

Considered: _____

Vested Right Claim

WATER PERMIT NO. 2037-2

MAP No. same

Name of Applicant St. Germaine Ditch c/o Keith Ham, Pres.

Post Office Address HCR 36, Box 34, Caputa SD 57725 (393-0198)

Amount of Water Claimed 28 cfs Total Acres 1594

Source of Water Supply Rapid Creek

Water to be used for irrigation County Pennington

About immediately S of Caputa.

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

PRIORITY _____ Date Received October 6, 1987 Fee \$15.00 Remarks _____

Corrected Application Received _____ Period of Annual Use _____

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

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

Diversion Point Rapid Creek : SE 1/4 NE 1/4

section 34 - T1N - R9E

Land to be Irrigated see application file

Well Log: Driller NA Licensed YES _____ NO _____

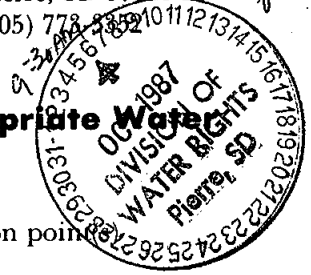
Depth of Well _____ REMARKS _____

Type of Map plat PREPARED BY Tim Tollefsrud Reviewed and the Number

assigned on October 20, 1987 By Ron Duval

(See instructions)

No. 2037-2 Hydrologic Unit 10120110
Basin Upper Cheyenne River
Newspaper Rapid City Journal, PO Box 450



Application For Soil/Water Compatibility Permit and Permit To Appropriately Use Water

- Type of Application: ☐ New ☒ Vested Right ☐ Amend Permit No. _____
- ☐ Change Acreage ☐ Change diversion point(s) ☐ Add diversion point(s)
- ☐ Add Acreage ☐ Increase diversion rate ☐ Other _____

1. Name of Applicant St. Germaine Ditch, Keith Ham, President Phone No. 393-0198
- Post Office Address HCR 36, Box 34 Caputa, South Dakota State 57725
(Street, RR or Box) (City) 4 Zip Code
2. Amount of water claimed (c.f.s.) 28 c.f.s. Total acres irrigated 159½
3. Source of Water supply Rapid Creek
4. Location of point of diversion SE¼NE¼ Section 34, T15N R9E, 2840 feet N 13°W from SE¼
Corner of Section 34-T1N-R9E
- County Pennington
5. Counties where water will be used Pennington
6. Annual period during which water is to be used April 15 - November 1
7. List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

Land Description	No. Acres Irr.
SEE ATTACHED SHEETS	

Land Description	No. Acres Irr.

Attach sheet if more space is needed

8. Type of Irrigation: Gravity: X Towline: _____ Center Pivot: _____ Gun: _____ (Specify) _____ Other: _____
9. Crops to be Irrigated: Alfalfa, grass, small grains, corn, milo and millet
10. Give a description of proposed project. (Attach sheet if more space is needed)
- N
Diversion Dam and headgate located in the SE¼ of the NE¼ of Section 34-T15N-R9E.
Approximately 5 miles of main ditch with laterals used to transport water to
various users on the ditch.

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach maps, soils information and any other technical information.

STATE OF SOUTH DAKOTA)
County of Pennington)^{ss}

I, Keith Ham, the applicant, certify that I have read this application and examined the attached maps, that the water sample, if needed, has been taken by the required procedures and has not been adulterated or tampered with and is truly representative of the water to be used, and that the matters stated in this application are true and correct.

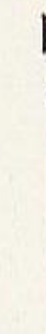
Signed Keith Ham

Subscribed and sworn to before me this 1st day of October 19 87

Lori Thorn
Notary Public

2/25/91

St. GERMAINE DITCH



SEC. 34-T1N-R9E

DIVERSION
POINT

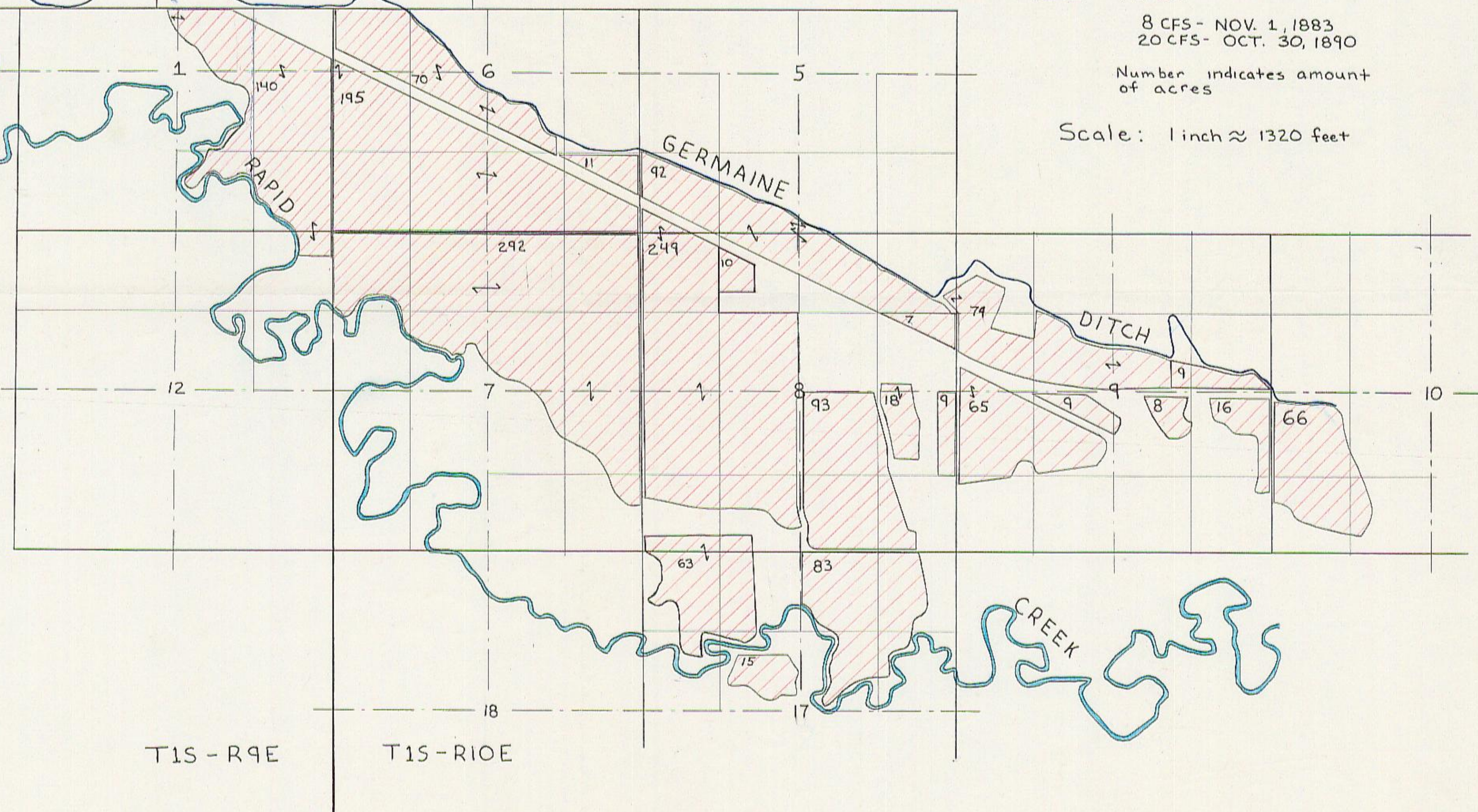
St.

14 LAND IRRIGATED BY DITCH
WITH FOLLOWING PRIORITY
DATES:

8 CFS - NOV. 1, 1883
20 CFS - OCT. 30, 1890

Number indicates amount
of acres

Scale: 1 inch $\approx$ 1320 feet



T1S - R9E

T1S - R10E

DRAWN BY:
Tim Tollefsrud 9/6/87
Tim Tollefsrud
Natural Resources Engineer

V.R. Appl. No. 2037-2

ST. GERMAINE DITCH - LAND INCLUDED IN VESTED RIGHT

IRRIGATOR	NUMBER OF ACRES	LEGAL DESCRIPTION OF IRRIGATED LAND	COMMENTS
REINHARDT	24 1	LOT 2 SEC 1-T1S-R9E LOT 3 SEC 1-T1S-R9E	
AMOS SANDRIDGE	8	NE1/4 SE1/4 SEC 1-T1S-R9E	
MARVIN REINERS	10	SW1/4 SE1/4 SEC 1-T1S-R9E	
GEORGE SANDERS	16 40 35 6 36 36 19 40 3 37 35 40 18 40 36 40 34 5 4	LOT 1 SEC 1-T1S-R9E NE1/4 SE1/4 SEC 1-T1S-R9E SE1/4 SE1/4 SEC 1-T1S-R9E NE1/4 NE1/4 SEC 12-T1S-R9E LOT 5 SEC 6-T1S-R10E LOT 6 SEC 6-T1S-R10E NE1/4 SW1/4 SEC 6-T1S-R10E SE1/4 SW1/4 SEC 6-T1S-R10E NW1/4 SE1/4 SEC 6-T1S-R10E SW1/4 SE1/4 SEC 6-T1S-R10E NW1/4 NW1/4 SEC 7-T1S-R10E NE1/4 NW1/4 SEC 7-T1S-R10E SE1/4 NW1/4 SEC 7-T1S-R10E NW1/4 NE1/4 SEC 7-T1S-R10E SW1/4 NE1/4 SEC 7-T1S-R10E SE1/4 NE1/4 SEC 7-T1S-R10E NE1/4 SE1/4 SEC 7-T1S-R10E SE1/4 SE1/4 SEC 7-T1S-R10E NW1/4 SE1/4 SEC 7-T1S-R10E	
DON PHILLIPS	26 17 13 14	LOT 4 SEC 6-T1S-R10E LOT 3 SEC 6-T1S-R10E NE1/4 SW1/4 SEC 6-T1S-R10E NW1/4 SE1/4 SEC 6-T1S-R10E	
OSCAR VAN SICKLE	35 40	SE1/4 SE1/4 SEC 6-T1S-R10E NE1/4 NE1/4 SEC 7-T1S-R10E	
TOM ODOM	40 40 40 25 27 31 16 5 17	SW1/4 NW1/4 SEC 8-T1S-R10E NW1/4 SW1/4 SEC 8-T1S-R10E NE1/4 SW1/4 SEC 8-T1S-R10E SW1/4 SW1/4 SEC 8-T1S-R10E SE1/4 SW1/4 SEC 8-T1S-R10E NW1/4 NW1/4 SEC 17-T1S-R10E NE1/4 NW1/4 SEC 17-T1S-R10E SW1/4 NW1/4 SEC 17-T1S-R10E SE1/4 NW1/4 SEC 17-T1S-R10E	

PAGE 2

MARSH RANCH 38 NW1/4 NE1/4 SEC 17-T1S-R10E
21 NE1/4 NE1/4 SEC 17-T1S-R10E
19 SW1/4 NE1/4 SEC 17-T1S-R10E
5 SE1/4 NE1/4 SEC 17-T1S-R10E

HARRINGTON 33 SW1/4 SW1/4 SEC 5-T1S-R10E
18 SE1/4 SW1/4 SEC 5-T1S-R10E
40 NW1/4 NW1/4 SEC 8-T1S-R10E

KENNY HETTICH 11 NE1/4 NW1/4 SEC 8-T1S-R10E

HAM RANCH 40 SE1/4 NW1/4 SEC 8-T1S-R10E
10 NE1/4 NW1/4 SEC 8-T1N-R10E
40 NW1/4 SE1/4 SEC 8-T1S-R10E
39 SW1/4 SE1/4 SEC 8-T1S-R10E
3 SE1/4 NE1/4 SEC 8-T1S-R10E
7 SE1/4 NE1/4 SEC 8-T1N-R10E
26 NE1/4 SE1/4 SEC 8-T1S-R10E
12 SE1/4 SE1/4 SEC 8-T1S-R10E
3 SW1/4 NW1/4 SEC 9-T1S-R10E
38 NW1/4 SW1/4 SEC 9-T1S-R10E
4 SW1/4 SW1/4 SEC 9-T1S-R10E
29 NE1/4 SW1/4 SEC 9-T1S-R10E
8 NW1/4 SE1/4 SEC 9-T1S-R10E
15 NE1/4 SE1/4 SEC 9-T1S-R10E
1 SE1/4 SE1/4 SEC 9-T1S-R10E

DALE HENDRICKSON 24 NW1/4 NE1/4 SEC 8-T1S-R10E
13 NE1/4 NE1/4 SEC 8-T1S-R10E
9 NW1/4 NW1/4 SEC 9-T1S-R10E
22 SW1/4 NW1/4 SEC 9-T1S-R10E
27 SE1/4 NW1/4 SEC 9-T1S-R10E

