

Considered: _____

WATER PERMIT NO. 2228-2

Phone: 673-4681

Name of Applicant: Ruth Ziolkowski

Post Office Address: Ave of the Chiefs, Crazy Horse SD 57730-~~651~~ 9506

Amount of Water Claimed: 0.155 Total Acres: NA

Source of Water Supply: groundwater

Water to be used for: commercial County: Custer

About 5 miles NW of Custer

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

PRIORITY _____ Date Received: 3-30-92 Fee: \$150 Remarks _____

Corrected Application Received ~~4-6-92~~ 4/13/92 Period of Annual Use Jan 1 - Dec 31

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

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

Diversion Point: NW 1/4 SE 1/4 Sec 34-T2S-R4E

Land to be Irrigated: NA

			3/4		

Well Log: Driller: Howe Well Drilling Licensed YES X NO _____

Depth of Well: approximately 130' REMARKS _____

Type of Map: aerial PREPARED BY: Don Frye Reviewed and the Number

Assigned on 4-7-92 By Karen Schlaak

No. 2228-2 Hydrologic Unit 10120109
Map No. _____ Basin Upper Cheyenne
Newspaper Custer Co Chronicle, Box 551

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

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

Type of Application: Check one or more of the following

New ☒ Vested Right ☐ Future Use ☐ Change Use ☐☐ Amend Permit No. _____ with old priority date retainedChange diversion point(s) ☐ Add diversion point(s) ☐ Other ☐☐ Application to: Change diversion point(s) ☐ Add diversion point(s) ☐ on Permit No. _____☐ Construction to use water reserved by Future Use Permit No. _____

1. Name of Applicant Ruth Ziolkowski Phone No. 673-4681
 Post Office Address Ave of the Chiefs, Crazy Horse State SD 57730-9506
(Street, RR or Box) (City) Zip Code
2. Amount of water claimed (c.f.s.) 70 gpm (0.155 cfs)
3. Source of water supply 1 well
4. Location of point of diversion NW 1/4 SE 1/4 section 34-T2S-R4E

 _____ County Custer
5. Counties where water will be used Custer
6. Annual period during which water is to be used Jan 1 - Dec 31

7. Give a brief description of proposed project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

Well is a back up supply for rest rooms and fire protection. Water is also used to fill a small pond - arrowhead lake - made of concrete for aesthetics & fire protection. In the future water may be used for the restaurant and other facilities.

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

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

I, Ruth Ziolkowski the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Signed Ruth ZiolkowskiSubscribed and sworn to before me this 12th day of December 1991Ja August Z Schultz
Notary Public

SOUTH DAKOTA
WATER PERMIT No. 2228-2

Date of first receipt of application March 30, 1992.

Date of return to applicant for corrections, amendments or changes March 31, 1992.

Date of receipt of corrected application April 13, 1992.

The Water Management Board approved Water Permit Application No. 2228-2 on October 1, 1992 for Ruth Ziolkowski, Ave of the Chiefs, Crazy Horse SD 57730-9506 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 2228-2 authorizes 0.155 cubic feet of water per second from one well (Precambrian Rock) 130 feet deep located in the NW 1/4 SE 1/4 Section 34-T2S-R4E.
2. The water appropriated shall be used for the purpose of providing a standby water supply at the facility and to fill a small concrete pond, Arrowhead Lake for aesthetics and fire protection and may not exceed the amount of water needed for beneficial use for commercial purposes.
3. The water is to be used during the following described annual period: January 1 - December 31.
4. The date from which applicant may claim right is March 30, 1992.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

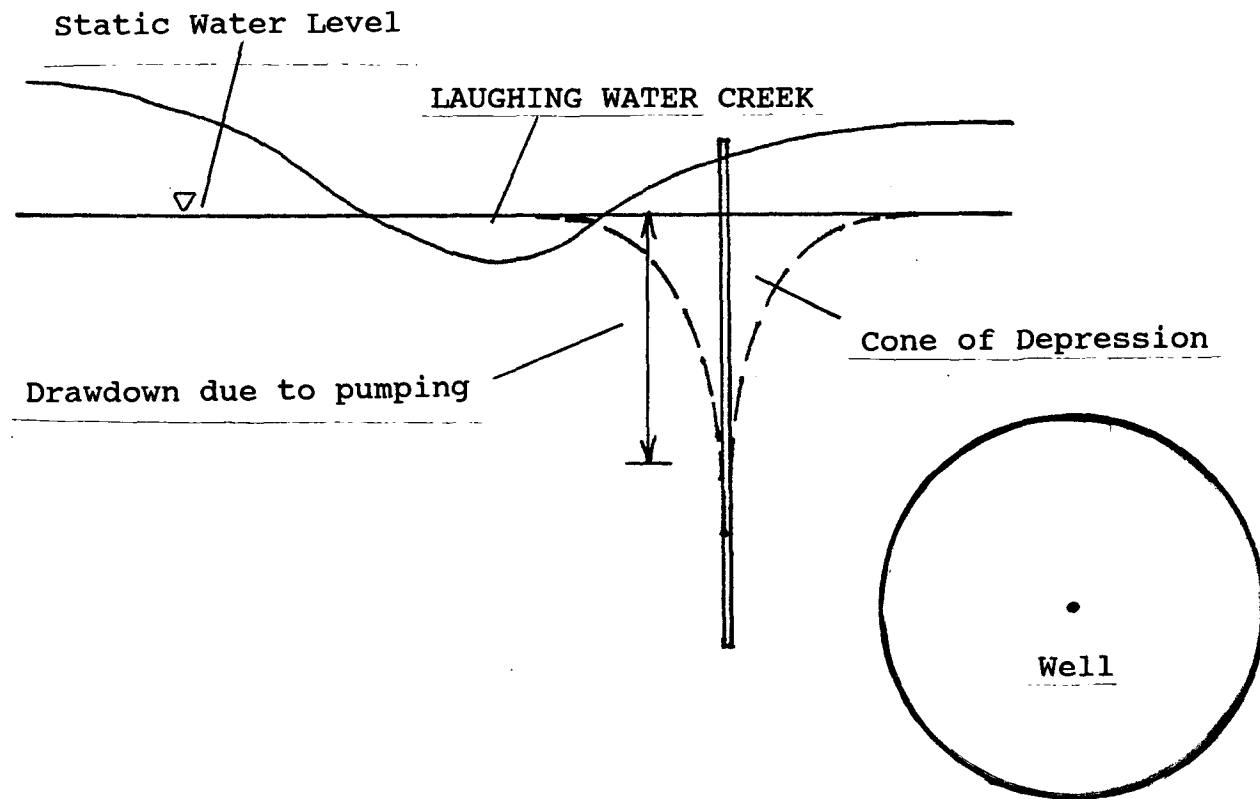
By: _____

John Hatch, Chief Engineer, Water Rights Division
Department of Environment and Natural Resources

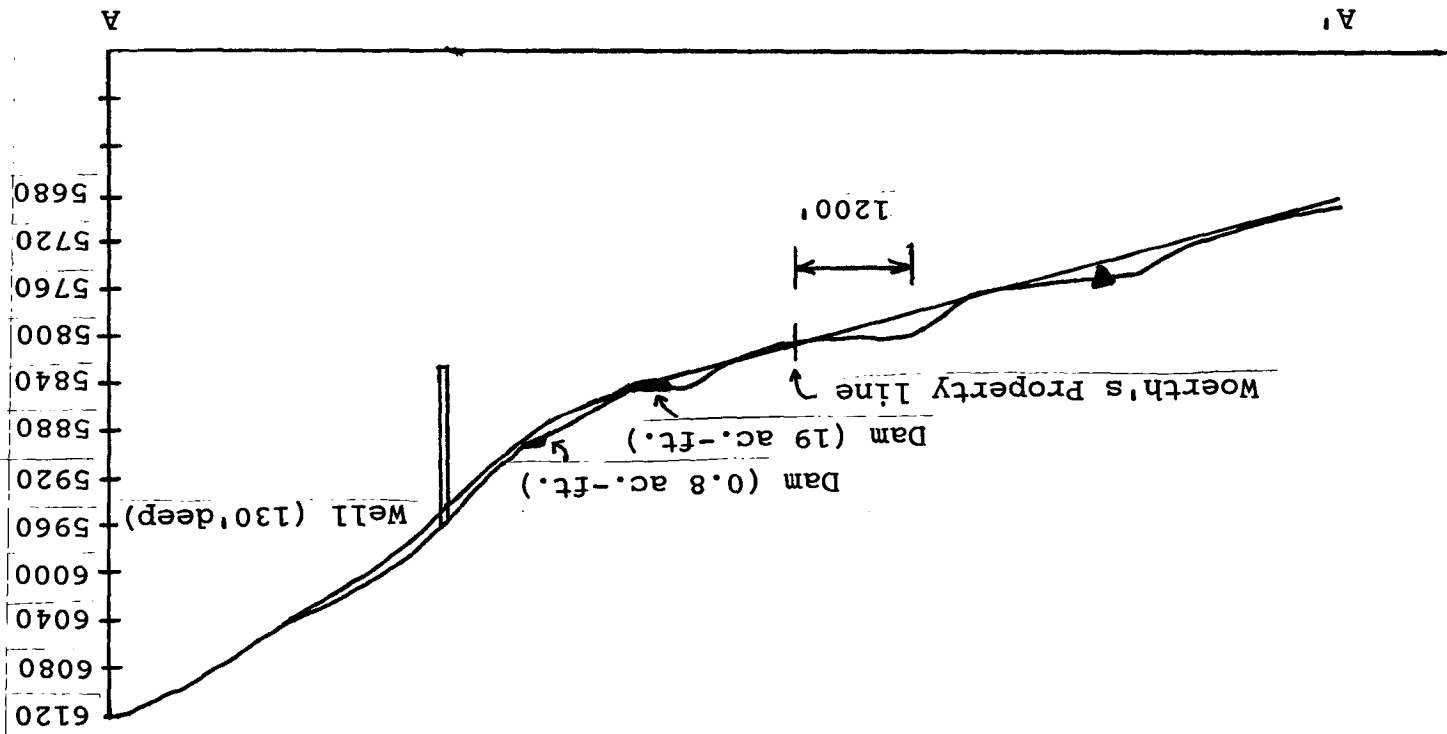
DEC 24 1992

_____ date

IDEALIZED CROSS SECTION OF WELL
(Not drawn to Scale)



TOPOGRAPHIC PROFILE OF LAUGHING WATER CREEK
SECTION 34-T2S-R4E AND SECTION 3-T3S-4E
CUSTER COUNTY, SD



SCALE 1" = 2000'

VERTICAL EXAGGERATION 12.5X

PERMIT APPLICATION NO. 2228-2
RUTH ZIOLKOWSKI/CRAZY HORSE MONUMENT

TOPOGRAPHIC PROFILE OF LAUGHING WATER CREEK
SECTION 34-T2S-R4E AND SECTION 3-T3S-4E
CUSTER COUNTY, SD

PERMIT APPLICATION AREA
From USGS Custer Quadrangle Map, 1954

Dam (19 ac.-ft.)

