

Considered: _____

Vested Right
WATER PERMIT NO. 2013-2

MAP No. same

Name of Applicant Oakley Lamphere

Post Office Address Box 476, Sturgis, SD 57785

Amount of Water Claimed 0.27 cfs Total Acres 19.0

Source of Water Supply Cascade Creek - Alabaugh Canyon

Water to be used for irrigation County Fall River

About 7 miles S of Hot Springs

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

PRIORITY _____ Date Received Nov. 25, 1986 Fee \$15.00 Remarks _____

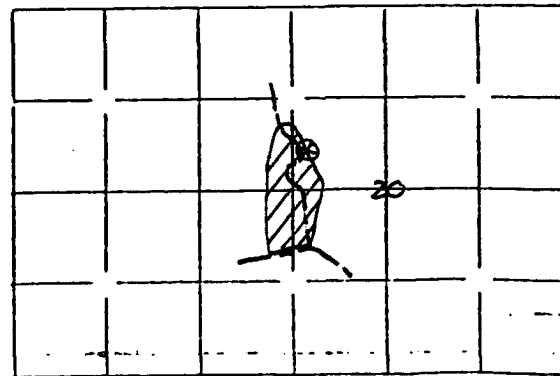
Corrected Application Received Dec. 18, 1986 Period of Annual Use May 1 - Oct 31

WATER QUALITY APPROVAL RECEIVED N.A. APPROVED/CONDITIONAL (Circle one)

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

Diversion Point SE $\frac{1}{4}$ NW $\frac{1}{4}$, section 20-T8S-
R5E

Land to be Irrigated SW $\frac{1}{4}$ NW $\frac{1}{4}$ (6 ac), SE $\frac{1}{4}$ NW $\frac{1}{4}$ (4 ac),
NW $\frac{1}{4}$ SW $\frac{1}{4}$ (5 ac), NE $\frac{1}{4}$ SW $\frac{1}{4}$ (4 ac) section 20-T8S-R5E



Well Log: Driller NA Licensed YES _____ NO _____

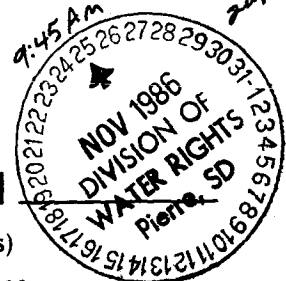
Depth of Well _____ REMARKS _____

Type of Map sketch PREPARED BY Del Brosz Reviewed and the Number
assigned on January 19, 1987 By Ron Duvall

No. 2013-2 Hydrologic Unit 10120106
 Map No. same Basin Upper Cheyenne R
 Newspaper Hot Springs Star, Box 1000 (Tues)

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

Type of Application: Check one or more of the following:



- New ☐ Vested Right ☒ Future Use ☐ Water Right Filing 04-2
☐ Application to amend Permit No. _____ with old priority date retained
☐ Change diversion point(s) ☐ Add diversion point(s) ☐ Change acreage ☐ Other ☐
☐ Application to: ☐ Change use ☐ Change diversion point(s) ☐ Add diversion point(s)
☐ Add Acreage ☐ Increase diversion rate ☐ Other _____ See Permit No. _____
☐ Application to: ☐ Use ☐ Transfer water reserved by Future Use Permit No. _____

1. Name of Applicant Oakley Lamphere Phone No. 605-347-3689
 Post Office Address Box 476, Sturgis, South Dakota State 57785
 (Street, RR or Box) Zip Code
 2. Amount of water claimed (c.f.s) 0.27 Total acres irrigated 19.0
 3. Source of Water supply Cascade Creek - Alabaugh Canyon -
 4. Location of point of diversion N25°E 3520 ft from the SW Corner of Section 20, T8S, R5E
 _____ County Fall River
 5. Counties where water will be used Fall River
 6. Annual period during which water is to be used May 1 - October 31
 7. List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

W	Land Description	No. Acres Irr.
SW NW	Section 20-T8S-R5E	6
SE NW	Section 20-T8S-R5E	4
NW SW	Section 20-T8S-R5E	5
NE SW	Section 20-T8S-R5E	4

Land Description	No. Acres Irr.

Attach sheet if more space is needed

8. 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)

Since we have owned the property, we have diverted the flow of this creek for irr. & domestic use - we plan to continue this program.