DUSTMAN RANCH ~~17~~ SW1/4 NE1/4 SEC 9-T1S-R10E
7 SE1/4 NE1/4 SEC 9-T1S-R10E

DON TAYLOR 24 NW1/4 SW1/4 SEC 10-T1S-R10E
25 SW1/4 SW1/4 SEC 10-T1S-R10E
6 SE1/4 SW1/4 SEC 10-T1S-R10E

FRANCIS JOHNSON 11 NW1/4 SW1/4 SEC 10-T1S-R10E

TOTAL ACREAGE 1594

ST. GERMAINE DITCH
VESTED RIGHT *Application*

TWO PRIORITY DATES -
8 CFS - NOVEMBER 1, 1883
20 CFS - OCTOBER 30, 1890

DIVERSION POINT -
SE1/4 NE1/4 SEC 34-T1N-R9E

LAND IRRIGATED BY QUARTER
QUARTER SECTION

ACRES	LEGAL DESCRIPTION OF ACRES	ACRES	LEGAL DESCRIPTION OF ACRES
8	NW1/4 SE1/4 SEC 1-T1S-R9E	21	NE1/4 NW1/4 SEC 8-T1S-R10E
10	SW1/4 SE1/4 SEC 1-T1S-R9E	40	NW1/4 NW1/4 SEC 8-T1S-R10E
16	LOT 1 SEC 1-T1S-R9E	40	SE1/4 NW1/4 SEC 8-T1S-R10E
24	LOT 2 SEC 1-T1S-R9E	40	SW1/4 NW1/4 SEC 8-T1S-R10E
1	LOT 3 SEC 1-T1S-R9E	40	NW1/4 SE1/4 SEC 8-T1S-R10E
35	SE1/4 SE1/4 SEC 1-T1S-R9E	12	SE1/4 SE1/4 SEC 8-T1S-R10E
40	NE1/4 SE1/4 SEC 1-T1S-R9E	26	NE1/4 SE1/4 SEC 8-T1S-R10E
6	NE1/4 NE1/4 SEC 12-T1S-R9E	39	SW1/4 SE1/4 SEC 8-T1S-R10E
18	SE1/4 SW1/4 SEC 5-T1S-R10E	25	SW1/4 SW1/4 SEC 8-T1S-R10E
33	SW1/4 SW1/4 SEC 5-T1S-R10E	27	SE1/4 SW1/4 SEC 8-T1S-R10E
17	NW1/4 SE1/4 SEC 6-T1S-R10E	40	NE1/4 SW1/4 SEC 8-T1S-R10E
35	SE1/4 SE1/4 SEC 6-T1S-R10E	40	NW1/4 SW1/4 SEC 8-T1S-R10E
37	SW1/4 SE1/4 SEC 6-T1S-R10E	1	SE1/4 SE1/4 SEC 9-T1S-R10E
32	NE1/4 SW1/4 SEC 6-T1S-R10E	8	NW1/4 SE1/4 SEC 9-T1S-R10E
40	SE1/4 SW1/4 SEC 6-T1S-R10E	15	NE1/4 SE1/4 SEC 9-T1S-R10E
17	LOT 3 SEC 6-T1S-R10E	4	SW1/4 SW1/4 SEC 9-T1S-R10E
26	LOT 4 SEC 6-T1S-R10E	29	NE1/4 SW1/4 SEC 9-T1S-R10E
36	LOT 5 SEC 6-T1S-R10E	38	NW1/4 SW1/4 SEC 9-T1S-R10E
36	LOT 6 SEC 6-T1S-R10E	25	SW1/4 NW1/4 SEC 9-T1S-R10E
4	NW1/4 SE1/4 SEC 7-T1S-R10E	9	NW1/4 NW1/4 SEC 9-T1S-R10E
5	SE1/4 SE1/4 SEC 7-T1S-R10E	27	SE1/4 NW1/4 SEC 9-T1S-R10E
34	NE1/4 SE1/4 SEC 7-T1S-R10E	17	SW1/4 NE1/4 SEC 9-T1S-R10E
18	SE1/4 NW1/4 SEC 7-T1S-R10E	7	SE1/4 NE1/4 SEC 9-T1S-R10E
35	NW1/4 NW1/4 SEC 7-T1S-R10E	6	SE1/4 SW1/4 SEC 10-T1S-R10E
40	NE1/4 NW1/4 SEC 7-T1S-R10E	35	NW1/4 SW1/4 SEC 10-T1S-R10E
36	SW1/4 NE1/4 SEC 7-T1S-R10E	25	SW1/4 SW1/4 SEC 10-T1S-R10E
40	NW1/4 NE1/4 SEC 7-T1S-R10E	5	SW1/4 NW1/4 SEC 17-T1S-R10E
40	SE1/4 NE1/4 SEC 7-T1S-R10E	16	NE1/4 NW1/4 SEC 17-T1S-R10E
40	NE1/4 NE1/4 SEC 7-T1S-R10E	17	SE1/4 NW1/4 SEC 17-T1S-R10E
13	NE1/4 NE1/4 SEC 8-T1S-R10E	31	NW1/4 NW1/4 SEC 17-T1S-R10E
24	NW1/4 NE1/4 SEC 8-T1S-R10E	5	SE1/4 NE1/4 SEC 17-T1S-R10E
10	SE1/4 NE1/4 SEC 8-T1S-R10E	19	SW1/4 NE1/4 SEC 17-T1S-R10E
		21	NE1/4 NE1/4 SEC 17-T1S-R10E
		38	NW1/4 NE1/4 SEC 17-T1S-R10E

TOTAL ACRES IRRIGATED

1594

VESTED WATER RIGHT

The Water Management Board hereby validates Vested Water Right No. 2037-2

St. Germaine Ditch HCR 36, Box 34, Caputa
(applicant) (post office address)

SD 57725
(state) (zip code)

Date of receipt of Application October 6, 1987.

Validated December 2, 1987.

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 the applicant may claim right is ^(8cfs) Nov. 1, 1883 ^(20cfs) Oct. 30, 1890.
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 irrigation.
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 the appropriation hereby validated shall not exceed 28 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 has been actually and beneficially applied for irrigation. The water is to be used during the following described annual period Apr 15 - Nov 1.

The applicable portions of Water Right Filing Nos. 0527-2 and 0528-2 have been incorporated into No. 2037-2 and the abandoned portions of Water Right Filing Nos. 0527-2 and 0528-2 have been cancelled.

Vested Water Right No. 2037-2 was validated subject to the qualifications listed in Attachment A.

WATER MANAGEMENT BOARD

By: John Hatch

(Chief Engineer)

Division of Water Rights
Dept. of Water and Natural Resources

MAY 2 1988

, 1988.

ATTACHMENT A
VESTED WATER RIGHT NO. 2037-2

1. That Vested Water Right No. 2037-2 is subject to domestic use rights. Diversion of water under Water Right No. 2037-2 is contingent upon supplies being available first to domestic users.
2. That a flow measuring device be maintained at or near the point of diversion for St. Germaine Ditch.

STATE OF SOUTH DAKOTA

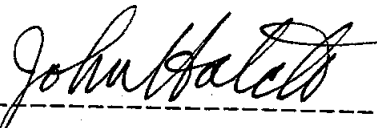
VESTED RIGHT WATER LICENSE NO. 2037-2 FOR IRRIGATION

(1) St. Germaine Ditch of HCR 36 Box 34, Caputa, SD 57725 made Application No. 2037-2, October 6, 1987 for validation of a vested right claim to appropriate 28.0 cubic feet of water per second from Rapid Creek, Pennington County, South Dakota for irrigation purposes. Vested Water Right No. 2037-2 was validated December 2, 1987 with priority dates of (8.0 cfs) November 1, 1883 and (20 cfs) October 30, 1890. 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 28.0 cubic feet of water per second for beneficial use. The location of the diversion point is: SE 1/4 NE 1/4 Section 34, T1N, R9E, 2840 feet N 13°W from the SE corner of Section 34, T1N, R9E.

The location of the irrigated acreage is described on Attachment 1.

(3) Pursuant to Section 46-5-30.1 St. Germaine Ditch, of HCR 36 Box 34, Caputa, SD 57725 the holder(s) and/or owner(s) of Vested Water Right No. 2037-2 is issued a license to appropriate 28.0 cubic feet of water per second from Rapid Creek with priority dates of (8.0 cfs) November 1, 1883 and (20.0 cfs) October 30, 1890 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. 2037-2 and subject to South Dakota State Law.



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

MAY 2 1988

ATTACHMENT 1 for Water License No. 2037-2

The location of the irrigated acreage is:

ACRES

8 NW1/4 SE1/4 SEC 1-T1S-R9E
10 SW1/4 SE1/4 SEC 1-T1S-R9E
16 LOT 1 SEC 1-T1S-R9E
24 LOT 2 SEC 1-T1S-R9E
1 LOT 3 SEC 1-T1S-R9E
35 SE1/4 SE1/4 SEC 1-T1S-R9E
40 NE1/4 SE1/4 SEC 1-T1S-R9E

6 NE1/4 NE1/4 SEC 12-T1S-R9E

18 SE1/4 SW1/4 SEC 5-T1S-R10E
33 SW1/4 SW1/4 SEC 5-T1S-R10E

17 NW1/4 SE1/4 SEC 6-T1S-R10E
35 SE1/4 SE1/4 SEC 6-T1S-R10E
37 SW1/4 SE1/4 SEC 6-T1S-R10E
32 NE1/4 SW1/4 SEC 6-T1S-R10E
40 SE1/4 SW1/4 SEC 6-T1S-R10E
17 LOT 3 SEC 6-T1S-R10E
26 LOT 4 SEC 6-T1S-R10E
36 LOT 5 SEC 6-T1S-R10E
36 LOT 6 SEC 6-T1S-R10E

4 NW1/4 SE1/4 SEC 7-T1S-R10E
5 SE1/4 SE1/4 SEC 7-T1S-R10E
34 NE1/4 SE1/4 SEC 7-T1S-R10E
18 SE1/4 NW1/4 SEC 7-T1S-R10E
35 NW1/4 NW1/4 SEC 7-T1S-R10E
40 NE1/4 NW1/4 SEC 7-T1S-R10E
36 SW1/4 NE1/4 SEC 7-T1S-R10E
40 NW1/4 NE1/4 SEC 7-T1S-R10E
40 SE1/4 NE1/4 SEC 7-T1S-R10E
40 NE1/4 NE1/4 SEC 7-T1S-R10E

13 NE1/4 NE1/4 SEC 8-T1S-R10E
24 NW1/4 NE1/4 SEC 8-T1S-R10E
10 SE1/4 NE1/4 SEC 8-T1S-R10E

ACRES

21 NE1/4 NW1/4 SEC 8-T1S-R10E
40 NW1/4 NW1/4 SEC 8-T1S-R10E
40 SE1/4 NW1/4 SEC 8-T1S-R10E
40 SW1/4 NW1/4 SEC 8-T1S-R10E
40 NW1/4 SE1/4 SEC 8-T1S-R10E
12 SE1/4 SE1/4 SEC 8-T1S-R10E
26 NE1/4 SE1/4 SEC 8-T1S-R10E
39 SW1/4 SE1/4 SEC 8-T1S-R10E
25 SW1/4 SW1/4 SEC 8-T1S-R10E
27 SE1/4 SW1/4 SEC 8-T1S-R10E
40 NE1/4 SW1/4 SEC 8-T1S-R10E
40 NW1/4 SW1/4 SEC 8-T1S-R10E

1 SE1/4 SE1/4 SEC 9-T1S-R10E
8 NW1/4 SE1/4 SEC 9-T1S-R10E
15 NE1/4 SE1/4 SEC 9-T1S-R10E
4 SW1/4 SW1/4 SEC 9-T1S-R10E
29 NE1/4 SW1/4 SEC 9-T1S-R10E
38 NW1/4 SW1/4 SEC 9-T1S-R10E
25 SW1/4 NW1/4 SEC 9-T1S-R10E
9 NW1/4 NW1/4 SEC 9-T1S-R10E
27 SE1/4 NW1/4 SEC 9-T1S-R10E
17 SW1/4 NE1/4 SEC 9-T1S-R10E
7 SE1/4 NE1/4 SEC 9-T1S-R10E

6 SE1/4 SW1/4 SEC 10-T1S-R10E
35 NW1/4 SW1/4 SEC 10-T1S-R10E
25 SW1/4 SW1/4 SEC 10-T1S-R10E

5 SW1/4 NW1/4 SEC 17-T1S-R10E
16 NE1/4 NW1/4 SEC 17-T1S-R10E
17 SE1/4 NW1/4 SEC 17-T1S-R10E
31 NW1/4 NW1/4 SEC 17-T1S-R10E
5 SE1/4 NE1/4 SEC 17-T1S-R10E
19 SW1/4 NE1/4 SEC 17-T1S-R10E
21 NE1/4 NE1/4 SEC 17-T1S-R10E
38 NW1/4 NE1/4 SEC 17-T1S-R10E

TOTAL ACRES IRRIGATED

1594

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) St. Germaine Ditch Co., Keith Ham, President
 Post Office Address HCR 36, Box 34 Caputa, South Dakota 57725
(Street, RR or Box) (State) (Zip Code)
A. Notice of Appropriation November 1, 1883 Date of Posting November 1, 1883
 Date of recording July 2, 1883 Recording date Pennington County D 455
Where Book Page
B. Date of start of construction of water supply system 1883C. Date that water was first applied to beneficial use 1884D. Name of owner of original water supply system Oliver St. GermaineE. Amount of water originally applied to beneficial use 8 cfs - November 1, 1883 20 cfs-October 1890F. Present Use of Water - Amount of water now being used irrigation 28 cfsDate that this water was first used soon after 1883

G. Chronological History of Water Use

1. Location Notice - Located November 1, 1883 - 8 cfs - #0528-2
2. Location Notice - Located October 30, 1890 - 20 cfs - #0527-2, recorded October 31, 1890, Pennington County Register of Deeds Book G, Page 32
3. 1591 acres continually irrigated since first appropriation in 1883.
4. Water has been put to beneficial use since ditch originated.

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)

ss

County of Pennington)

I, Keith Ham the applicant, certify that I have read the foregoing
(print or type)
 and that the matters therein stated are true.

Signed Keith HamSubscribed and sworn to before me October 1, 19872/25/91Lori Thom
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.

Keith Ham 10/1 1987
(Print name)

 _____ 19_____
(Print name)

Water Right Filing No. 0528-2

45776

Know All Men by These Presents: That Oliver St. Germain of the county of Pennington and Territory of Dakota claim by right of discovery and location, a certain water right appropriating Four hundred miners inches of water in Rapid Creek in the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 34, Township 1 North, Range 9 E.B.H.M which said water right is located for the purpose of irrigation and at a point on Rapid Creek in the above described forty acre lot marked and included by a surveyor's stake on the north bank of the said creek, and at the westerly end of the ditch survey made by Saml Scott about Nov. 1st 1882.

Said Irrigation Water Right was located on the 1st day of November A.D. 1883.

Date of Certificate July 1st A.D. 1883

Oliver St. Germain

Attest:

W.H. Mitchell

Name of Lode

Filed for Record this 2d day of

Irrigation Water Right

July A.D. 1883 at the hour of 1:25

Name of Locator

P.M. and duly recorded in Book D

Oliver St. Germain

Page No 455

J.S. Gantz

Recorder

By A.P. Sterling

Deputy Recorder

STATE OF SOUTH DAKOTA } ss.
COUNTY OF PENNINGTON

J. M. ... Register of Deeds,
in and for said County and State, do hereby
certify that the within and foregoing is a full,
true, complete and correct copy of the original
Water Right location as same
appeared in book D... page 405
at ... Records in my office.

Water Right Filing No. 0527-2

7625

"Certificate of Location. St. Germain Water Right".

To all whom it may concern: Take Notice, That I, the undersigned citizen of the United States and State of South Dakota, claim a Water Right under the laws of the United States and of said State of South Dakota, of One Thousand miners inches of the water of Rapid Creek, for mining, milling, manufacturing, agricultural and domestic uses and purposes, and conducted by means of ditches, dykes, flumes, piping and other usual water way appurtenances, as follows, to-wit: beginning at a point on said Rapid Creek N. 37 1/2. W. 553.74 feet from the South East corner of the North East quarter of Section number Thirty four (34) in Township number one (1) North of Range number Nine (9) East of the Black Hills Meridian; and raising the water of said Creek at said point four feet from low water mark; Running thence in a south easterly direction on the North side of said Rapid Creek a distance of eight miles and crossing the N.E. 1/4 and the S.E. 1/4 of said Section Thirty four, and the South Half of Sections numbered Thirty five and Thirty six in said Township No. 1. North of Range No. 9 East B.H.M., and the N.E. 1/4 of Section number Two and the N.E. 1/4 of Section No. 1 in Township No. 1 South of Range No. 9 E. H.M. This being an amended location of said water right, made for the purpose of more fully describing the same. Original location made July 1st, 1883. This amended location made this 30th day of October 1890, and dated on the ground.

Oliver St Germain

Locater

Filed for record this 31st day of October A.D. 1890, at 11

o'clock A.M. Recorded in Book "J" page 632

By an Laph... register of Deeds

By Jno. E. Halley Deputy

7625

"Certificate of Location. St. Germain Water Right".

To all whom it may concern: Take Notice, That I, the undersigned citizen of the United States and State of South Dakota claim a Water Right under the laws of the United States and of said State of South Dakota, of One Thousand miners inches of the water of Rapid Creek, for mining, milling, manufacturing, agricultural and domestic uses and purposes, and conducted by means of ditches, dykes, flumes, piping and other usual water way appliances, as follows, to-wit: beginning at a point on said Rapid Creek N. 37 12. W. 553.75 feet from the South East corner of the North East quarter of Section number Thirty four(34) in Township number one(1) North of Range number Nine(9) East of the Black Hills Meridian; and thence the water of said Creek at said point four feet from low water mark; Run thence in a south easterly direction on the North side of said Rapid Creek a distance of eight miles and crossing one N.E. 1/4 and the S.E. 1/4 of said Section Thirty four, and the South Half of Sections numbered Thirty five and Thirty six in said Township No. 1. North of Range No. 9 East B.H.M., and the N.E. 1/4 of Section number Two and the N.E. 1/4 of Section No. 1 in Township No. 1 South of Range No. 9 E. B.H.M. This being an amended location of said water right, made for the purpose of more fully describing the same. Original location made July 1st, 1883. This amended location made this 30th day of October 1890, and dated on the ground.

