

565-1

1. Considered 7-19, 1961
2. Name of Applicant Black Hill Power & Light Co.
3. Post Office Address Kenosha, Wis.
4. Amount of water claimed 13.0
5. Source of water supply abandoned mine
6. Water to be used for municipal & industrial
Acres to be irrigated _____
7. Water to be diverted and used in Lynn County about
3 miles of road
8. Proof of Publication Received ☒
Not Received _____
9. Application Approved _____
Subject to _____
Not Approved _____
Action deferred pending further information
10. Remarks:

No. 565-1Water Division No. 1 Beau Fourche River
(Blanks to be Filled by the Engineer for the W. R. C.)

District

MAY - 2 1904
8:15 AM

APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

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

1. Name of applicant Black Hills Power and Light Company
Postoffice address Box 1951, Rapid City, County Pennington, State South Dakota

I. If a corporation

- (a) Name of same Black Hills Power and Light Company
(b) Date and place of incorporation 1941; South Dakota
(c) Amount of capital stock \$3,395,028 par value outstanding
(d) Amount paid in \$11,524,552
(e) Names and addresses of directors Guy N. Bjorge, San Francisco, Calif.; Jarvis D. Lavenport, Sturgis, S. Dak.; Marshall M. Koch, Denver, Colo.; and J. B. French, Paul R. Quernberg, C. G. Skartvadt, and Neil G. Simpson, all of Rapid City, S. Dak.

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

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

- (a) Method of accomplishing work (Whether by contract, employment of others, or by direct labor)

(b) Cash on hand, \$.....

(c) Treasury stock, \$.....

(d) Bonds to be issued, \$.....

(e) Other resources, \$.....

2. Name of diversion work Cutting Mine
3. Amount of water claimed 2.11 cubic feet per second
4. Source of water supply Abandoned mine,
5. Location of point of diversion Winnie F Lode mining claim, Mineral Survey 1702 in Section 30, Township 5 North, Range 3 East, B.H.M., in the Whitewood Mining District, on Lawrence bank County.
6. Annual period or periods during which water is to be used Continuous.
7. To be used for:

I. Irrigation or domestic use: Gravity, overhead sprinkling or combination system?

(a) Number of acres to be irrigated acres.

(b) Legal subdivisions to be irrigated

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

(c) Statement as to domestic use (giving location, etc.)

II. Stockwatering, mining, milling, power, fish culture, fire protection and public recreation:

(a) Nature of use Industrial and municipal.

Name any of the above uses claimed

(b) Amount of power to be generated horse power.

Amount claimed for engine cooling

(c) Location of plant

(d) Method of developing power

(e) Point where water will be returned to stream

MAP No 478-1

8. Estimated cost of work:

(a) Head Gates, \$.....

(b) Pumping plant, \$.....

(c) Fluming, \$.....

(d) Canal-earth, \$.....

Rock, \$.....

(e) Other structures\$.....

Total, \$.....

9. Description of diversion works:

I. Nature of works: (Reservoir, dam, ditch, flume, pumping plant, etc.)

II. Dimensions of works.

(a) Dam: Height.....feet; length at bottomfeet; length at topfeet; thickness at bottomfeet; thickness at topfeet; slope at front water face; slope at back face material used in construction

(b) Reservoir: Capacity when filledacre feet. Surface area at high-water markacres.

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

(c)* Head gate: Width.....feet; heightfeet; Material).....

(d) Canal: Total lengthmiles.

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

(Give dimensions where reductions in size are made.)

10. Time required for completion of work3..... years.

11. Time required for complete application of water to the proposed beneficial use3..... years.

12. Choice of newspaper for publication of notice of intention to appropriate

DEADWOOD PIONEER TIMES

STATE OF SOUTH DAKOTA

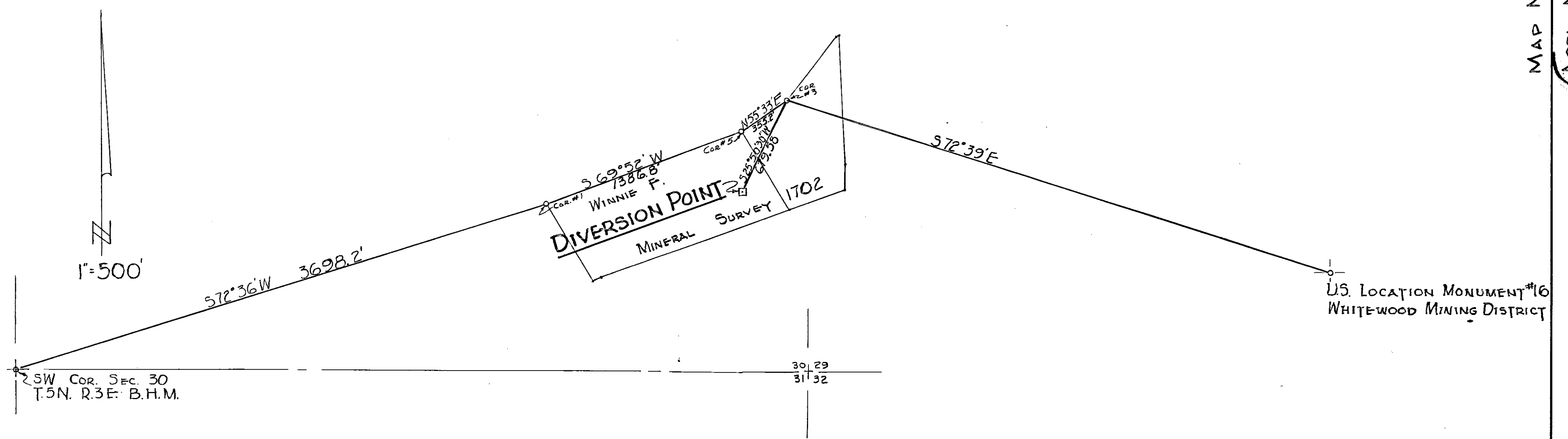
County of Pennington ss.

I, Neil S. Simpson, being first duly sworn on my oath depose and say: That my relation to the above described undertaking is that of owner, that I have read the above foregoing statement, examined the map accompanying the same, and that I know of my own personal knowledge that the matters therein stated and shown are true. BLACK HILLS POWER AND LIGHT COMPANY

Signed D. S. D. Simpson President

Subscribed and sworn to before me this 1st day of May 1961

Notary Public (or other qualified officer.)



MAP No 418-1
APPL No 565-1

—SURVEYOR'S CERTIFICATE—
I, DONALD R. HARRIS, A REGISTERED LAND SURVEYOR, DO HEREBY CERTIFY THAT, AT THE REQUEST OF THE PROPERTY OWNERS I HAVE SURVEYED THE LOCATION OF THE PROPOSED DIVERSION AS SHOWN ON THE ABOVE PLAT. I FURTHER CERTIFY THAT LOCATION OF SAID DIVERSION IS AS SHOWN ON THE ABOVE PLAT.
IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL THIS 28TH DAY OF APRIL 1961

Donald R. Harris
REGISTERED LAND SURVEYOR

—ACKNOWLEDGEMENT OF SURVEYOR—
STATE OF SOUTH DAKOTA } ss
COUNTY OF PENNINGTON }
ON THIS DAY, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC WITHIN AND FOR THE STATE AND COUNTY AFORESAID, PERSONALLY APPEARED DONALD R. HARRIS, KNOWN TO ME TO BE THE PERSON WHO EXECUTED THE FOREGOING SURVEYOR'S CERTIFICATE, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.
WITNESS MY HAND AND SEAL THIS 28TH DAY OF APRIL 1961

George L. Wansel
NOTARY PUBLIC
MY COMMISSION EXPIRES *June 13-1967*

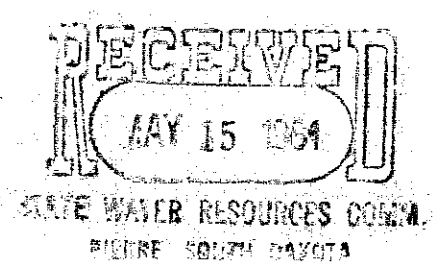
APPLICATION MAP FOR

WATER RIGHT

IN
—THE WINNIE F. LODE MINING CLAIM—
—IN MINERAL SURVEY 1702 IN SEC. 30 T5N R3E BHM—
—IN THE WHITEWOOD MINING DISTRICT, LAWRENCE COUNTY—

BLACK HILLS POWER & LIGHT CO.
RAPID CITY, S. D.

