

Considered: _____

Vested Right
WATER PERMIT NO. 2001-2

8

MAP No. same

Name of Applicant Evans Plunge, Inc.

Post Office Address Box 610, Hot Springs SD 57747

Amount of Water Claimed 7.6 cfs Total Acres NA

Source of Water Supply springs

Water to be used for commercial purposes County Fall River

About _____ miles _____ of in Hot Springs.

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved 12/10/86 Subject to _____

F.F. & C.L. Adopted _____ Not Approved _____ Deferred _____

PRIORITY _____ Date Received Aug 13, 1986 Fee \$15.00 Remarks _____

Jan 1, 1890

Corrected Application Received Sept 18, 1986 Period of Annual Use Jan 1 - Dec 31

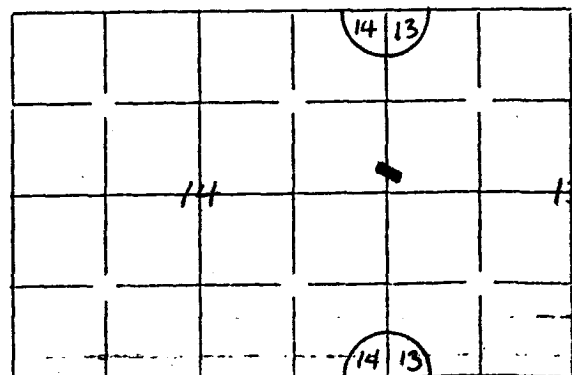
WATER QUALITY APPROVAL RECEIVED NA APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as Application YES _____ NO _____ REMARKS _____

Diversion Point springs: SW 1/4 NW 1/4 section 13;

SE 1/4 NE 1/4 section 14; all in T7S-R5E

Land to be Irrigated NA



Well Log: Driller NA Licensed YES _____ NO _____

Depth of Well _____ REMARKS _____

Type of Map plat PREPARED BY James T. Gletcher Reviewed and the Number

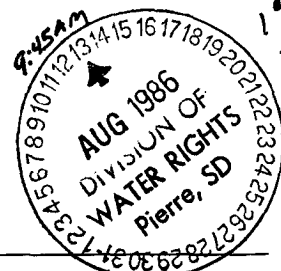
assigned on October 22, 1986 By Ron Dunsell

No. 2001-2 Hydrologic Unit 10120109
 Map No. same Basin Upper Cheyenne
 Newspaper Hot Springs Star, Box 1000 (Tues)

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

Check use of water: Industrial ☐ Commercial ☐ Municipal ☐ Other Common Distribution System ☐
 Rural Water System ☐ Suburban Housing ☐ Geothermal Heat ☐ Institutional ☐ Recreational ☒
 Domestic ☐ (above 18gpm) Other ☐

Type of Application: Check one or more of the following

New ☐ Vested Right ☒ Future Use ☐ Change Use ☐☐ Amend Permit No. _____ with old priority date retainedChange diversion point(s) ☐ Add diversion point(s) ☐ Other ☐ _____☐ Application to: Change diversion point(s) ☐ Add diversion point(s) ☐ on Permit No. _____☐ Construction to use water reserved by Future Use Permit No. _____1. Name of Applicant Evans Plunge, Inc. Phone No. 745-5165Post Office Address Box 610, Hot Springs SD State 57747
(Street, RR or Box) Zip Code2. Amount of water claimed (c.f.s.) 7.6 cfs3. Source of water supply springs4. Location of point of diversion plunge & bath house is located in the SW 1/4 NW 1/4 Section 13
and SE 1/4 NE 1/4 Section 14, T7S, R5E. Springs discharge from the bottom of the pool
with the confines of the bath house County Fall River5. Counties where water will be used Fall River6. Annual period during which water is to be used all year January 1 - December 31

7. Give a brief description of proposed 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)

Evans plunge and bath house is constructed over some springs along the Fall River.
 Water flows up through the rock bottom of the swimming pool. The pool discharges
 the water into the Fall River.