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, Oakley O Lamphere-Lamphere & Sons, 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 Oakley O Lamphere

Subscribed and sworn to before me this 24th day of November 19 86

Ann Kniffen

Notary Public

My Commission Expires January 23, 1993

Ann Kniffen
 Notary Public (or other qualified officer)

WATER PERMIT

The Water Management Board hereby approves Water Permit Application No. _____

(Applicant) (Post Office Address)

(State) (Zip Code)

With the following qualifications.

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:

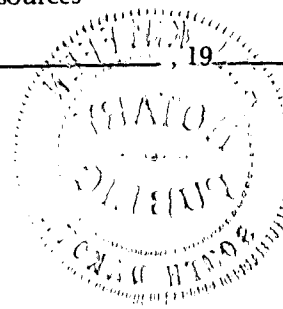
1. The date from which applicant may claim right is _____, 19____.
2. One-fifth of the work is to be completed on or before _____, 19____.
3. The whole of said work is to be completed on or before _____, 19____.
4. The time limit for proof of beneficial use of water is _____, 19____.
5. The water appropriated 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. For irrigation purposes said appropriation must be limited to not more than 2 acre feet per acre per year and 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 _____, 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____



SOUTH DAKOTA

VESTED WATER RIGHT NO. 2013-2 FOR IRRIGATION

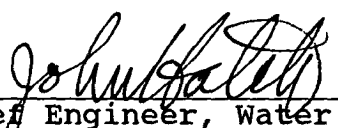
Date of Receipt of Claim November 25, 1986.

Date of Validation May 1, 1991.

The Chief Engineer, on behalf of the Water Management Board validated Vested Water Right Claim No. 2013-2 for irrigation purposes for Oakley Lamphere, Box 476, Sturgis SD 57785 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 2013-2 appropriates 0.27 cubic feet of water per second from Cascade Creek-Alabaugh Canyon to irrigate 19 acres. The point of diversion is located in the SE 1/4 NW 1/4 and the irrigated acreage is located in the S 1/2 NW 1/4, N 1/2 SW 1/4 all in Section 20-T8S-R5E. The applicable portions of Water Right Filing No. 04-2 are incorporated into No. 2013-2 and the abandoned portions of Filing No. 04-2 are cancelled.
2. The appropriation may not exceed the amount of water needed for beneficial use for irrigation. The appropriation may not exceed 3 acre feet per irrigated acre per year. The water is to be used during the following annual period: May 1 - October 31.
3. The priority date of the Vested Water Right is January 18, 1882.
4. The water use system has been constructed and water has been applied to beneficial use.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

By: 
Chief Engineer, Water Right Division
Department of Environment and Natural Resources

SEP 17 1991
date

STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 2013-2 FOR IRRIGATION

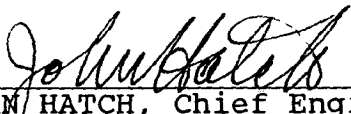
(1) Oakley Lamphere of Box 476, Sturgis, SD 57785 made Application No. 2013-2, November 25, 1986 for validation of a vested right claim to appropriate 0.27 cubic feet of water per second from Cascade Creek-Albaugh Canyon, Fall River County, South Dakota for irrigation purposes. Vested Water Right No. 2013-2 was validated May 1, 1991 with a priority date of January 18, 1882. Construction of the described water supply system and application of water to beneficial use has been completed and complies with applicable provisions of South Dakota State Law.

(2) The applicant is entitled to divert 0.27 cubic feet of water per second for beneficial use. The location of the diversion point is N 25 degrees E 3520 ft from the SW corner of Section 20, T8S, R5E (SE 1/4 NW 1/4).

The location of the irrigated acreage is:

T8S, R5E Section 20	SW 1/4 NW 1/4	6 acres
	SE 1/4 NW 1/4	4 acres
	NW 1/4 SW 1/4	5 acres
	NE 1/4 SW 1/4	<u>4 acres</u>
	Total	19 acres

(3) Pursuant to Section 46-5-30.1 Oakley Lamphere of Box 476, Sturgis, SD 57785 the holder(s) and/or owner(s) of Vested Water Right No. 2013-2 is issued a license to appropriate 0.27 cubic feet of water per second from Cascade Creek-Albaugh Canyon with a priority date of January 18, 1882 from the location specified in (2) of this license. The water is to be used for the purpose of irrigation. This license is subject to any limitations, conditions or qualifications listed in Vested Water Right No. 2013-2 and subject to South Dakota State Law.



