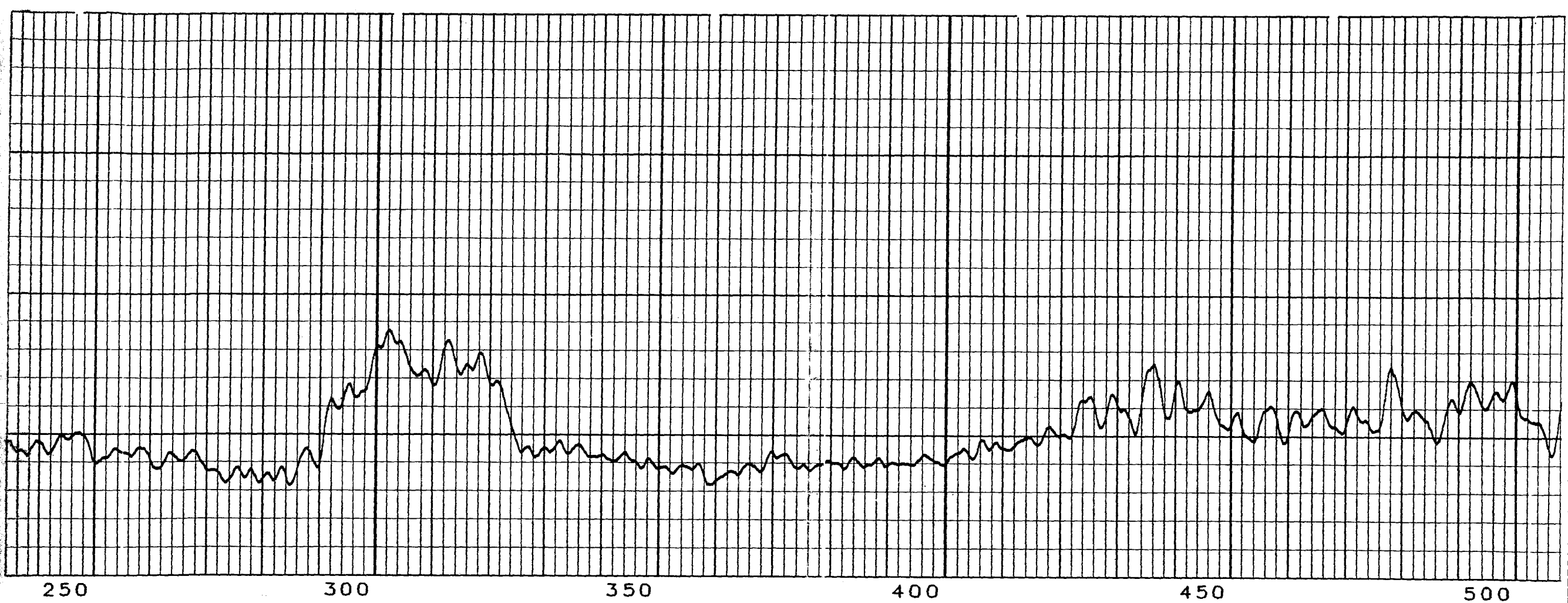
710 – 720	pink to gray dolomite; some sand and silt	Minnelusa (cont.)
720 – 730	red sandstone and silt; some dolomite	
730 – 740	red sandstone	
740 – 750	red sandstone; some dolomite	
750 – 760	red siltstone and sandstone	
760 – 770	red siltstone and sandstone	
770 – 780	red siltstone	
780 – 790	red to purple siltstone	
790 – 800	red siltstone; sandstone	
800 – 810	light red siltstone	
810 – 820	light red siltstone; some dolomite	
820 – 830	pink to purple dolomite	
830 – 840	pink to purple siltstone	
840 – 850	pink to red sandstone; some siltstone	
850 – 860	pink sandstone; some dolomite	
860 – 870	pink sandstone and siltstone; some light gray dolomite	
870 – 880	gray to purple sandstone and and siltstone; dolomite	
880 – 890	gray and white dolomite; some sandstone	
890 – 900	red siltstone and sandstone; some dolomite	
900 – 910	red siltstone and sandstone; some dolomite	
910 – 920	red siltstone and sandstone; some dolomite	
920 – 930	light gray dolomite; some red sandstone and silt	
930 – 940	pink siltstone and sandstone; some dolomite	
940 – 950	pink to gray siltstone; some dolomite	
950 – 960	light gray to pink sandstone and dolomite	
960 – 970	light gray to pink sandstone; some dolomite and silt	
970 – 980	light gray to tan dolomite; siltstone and sandstone	