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map
 (see instruction)

STATE OF SOUTH DAKOTA)
 County of Fall River)^{ss}

I, Ron Semler, Manager- Evans Plunge, Inc. the applicant, certify that I have read
 the foregoing application, have examined the attached map and that the matters therein stated are true and that I intend, and
 am able to complete the necessary construction.

Signed Ron SemlerSubscribed and sworn to before me this 7th day of August 1986

Comm. Expires
 Aug. 25, 1989

Clara M. Clay

Notary Public (or other qualified officer)

WATER PERMIT

The Water Management Board hereby approves Water Permit Application No. 2001-2

Evans Plunge, Inc.

(Applicant)

Box 610, Hot Springs

(Post Office Address)

South Dakota

(State)

57747

(Zip Code)

With the following qualifications.

SEE FORM VR-2

Date of first receipt of application _____, 19____.

Date of return to applicant for correction, amendments or changes required _____, 19____.

Date of receipt of corrected application _____, 19____. Approved _____, 19____.

The Water Management Board hereby approves this Water Permit No. _____ authorizing the construction of the water use system and the placing of water to beneficial use as stated in the Application and as qualified in the Water Permit approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is _____, 19____.
2. The equivalent of at least one-fifth of the specified work is to be completed on or before _____, 19____.
3. The whole of said work is to be completed on or before _____, 19____.
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is _____, 19____.
5. The water appropriated shall be used for the purpose of _____

6. 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 unlawfully impaired by this appropriation.
7. The amount of the appropriation herein granted shall not exceed _____ cubic feet per second; neither shall it exceed the capacity of the above described water supply system nor shall it exceed the amount of water needed for beneficial uses served and to which water is actually and beneficially applied for _____ on or before _____, 19____; said water to be used during the following described annual period: _____

WATER MANAGEMENT BOARD

By: _____

Chief Engineer

Division of Water Rights

Dept. of Water and Natural Resources

19____

VESTED WATER RIGHT

The Water Management Board hereby validates Vested Water Right No. 2001-2

Evans Plunge, Inc.
(applicant)

Box 610, Hot Springs
(post office address)

SD 57747
(state) (zip code)

Date of receipt of Application August 13, 19 86.

Validated December 10, 19 86.

The Water Management Board hereby validates the construction of the water use system and the placing of water to beneficial use as stated in the Application and as qualified in the Vested Water Right, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is Jan. 1, 18 90.
2. The whole of said work has been completed and water has been applied to beneficial use as described on Form 2B of this application.
3. The water appropriated is used for the purpose of commercial & recreational uses.
4. The prior rights 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 unlawfully impaired by this appropriation.
5. The amount of appropriation hereby validated shall not exceed 7.60 cubic feet per second of time; neither shall it exceed the capacity of the above described water supply system nor shall it exceed the amount of water needed for beneficial uses served and to which water has been actually and beneficially applied for commercial & recreational uses. The water to be used during the following described period Jan 1 - Dec 31.

WATER MANAGEMENT BOARD

By: John Halseth
(Chief Engineer)

Division of Water Rights
Dept. of Water and Natural Resources

FEB 17 1987, 19 87

STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 2001-2

(1) Evans Plunge Inc. of Box 610, Hot Springs SD 57747 made Application No. 2001-~~2~~, August 13, 1986 for validation of a vested right claim to appropriate 7.60 cubic feet per second of water from springs, Fall River County, South Dakota for commercial and recreational purposes. Vested Water Right No. 2001-~~2~~, with a priority date of January 1, 1890 was validated December 10, 1986 and issued to applicant for diversion of water with construction of the described water supply system completed and the application to beneficial use of said water completed.

and

(2) It is certified that the application has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 7.60 cubic feet per second of water for beneficial use. The location of the diversion point(s) are in the SW 1/4 NW 1/4 Section 13 and SE 1/4 NE 1/4 Section 14, T7S, R5E.

and

(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to the following extent, water is used in place for a commercial and recreational water supply for Evans Plunge.