JOHN HATCH, Chief Engineer
Water Rights Division
Department of Environment and
Natural Resources

SEP 17 1991

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) Oakley Lamphere

Post Office Address Box 476 Sturgis South Dakota 57785
(Street, RR or Box) (State) (Zip Code)

- A. Notice of Appropriation January 9, 1882 Date of Posting _____
 Date of recording January 18, 1882 Recording date _____
Where Book Page
- B. Date of start of construction of water supply system _____
- C. Date that water was first applied to beneficial use 1882
- D. Name of owner of original water supply system F.T. Allabaugh
- E. Amount of water originally applied to beneficial use _____
- F. Present Use of Water - Amount of water now being used 0.27

Date that this water was first used 1882 -

G. Chronological History of Water Use We purchased this property in 1975 - since that time, we have used this water for domestic use + for irr. every year. It is our intention to continue this program in the future.

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, Oakley O Lamphere - Lamphere & Sons. the applicant, certify that I have read the foregoing
(print or type)
 and that the matters therein stated are true.

Ann Kniffen
 Notary Public

Signed

My Commission Expires January 23, 1993
 Subscribed and sworn to before me

Oakley O Lamphere
November 1986, 19 86
Ann Kniffen
 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.

(Print name) 19_________
(Print name) 19____

November 10, 1986

Oakley Lamphere
Box 476
Sturgis, South Dakota 57785

Dear Mr. Lamphere:

Enclosed are partially completed application forms for a Vested Right claim on Cascade Creek in Fall River County. This is the one that you told me over the telephone was still being used. Please review the forms and make the necessary corrections and additions. Please complete question 8 on form 2 and questions F & G on form 2B.

The forms should be signed in the presence of a notary and returned to our office with a filing fee of \$15.00. South Dakota Statutes state that you have ninety (90) days in which to file the Vested Right Claim.

The enclosed map and notice by F. T. Allabaugh are yours to keep unless you wish to make a change on the map. If you do, please return the map with the forms. If I can answer any questions, please contact me.

Sincerely,

Delvin D. Brosz, P.E.
Hydrologist

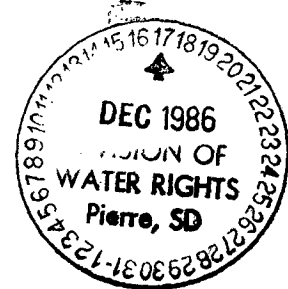
DDB:ms
Enc.