APRIL, 1961



Remarks by State Water Resources Commission:

THIS PERMIT IS GRANTED SUBJECT TO THE LIMITATION THAT
USE OF WATER HEREIN GRANTED WILL NOT INTERFERE
WITH WATER USE UNDER PRIOR WATER RIGHTS.

STATE OF SOUTH DAKOTA
County of Hughes } ss.

Pierre, South Dakota, February 19, 1962

This is to certify that the foregoing application was received by the Commission at 8:15 o'clock
a.m. upon the 2nd day of May, 1962.

State Water Resources Commission

By:

Burtin Jones
Chief Engineer, Executive Officer

Number of permit 565-1

Date of first receipt of application MAY 2, 1961

Date of return to applicant for correction, amendments or changes required as follows: _____, 19____

Date of receipt of corrected application _____, 19____

Date from which applicant may claim right May 2, 1961

Approved January 10, 1962, Recorded in Book 7 Page 38

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

1st. The equivalent of at least one-fifth of the work above specified is to be completed on or before _____

July 10, 1963

2nd. The whole of said work is to be completed on or before January 10, 1965

3rd. The limit of time for proof of beneficial use of water appropriated in accordance herewith is _____

January 10, 1965

4th. The water appropriated shall be used for the purpose of INDUSTRIAL & MUNICIPAL

5th. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.

6th. The amount of the appropriation herein granted shall not exceed 3.0 cubic feet per second; neither shall it exceed the capacity of the above described system of diversion works, nor the least amount of water that experience may hereafter indicate as necessary for the production of crops in the exercise of the best husbandry; and further, said appropriation must be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually

and beneficially applied for irrigation on or before January 10, 1965; said water to be used during the following described annual period:

Continuously

Witness my hand this 19th day of February, 1962.

State Water Resources Commission

By:

W. O. Jones

Chief Engineer, Executive Officer

Certificate of Construction Issued JANUARY 18, 1982

Water License Issued JANUARY 18, 1982

Remarks by the Applicant:

In 1955 the Applicant purchased the so-called "Cutting Mine" located as herein noted as a possible source of water for their Kirk power plant in case the present supply became depleted.

Some water flows from this mine naturally and continuously and it was felt that by installing a pump a great deal more water could be produced. This flowing water was measured for about a year and determined to average 41.5 g.p.m.

The development of additional water was never attempted by the Applicant because of adequate normal supply.

In 1960 the Applicant was approached by the City of Deadwood to purchase water from this mine and an agreement was worked out whereby the City would test the potential output of the mine and, if the test proved favorable, would install a pump, produce additional water, and purchase it from the Applicant. The Applicant, however, reserving priority on water needed for its power plant should its normal supply become inadequate.

This application covers the amount that could be reasonably expected from the mine for industrial and municipal uses.

The Applicant has advised the City that it should advise the holders of rights on the water presently flowing and make agreements with them as to its disposition and also comply with all State regulations covering municipal water supply.

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 565-1

(1) WHEREAS, On the 2nd day of May A. D. 19 61
the Black Hills Power and Light Co.

made Water Right Application No. 565-1 for a permit to use 3.0 cubic feet per second of the waters
of a nine shaft (groundwater)

County of Lawrence, State of South Dakota, for industrial and municipal
purposes; and

(2) WHEREAS, On the 10th day of January A. D. 19 65
Permit No. 565-1, with a date of priority of May 2, 1961
was issued to said applicant B for the diversion of said water, and provided for the completion of construction of the water
supply system therein described on or before the 10th day of January A. D. 19 65 and for the
application to beneficial use of said water on or before the 10th day of January A. D. 19 65

and:

(3) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota
relating to completion of the construction of the water supply system and is entitled to divert 1.33 cubic feet
per second of water for beneficial use and,

(4) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota
relating to the application of water to beneficial use of the following extent,
for industrial and municipal purposes for the City of Deadwood

(5) NOW, THEREFORE, By the virtue of the authority vested in us by the laws of the State of South Dakota, We hereby grant and confirm to the Black Hills Power and Light Company

_____ of Rapid City, South Dakota

the holder is and owner is of said permit No. 565-1 a water right, dating from May 2, 1961

_____ to use of 1.33 cubic feet per second of the waters

of a mine shaft - groundwater

in the County of Lawrence and State of South Dakota, or so much thereof as may be necessary for the

purposes hereinbelow mentioned, to be diverted at a point 1200 ft north and 450 ft west of the SE

corner of Section 30, T5N, R3E (DD)

and conducted ~~to and from~~ thru the city water system

for the purpose of industrial and municipal use

Subject to any limitations listed in Water Right Permit No. 565-1 and subject to the laws of the State of South Dakota.

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

this 18th day of January A. D.

Nineteen Hundred and Eighty-two

WATER MANAGEMENT BOARD

By:



Chief Engineer, Executive Officer

JOHN HATCH

Permit No. 565-1

Water Diversion No. 1 Belle Fourche River Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That the Black Hills Power and Light Company

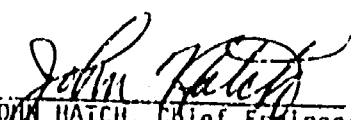
the holder of
Permit No. 565-1, issued upon Application No. 565-1, bearing date of priority of May 2, 1961

authorizing the diversion of 3.0 cu ft per second of the waters of
groundwater (Mine Shaft) County of Lawrence, State of South Dakota at
a point 1200 ft north and 450 ft west of the SE corner of Section 30,
T5N, R3E (DD)

for industrial and municipal use

purposes, has ve complied with the provisions of the laws of the State of South Dakota relating to proof of
completion of the works of diversion set out and described in said Permit; that said works are found in satisfactory
condition for diverting and conveying to the place of intended use 1.33 cu. ft. per second of water.

Date January 13, 1982


JOHN HATCH, Chief Engineer
Water Rights Division

Permit No.

Water Division

REPORT OF EXAMINATION OF WORKS

TO: WATER RIGHTS, WATER MANAGEMENT BOARD / FOSS BLDG., PIERRE, SOUTH DAKOTA 57501

I have this day made a thorough examination of the water use system constructed by Black Hills Power and Light Co. of Rapid City, S. Dak. holder _____

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

The Water Use System consists of,

A. Works used to divert the water:

Works used to divert the water:
Westinghouse 100 H.P. Electric Moto.
Layne Pump. pumping 600 gpm
43453

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

Pipeline to Deadwood Water System

C. Works used to apply water to beneficial use.

Deadwood City Water System

The system is in the following condition. Good

The point of diversion is located 1200 ft N and 450 ft W of the SE
corner of Sec. 30, T5N R3E 100

The works are capable of diverting and conveying to the place of use 1.33
cu. ft. per second of water which is to be used for Industrial + Municipal Use.

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

comprising a total of _____ acres of land.

More data.

525 ft. Depth of shaft.

375 ft to pump location

Pumpkin 600 gms.

capacity 600 ypm r

license for 1.33 cfs.

Date April 30, 1981
LeRoy J. Mennigh
(Signature)