Dam (0.8 ac.-ft.)

Woerth's Property line

A A'

Section 3 Section 34

Well (130' deep) No. 2228-2 1200'

Piezometric Surface

V

SCALE 1' = 2000'

ELEVATION - FEET (MSL)

VERTICAL EXAGGERATION 12.5X

6120 6080 6040 6000 5960 5920 5880 5840

5800 5760 5720 5680

IDEALIZED CROSS SECTION OF WELL
(Not drawn to Scale)

10-85

CAMERA OPERATOR

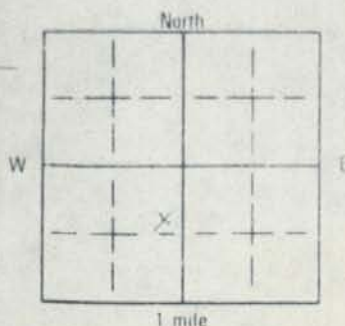
SOUTH DAKOTA WATER WELL COMPLETION REPORT

10-85

Location NE 1/4 Sec 37 Twp 25 Rg 4E

County Custer

Please mark well location with an "X"



Well Completion Date 9-5, 1984

PROPOSED USE

- ☒ Domestic ☐ Municipal ☐ Test Holes
☐ Irrigation ☐ Industrial ☐ Stock

Method of Drilling

Rotary

CASING DATA

- ☐ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>160 LB/FT</u>	<u>6 IN</u>	<u>0 FT</u>	<u>26 FT</u>	<u>8 IN</u>
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN

GROUT

Was the well grouted? ☒ YES ☐ NO

To what depth? 26' FEET

What is grouting material? Cement

If cement, number of sacks? 3

Describe grouting procedure _____

What was grout weight? _____ LB/GAL

SCREEN ☐ Perforated pipe ☐ Manufactured

Diameter _____ IN Length _____ FEET

Material _____

Slot Size _____ Set From _____ Feet To _____ Feet

Slot Size _____ Set From _____ Feet To _____ Feet

Slot Size _____ Set From _____ Feet To _____ Feet

Other information _____

Was a packer or seal used? ☐ YES ☒ NO

If so, what material? _____

Describe packer(s) and location? _____

Well Owner

Name William J. Johnson

Address Custer, SD 57730

Well Log

Depth

Formation	From	To
<u>Loess</u>	<u>0</u>	<u>15</u>
<u>Thin shelled (hard) loess</u>	<u>15</u>	<u>125</u>
<u>Payable</u>	<u>125</u>	<u>130</u>
<u>Thin shelled (hard) loess</u>	<u>130</u>	<u>145</u>

STATIC WATER LEVEL 15 Feet

If flowing, closed in pressure _____ PSI

GPM flow 18 through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other

If other, specify _____

Can well be completely shut in? _____

WELL TEST DATA

☐ Pumped

☐ Bailed

Describe _____

☐ Other

Pumping Level Below Land Surface

ft After _____ Hrs pumped _____ GPM

ft After _____ Hrs pumped _____ GPM

ft After _____ Hrs pumped _____ GPM

REMARKS

115' at 35'
100'
115'



This well was drilled under license # 363

And this report is true and accurate

Drilling firm Home Well Drilling

Signature of License Representative

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

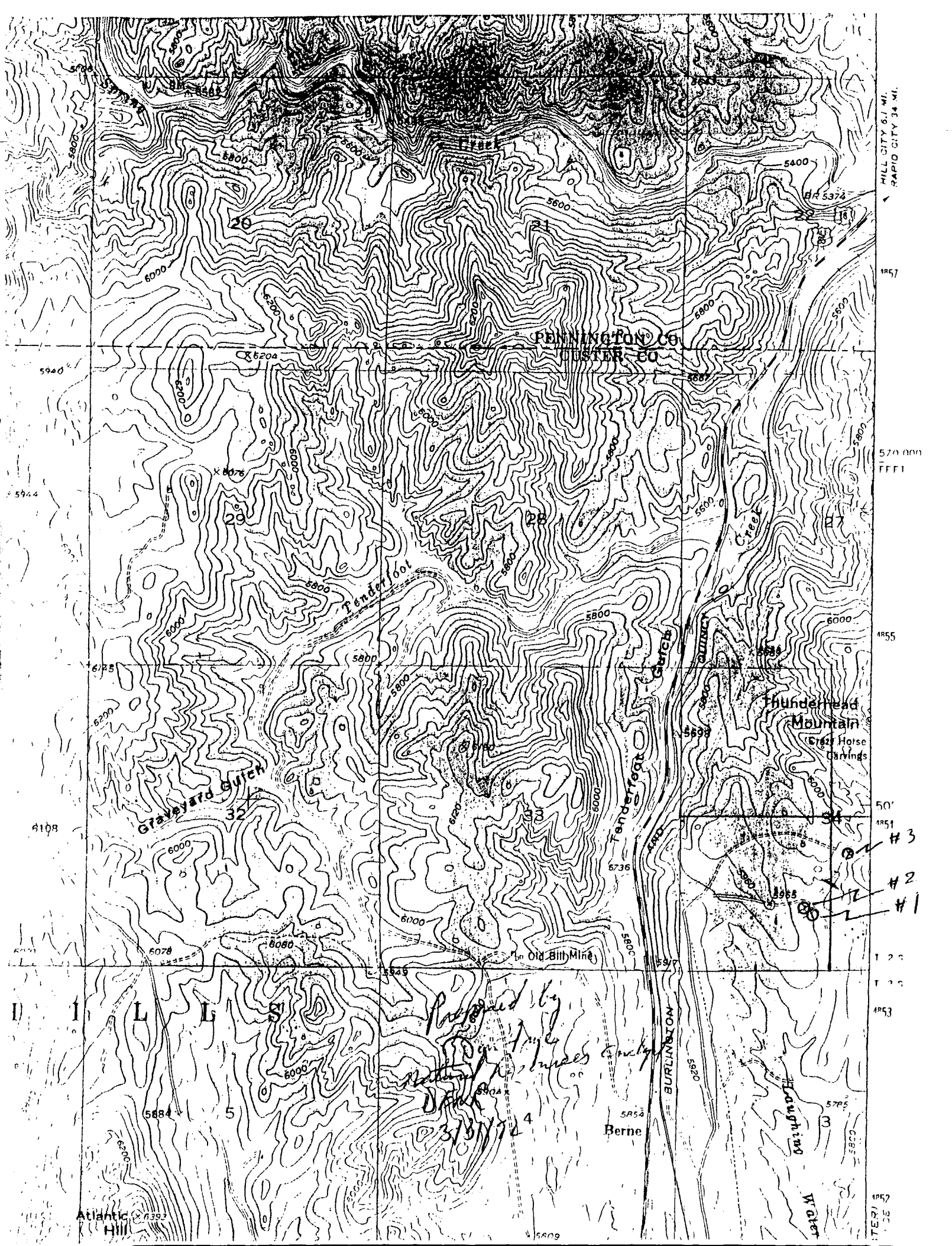
413164

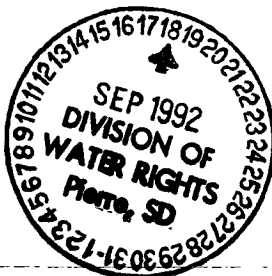
Pierre, _____, April 6, 19 92

RECEIVED OF Ruth Ziolkowski (Korczak's Heritage Inc) Ave of the Chiefs, Crazy Horse SD
the following amount in fees for services rendered as provided for by law: 57730-9506

Fee for Application for Permit No. <u>2228-2</u> to Appropriate Water, to construct works and to put water to beneficial use _____	150	00
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	150 00

By John Hatch
Chief Engineer





LOCATION NOTICE FOR DAM/DUGOUT

(Adam's House)

Mail to: Water Rights Div.



Pierre, SD 57501
(605) 773-8352

Custer

County

Location Notice No.

I, Ruth Ziolkowski, of _____
Name

Crazy Horse Memorial, Crazy Horse, SD 57730 Custer County
Address & Zip Code County

Owner
(owner or operator) _____, of the following described land, do hereby

notify the Water Management Board of the State of South Dakota and all others concerned that I am exercising my right under SDCL 46-4, for construction of a dam for the purpose of impounding runoff waters for livestock purposes
(type of use) (dam or dugout)

The following data is presented in compliance with SDCL 46-4.3 and 46-4.4.

(1) Date of:

(a) This notice September 16, 1992

(b) Proposed construction completed

(2) Legal description of the land upon which the dam/dugout is located:

NE 1/4, SE 1/4, SW 1/4, Section 34, T2S, R4E, BHM
(describe to the nearest 40 acre sub-division)

(3) Location of the dam/dugout from a section corner:

N 62°E, 2,800 ft. from the SW corner of Sec. 34, T2S, R4E, BHM
(describe distance N.S.E.W. from the corner)

(4) County Custer

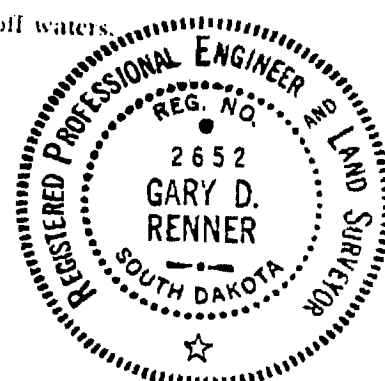
(5) The owner of the land Ruth Ziolkowski

(6) Acre feet of water claimed annually _____

Notes: If the storage of the proposed structure at the spillway crest or overflow elevation exceeds twenty five (25) acre feet, a water permit from the Water Management Board is required.

A location notice is only required on a dugout, if the dugout captures surface runoff waters.