(4) Pursuant to Section 46-5-30.1 Evans Plunge, Inc. of Box 610, Hot Springs SD 57747 the holder(s) and/or owners(s) of Vested Water Right No. 2001-2 is issued a license to appropriate water, the right to use 7.60 cubic feet per second of water from springs with a priority date of January 1, 1890 from the location specified in (2) of this license. The water to be conducted to and upon lands specified in (3) of this license for the purpose of commercial and recreational use. This license is subject to any limitations or qualifications listed in Vested Water Right No. 2001-2 and subject to South Dakota State Law.



JOHN HATCH, Chief Engineer

Water Rights Division

Department of Water and Natural
Resources

FEB 17 1987



A youngster negotiates the "traveling rings," one of the many attractions of world-famous Evans Plunge in Hot Springs.

Plunge has warm, healing water

Evans Plunge in Hot Springs is one of the biggest tourist attractions in the Black Hills. It is billed as the World's Largest Natural Warm Water Indoor Swimming Pool.

The history of Evans Plunge goes way back to the Sioux and Cheyenne Indian tribes which fought for possession of the natural warm water springs. Legend tells us that the battle raged on the high peak above the springs (now called Battle Mountain) and the Sioux emerged victorious.

The mammoth spring at the north end of Evans Plunge is known as the "Old Original Indian Spring." Here the Indians drank and bathed in its warm, healing waters.

In the spring of 1876, Col. W.J. Thornby arrived at the present site of Hot Springs and discovered the source of the warm creek. Near the big spring where the Plunge was later built, he lopped off the

top of a cedar sapling, blazed the trunk and wrote with a lead pencil, "This is my spring, W.J. Thornby."

In 1881 the Plunge spring was held by Joe Brimdschmidt. He traded his right to the Plunge area to Joe Petty for a horse valued at \$35. Petty, one of the founding fathers, then sold the Plunge springs to Dr. A.S. Stewart who filed on the surrounding land.

Finally, the Evans Plunge, named after its builder, Fred T. Evans, was built in 1890 over numerous small, sparkling springs and one mammoth spring of mineral water.

Evans Plunge now includes a 164 foot long super slide and complete health spa to include a universal weight machine, whirlpools, saunas and exercise equipment.

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

410512

Pierre, August 13, 1936

RECEIVED OF Evans Plunge, Inc. Box 610, Hot Springs, SD 57747

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

Fee for Application for Permit No. <u>2001-2</u> to Appropriate Water, to construct works and to put water to beneficial use <u>VR</u>	15	00
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	15 00

By

Chief Engineer

John Hatch
JOHN HATCH (ms)

WATER RIGHTS DIVISION
(605) 773-3352

June 4, 1985

Joe Muller
Evans Plunge, Inc.
P.O. Box 610
Hot Springs, South Dakota 57747

Dear Joe:

Enclosed are the forms for a Vested Right for Evans Plunge. I have completed form 2. Please, complete form 2B the affidavit of water use. Sign all forms in the presence of a notary. All forms should then be returned to our office with a filing fee of \$10.50.

After the forms have been returned to this office, the vested right application will be presented to the Board of Water Management for recognition. If you have any additional information on the water right please include it for our file.

If I can answer any questions, please contact me.

Sincerely,

Delvin D. Brosz, P.E.
Hydrologist

DDB:ms
Enc.



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

August 4, 1986

NOTICE

TO: Joe Muller, Evans Plunge, Inc., PO Box 610, Hot Springs, SD 57747

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

A handwritten signature in dark ink, appearing to read "John Hatch". The signature is written in a cursive, flowing style.