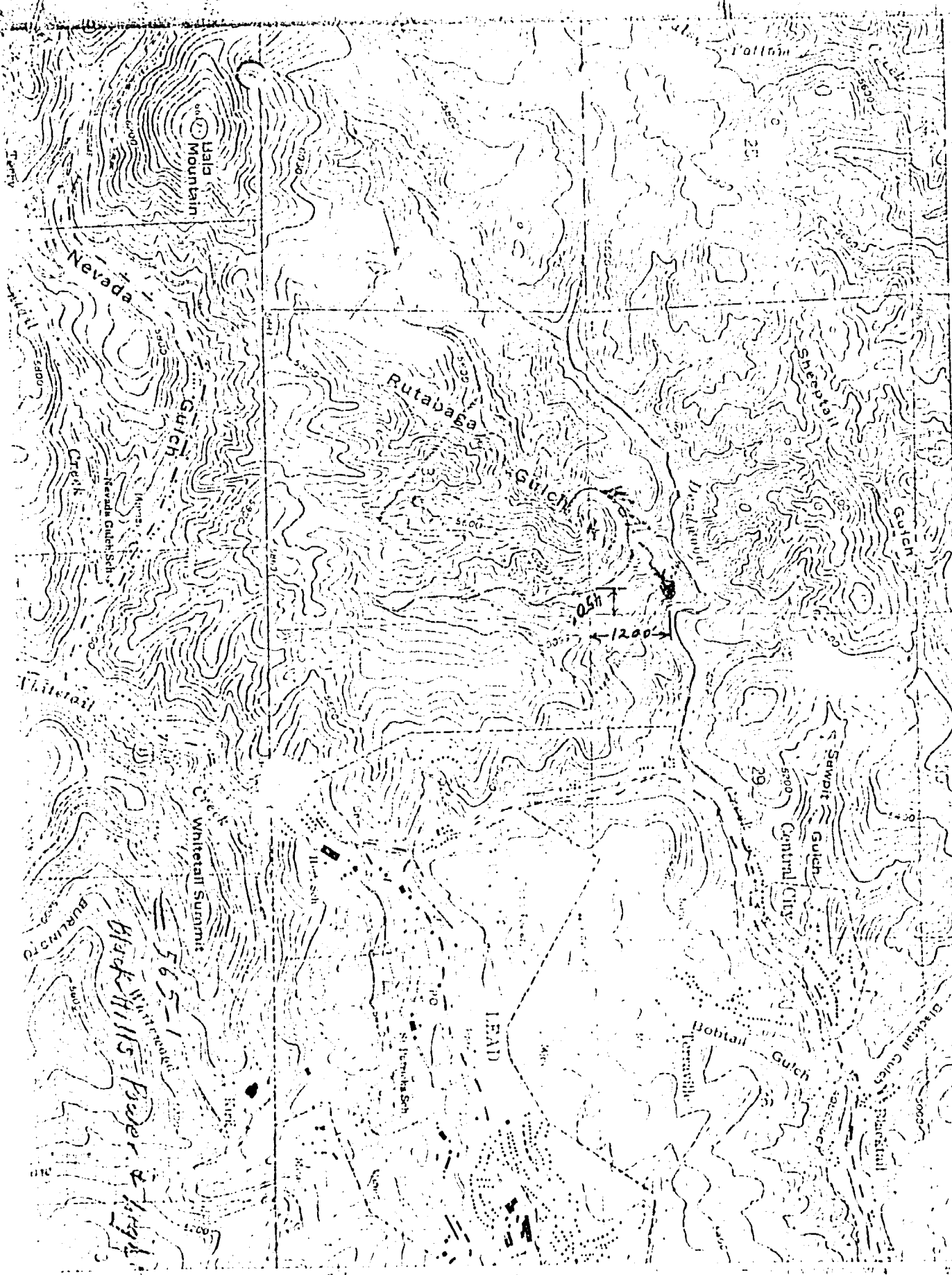
38

R2E

R3E

1:50,000 FEET

SOUTH DAKOTA LAWRENCE CO.
15 MINUTE SERIES (TOPOGRAPHIC)



N 5

C

**OVERSIZE
DOCUMENT IS
SUPPLEMENTARY
TO MICROFILM FILE**

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA,
COUNTY OF LAWRENCE

Milton B. Chilcott of said county and state, being duly sworn, on his oath says: That the Deadwood Pioneer Times is a legal newspaper of general circulation, printed and published in Lease in said county and state, by the Seaton Publishing Company, and has been such a newspaper during the times hereinafter mentioned; and that I, Milton B. Chilcott, the undersigned, am the Business Manager of the said newspaper, in charge of the advertising department thereof, and have personal knowledge of all the facts in this affidavit, and that the advertisement headed.....

Appropriation of Water

a printed copy of which is hereto attached, was printed in said newspaper for..... successive and consecutive issues....., the respective publications made on..... June 7, 1961 and June 14, 1961 and June 21, 1961....., 19....., 19....., 19....., 19....., and the last publication thereof on..... June 28, 1961. and that the full amount of fees charged for publishing the same, to wit: the sum of \$..... 2.00....., inures solely to the benefit of aforesaid publisher; and that no arrangement or understanding for a division thereof has been made with any person other than the publisher, and that no part thereof has been agreed to be paid to any other person whomsoever.

Milton B. Chilcott

Subscribed and sworn to before me this..... 28th.....

day of..... June....., 1961.

Ernest A. Moore
Notary Public, Lawrence County, S. Dak.

My commission expires..... April 25....., 1966

No. 365-1
APPROPRIATION OF WATER.
Office of State Water Resources Commission,
Pierre, S. D.
May 23, 1961

Notice is hereby given that The Black Hills Power and Light Company, whose principal address is Rapid City, S. Dak., has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 3.0 cubic feet of water per second of time from ground water through the Cutting Mine, the point of diversion of which is to be located in Mineral Survey 1702 in Section 25, Twp. 6N, Range 3E. Said water to be used for the purpose of providing industrial supplies and municipal supplies for the City of Deadwood.

This application will be considered by the State Water Resources Commission at their office at Pierre for consideration upon the 15th day of July, 1961, at 2 P.M. All interested persons may appear and be heard. Appropriate action will be taken by the Water Resources Commission after suitable time has elapsed for the consideration of any or all information presented.

STATE WATER RESOURCES COMMISSION
By: Burton F. Jones, Notary
Water Right Specialist
June 7-14-21-28 '61

RECEIVED
JUL 3 1961
STATE WATER RESOURCES COMM.
PIERRE SOUTH DAKOTA

on or before
(First Publication) June 22, 1961

APPROPRIATION OF WATER

Office of State Water Resources Commission,

Pierre, S. Dak., May 23, 1961

Notice is hereby given that ~~The Black Hills Power and Light Company~~ whose postoffice address is ~~Rapid City~~ S. Dak., has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use ~~3.0~~ cubic feet of water per second of time from the ~~the~~ ground water through the ~~Cutting Mine~~, the point of diversion of which is to be located on the ~~bank of said stream in the~~ Mineral Survey 1702 ~~of the~~ 1/19 Section ~~36~~ Twp. ~~5N~~ Range ~~3E~~ Said water to be used for the purpose of providing irrigation on the following described land:

Industrial supplies and municipal supplies for the City of Deadwood

and for ~~other~~ purposes.

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the ~~19th~~ day of ~~July~~, 19~~61~~, at ~~2~~ P. M. All interested persons may appear and be heard.

Appropriate action will be taken by the Water Resources Commission after suitable time has elapsed for the consideration of any or all information presented.

CC: H.B. Chilcott - Publisher
Deadwood Pioneer Times
Deadwood, South Dakota

State Water Resources Commission

By:

~~Chief Engineer - Executive Officer~~
BURTON F. JONES
Water Right Specialist

July 31, 1961

Mr. Harry Z. Babbitt
Chief Engineer
Black Hills Power and Light Company
Rapid City, South Dakota

Dear Mr. Babbitt:

This letter is written to inform you that the State Water Resource Commission on July 19, 1961 deferred action on water right application No. 565-1 of the Black Hills Power and Light Company to divert 3 cubic feet per second from the abandoned "Cutting Mine."

Mr. Kenneth Keller, representing Homestake Mining Company, appeared at the hearing on this application and lodged a qualified objection to approval of the application as of July 19, 1961.

Mr. Keller gave the following reasons:

Homestake had a prior water right on 350 gpm of the flows in Foster Creek below the "Cutting Mine."

This 350 gpm was now being used and a possibility existed that the proposed use of water from the "Cutting Mine" might reduce the flows in Foster Creek to less than 350 gpm.

That text "pumping was being started from the mine and at a later date it could be determined if pumping from the mine would reduce the flow in Foster Creek of Homestake's diversion point to less than 350 gpm.

The Commission asked if there was a possibility if other water right holders in the area might be affected by pumping from the "Cutting Mine." It was indicated that there was some possibility of such an occurrence.

The decision of the Commission was to defer action on water right application No. 565-1 until test pumping was completed and the effects of such test pumping become known.

Sincerely,

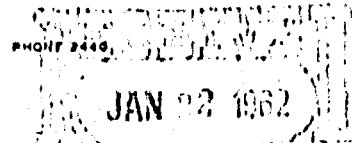
Burton F. Jones
Water Rights Specialist

BFJ/pas

KELLAR & KELLAR & DRISCOLL
ATTORNEYS AT LAW
LEAD, SOUTH DAKOTA

CHAMPERS KELLAR 1888-1890
KENNETH C. KELLAR
P. T. DRISCOLL, JR.

JANUARY 19, 1962



MR. JOE GRINES
STATE WATER COMMISSION
PIERRE, SOUTH DAKOTA

DEAR JOE:

DON DRISCOLL CALLED ME YESTERDAY FROM SPEARFISH TO ADVISE THAT AT THE LAST MEETING OF THE COMMISSION THE WATER RIGHT APPLICATION OF BLACK HILLS POWER & LIGHT COMPANY IN CONNECTION WITH THE WATER IN THE CUTTING MINE HAD BEEN GRANTED AND THAT HOMESTAKE'S WATER RIGHTS WERE RECOGNIZED AS SET FORTH IN AN AGREEMENT BETWEEN THE CITY OF DEADWOOD AND SAID POWER COMPANY. I TOLD DON I THOUGHT THAT THIS WAS NOT A PROPER STATEMENT OF THE SITUATION AND HE INDICATED THAT THE MINUTES HAD NOT BEEN WRITTEN AND HE DID NOT SEEM TO BE TOO PRECISE AS TO JUST WHAT THE ACTION OF THE COMMISSION WAS. I TOLD HIM I WOULD GET IN TOUCH WITH YOU.