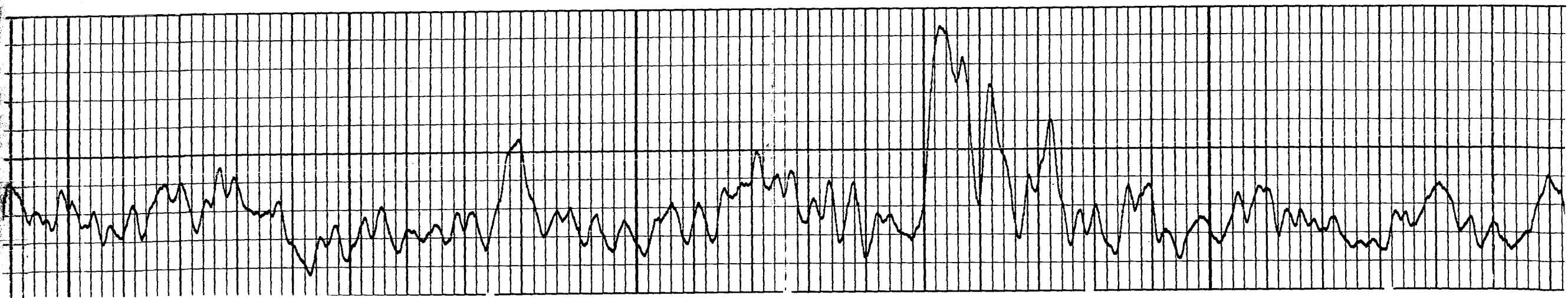
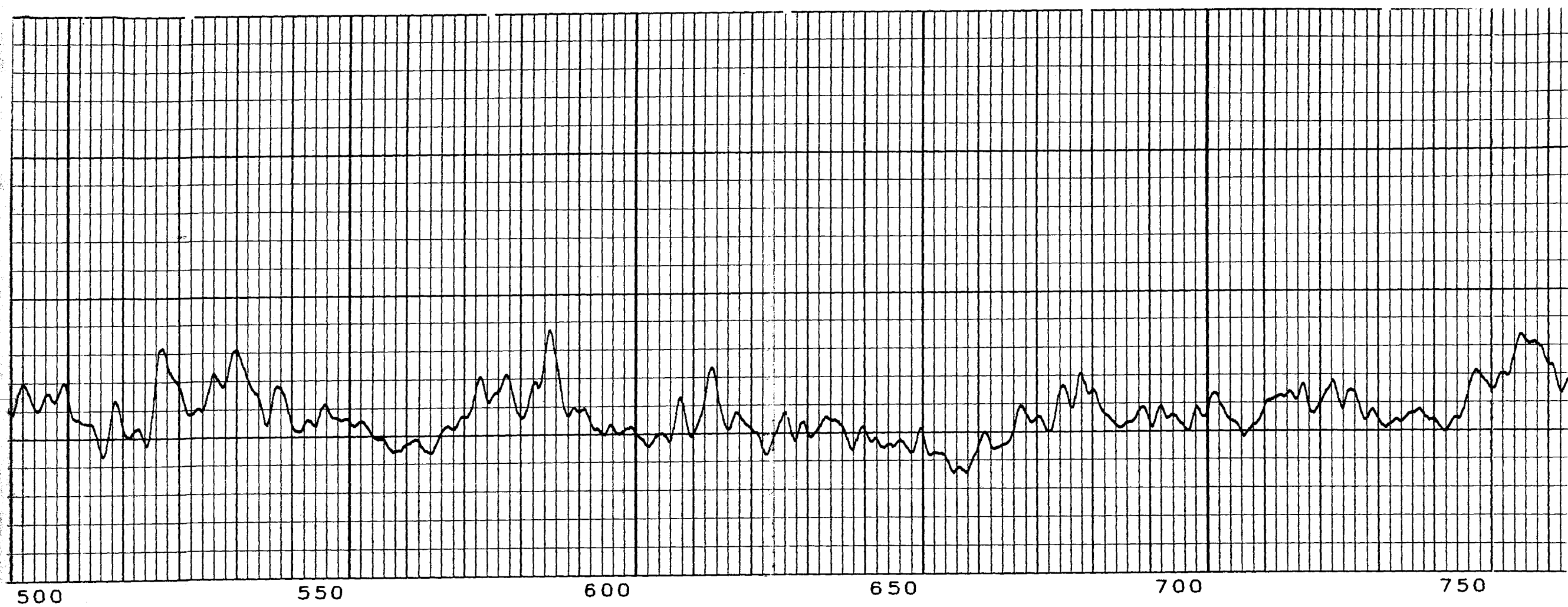
980 - 985	light gray to red sandstone and siltstone	Minnelusa (cont.)
985 - 990	reddish-gray dolomite; some sandstone	
990 - 995	pink siltstone	
995 - 1000	gray to pink dolomite	
1000 - 1005	gray dolomite	
1005 - 1010	dolomite; red silt	
1010 - 1015	gray dolomite; some pink to red silt	base of Minnelusa top of Madison (~ 1020 ft)
1015 - 1020	gray dolomite	
1020 - 1025	gray dolomite	
1025 - 1030	light gray to pink dolomite; some pink silt	
1030 - 1035	light gray dolomite; some red silt	
1035 - 1040	light gray dolomite; red silt and shale chips	
1040 - 1045	light gray dolomite	
1045 - 1050	dark gray dolomite	
1050 - 1055	pink to gray dolomite; some red silt	
1055 - 1060	gray to dark gray dolomite	
1060 - 1065	light gray to gray dolomite	
1065 - 1070	light gray dolomite	
1070 - 1080	dark gray to white dolomite	
1080 - 1090	gray dolomite	
1090 - 1100	dark gray dolomite; some some white limestone	
1100 - 1110	white limestone and dolomite	
1110 - 1120	gray to white dolomite and limestone	
1120 - 1130	gray dolomite and white limestone	
1130 - 1140	light gray dolomite and limestone	
1140 - 1150	dark gray dolomite	
1150 - 1160	dark gray dolomite	
1160 - 1170	dark gray dolomite	
1170 - 1180	dark gray dolomite	
1180 - 1190	gray dolomite and limestone	
1190 - 1200	gray dolomite and limestone	
1200 - 1210	gray dolomite and limestone	
1210 - 1220	gray to tan dolomite and limestone	