SUBJECT: Notice of Requirement to File Vested Water Right Claim

This Notice is in regard to the use of water for recreational purposes in Evans Plunge, located in Fall River County, South Dakota. Del Brosz, Hydrologist, with the Division of Water Rights visited Evans Plunge in May, 1985 and discussed with you the necessity of obtaining a water right. On June 4, 1985 partially completed application forms were sent to you for filing a vested water right claim for Evans Plunge. To date, we have not received the application from you.

South Dakota Water Law SDCL 46-5-49 as passed by the 1986 Legislature states that if the Chief Engineer is aware of a water use system for which the owner claims vested right status, the owner may be required to file the vested right claim within 90 days. Any claim filed after the 90 days will be considered a new application and receive a new priority date, which would be the date the application is received in this office. You have 90 days from the date of this notice to submit your application. The filing fee for filing a vested right is \$15.00.

Enclosed is a partially completed set of application forms to claim vested rights. If the application is received after the 90 days has lapsed, the filing fee for your application will be \$1,325.00. This fee is based on the 7.60 cfs listed on the application. We will be glad to help you complete the application and answer any questions you may have.

enclosures

CERTIFICATION

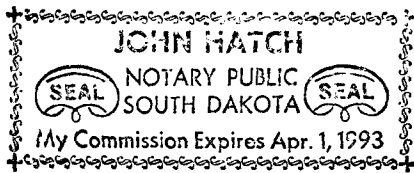
I hereby certify that on August 4, 1986 I have personally deposited with the U.S. Mail a postage prepaid envelope containing a Notice pertaining to Requirement to File a Vested Water Right claim addressed as stated on the notice.

Karen Schlaak

KAREN SCHLAAK
Senior Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 4th day of August, 1986.



John H. H. H.
Notary Public



"Black Hills Most Exciting Natural Attraction"

"World's Largest Natural Warm Water Indoor Swimming Pool"

605-745-5165

P. O. Box 610

Hot Springs, South Dakota 57747

August 7, 1986

Water Rights Div.
Attn: Del Brosz
DWR, Foss Bldg.
Pierre, SD 57501

Dear Del

Enclosed is the water rights application that your office sent to me.

As per your instructions and phone call, I have not sent a map.

I believe that the application is now complete. Please write back and let me know if everything is in order.

Thank you for your help.

Sincerely

Ron Semler
Manager

RS
Enc.



WATER RIGHTS DIVISION
(605) 773-3352

September 11, 1986

Ron Semler, Manager
Evans Plunge, Inc.
Box 610
Hot Springs, South Dakota 57747

Dear Mr. Semler:

I am writing in response to a phone conversation with Ed Wilson on September 10, 1986 regarding the amount of water claimed on your permit application.

I told Mr. Wilson that on the permit application 7.6 cfs (3420 gpm) was specified as the diversion rate and 5000 gpm was specified on the Affidavit of Water Use. Mr. Wilson stated that the 7.6 cfs figure is correct. Therefore, the enclosed Affidavit of Water Use needs to be corrected and returned. The 5000 gpm needs to be changed to 7.6 cfs (3420 gpm).

Please contact us if you have any questions.

Sincerley,

Ron Duvall
Natural Resources Engineer

RD:ms
Enc.

Affidavit of Water Use

No. _____

(Type or Print in Ink)

Note: This Form is supplemental to Form 2 and is to be used when an affidavit pertaining to construction and water use already constructed is needed, primarily with vested right claims.



**Affidavit Of Construction Of Water Use System
And Application Of Water To Beneficial Use**

Name of Applicant (Same as Form 2) Evans Plunge, Inc.