I ASSUME WHAT THE COMMISSION INTENDED WAS TO GRANT THE WATER RIGHT TO BLACK HILLS POWER & LIGHT COMPANY SUBJECT TO THE PRIOR VESTED RIGHTS OF HOMESTAKE IN THE WATERS OF DEADWOOD GULCH RATHER THAN MAKING HOMESTAKE'S RIGHTS SUBJECT TO A CERTAIN AGREEMENT TO WHICH IT IS NOT EVEN A PARTY, ALTHOUGH OF COURSE ITS RIGHTS ARE RECOGNIZED IN SAID AGREEMENT BY BOTH THE CITY OF DEADWOOD AND THE POWER & LIGHT COMPANY.

FOR YOUR INFORMATION, IF YOU HAVEN'T NOT SEEN IT, I ENCLOSE HEREWITH THE FINALIZED DRAFT OF THE AGREEMENT BETWEEN THE CITY OF DEADWOOD AND THE POWER & LIGHT COMPANY WHICH OF COURSE RECOGNIZES HOMESTAKE'S PRIOR WATER RIGHTS TO THE FLOW OF DEADWOOD CREEK. THIS PARTICULAR AGREEMENT DOES NOT SET FORTH THE AMOUNT OF WATER BEING USED BY HOMESTAKE AS TO WHICH RECOGNITION IS GIVEN BY BOTH PARTIES TO THE AGREEMENT, BUT BOTH THE CITY AND THE POWER COMPANY CLEARLY RECOGNIZE THIS RIGHT AS SET FORTH IN THE TEMPORARY TENTATIVE AGREEMENT UNDER DATE OF JULY 14, 1961, AND NOT ONLY RECOGNIZED HOMESTAKE'S PRIOR RIGHT BUT SPECIFICALLY RECOGNIZED THAT HOMESTAKE BY VIRTUE OF SUCH PRIOR RIGHT HAS BEEN USING 350 GALLONS PER MINUTE FROM THE WATERS OF DEADWOOD GULCH WHEN SUCH AMOUNT OF WATER HAS BEEN AVAILABLE IN THE FLOWAGE OF THE STREAM.

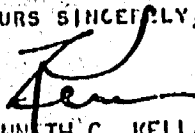
HOMESTAKE'S WATER RIGHT IN THIS PARTICULAR INSTANCE IS A VERY OLD ONE, IN POINT OF FACT, BEING THE FIRST WATER RIGHT TAKEN OUT ON DEADWOOD GULCH AND LOCATED APRIL 24, 1876. HOMESTAKE PURCHASED THE RIGHT SEPTEMBER 14, 1878. THE WATER RIGHT ORIGINALLY CALLED FOR 250 CUBIC INCHES OF WATER WHICH WAS PROBABLY GREATLY IN EXCESS OF THE AMOUNT OF WATER THAT EVER FLOWED IN THAT PARTICULAR STREAM. IN ANY EVENT, HOMESTAKE HAS ALWAYS USED THE ENTIRE FLOWAGE OF DEADWOOD GULCH TAKEN OUT IN THE FOSTER DITCH FOR USE IN OUR MILLS.

AM I CORRECT IN MY ASSUMPTION THAT THE ACTION TAKEN BY THE COMMISSION WAS TO GRANT THE WATER RIGHT TO BLACK HILLS POWER & LIGHT COMPANY FOR WHICH APPLICATION

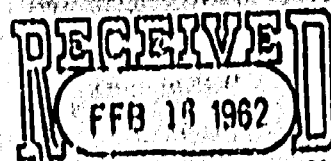
MR. JOE GRIMES
PAGE TWO
JANUARY 19, 1962

WAS MADE SUBJECT TO HOMESTAKE'S PRIOR VESTED WATER RIGHTS ON DEADWOOD
GULCH AND THAT THE MINUTES WILL SO REFLECT THIS ACTION?

YOURS SINCERELY,


KENNETH C. KELLAR

KCK:FB
ENC.



AGREEMENT FOR USE OF CUTTING MINE WATER
BY CITY OF DEADWOOD, SOUTH DAKOTA

STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

THIS AGREEMENT made and entered into as of the 11th day of December, 1961, at Deadwood, South Dakota; by and between the CITY OF DEADWOOD, SOUTH DAKOTA, hereinafter designated "City," and BLACK HILLS POWER AND LIGHT COMPANY, a corporation of Rapid City, South Dakota, hereinafter designated "Company":

WHEREAS, Company is the owner of that certain mining property designated as the Cutting Mine in Lawrence County, South Dakota, and near Deadwood, South Dakota, and

WHEREAS, heretofore by arrangement between Company and City, clean-out operations were conducted in the underground workings in said Cutting Mine and City installed certain pumping equipment to test the amount of water available from said mine, all of which arrangements have been completed and all of which tests have now been satisfactorily concluded, and it appearing that there is an adequate supply of water in the Cutting Mine to substantially supplement the water supplies of City, after due consideration is given to the prior water rights of Homestake Mining Company of Lead, South Dakota, in and to the flow of Deadwood Creek, and

WHEREAS it is now deemed desirable that the parties hereto enter into an Agreement for the water pumping operations in the Cutting Mine by City and the use by City of water therefrom to amplify and augment its water supply;

NOW THEREFORE, in consideration of the mutual covenants flowing between the parties and of the payments agreed to be made and

other good and valuable considerations, the sufficiency of which is acknowledged by the parties, it is agreed between the parties as follows:

1. City, at its own cost and expense, shall install such machinery, facilities, and pumping equipment and other equipment necessary for the production and handling of water from the Cutting Mine, as City from time to time shall desire to install in said Mine and as shall be necessary for the purpose of production of water therefrom.
2. City and Homestake Mining Company of Lead, South Dakota, hereinafter designated as "Homestake" shall work out and negotiate as between City and Homestake all matters pertaining to the measurement and quantity of water produced from the Cutting Mine, and City shall satisfy Homestake's requirements as to the mutually recognized water rights of Homestake in and to Deadwood Creek water into which creek water from the Cutting Mine will be discharged. It is specifically recognized by the parties hereto that Homestake has certain prior water rights as aforesaid and that the same shall not be impaired by the operations contemplated by this agreement, and in this connection City shall satisfy Homestake requirements as to the rates of flow and continuity of flow of water for Homestake operations as related to its said prior water rights.
3. City, at its own cost and expense, shall, at all times, properly and adequately maintain all machinery, facilities and equipment used by City in the Cutting Mine or any portions thereof involved in the production of water therefrom, and shall at all times keep such facilities, equipment, and machinery in a safe working condition.
4. City shall utilize the water produced from said mine in such quantities as shall be needed to augment and add to City's commitments and requirements at any time, provided that due consideration is given to aforesaid prior water rights.
5. City shall pay to Company appropriate and established rates for all electric power and energy used in and about the Cutting Mine for operation of pumps, machinery and facilities

and lighting of said Mine.

6. Company shall have no further expense in placing the Cutting Mine or any of the fixtures, machinery, facilities, and equipment used in said Mine, in a proper, safe, and adequate working condition for the production of water from said Mine, and Company shall have no expense whatever in the maintenance of such equipment, machinery, facilities or fixtures for the continued production of water.

7. At any time City determines to discontinue the use of the Cutting Mine as a water source, City shall have the right to remove any and all equipment, machinery, and facilities belonging to City; provided, however, that City will advise Company of its plans and purposes in such connection and give an option hereby, and hereby does give an option, to Company to purchase such equipment on terms and at prices as may then be agreed upon by the parties, but not to exceed original cost less depreciation.

8. It is specifically understood and agreed that City shall assume all liabilities, related to the quality of the water produced in said Cutting Mine and all operations in connection with and incidental to the production of water therein, which assumption of liability shall extend to the sanitary and potable quality of said water; further, City shall hold Company entirely harmless and indemnify Company against every liability whatsoever for personal injury, death, or property damage or any injury which may be suffered by any person or property by reason of or incidental to the pumping and water production activities of City in said Cutting Mine.