Oliver St Germain

Locust

Filed for record this 31st day of October A.D. 1890, at 11 o'clock A.M. Recorded in Book "C" page 652

By an Lamb Register of Deeds

By Jno. E. Bailey Deputy

Frank D. Wells, of Papia City, for defendant,
Russell, Gardner & Co., and
Richard L. Lewis, of Papia City, for respondents.
D. C. S.

The complaint, in substance, was as follows:

That plaintiff is a corporation organized under the laws of the State of South Dakota, its principal business being to divert water from Rapid Creek and distribute the same among its stockholders for irrigation purposes; that Rapid Creek is a non-navigable stream of water rising in the mountains about forty miles westward from Papia City, thence flowing eastward to the Cheyenne River; that plaintiff is the owner and in possession of certain real estate (60 feet by 100 yards, containing less than one acre, across which flows of said said Rapid Creek flows, also a certain dam constructed thereon together with a ditch and right of way extending from said dam in an easterly direction about eight miles in length on the north side of said creek; also a water right appurtenant thereto appropriating and entitling plaintiff to divert from said Rapid Creek through said dam 1000 miner's inches of water under a six inch pressure for purposes of mining, milling, manufacturing, agriculture and domestic use; that plaintiff's predecessor only located said water right and appropriated and diverted 400 miner's inches of said water on the first day of July, 1883, and thereafter on the 1st day of June, 1884, appropriated and diverted an additional 600 inches of said water, and at all times since said appropriation of water and its predecessor or have diverted the full amount of the water from the source of said creek and have at all times appropriated the same thereof for beneficial use, to-wit, irrigation of land requiring irrigation for agricultural purposes; that none of the defendants either are or claim to be owners of lands riparian to said creek; that the other defendants either

STATE EXHIBIT 117

CASE NO. 100-100

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... the allegation that plaintiff ...
... since 1890 plaintiff ...

[illegible]

-27.0

Know All to by These Presents: That Oliver St. Germain of the County of Pennington and Territory of Dakota claim by right of discovery and location a certain water right appropriating Four Hundred miners inches of water in Rapid Creek in the SW¹ of the NE¹ of Sec. 34, Township 1 North, Range 9 E.B.N.M. which said water right is located for the purpose of irrigation and at a point on Rapid Creek in the above described fort acre not marked and included by a surveyor's stake on the north bank of the said creek, and at the westerly end of the ditch survey made by Saml Scott about Nov. 1st 1882.

Said Irrigation Water Right was located on the 1st day of November A.D. 1883.

Date of Certificate July 1st A.D. 1883

Oliver St. Germain

Attest:

W.C. Mitchell

Name of Locator

Filed for Record this 2d day of

Irrigation Water Right

July A.D. 1883 at the hour of 1:25

Name of Locater

P.M. and duly recorded in Book D

Oliver St. Germain

Page No 455

J.S. Gentz

Recorder

By A.E. Sterling

Deputy Recorder

STATE OF SOUTH DAKOTA
COUNTY OF PENNINGTON

I, W.C. Mitchell, Register of Deeds, in and for said County and State, do hereby certify that the within and foregoing is a true, complete and correct copy of the original as the same appears in my office. Witness my hand and official seal this day of July, A.D. 1883.

W.C. Mitchell

AND ON MICROFILM WHICH MEET THE RECOMMENDED REQUIREMENTS OF THE NATIONAL BUREAU OF STANDARDS FOR PERMANENT MICROFILM REPRODUCTIONS. REDUCTION 25% ROLL NO 10

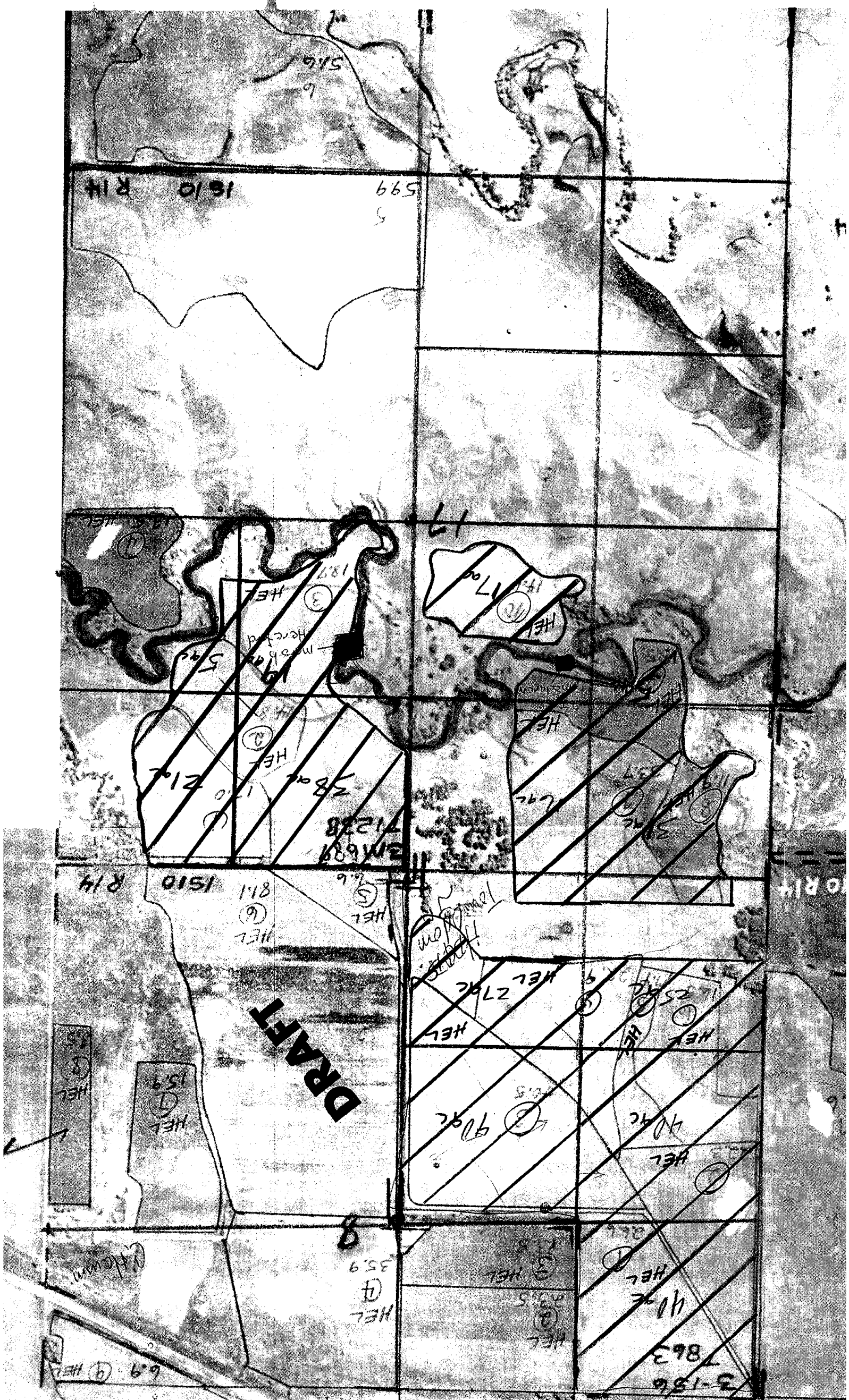
DATE MICROFILMED 3-16-82

CAMERA OPERATION

1-859-2317 Tom Odom Jr.

NOT TO SCALE





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HEL 4100

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

411004

Pierre, _____ October 6 _____, 19 87

RECEIVED OF St. Germaine Ditch, Keith Ham, Pres., HCR 36, Box 34, Caputa, SD 57725
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. <u>2037-2</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)

REPORT ON VESTED RIGHT APPLICATION NO. 2037-2
St. Germaine Ditch
October 20, 1987

Vested Right Application No. 2037-2 requests validation of a vested right claim to appropriate 28 cubic feet of water per second from Rapid Creek to irrigate 1594 acres. The claimed priority dates are November 1, 1883 for 8 cfs and October 30, 1890 for 20 cfs. The point of diversion is located in the SE1/4 of the NE1/4 of Section 34 - T1N - R9E, Pennington County.

DISCUSSION

Pursuant to SDCL 46-5-49 and ARSD 74:02:01:20, St. Germaine Ditch has submitted Application No. 2037-2 to validate a vested water right claim. The following findings are from the investigation on St. Germaine Ditch.

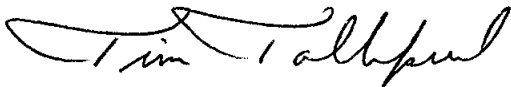
The original notice of water appropriation was filed with the Pennington County Register of Deeds and recorded in Book D, Page 455 of the Location Certificates. The notice claimed the right to 400 miner's inches of water or 8.0 cfs. The date of the recording was July 2, 1883 and the date of location was November 1, 1883. The Division of Water Rights has this certificate on file as Water Right Filing No. 0528-2. A second notice was filed with the Pennington County Register of Deeds and recorded in Book G, Page 632 of the Location Certificates. This notice claimed the right to 1000 miner's inches of water or 20 cfs. The date of recording was October 31, 1890 and the date of location was October 30, 1890. The Division of Water Rights has this certificate on file as Water Right Filing No. 0527-2. Both notices were filed by Oliver St. Germain.

St. Germaine ditch was investigated by Division of Water Rights engineers during the Fall of 1986 and the Summer of 1987. Water is diverted through a headgate by means of a diversion dam on Rapid Creek. A weir used to measure the ditch flow is located downstream from the headgate. The headgate is capable of diverting 28 cfs and the ditch is capable of carrying 28 cfs. This amount has been diverted and put to beneficial use in the past. Any surplus water or irrigation return flow is returned to Rapid Creek. There is approximately five miles of main ditch with laterals used to transport water to individual users on the ditch.

SDCL 46-5-6 allows the diversion of one cfs for each 70 acres of irrigation. Applying this rate to the number of acres claimed by this Vested Right Application, the total diversion rate allowed by state law would be 22.8 cfs. Considering the efficiency for flood irrigation is approximately 50%, a diversion rate of 28 cfs is practical for flood irrigation of 1594 acres.

CONCLUSIONS

1. Water Right Filings No. 0527-2 and 0528-2 claimed the right to divert 1000 and 400 miner's inches of water respectively. South Dakota statutes states that 1.0 cfs is equal to 50 miner's inches.
2. St. Germaine Ditch is capable of diverting and transporting 28 cfs claimed by this vested right application.
3. St. Germaine Ditch has diverted and put to beneficial use 28 cfs of water in the past.
4. The 28 cfs claimed in this vested right application is reasonable for flood irrigation of 1594 acres.
5. Water has been put to beneficial use continuously since the time the system was constructed.
6. It is recommended that Vested Right Application No. 2037-2 be validated with a priority date of November 1, 1883 for 8.0 cfs and October 30, 1890 for 20.0 cfs to irrigate 1594 acres.
7. It is recommended if Vested Right Application No. 2037-2 is validated, that the applicable portions of Water Right Filings No. 0527-2 and 0528-2 be incorporated into Vested Right No. 2037-2.



Tim Tollefsrud
Natural Resources Engineer

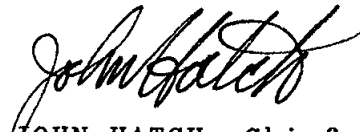
RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED WATER
RIGHT APPLICATION NO. 2037-2, St. Germaine Ditch

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. 2037-2, St. Germaine Ditch, c/o Keith Ham, President, HCR 36, Box 34, Caputa SD.

The Chief Engineer is recommending VALIDATION of Application No. 2037-2, for 28.0 cfs and that the applicable portions of Water Right Filings No. 0528-2 and No. 0527-2 have been incorporated into No. 2037-2, because 1) water has been appropriated as described for irrigation use with priority dates of November 1, 1883 for 8.0 cfs and October 30, 1890 for 20.0 cfs, 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 with the following qualifications.

1. That Vested Water Right No. 2037-2 is subject to domestic use rights. Diversion of natural flow water under Water Right No. 2037-2 is contingent upon supplies being available first to domestic users.
2. That a flow measuring device be maintained at or near the point of diversion for St. Germaine Ditch.

See the attached report for additional information.



JOHN HATCH, Chief Engineer
October 26, 1987



Department of Water & Natural Resources

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

October 28, 1987

RAPID CITY JOURNAL
PO Box 450
Rapid City SD 57701

Dear Sir:

Enclosed is a Notice of Hearing to Validate Vested Right Application No. 2037-2. Please publish this notice once each week for two consecutive weeks in your paper. The first publication should be on or before November 4, 1987.

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 St. Germaine Ditch, c/o Keith Ham, HCR 36 Box 34, Caputa SD.

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 by the Water Management Board until proof of publication has been received.

Sincerely,

Ron Duvall
Natural Resources Engineer
605 773-3352

enclosures

CUT HERE

FIRST TRANSMITTAL NOTICE

TO: Water Rights Division
Joe Foss Building
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 _____



Department of Water & Natural Resources

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

October 28, 1987

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

St. Germaine Ditch
c/o Keith Ham, President
HCR 36, Box 34
Caputa SD 57725

Dear Mr. Ham:

Your Application No. 2037-2 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 RAPID CITY JOURNAL printed at Rapid City 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 by the Water Management Board.

Sincerely,

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

Ron Duvall
Natural Resources Engineer
605 773-3352

enclosures

Instruction to Newspaper - Publish first publication of the following Notice on or before November 4, 1987 with 2nd publication 1 week later. The applicant is responsible for payment.

NOTICE OF HEARING To Validate
Vested Right Application No. 2037-2 to Appropriate Water

Notice is hereby given that St. Germaine Ditch, c/o Keith Ham, President whose mailing address is HCR 36, Box 34, Caputa, South Dakota has filed an application to validate a vested right claim to appropriate 28 cubic feet of water per second (cfs) total from Rapid Creek to irrigate 1,594 acres via the St. Germaine Ditch with claimed priority dates of November 1, 1883 for 8 cfs and October 30, 1890 for 20 cfs. The Rapid Creek diversion point for the St. Germaine Ditch is located in the SE 1/4 NE 1/4 Section 34, T1N, R9E. The irrigated acreage is located in the SE 1/4, Lots 1 thru 3 Section 1; NE 1/4 NE 1/4 Section 12; all in T1S, R9E: S 1/2 SW 1/4 Section 5; NW 1/4 SE 1/4, S 1/2 SE 1/4, E 1/2 SW 1/4, Lots 3 thru 6 Section 6; NW 1/4 SE 1/4, E 1/2 SE 1/4, SE 1/4 NW 1/4, N 1/2 NW 1/4, NE 1/4 Section 7; N 1/2 NE 1/4, SE 1/4 NE 1/4, NW 1/4, S 1/2 Section 8; SE 1/4 SE 1/4, N 1/2 SE 1/4, SW 1/4 SW 1/4, N 1/2 SW 1/4, W 1/2 NW 1/4, SE 1/4 NW 1/4, S 1/2 NE 1/4 Section 9; SE 1/4 SW 1/4, W 1/2 SW 1/4 Section 10; N 1/2 Section 17; all in T1S, R10E.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends VALIDATION of Vested Water Right Application No. 2037-2 for 28.0 cfs and that the applicable portions of Water Right Filings No. 0528-2 and 0527-2 be incorporated into No. 2037-2 because 1) water has been appropriated as described for irrigation with priority dates of November 1, 1883 for 8 cfs and October 30, 1890 for 20 cfs, 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 at Howard Johnson's, Roosevelt and Jefferson Rooms, Rapid City SD, December 2, 1987 at 1:00 pm.