Post Office Address PO Box 610, Hot Springs SD 57747
(Street, RR or Box) (State) (Zip Code)

A. Notice of Appropriation _____ Date of Posting _____

Date of recording _____ Recording date _____
Where Book Page

B. Date of start of construction of water supply system 1890

C. Date that water was first applied to beneficial use 1890

D. Name of owner of original water supply system W.J. Thornby

E. Amount of water originally applied to beneficial use ~~5,000 gallons per minute~~ 7.6 cfs

F. Present Use of Water - Amount of water now being used ~~5,000 gallons per minute~~ 7.6 cfs

Date that this water was first used 1890

G. Chronological History of Water Use

Pre-1890-unknown

1890-Present: Used as a swimming pool for people.

Attach to this Form 2B any copies of notices, postings, filings, publications, affidavits, or other records that apply. You may also attach any written statement by you, or by others, that you deem pertinent.

State of South Dakota)
County of Fall River) ss

I, Ron Semler, Manager-Evans Plunge, Inc. the applicant, certify that I have read the foregoing
(print or type)
and that the matters therein stated are true.

Signed *Ron Semler*

Subscribed and sworn to before me August 7, 19 86

Comm. Expires
8-25-89.

Clara M. Day
Notary Public or other qualified officer

I, the undersigned do hereby certify that I know about the water use system described above, that I have read the foregoing, and that the matters therein stated are true.

Ron Semler 19 86
(Print name) Ron Semler, Manager

(Print name)

Report on Vested Water Right Application No. 2001-2
Evans Plunge, Incorporated
October 2, 1986

Vested Water Right Application No. 2001-2 proposes to validate a vested right claim for the appropriation of 7.6 cubic feet of water per second from springs located in the SW1/4NW1/4 Section 13; SE1/4NE1/4 Section 14; all in T7S-R5E. A priority date of January 1, 1890 has been claimed for the water use. Water is used as a commercial and recreational water supply for Evans Plunge.

Conclusions:

1. According to the affidavit of water use the works were constructed during 1890 and water has been put to beneficial use.
2. A priority date of January 1, 1890 should be assigned since the exact date for start of construction during 1890 is unknown.
3. The amount of water appropriated seems reasonable for the claimed use.
4. It is recommended that the vested right claim be validated.



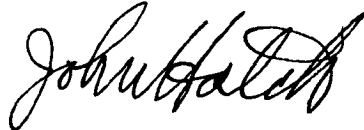
Ron Duvall
Natural Resources Engineer

RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED WATER
RIGHT APPLICATION NO. 2001-2

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Validation of Vested Water Right Application No. 2001-2, Evans Plunge, Box 610, Hot Springs, SD.

The Chief Engineer is recommending VALIDATION of Application No. 2001-2 because 1) water has been appropriated as described for a commercial and recreational water supply for Evans Plunge with a priority date of January 1, 1890, 2) the use has been developed without unlawful impairment of existing rights, 3) the use is a beneficial use and 4) it is in the public interest.

See the attached report for additional information.

A handwritten signature in black ink, appearing to read "John Hatch", with a stylized flourish at the end.

JOHN HATCH, Chief Engineer
October 3, 1986



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

November 5, 1986

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

Evans Plunge, Inc.
Ron Semler, Manager
Box 610
Hot Springs SD 57747

Dear Mr. Semler:

Your Application No. 2001-2 for a vested water right claim has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of your claim has been sent to the Publisher of the HOT SPRINGS STAR printed at Hot Springs. 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 and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your notice of hearing to validate a vested right and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. We must receive Proof of Publication before the application can be considered by the Water Management Board.

Sincerely,

Ron Duvall
Natural Resources Engineer
605 773-3352

enclosures



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

November 5, 1986

HOT SPRINGS STAR
Box 1000
Hot Springs SD 57747

Dear Sir:

Enclosed is a Notice of Hearing to Validate Vested Right Application No. 2001-1. Please publish this notice once each week for two consecutive weeks in your paper. The first publication should be on or before November 11, 1986.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. The applicant is to pay the cost of publication and should make the necessary arrangement with you to pay these costs.