Equal Opportunity Employer

SOUTH Dakota Department of
Water & Natural Resources

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

December 15, 1986



Oakley Lamphere
Box 476
Sturgis SD 57785

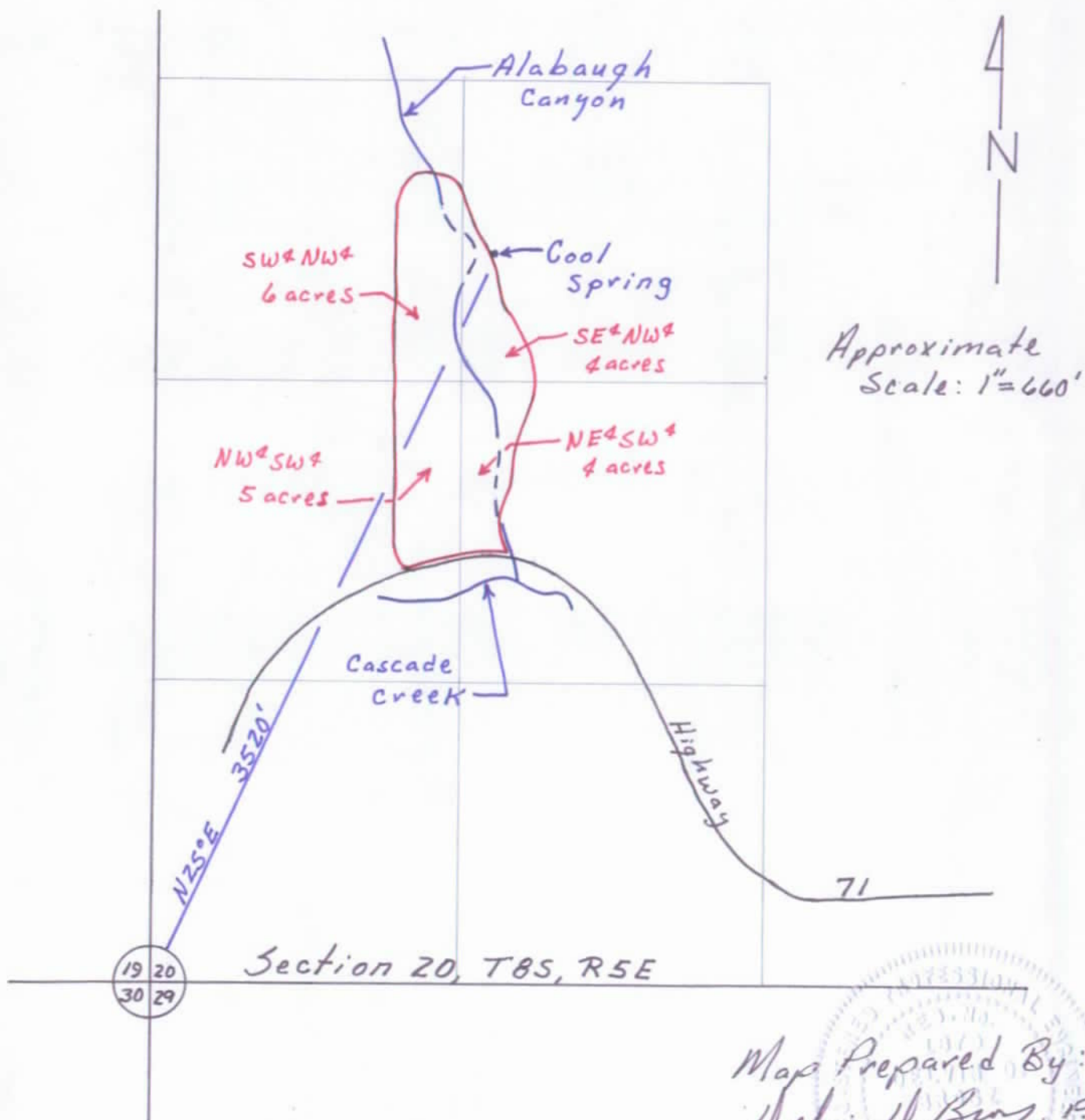
Dear Mr. Lamphere:

This letter is in response to your vested right application received on November 25, 1986. A filing fee needs to be submitted with the application. The filing fee for a vested right application is \$15.00. The application cannot be processed until the fee has been received. Please contact us if you have any questions.

Sincerely,

RON DUVAL
Natural Resources Engineer

RD:ks



Approximate
Scale: 1" = 660'

Map Prepared By:
Delwin W. Benz, P.E.
Hydrologist
Division of Water Rights

V.R. Appl. No. 2013-2

Oakley Lamphere
347-3689
~~Pete Lien~~
342-7224

Larry Strathle

Oakley Lamphere
Wants
Sept. meeting

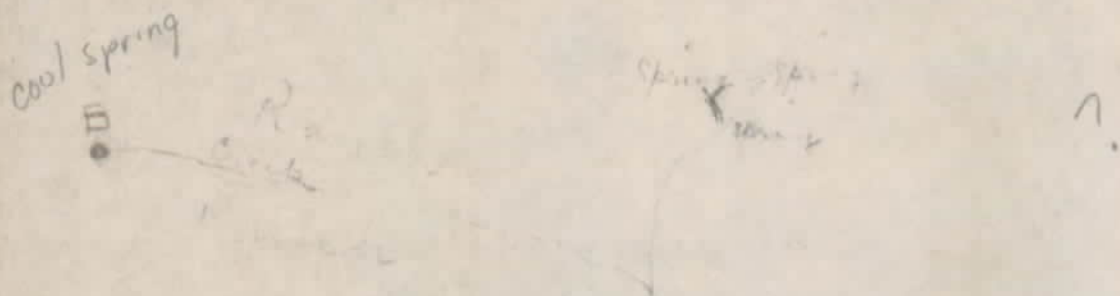
Visited with
m Lamphere on
5/16/82 and inspected
the irrigated area
✓

This one
is being
used by
Lamphere

Nemo Ore
to irrigate pasture
on

Water Right

Know all men by these presents that I the undersigned claim by Location
possession, improvement and diversion a certain spring and the water
flowing therefrom, and through my ranch (Known as Allabough's Ranch) and
said spring is more fully described in the following diagram viz:



Said spring marked B on diagram I claim said spring and water for milling
mining, agricultural and domestic purposes under the laws of the United
States and Territory of Dakota, Situate in Custer County at the North East
end of my Ranch on the Roman Cut off Road and being part of the water
flowing into Cascade Creek. Located by me this 9th day of January 1882.