9. City is hereby authorized from time to time as it may so desire, to make alterations, modifications or improvements in and to the Cutting Mine necessary or useful in carrying out the full purpose and intent of this agreement, provided, however, that City agrees that as to any major modifications or alterations that City will advise the engineering representatives or officers of Company to the end that Company shall be fully

advised as to any such improvements, modifications, or alterations.

10. City shall pay to Company the sum of One Hundred Dollars (\$100) per year for such water as it shall use and produce under the terms of this agreement from the Cutting Mine, and such payment shall be made by City to Company during January of each year for such current calendar year.

11. It is understood by all parties that Company uses water at its Kirk Generating Plant, presently furnished by Homestake. In event Homestake should curtail the supplies of water at Company's Kirk Plant necessary for the adequate and appropriate operation of such plant, City agrees to pump the water necessary to make up the deficiency thus caused at the Kirk Plant of Company, and to put such water in Deadwood Creek as is done with Homestake water. In such event Company will undertake to and will make satisfactory agreements with Homestake for supplies of water to the Kirk Plant on a displacement basis.

12. In the event that Company finds it necessary in its sole judgment, to enlarge Company's facilities and thus create an enlarged demand for water that Homestake can not or will not furnish, at rates which Black Hills Power and Light Company regards as fair and reasonable, then and in that event, this agreement may be cancelled or renegotiated by Company with City upon two (2) year's written notice to City.

13. It is understood by all parties that Company presently had pending in the water resources commission for the State of South Dakota an application for a water right to use the Cutting Mine water for municipal and industrial purposes. It is anticipated that said permit will be granted to Company, but it is understood by all parties that this entire agreement is necessarily contingent upon the granting of such permit to Company, and that unless said permit shall be granted and Company thus authorized to make the sales of water contemplated in this agreement, then this agreement shall be null and void and of no further force or effect, and in event said permit shall be granted then this agreement in all of its terms shall be and remain in full force and effect and binding upon all parties.

14. This Contract shall be in effect for a period of twenty (20) years from its date, to-wit until December 11, 1981; provided, however, that it shall be terminable by City at the end of any Contract year and may be so terminated by City upon a written notice to the Company thirty (30) days prior to such termination to date. It is understood and agreed that the making and operation of this Contract is to be construed within the power and rights of the City of Deadwood and all parties hereby agree formally that this Contract may be so construed.

15. It is understood and agreed that a conformed copy of this agreement shall be submitted to the law department of Homestake for its information and files.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals as of this 11th day of December, 1961, at Deadwood, South Dakota.

BLACK HILLS POWER AND LIGHT COMPANY
a corporation

By Niel D. Simpson
President

ATTEST:

L. Duane Walrafen
Secretary
L. DUANE WALRAFEN
(CORPORATE SEAL)

CITY OF DEADWOOD, a municipal corporation
of South Dakota

By Edw. Sees
Mayor

ATTEST:

Ann J. Palmer
City Auditor

(CORPORATE SEAL)

STATE OF SOUTH DAKOTA }
COUNTY OF FERRINGTON }

On this 11th day of December, 1961, before me, the undersigned
notary public, personally appeared Neil Simpson, and Ed. [unclear]
Walsh, who acknowledged themselves to be the President and
the Secretary respectively of Black Hills Power and Light Company, a
corporation, and that they as such President and Secretary, being authorized
as to do, executed the foregoing instrument for the purposes therein con-
tained by signing the name of the corporation, by them as such officers.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My commission expires:
July 25, 1969
(Seal)

H. R. Hanley
Notary Public
South Dakota

H. R. HANLEY
My Commission Expires February 23, 1969

STATE OF SOUTH DAKOTA }
COUNTY OF LAWRENCE }

On this 11th day of December, 1961, before me, the undersigned
Notary public, personally appeared Edw. Keane and Ann I. Palmer, who
acknowledged themselves to be the Mayor and the City Auditor, respectively,
of the City of Deadwood, a Municipal Corporation of South Dakota, and that
they as such Mayor and City Auditor, being authorized as to do, executed
the foregoing instrument for the purposes therein contained by signing the
name of the municipal corporation by them as such Mayor and City Auditor.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My commission expires:
June 3, 1968

Francis J. Parker
Francis J. Parker - Notary Public

TENTATIVE AGREEMENT FOR TESTING WATER SUPPLY
OF CUTTING MINE

It is agreed by and between the Black Hills Power and Light Company, a corporation, of Rapid City, South Dakota, hereinafter referred to as OWNER, and the City of Leadwood, South Dakota, hereinafter referred to as CITY, as follows:

1. Owner consents that the City may clean out and shore up the main shaft of Cutting Mine located approximately three and one-half miles southwest of Leadwood, South Dakota, for the purpose of test pumping it to ascertain the volume of water that may be obtained therefrom up to 1000 gallons per minute, and for a duration of thirty days unless by mutual agreement of the parties the volume or time interval is altered.

2. City shall keep a separate account of the cost of cleaning and the shoring of the main shaft in said mine in preparation for making such water volume tests, one-half of this cost operation to be borne by each of the parties hereto, provided, that such cost to the owner shall not exceed \$750.00; all other costs in conjunction with the tests are to be paid by the City and if a satisfactory agreement is concluded for the purchase of water by the City, based on the result of the test, the City will absorb the entire cost. If an agreement is not reached, the Company will reimburse the City for all out-of-pocket expenses accrued from the test not to exceed \$5,000.00 total, and in such case, said City shall have thirty number of days thereafter within which to remove all of its installations, including the pump, owned and made by the City in making such tests.

3. Owner will supply City sufficient electricity for all needs at the mine mouth in making such tests, but the City would be charged for the energy consumed at appropriate standard rate.

4. If such tests prove favorable, then owner will enter into a net sale agreement to sell to City, water therefrom at 5 cents per 1,000 gallons net, and in such quantities as City may need and require for municipal uses and purposes.

5. W. Z. Rabbitt, Chief Engineer of owner or someone designated by owner is to be present when the extent and length of the pump tests are negotiated to give its consent thereto, and to the contract as may then be entered into for pumping test.

RESERVATIONS:

When water is developed from the Cutting Mine in excess of its natural output and flowed down Deadwood Creek and into the Foster Ditch, thus commingling with Homestake Mining Company water, Homestake Mining Company's water rights will be respected and 350 gallons per minute of the total flow will be allotted to said Homestake Mining Company.

In any final agreement made between the owner, Homestake Mining Company, and the City as to use of water coming from the Cutting Mine, owner will have priority on the first 500 gallons per minute pumped therefrom by the City for owner's use in its generating plant operations at Kirk, South Dakota. Owners sole decision as to need for such water, or any part thereof, shall be conclusive and binding upon all parties, save and except the reservation of water right of Homestake Mining Company above referred to.

It is further mutually understood and agreed between the parties hereto that the Black Hills Power and Light Company, herein designated as Owner, shall have no liability whatsoever for personal injury, death or property damage or injury which may be suffered by reason of such pumping trust project or anything incidental to such operation.

The terms of this agreement shall be binding upon our successors and assigns.

Dated this 14th day of July, 1961.

ATTEST:

Secretary
(Corporate Seal)

BLACK HILLS POWER AND LIGHT COMPANY,
A CORPORATION,
(OWNER)

By _____
President

ATTEST:

J. D. Suran
City Auditor
(Corporate Seal)

CITY OF DEADWOOD, A MUNICIPAL CORPORATION
OF SOUTH DAKOTA, (CITY)

By *Edw. Keene*
Mayor

CUTTING LINE TEST

DATE	TIME	DRAW	GALS PER MIN.	REMARKS
7/30/61	5PM 6:20	14"	600	139' 5"
	6:20 7PM	7"		140' 9"
	7PM 8	9"		140' 9"
	8 9	5"		141' 2"
	9 10	2"		141' 4"
	10 11	1"		141' 5"
	11 12	5"		141' 10"
7/31/61	12PM 1AM	2"		142'
	1AM 2	2"		142' 2"
	2 3	4"		142' 2"
	3 4	5"		142' 7"
	4 5	2"		143'
	5 6	2"		143' 3"
	6 7	7"		143' 10"
	7 8	7"		144'
	8 9	24"		146' 6"
10:30AM 4 PM	4 5	3"		146' 9"
	5 6	4"		147' 1"
	6 7	4"		147' 5"
	7 8	4"		147' 9"
	8 9	5"		148' 2"
	9 10	20"		150'
	10 11	36"		153'
	11 12	5' 6"		158' 6"
8/1/61	12PM 1AM	4' 6"		163
	1 2	4' 4"		167
	2 3	5' 4"		172' 4"
	3 4	4' 7"		176' 4"
	4 5	7"		176' 11"
	5 6	7"		177' 6"
	6 7	7"		178' 1"
	7 8	7"		178' 1"
	8 9	3' 10"		175' 10"
	9 10	same		same
	10 11	6"		176' 8"
	11 12	change		190'
	12 1PM		1000	180
	1 2		600	180
	2 3	4"		180
	3 4			183 10"
	4 5			171 10"
	5 6			179 6"
	6 7	28"		181 10"
	7 8	4' 4"		186 2"
	8 9	1' 10"		188
	9 10	2'		190
	10 11	1' 6"		191 6"
	11 12	1' 6"		193
	12 1AM	1' 6"		194' 6"
	1 2	6"		195'
	2 3	2'		197
	3 4	1' 9"		198 9"
	4 5	1' 1"		199 10"
	5 6	1' 6"		201' 4"
	6 7	2' 4"		204
	7 8	same		same
	8 9	6"		204' 6"