A copy of BOTH publications must be sent to the Water Rights Division. IMMEDIATELY after the FIRST publication, return a copy of the notice with the FIRST Publication Transmittal form on the bottom of this page. The first copy is needed to check the publication for errors so any corrections can be made before the second notice is published.

Please be sure the SECOND publication is returned with the enclosed Proof of Publication form. The permit application cannot be considered by the Water Management Board until proof of publication has been received.

Sincerely,

Ron Duvall
Natural Resources Engineer
605 773-3352

enclosures

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

Date _____

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

We are in receipt of your letter of _____ enclosing
Notice of Hearing to Validate A Vested Right Application which
was first published in our issue of _____.
ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper

Instruction to Newspaper - Publish first publication of the following Notice on or before November 11, 1986 with 2nd publication 1 week later. The applicant is responsible for payment.

NOTICE OF HEARING To Validate
Vested Right Application No. 2001-2 to Appropriate Water

Notice is hereby given that Evans Plunge, Inc. whose mailing address is Box 610, Hot Springs SD, South Dakota has filed an application to validate a vested right claim to appropriate 7.6 cubic feet of water per second from springs located in the SW 1/4 NW 1/4 Section 13; SE 1/4 NE 1/4 Section 14; all in T7S, R5E. The water use has a claimed priority date of January 1, 1890 and is used as a commercial and recreational water supply for Evans Plunge.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends VALIDATION of Vested Water Right Application No. 2001-2 because 1) water has been appropriated as described for commercial and recreational use with a claimed priority date of January 1, 1890, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water and 4) it is in the public interest.

Validation of this application will be considered by the Water Management Board in Room 216, Joe Foss Bldg, December 10, 1986 at 10:00 am.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve validation, 2) approve the validation with qualifications, 3) defer, or 4) deny validation of the application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and the Chief Engineer by November 28, 1986. The petition may be informal, but it must include a statement describing the petitioner's interest in the application, the reasons for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 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-18; 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, 46-5-49; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14 and Board Rules ARSD 74:02:01:01 thru 74:02:01:15 and 74:02:01:19 thru 74:02:01:22.

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, Joe Foss Bldg, Pierre SD (605 773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by November 28, 1986.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Fall River) ss.

I, Charles Najacht hereby

certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Hot Springs Star

A newspaper which during the whole time of publication of said notice
herein after stated, has been and is printed and published in the

City of Hot Springs

County of Fall River and State of South Dakota;
that the said notice was published in said newspaper on the following
two dates:

November 11, 1986

November 18, 1986

Charles Najacht
(Signature)

Publisher
(Title)

November 18, 1986
(Date Signed)

Cost of Printing: \$39.67

WNR-808-7/79
Proof of Publication

297

NOTICE OF HEARING TO VALIDATE
VESTED RIGHT APPLICATION
NO. 2001-2 TO APPROPRIATE WATER

Notice is hereby given that Evans Plunge, Inc., whose mailing address is Box 610, Hot Springs, SD, South Dakota has filed an application to validate a vested right claim to appropriate 7.6 cubic feet of water per second from springs located in the SW 1/4 NW 1/4 Section 13; SE 1/4 NE 1/4 Section 14; all in T7S, R5E. The water use has a claimed priority date of January 1, 1890 and is used as a commercial and recreational water supply for Evans Plunge.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends VALIDATION of Vested Water Right Application No. 2001-2 because 1) water has been appropriated as described for commercial and recreational use with a claimed priority date of January 1, 1890, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water and 4) it is in the public interest.

Validation of this application will be considered by the Water Management Board in Room 216, Joe Foss Bldg., December 10, 1986 at 10:00 a.m.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve validation, 2) approve the validation with qualifications, 3) defer, or 4) deny validation of the application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and the Chief Engineer by November 28, 1986.

The petition may be informal, but is must include a statement describing the petitioner's interest in the application, the reasons for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 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-18; 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, 46-5-49; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14 and Board Rules ARSD 74:02:01:01 thru 74:02:01:15 and 74:02:01:19 thru 74:02:01:22.