•• Continue on other side ••



Complete the following information for the proposed dam/dugout:
 1 Items to be completed for a dugout

a) Dam/Dugout designed by Korczak Ziolkowski

Crazy Horse Memorial, Crazy Horse, SD 57730
 (name and address)

b) Freeboard 2 1/2 feet

c) Crest Width 9 feet

Crest Length 140 feet

d) Height 12.3 feet

• Depth, if Dugout -

e) Outlet Dimensions:

Pipe diameter 12" x 12" wooden box

Spillway width 12"

f) X & Y Slope:

Upstream 2:1

Downstream 2:1

*g) Water surface area 0.22 acres

*h) Storage at spillway crest or overflow elevation
 (acre feet) 0.8 acre feet

i) Maximum storage to top of dam

(acre feet) 1.4 acre feet

*j) Drainage area above dam/dugout

630 acres

Enclosed herewith is ten dollars (\$10.00). The Water Management Board is requested to file this Location Notice in their official records. A copy of this Location Notice has been filed (do not record) with the Register of Deeds of Custer County in accordance with SDC1, 16-4-3.

Ruth Ziolkowski
 owner

STATE OF SOUTH DAKOTA

COUNTY OF CUSTER

I, Ruth Ziolkowski

the applicant, certify that I have read this Location Notice and that the matters stated in this notice are true and that I intend, and am able to start construction within sixty days after the filing of this notice.

Signed

Ruth Ziolkowski

Subscribed and sworn to before me this 17 day of

September

19 92

(seal)

Jamelle Gab
 notary public

Expires 6-18-94



LOCATION NOTICE FOR DAM/DUGOUT (Monique's House)

Water Rights Div.
DWNR, Foss Bldg.
Pierre, SD 57501
(605) 773-8352

Custer

County

Location Notice No.

I, Ruth Ziolkowski, of _____
Name

Crazy Horse Memorial, Crazy Horse SD 57730
Address & Zip Code

Custer County

County

Owner

(owner or operator)

_____, of the following described land, do hereby
notify the Water Management Board of the State of South Dakota and all others concerned that I am exercising my right
under SDCL 46-4, for construction of a dam _____ for the purpose of impounding runoff waters
(dam or dugout)
for livestock purposes.
(type of use)

The following data is presented in compliance with SDCL 46-4-3 and 46-4-4.

(1) Date of:

(a) This notice September 16, 1992

(b) Proposed construction completed - before 1954

(2) Legal description of the land upon which the dam/dugout is located:

NW 1/4, NW 1/4, NE 1/4, Section 3, T3S, R4E, BHM

(describe in the nearest 40 acre sub-division)

(3) Location of the dam/dugout from a section corner:

2700 feet east of the northwest corner of Sec. 3, T3S, R4E, BHM

(describe distance N.S.E.W. from the corner)

(4) County Custer

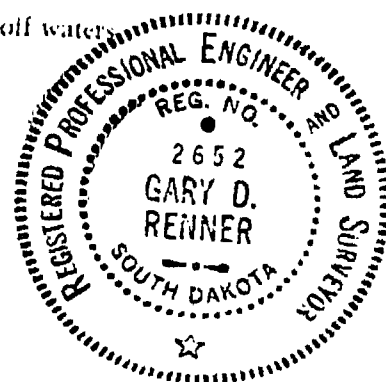
(5) The owner of the land Ruth Ziolkowski

(6) Acre feet of water claimed annually _____

Notes: If the storage of the proposed structure at the spillway crest or overflow elevation exceeds twenty five (25) acre feet, a
water permit from the Water Management Board is required.

A location notice is only required on a dugout, if the dugout captures surface runoff waters.

•• Continue on other side ••



Complete the following information for the proposed dam/dugout:
 • Items to be completed for a dugout

a) Dam/Dugout designed by Korczak Ziolkowski

Crazy Horse Memorial, Crazy Horse, SD 57730
 (name and address)

b) Freeboard 3.0 feet

c) Crest Width 17 feet

Crest Length 323 feet

d) Height 23.8 feet

• Depth, if Dugout --

e) Outlet Dimensions:

Pipe diameter 18" RCP

Spillway width --

f) X & Y Slope:

Upstream 14:1

Downstream 2:1

*g) Water surface area 2 acres

*h) Storage at spillway crest or overflow elevation
 (acre feet) 16 acre feet

i) Maximum storage to top of dam
 (acre feet) 19 acre feet

*j) Drainage area above dam/dugout

640 acres

Enclosed herewith is ten dollars (\$10.00). The Water Management Board is requested to file this Location Notice in their official records. A copy of this Location Notice has been filed (do not record) with the Register of Deeds of Custer County in accordance with SDCL 16-1-3.

Mrs. Korczak Ziolkowski
 owner

STATE OF SOUTH DAKOTA
 COUNTY OF CUSTER

I, Ruth Ziolkowski

the applicant, certify that I have read this Location Notice and that the matters stated in this notice are true and that I intend, and am able to start construction within sixty days after the filing of this notice.

Signed

Ruth Ziolkowski

Subscribed and sworn to before me this 11th day of September, 1992.

(seal)

Janelle Low
 notary public Expires 6-18-92



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 23, 1992

Gary and Carola Woerth
Rt. 2, Box 202J
Custer SD 57730

Dear Mr. & Mrs. Woerth:

I am writing in response to your September 14, 1992 letter to Kent Buhler, regarding Laughing Water Creek. On August 19, 1992, Mr. Buhler and Greg Johnston, staff engineers with this office, conducted a field investigation of the creek as it crosses the northern portion of your property and the two small dams immediately north of your property. The dams were discharging the same amount of water to Laughing Water Creek that was flowing into the dams from the creek. Therefore, the two ponds upstream from your property are not adversely affecting the flow of Laughing Water Creek or impairing your rights to use the creek for domestic use, including livestock use.

Laughing Water Creek is an intermittent stream that is interconnected to some extent with ground water in the area. When runoff to the creek is minimal, as it is now, the creek will be dry anywhere the elevation of the creek bed is above the water table. Conversely, there should be water in the creek where the creek bed is below the water table. Laughing Water Creek should not be considered a dependable water source because of the climatic conditions affecting it. A well would be a dependable source.

If you have any questions, please call Ken Buhler or Greg Johnston at (605) 773-3352.

Very truly yours,

James A. Johnston

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

REPORT- ON APPLICATION NOS. 2227-2 & 2228-2
for Ruth Ziolkowski
May 29, 1992

Vested Right Application No. 2227-2 proposes to appropriate 0.155 from two wells approximately 90 feet deep located in the SE 1/4 SW 1/4 of section 34, T2S R4E in Custer County. The use of water has claimed priority dates of January 1, 1948 (0.11 cfs) and January 1, 1954 (0.04 cfs) and is used for commercial water supplies for the facility.

Application No. 2228-2 proposes to appropriate 0.155 cfs from one well approximately 130 feet deep located in the NW 1/4 SE 1/4 of section 34, T2S R4E in Custer County. The well is used as a backup supply for the facility and is also used to fill a small concrete pond (Arrowhead Lake) for aesthetics and fire protection.

AQUIFER - PRECAMBRIAN ROCK (CRSL)

The Precambrian rock in this area consists of schist intruded by pegmatite. Ground water is obtained from fractures and natural foliations within the rock type. Recharge is accomplished through direct infiltration of rainfall and snowmelt into the rock. Well yields are typically low and unpredictable for the rock type. The driller's log submitted with Application No. 2228-2 indicates that water was obtained from the pegmatite and that the well was capable of producing 70 gpm. The aquifer is unconfined and under water table conditions at the site.

The Division of Water Rights does not monitor any observation wells in this area completed into the Precambrian rock. The closest observation well completed into Precambrian rock is located in Custer. Water levels in this respond with climatic conditions, that is rising fairly rapidly during wet years (recharge) and gradually declining during dry years. No historical water level data is available for this area.

REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are no other existing water permits/rights in this area.

CONCLUSIONS

1. Water is available from the Precambrian rock in this area.
2. Interference is not expected to be a concern. There are no other water permits/rights in this area.
3. No information is available for the construction of the two wells listed under Vested Right Application No. 2227-2. The well information for Water Permit Application No. 2228-2 indicates that this well is completed in accordance with SD Well Construction Standards.

4. The affidavit filed with Vested Right Application No. 2227-2 indicates water has been used for commercial purposes continuously since 1948 and 1954 for the two wells. This would qualify for a vested right.



James A Goodman
Natural Resources Engineer

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2228-2, Ruth Ziolkowski

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Environment and Natural Resources concerning Water Permit Application No. 2228-2, Ruth Ziolkowski, Avenue of the Chiefs, Crazy Horse, SD 57730-9506.

The Chief Engineer is recommending APPROVAL of Application No. 2228-2 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest.

See report on application for additional information.



for

JOHN HATCH, Chief Engineer
June 3, 1992



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

June 5, 1992

Ruth Ziolkowski
Ave of the Chiefs
Crazy Horse, SD 57730-9506

Dear Ms. Ziolkowski:

Your Application No. 2227-2 for a vested water right claim and Water Permit Application No. 2228-2 have been examined and found to comply with the South Dakota Water Laws and applicable rules. Notices of your claims have been sent to the Publisher of the Custer County Chronicle printed at Custer, SD (Ph # 673-2271). For your information, a copy of the notices, the recommendations of the Chief Engineer and a report on the applications are enclosed. Please review the notices 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 hearings to validate a vested right and permit application and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has been instructed to publish your notices 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 applications can be considered.

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendations, you must file a petition pursuant to the procedures outlined in the attached notice of hearings. The Water Management Board will then consider your concerns during a hearing on the applications.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 5, 1992

Custer County Chronicle
Box 551
Custer, SD 57730

ATTN: Legal Publications:

Enclosed is a Notice of Hearing to Validate Vested Right Application No. 2227-2, and Notice of Hearing on Water Permit Application No. 2228-2, to be published twice. Please publish the notices on June 10, 1992, with the second publication 7 days later.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICES ARE TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publications. The APPLICANT is Ruth Ziolkowski, Ave of the Chiefs, Crazy Horse, SD 57730-9506 (Ph # 673-4681).

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 publications for errors so any corrections can be made in the second publication. Publication errors can invalidate the public notices and cause the applicant costly delays.