CUTTING MINE

DATE	TIME	DRAW	GALS PER MINN.	REMARKS
	9			
	10	10	600	204' 6"
	11	11		205'
	12AM	12PM		205'
	1	1		205' 6"
	2	2		205' 5"
	3	3		207' 2"
	4	4		207' 9"
	5	5		208' 4"
	6	6		209'
	7	7		209' 11"
	8	8		211' 6"
	9	9		212' 8"
	10	10		213' 14"
	11	11		214' 6"
	12PM	12AM		215'
	1AM	1AM		215' 6"
	2	2		216'
	3	3		217'
	4	4		218'
	5	5		218' 10"
	6	6		219' 8"
	7	7		220' 4"
	8	8		221'
	9	9		221' 9"
	10	10		222' 2"
	11	11		223'
	12AM	12PM		223' 9"
	1	1		223' 9"
	2	2		223' 9"
	3	3		223' 10"
	4	4		224'
	5	5		224' 2"
	6	6		224' 3"
	7	7		224' 9"
	8	8	74 LBS	224' 10"
	9	9	600 Gals.	225'
	10	10		225' 2"
	11	11		225' 4"
	12PM	12AM		225' 6"
	1AM	1AM		225' 8"
	2	2		225' 11"
	3	3		226' 4"
8/5/	3AM	4AM	68 Lbs.	226' 6"
	4	5	"	227' 2"
	5	6	"	228'
	6	7	"	228' 1"
	7	8	"	same
	8	9	"	"
	9	10	"	"
	10	11	"	"
	11	12	"	"
	12AM	1PM	"	"
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DATE		TIME	DRAW	CUTTING WINE GALS PER MIN.		REMARKS	
8/5/61	9	10PM	8"	660	741b.	229'	
	10	11	2"			229'	2"
	11	12midnite	2"			229'	4"
8/6/61	12	1AM	1"			229'	5"
	1	2	1"			229'	6"
	2	3	2"			229'	8"
	3	4	1"			229'	9"
	4	5	2"			229'	11"
	5	6	1"			230'	
	6	7	1"			230'	1"
	7	8					
	8	9					
	9	10	1"			230'	2"
	10	11	up 3"			227'	2"
	11AM	12Noon	4"			227'	6"
	12	1	6"			228'	
	1	2	1"			228'	1"
	2	3	3"			228'	4"
	3	4	2"			228'	6"
	4	5	3"			228'	9"
	5	6	3"			229'	
	6	7	6"			229'	6"
	7	8	4"			229'	10"
	8	9	3"			230'	1"
	9	10	2"			230'	3"
	10	11	2"			230'	5"
	11	12	2"			230'	7"
	12PM	1AM	2"			230'	9"
8/7/61	1AM	2	2"			230'	11
	2	3	1"			231'	
	3	4	3"			231'	5"
	4	5	2"			231'	5"
	5	6	2"			231'	7"
	6	7					
	7	8	up 4"	600		231'	3"
	8	9					
	9	10					
	10	11	1"			231'	4"
	11	12	1"			231'	5"
	12	1PM	1"			231'	6"
	1	2	1"			231'	7"
	2	3	1"			231'	8"
	3	4	1"			231'	9"
	4	5	1"			231'	10"
	5	6	5"			232'	3"
	6	7	2"			232'	5"
	7	8	9"			232'	2"
	8	9	6"			233'	8"
	9	10	4"			234'	
	10	11	6"			234'	6"
	11	12	4"			234'	10"
8/8/61	12	1AM	2"			235'	
	1	2	2"			235'	2"
	2	3	2"			235'	4"
	3	4	2"			235'	6"
	4	5	2"			235'	8"
	5	6	3"			235'	11"
	6	7	2"			236'	1"
	7	8	21"			234'	2"

CUTTING MINE

DATE	TIME	DRAW	(S @ MIN)	DEPTH
8/8/61	8	10"		235'
	9	2"		235'
	10	1"		235'
	11	2"		235'
	12AM	2"		235'
	1PM	1"		235'
	2			235'
	3			
	4			
	5			
	6	up 4"		235'
	7	1"	Down 1"	235'
8/9/61	8	5"	600	235'
	9	2"		236'
	10	2"		236'
	11	2"		236'
	12PM	1"		236'
	1AM	1"		236'
	2	8 000		236'
	3	"		236'
	4	"		236'
	5	"		236'
	6	"		236'
	7	"		237'
8/10/61	8	"		237'
	9	"		237'
	10	"		237'
	11	1"		237'
	12AM			237'
	1			
	2			
	3			
	4			
	5	up 4"		237'
	6	up 5"	660 @ 721b	236'
	7	up 1"	600 @ .72	236'
8/10/61	8	" 2"		236'
	9	" 8"		235'
	10	" 4"		235'
	11	" 3"		234'
	12	" 3"		234'
	1AM	" 3"		234'
	2	" 3"		234'
	3			234'
	4	up 3"		233'
	5	" 1"		233'
	6	down 8"		234'
	7			234'
8/10/61	8	down 2"		234'
	9	" 3"		234'
	10	shut off to put on Meter start		229'
	11	Down 8"		230'
	12AM	down 1'5"		232'
	1	" 1'5"		232'
	2	"		232'
	3	" 5"		232'
	4			
	5			
	6			
	7	down 3"	68 LBs.	232'
	8	7"		233'

DATE
8/13/cont.

CUTTING WINE

GALSSMIN.

DEPTH

TIME

DRAW

239 1"
239 3"
239 7"
239 10"
240

9 10
10 11
11 12
12 1PA

2"
2"
4"
3"
2"

1 2
2 3
3 4
4 5
5 6
6 7
7 8
8 9
9 10
10 11
11 12
12 1AM

up 2"
down 1"
up 1"

160451 @ 711bs

239 10"
239 10"
239 11"
239 10"
same

8/14/61

1 2
2 3
3 4
4 5
5 6
6 7
7 8
8 9
9 10
10 11
11 12
12 1AM

down 1"

16615-50

239 11"
239 11"
240
240 1"

1 2
2 3
3 4
4 5
5 6
6 7
7 8
8 9
9 10
10 11
11 12
12 1PM

1"

1 2
2 3
3 4
4 5
5 6
6 7
7 8
8 9
9 10
10 11
11 12
12 1PM

down 2"
1"

172021 711bs.

