

WATER PERMIT NO. 1917-1

Name of Applicant: Lorraine Kissack

Address: 19439 Creekside Loop, Spearfish SD 57783

Phone: 605 210-0285

Amount of Water Claimed: 1.0 Total Acres: 68.1

Source of Water Supply: Spearfish Creek

Water to be used for: irrigation County: Lawrence

Type of Waste Disposal System:

Location: 5 miles north of Spearfish

PRIORITY Date Received: 6-4-10

Application/License Fee: \$300

Corrected Application Received:

Period of Annual Use: April 1 – November 30

Remarks: Applicant is seeking to sever this acreage from Kemper Ditch Water Right No. 1394-1 and irrigate directly from Spearfish Creek

Diversion Point: SW ¼ SW ¼ Sec 4-T7N-R2E

Land to be Irrigated: W ½ SW ¼, SW ¼ NW ¼
Sec 4-T7N-R2E

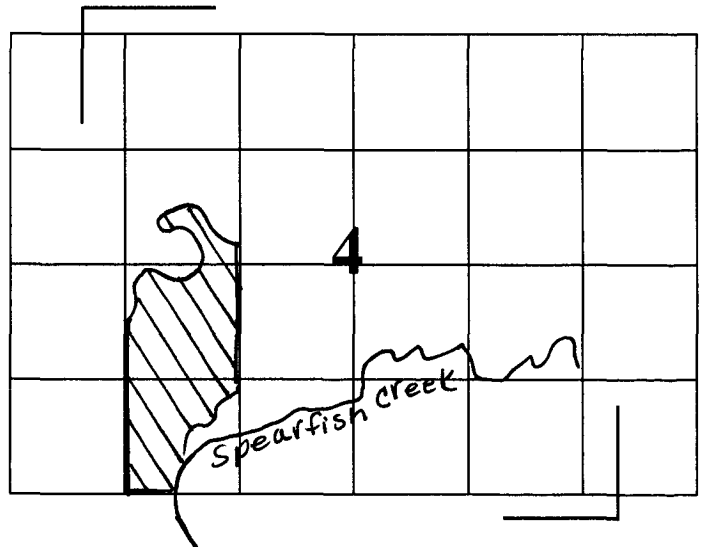
Depth of Well: NA

Well Driller:

Remarks:

Type of Map: topo

Prepared by: Aaron Tieman



Reviewed and the Number Assigned on: 6-8-10

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

FORM 2: Application for irrigation in South Dakota

(type or print)

Mail to: PMB 2020 DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>1917-1</u> (office use only) Hydrologic Unit <u>10120203</u>
	Basin <u>Belle Fourche River</u>
	Newspaper <u>Black Hills Pioneer PO Box 7</u>
	<u>605-642-2761</u> <u>Spearfish 57783</u>

RECEIVED
JUN 04 2010
WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☐ New ☐ Vested Right ☒ Amendment/Correction to Permit No. 1394-1

(Use predates Mar 2, 1955)

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

This amendment seeks to add a diversion point from Spearfish Creek.

1. Name of Applicant Lorraine Kissack Phone 605-210-0285
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 19439 Creekside Loop Spearfish SD 57783
(Address) (City) (State) (Zip Code)
2. Amount of water claimed 1.0 *CFS or 448.8 **GPM ***AF Total Acreage 68.1
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)
3. Source of water supply Spearfish Creek
4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Lawrence
Spearfish Creek between a point 750 feet east and 340 feet north and a point 1250 feet east and 585 feet north of SW corner Section 4, T7N-R2E. (SW1/4 SW1/4)
5. County or counties where water will be used Lawrence County
6. Annual period during which water is to be used April 1 - November 30
7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
SW 1/4 SW 1/4 Section 4, T7N-R2E	28.3		
NW 1/4 SW 1/4 Section 4, T7N-R2E	35.3		
SW 1/4 NW 1/4 Section 4, T7N-R2E	4.5		

8. Give a description of the project. (Attach sheet if more space is needed)

Utilize a mobile pump to divert from Spearfish Creek and supply water via transmission lines to towline sprinkler system. The applicant seeks to sever the above mentioned acreage from Kemper Ditch and irrigate directly from the creek rather than use the ditch as means of transporting the water.