F.T. Allabough

Original filed for record at 4 P.M. Jan. 18th 1882. Recorded page 160
Book 4 Locations.

160 Locations

July 4th
New E. Day

Nemo ore

~~Revised Edition 1882~~

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

410650

Pierre, December 18, 1986, 19__

RECEIVED OF Oakley Lamphere, Box 476, Sturgis, SD 57785

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

Fee for Application for Permit No. <u>2013-2</u> to Appropriate Water, to construct works and to put water to beneficial use _____	15	00	VR
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 John Hatch
Chief Engineer JOHN HATCH (ms)

 **Department of
Water & Natural Resources**

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

WATER RIGHTS DIVISION
(605) 773-3352

January 26, 1987

Oakley Lamphere
Box 476
Sturgis, South Dakota 57785

Dear Mr. Lamphere:

In reviewing the affidavit of water use for your vested right claim on Cascade Creek in Fall River County, we find that the water use between 1882 and 1975 is not documented.

South Dakota Codified Laws state that water, when available, has to be used at least once every three years. If the water is not used every three years it reverts to the public and becomes unappropriated water. Therefore, your affidavit of water use needs additional documentation on owners between 1882 and 1975 and that these owners used the water on a continuous basis when available.

I have enclosed another Form 2B for your use if additional space is needed. If we can answer any questions, please contact us.

Very truly yours,

John Hatch, Chief Engineer
Water Rights Division

JH:DB:ms
Enc.

Water Rights Division - DWNR
Conversation or File Documentation

File No. 2013-2

NAME OF PERSON OR FILE: Oakley Lamphere
ADDRESS: Box 476, Sturgis, SD 57785 COUNTY Fall River
DATE: July 30, 1987 TELEPHONE _____
RE: Affidavit for Vested Right for Land at
COMMENTS: Cascade Springs. Application # 2013-2

I talked to Mr Lamphere about an affidavit
for his vested right application. I told him that the
affidavit he sent in was a little short on information
to prove the land had been irrigated since 1882 until
the present. We said he would have his son get an
affidavit from a Mr Landre who has lived there since
before 1900 and have him tell what he knew about the
irrigation on the land in the Vested Right application

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.



DEPARTMENT OF WATER & NATURAL RESOURCES

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

GREAT FACES. GREAT PLACES.

January 9, 1991

Oakley Lamphere
Box 476
Sturgis SD 57785

Dear Mr. Lamphere:

On November 6, 1986, you submitted a vested right application (copy enclosed) for a permit to appropriate water for irrigation from Cascade Creek. You were notified that the application was incomplete because the Affidavit of Water Use (copy enclosed) did not document water use between 1882 and 1975. To date, we have not received a response from you.

South Dakota Codified Law states that water, when available, has to be used at least once every three years. If the water is not used every three years it reverts to the public and becomes unappropriated water. Therefore, your Affidavit of Water Use needs additional documentation on owners between 1882 and 1975 and that these owners used the water on a continuous basis when available.

Obtaining a water permit ultimately benefits you by protecting your right to use water. Except for domestic use, any water user without a water right is not entitled to receive protection in the event of interference by a new or future user who has a water right.

Please respond by submitting the additional information or contacting me by March 15, 1991.

Sincerely,

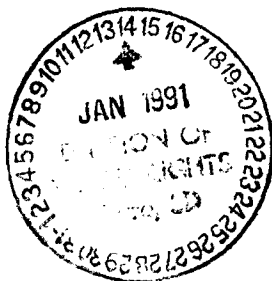
Eric Gronlund
Water Rights Division
Phone: (605) 773-3352

enclosure

I, Everett Hill, make the following statement in support of the Lamphere water rights at the old town of Cascade. My family has lived in close proximity to Cascade ever since 1886 and to the best of my knowledge and belief the water from Cool Spring has been used continuously since at least that time for irrigating yards, gardens, fruit trees, and hay meadows, for household domestic use and watering of livestock. I am not aware of any period of time since that date that the water from the above source was not used for the above purpose.