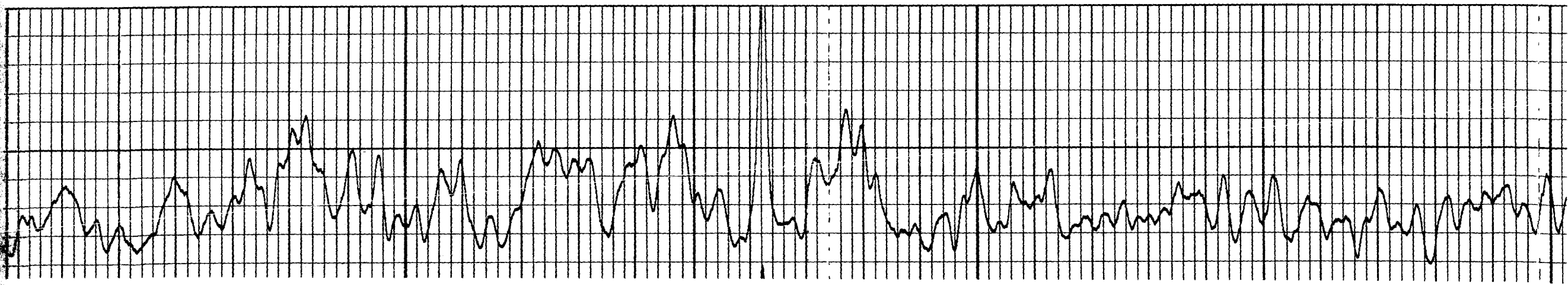
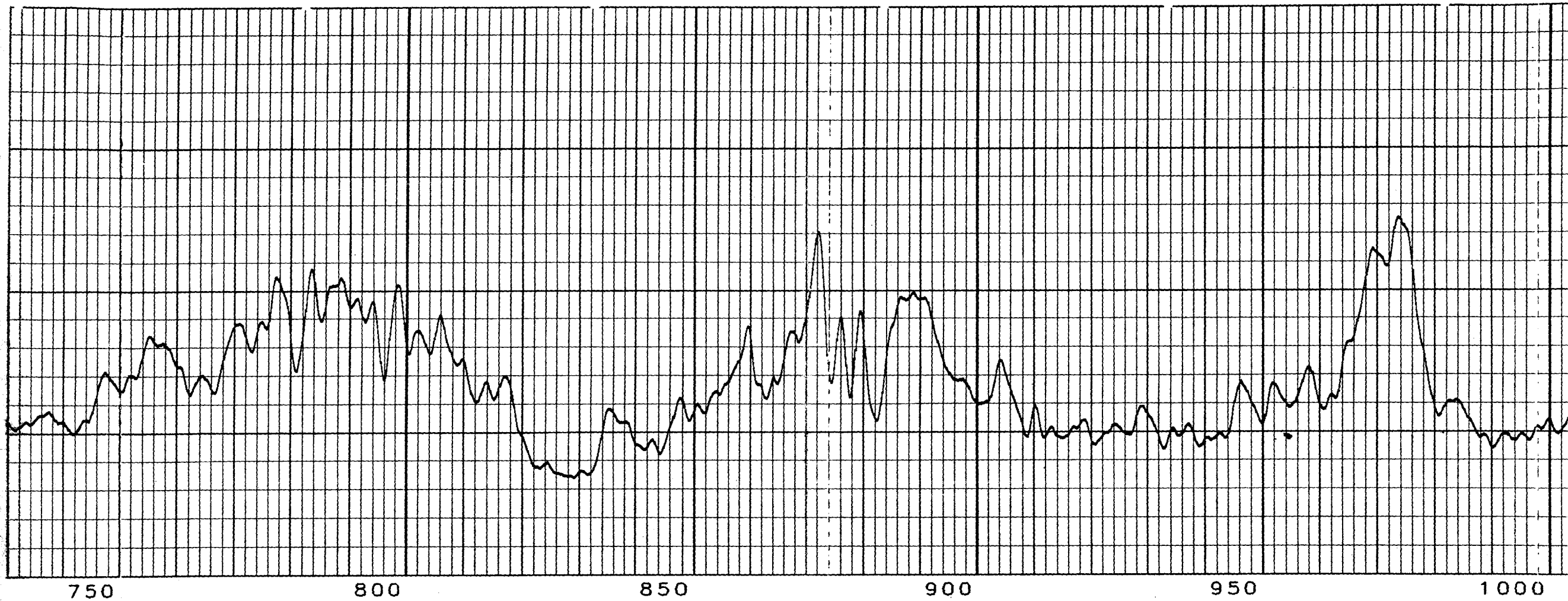
1220 - 1230	gray to tan dolomite and limestone	Madison (cont.)
1230 - 1240	gray dolomite	
1240 - 1250	gray dolomite	
1250 - 1260	gray dolomite	
1260 - 1270	gray to tan dolomite and limestone	
1270 - 1280	gray to tan dolomite and limestone	
1280 - 1290	gray dolomite	
1290 - 1300	gray dolomite	
1300 - 1310	gray dolomite	
1310 - 1325	light gray dolomite and limestone	Madison (end of boring)