STATE OF SOUTH DAKOTA)

County of Butte)

SS

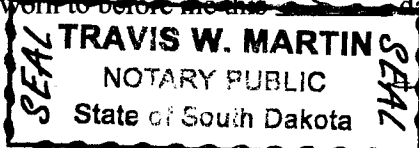
Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Also, attach map and any other technical information. (see instructions)

I, _____, 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

Lorraine Kissack

Subscribed and sworn to before me this 3 day of June 20 10



Notary Public signature
Comm. exp. 11-16-2010

SOUTH DAKOTA
WATER PERMIT NO. 1917-1

Date of first receipt of application June 4, 2010.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 1917-1 to Lorraine Kissack, 19439 Creekside Loop, Spearfish SD 57783 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. 1917-1 authorizes changing the diversion point for a portion of the irrigated acres and accompanying diversion authority from Kemper Ditch Vested Water Right No. 1394-1 to a direct diversion from Spearfish Creek. Vested Water Right No. 1394-1 is commonly known as the Kemper Ditch water right which appropriates 24.0 cubic feet of water per second from Spearfish Creek to irrigate 544.7 acres via the ditch. The Kemper Ditch diversion point from Spearfish Creek is located in the NW 1/4 SW 1/4 Section 16-T7N-R2E. The permit authorizes severing 1.0 cubic feet of water per second from the Ditch's water right and divert at this rate directly from Spearfish Creek located in SW 1/4 SW 1/4 Section 4 for irrigation of 68.1 acres located in the W 1/2 SW 1/4, SW 1/4 NW 1/4 Section 4; all in T7N-R2E. This is 68.1 acres currently authorized for irrigation by Vested Water Right No. 1394-1. The water source for irrigation is Spearfish Creek and no increase in the diversion rate or number of acres irrigated is authorized by this permit.
2. The amount of the appropriation may not exceed 3 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: April 1 – November 30.
3. The date from which applicant may claim right is July 31, 1885 (established by Vested Water Right No. 1394-1).
4. The date of approval of Permit No. 1917-1 is September 6, 2010.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Water Permit No. 1917-1 is subject to domestic use rights. Diversion of water under Water Permit No. 1917-1 is contingent upon supplies being available first to domestic users.
2. Water Permit No. 1917-1 shall retain a priority date of July 31, 1885 established by Vested Water Right No. 1394-1.
3. The amount of water with a July 31, 1885 priority date which may be diverted under Vested Water Right No. 1394-1 is reduced by 1.0 cfs and 68.1 acres. Vested Water Right No. 1394-1 has been re-issued to reflect the change.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: Garland Erbele