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 20, 1987. 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; 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.

(continued)

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 20, 1987.

STATE OF SOUTH DAKOTA)
) ss.
County _____)

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

**South Dakota
Department of
Game, Fish and Parks**

Division of Wildlife
Sigurd Anderson Building
445 East Capitol
Pierre, South Dakota 57501-3185
(605) 773-3381

November 16, 1987



Mr. John Hatch, Chief Engineer
Division of Water Rights
S.D. Department of Water & Natural Resources
Joe Foss Building
Pierre, SD 57501

Dear Mr. Hatch:

Pursuant to the notice provided by the Chief Engineer under SDCL 46-2A-4 the South Dakota Department of Game, Fish and Parks intends to be a party to water right claim 2037-2 on Rapid Creek, Pennington County.

GF&P is an interested and potentially affected party by virtue of statutory authority to manage fish and wildlife resources of the state (SDCL Chapter 41). The pending water right claim could affect the quantity of water available for natural resource management.

Thank you for the opportunity to comment on this pending water right application.

Sincerely,

Richard J. Beringson
Secretary

RJB/lđ

cc: St. Germaine Ditch % Keith Ham, Pres.



City of Rapid City

RAPID CITY, SOUTH DAKOTA 57701

OFFICE OF CITY ATTORNEY

22 Main Street
Rapid City, South Dakota 57701
Telephone: 605-394-4140

November 20, 1987

John Hatch, Chief Engineer
South Dakota Department of Natural Resources
Water Rights Division
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181



RE: Application No. 2037-2

Dear Mr. Hatch:

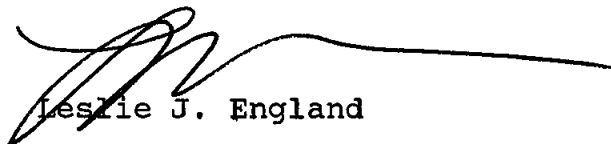
This will serve as the petition of the City of Rapid City as an interested party who may be affected by the above pending application.

The interest of the City of Rapid City in the pending application is that the City of Rapid City is a junior appropriator on Rapid Creek and has a contractual obligation to replace water taken into its municipal system for the benefit of the above referenced applicant. The Rapid City urban area including Rapid Valley and Ellsworth Air Force Base, has a population in excess of 70,000 people who are dependent upon Rapid Creek for daily water supply.

Please provide copies of the pertinent engineering reports, recommendations, and applications so that the City of Rapid City may determine whether it may support or oppose the pending application.

Yours very truly,

OFFICE OF THE CITY ATTORNEY



Leslie J. England

LJE/sd

cc: Keith Ham, St. Germaine Ditch Co.



EQUAL HOUSING
OPPORTUNITY

EQUAL OPPORTUNITY EMPLOYER

**South Dakota
Department of
Game, Fish and Parks**

**Division of Wildlife
Sigurd Anderson Building
445 East Capitol
Pierre, South Dakota 57501-3185
(605) 773-3381**

November 20, 1987

Mr. John Hatch, Chief Engineer
Division of Water Rights
S.D. Department of Water & Natural Resources
Joe Foss Building
Pierre, SD 57501



Dear Mr. Hatch:

Pursuant to the filings made by the S.D. Department of Game, Fish and Parks to the attached list of applicants, some confusion exists regarding the intent of the filings. For your information when dealing with inquiries to the nature of the GF&P interest in the upcoming hearings the following information should be useful.

GF&P intends to participate in the upcoming water right validations by supporting the water rights staff recommendations that will bring each water right into legal compliance with existing laws, e.g. appropriate quantities of water for the land base, appropriately sized and gauged headgates for the right in question, abandonment of unused quantities of water, etc. GF&P filed with your office and each applicant so that we would officially be parties to the hearing process and be able to carry out the mandated duties of the Department under SDCL Chapter 41. We also are of the opinion that the Department would have been negligent in not participating in proceedings that relate to water resource allocation directly affecting waters that support fish and wildlife values.

I hope this information will aid you in describing the nature of the interest the Department of Game, Fish and Parks has in the upcoming proceedings. If you have any questions you can contact me at 773-5511.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ron Koth".

Ron Koth
Water Permits Coordinator

RK/ld

November 24, 1987
(date)

page 1

Parties of Record before Water Management Board regarding Vested Right
Application No. 2037-2, St. Germaine Ditch

For:

Keith Ham, President
St. Germaine Ditch
HCR 36, Box 34
Caputa, SD 57725

Interested:

Leslie J. England, attorney
City of Rapid City
22 Main Street
Rapid City SD 57701

Richard Beringson, Secretary
SD Dept of Game, Fish & Parks
Anderson Bldg., 445 E Capital
Pierre SD 57501



Department of Water & Natural Resources

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

MAY 2 1988

St. Germaine Ditch
c/o Keith Ham, President
HCR 36, Box 34
Caputa, South Dakota 57725

Dear Mr. Ham:

Enclosed are your Validated Vested Water Right and Water License No. 2037-2.
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 cursive script that reads "John Hatch". The signature is written in dark ink and is positioned above the typed name and title.

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

JH:ms

enclosures

 **Department of
Water & Natural Resources**

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

December 18, 1989

**NOTICE OF REQUEST TO
REMOVE TREES FROM DITCH**

TO: St. Germaine Ditch
c/o Keith Ham
HCR 36, Box 34
Caputa SD 57725

FROM: JOHN HATCH, Chief Engineer 
Water Rights Division

SUBJECT: REQUEST To Remove Trees And Brush FROM ST. GERMAINE DITCH AND/OR RIGHTS OF WAY

Pursuant to SDCL 46-1-4, 46-2-17 and 46-7-3 St. Germaine Ditch Company is REQUESTED to remove trees and brush from St. Germaine Ditch, canals, laterals and/or rights of way prior to diverting water from Rapid Creek for the 1990 irrigation season. The roots of larger trees located within the ditches or on ditch embankments need to be removed and resulting holes backfilled with impervious material. Smaller trees and brush need to be trimmed to the ground and treated to prevent regrowth. Trees and brush consume water and contribute to water loss from a ditch. Decayed roots of trees located within ditches or on embankments can provide channels for water to leak or seep from the ditch. Where ditch embankments could fail and cause flooding, decaying tree roots provide channels ("piping") which can result in embankment failure.

All trees and brush that may be located within a ditch, or on ditch embankments, and/or within approximately five feet of the edge of the ditch need to be removed. Where wider rights of way exist, it may be prudent to leave older trees and shrubs that are important to adjacent property owners.

Please advise by February 2, 1990 if your Ditch Company intends to comply with this request or if you would like to have a hearing before the State Water Management Board. The Board will be meeting in Rapid City March 7 & 8, 1990.

If you have questions on this request, please contact Del Brosz (605 773-3352) or myself.

cc: Eddie Taylor, Vice President
Dale Hendrickson, Secretary/Treasurer

CERTIFICATION

I hereby certify that on December 18, 1989 I have personally deposited with the U.S. Mail postage prepaid envelopes containing a Notice of Request to Remove Trees From Ditch addressed as stated below:

St. Germaine Ditch, c/o Keith Ham
HCR 36, Box 34
Caputa, SD 57725

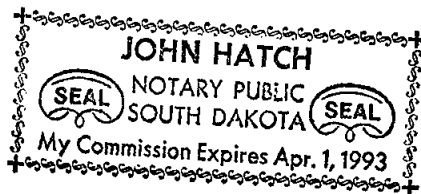
Vice President: Eddie Taylor
HCR 36, Box 60
Caputa, SD 57725

Secretary/Treasurer: Dale Hendrickson
1655 E. 27th Str.
Rapid City, SD 57701

Karen Schlaak
KAREN SCHLAACK
Senior Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 19th day of December, 1989.



John Hatch
Notary Public



January 21, 1990

John Hatch
Water Rights Division
Department of Water & Natural Resources
523 E. Capitol
Pierre, SD 57501-3181

Re: Tree Removal

Dear Mr. Hatch:

In answer to your notice dated December 12, 1989, we don't plan to comply with the request. We would also like to have a hearing before the State Water and Management Board.

Please advise as to the dates of the hearing.

Sincerely,

Keith Ham, President
St. Germain Ditch

SOUTH Dakota Department of
Water & Natural Resources

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

January 29, 1990

NOTICE

TO: St. Germaine Ditch
c/o Keith Ham, President
HCR 36, Box 34
Caputa SD 57725

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



SUBJECT: Hearing to Consider Noncompliance with Request to
Remove Trees and Brush from St. Germaine Ditch and/or
Rights of Way

Pursuant to the Notice from the Chief Engineer dated December 18, 1989, a request was made to remove trees and brush from St. Germaine Ditch, canals, laterals and/or rights of way prior to diverting water for the 1990 irrigation season. On January 24, 1990, your letter was received refusing to comply with the request to remove of trees and brush from St. Germaine Ditch.

The Water Management Board will consider your refusal to comply during a hearing scheduled for 1:30 pm on March 7, 1990, in the Roosevelt/Jefferson Room, Howard Johnson's, 2211 LaCrosse Street, Rapid City SD. The agenda time is an estimate. The actual time of hearing may be later than 1:30 pm due to prior agenda items.

After all evidence is taken at the hearing, the Board is authorized to: 1) order removal of trees and brush from St. Germaine Ditch as outlined in the Notice dated December 18, 1989, 2) take no action, 3) amend Vested Water Right No. 2037-2 to add qualifications, 4) defer action or do some combination of the above. The Board has legal authority and jurisdiction to consider this matter and may amend Vested Water Right No. 2037-2 pursuant to SDCL 46-1-4, 46-1-14, 46-2-3.1, 46-2-5, 46-2-9, 46-2-11, 46-2-17 and 46-7-3.

This hearing is an adversary proceeding. You have the right to be represented by a lawyer. 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 for by law.

cc: John Haak, Assistant Attorney General
Eddie Taylor, Vice President
Dale Hendrickson, Secretary/Treasurer

CERTIFICATION

I hereby certify that on January 29, 1990 I have personally deposited with the U.S. Mail postage prepaid envelopes containing a Notice of Hearing to Consider Noncompliance with Request to Remove Trees From Ditch addressed as stated below:

St. Germaine Ditch, c/o Keith Ham
HCR 36, Box 34
Caputa, SD 57725

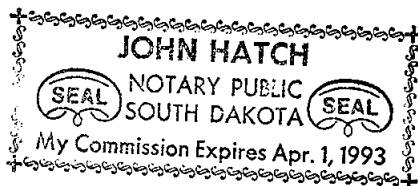
Vice President: Eddie Taylor
HCR 36, Box 60
Caputa, SD 57725

Secretary/Treasurer: Dale Hendrickson
1655 E. 27th Str.
Rapid City, SD 57701

Karen Schlaak
KAREN SCHLAACK
Senior Secretary

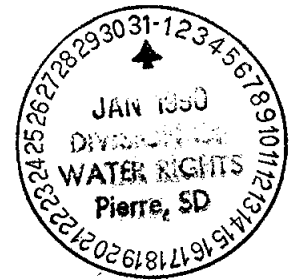
STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 2nd day of February, 1990.



John Hatch
Notary Public

P.O. Box 65
Caputa, SD 57725
January 30, 1990



John Hatch, Chief Engineer
Water Rights Division
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

SUBJECT: REQUEST to Remove Trees and Brush from the St. Germain Ditch.

This request to remove all trees and shrubs approximately five feet within the edge of the ditch is out of line. It would be criminal to cut some of the beautiful large cottonwood trees that have struggled to overcome all of nature's forces. Second our water resource starts from the Pactola area where thousands of thirsty pines drink the valuable water before it ever enters into the dam. After leaving the dam the precious resource flows down Rapid Creek where thousands of various species of trees survives off this flow. Also along the creek below the Water Treatment Plant hundreds of trees are dead or dying causing blockage and piping.

I do feel some cleaning and clearing of ditches could be beneficial to utilize the waterflow without extreme side effects. Dead and dying trees should be removed, willow and other bushes with large appetites for water and also sentiment that slows and erodes could all be helpful conserving moisture.

I am very concerned about our water situation and to its preservation in Western South Dakota. My water rights are very vital to the crop production and property value of my land.

Another factor that enters into this request that makes it unacceptable at this time is the security of my water rights. The city fathers of Rapid City are putting extreme pressure on the legality of my water rights. My future is uncertain, we have no grantees that water will continue to flow in the St. Germain.

My conclusion, is that with the drought combined with the "green house effect", to cut any healthy trees would be wrong. President Brush has just proposed a new budget including millions of dollars to plant trees in our country to combat carbon dioxide from our atmosphere. Your public department is advising cutting trees when you should be encouraging the planting of trees to restore moisture and clean air.

I will fight this issue; if necessary by informing the news media, signing petitions or what ever means required.

Sincerely


Sandra S. Mitchell

ssm
cc: Del Brosz



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 10, 1991

Jim Hollenbeck
Farm Credit Services
PO Box 3130
Rapid City, SD 57709-3130

Dear Mr. Hollenbeck:

Enclosed, as requested, are copies of the following:
Water Right No. 937-2B, Ham Ranch Inc,
Vested Water Right No. 2037-2, St Germaine Ditch

If you have any questions, please contact me.

Sincerely,

Genny McMath
Natural Resources Analyst
(605) 773-3352

enclosures

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 12, 1993

NOTICE

TO: Keith Ham
St Germaine Ditch Company
HCR 36 Box 34
Caputa, SD 57725

FROM: JOHN HATCH, CHIEF ENGINEER
Water Rights Division
(605) 773-3352

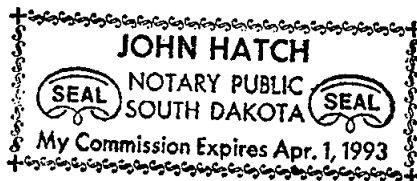
SUBJECT: Request for Continued Sealing and Maintenance of Rapid Valley Irrigation Ditches.

Pursuant to SDCL 46-1-4, 46-2-17 and 46-7-3, I am contacting the St Germaine Ditch Company to remind the Ditch owners of the need to continue with irrigation ditch and lateral maintenance. The Water Management Board is concerned with water loss from and the maintenance of Rapid Valley Ditches. Targeted areas include: repair and sealing of identified high seepage areas within the ditch, small tree and brush removal, and ditch channel cleaning and shaping.

I am requesting that St Germaine Ditch Company submit, to the Division of Water Rights by August 1, 1993, a list of repairs and improvements performed on the ditch since August 1, 1992.

If you have any questions, please contact Mark Rath or Del Brosz, Division of Water Rights, 523 E Capitol Ave, Pierre, SD 57501. Phone (605) 773-3352.

cy: Rapid Valley Water Conservancy District
US Bureau of Reclamation



Minutes of the 1993 Annual Meeting of the
St. Germain Irrigating Co.

The annual meeting was held March 18, 1993 at 7:30 PM at the Capata Community Center. Stockholders present were Ham Rauch, Ed Taylor, Tom Gilles, Toni Sime, Bill Mitchell, Charles Harrington, Amos Sandridge, Dean Sime, Marsh Hereford Rauch. Also present was Bud Martin.

Minutes of the 1992 annual meeting were read and approved.

The Treasurers report was approved.

Marsh moved that an assessment of \$0.75 per ~~share~~ ^{share} be levied. The motion was seconded by Taylor and carried.