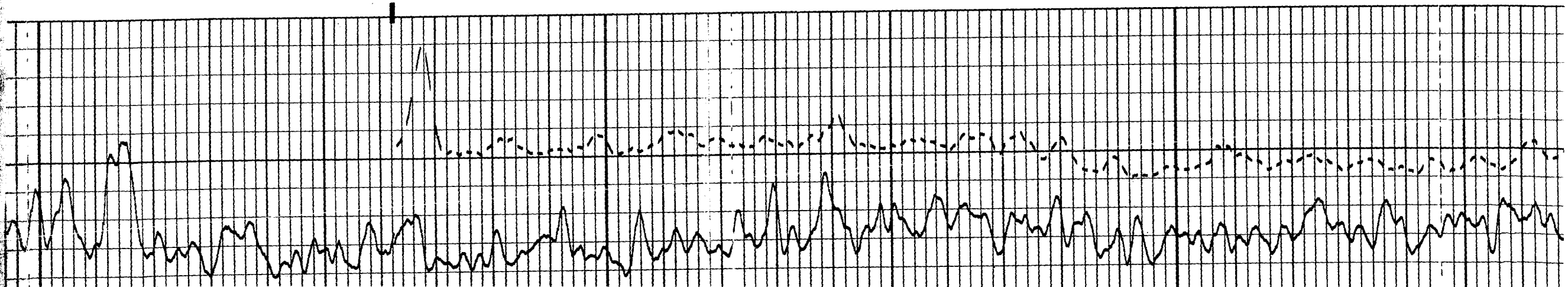
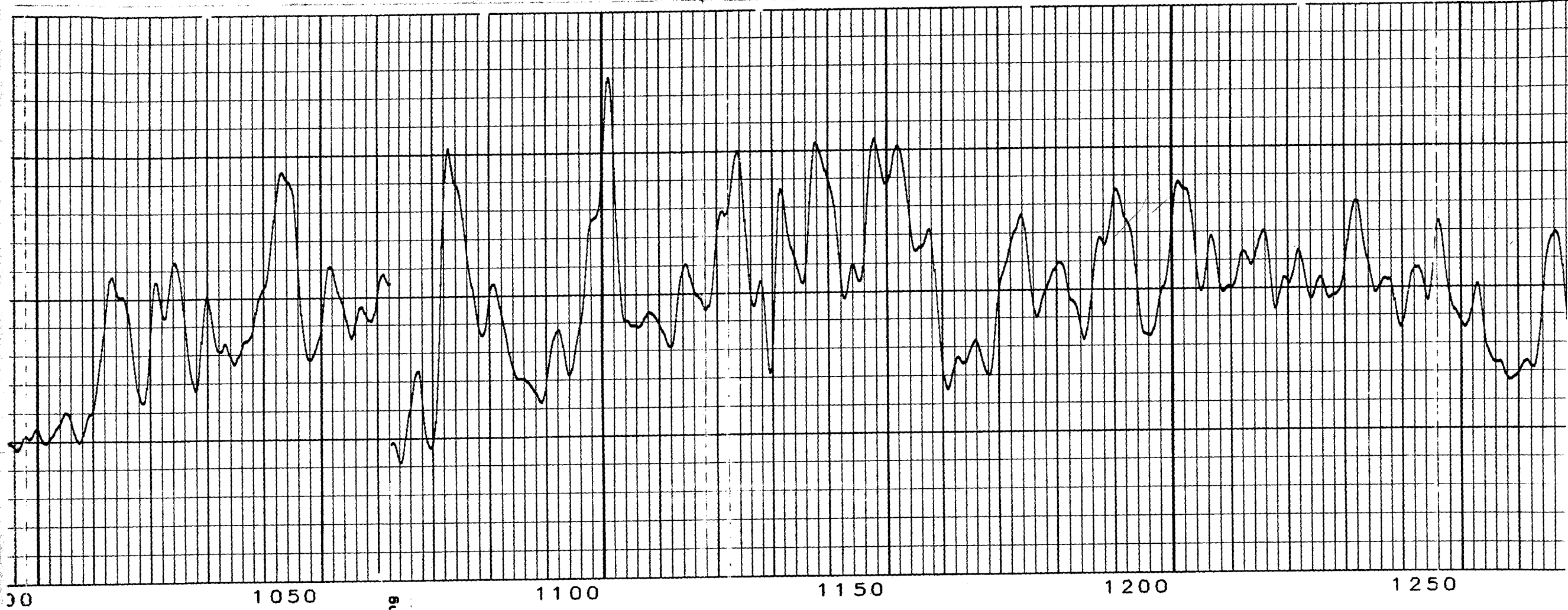
Drill cuttings examined by Arden D. Davis