Please be sure the SECOND publications are returned IMMEDIATELY with the enclosed Proof of Publication forms. DO NOT WAIT until the end of the month or the billing cycle. The permit applications cannot be considered until proof of publications have been received.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

FIRST TRANSMITTAL NOTICE

TO: ATTN: Eric Gronlund
Water Rights Division
523 E Capitol
Pierre SD 57501-3181

Date _____

We are in receipt of your letter of _____ enclosing Notice of Hearings to Validate a Vested Right Application and Water Permit Application which was first published in our issue of _____.

ENCLOSED IS A COPY OF THIS FIRST PUBLICATIONS.

Name

Newspaper

Instruction to Newspaper - Publish first Notice on June 10, 1992, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 2228-2 to Appropriate Water

Notice is given that Ruth Ziolkowski, Ave of the Chiefs, Crazy Horse, SD 57730-9506 has filed an application for a water permit to appropriate 0.155 cubic feet of water per second from one well (Precambrian Rock) 130 feet deep located in the NW 1/4 SE 1/4 Section 34-T2S-R4E. The water is a standby water supply for commercial use at the facility and is also used to fill a small concrete pond, Arrowhead Lake for aesthetics and fire protection.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2228-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. Unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Water Management Board will NOT CONDUCT a HEARING to consider this application and the chief engineer will issue the permit as recommended. Petitions filed in support of the application will NOT require the Board to hear the application.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by June 29, 1992. The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

For purposes of publishing 1) the notice of hearing on Application No. 2228-2 and 2) the chief engineer's recommendation, a meeting at the Division of Water Rights office to hear this application is scheduled for July 7, 1992, at 9:00 am in Room 413, Joe Foss Building, 523 E Capitol, Pierre SD. If this application is opposed or the recommendation is contested, the July 7, 1992, hearing date will be rescheduled for a regularly scheduled Board meeting. Notice of the time and place of the rescheduled hearing before the Board will be given by First Class Mail to the applicant and persons filing petitions. Anyone not filing a petition, but interested in attending the hearing, may contact the Division of Water Rights to confirm a hearing date and location. The July 7, 1992, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by June 29, 1992.

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

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 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; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 27, 1992

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

Ruth Ziolkowski
Ave of the Chiefs
Crazy Horse SD 57730-9506

Dear Ms. Ziolkowski:

I am writing to advise you that the legal notice of hearing published in the Custer County Chronicle for Water Permit Application No. 2228-2 was not published correct. Enclosed is a copy of the Proof of Publication form that was submitted by the newspaper. As a result, the legal notice will need to be readvertised. The readvertisement is needed to ensure that the Water Permit is free from legal problems due to inaccurate and incomplete public notice. The information needed to readvertise the notice is being sent to the Publisher of the Custer Chronicle printed at Custer SD.

Be sure to contact the above newspaper to authorize publication of your Notice of Hearing 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. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before the application can be considered.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

cc: Custer County Chronicle

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 27, 1992

Custer County Chronicle
Box 551
Custer SD 57730

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 2228-2 to be published twice. Please publish the first notice on August 5, 1992 with the second publication 7 days later.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is Ruth Ziolkowski, Ave of the Chiefs, Crazy Horse SD 57730-9506 (Phone #: 673-4681).

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. No action may be taken on the permit application until proof of publication has been received.

Sincerely,

Eric Gronlund
Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

FIRST TRANSMITTAL NOTICE

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

No. _____

Date _____

We are in receipt of your letter of _____ enclosing Notice of Hearing to
Appropriate Water by Application No. _____ which was first published in our issue
of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper

Instruction to Newspaper - Publish first Notice on August 5, 1992, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 2228-2 to Appropriate Water

Notice is given that Ruth Ziolkowski, Ave of the Chiefs, Crazy Horse, SD 57730-4681 has filed an application for a water permit to appropriate 0.155 cubic feet of water per second from one well (Precambrian Rock) 130 feet deep located in the NW 1/4 SE 1/4 Section 34-T2S-R4E. The water is a standby water supply for commercial use at the facility and is also used to fill a small concrete pond, Arrowhead Lake for aesthetics and fire protection.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2228-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. Unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Water Management Board will NOT CONDUCT a HEARING to consider this application and the chief engineer will issue the permit as recommended. Petitions filed in support of the application will NOT require the Board to hear the application.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by August 24, 1992. The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

For purposes of publishing 1) the notice of hearing on Application No. 2228-2 and 2) the chief engineer's recommendation, a meeting at the Division of Water Rights office to hear this application is scheduled for September 1, 1992, at 9:00 am in Room 413, Joe Foss Building, 523 E Capitol, Pierre SD. If this application is opposed or the recommendation is contested, the September 1, 1992, hearing date will be rescheduled for a regularly scheduled Board meeting. Notice of the time and place of the rescheduled hearing before the Board will be given by First Class Mail to the applicant and persons filing petitions. Anyone not filing a petition, but interested in attending the hearing, may contact the Division of Water Rights to confirm a hearing date and location. The September 1, 1992, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by August 24, 1992.

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

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21; 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; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. Robert E. Roberts, Secretary, Department of Environment and Natural Resources.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County of Custer) ss.TERRI TUGGLEcertify that the attached printed Notice was taken
from the Custer County ChronicleA newspaper which during the whole time of publication of
said notice herein after stated, has been and is printed and
published in the Custer CountyChronicle of city of CusterCounty of Custer and State of South Dakota
that the said notice was published in said newspaper on the
following two dates:8-5-928-12-92Terry Tuggle
(Signature)Publisher

(Title)

8-25-92

(Date Signed)

Cost of Printing: 65.78Application to
Appropriate Water

NOTICE OF HEARING

Application No. 2228-2 to appropriate water. Notice is given that Rut Ziolkowski, Ave. of the Chiefs, Craz Horse, SD 57730-4681 has filed an application for a water permit to appropriate 0.155 cubic feet of water per second from one well (Precambrian Rock) 130 feet deep located in the NW 1/4 SE 1/4 Section 34 T2S-R4E. The water is a standby water supply for commercial use at the facility and is also used to fill a small concrete pond Arrowhead Lake for aesthetics and fire protection.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2228-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. Unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Water Management Board will NOT CONDUCT a HEARING to consider this application and the chief engineer will issue the permit as recommended. Petitions filed in support of the application will NOT require the Board to hear the application.

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For purposes of publishing 1) the notice of hearing on Application No. 2228-2 and 2) the chief engineer's recommendation, a meeting at the Division of Water Rights office to hear this application is scheduled for September 1, 1992, at 9:00 a.m. in Room 413, Joe Foss Building, 523 E Capitol, Pierre SD. If this application is opposed or the recommendation is contested, the September 1, 1992 hearing date will be rescheduled for a regularly scheduled Board meeting. Notice of the time and place of the rescheduled hearing before the Board will be given by First Class Mail to the applicant and persons filing petitions. Anyone not filing a petition, but interested in attending the hearing, may contact the Division of Water Rights to confirm a hearing date and location. The September 1, 1992 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by August 24, 1992.

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exercised. Decisions of the Board may be appealed to the Circuit Court and the Supreme Court as provided by law. Contact Eric Gronlund at the above Water Rights Division address to request copies of information pertaining to this application to assure access to the hearing by the handicapped.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-24, 46-3-1 thru 46-3-11, 46-5-13 thru 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-13, 46-6-14, 46-6-26; and Board Resolution ARSD 74:02:01:01 thru 74:02:01:15.

Robert E. Roberts, Secretary
Department of Environment and Natural Resources.

#2093 8/5 8/12



Conversation or File Documentation

NAME OF PERSON OR FILE: CAROLA WORTH (GARY)ADDRESS: _____ COUNTY CUSTERDATE: 18 AUG 92 TELEPHONE 673 3368RE: LAUGHING WATER CREEK

COMMENTS:

THEY WANT TO OPPOSE THE TWO PERMITS FOR CRAZY HORSE,
TALKED TO MRS. WORTH ABOUT THE SITUATION. DCK HAD TALKED
TO GARY EARLIER AND HE WAS OUT WHEN I CALLED BACK.
I EXPLAINED TO HER WHAT THE PERMIT 2227-2 + 2228-2
WERE ABOUT.

SHE SAID WATER STOPS FLOWING IN LAUGHING WATER
CREEK, IT IS INTERMITTANT, PICKS UP FLOW ABOUT
1100 FEET INTO THEIR PROPERTY, SHE ALSO SAID THERE
IS A DAM ON LAUGHING WATER CREEK, SHE WAS
WONDERING IF THERE PUMPING WAS CAUSING THE
FLOW CHANGES, NEITHER OF THE PERMITS SAYS
ANYTHING ABOUT A DAM - APPARENTLY A DAM IN
ADDITION TO THE CONCRETE POND IS LOCATED ON CRAZY
HORSE PROPERTY ABOVE THE WORTH'S.

I TOLD HER, I WOULD TRY TO GET THERE AND LOOK
AT THIS WEEK OR WEEKEND -

JUST SOUTH OF CRAZY HORSE AND BEFORE THE FORT -
NEW ROAD GOES EAST - THEY ARE AT THE END OF THE ROAD.

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









File No. 2227-2 and 2228-2

Water Rights Division -DENR

Conversation or File Documentation

NAME OF PERSON OR FILE: Gary Woerth

ADDRESS: COUNTY: Custer

DATE: 8/19/92 TELEPHONE: 673-3368

RE: Complaint on well being permitted for 50 GPM at Crazy Horse Monument

COMMENTS:

Mr. Woerth called the Water Rights Division and spoke to Del Brosz on 8/18/92. Jim Goodman called back and spoke to Mrs. Woerth. The Woerth's were thinking of protesting Water Permit application 2228-2 at Crazy Horse Monument for .155 cfs (70 gpm) to be used for fire control at the monument. This application is going before the Water Management Board in September. The well is 130' deep and is located in the NW1/4 SE1/4 Section 34-T2S-R4E, Custer County, SD. Ken Buhler and I drove to the Woerth home and spoke to Mr. Woerth regarding the complaint. Mr. Woerth complained that the application well was withdrawing water from the surficial aquifer close to Laughing Water Creek and as a result was drying up the flow of the creek in the vicinity of the well. Mr. Woerth has 5 horses and there only supply of water is Laughing Water Creek.