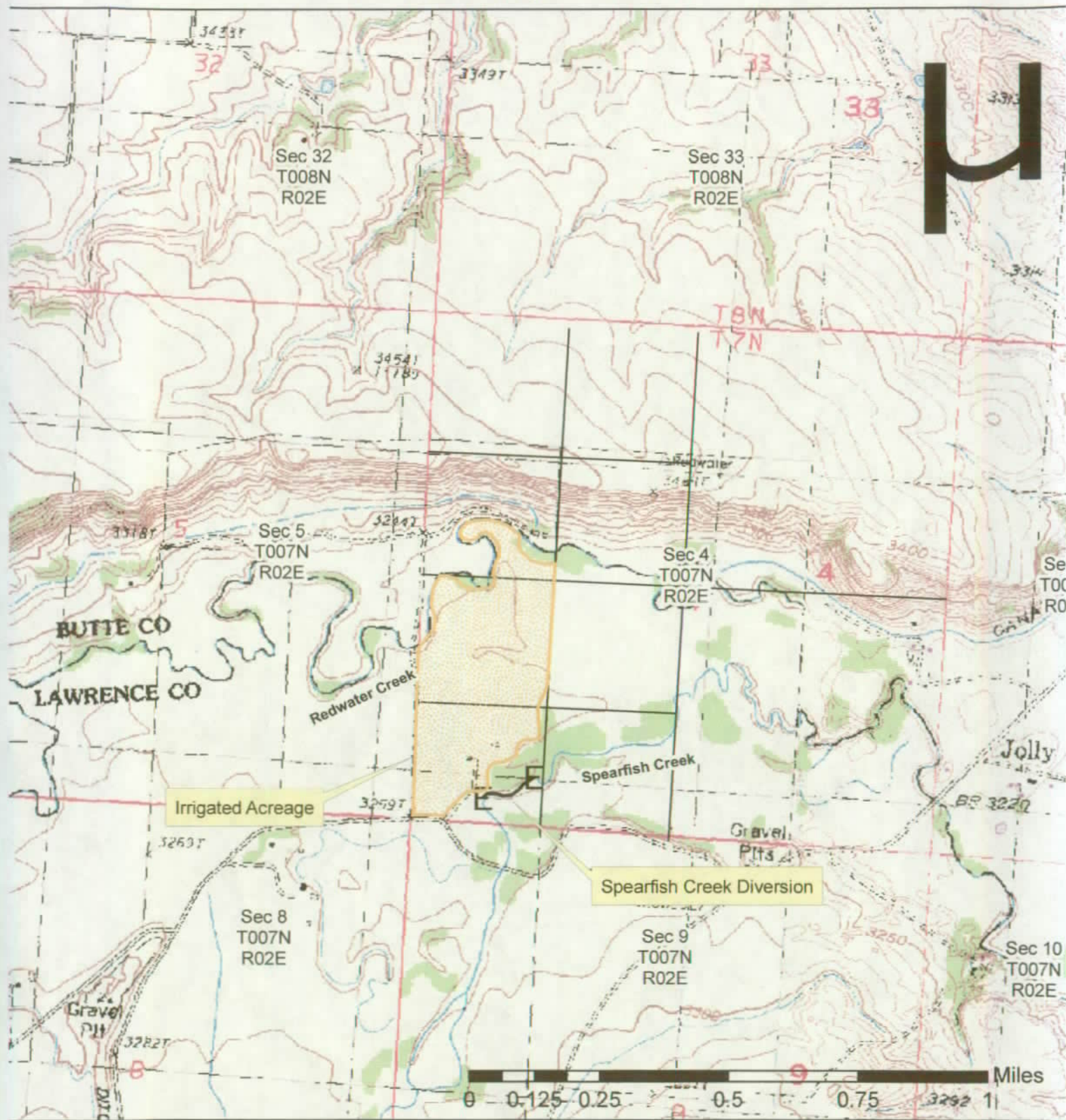
Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

OCT 22 2010

date



**Water Rights Location Map
Lorraine Kissack
Section 4, T7N-R2E
Lawrence County, South Dakota**



Aaron R. Tieman

Aaron Tieman
Natural Resources Project Engineer
DNR Water Rights Program
May 26, 2010

RECEIVED

JUN 04 2010

WATER RIGHTS
PROGRAM



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 6/8, 20 10

RECEIVED OF Lorraine Kissack PO Box 447 Belle Fourche SD 57717

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

Fee for Application for Permit No. <u>1917-1</u> to Appropriate Water, to construct and to put water to beneficial use	100	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. <u>1917-1</u>	200	00
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	300 00

No. 04571

By Harold Erdick
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

August 12, 2010

Eric Jennings
19488 Creekside Loop
Spearfish 57783

Dear Mr. Jennings:

Enclosed is a copy of the report, recommendation and public notice for Water Permit Application No. 1917-1 filed by the Lorraine Kissack. The application proposes to change the diversion point for her portion of the irrigated acres and accompanying diversion authority from Kemper Ditch to direct diversion from Spearfish Creek. If approved Kemper's Vested Water Right No. 1394-1 will be reduced by 1.0 cfs and 68.1 acres.

The public notice is scheduled to be published August 19 and 26, 2010 in the Black Hills Pioneer. If no petitions to intervene are received, the water permit will be approved based on the Chief Engineer's recommendation. If a petition is received, a hearing will be scheduled before the Water Management Board.

This information is being sent to you as Kemper Distch's representative. If you have any questions regarding DENR's review of the application, please contact Aaron Tieman at (605) 394-2229.

Sincerely,

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

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 1917-1, Lorraine Kissack**

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. 1917-1, Lorraine Kissack, 19439 Creekside Loop, Spearfish SD 57783.