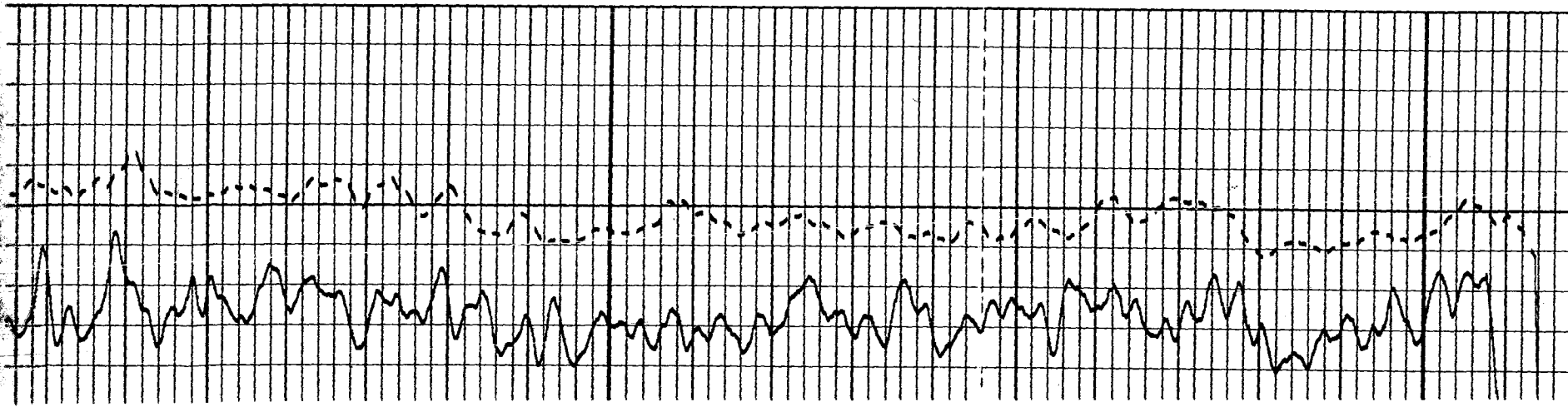


CHART SCALING

1.00 GAMMA RAY 120.00

20.00 GAPI 240.00

1.00 CALIPER 15.00

5.00 INCHES 25.00

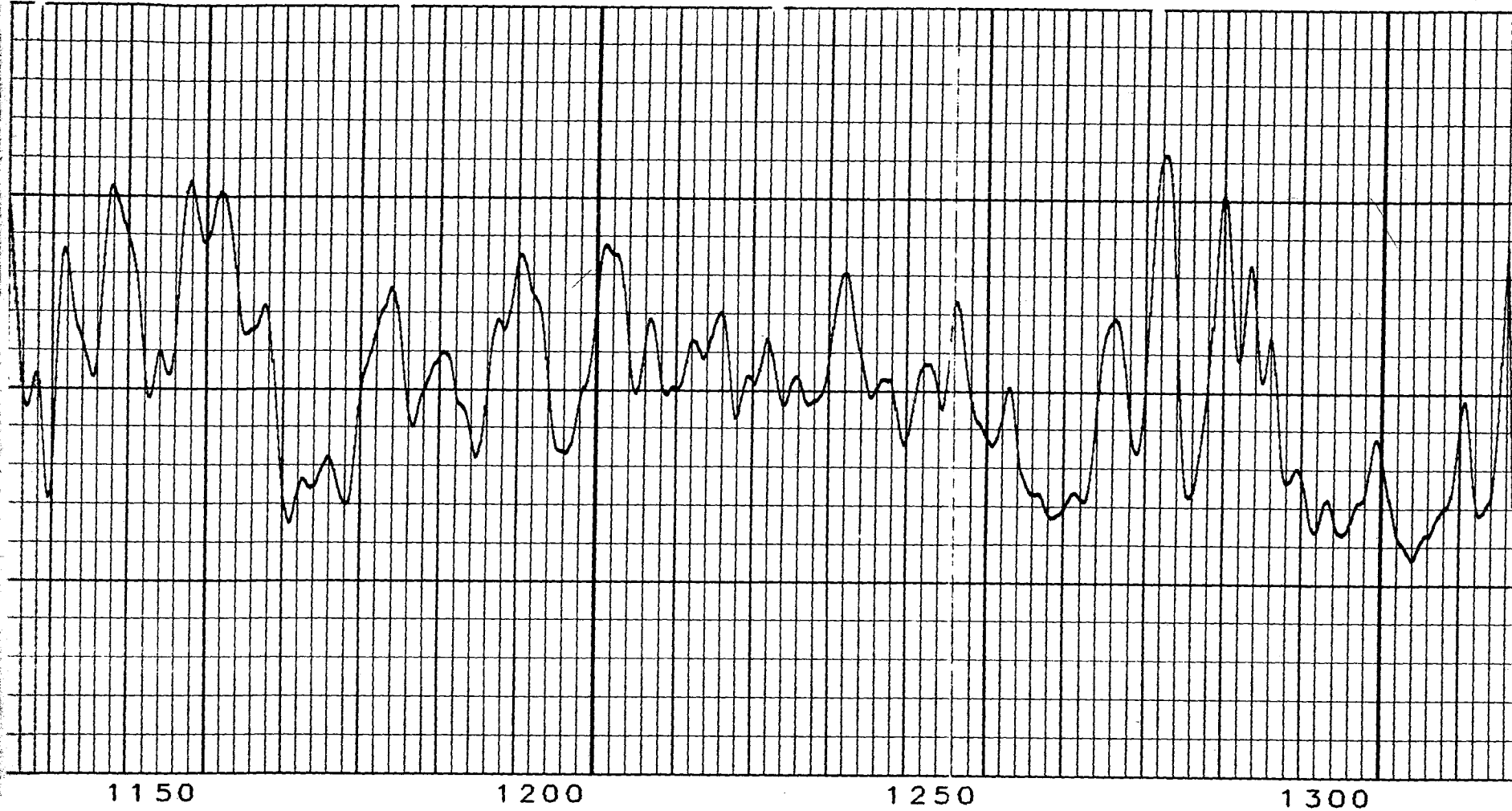


CHART SCALING

NEUTRON

CPS

20.00

240.00

START DEPTH: 1140.79

DEPTHS Thu Jan 01 01:50:22 1998

LOG UP

Gronlund, Eric

From: Gronlund, Eric
Sent: Friday, December 20, 2013 2:16 PM
To: McMath, Genny; Buhler, Ken
Subject: No. 1707E-1, Frawley Ranches

I returned a call to Pat Wyss, architect/consultant for this development. They are looking at developing the 'back' 9 holes on the golf course. The existing permit provided for all construction to be completed on or before December 6, 2010 with water put to beneficial use on or before December 6, 2014. I informed Mr. Wyss that since the date to complete works has past, the water permit is limited to the current acreage, diversion rate, etc. that has been developed. He figured that was the case. They will be applying for the irrigation of the back nine at some point in the future.

We had a brief discussion on the timeframes for processing an application. He does not believe the application would be contested like was the case back in 2000.

Eric