Mr. Buhler and I then walked the creek near the northward end of Mr. Woerth's property and found that the creek in the southern most portion of his land was flowing at 2-3 gpm and that numerous springs were the source. As we walked northward we found that the creek held water in low-lying pools and was not, in general, flowing. The well in question was approximately 150 yards to the west of the creek and just north of the property boundary of Mr. Woerth and the Crazy Horse Monument (owned by Ruth Ziolkowski). A dam was visible upstream on the creek - Mr. Woerth stated that the Ziolkowski's had a couple of dams upstream and were impounding water. Jim Goodman mentioned the dams, but was unable to find location notices for the two dams. We told Mr. Woerth that the well probably had little impact on the creek because of the nature of the fractured country rock. We told Mr. Woerth we would speak to the Ziolkowski's and check the dams to see if water was being released.

Drove to Crazy Horse Monument and spoke to Ruth Ziolkowski. She said that the well just north of the Worth's property was used domestically and only pumped at 8 gpm. The well which was under application no. 2228-2 was located near the monument and had no impact on the Laughing Water Creek near the vicinity of Mr. Woerth's northern property line adjacent to the Monument.

Ken and I inspected two dams on Laughing Water Creek located on the Ziolkowski's property. The larger dam had a 12" outlet tube located approximately 3' below the crest at the eastern edge of the dam. In addition, an earthen spillway was located at the western edge of the dam. It impounded approximately 25 acre-feet. The outlet was flowing at ~4 gpm. I called Mr. Woerth on August 21, 1992, and told him that the well he believed to be the well on application No. 2228-2 for 70 gpm was not the well immediately north of his property line. The well in question was used for domestic purposes and pumped 8 gpm. Mr. Woerth stated he had sent a formal letter verifying his opposition to the approval of No. 2228-2, but would call and then send a letter rescinding his opposition.



Gregory C. Johnston

Natural Resources Engineer

DENR, Water Rights Division

File No. 2228-2

Water Rights Division -DENR

Conversation or File Documentation

NAME OF PERSON OR FILE: Ruth Ziolkowski

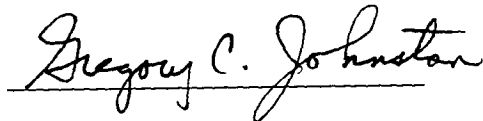
ADDRESS: Crazy Horse Monument COUNTY: Custer

DATE: 9/15/92 TELEPHONE:

RE: Submitting Location Notices for two dams on their property

COMMENTS:

Mrs. Ziolkowski returned the call I placed on 9/14/92. I suggested that she submit the Location Notices for the two dams as soon as possible. In addition, I suggested that she have an engineer or surveyor estimate as accurately as possible the amount of water impounded in the larger of the two dams.



Gregory C. Johnston

Natural Resources Engineer

DENR, Water Rights Division

File No. 2228-2

Water Rights Division -DENR

Conversation or File Documentation

NAME OF PERSON OR FILE: Gary and Carola Woerth

ADDRESS: COUNTY: Custer

DATE: 9/15/92

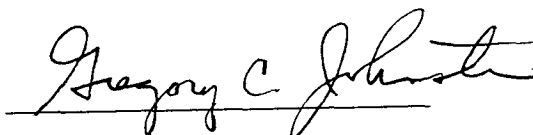
TELEPHONE: 673-3368

RE: Protest of No. 2228-2

COMMENTS:

Called and informed Mr. Woerth of the estimation of acre-feet impounded in the larger dam at approximately 19 to 22 acre-feet using a Quadrangle map. Mr. Woerth had an aerial photo and said the aerial extent was close to 3 acre-feet (which I agreed with) and that the dam was impounding more than 25 acre-feet. I told him that this was really irrelevant because the size of the dam only determines the method of application for the water right. I also said that Mrs. Ziolkowski's Engineer would make a detailed estimate of the amount of water impounded. He asked if our office would investigate the amount of water impounded and I told him it was not likely before the Water Management Board Meeting.

He reiterated his concerns about the well placed under permit application 2228-2 as impacting stream flows. He believed that she needed to release flows from her lower dam for his horses and I replied that she was within her right to impound the water. I told him he certainly could protest permit application 2228-2 and he replied that he intended to do so.



Gregory C. Johnston

Natural Resources Engineer

DENR, Water Rights Division

File No. 2228-2

Water Rights Division -DENR

Conversation or File Documentation

NAME OF PERSON OR FILE: **Woerth's**

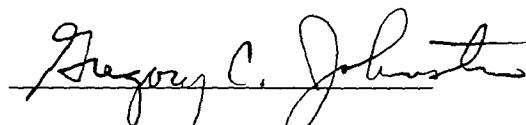
ADDRESS: COUNTY: **Custer**

DATE: **9/15/92** TELEPHONE:

RE: **Protest of No. 2228-2**

COMMENTS:

Mrs. Woerth called and said she had obtained the aerial photo of the dams at the Ziolkowski's and had the SCS office in Custer digitize the surface area of the dams. The larger dam covered a 9.4 acre area and the smaller dam covered 0.62 acres (average values) according to the SCS office. She insisted that the larger dam had more than 25 acre-feet and needed a water permit. She also indicated having property on the creek with rights(?) from 1948 (I didn't hear everything that she had said). In addition, she stated that because the Ziolkowski's had no permit for the dam, they needed to release 50 gallons per day for their horses and that because the creek had been dry for 10 days, she demanded that we require them to release 500 gallons of water from the larger dam. Finally, she said she was obtaining the records from the sheriff regarding the horses escaping from their pasture to get water from the Ziolkowskis and other neighbors land. I thanked her for the information.



Gregory C. Johnston

Natural Resources Engineer

DENR, Water Rights Division

File No. 2228-2

Water Rights Division -DENR

Conversation or File Documentation

NAME OF PERSON OR FILE: Gary and Carola Woerth

ADDRESS: COUNTY: Custer

DATE: 9/14/92

TELEPHONE: 673-3368

RE: Protest of Permit Application No. 2228-2

COMMENTS:

Called the Woerth's and discussed their protest of permit application No. 2228-2. They were concerned that there was insufficient water available in Laughing Water Creek for their horses in the northernmost pasture adjacent to the Ziolkowski's land. I explained that because of the nature of the rock type in the vicinity of the permit application and their pasture, the available groundwater is very localized and site specific. The last 6 years have been, in general, very dry and the despite a wet summer this year, the groundwater level was still rebounding. In general, the well under application No. 2228-2 was located far enough away to not impact the ground water levels in Laughing Water Creek on their property. In addition, I mentioned that Laughing Water Creek is an intermittent stream subject to periods of seasonal non-flow.

In regards to the two dams, I told Mr. Woerth that Mrs. Ziolkowski was in the process of filing location notices for those dams and was within her rights to impound water according to SDCL No. 46-4-1 Dry Draw on Agricultural Lands - Right to construct dam - Right or Permit for dam on stream or dry draw subject to prior appropriation. (I later discovered that this drainage did, by definition, constitute a dry draw). I also cited SDCL Nos. 46-4-1.1 Nonnavigable stream - right to construct and maintain dam. and 46-4-2 Upper users priority for domestic use - Exception - Contest resolution - Appeal. In regards to No. 46-4-2, this law did not apply to the Woerth's because they didn't have water which has been regularly approved under chapter 46-4.

Mr. Woerth asked about the size of the larger dam and I said that the dam was close to 25 acre-feet. If the dam were larger than 25 acre-feet, Mrs. Ziolkowski would be required to apply for a water permit instead of a location notice. He said they increased the height of the dam twelve years ago. I told him I would check the acre-feet impounded using a quadrangle map and a

volume estimate of the shape of the draw. If necessary, our division would make a check of the acre-feet impounded at a later time. I told Mr. Woerth that this was not the issue, that the Ziolkowski's had a right to impound the water and did not need to release that water. They had a functioning outlet and once the dam filled, additional precipitation was allowed to flow down Laughing Water Creek. I also stated that the Ziolkowski's had used the dams in excess of 40 years and that the water use from the dry draw may be considered a "vested right" in accordance to SDCL No. 46-4-5. Mr. Woerth said he planned to protest application permit no. 2228-2 and I said that was fine.

A handwritten signature in cursive script, reading "Gregory C. Johnston". The signature is written in dark ink and is positioned above the printed name.

Gregory C. Johnston

Natural Resources Engineer

DENR, Water Rights Division

File No. 2227-2 and 2228-2

Water Rights Division -DENR

Conversation or File Documentation

NAME OF PERSON OR FILE: Gary Woerth

ADDRESS: COUNTY: Custer

DATE: 8/19/92

TELEPHONE: 673-3368

RE: Complaint on well being permitted for 50 GPM at Crazy Horse Monument

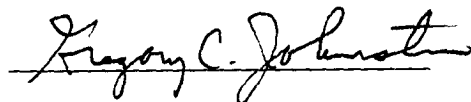
COMMENTS:

Mr. Woerth called the Water Rights Division and spoke to Del Brosz on 8/18/92. Jim Goodman called back and spoke to Mrs. Woerth. The Woerth's were thinking of protesting Water Permit application 2228-2 at Crazy Horse Monument for .155 cfs (70 gpm) to be used for fire control at the monument. This application is going before the Water Management Board in September. The well is 130' deep and is located in the NW1/4 SE1/4 Section 34-T2S-R4E, Custer County, SD. Ken Buhler and I drove to the Woerth home and spoke to Mr. Woerth regarding the complaint. Mr. Woerth complained that the application well was withdrawing water from the surficial aquifer close to Laughing Water Creek and as a result was drying up the flow of the creek in the vicinity of the well. Mr. Woerth has 5 horses and there only supply of water is Laughing Water Creek.

Mr. Buhler and I then walked the creek near the northward end of Mr. Woerth's property and found that the creek in the southern most portion of his land was flowing at 2-3 gpm and that numerous springs were the source. As we walked northward we found that the creek held water in low-lying pools and was not, in general, flowing. The well in question was approximately 150 yards to the west of the creek and just north of the property boundary of Mr. Woerth and the Crazy Horse Monument (owned by Ruth Ziolkowski). A dam was visible upstream on the creek - Mr. Woerth stated that the Ziolkowski's had a couple of dams upstream and were impounding water. Jim Goodman mentioned the dams, but was unable to find location notices for the two dams. We told Mr. Woerth that the well probably had little impact on the creek because of the nature of the fractured country rock. We told Mr. Woerth we would speak to the Ziolkowski's and check the dams to see if water was being released.