Items of ditch maintenance to be done this spring:

Spray the ditch after green-up.

Replace culvert in Harrington place.

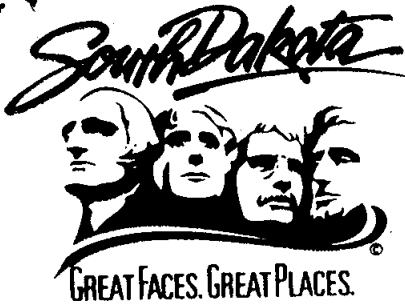
This maintenance plan was moved by Sandridge, ~~and~~ seconded by Gilles and carried.

Marsh requested that the Ditch Co. make application for an additional point of diversion to permit Marsh Hereford Rauch to pump their portion of the company water right directly from the creek. Harrington made a motion to make this application, seconded by Ham and carried.

Sandridge moved, seconded by Gilles that all officers and directors be re-elected. Motion carried.

Marsh moved, second by Taylor that meeting adjourn. Motion carried.

Jerry Marsh, Sec.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 26, 1993

Keith Ham
St. Germaine Ditch Company
HCR 36 Box 34
Caputa, SD 57725

Dear Mr. Ham:

I am writing in reference to your proposal to add a diversion point for St. Germaine ditch. I am enclosing application forms and the instruction sheet for your use in applying for this change. You will need to complete, sign before a notary public, and submit the forms to this office along with a \$50 fee, a soils map and a signed map showing the irrigated land and diversion point. Because the proposed diversion point will be at a distance greater than 2000 feet from the original point of diversion, the Conservation Commission rules require Soil/Water Compatibility approval. You should follow the procedure on the instruction sheet for the taking and testing of the water sample. If you have any questions concerning this procedure, contact Jim Stukel with the Division of Conservation, 445 E Capitol Ave, Pierre SD 57501. Phone 773-3258.

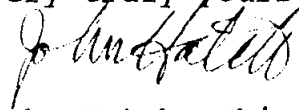
A procedure for transferring or adding diversion points from a ditch requires that the carriage water (percentage of ditch loss) remain in the ditch to protect against detriment to the other water users on the ditch. This percentage of ditch loss may be determined by using data obtained by US Bureau of Reclamation for the 1990 Rapid Valley Water Management Study. Other items that will need to be addressed to add a diversion point are:

1. Creek loss from the St Germaine headgate to the new diversion point. There is little or no data available that addresses this. The permit would have to be qualified such that the Water Management Board retains jurisdiction, if problems arise.
2. We believe that the lateral currently used to supply water to the irrigated property will need to be blocked at a point just past where the last remaining irrigator takes water.

3. A measuring device will need to be installed at the new diversion point to monitor the amount of water diverted.

If you have any questions concerning this matter, you should contact Mark Rath at phone (605) 773-3352.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John Hatch".

John Hatch, Chief Engineer
Water Rights Division

enclosure

cy: Jim Stukel, Division of Conservation



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 7, 1993

Keith Ham
St. Germaine Ditch Company
HCR 36 Box 34
Caputa, SD 57725

Dear Mr. Ham:

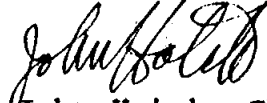
This letter is in reference to your proposed application to add a diversion point to St. Germaine Ditch. On May 3, 1993 I was contacted by Mr. Jerry Marsh concerning this proposal. At that time, Mr. Marsh brought some items to my attention which I would like to address in this letter.

When a diversion point is added to a ditch, the accepted procedure requires carriage water to remain in the ditch to protect the other water users on the ditch against detriment caused by transferring the water to the new diversion point. The percentage of water required to remain in the St. Germaine ditch for this purpose is 27 percent based on 1990 US Bureau of Reclamation figures. The addition of a single diversion point such as you are proposing may produce no noticeable effects to the other irrigators but, if in the future more diversion points are added, the effects will probably become more noticeable. Mr. Marsh indicated the other irrigators on the ditch were willing to waive their right to be protected. The Division of Water Rights will not require the carriage water to remain in the ditch if an affidavit containing the signatures of all the remaining irrigators, waiving their right for protection, is submitted with the application.

Mr. Marsh also addressed the issue of the statutory requirement for a soil-water compatibility permit. The Division of Water Rights requires a water permit application to add a diversion point as specified in South Dakota Codified Laws (SDCL) 46-5-13.1 and 46-5-31. The Department of Agriculture requires a person applying for a water permit, to also apply for a soil-water compatibility permit as specified in SDCL 46-5-6.2 and 46-5-6.5 at the same time, even though the land has been historically irrigated. If you have a question pertaining to the application for a soil-water compatibility permit, you should contact Jim Stukel with the Division of Conservation, phone (605) 773-3258.

If you have any additional questions concerning this matter, please contact Mark Rath at phone (605) 773-3352.

Very truly yours,

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

John Hatch, Chief Engineer
Water Rights Division

c: Jerry Marsh
Jim Stukel, Division of Conservation

Division of Environmental Regulation

Point Source Control Program

Water Quality Certification (401 Certification)

Applicant: St. Germain Ditch Company
Keith Ham, President.
15565 Hammerquist Road
Caputa SD 57725

Site Location: Pennington County - S34, T1N, R9E

Type of Permit: US COE 404 permit

Permit Number: 199430450

Description of Activity: Stabilization of irrigation dam (headgate)- broken concrete

Purpose of Activity: Prevent possible failure due to deteriorated condition of existing structure

Waters Potentially Affected: Rapid Creek

Certification Decision: Grant on 1-9-95 with standard conditions

State Contact: Joan Bortnem

Division of Environmental Regulation

Point Source Control Program

Water Quality Certification (401 Certification)

Applicant: Miner County Highway Department
Thomas Mentele, Supt.
P.O. Box 246
Howard SD 57349

Site Location: Miner County - S16, T105N, R58W

Type of Permit: US COE 404 permit

Permit Number: 199430575

Description of Activity: Culvert replacement and excavation to original elevation

Purpose of Activity: Facilitate drainage ditch and improve road conditions

Waters Potentially Affected: Upland wetlands; Bennett-Root & Hoffman, Petz, Brooks
drainage ditches; Downstream wetlands including Glee Lake

Certification Decision: Granted 1-3-95 with appropriate conditions

State Contact: Joan Bortnem

May 27, 1997

John Hatch
Chief Engineer
Water Rights Division
Joe Foss Building
523 E. Capitol
Pierre, SD 57501-3181



Re: St. Germain Ditch Diversion

Dear John:

Enclosed are copies of Minutes of the March 18, 1993, meeting concerning the point of diversion change. I have contacted, by phone, all the members of the St. Germain Ditch, and they are still in agreement with the diversion for Marsh Hereford Ranch, and Joe and Tim McClaren, formerly the Odom and Odom property.

Also, enclosed is a map of the point of diversion from Rapid Creek, the land descriptions are as follows:

Marsh Hereford Ranch:

Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of Section 17, Range One (1), Ten (10) East of the Black Hills Meridian, Pennington County, South Dakota.

Joe and Tim McClaren:

Southwest Quarter of the Northwest Quarter (SW1/4NW1/4) of Section 17, Range One (1), Ten (10) East of the Black Hills Meridian, Pennington County, South Dakota.

If you need anything further, please don't hesitate to contact me at the address and/or numbers listed below.

Sincerely,

Keith Ham
President, St. Germain Ditch
15565 Hammerquist Road
Caputa, SD 57725
605/393-0198 or 605/393-1829

Water Rights Division - DENR

Conversation or File Documentation

Name of Person: **Keith Ham, St. Germaine Ditch** File No. **2037-2**
Address: **15565 Hammerquist Road, Caputa, SD** County: **Pennington**
Date: **6/9/1997 - 6/26/1997** Telephone: **605-393-0198**
RE: **St. Germaine diversion point change request.**

Comments:

6/9/97 - Keith Ham called to find out the status of the diversion point change request. I told him that I was currently working on it.

6/12/97 - I called Keith Ham explained what we were proposing using the pro-rata share of water based upon acreage to allocate the water to the diversion points. He said that the ditch allocates the water based upon the number of shares the ditch members has and not by acreage. He said he would talk to the members about our suggestion and I told him I would look into what he was proposing. He said he would call me back.

6/16/97 - Keith Ham called, I told him that I had talked to John Hatch about the ditch share problem and that we were proposing that the diversion rates for the two diversion points be set based upon the property owners share in the ditch. I also told him that the diversion rate at the headgate would be reduced accordingly. He said he would get back to me on this.

6/16/97 - Keith Ham called and said he wanted a draft copy of what we were proposing, which I sent to him.

6/26/97 - Keith Ham called, he said that because we would not allow them to transfer water back and forth between the three diversion points under the authority to make diversion point changes pursuant to 46-5-13.1, they wanted to reduce the request. The St. Germaine Ditch now requests one additional diversion point (No. 2) to be located in the S1/2 NW1/4 of Section 17 T1S-R10E which is associated with the McClaren shares (298.67 of 2000) in St. Germaine Ditch. He indicated that if they decide to pursue being able to transfer water back and forth between diversion points they would come in with a new application. I suggested that they contact us prior to making the application to make sure all bases are covered.



Mark D Rath
Natural Resources Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 18, 1997

Keith Ham
St. Germaine Ditch
15565 Hammerquist Road
Caputa, SD 57725

Dear Mr. Ham:

I am writing this letter in regard to your June 18, 1997, telephone call concerning the St. Germaine Ditch diversion point change request. I am enclosing a draft of the diversion point change request document for vested water right No. 2037-2. Please review the document to ensure that it describes your request adequately, including the share allocations. The irrigated acres listed are taken directly from the validated vested water right for St. Germaine Ditch. After reviewing the document please contact me so that we can with processing the request.

If you have any questions, please contact me at phone (605) 773-3352.

Sincerely,

Mark D. Rath
Natural Resources Engineer
Water Rights Program

DRAFT

File No. 2037-2

Approval of Location Change and/or Additional Diversion Point(s)

NAME: St. Germaine Ditch, % Keith Ham, President

ADDRESS: 15565 Hammerquist Road; Caputa, SD 57725

DATE: 6/11/1997

COUNTY: Pennington

TELEPHONE: 605-393-0198

AUTHORITY:

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

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

The source of the water is from Rapid Creek. The vested water right holder is requesting two additional diversion points on Rapid Creek to be located in the S1/2 NW1/4 (diversion pt No. 2) and the SW1/4 NE1/4 (diversion pt No. 3) of Section 17 T1S-R10E for the St. Germaine Ditch.

The St Germaine Ditch water right No. 2037-2 was validated for 28 cfs to irrigate 1594 acres. The ditch company has historically allocated water to the land based upon the number of shares of water the individual ditch members own in the ditch company. The St. Germaine Ditch is requesting that the amount of water supplied to members from the new diversion points be based upon the shares in the ditch company and that the associated ditch carriage loss portion need not remain in the ditch. There are a total of 2000 shares of water in the St. Germaine Ditch, with 298.67 shares of water (4.18 cfs) to be taken at diversion point No. 2 and 166.67 shares of water (2.33 cfs) to be taken at diversion point No. 3. Therefore, the authorized diversion rate at the St. Germaine headgate (diversion point No. 1) located in the SE1/4 NE1/4 of Section 34 T1N-R9E would be reduced from 28.0 cfs to 21.49 cfs.

- **If irrigation, no new land is irrigated (All the following land located in T1S-R10E)**

From diversion pt No. 2 there is to be 241 acres irrigated (4.18 cfs) located as follows:

SW1/4 NW1/4 Sec 8 - 40 ac	NW1/4 SW1/4 Sec 8 - 40 ac	NE1/4 SW1/4 Sec 8 - 40 ac
SW1/4 SW1/4 Sec 8 - 25 ac	SE1/4 SW1/4 Sec 8 - 27 ac	NW1/4 NW1/4 Sec 17 - 31 ac
NE1/4 NW1/4 Sec 17- 16 ac	SW1/4 NW1/4 Sec 17 - 5 ac	SE1/4 NW1/4 Sec 17 - 17 ac

From diversion point No. 3 there is to be 83 acres irrigated (2.33 cfs) located as follows:

NW1/4 NE1/4 Sec 17 - 38 ac	NE1/4 NE1/4 Sec 17 - 21 ac	SW1/4 NE1/4 Sec 17 - 19 ac
SE1/4 NE1/4 Sec 17- 16 ac		

DRAFT

- **Review of Existing Diversions**

The two new diversion points will be located between 4 and 5 miles downstream on Rapid Creek from diversion point No. 1. There are two existing water right/permits Nos. 1746-2 and 1746A-2 for a single irrigation system that diverts from Rapid Creek between the original St. Germaine Ditch diversion point and the proposed diversion points. There should not be any adverse impacts to this irrigation system or to other existing downstream water rights by these proposed changes.

RECOMMENDED ACTION

It is recommended that:

1. The authorized diversion rate for diversion point No. 2 located in the S1/2 NW1/4 of Section 17 T1S-R10E be 4.18 cfs for the irrigation of 241 acres.
2. The authorized diversion rate for diversion point No. 3 located in the SW1/4 NE1/4 of Section 17 T1S-R10E be 2.33 cfs for the irrigation of 83 acres.
3. The authorized diversion rate for the original St Germaine Ditch diversion point (No. 1) located in the SE1/4 NE1/4 of Section 34 T1N-R9E be decreased from 28.0 cfs to 21.49 cfs for the irrigation of 1270 acres.

Mark D. Rath, Natural Resources Engineer
Water Rights Program

The Chief Engineer makes a finding pursuant to SDCL 46-5-13.1 that:

This change in location does not increase the potential for interference with existing diversions. In making this finding, "does not increase the potential for interference" is interpreted to mean potential for adverse interference. Approval of new diversion points No. 2 for 4.18 cfs and No. 3 for 2.33 cfs reduces the diversion rate at diversion point No. 1 to 21.49 cfs.

John Hatch, Chief Engineer
Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 27, 1997

Keith Ham
St. Germaine Ditch
15565 Hammerquist Road
Caputa, SD 57725

Dear Mr. Ham:

I have enclosed a copy of the approved diversion point change request for St. Germaine Ditch which is allowed pursuant to 46-5-13.1. This change allows for one additional diversion point with an authorized diversion rate of 4.18 cfs with a subsequent reduction of the diversion rate at the original St. Germaine headgate diversion point from 28.0 cfs to 23.82 cfs.

If you have any questions, please contact me at phone (605) 773-3352.

Sincerely,

Mark D. Rath
Natural Resources Engineer
Water Rights Program

enclosure

c: Joe McClaren
Duane Scott, Water Master
Jerry Hammerquist, RVWCD
Steve Murphy, RVWC
Dan Bjerke, City of Rapid City
Curt Anderson, USBOR

Approval of Location Change and/or Additional Diversion Point(s)

NAME: St. Germaine Ditch, % Keith Ham, President

ADDRESS: 15565 Hammerquist Road; Caputa, SD 57725

DATE: 6/27/1997

COUNTY: Pennington

TELEPHONE: 605-393-0198

AUTHORITY:

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

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

The source of the water is from Rapid Creek. The vested water right holder is requesting one additional diversion point on Rapid Creek to be located in the S1/2 NW1/4 (diversion pt No. 2) of Section 17 T1S-R10E for the St. Germaine Ditch.