Everett Hill
Everett Hill, 246 S. 18th Street, Hot Springs, SD

Feb 11, 1988
date



Report on Vested Right Application No. 2013-2
Oakley Lamphere
January 15, 1991

Application No. 2013-2 requests validation of a vested right claim for the appropriation of 0.27 cubic feet of water per second from Cascade Creek - Alabaugh Canyon to irrigate 19 acres. The claimed priority date is 1882 and is based on Water Right Filing No. 04-2. The point of diversion is located in the SE 1/4 NW 1/4 and the irrigated acreage is located in the S 1/2 NW 1/4 and N 1/2 SW 1/4, all in Section 20, T8S, R5E. The original notice of appropriation was made by F. T. Allabaugh and recorded on January 18, 1882.

Conclusions:

1. The project is a water spreading system. It was inspected and found to exist as described.
2. According to the affidavits of water use, water has been put to beneficial use since the time that the system was constructed.
3. According to Water Right Filing No. 04-2 the priority date for this vested water right claim should be January 18, 1882.
4. If Vested Water Right Application No. 2013-2 is validated, the applicable portions of Water Right Filing No. 04-2 should be incorporated into No. 2013-2 and the abandoned portions of Water Right Filing No. 04-2 cancelled.



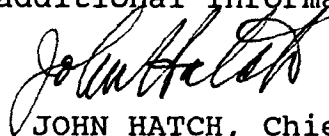
DELVIN D. BROSZ, PE
Natural Resources Engineer IV

RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED
WATER RIGHT APPLICATION NO. 2013-2, OAKLEY LAMPHERE

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. 2013-2, Oakley Lamphere, Box 476, Sturgis, SD.

The Chief Engineer is recommending VALIDATION of Application No. 2013-2 for 0.27 cfs and that the applicable portions of Water Right Filing No. 04-2 be incorporated into No. 2013-2 and the abandoned portions of Filing No. 04-2 be cancelled, because 1) water has been appropriated as described for irrigation use with a priority date of January 18, 1882, 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 report on application for additional information.

A handwritten signature in dark ink, appearing to read "John Hatch", is written over the typed name.

JOHN HATCH, Chief Engineer
January 31, 1991



DEPARTMENT OF WATER & NATURAL RESOURCES

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

March 19, 1991

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

Oakley Lamphere
Box 476
Sturgis SD 57785

Dear Mr. Lamphere:

Your Application No. 2013-2 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 SD. 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.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



DEPARTMENT OF WATER & NATURAL RESOURCES

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

March 19, 1991

Hot Spring Star
Box 1000
Hot Spring SD 57747

ATTN: Legal Publications:

Enclosed is a Notice of Hearing to Validate Vested Right Application No. 2013-2 to be published twice. Please publish the notice on or before March 26, 1991 with the second publication 7 days later.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is Oakley Lamphere, Box 476, Sturgis SD 57785.

A copy of BOTH publications must be SENT to the WATER RIGHTS DIVISION. IMMEDIATELY return the FIRST publication with the FIRST 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 in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. The permit application cannot be considered until proof of publication has been received.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----
FIRST TRANSMITTAL NOTICE
TO: ATTN: Eric Gronlund
Water Rights Division
523 E Capitol
Pierre SD 57501-3181

Date _____
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 Notice on March 26, 1991 with 2nd publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING To Validate
Vested Water Right Application No. 2013-2 to Appropriate Water

Notice is given that Oakley Lamphere, Box 476, Sturgis SD 57785 has filed an application to validate a vested water right claim to appropriate 0.27 cubic feet of water per second (cfs) from Alabaugh Canyon to irrigate 19 acres with a priority date of January 18, 1882. The point of diversion is located in the SE 1/4 NW 1/4 and the irrigated acreage is located in the S 1/2 NW 1/4, N 1/2 SW 1/4 all in Section 20-T8S-R5E.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 2013-2 for 0.27 cfs and that the applicable portions of Water Right Filing No. 04-2 be incorporated into No. 2013-2 and that abandoned portions of Filing No. 04-2 be cancelled because 1) water has been appropriated as described for irrigation with a priority date of January 18, 1882, 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. Unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Water Management Board will NOT CONDUCT a HEARING to consider this application and the chief engineer will issue the vested water right application as recommended. Petitions filed in support of the application will NOT require the Board to hear the application.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by April 22, 1991. The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

For purposes of publishing 1) the notice of hearing on Application No. and 2) the chief engineer's recommendation, a special Board meeting is scheduled for May 1, 1991, at 10:00 at Chef Louie's, Meeting Room, 601 E Havens, Mitchell SD. If this application is opposed or the recommendation is contested, the May 1, 1991 hearing date may be rescheduled for another Board meeting. If the hearing is rescheduled, notice of the time and place will be given by First Class Mail to the applicant and persons filing petitions. Anyone not filing a petition, but interested in attending the hearing, may contact the Division of Water Rights to confirm a hearing date and location. The May 1, 1991 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by April 22, 1991.