The Chief Engineer is recommending APPROVAL of Application No. 1917-1 because 1) the proposed diversion can be developed without unlawful impairment of existing rights, 2) the proposed use is a beneficial use, and 3) it is in the public interest with the following qualifications.

1. Water Permit No. 1917-1 is subject to domestic use rights. Diversion of water under Water Permit No. 1917-1 is contingent upon supplies being available first to domestic users.
2. Water Permit no. 1917-1 shall retain a priority date of July 31, 1885 established by Vested Water Right No. 1394-1.
3. The amount of water with a July 31, 1885 priority date which may be diverted under Vested Water Right No. 1394-1 is reduced by 1.0 cfs and 68.1 acres. Vested Water Right No. 1394-1 will be re-issued to reflect the change.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Garland Erbele, Chief Engineer
August 12, 2010

REPORT ON WATER PERMIT APPLICATION NO. 1917-1

Lorraine Kissack

July 17, 2010

Application No. 1917-1, Lorraine Kissack, proposes to change the diversion point for a portion of the irrigated acres and accompanying diversion authority from Kemper Ditch Water Right No. 1394-1 to a direct diversion from Spearfish Creek. Vested Water Right No. 1394-1 (July 31, 1885 priority date) is commonly known as the Kemper Ditch water right which appropriates 24.0 cubic feet of water per second (cfs) from Spearfish Creek for irrigation of 544.7 acres via the ditch. The Kemper Ditch diversion point from Spearfish Creek is located in the NW¼ SW¼ Section 16, T7N-R2E. The application proposes to sever 1.0 cfs from the Ditch's water right and divert at this rate directly from Spearfish Creek located in the SW¼ SW¼ Section 4 for irrigation of 68.1 acres located in the W½ SW¼, SW¼ NW¼ Section 4; all in T7N-R2E in Lawrence County, South Dakota. This is 68.1 acres currently authorized for irrigation by Vested Water Right No. 1394-1. The water source for irrigation is Spearfish Creek and no increase in the diversion rate or number of acres irrigated is authorized by this application.

REVIEW OF THE PROPOSED PROJECT

Lorraine Kissack, the owner of said acreage, has stated that there is a flume on Kemper Ditch just upgradient of her property that is in disrepair not allowing irrigation water to reach her property. Ms. Kissack also stated that she has attempted to negotiate with Kemper Ditch to get the flume repaired but these negotiations were met with opposition and eventually failed all together. Therefore, Ms. Kissack desires to amend a portion of Vested Water Right No. 1394-1 by irrigating her acreage (68.1 acres) from the Kemper Ditch irrigated acreage (544.7 acres) and divert directly from Spearfish Creek, which traverses the southern border of her property, rather than utilize Kemper Ditch for the delivery of water.

South Dakota water law allows existing water rights to be amended and diversion locations moved, as long as the changes do not impair existing rights. South Dakota Codified Law SDCL 46-5-30.4 and 46-5-31 state:

- 46-5-30.4. *Amendment of permits or rights. Subject to the limitations in §§ 46-5-33 and 46-5-34 governing changes in irrigation rights from one parcel of land to another, any water permit or right holder may apply for a change of use of the water, a change of location of the use or other amendment to the permit or right. Permits or rights may be amended pursuant to the procedure contained in chapter 46-2A. Priority shall be retained upon amendment. An amendment of a water permit or right may not increase the rate of diversion or increase the volume of water to be appropriated under the original water permit or right. The amendment may not impair existing rights.*
- 46-5-31. *Change of use or place of diversion. Any appropriator of water may use the water for purposes other than for which it was appropriated, or may change the place of diversion, storage, or use, in a manner and under conditions approved by the Water Management Board, except that changes in irrigation permits shall be as prescribed by §§ 46-5-34 to 46-5-36, inclusive.*

The applicant proposes to transfer only the pro-rata share of the July 31, 1885 Kemper Ditch priority water minus the ditch carriage loss for the 68.1 acres. Leaving the carriage loss in the ditch protects the existing water rights on Kemper Ditch from being adversely impacted by the transfer.