The St Germaine Ditch water right No. 2037-2 was validated for 28 cfs to irrigate 1594 acres. The ditch company has historically allocated water to the land based upon the number of shares of water the individual ditch members own in the ditch company. The St. Germaine Ditch is requesting that the amount of water supplied to members from the new diversion point be based upon the shares in the ditch company and that the associated ditch carriage loss portion need not remain in the ditch. There are a total of 2000 shares of water in the St. Germaine Ditch, with 298.67 shares of water (4.18 cfs) to be taken at diversion point No. 2. Therefore, the authorized diversion rate at the St. Germaine headgate (diversion point No. 1) located in the SE1/4 NE1/4 of Section 34 T1N-R9E would be reduced from 28.0 cfs to 23.82 cfs.

- **If irrigation, no new land is irrigated**

All of the following acres were included when Vested Water Water Right No. 2037-2 was validated.

From diversion pt No. 2 there is to be 241 acres irrigated (4.18 cfs) all in T1S-R10E. and located as follows:

SW1/4 NW1/4 Sec 8 - 40 ac	NW1/4 SW1/4 Sec 8 - 40 ac	NE1/4 SW1/4 Sec 8 - 40 ac
SW1/4 SW1/4 Sec 8 - 25 ac	SE1/4 SW1/4 Sec 8 - 27 ac	NW1/4 NW1/4 Sec 17 - 31 ac
NE1/4 NW1/4 Sec 17- 16 ac	SW1/4 NW1/4 Sec 17 - 5 ac	SE1/4 NW1/4 Sec 17 - 17 ac

- **Review of Existing Diversions**

The new diversion point will be located approximately 4 miles downstream on Rapid Creek from diversion point No. 1. There are four existing water right/permits Nos. 652-2, 981-2, 1746-2 and 1746A-2 for irrigation that divert from Rapid Creek between the original St. Germaine Ditch diversion point and the proposed diversion point. There should not be any adverse impacts to these irrigation systems or to other existing downstream water rights by these proposed changes.

RECOMMENDED ACTION

It is recommended that:

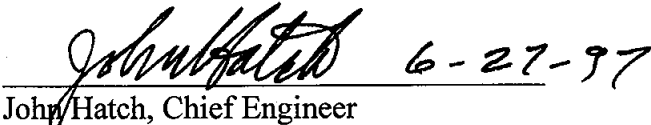
1. The authorized diversion rate for diversion point No. 2 located in the S1/2 NW1/4 of Section 17 T1S-R10E be 4.18 cfs for the irrigation of 241 acres.
2. The authorized diversion rate for the original St Germaine Ditch diversion point (No. 1) located in the SE1/4 NE1/4 of Section 34 T1N-R9E be decreased from 28.0 cfs to 23.82 cfs for the irrigation of 1353 acres.



Mark D. Rath, Natural Resources Engineer
Water Rights Program

The Chief Engineer makes a finding pursuant to SDCL 46-5-13.1 that:

This change in location does not increase the potential for interference with existing diversions. In making this finding, "does not increase the potential for interference" is interpreted to mean potential for adverse interference. Approval of new diversion point No. 2 for 4.18 cfs reduces the diversion rate at diversion point No. 1 to 23.82 cfs.



John Hatch, Chief Engineer
Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

AUG 8 1997

2037-2

Keith Ham
St. Germaine Ditch
15565 Hammerquist Rd
Caputa, SD 57725

Dear Mr. Ham:

Enclosed is Reissued Vested Right Water License No. 2037-2. The license has been reissued to add a diversion point on Rapid Creek in the S½ NW¼ Section 17, T1S, R10E. The license further clarifies the diversion rate, acreage irrigated and priority dates associated with each diversion point.

As long as you use the water beneficially, as stated in the license, SD Water Laws provide that you have a continuing right to the use of the water. If you have any questions concerning the reissued license, please contact Mark Rath with our program at (605) 773-3352.

Very truly yours,

John Hatch, Chief Engineer
Water Rights Program
(605) 773-3352

enclosure

STATE OF SOUTH DAKOTA
REISSUED VESTED RIGHT WATER LICENSE NO. 2037-2 FOR
IRRIGATION

(1) St Germaine Ditch, % Keith Ham was issued Vested Right Water License No. 2037-2, May 2, 1988, to appropriate 28.0 cubic feet of water per second (cfs) from Rapid Creek, Pennington County, South Dakota, for irrigation purposes. Vested Water Right No. 2037-2 was validated December 2, 1987 with priority dates of November 1, 1883 (8.0 cfs) and October 30, 1890 (20.0 cfs). 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.

The St Germaine Ditch water right was validated for 28.0 cfs to irrigate 1,594 acres from a diversion point located in the SE¼ NE¼ Section 34, T1N, R9E. The vested water right holder requested one additional diversion point on Rapid Creek to be located in the S½ NW¼ Section 17, T1S, R10E.

The Chief Engineer made a finding pursuant to SDCL 46-5-13.1 that the change in location does not increase the potential for interference with existing diversions. In making the finding, "does not increase the potential for interference" is interpreted to mean potential for adverse interference.

Vested Water Right License No. 2037-2 is being reissued to include the additional diversion point (No. 2). The authorized diversion rate for diversion point No. 2 in the S½ NW¼ Section 17 is 4.18 cfs for the irrigation of 241 acres. The authorized diversion rate for the original diversion point (No. 1) located in the SE¼ NE¼ of Section 34 is decreased from 28.0 cfs to 23.82 cfs for irrigation of 1,353 acres.

(2) The vested right owner is entitled to divert 28.0 cubic feet of water per second for beneficial use. The location of the diversion points are: No. 1 - SE¼ NE¼ Section 34, T1N, R9E (N13°W of the SE corner) and No. 2 - S½ NW¼ Section 17, T1S, R10E.

Diversion point No. 2, carries a priority date of October 30, 1890 for diversion of 4.18 cfs to irrigate the following 241 acres of land:

T1S, R10E Sec. 8	SW¼ NW¼	40 acres	T1S, R10E Sec 17	SW¼ NW¼	5 acres
				NE¼ NW¼	16 acres
	SW¼ SW¼	25 acres		SE¼ NW¼	17 acres
	SE¼ SW¼	27 acres		NW¼ NW¼	31 acres
	NE¼ SW¼	40 acres			
	NW¼ SW¼	40 acres			

continued

Page 2

Vested Water Right License No. 2037-2

St Germaine Ditch

Diversion point No. 1, carries a priority date of October 30, 1890 for diversion of 15.82 cfs and a priority date of November 1, 1883 for diversion of 8.0 cfs to irrigate the following 1,353 acres of land:

T1S, R9E Sec. 1	NW¼ SE¼	8 acres	T1S, R10E Sec 8	NE¼ NE¼	13 acres
	SW¼ SE¼	10 acres		NW¼ NE¼	24 acres
	SE¼ SE¼	35 acres		SE¼ NE¼	10 acres
	NE¼ SE¼	40 acres		NE¼ NW¼	21 acres
	Lot 1	16 acres		NW¼ NW¼	40 acres
	Lot 2	24 acres		SE¼ NW¼	40 acres
	Lot 3	1 acre			
T1S, R9E Sec 12	NE¼ NE¼	6 acres		NW¼ SE¼	40 acres
				SE¼ SE¼	12 acres
T1S, R10E Sec 5	SE¼ SW¼	18 acres		NE¼ SE¼	26 acres
	SW¼ SW¼	33 acres		SW¼ SE¼	39 acres
T1S, R10E Sec 6	NW¼ SE¼	17 acres	T1S, R10E Sec 9	SE¼ SE¼	1 acre
	SE¼ SE¼	35 acres		NW¼ SE¼	8 acres
	SW¼ SE¼	37 acres		NE¼ SE¼	15 acres
	NE¼ SW¼	32 acres		SW¼ SW¼	4 acres
	SE¼ SW¼	40 acres		NE¼ SW¼	29 acres
				NW¼ SW¼	38 acres
	Lot 3	17 acres			
	Lot 4	26 acres		SW¼ NW¼	25 acres
	Lot 5	36 acres		NW¼ NW¼	9 acres
	Lot 6	36 acres		SE¼ NW¼	27 acres
T1S, R10E Sec 7	NW¼ SE¼	4 acres		SW¼ NE¼	17 acres
	SE¼ SE¼	5 acres		SE¼ NE¼	7 acres
	NE¼ SE¼	34 acres			
			T1S, R10E Sec 10	SE¼ SW¼	6 acres
	SE¼ NW¼	18 acres		NW¼ SW¼	35 acres
	NW¼ NW¼	35 acres		SW¼ SW¼	25 acres
	NE¼ NW¼	40 acres			
			T1S, R10E Sec 17	SE¼ NE¼	5 acres
	SW¼ NE¼	36 acres		SW¼ NE¼	19 acres
	NW¼ NE¼	40 acres		NE¼ NE¼	21 acres
	E½ NE¼	80 acres		NW¼ NE¼	38 acres

continued

Page 3

Vested Water Right License No. 2037-2

St Germaine Ditch

(3) Pursuant to Section 46-5-30.1 St. Germaine Ditch, % Keith Ham, 15565 Hammerquist Road, Caputa, SD 57725 the holder and/or owner of Vested Water Right No. 2037-2 is issued a license to appropriate 28.0 cubic feet of water per second from Rapid Creek with a priority dates of November 1, 1883 (Diversion point #1 - 8.0 cfs) and October 30, 1890 (Diversion point #1 - 15.82 cfs and Diversion point #2 - 4.18 cfs) from the locations 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. 2037-2 and subject to South Dakota State Law.



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

AUG 8 1997

date





United States Department of the Interior



BUREAU OF RECLAMATION

Dakotas Area Office

P.O. Box 1017

Bismarck, North Dakota 58502

IN REPLY REFER TO:

DK-500 (Barrios)

October 11, 2000

Mr. Jerry Hammerquist
President, Board of Directors
Rapid Valley Water Conservancy District
P.O. Box 26
Caputa SD 57725

Subject: Contract Administration Memorandum, Contract No. 11r-1413, Rapid Valley Project
(Deerfield), South Dakota

Dear Mr. Hammerquist:

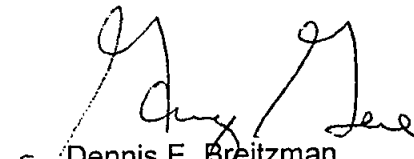
During technical discussions regarding renewal of the Rapid Valley Water Conservancy District's (District) long-term contract for water from Pactola Reservoir, the District asked Reclamation to clarify how acreage limitation provisions of contract 11r-1413 (Contract) are administered. This letter is Reclamation's response to the District's request.

Article 34 of the Contract provides that no water shall be delivered through or by means of the project works to or for more than 160 acres of irrigable land owned by a single landowner.

Reclamation considers the District to be in compliance with this article as long as the District can demonstrate that, during any 24-hour period, the quantity of water delivered by Reclamation to the District under the Contract does not exceed the quantity of water which the District delivers to single farm units of 160 acres or less. Put another way, the District would need to have water sources other than project water for any deliveries to acreages in excess of 160 acres owned by a single landowner.

If you have any questions regarding this letter or any further questions, please contact Rich Barrios of my staff at 701-250-4242, extension 3305.

Sincerely,


Dennis E. Breitman
Area Manager



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 30, 2012

No. 2037-2

Keith Ham
PO Box 18
Caputa, SD 57725

Dear Mr. Ham:

This letter is in regards to your March 29, 2012 request for a variance allowing St. Germaine Ditch to divert from Rapid Creek for irrigation covered by Water Permit No. 2037-2 prior to April 15 as listed on the water right.

Effective immediately your request is granted allowing you to divert Rapid Creek water for irrigation as authorized by Permit No. 2037-2. This variance is only in effect for the current calendar year.

If you have any questions, please contact me at phone (605) 773-3352.

Sincerely,

Mark D. Rath
Natural Resources Engineer III
Water Rights Program

St. Germain Irrigating Company

Caputa, SD 57725

March 19, 2019

Jeanne Goodman, Chief Engineer

South Dakota DENR

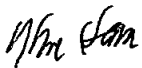
Water Rights Division

Office of Chief Engineer

Subject: Additional Point of Diversion

The St. Germain Irrigating Co. (Ditch) is the holder of water permit #2037-2 with priority date of November 11, 1881 and October 10, 1890, granting the ditch a right of 28 CFS at a diversion point in Section 34, Township 1 North, 9 East BHM. The ditch is requesting that the Chief Engineer grant an additional point of diversion for the Ditch Co. (SDCL 46-5-13.1), to be located on Rapid Creek Lot 9 of Tract C of Hook J Subdivision, situated in the SE ¼ of Section 1, Township 1 S, Range 9 E of the Black Hills Meridian, Pennington County (See attached Map), presently owned by Doug Birkeland a Shareholder of 63.11 shares of 2000 total shares in the Ditch Company, to supply water to 22 acres. This portion of the ditch water right will be diverted at such times and in such amounts as are determined by the Ditch Company, President or his appointed Agent. At those times when this additional point of diversion is not active, the full amount of the ditch right will be available at the principal point of diversion. At this additional point of diversion, the water will be pumped from Rapid Creek and distributed by gate pipe and/or gravity flow ditches. It is understood that the total of the several points of diversion shall not exceed the Ditch Co. right except in times of excess in the stream as determined by the Conservancy District Water Master. The land to be irrigated is located a considerable distance from the principal Ditch Co. canal. The Ditch loss and the maintenance problems create an excessive waste of water and causes the present usage to be impractical.

Sincerely,



Keith Ham, President

St. Germain Irrigating Co.

Attached:

Map of 22 acres

2019 St. Germain Irrigating Company, Meeting Minutes

MINUTES
2019 ANNUAL MEETING
ST. GERMAIN IRRIGATING CO.

THE ANNUAL MEETING OF THE ST. GERMAIN IRRIGATING CO WAS HELD ON JANUARY 8, 2019. PRESIDENT KEITH HAM CALLED THE MEETING TO ORDER AT 7:00 PM.

STOCKHOLDERS PRESENT OR REPRESENTED WERE

Doug Birkeland	Doris Harrington by Keith Ham
Caputa Land Company by Shawn Freeland	Roy Hendrickson
Bill Gickling c/o Monty Williams	Dean Sime
Ham Ranch, Keith & Morgan	Eddie Taylor
H&H Land Company #2 by Pat Hall, Brian	
Hammerbeck and Rory Hammerbeck	

ALSO IN ATTENDANCE:
STEVEN BRASSFIELD

THE SECRETARY READ THE MINUTES OF THE PREVIOUS MEETING. ROY HENDRICKSON MADE A MOTION TO APPROVE THE MINUTES, SECONDED BY MONTY WILLIAMS AND CARRIED.

SHAWN FREELAND READ THE TREASURE REPORT. MONTY WILLIAMS MADE A MOTION TO APPROVE THE REPORT, SECOND BY ROY HENDRICKSON AND CARRIED.

ELECTION OF OFFICERS:

MONTY WILLIAMS MADE A MOTION TO RE-ELECT KEITH HAM, SECONDED BY SHAWN FREELAND; MONTY WILLIAMS MADE A MOTION TO RE-ELECT SHAWN FREELAND SECOND BY ROY HENDRICKSON; EDDIE TAYLOR NOMINATED ROY HENDRICKSON FOR VICE PRESIDENT. OFFICERS ELECTED BY UNANIMOUS VOTE.