240 3"
240 4"
240 5"
240 6"
240 6"
240 6"
240 6"
240 7"
240 8"
240 10"

1 2
2 3
3 4
4 5
5 6
6 7
7 8
8 9
9 10
10 11
11 12
12 1AM

down 1"

8/15/61

1 2
2 3
3 4
4 5
5 6
6 7
7 8
8 9
9 10
10 11
11 12
12 1PM

down 1"
down 1"

17820-50

240 11"

1 2
2 3
3 4
4 5
5 6
6 7
7 8
8 9
9 10
10 11
11 12
12 1PM

up 2"
down 1"
up 2"

240 9"
240 10"
240 8"

1 2
2 3
3 4
4 5
5 6
6 7
7 8
8 9
9 10

down 1"
up 1"

183515-11#

240 8"
240 8"
240 8"
240 10"

down 1"
down 1"

CUTTING WIRE

DATE	TIME	DRAW	GAUGES & MINN	DEPTH
8/16/61	10	11		240 10"
	11	12		240 10"
	12	1AM	down 1"	240 11"
	1	2	71 Lbs.	240 11"
	2	3		240 11"
	3	4		240 11"
	4	5		240 11"
	5	6		240 11"
	6	7	18921-50	240 11"
	7	8	1"	241
	8	9		"
	9	10		"
8/17/61	10	11		"
	11	12		"
	12	1PM		"
	1	2		"
	2	3	1"	"
	3	4		241 1"
	4	5	748 40	241 1"
	5	6		244 10"
	6	7	down 3' 9"	248 10"
	7	8	down 4' 7"	253 5"
	8	9	down 2' 7"	256
	9	10	1' 6"	257 6"
8/18/61	10	11	2' 6"	259 6"
	11	12	1' 6"	261
	12	1AM	2' 6"	263
	1	2	1' 6"	264
	2	3	1' 6"	265
	3	4	1' 6"	266
	4	5	1' 6"	267
	5	6	1' 6"	268
	6	7	1' 6"	269
	7	8	1"	270
	8	9	pump of 8:30	250'
	9	10	transformer burned out	235'
8/18/61	10	11		225'
	11	12	St. 11:30 4' 6"	229' 6"
	12	1	6'	235
	1	2	3'	238
	2	3	1'	239
	3	4	9'	248
	4	5	3'	251
	5	6	3'	254
	6	7	2' 6"	256 6"
	7	8	2' 6"	253 6"
	8	9	1' 6"	260
	9	10	2'	262
8/18/61	10	11	1' 6"	263 6"
	11	12	1' 6"	265
	12	1AM	down 1' 6"	266 6"
	1	2	1' 6"	268
	2	3	1'	269
	3	4	1' 2"	270 2"
	4	5	1' 2"	271 4"
	5	6	1' 2"	272 6"
	6	7	1' 2"	273 2"
	7	8	1' 2"	274 4"
	8	9	1' 2"	275
	9	10	1'	276
8/18/61	10	11	6"	276 6"
	11	12	10"	277 10"

DATE		TIME	DOWN DEPT.	CUTTING LINE Lbs. Pump	Gals @ Min.	Meter	SHAFT DEPTH
8/18/61	12	1PM	7"				278 5"
	1	2	10"				279 2"
	2	3	10"				280
	3	4	10"				280 10"
	4	5	2"				281
	5	6	2"		748.0	2213910	281 2"
	6	7	3"	20			281 5"
	7	8	7"				282
	8	9	5"				282 5"
	9	10	7"				283
	10	11	7"				283 7"
8/19/61	11	12	6"				284 1"
	12	1AM	5"				284 6"
	1	2	4"				284 10"
	2	3	4"	20	748.0		285 2"
	3	4	3"				285 5"
	4	5	3"				285 8"
	5	6	4"			22829-30	286
	6	7	6"				286 6"
	7	8	4"				286 10"
	8	9	4"				287 2"
	9	10	4"				287 5"
	10	11	4"				287 11"
	11	12	3"				288 3"
	12	1PM	3"				288 7"
	1	2	4"				289
	2	3	3"				289 3"
	3	4	3"				289 8"
	4	5	3"				289 11"
	5	6	3"	18	673.2	2352010	290 2"
	6	7	3"	18	673.2		290 5"
	7	8	3"				290 8"
	8	9	2"				290 10"
	9	10	2"				291
	10	11	2"				291 3"
	11	12	2"				291 6"
8/20/61	12	1AM	3"				291 9"
	1	2	3"	18	673.2		292
	2	3	2"				292 2"
	3	4	2"				292 4"
	4	5	2"				292 6"
	5	6	2"	21	9 1/2 x	24199-70	292 8"
	6	7	2"				292 10"
	7	8	2"				293
	8	9	2"				293 2"
	9	10	2"				293 4"
	10	11	2"				293 6"
	11	12	2"				293 7"
	12	1PM	2"				293 9"
	1	2	2"				293 10"
	2	3	2"				294
	3	4	2"				294
	4	5	2"				294
	5	6	2"	20	9 1/2 x	2487940	294 2"
	6	7	2"	16	10 x		294 5"
	7	8	2"	18			294 8"
	8	9	3"				294 11"
	9	10	3"				295 1"
	10	11	2"				295
	11	12	2"				295
	12	1AM	2"				295
	1	2	2"				295

CUTTING WIRE

DATE	TIME	DEPTH	# PLUG	GRADE	SECTION	DEPTH	INCH
8/21/61	1 AM	2	18			295	2"
	2	3				295	2"
	3	4				295	7"
	4	5				295	9"
	5	6	1b	10x		295	11"
	6	7			25556-70	296	
	7	8				296	2
	8	9				296	4
	9	10				296	6
	10	11				296	10
	11	12				297	10
	12 PM	1				297	8"
	1	2				297	8
	2	3				297	4
	3	4				297	8
	4	5				297	10
	5	6	18	748.0	2623900	297	10
	6	7				298	
	7	8				298	2
	8	9				298	4
	9	10				298	6
	10	11				298	8
	11	12				298	10
	12 AM	1				299	
8/22/61	1	2	18			299	2"
	2	3				299	4"
	3	4	18	748.0		299	5"
	4	5	18			299	7"
	5	6	18			299	9"
	6	7			26915-00	299	11"
	7	8				300	
	8	9				300	2"
	9	10				300	3"
	10	11				300	5"
	11	12				300	7"
	12 PM	1				300	9
	1	2				300	11
	2	3		9x5		301	1
	3	4				301	3
	4	5				301	5
	5	6				301	7
	6	7	18 1b	748.0	2759210	301	9"
	7	8	18			302	
	8	9				302	2
	9	10				302	4
	10	11				302	7
	11	12				302	10"
8/23/61	12 PM	1 AM				303	
	1	2				303	3
	2	3				303	6
	3	4				303	8
	4	5	18	748.0		303	10
	5	6	17			304	5
	6	7			28253-20	309	10"
	7	8				310	
	8	9				310	3"
	9	10				310	10
	10	11				311	4
	11	12				311	7
	12 PM	1				312	
	1	2				312	3

CUTTING WINE

DATE	TIME	DOWN	DEPTH	# PUMP	GAL'S MIN.	METER	SHAFT DEPT.
8/23/61	2						312 6"
	3						312 9"
	4						313
	5						313 3"
	6						313 4"
	7						313 6"
	8						313 8"
	9						313 10"
	10						312 11"
	11						314 2"
8/24/61	12 1AM						314 2"
	1						314 3"
	2						314 5"
	3						314 6"
	4						314 7"
	5						314 10"
	6					29556-10	
	7						
	8			17#	680		314 11"
	9						315 4"
	10						316
	11						316 10"
	12 1PM						317 2"
	1						317 9"
	2						318 3"
	3						318 7"
	4						318 10"
	5						319
	6						319 1"
	7						319 5"
	8						319 7"
	9						319 8"
	10						319 8"
8/25/61	11 12						319 9"
	12 1AM						319 9"
	1						319 10"
	2						319 10"
	3						319 11"
	4						319 11"
	5						319 11"
	6						319 11"
	7						319 11"
	8						319 11"
	9						319 11"
	10						319 11"
	11						319 11"
	12 1PM						319 11"
	1						319 11"
	2						319 11"
	3						319 11"
	4						319 11"
	5						319 11"
	6						319 11"
	7						319 11"
	8						319 11"
	9						319 11"
	10						319 11"
	11						319 11"
	12						319 11"
8/26/61	1 2						319 11"
	3						319 11"
	4						319 11"
	5						319 11"
	6						319 11"
	7						319 11"
	8						319 11"
	9						319 11"
	10						319 11"
	11						319 11"
	12						319 11"
	1 1AM						319 11"
	2						319 11"
	3						319 11"
	4						319 11"
	5						319 11"
	6						319 11"
	7						319 11"
	8						319 11"
	9						319 11"
	10						319 11"
	11						319 11"
	12						319 11"
	1 1AM						319 11"
	2						319 11"
	3						319 11"
	4						319 11"
	5						319 11"
	6						319 11"
	7						319 11"
	8						319 11"
	9						319 11"
	10						319 11"
	11						319 11"
	12						319 11"
	1 1AM						319 11"
	2						319 11"
	3						319 11"
	4						319 11"
	5						319 11"
	6						319 11"
	7						319 11"
	8						319 11"
	9						319 11"
	10						319 11"
	11						319 11"
	12						319 11"
	1 1AM						319 11"
	2						319 11"
	3						319 11"
	4						319 11"
	5						319 11"
	6						319 11"
	7						319 11"
	8						319 11"
	9						319 11"
	10						319 11"
	11						319 11"
	12						319 11"
	1 1AM						319 11"
	2						319 11"
	3						319 11"
	4						319 11"
	5						319 11"
	6						319 11"
	7						319 11"
	8						319 11"
	9						319 11"
	10						319 11"
	11						319 11"
	12						319 11"
	1 1AM						319 11"
	2						319 11"
	3						319 11"
	4						319 11"
	5						319 11"
	6						319 11"
	7						319 11"
	8						319 11"
	9						319 11"
	10						319 11"
	11						319 11"
	12						319 11"
	1 1AM						319 11"
	2						319 11"
	3						319 11"
	4						319 11"
	5						319 11"
	6						319 11"
	7						319 11"
	8						319 11"
	9						319 11"
	10						319 11"
	11						319 11"
	12						319 11"
	1 1AM						319 11"
	2						319 11"
	3						319 11"
	4						319 11"
	5						319 11"
	6						319 11"
	7						319 11"
	8						319 11"
	9						319 11"
	10						319 11"
	11						319 11"
	12						319 11"
	1 1AM						319 11"
	2						319 11"
	3						319 11"
	4						319 11"
	5						319 11"
	6						319 11"
	7						319 11"
	8						319 11"
	9						319 11"
	10						319 11"
	11						319 11"
	12						319 11"
	1 1AM						319 11"
	2						319 11"
	3						319 11"
	4						319 11"
	5						319 11"
	6						319 11"
	7						319 11"
	8						319 11"
	9						319 11"
	10						319 11"
	11						319 11"
	12						319 11"
	1 1AM						319 11"
	2						319 11"
	3						319 11"
	4						319 11"
	5						319 11"
	6						319 11"
	7						319 11"
	8						319 11"
	9						319 11"
	10						319 11"
	11						319 11"
	12						319 11"
	1 1AM						319 11"
	2						319 11"
	3						319 11"
	4						319 11"
	5						319 11"
	6						319 11"
	7						319 11"
	8						319 11"
	9						319 11"
	10						319 11"
	11						319 11"
	12						319 11"
	1 1AM						319 11"
	2						319 11"
	3						319 11"
	4						319 11"
	5						319 11"
	6						319 11"
	7						319 11"
	8						319 11"
	9						319 11"
	10						319 11"
	11						319 11"
	12						319 11"
	1 1AM						319 11"
	2						319 11"
	3						319 11"
	4						319 11"
	5						319 11"
	6						319 11"
	7						319 11"
	8						319 11"
	9						319 11"
	10						319 11"
	11						319 11"
	12						319 11"
	1 1AM						319 11"
	2						319 11"
	3						319 11"
	4						319 11"
	5						319 11"
	6						319 11"
	7						319 11"
	8						319 11"
	9						319 11"
	10						319 11"
	11						319 11"
	12						319 11"
	1 1AM						319 11"
	2						319 11"
	3						319 11"
	4						319 11"
	5						319 11"
	6						319 11"
	7						319 11"
	8						31