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Ken and I inspected two dams on Laughing Water Creek located on the Ziolkowski's property. The larger dam had a 12" outlet tube located approximately 3' below the crest at the eastern edge of the dam. In addition, an earthen spillway was located at the western edge of the dam. It impounded approximately 25 acre-feet. The outlet was flowing at ~4 gpm. I called Mr. Woerth on August 21, 1992, and told him that the well he believed to be the well on application No. 2228-2 for 70 gpm was not the well immediately north of his property line. The well in question was used for domestic purposes and pumped 8 gpm. Mr. Woerth stated he had sent a formal letter verifying his opposition to the approval of No. 2228-2, but would call and then send a letter rescinding his opposition.



Gregory C. Johnston

Natural Resources Engineer

DENR, Water Rights Division

Water Rights Division - DWNR
Conversation or File Documentation

2227-2
File No. 2228-2

NAME OF PERSON OR FILE: CAROLA WORTH (GARY) COUNTY CUSTER

ADDRESS: _____

DATE: 18 AUG 92 TELEPHONE 673 3368

RE: LAUGHING WATER CREEK

COMMENTS:

THEY WANT TO OPPOSE THE TWO PERMITS FOR CRAZY HORSE.
TALKED TO MRS. WORTH ABOUT THE SITUATION. DICK HAD TALKED
TO GARY EARLIER AND HE WAS OUT WHEN I CALLED BACK.
I EXPLAINED TO HER WHAT THE PERMIT 2227-2 + 2228-2
WERE ABOUT.

SHE SAID WATER STOPS FLOWING IN LAUGHING WATER
CREEK, IT IS INTERMITTANT, PICKS UP FLOW ABOUT
1100 FEET INTO THEIR PROPERTY, SHE ALSO SAID THERE
IS A DAM ON LAUGHING WATER CREEK, SHE WAS
WONDERING IF THERE PUMPING WAS CAUSING THE
FLOW CHANGES, NEITHER OF THE PERMITS SAYS
ANYTHING ABOUT A DAM - APPARENTLY A DAM IN
ADDITION TO THE CONCRETE POND IS LOCATED ON CRAZY
HORSE PROPERTY ABOVE THE WORTH'S.

I TOLD HER I WOULD TRY TO GET THERE AND LOOK
AT THIS WEEK OR WEEKEND -

JUST SOUTH OF CRAZY HORSE AND BEFORE THE FORT -
NEW ROAD GOES EAST - THEY ARE AT THE END OF THE ROAD.

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

NAME: JACO

Petition Opposing the 'Application to Appropriate Water.'

We, Gary Woerth and Carola Woerth, the adjoining landowners of the applicant, oppose the Application No# 2228-2 and request the hearing be rescheduled.

Our reasons for opposing the application is because we are concerned the quantity of water as will affect our needs, and the natural flowing springs near the well might dry up.

We request the Chief Engineer to not allow the applicant to pump such a volume of water.

Our names and address provided below.



Carola Woerth (Carola Woerth)

RTE 2 BOX 202J CUSTER SD 57730

605-673-3368

Gary Woerth (Gary Woerth)

RTE 2 BOX 202J CUSTER SD 57730

605-673-3368

South Dakota

GREAT FACES. GREAT PLACES.

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 25, 1992

NOTICE

TO: Ruth Ziolkowski
Ave. of the Chiefs
Crazy Horse, SD 57730-9506
and Parties of Record (see attached list)

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

John Hatch

SUBJECT: Rescheduling of Hearing for Water Permit Application No.
2228-2, Ruth Ziolkowski

A petition in opposition to Water Permit Application No. 2228-2 has been filed by Carola and Gary Woerth. Therefore, the meeting at the Division of Water Rights office to hear this application will no longer be held on September 1, 1992. A copy of the petition is attached.

The Water Management Board will now consider Water Permit Application No. 2228-2 at 10:30 am on September 30, 1992 in the Conference Room, Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave., Pierre, SD 57501. The agenda time is an estimate and may be delayed due to prior agenda items. Applicable provisions of the Notice of Hearing published August 5 and 12, 1992 in the Custer County Chronicle will ~~still~~ still apply at this hearing.

This hearing is an adversary proceeding. Any party 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.

Please contact Eric Gronlund by September 18, 1992 at 773-3352, if you have any questions regarding the application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

cc: Diane Best, Assistant Attorney General

enclosure

CERTIFICATION

I hereby certify that on August 25, 1992, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated August 25, 1992, regarding Rescheduling of Hearing for Water Permit Application No. 2228-2, Ruth Ziolkowski, along with a copy of the Parties of Record and a copy of the Petition addressed as stated below:

Ruth Ziolkowski, Avenue of the Chiefs, Crazy Horse, SD 57730-9506.

Carola and Gary Woerth, Rt 2, Box 202J, Custer, SD 57730.

Copy Sent Inter-office to:

Diane Best, Assistant Attorney General, Capitol Building.

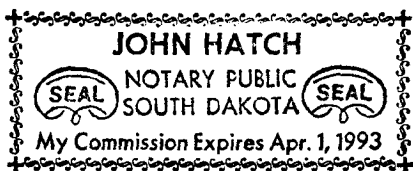
Cheryl A. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 26th day of August, 1992.

John Bates
Notary Public



PARTIES OF RECORD

WATER PERMIT APPLICATION NO. 2228-2

Applicant

Ruth Ziolkowski
Ave. of the Chiefs
Crazy Horse, SD 57730-9506

Petition of Opposition

Carola and Gary Woerth
Route 2, Box 202J
Custer, SD 57730

File No. 2228-2

Water Rights Division -DENR

Conversation or File Documentation

NAME OF PERSON OR FILE: Gary and Carola Woerth

ADDRESS: COUNTY: Custer

DATE: 9/14/92

TELEPHONE: 673-3368

RE: Protest of Permit Application No. 2228-2

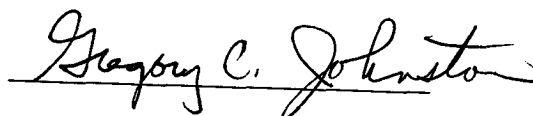
COMMENTS:

Called the Woerth's and discussed their protest of permit application No. 2228-2. They were concerned that there was insufficient water available in Laughing Water Creek for their horses in the northernmost pasture adjacent to the Ziolkowski's land. I explained that because of the nature of the rock type in the vicinity of the permit application and their pasture, the available groundwater is very localized and site specific. The last 6 years have been, in general, very dry and the despite a wet summer this year, the groundwater level was still rebounding. In general, the well under application No. 2228-2 was located far enough away to not impact the ground water levels in Laughing Water Creek on their property. In addition, I mentioned that Laughing Water Creek is an intermittent stream subject to periods of seasonal non-flow.

In regards to the two dams, I told Mr. Woerth that Mrs. Ziolkowski was in the process of filing location notices for those dams and was within her rights to impound water according to SDCL No. 46-4-1 Dry Draw on Agricultural Lands - Right to construct dam - Right or Permit for dam on stream or dry draw subject to prior appropriation. (I later discovered that this drainage did, by definition, constitute a dry draw). I also cited SDCL Nos. 46-4-1.1 Nonnavigable stream - right to construct and maintain dam. and 46-4-2 Upper users priority for domestic use - Exception - Contest resolution - Appeal. In regards to No. 46-4-2, this law did not apply to the Woerth's because they didn't have water which has been regularly approved under chapter 46-4.

Mr. Woerth asked about the size of the larger dam and I said that the dam was close to 25 acre-feet. If the dam were larger than 25 acre-feet, Mrs. Ziolkowski would be required to apply for a water permit instead of a location notice. He said they increased the height of the dam twelve years ago. I told him I would check the acre-feet impounded using a quadrangle map and a

volume estimate of the shape of the draw. If necessary, our division would make a check of the acre-feet impounded at a later time. I told Mr. Woerth that this was not the issue, that the Ziolkowski's had a right to impound the water and did not need to release that water. They had a functioning outlet and once the dam filled, additional precipitation was allowed to flow down Laughing Water Creek. I also stated that the Ziolkowski's had used the dams in excess of 40 years and that the water use from the dry draw may be considered a "vested right" in accordance to SDCL No. 46-4-5. Mr. Woerth said he planned to protest application permit no. 2228-2 and I said that was fine.

A handwritten signature in cursive script, reading "Gregory C. Johnston". The signature is written in dark ink and is positioned above the printed name.

Gregory C. Johnston

Natural Resources Engineer

DENR, Water Rights Division

File No. 2228-2

Water Rights Division -DENR

Conversation or File Documentation

NAME OF PERSON OR FILE: Gary and Carola Woerth

ADDRESS: COUNTY: Custer

DATE: 9/15/92

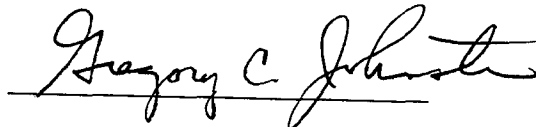
TELEPHONE: 673-3368

RE: Protest of No. 2228-2

COMMENTS:

Called and informed Mr. Woerth of the estimation of acre-feet impounded in the larger dam at approximately 19 to 22 acre-feet using a Quadrangle map. Mr. Woerth had an aerial photo and said the aerial extent was close to 3 acre-feet (which I agreed with) and that the dam was impounding more than 25 acre-feet. I told him that this was really irrelevant because the size of the dam only determines the method of application for the water right. I also said that Mrs. Ziolkowski's Engineer would make a detailed estimate of the amount of water impounded. He asked if our office would investigate the amount of water impounded and I told him it was not likely before the Water Management Board Meeting.

He reiterated his concerns about the well placed under permit application 2228-2 as impacting stream flows. He believed that she needed to release flows from her lower dam for his horses and I replied that she was within her right to impound the water. I told him he certainly could protest permit application 2228-2 and he replied that he intended to do so.



Gregory C. Johnston

Natural Resources Engineer

DENR, Water Rights Division

File No. 2228-2

Water Rights Division -DENR

Conversation or File Documentation

NAME OF PERSON OR FILE: **Woerth's**

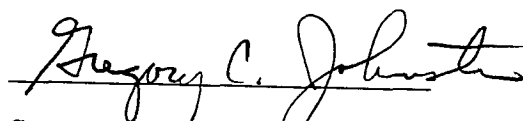
ADDRESS: COUNTY: **Custer**

DATE: **9/15/92** TELEPHONE:

RE: **Protest of No. 2228-2**

COMMENTS:

Mrs. Woerth called and said she had obtained the aerial photo of the dams at the Ziolkowski's and had the SCS office in Custer digitize the surface area of the dams. The larger dam covered a 9.4 acre area and the smaller dam covered 0.62 acres (average values) according to the SCS office. She insisted that the larger dam had more than 25 acre-feet and needed a water permit. She also indicated having property on the creek with rights(?) from 1948 (I didn't hear everything that she had said). In addition, she stated that because the Ziolkowski's had no permit for the dam, they needed to release 50 gallons per day for their horses and that because the creek had been dry for 10 days, she demanded that we require them to release 500 gallons of water from the larger dam. Finally, she said she was obtaining the records from the sheriff regarding the horses escaping from their pasture to get water from the Ziolkowskis and other neighbors land. I thanked her for the information.