Ms. Kissack's 68.1 acres constitutes 12.5% prorated share of the Kemper Ditch's 544.7 acres, therefore Ms. Kissack is due 12.5% of Kemper Ditch's 24.0 cfs, which is equal to 3.0 cfs. State Law, SDCL 46-5-6 normally allows 1.0 cfs for each 70 acres of irrigation unless extenuating circumstances exist, whereas the Water Management Board may allow a greater diversion rate. In 1991 the Water Management Board validated Vested Water Right No. 1394-1 for Kemper Ditch with a greater diversion rate because of seepage in transporting the water in the ditch. In determining the amount of water to be allowed in this transfer, Ms. Kissack's 68.1 acres is approximately 70 acres. The 1 cfs per 70 statutory limit would be the determining factor for the diversion rate in this case since the applicant will be pumping directly from Spearfish Creek and piping it to her irrigated lands eliminating the carriage loss. Therefore, due to the high loss rate of Kemper Ditch, 2.0 cfs will remain in the ditch as carriage loss and Ms. Kissack will receive 1.0 cfs to irrigate 68.1 acres.

Kemper Ditch Chairman, Eric Jennings, has been contacted over the phone and in person informing him of the proposed application. Mr. Jennings is aware of the amendment to Vested Right No. 1394-1 and has stated that the remaining members of the ditch will be informed of the proposed application as well.

WATER LOSS DISCUSSION

In December of 1987, the Water Management Board deferred consideration of Application No. 1394-1 to allow collection of flow data for Kemper Ditch during the 1988 irrigation season. The Division of Water Rights had recommended a diversion rate of 15.5 cubic feet of water per second (cfs) for Kemper Ditch from Spearfish Creek. The ditch company, however, was not satisfied with the Division's recommendation and requested time to collect flow data to establish a diversion rate base for actual water use. Because of low flow condition, the ditch company did not believe the data collected during the 1988 irrigation season represented actual conditions. The ditch company requested that collection of flow data be continued during the 1989 and 1990 irrigation seasons.

Daily flow records were collected, by the ditch company, for three consecutive irrigation seasons (1988-1990). The diversion rates vary from as low as 2.5 cfs to as high as 25.9 cfs. A diversion rate of 24.0 cfs, however, was diverted most frequently and can be used as the actual maximum diversion rate.

The ditch company demonstrated, to the satisfaction of the Board, that a diversion rate of 24.0 cfs is justified. Several factors combine to justify this conclusion and the diversion rate of 24.0 cfs.

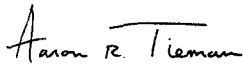
To prevent excessive water loss using a gravity irrigation system, a higher diversion rate is required to reach all parts of the land. The travel time to cover the irrigated land is greater for 15.5 cfs than for 24.0 cfs. During application of water to the land, there will be greater water losses with the lower diversion rate.

REVIEW OF EXISTING WATER RIGHTS

There are a total of 17 existing water rights/permits appropriating 244.585 cfs from Spearfish Creek. However, there are no water rights on Spearfish Creek that are downstream of the proposed new diversion point from Spearfish Creek. Therefore, any adverse impacts would not be expected.

CONCLUSIONS

1. This application proposes to change the diversion point and transfer diversion authority of 1.0 cfs from Vested Right 1394-1 and divert directly from Spearfish Creek rather than utilize Kemper Ditch for the delivery of water.
2. SDCL 46-5-30.4 and 46-5-31 allows existing water rights to be amended and diversion locations moved, as long as the changes do not impair existing rights.
3. The applicant proposes to transfer only the pro-rata share of the July 31, 1885 Kemper Ditch priority water minus ditch loss for the 68.1 acres.
4. This application proposes to amend an existing right by adding a diversion point with no increase in the diversion rate or number of acres irrigated, therefore, no adverse impacts to existing water rights would be expected.



Aaron R. Tieman
Natural Resources Project Engineer

Approved by



Mark D. Rath
Natural Resources Engineering Specialist

BIBLIOGRAPHY

Water Right, 2010, Unpublished Water Rights Data, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.