Date
8/26/61
Cont.

	TIME	CUTTING MINE DOWN DEPTH	PUMP	GALSON IN	METER	SIDE
3	4					
4	5	4"				321 3
5	6	6"			3215050	321 10
6	7	2"				322 2
7	8	2"				322 4
8	9	2"		688		322 6
9	10	2"				322 8
10	11	2"	17#			322 10
11	12	2"				323
12	1P M	2"				323 1
1	2					
2	3	2"				323 4
3	4	2"				323 6
4	5	2"				323 8
5	6	2"				323 10
6	7	2"				324
7	8	2"				324
8	9	2"				324 2
9	10	2"				324 4
10	11	2"				324 6
11	12	2"				324 8
12	1AM	2"				324 10
1	2	2"				325
2	3	2"				325 1
3	4	1"				
4	5					
5	6					
6	7					
7	8					
8	9					
9	10	1"				325 2
10	11	1"				325 4
11	12	1"				325 6
12	1AM	2"				325 7
1	2	1"			34704-70	325 9
2	3	2"				325 10
3	4	1"				325 1
4	5	1"				326
5	6	1"				326
6	7	1"	17#			326 1
7	8					
8	9					
9	10					
10	11					
11	12					
12	2PM					
1	2					
2	3					
3	4					

8/27/61

8/28/61

CUTTING MINE

DATE	TIME	DOWN	DEPTH	PUMP	GAL	AINW	METER	SHAFT DEPTH
8/28/61								
Cont.	4	5		378	688			
	5	6						
	6	7	2"					326 3"
	7	8						
	8	9						
	9	10						
	10	11						
	11	12						
8/29/61	12	1AM	1"					326 4"
	1	2						
	2	3	2"					326 6"
	3	4	1"					327 7"
	4	5	1"					326 8"
	5	6						
	6	7					35962-60	
	7	8						
	8	9						
	9	10	1"					326 9"
	10	11	1"					326 10
	11	12	1"					326 11
	12	1PM	1"					327
	1	2	1"					327 1
	2	3	1"		673		3638750	327 2

BNS AND F. GOSBY
 15 SEP 13 10:51
 RECEIVED

RECEIPT

WATER RIGHTS COMMISSION
State of South Dakota

No 4 8610

PIERRE, December 23, 1951

RECEIVED OF Black Hills Power & Light Co., Box 1051, Rapid City, SD 57701
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit to appropriate Water No. (examination, processing, recording and filing)		
Fee for inspecting Construction, and issuing Cert. of Construction No. <u>565-1</u>	----	12 00
Fee for inspecting Beneficial Use, and issuing Water License No. <u>565-1</u>		
Fee for issuing Location Certificate-Dry Draw, No.		
Fee for filing		
Fee for certified copy of		
Fee for Print copy of map		
Fee for Certifying		
Fee for		
(any other work as provided by law)		
TOTAL		12.00

WATER RIGHTS COMMISSION

By John Hatch
Chief Engineer, Executive Officer
JOHN HATCH



565-1

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 7, 2006

No. 565-1
454-2
515-2
2466-2

Black Hills Corporation
c/o Tim Rogers
PO Box 1400
Rapid City SD 57709

Dear Tim:

Thank you for returning the 2005 Water Use Questionnaires. From the forms it appears that an ownership/name change has occurred. Enclosed are "Notice of Transfer" forms for use in filing an ownership/name change.

The transfer forms should be checked over for accuracy and signed by the new owner. Upon completion, return the forms to our office with a required filing fee of \$2.50 each (\$10.00 total).

If you have any questions, please contact me.

Sincerely,

Karen Schlaak
Water Rights Program
605 773-3352
email: karen.schlaak@state.sd.us

enclosure



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 16, 2006

No. 565-1
454-2
515-2
2466-2

Black Hills Corporation
c/o Tim Rogers
PO Box 1400
Rapid City SD 57709

Dear Tim:

On March 7, 2006, I wrote you concerning several permits listed in the name of Black Hills Power and Light. This is a reminder that we have not received the *Notice of Transfer of Ownership* forms.

Enclosed are another set of partially completed *Notice of Transfer of Ownership* forms. The transfer forms should be completed, checked over for accuracy and **signed by the new owner.** Upon completion, return the form to our office with a required filing fee of \$2.50 (\$10.00 total)

It is important to us to keep our records current. If you have any questions, please contact me.

Sincerely,

Karen Schlaak
Environmental Scientist
Water Rights Program
605 773-3352
karen.schlaak@state.sd.us

enclosures

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date May 23, _____, 20 06

RECEIVED OF Black Hills Power, PO Box 1400, Rapid City SD 57709

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>515-2</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. _____	2.50	
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	

No.

03458

By

David Ebel
Chief Engineer

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 565-1

Date: _____

I/We request that Water Right No. 565-1

formerly owned by: Black Hills Power & Light

be transferred to: (name & address) Black Hills Corporation
PO Box 1400, Rapid City SD 57709

Telephone No. 605 721-2286

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

SE ¼ SE ¼ Sec 30-T5N-R3E

I/We understand that the validity of Water Right No. 565-1 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.

I/We Black Hills Corporation, 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.

RECEIVED

MAY 23 2006

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

May 24, 2006

Tim Rogers
Black Hills Corporation
PO Box 1400
Rapid City SD 57709

RE: Water Right Nos. 565-1, 454-2, 515-2 and Water Permit No. 2466-2

Tim:

The transfer of Water Right Nos. 565-1, 454-2, 515-2 and Water Permit No. 2466-2 has been completed. The water rights formerly listed in the name of Black Hills Power and Light and the permit listed in the name of Black Hills Generation are now listed in the name of "Black Hills Corporation".

Enclosed are Receipt Nos. 02453, 02454, 02455 and 02456 in the amounts of \$2.50 each. You may keep these for your records.

If you have any questions, please contact me.

Sincerely,

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

enclosures