Gregory C. Johnston

Natural Resources Engineer

DENR, Water Rights Division

File No. 2228-2

Water Rights Division -DENR

Conversation or File Documentation

NAME OF PERSON OR FILE: Ruth Ziolkowski

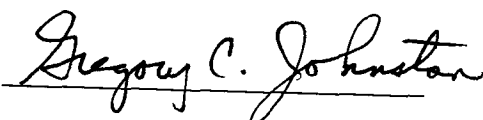
ADDRESS: Crazy Horse Monument COUNTY: Custer

DATE: 9/15/92 TELEPHONE:

RE: Submitting Location Notices for two dams on their property

COMMENTS:

Mrs. Ziolkowski returned the call I placed on 9/14/92. I suggested that she submit the Location Notices for the two dams as soon as possible. In addition, I suggested that she have an engineer or surveyor estimate as accurately as possible the amount of water impounded in the larger of the two dams.



Gregory C. Johnston

Natural Resources Engineer

DENR, Water Rights Division

Water Rights Division - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit Applicaton No. 2228-2, Ruth Ziolkowski

ADDRESS: _____ COUNTY: Custer

DATE: 9/18/92 TELEPHONE: _____

RE: Rescheduling hearing for Appl. No. 2228-2

COMMENTS:

Mr Jim Robbennolt contacted me regarding the September 30, 1992 hearing date. He stated that he had been contacted by Mrs. Ziolkowski to represent her in this contested case and that he had an unavoidable conflict with on September 30th (he has to be in Rapid City). He asked if the hearing date could be changed due to this conflict. I asked if we rescheduled the hearing for the second day of the meeting (October 1, 1992) would work and he stated that would be fine. I said I'd need to check with the Chief Engineer and Mr. Woerth to see if this would be acceptable.

I contacted Mrs. Woerth and she indicated that moving the hearing to October 1, 1992 would not present a problem. I stated that we would be sending a notice out regarding the change in the hearing date.

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

NAME: Eric Handberg



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 18, 1992

NOTICE

TO: Ruth Ziolkowski
Ave. of the Chiefs
Crazy Horse, SD 57730-9506
and Parties of Record (see attached list)

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

SUBJECT: Rescheduling of Hearing for Water Permit Application No.
2228-2, Ruth Ziolkowski

Due to a scheduling conflict, the Water Management Board will now consider Water Permit Application No. 2228-2 at 10:00 am on October 1, 1992 in the Conference Room, Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave., Pierre, SD 57501. The agenda time is an estimate and may be delayed due to prior agenda items. Applicable provisions of the Notice of Hearing published August 5 and 12, 1992 in the Custer County Chronicle will still apply at this hearing.

This hearing is an adversary proceeding. Any party 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.

Please contact Eric Gronlund if you have any questions regarding the application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

cc: Diane Best, Assistant Attorney General
James Robbennolt, Attorney

CERTIFICATION

I hereby certify that on September 18, 1992, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated September 18, 1992, regarding Rescheduling of Hearing for Water Permit Application No. 2228-2, Ruth Ziolkowski, along with a copy of the Parties of Record addressed as stated below:

Ruth Ziolkowski, Ave. of the Chiefs, Crazy Horse, SD 57730-9506.

James Robbennolt, Attorney, 117 E. Capitol, Pierre, SD 57501

Carola and Gary Woerth, Route 2, Box 202J, Custer, SD 57730.

Copy Sent Inter-office To:

Diane Best, Assistant Attorney General, Capitol Building.

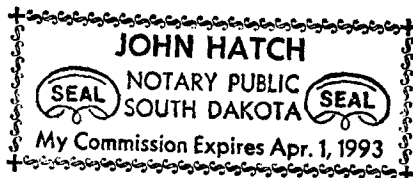
Caryl F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 21st day of September, 1992.

John Batist
Notary Public



9-14-92

TO: KENT A Buhler:
NATURAL Resources Engineer
Division of Water Rights
Joe Foss Building
523 EAST Capitol Ave.
Pierre, SD 57501



Dear Kent,

You are aware of the ~~state~~ Laughing Water Creek crossing our property is showing signs of drought, and at this time 1200 ft feet is dry, when up the creek then further down the creek is flowing. The only answer I have is the pond up stream is restricting the flow. There are livestock on this portion of property which need the water and we fear damage to them.

We request your office to find and execute the proper statutes so the portion of creek on our property will flow again.

Your immediate attention on this matter will be appreciated.

Sincerely,

Gary and Carola Woerth
Rte 2 Box 202 J
CUSTER SD 57730
605-673-3368

Carola Woerth
Gary Woerth



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 23, 1992

Gary and Carola Woerth
Rt. 2, Box 202J
Custer SD 57730

Dear Mr. & Mrs. Woerth:

I am writing in response to your September 14, 1992 letter to Kent Buhler, regarding Laughing Water Creek. On August 19, 1992, Mr. Buhler and Greg Johnston, staff engineers with this office, conducted a field investigation of the creek as it crosses the northern portion of your property and the two small dams immediately north of your property. The dams were discharging the same amount of water to Laughing Water Creek that was flowing into the dams from the creek. Therefore, the two ponds upstream from your property are not adversely affecting the flow of Laughing Water Creek or impairing your rights to use the creek for domestic use, including livestock use.

Laughing Water Creek is an intermittent stream that is interconnected to some extent with ground water in the area. When runoff to the creek is minimal, as it is now, the creek will be dry anywhere the elevation of the creek bed is above the water table. Conversely, there should be water in the creek where the creek bed is below the water table. Laughing Water Creek should not be considered a dependable water source because of the climatic conditions affecting it. A well would be a dependable source.

If you have any questions, please call Ken Buhler or Greg Johnston at (605) 773-3352.

Very truly yours,

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

September 25, 1992



To the Board of Water Rights,

We the parties whom opposed the "Petition to appropriate Water",
filed by Ruth Ziolkowski, will not attend the hearing on October 1st 1992,
nor do we wish to reschedule the hearing concerning the petition.

Sincerely,

Carole Woerth

Carole Woerth

Gary Woerth

Gary Woerth

Rte 2 Box 202J

CUSTER SD 57730

605-673-3368

Water Rights Division,
Foss Building
523 E Capitol
Pierre SD, 57501





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

DEC 24 1992

Ruth Ziolkowski
Avenue of the Chiefs
Crazy Horse, SD 57730-9506

Dear Ms. Ziolkowski:

Enclosed is Water Permit No. 2228-2 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

We will schedule an inspection so that the Water License may be issued to you, thus completing your acquisition of a Water Right.

Very truly yours,

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

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

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 26, 2001

2228-2

Ruth Ziolkowski
Avenue of the Chiefs
Custer SD 57730

Dear Ms. Ziolkowski:

On October 15, 2001 the investigation of your water use system (Crazy Horse Memorial), including the extent of application of water to beneficial use, as developed under Water Permit No. 2228-2, was completed by Donald E Stroup, a staff engineer with our program. Your final water right document, the water license, can now be issued.

State law requires that we charge a \$50.00 fee for the investigation and issuance of the water license. Upon receipt of the \$50.00 fee from you, we will complete processing your water license. The check or money order for the fee should be made payable to the "Water Rights Program".

Your licensed water right will be similar to a property right that can not be lost as long as the water use continues and you abide by the permit requirements.

If you have any questions regarding the water permit, investigation of your water use system or payment of the fee, please contact Genny McMath with our program at (605) 773-3352.

Sincerely,

Karen Schlaak
Environmental Scientist
Water Rights Program
(605) 773-3352

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

416950

Pierre, November 1, 20 01

RECEIVED OF Ruth Ziolkowski, Crazy Horse Memorial Foundation, Avenue of Chiefs, Custer, SD 57730
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>2228-2</u>	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	50 00

By Darland Ebel
Chief Engineer
gm

Permit No. 2228-2
Custer County

To: Chief Engineer, Water Rights Program, DENR Foss Bldg., Pierre, SD 57501
Other permit/license(s) associated with project: **None**
Contact Person & Address: **Ruth Ziolkowski, Avenue of the Chiefs, Custer, SD 57730**

Report Of Examination Of Works

On **October 15, 2001**, I made a thorough examination of the water use system authorizing the appropriation of 0.155 cubic feet per second (cfs) of water from a well for commercial purposes at the Crazy Horse Memorial and bearing the priority date of March 30, 1992.

The well and distribution system are in good condition and capable of pumping water at 19 gallons per minute (gpm) or 0.042 cfs. The diversion point is in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 34 T2S R4E (N43° 49.816' W103° 37.574), 3010-feet East and 1848-feet North of the Southwest Corner of the section.