RECEIVED

AUG 30 2010

WATER RIGHTS
PROGRAM

**NOTICE OF
APPLICATION
NO. 1917-1**

Affidavit of Publication

STATE OF SOUTH DAKOTA:

COUNTY OF LAWRENCE:

Letitia Lister of said County and State being first duly sworn, on her 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 Letitia Lister, 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, Letitia Lister, 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 Application
No 1917-1

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 19th day of Aug., 2010, and the last publication on the 26th day of Aug., 2010, that the full amount of fees charged for publishing same, to-wit: The sum of \$ 51.28, 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 26th day of Aug., 2010

Ernest Johnson

Notary Public, Lawrence County, South Dakota

My commission expires: 10-24-2010

Notice is given that Lorraine Kissack, 19439 Creekside Loop, Spearfish SD 57783 has filed an application to change the diversion point for a portion of the irrigated acres and accompanying diversion authority from Kemper Ditch Vested Water Right No. 1394-1 to a direct diversion from Spearfish Creek. Vested Water Right No. 1394-1 is commonly known as the Kemper Ditch water right which appropriates 24.0 cubic feet of water per second from Spearfish Creek to irrigate 544.7 acres via the ditch. The Kemper Ditch diversion point from Spearfish Creek is located in the NW 1/4 SW 1/4 Section 16-T7N-R2E. The application proposes to sever 1.0 cubic feet of water per second from the Ditch's water right and divert at this rate directly from Spearfish Creek located in SW 1/4 SW 1/4 Section 4 for irrigation of 68.1 acres located in the W 1/2 SW 1/4, SW 1/4 NW 1/4 Section 4; all in T7N-R2E. This is 68.1 acres currently authorized for irrigation by Vested Water Right No. 1394-1. The water source for irrigation is Spearfish creek and no increase in the diversion rate or number of acres irrigated is authorized by this application.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1917-1 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. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting 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 September 6, 2010.

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. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published twice at the total approximate cost of \$52.90.

#191

Aug. 19, 26



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

August 12, 2010

Black Hills Pioneer
PO Box 7
Spearfish SD 57783

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 1917-1 to Appropriate Water to be published twice. Please publish the first notice on August 19, 2010 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 Lorraine Kissack, 19439 Creekside Loop, Spearfish SD 57783 (Ph # 605-210-0285).

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. 1917-1

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

Date _____

We are in receipt of your letter of August 12, 2010 enclosing Notice to Appropriate Water by Application No. 1917-1 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
denr.sd.gov

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

August 12, 2010

Lorraine Kissack
19439 Creekside Loop
Spearfish SD 57783

Dear Ms. Kissack:

Water Permit Application No. 1917-1 for irrigation 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 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
eric.gronlund@state.sd.us

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.

Instruction to Newspaper - Publish first Notice on August 19, 2010 with the second publication 7 days later. The applicant is responsible for payment. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352 or email: Karen.schlaak@state.sd.us.

NOTICE OF APPLICATION NO. 1917-1

Notice is given that Lorraine Kissack, 19439 Creekside Loop, Spearfish SD 57783 has filed an application to change the diversion point for a portion of the irrigated acres and accompanying diversion authority from Kemper Ditch Vested Water Right No. 1394-1 to a direct diversion from Spearfish Creek. Vested Water Right No. 1394-1 is commonly known as the Kemper Ditch water right which appropriates 24.0 cubic feet of water per second from Spearfish Creek to irrigate 544.7 acres via the ditch. The Kemper Ditch diversion point from Spearfish Creek is located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 16, T7N, R2E. The application proposes to sever 1.0 cubic feet of water per second from the Ditch's water right and divert at this rate directly from Spearfish Creek located in SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 4 for irrigation of 68.1 acres located in the W $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 4; all in T7N-R2E. This is 68.1 acres currently authorized for irrigation by Vested Water Right No. 1394-1. The water source for irrigation is Spearfish creek and no increase in the diversion rate or number of acres irrigated is authorized by this application.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1917-1 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. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting 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 September 6, 2010.

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. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published twice at the total approximate cost of_____.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

OCT 22 2010

Lorraine Kissack
19439 Creekside Loop
Spearfish SD 57783

Dear Ms. Kissack:

Enclosed is Water Permit No. 1917-1 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this 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.

An informational sheet *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

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

enclosures