UNFINISHED BUSINESS:

NEW BUSINESS:

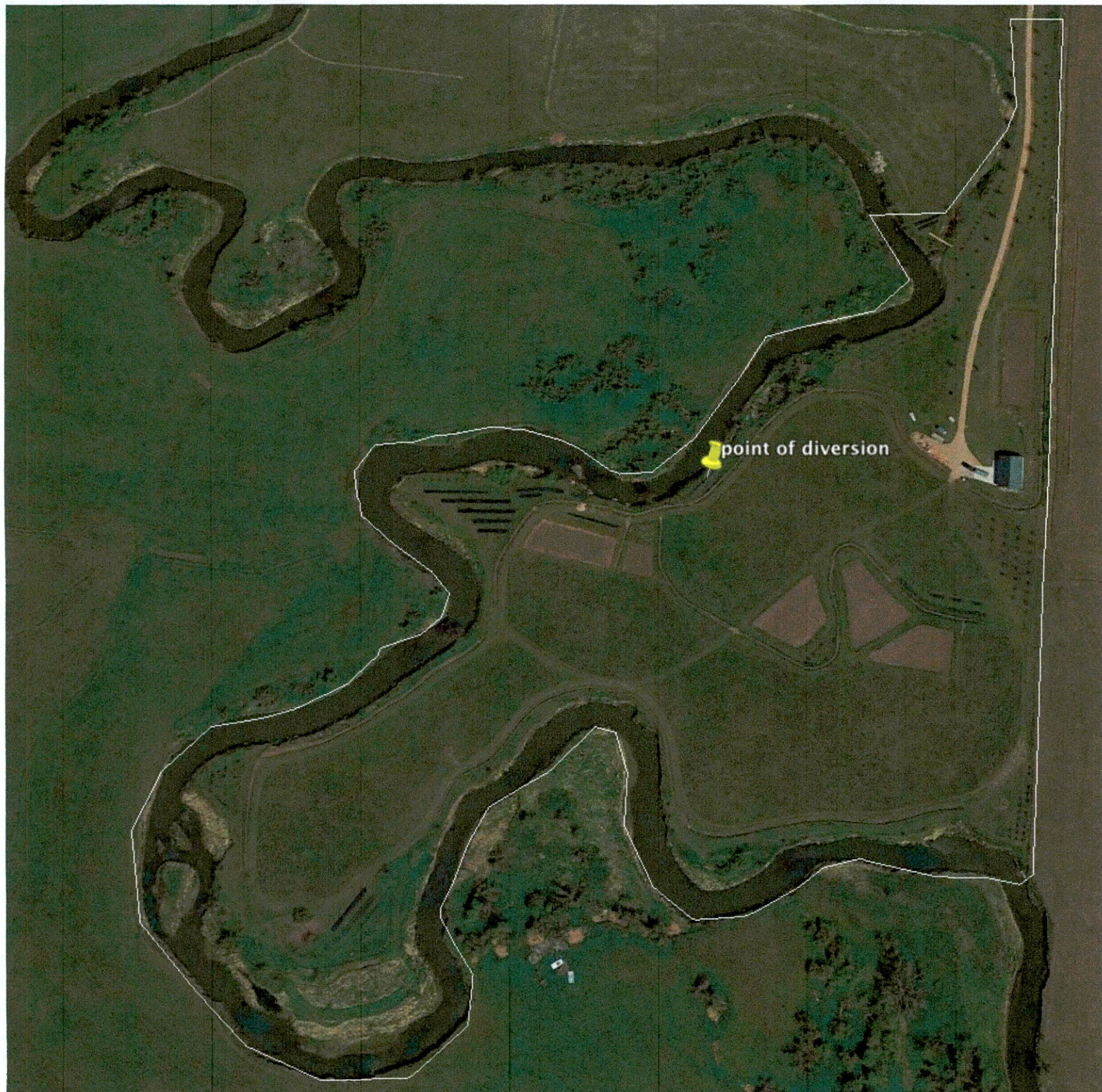
KEITH HAM HAS FOUR HOURS OF BACKHOE LABOR FOR OPENING UP THE DITCH AT \$20/HOUR FOR MACHINE AND \$10/HOUR FOR LABOR.

MONTY WILLIAMS MOTION TO APPROVE \$2.25 BE CHARGED ON SHARES AND \$1.00 ACRE ASSESSMENTS FOR THE RVWCD, SECONDED BY EDDIE TAYLOR AND CARRIED.

DOUG BIRKELAND BROUGHT FORTH DOCUMENTION AND REQUEST TO CHANGE POINT OF DIVERSION. AFTER SOME DISUCSSION, MONTY WILLIAMS MADE A MOTION TO ACCEPT DOUG BIRKELAND'S REQUEST, SHAWN FREELAND SECONDED MOTION AND CARRIED.

MONTY WILLIAMS MADE A MOTION TO PAY THE CAPUTA COMMUNITY CENTER \$50 FOR TONIGHT'S MEETING USE, SEONCED BY ROY HENDRICKSON AND CARRIED

EDDIE TAYLOR MADE A MOTION TO ADJOURN THE MEETING, SECONDED BY DEAN SIME AND CARRIED.



Approval of Additional Diversion Points

NAME: St. Germaine Ditch, % Keith Ham, President

ADDRESS: 15565 Hammerquist Road, Caputa, SD 57725

DATE: 5/23/19 **COUNTY:** Pennington **TELEPHONE:** 605-393-0198

AUTHORITY:

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

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

The source of the water is from Rapid Creek. The vested water right holder is requesting two additional diversion points on Rapid Creek to be located in the SW¼ NE¼, Section 17, T1S-R10E (diversion pt. No. 3) and the W½ SE¼ Section 1, T1S-R9E (diversion pt. No. 4).

Water Right No. 2037-2 held by St. Germaine Ditch Company was validated for 28 cubic feet of water per second (cfs) for irrigation of 1594 acres. The ditch company has historically allocated water to the land based upon the number of shares of water the individual ditch member own in the ditch company. The St Germaine Ditch is requesting that the amount of water supplied to members from the new diversion points be based upon the shares in the ditch company and the associated ditch carriage loss portion need not remain in the ditch. There are a total of 2000 shares of water in the St. Germaine Ditch, with 298.67 shares of water (4.18 cfs) already authorized to be taken at diversion point No. 2. The vested water right holder requests that 166.67 shares of water (2.33 cfs) be taken at diversion point No. 3 and 63.11 shares of water (0.88 cfs) to be taken from diversion point No. 4. The authorized combined diversion rate of St. Germaine diversion points cannot exceed 28.0 cfs.

- **If irrigation, no new land is irrigated**

Based on a 1974 S.D. Supreme Court decision in O.A. Jewett et al., v. Redwater Irrigating Association, and also upheld in the S.D. Water Management Board's Findings of Fact/Conclusions of Law for Vested Water Right No. 2479-2, that pre-1907 water rights held by water companies are not appurtenant to the land unless the by-laws or plan of organization of the water company expressly provide to the contrary.

- **Review of Existing Diversions**

Low flows as needed for downstream domestic use, including livestock watering and prior water rights must be by-passed. The new diversion points will be located on Rapid Creek approximately 4 miles downstream from the original St. Germaine Ditch diversion point No. 1. There are four existing water right/permits (Nos. 652-2, 981-2, 1746-2 and 1746A-2) that are authorized for irrigation that divert from Rapid Creek between the original St. Germaine diversion point and the proposed diversion points. There should not be any adverse impact to these irrigation systems or to other existing downstream water rights by these proposed changes.

RECOMMENDED ACTION

It is recommended that:

The additional diversion points, (No. 3 located in the SW¼ NE¼ Section 17, T1S-R10E and No. 4 located in the W½ SE¼ Section 1, T1S-R9E), be added to Vested Water Right No. 2037-2. The combined diversion rate of all St. Germaine diversion points cannot exceed 28.0 cfs.



Aaron Tieman, Natural Resources Engineer
Water Rights Program

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

These proposed additional diversion points will not increase the potential for adverse interference to existing diversions.



Jeanne Goodman, P.E., Chief Engineer
Water Rights Program

RECEIVED

MAY-30 2019

WATER RIGHTS
PROGRAM

May 27, 2019

Jeanne Goodman, Chief Engineer
South Dakota DENR
Water Rights Division
Joe Foss Building
523 E. Capitol
Pierre SD 57501-3181

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

Re: Diversion Point for Valley Ranch f/k/a Marsh Hereford Ranch

Dear Jeanne & Aaron:

Per your request to the above, Valley Ranch f/k/a Marsh Hereford Ranch, a shareholder in the St. Germain Irrigating Company have 166.67 shares, which allows the 2.33 CFS of water.

Should you need anything further, please don't hesitate to contact me.

nhm

Keith Ham, President
St. Germain Irrigating Company
PO Box 18
Caputa SD 57725



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

June 14, 2019

Keith Ham
St. Germaine Ditch
15565 Hammerquist Road
Caputa SD 57725

Dear Mr. Ham:

Vested Water Right License No. 2037-2 appropriates water from Rapid Creek for irrigation as follows: 23.82 cubic feet of water per second (cfs) from diversion point No. 1 in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 34-T1N-R9E for irrigation of 1353 acres and 4.18 cfs from diversion point No. 2 in the S $\frac{1}{2}$ NW $\frac{1}{4}$ Section 17-T1S-R10E for irrigation of 241 acres.

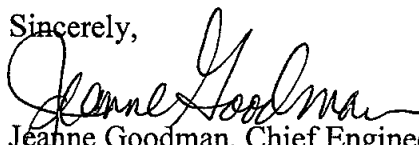
St. Germaine Ditch filed a request for authorization for two additional pump sites to be authorized for irrigation of existing land covered by Vested Water Right No. 2037-2. They are:
Diversion Point No. 3 -- SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 17-T1S-R10E (2.33 cfs / 83 acres)
Diversion Point No. 4 -- W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 1-T1S-R9E (0.88 cfs / 22 acres)

Upon review of the request and pursuant to SDCL 46-5-13.1, the additional pump site locations are authorized without application or publication of a notice of hearing pursuant to SDCL 46-2A-4.

Granting the additional diversion points does not authorize an increase in the total authorized diversion rate of 28.0 cfs appropriated under Vested Water Right No. 2037-2. At no time may the combined diversion rate from Rapid Creek exceed 28.0 cfs.

If you have any questions, please contact Aaron Tieman at (605) 773-3352.

Sincerely,


Jeanne Goodman, Chief Engineer
Water Rights Program

Approval of Location Change and/or Additional Diversion Point(s)**NAME:** St. Germaine Ditch Company, c/o Keith Ham, President**ADDRESS:** PO Box 18, Caputa, SD 57725**DATE:** February 2, 2022**COUNTY:** Pennington**TELEPHONE:** 605-393-0198**BACKGROUND:**

Vested Water Right No. 2037-2, held by St. Germaine Ditch Company, authorizes a maximum instantaneous diversion rate of 28.0 cubic feet of water per second (cfs) from Rapid Creek for the irrigation of 1,594 acres. Of the total diversion authority, 8 cfs has a priority date of November 1, 1883 and 20 cfs has a priority date of October 30, 1890. St. Germaine Ditch Company has historically allocated water to the land based upon the number of shares of water each individual ditch member owns within the ditch company. St. Germaine Ditch Company is requesting that the amount of water supplied to members from the new diversion point be based upon the shares in the ditch company and the associated ditch carriage loss portion need not remain in the ditch.

There are a total of 2000 shares of water in St. Germaine Ditch, with 298.67 shares of water (4.18 cfs) authorized to be withdrawn at diversion point No. 2, 166.67 shares of water (2.33 cfs) authorized to be withdrawn at diversion point No. 3, and 63.11 shares of water (0.88 cfs) authorized to be withdrawn from diversion point No. 4.

St. Germaine Ditch Company is requesting an additional diversion point (No. 5) on Rapid Creek, located in the SE ¼ SE ¼ of Section 6-T1S-R10E. The proposed diversion point is located on land presently owned by H & H Land Company #2, LLC, who is a shareholder with 532.5 shares within St. Germaine Ditch Company. This portion of Vested Water Right No. 2037-2 will be 1.0 cfs (with a priority date of October 30, 1890) diverted at the same point of diversion as is authorized by Water Permit No. 652-2, held by H & H Land Company #2, LLC. The water authorized by Vested Water Right No. 2037-2 and associated with this request, and the water authorized by Water Permit No. 652-2, will be comingled to supply a center pivot, at such times and in such amounts as are determined by St. Germaine Ditch Company, President, or appointed Agent. At those times when the additional diversion point (No. 5) is not active, the full amount of Vested Water Right No. 2037-2 will be available at the principal point of diversion (diversion point No. 1).

AUTHORITY:

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

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

The water source remains as Rapid Creek. The maximum instantaneous diversion rate from each diversion point authorized by Vested Water Right No. 2037-2 may collectively not exceed 28.0 cfs.

- **If irrigation, no new land is irrigated**

Based upon a 1974 SD Supreme Court decision, O.A. Jewett et al., v. Redwater Irrigating Association, and also upheld in the SD Water Management Board's Findings of Fact, Conclusions of Law, and Final Decision for Vested Water Right No. 2479-2, that pre-1907 water rights held by water companies are not appurtenant to the land unless the by-laws or plan of organization of the water company expressly provide to the contrary.

- **Review of Existing Diversions**

Low flows as needed for downstream domestic use, including livestock watering and prior water rights must be by-passed. The new diversion point will be located on Rapid Creek approximately 2.9 miles downstream from the original St. Germaine Ditch Company diversion point No. 1. There are two existing water rights/permits (Nos. 1746A-2 and 1831-2) that are authorized to divert from Rapid Creek for irrigation use between the original St. Germaine Ditch Company diversion point and the proposed additional diversion point. There is a reasonable probability that the additional diversion point will not unlawfully impair these irrigation systems or other existing downstream water rights/permits.

RECOMENNDED ACTION:

Based on the above criteria, it is recommended that the additional diversion point be added to Vested Water Right No. 2037-2. The maximum instantaneous diversion rate from each diversion point authorized by Vested Water Right No. 2037-2 may collectively not exceed 28.0 cfs.

Nakaila Steen, Natural Resources Engineer I
Water Rights Program

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

This change in location and/or additional diversion point(s) does not increase the potential for adverse effects to existing diversions.



Eric Gronlund, Chief Engineer
Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

February 2, 2022

Keith Ham, President
St. Germaine Ditch Company
PO Box 18
Caputa SD 57725

Dear Mr. Ham,

Vested Water Right License No. 2037-2 authorizes a maximum instantaneous diversion rate of 28.0 cubic feet of water per second (cfs) from Rapid Creek for the irrigation of 1,594 acres. The diversion point authorizations are as follows: 20.61 cfs from diversion point No. 1 in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 34-T1N-R9E for the irrigation of 1,248 acres; 4.18 cfs from diversion point No. 2 in the S $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 17-T1S-R10E for the irrigation of 241 acres; 2.33 cfs from diversion point No. 3 in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 17-T1S-R10E for the irrigation of 83 acres; 0.88 cfs from diversion point No. 4 in the W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 1-T1S-R9E for the irrigation of 22 acres.

St. Germaine Ditch Company filed a request for an additional diversion point (No. 5) to what is currently authorized by Vested Water Right No. 2037-2 for the irrigation of existing land authorized by Water Permit No. 652-2.

Diversion Point No. 5 -- SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 6-T1S-R10E (1.0 cfs / 97 acres) with a priority date of October 30, 1890.

Upon review of the request and pursuant to SDCL 46-5-13.1, the additional diversion point to be located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 6-T1S-R10E is authorized without application or publication of a notice of hearing pursuant to SDCL 46-2A-4. No increase in the authorized diversion rate of 28.0 cfs from the five diversion points is authorized.