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, Joe Foss Bldg., Pierre, SD (605 773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or person who has filed a petition to oppose or support the application.

The request for extension must be filed with the Chief Engineer by





Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

FEB 17 1987

Evans Plunge, Inc.
Box 610
Hot Springs, South Dakota 57747

Dear Sir:

Enclosed are your Validated Vested Water Right and Water License No. 2001-2.
As long as you use the water beneficially, as stated in the Water License,
the State Water Laws provide that you have a continuing right to use the
water.

Very truly yours,

A handwritten signature in black ink that reads "John Hatch". The signature is written in a cursive, flowing style.

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

JH:ms

enclosures

Gronlund, Eric

From: Gronlund, Eric
Sent: Wednesday, March 19, 2003 2:18 PM
To: 'evans plunge'
Subject: RE: Repsonse to inquiry about Evans Plunge selling water to downstream users

The use of water has historically been a non-consumptive use. By bottling water or making some physical diversion out of the water source, whether at the building or downstream, the use becomes consumptive in nature. A new water right permit will need to be obtained to make any type of consumptive use of water.

-----Original Message-----

From: evans plunge [mailto:evansplunge@gwtc.net]
Sent: Wednesday, March 19, 2003 1:32 PM
To: Eric.Gronlund@state.sd.us
Subject: Re: Repsonse to inquiry about Evans Plunge selling water to downstream users

So what if the water never leaves the building and we were to bottle it on site?
Is that a different issue or must the water leave the property?

Thanks
Frank

----- Original Message -----

From: Eric.Gronlund@state.sd.us
To: evansplunge@gwtc.net
Sent: Wednesday, March 19, 2003 9:40 AM
Subject: Repsonse to inquiry about Evans Plunge selling water to downstream users

I received an undeliverable message the first time I sent the e-mail so am trying again.

-----Original Message-----

From: Gronlund, Eric
Sent: Wednesday, March 19, 2003 10:37 AM
To: 'evans plunge '
Cc: Pogany, Michael
Subject: Repsonse to inquiry about Evans Plunge selling water to downstream users

Mr. Birkholt:

I am responding to the e-mail you sent to Mike Pogany with the Surface Water Quality Program regarding Evans Plunge selling nonpotable water to downstream users.

Evans Plunge holds a vested water right (No. 2001-2) to use 7.6 cubic feet of water per second (3,410 gallons per minute) from springs for the plunge and bath house. Water from the facility discharges into the Fall River. The priority date for this vested right is 1890 for commercial and recreational use. Holding a vested right authorizes the use of the water but does not constitute ownership of the water.

Basically, Evans Plunge holds a vested right for non-consumptive use of water which is discharged to the river. This water has then been available for downstream water right holders.

Once that water is discharged to Fall River, the water becomes unappropriated water which other individuals may obtain a water permit to use. I do not believe the current right provides Evans Plunge the ability to sell the water.

If a downstream user wants to make use of the water, they should file an application with this department. This application, if approved, would be assigned a new priority date and be junior to prior water rights.

I hope this information is helpful. Please let me know if you have further questions.

Eric Gronlund
Water Rights Program, DENR
(605) 773-3352
eric.gronlund@state.sd.us

Mail to: PMB 2020
DENR - Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182

Water Right/Permit No. 2001-2Date: 07-01-2013I/We request that Water Right/Permit No. 2001-2 formerly owned by:Evans Plunge, Inc.

be transferred to:

New Owner Name: City of Hot SpringsAddress: 303 N. River StreetCity, State, Zip Hot Springs, SD 57747Telephone No. 605-745-3135

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

See Attached Exhibit A

☒ I understand that the validity of Water Right/Permit No. 2001-2 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 Fifty Dollars (\$50.00) is included to cover the filing fee as required by SDCL 46-2-13.