Review of Permit Qualifications And Regulations:

- 1) Special qualifications to permit being abided by: **NA**
- 2) All structures, wells and lands on map: **Yes**
- 3) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period: **NA**
- 4) Exceptions to compliance are: **None**

Report On the Specifics of the System

Diversion Point Information:

- | | |
|--|------------------------------------|
| 1) Well Drilling Firm: Howe Well Drilling | 2) No. of Wells: 1 |
| 3) Depth(s): 130 feet | 4) Well logs available: Yes |

Casing:

- 1) Diameter: **6-inch**
- 2) Length: **80 feet**
- 3) Type: **Steel**

Screen:

- | | |
|--------------------------------------|----------------------|
| 1) Type: None | 2) Length: NA |
| 3) Static water level: 4-feet | |

Pump\ Motor:

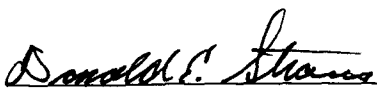
- | | |
|--|-------------------------------------|
| 1) Pump Make: Franklin, Submersible, Electric | 2) Pump Model: NA |
| 3) Capacity: 19 gpm | 4) Motor Make: NA |
| 5) Motor Model No.: Unknown | 6) Horsepower rating: 1.5 hp |

Distribution System:

- 1) Type: **6 & 1.5 inch PVC and Steel**
- 2) Length: **Unknown feet**

COMMENTS:

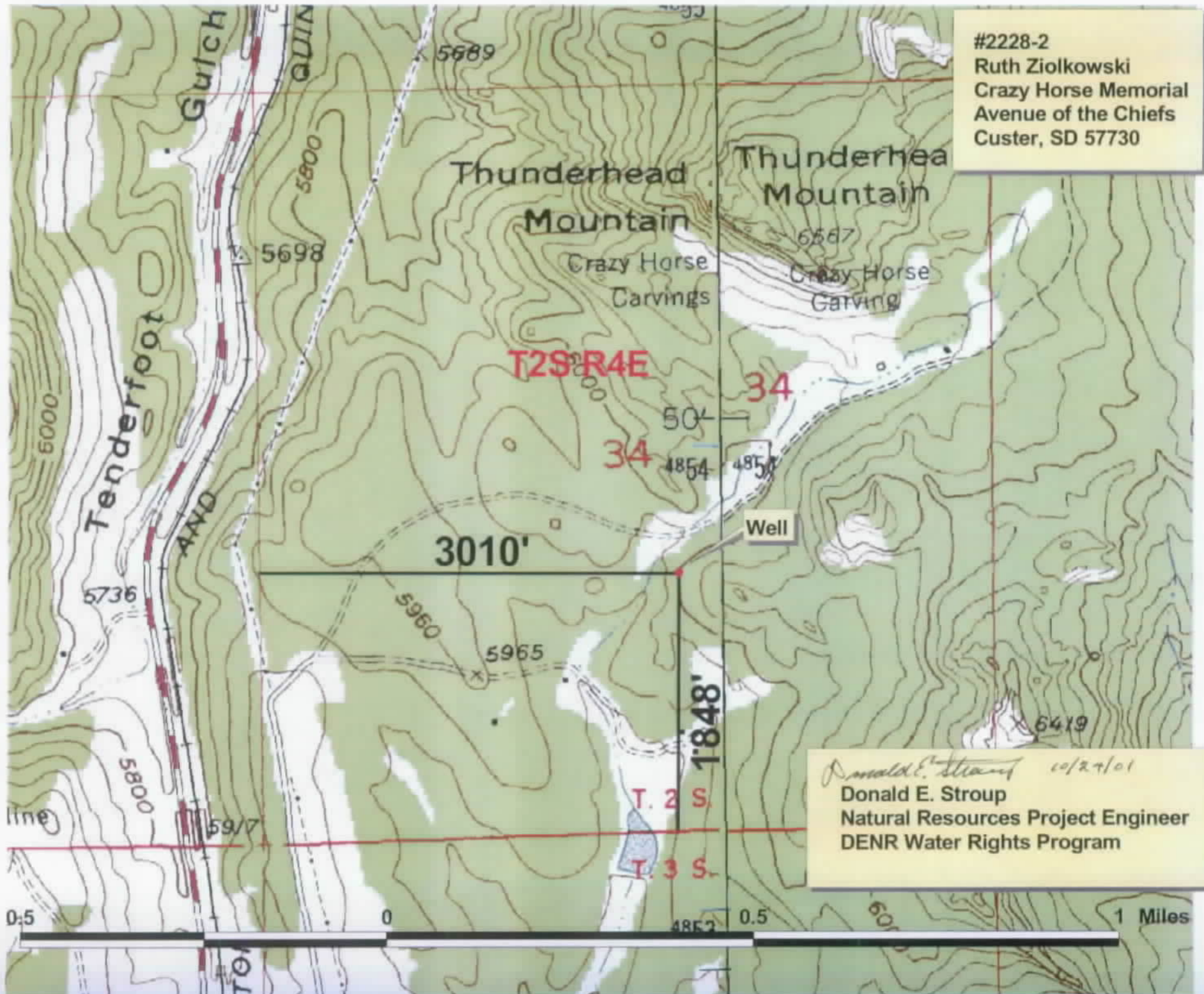
This well should be licensed for the as built 19 gpm (0.042 cfs) diversion rate.


Donald E. Stroup

Natural Resources Project Engineer
DENR, Water Rights Program

10/24/01
Date

#2228-2
Ruth Ziolkowski
Crazy Horse Memorial
Avenue of the Chiefs
Custer, SD 57730



Donald E. Stroup 10/27/01
Donald E. Stroup
Natural Resources Project Engineer
DENR Water Rights Program

STATE OF SOUTH DAKOTA

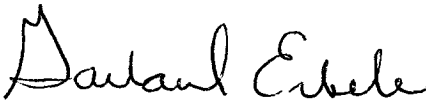
WATER LICENSE NO. 2228-2

(1) Ruth Ziolkowski, Avenue of the Chiefs, Custer SD 57730 made Application No. 2228-2, March 30, 1992 for a water permit to divert 0.155 cubic feet of water per second from groundwater (one well), Custer County, South Dakota for commercial use purposes. Permit No. 2228-2, with a priority date of March 30, 1992 was approved October 1, 1992 and issued to the applicant for diversion of water with construction of the described water supply system completed and the application to beneficial use of said water completed.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 0.042 cubic feet of water per second for beneficial use. The location of the diversion point is 3,010 feet east and 1,848 feet north of the southeast corner of Section 34-T2S-R4E (NW ¼ SE ¼).

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use as a standby water supply and also used to fill a small concrete pond (Arrowhead Lake) for aesthetics and fire protection.

(4) Pursuant to South Dakota Water Law 46-5-30.1 Ruth Ziolkowski, Avenue of the Chiefs, Custer SD 57730 the holder and/or owner of Water Right No. 2228-2 is issued a license to appropriate water, the right to use 0.042 cubic feet of water per second from groundwater (one well) with a priority date of March 30, 1992 from the location specified in (2) of this license for commercial use purposes. This license is subject to any limitations or qualifications listed in Water Right No. 2228-2 and subject to South Dakota State Law.



GARLAND ERBELE, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

DEC 07 2001

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

DEC 07 2001

2228-2

Ruth Ziolkowski
Avenue of Chiefs
Custer, SD 57730

Dear Ms. Ziolkowski:

Enclosed is Water License No. 2228-2. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 416950 in the amount of \$50.00 which you paid for the investigation and issuance of the Water License.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 2228-2, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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. If you have any questions, please contact our office.

Sincerely,

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

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

January 16, 2015

No. 2227-2
2228-2
2630-2

August Heyne
12151 Avenue of the Chiefs
Crazy Horse Memorial SD 57730-8900

Dear Mr. Heyne:

Based on my phone conversation with Rollie Noem, enclosed are three partially completed "Notice of Transfer" forms for filing an name/ownership change on the water permits/rights for Crazy Horse Memorial. The water rights are currently listed in the name of Ruth Ziolkowski. I have also included a copy of each water right.

The transfer forms should be completed, checked over for accuracy and **signed by the new owner or representative**. Upon completion, return the forms to our office with a required filing fee of \$50.00 each (\$150.00 total).

At the same time, please submit the amount of water diverted during 2014 for the well authorized by Permit No. 2630-2.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

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

enclosures

RECEIVED

AUG 17 2015

WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 2228-2

Date: 8-14-15

I/We request that Water Right No. 2228-2

formerly owned by: Ruth Ziolkowski

be transferred to: (name & address) Crazy Horse Memorial Foundation
12151 Avenue of the Chiefs
Crazy Horse, SD Telephone No. 605-673-4681
57730-8900

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

One well located in the NW ¼ SE ¼ Section 34, T2S, R4E

I/We understand that the validity of Water Right No. 2228-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

A fee of Fifty Dollars (\$50.00) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

I/We Crazy Horse Memorial Fnd, the new owner, certify that the above information is true and correct.

Jadwiga Ziolkowski CEO
(Signed by new owner)
Crazy Horse Memorial Fountain

NOTE: Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 3, 2015

2227-2

2228-2

2630-2

August Heyne
12151 Avenue of Chiefs
Crazy Horse Memorial SD 57730

Dear Mr. Heyne:

I am writing in regard to the ownership changes needed for Vested Water Right No. 2227-2, Water Right No. 2228-2 and Water Permit No. 2630-2. All three are currently listed in the name of Ruth Ziolkowski. On January 16th, based on a phone conversation with Rollie Noem, transfer of ownership forms were sent to you for filing the changes. To date, we have not received anything back.

In the event you no longer have the original forms, I am enclosing another partially completed set. Please review and complete as needed. Upon completion, please sign the forms and return them to our office with a required filing fee of \$50.00 each (total of \$150). The check or money order for the fee can be made payable to the Water Rights Program.

Thank you in advance and if you have any questions regarding completion of the forms, please give me a call.

Sincerely,

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

enclosures

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 8/17, 20 15

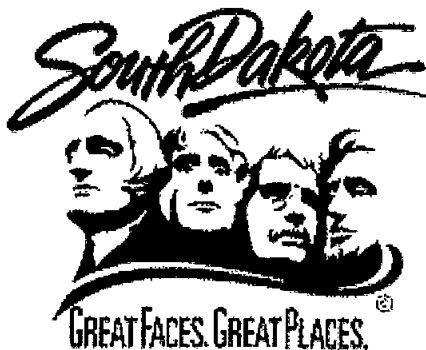
RECEIVED OF Ruth C Ziolkowski Dam Trust 12151 Ave of the Chiefs Crazy Horse SD 57730

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50 00	
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>2228-2</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____	50 00	
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No. 07475

By Jeanne Goodman
Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

August 24, 2015

2227-2
2228-2
2630-2

Jadwiga Ziolkowski, CEO
Crazy Horse Memorial Foundation
12151 Avenue of Chiefs
Crazy Horse Memorial SD 57730

Dear Mr. Ziolkowski:

I am writing to acknowledge receipt of the transfer forms and filing fees submitted for changing ownership on Vested Water Right No. 2227-2, Water Right No. 2228-2 and Water Permit No. 2630-2. The ownership changes have been completed.

Vested Water Right No. 2227-2, Water Right No. 2228-2 and Water Permit No. 2630-2 formerly held by Ruth Ziolkowski are now listed in the name of "Crazy Horse Memorial Foundation".

Enclosed for your records are Receipt Nos. 07471, 07473 and 07474. If you have any questions, please give me a call.

Sincerely,


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

enclosures