If you have any questions, please contact me at (605) 773-3352.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program

St. Germain Irrigating Company

P.O. Box 18

Caputa, SD 57725

RECEIVED

DEC 29 2021

WATER RIGHTS
PROGRAM

December 27, 2021

Chief Engineer

South Dakota DANR

Water Rights Division

Office of Chief Engineer

Subject: Additional Point of Diversion

The St. Germain Irrigating Co. (Ditch) is the holder of water permit #2037-2 with priority date of November 11, 1881 and October 10, 1890, granting the ditch a right of 28 CFS at a diversion point in Section 34, Township 1 North, 9 East BHM. The ditch is requesting that the Chief Engineer grant an additional point of diversion for the Ditch Co. (SDCL 46-5-13.1), to be located on Rapid Creek, situated in the SE ¼ SE ¼ of Section 6, Township 1 S, Range 10 E of the Black Hills Meridian, Pennington County (See attached Map), presently owned by H & H Land Company #2, LLC a Shareholder of 532.5 shares of 2000 total shares in the Ditch Company. This portion of the ditch water right will be 1 CSF diverted to the same point of diversion as permit #652-2, also under H & H Land Company #2, LLC. These waters will be co-mingled for a center pivot, at such times and in such amounts as are determined by the Ditch Company, President or his appointed Agent. At those times when this additional point of diversion is not active, the full amount of the ditch right will be available at the principal point of diversion. At this additional point of diversion, the water will be pumped from Rapid Creek and distributed by center pivot. It is understood that the total of the several points of diversion shall not exceed the Ditch Co. right except in times of excess in the stream as determined by the Conservancy District Water Master. The land to be irrigated is located a considerable distance from the principal Ditch Co. canal. The Ditch loss and the maintenance problems create an excessive waste of water and causes the present usage to be impractical.

Sincerely,

Keith Ham, President

St. Germain Irrigating Co.

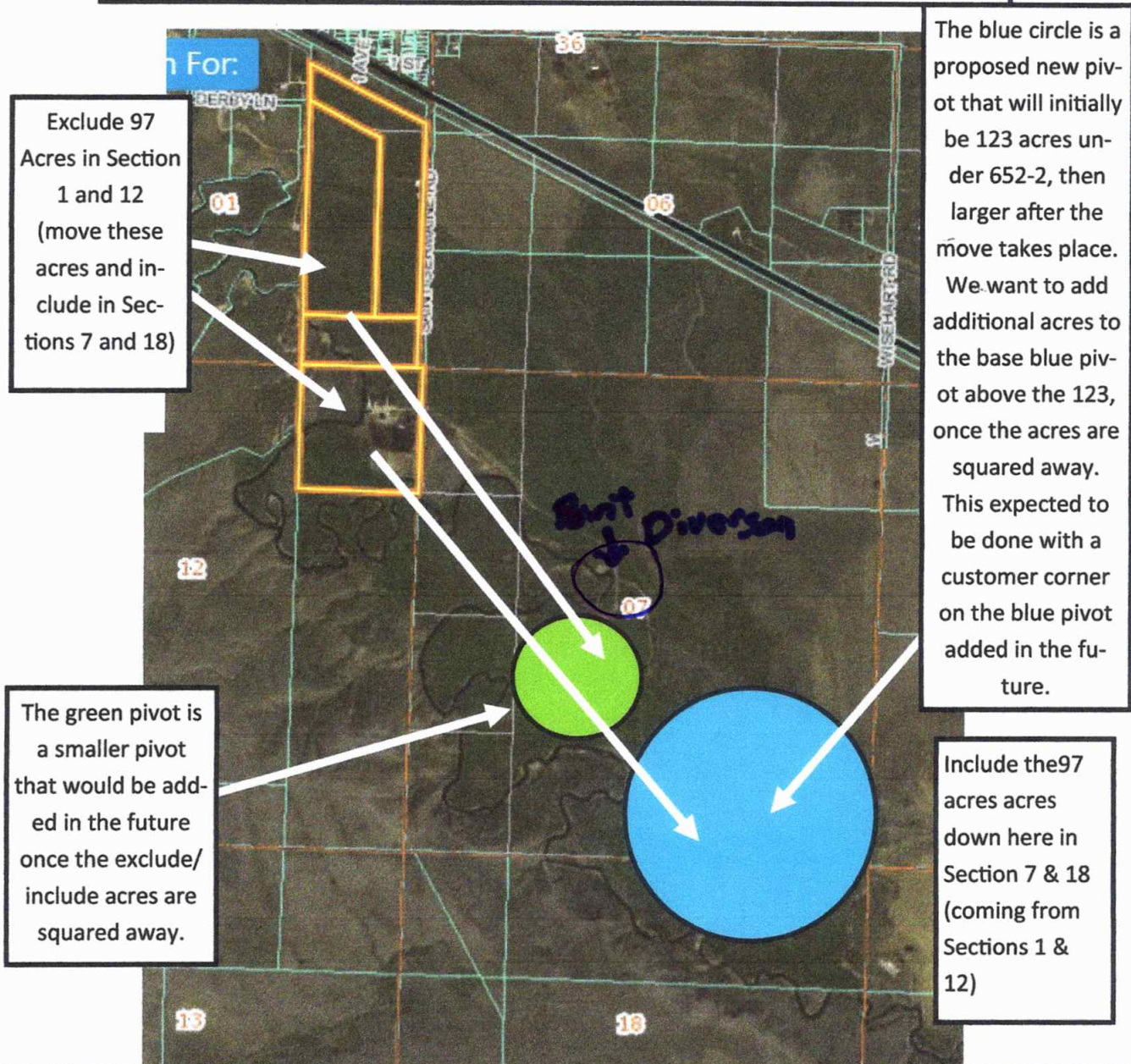
Attached:

Map of Center Pivot & Point of Diversion

September 2, 2021 St. Germain Irrigating Company, Meeting Minutes

H&H Land Co #2 LLC

August 18, 2021



I think how this works after talking with Ginger is that the 97 acres stay in SGIC, but we exclude / remove the 97 acres from Sections 1 and 12 and include / add the 97 acres to Sections 7 and 18. Then I change the diversion point to come off Rapid Creek (get approvals as required), but the 97 acres stay within SGIC and HH2's acres / ownership in SGIC stays the same.

MINUTES
2021 SPECIAL MEETING
ST. GERMAIN IRRIGATING CO.

The special meeting of the St. Germain Irrigating Co. was held on September 2, 2021. President Keith Ham called the meeting to order at 11:00 AM.

Stockholders present or represented were:

Caputa Land Company by Shawn Freeland	H&H Land Company 2 by Brian Hammerbeck
Doug Birkland	Roy Hendrickson
Lee Brassfield	Dean Sime
Joe Gilles	Tony Root
Ham Ranch, Keith	
Doris Harrington by Keith Ham	
Eddie Taylor	

Others present or represented were:

Kellen Willert, attorney for St. Germain Irrigating Company

After discussion regarding easement versus ownership of ditch right of way through Lepp's (Caputa Alpacas) property, Brian Hammerbeck made a motion to ask the court for a summary judgment of actual ownership of Lepp forty-foot right of way, Joe Gilles second, motion carried unanimously.

Discussion on H&H point of diversion. H&H would like to put in up to a 167 acre pivot on their lower field and pump out of Rapid Creek. The point of diversion would be at the old Sander's diversion:

SEC7, T1S, R10E, SE1/4 of NW1/4.

Shawn Freeland made a motion to approve point of diversion with stipulation H&H bring forth gallons per minute pump requirements, Roy Hendrickson second, motion carried unanimously.

H&H Motion to adjourn, Eddie Taylor second, motion carried.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

RAPID CITY ONE-STOP
221 MALL DRIVE, SUITE 201
RAPID CITY, SD 57701
danr.sd.gov

February 15, 2024

Keith Ham, President
St. Germaine Ditch Company
PO Box 18
Caputa SD 57725

Dear Mr. Ham,

Vested Water Right License No. 2037-2 authorizes a maximum instantaneous diversion rate of 28.0 cubic feet of water per second (cfs) from Rapid Creek for the irrigation of 1,594 acres. The diversion point authorizations are as follows: 19.61 cfs from diversion point No. 1 in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 34-T1N-R9E for the irrigation of 1,248 acres; 4.18 cfs from diversion point No. 2 in the S $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 17-T1S-R10E for the irrigation of 241 acres; 2.33 cfs from diversion point No. 3 in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 17-T1S-R10E for the irrigation of 83 acres; 0.88 cfs from diversion point No. 4 in the W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 1-T1S-R9E for the irrigation of 22 acres; and 1.0 cfs from diversion point No. 5 in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 6-T1S-R10E for the irrigation of 97 acres.

St. Germaine Ditch Company filed a request for an additional diversion point (No. 5) to what is currently authorized by Vested Water Right No. 2037-2 for the irrigation of existing land authorized by Water Permit No. 652-2.

Diversion Point No. 5 -- SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 6-T1S-R10E (4.0 cfs / 97 acres) with a priority date of October 30, 1890. (1 cfs for same 97 acres authorized in 2021)

Upon review of the request and pursuant to SDCL 46-5-13.1, the additional diversion point to be located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 6-T1S-R10E is authorized without application or publication of a notice of hearing pursuant to SDCL 46-2A-4. No increase in the authorized diversion rate by Vested Water Right No. 2037-2 is requested. The maximum instantaneous diversion rate from diversion points authorized by Vested Water Right No. 2037-2 may collectively not exceed 28.0 cfs **at any time**.

If you have any questions, please contact me at (605) 773-3352.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program

Approval of Additional Diversion Point Location

NAME: St. Germaine Ditch Company, c/o Keith Ham, President

ADDRESS: PO Box 18, Caputa, SD 57725

DATE: February 14, 2024

COUNTY: Pennington

TELEPHONE: 605-393-0198

BACKGROUND:

Vested Water Right No. 2037-2, held by St. Germaine Ditch Company, authorizes a maximum instantaneous diversion rate of 28.0 cubic feet of water per second (cfs) from Rapid Creek for the irrigation of 1,594 acres. Of the total diversion authority, 8 cfs has a priority date of November 1, 1883, and 20 cfs has a priority date of October 30, 1890. St. Germaine Ditch Company has historically allocated water to the land based upon the number of shares of water each individual ditch member owns within the ditch company.

There are a total of 2000 shares of water in St. Germaine Ditch, with 298.67 shares of water (4.18 cfs) authorized to be withdrawn at diversion point No. 2, 166.67 shares of water (2.33 cfs) authorized to be withdrawn at diversion point No. 3, 63.11 shares of water (0.88 cfs) authorized to be withdrawn from diversion point No. 4, and approximately 71.4 shares of water (1.0 cfs) authorized to be withdrawn from diversion point No. 5.

In August 2021, an additional diversion point (No. 5) on Rapid Creek located in the SE ¼ SE ¼ of Section 6-T1S-R10E was approved for St. Germaine Ditch Company. The diversion point is located on land presently owned by H & H Land Company #2, LLC, who is a shareholder with 532.5 shares within St. Germaine Ditch Company. At that time, a request was submitted to divert a portion of Vested Water Right No. 2037-2 (1.0 cfs with a priority date of October 30, 1890) at the same point of diversion as is authorized by Water Permit No. 652-2, held by H & H Land Company #2, LLC. The water authorized by Vested Water Right No. 2037-2 and associated with this request, and the water authorized by Water Permit No. 652-2, will be comingled to supply a center pivot, at such times and in such amounts as are determined by St. Germaine Ditch Company, President, or appointed Agent. At those times when diversion point (No. 5) is not active, the full amount of Vested Water Right No. 2037-2 will be available at the principal point of diversion (diversion point No. 1).

In February 2024, a request was submitted to divert a portion of Vested Water Right No. 2037-2 (3.0 cfs with a priority date of October 30, 1890) (approximately 214.3 shares) at the same point of diversion as is authorized by Water Permit No. 652-2, held by H & H Land Company #2, LLC. The water authorized by Vested Water Right No. 2037-2 and associated with this request, and the water authorized by Water Permit No. 652-2, will be comingled to supply an additional center pivot, at such times and in such amounts as are determined by St. Germaine Ditch Company, President, or appointed Agent. At those times when the diversion point (No. 5) is not active, the full amount of Vested Water Right No. 2037-2 will be available at the principal point of diversion (diversion point No. 1).

Collectively, if this location change request is approved, 4.0 cfs will be authorized to be withdrawn from diversion point No. 5.

AUTHORITY:

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

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

The water source remains Rapid Creek. The maximum instantaneous diversion rate from each diversion point authorized by Vested Water Right No. 2037-2 may collectively not exceed 28.0 cfs.

- **If irrigation, no new land is irrigated**

Based upon a 1974 SD Supreme Court decision, O.A. Jewett et al., v. Redwater Irrigating Association, and also upheld in the SD Water Management Board's Findings of Fact, Conclusions of Law, and Final Decision for Vested Water Right No. 2479-2, that pre-1907 water rights held by water companies are not appurtenant to the land unless the by-laws or plan of organization of the water company expressly provide to the contrary.

- **Review of Existing Diversions**

Low flows as needed for downstream domestic use, including livestock watering and prior water rights must be by-passed. The diversion point is located on Rapid Creek approximately 2.9 miles downstream from the original St. Germaine Ditch Company diversion point No. 1. There are two existing water rights/permits (Nos. 1746A-2 and 1831-2) that are authorized to divert from Rapid Creek for irrigation use between the original St. Germaine Ditch Company diversion point and diversion point No. 5. There is a reasonable probability that the change in location of the authorized diversion rate will not unlawfully impair these irrigation systems or other existing downstream water rights/permits.

RECOMENNDED ACTION:

Based on the above criteria, it is recommended that the additional diversion point location for 3 cfs be added to Vested Water Right No. 2037-2. The maximum instantaneous diversion rate from the diversion points authorized by Vested Water Right No. 2037-2 may collectively not exceed 28.0 cfs at any time.

Nakaila Steen

Nakaila Steen, Natural Resources Engineer II
Water Rights Program

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

This additional diversion point location for 3 cfs does not increase the potential for adverse effects to existing diversions.

Eric Gronlund

Eric Gronlund, Chief Engineer
Water Rights Program

St. Germain Irrigating Company

P.O. Box 18

Caputa, SD 57725

February 12, 2024

Chief Engineer

South Dakota DANR

Water Rights Division

Office of Chief Engineer

Subject: Additional Point of Diversion

The St. Germain Irrigating Company (Ditch) is the holder of water permit #2037-2 with priority date of November 11, 1881 and October 10, 1890, granting the ditch a right of 28 CFS at a diversion point in Section 34, Township 1 North, 9 East BHM. The ditch is requesting that the Chief Engineer grant an additional point of diversion for the Ditch Co. (SDCL 46-5-13.1), to be located on Rapid Creek, Situated in the SE ¼ of Section 6, Township 1 S, Range 10 E of the Black Hills Meridian, Pennington County presently owned by H & H Land Company #2, LLC a Shareholder of 532.5 shares of 2000 total shares in the Ditch Company. This portion of the ditch water right will be 3 CSF diverted to the same point of division as permit #652-2 also under H & H Land Company #2, LLC. These waters will be for a center pivot, at such times and in such amounts as are determined by the Ditch Company, President or his appointed Agent. At those times when this additional point of diversion is not active, the full amount of the Ditch right will be available at the principal point of diversion. At this additional point of diversion, the water will be pumped from Rapid Creek and distributed by center pivot. It is understood that the total of the several points of diversion shall not exceed the Ditch Co. right except in times of excess water in the stream as determined by the Conservancy District Water Master. The land to be irrigated is located a considerable distance from the principal Ditch Co. canal. The Ditch loss and the maintenance problems create an excessive waste of water and causes the present usage to be impractical.

Sincerely,

Keith Ham, President

St. Germain Irrigating Company