If a hearing is held, the Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve the validation, 2) approve the validation with qualifications, 3) defer, or 4) deny validation of the application based on the facts presented at the public hearing. Any hearing will be an adversary proceeding. Any person

(continued)

filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact the Water Rights Division to request copies of information pertaining to this application or to assure access to the hearing by the handicapped.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-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, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15; 74:02:01:19 thru 74:02:01:22.

Corrected notice

AFFIDAVIT OF PUBLICATION

State of South Dakota)
) ss.
County of Fall River)

Christopher N. Spencer of Hot Springs, Fall River County, South Dakota, being duly sworn, upon oath says that he is the publisher of the Hot Springs Star, a legal newspaper published at Hot Springs, county and state aforesaid; that the advertisement headed —

Notice of Hearing to Appropriate Water (2013-2)

a true printed copy thereof is hereunto annexed, was published in the said Hot Springs Star, in the regular and entire issue of said paper,

for two

successive issues, beginning with the issue dated

March 26, 1991

and ending with the issue dated

April 2, 1991

That the full amount of the fee charged for the publication of said

notice is \$56.92, and that no agreement or understanding, for the division thereof, has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever, that the whole amount insures to the benefit of the publishers of said newspaper.

Christopher N. Spencer

Subscribed and sworn to before me

this 2 day of April

1991

Rene M. Leonard
Notary Public

My Commission Expires
January 26, 1992

65

NOTICE OF HEARING To Validate Vested Water Right Application No. 2013-2 to Appropriate Water

Notice is given that Oakley Lamphere, Box 476, Sturgis SD 57785 has filed an application to validate a vested water right claim to appropriate 0.27 cubic feet of water per second (cfs) from Alabaugh Canyon to irrigate 19 acres with a priority date of January 18, 1882. The point of diversion is located in the SE 1/4 NW 1/4 and the irrigated acreage is located in the S 1/2 NW 1/4, N 1/2 SW 1/4 all in Section 20-T8S-R5E.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 2013-2 for 0.27 cfs and that the applicable portions of Water Right Filing No. 04-2 be incorporated into No. 2013-2 and that abandoned portions of Filing No. 04-2 be cancelled because 1) water has been appropriated as described for irrigation with a priority date of January 18, 1882, 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. Unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Water Management Board will NOT CONDUCT a HEARING to consider this application and the chief engineer will issue the vested water right application as recommended. Petitions filed in support of the application will NOT require the Board to hear the application.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by April 22, 1991. The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

For purposes of publishing 1) the notice of hearing on Application No. 2013-2 and 2) the chief engineer's recommendation, a special Board meeting is scheduled for May 1, 1991, at 10:00 at Chef Louie's Meeting Room, 601 E Havens, Mitchell

SD. If this application is opposed or the recommendation is contested, the May 1, 1991 hearing date may be rescheduled for another Board meeting. If the hearing is rescheduled, notice of the time and place will be given by First Class Mail to the applicant and persons filing petitions. Anyone not filing a petition, but interested in attending the hearing, may contact the Division of Water Rights to confirm a hearing date and location. The May 1, 1991 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by April 22, 1991.

If a hearing is held, the Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve the validation, 2) approve the validation with qualifications, 3) defer, or 4) deny validation of the application based on the facts presented at the public hearing. Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact the Water Rights Division to request copies of information pertaining to this application or to assure access to the hearing by the handicapped.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-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, 46-6-26; and Board Rules ARSD 74.02:01:01 thru 74.02:01:15; 74.02:01:19 thru 74.02:01:22.

March 26, April 2





GREAT FACES. GREAT PLACES.

SEP 17 1991

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

2013-2

Oakley Lamphere
Box 476
Sturgis, SD 57785

Dear Mr. Lamphere:

Enclosed are your Validated Vested Water Right and Water License No. 2013-2. 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,

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

enclosures