EXEMPT FROM TRANSFER FEE

I, City of Hot Springs, SD, the new owner, certify that the above information is true and correct.

[Signature]
(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.

EXHIBIT A

The Land Description for Evans Plunge, Inc.,

PARCEL 1:

Tract C, located in the SE1/4NE1/4 of Section 14, Township 7 South, Range 5 East of the Black Hills Meridian, Fall River County, South Dakota, as shown on Plat filed in Book 8 of Plats, Page 65; and Evans Addition to the City of Hot Springs, South Dakota, as shown on Plat filed in Book 8 of Plats Page 65 the Office of Register of Deeds, Fall River County, South Dakota, reference to which is made of full particulars.

PARCEL 2:

All of Lots 18, 19, 20, 21 and the South 50 feet of Lot 22, as determined by the West boundary line thereof; all in Block 1 of Central Addition to the Town of Hot Springs, Fall River County, South Dakota, as shown on Plat filed in Book 1 of Plats, Page 24 the Office of Register of Deeds, Fall River County, South Dakota, reference to which is made of full particulars.

PARCEL 3:

Out Lot No. 1 of Moore's Addition to the City of Hot Springs, Fall River County, South Dakota, as shown on Plat filed in Book 8 of Plats, Page 51 the Office of Register of Deeds, Fall River County, South Dakota, reference to which is made of full particulars.

PARCEL 4:

All that portion of Burlington Northern Railroad Company's Minnekahta to Hot Springs, South Dakota branch line right-of-way at Hot Springs, South Dakota being of various widths on each side of the main track centerline as originally located and constructed upon and across the SW1/4NW1/4 of Section 13, and the SE1/4NE1/4 of Section 14, T7S, R5E of the Black Hills Meridian, Fall River County, South Dakota, as shown outlined on attached Exhibit A as set forth in Deed recorded in Deeds Book 95, Pages 129-131 the Office of Register of Deeds, Fall River County, South Dakota, reference to which is made of full particulars.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 8, 2013

2001-2

Don De Vries, Mayor
City of Hot Springs
303 N River St
Hot Springs SD 57747

RE: Vested Water Right No. 2001-2, Evans Plunge Inc

Dear Mayor De Vries:

I am writing to acknowledge receipt of the "Notice of Transfer of Ownership" form submitted for changing ownership on Vested Water Right No. 2001-2. The vested water right is currently held by Evans Plunge Inc.

The form was completed properly however the ownership change cannot be filed for record without the \$50.00 filing fee as required by statute. A notation was made on the form either by the city or by Southern Hills Title indicating the city was exempt from a transfer fee. The fee required by SDCL 46-2-13 is for filing of a document and not for a transfer fee.

Upon receipt of the \$50 filing fee, Vested Water Right No. 2001-2 will be transferred to the City of Hot Springs. The check or money order for the fee can be made payable to the Water Rights Program.

If you have any questions, please contact me.

Sincerely,

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

c: Southern Hills Title Inc., PO Box 31, Custer SD 57730-0031

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 7/15, 20 13

RECEIVED OF Southern Hills Title Co PO Box 31 Custer SD 57730

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	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 <u>2001-2</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. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____	50	00
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No. 06375

By Jaime Goodman
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 16, 2013

2001-2

Don De Vries, Mayor
City of Hot Springs
303 N River St
Hot Springs SD 57747

RE: Vested Water Right No. 2001-2

Dear Mayor De Vries:

The ownership change submitted for Vested Water Right No. 2001-2 has been completed. The vested water right formerly held by Evans Plunge Inc., is now listed under the City of Hot Springs.

The Southern Hills Title Company paid for filing of the ownership change. Receipt No. 06375 in the amount of \$50.00 will be forwarded to them by copy of this letter.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Genny McMath".

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

c: Southern Hills Title Inc., PO Box 31, Custer SD 57730-0031 w/receipt