

WATER PERMIT NO. 2316-2

Phone: 605 394-4165

Name of Applicant: City of Rapid City

Post Office Address: 300 6th St , Rapid City SD 57701

Amount of Water Claimed: 0.81 Total Acres: _____

Source of Water Supply: Rapid Creek (Murphy Ditch)

Water to be used for: municipal County: Pennington

Location: _____

PRIORITY Date Received: 8-11-94 Fee: \$50.00

Corrected Application Received: 8-18-94 Period of Annual Use: Jan 1 - Dec 31

Remarks: Transfer use of a portion of land irrigated by Murphy Ditch known as the Morris
Property

Diversion Point: _____

Land to be Irrigated: _____

Well Log: Driller: _____ Licensed: YES ____ NO ____

Depth of Well: _____ REMARKS: _____

Type of Map: topo Prepared By: Dan Bjerke, PE Reviewed and the Number

Assigned on: 8-22-94 By: Karen Schlaak

FORM 2: Application for uses other than irrigation

(type or print)

Mail to:
Water Rights Division
Joe Foss Building
523 E Capitol
Pierre SD 57501-3181
605 773-3352

No. 2316-2 Hydrologic Unit 10/20/10
Basin Upper Cheyenne
Newspaper Rapid City Journal, Rapid City, SD
(office use only)



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

Check use of water:

☒ Municipal ☒ Suburban Housing ☐ Recreational ☐ Institutional
☒ Rural Water System ☒ Commercial ☐ Fish & Wildlife ☐ Geothermal Heat
☒ Domestic ☒ Industrial ☐ Other _____
(over 18 gpm)

Type of Application: (check one)
☐ New ☐ Vested Right (Use predates Mar 2, 1955) ☐ Future Use Reservation
☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____
☒ Amendment/Correction to Permit No. 1727-2

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.) _____

1. Name of Applicant City of Rapid City Phone (605) 394-4165
Mailing Address 300 Sixth Street, Rapid City State SD 57701
(Street, RR, or Box) (City) (Zip Code)
2. Amount of water claimed 0.81 *CFS or _____ **GPM _____ ***AF _____
(*Cubic Feet per Second) (**Gallons per Minute) (***Acres Feet - storage capacity of dam/dugout or annual use if applicable)
0.81 CFS not to exceed 94.5 AF/Yr or 47.2 AF/Yr at Alternate Pactola Reservoir Diversion
3. Source of water supply Rapid Creek (see attached Exhibit 1)
4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) See attached Exhibit 2 for
legal descriptions of City of Rapid City Water Treatment Plan, Infiltration Galleries and
Pactola Reservoir Diversion Points County Pennington
5. County or counties where water will be used Pennington County, South Dakota
6. Annual period during which water is to be used April 15 through November 1 (January 1 through
December 31 for Pactola Diversion releases from storage)
7. Give a description of the 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)

The project is described in detail in the accompanying Wright Water Engineers, Inc. report. (Morris Property). The project will divert water from Rapid Creek to the City of Rapid City Water Treatment Plant through the existing infiltration structure on Rapid Creek, and to the existing infiltration galleries. The project will also, in the alternative but not simultaneously, divert water from Rapid Creek to storage in Pactola Reservoir.

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Attach map and any other technical information. (see instructions)

STATE OF SOUTH DAKOTA)

County of Pennington)^{ss}

I, Edward R. McLaughlin, 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 Ed McLaughlin, Mayor

Subscribed and sworn to before me this 8th day of August 19 94

Kay J. Bessentrop
Notary Public

SOUTH DAKOTA
WATER PERMIT NO. 2316-2

Date of first receipt of application August 11, 1994.

The Water Management Board approved Water Permit Application No. 2316-2 on May 1, 1996 for the City of Rapid City, 300 6th St, Rapid City SD 57701 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. 2316-2 transfers the use of a portion of Rapid Creek natural flows historically used to irrigate 64 acres known as the Morris property from Murphy Ditch. The portion of Rapid Creek natural flows to be transferred to the city is 0.81 cubic feet of water per second (cfs) with an annual volume limitation of 94.5 acre-feet, if diverted at the city's water treatment plant and infiltration galleries or 47.2 acre-feet, if stored in Pactola Reservoir. Historically, the 0.81 cfs has been used to irrigate approximately 64 acres located in W 1/2 SE 1/4 Section 9-T1N-R8E. The existing diversion point on Rapid Creek for Murphy Ditch is located in the SW 1/4 Section 8-T1N-R8E. This permit is to change the diversion point for 0.81 cfs to diversion points for use by the city to be located in the SE 1/4 NE 1/4 Section 3 (Rapid City Water Treatment Plant); SW 1/4 SW 1/4 Section 3 (Sioux Park Gallery); SE 1/4 NE 1/4 Section 9 (Meadowbrook Gallery); NW 1/4 SE 1/4 Section 8 (Jackson Springs Gallery); all in T1N-R7E or to allow storage in Pactola Reservoir. The location of the Pactola Reservoir diversion point is the NW 1/4 SW 1/4 Section 2-T1N-R5E. The reservoir impounds water in portions of Sections 2, 3, 4, 5, 10, 11 of T1N-R5E and Sections 31, 32, 33, 34 of T2N-R5E. This permit does not authorize any new water appropriations from Rapid Creek.
2. The water appropriated shall be used for the purpose of meeting Rapid City's water needs and may not exceed the amount of water needed for beneficial use for municipal, industrial, commercial, common distribution system, rural water system, suburban housing and domestic purposes.
3. The water is to be used during the following described annual period: May 1 - September 30 for diversions from the Water Treatment Plant, Sioux Park Gallery, Meadowbrook Gallery and Jackson Springs Gallery and January 1 - December 31 for Pactola Reservoir diversion releases from storage.
4. The date from which applicant may claim right is April 6, 1878.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Permit No. 2316-2 is limited to a diversion rate of 0.81 cfs for a total annual volume of 47.2 acre-feet at Pactola Reservoir or a total annual volume of 94.5 acre-feet at Sioux Park Gallery (SW 1/4 SW 1/4 Section 3), Meadowbrook Gallery (SE 1/4 NE 1/4 Section 9), Jackson Springs Gallery (NW 1/4 SE 1/4 Section 8), and the Rapid City Water Treatment Plant (SE 1/4 NE 1/4 Section 3), all in T1N-R7E. Maximum monthly diversion volumes at Pactola or the diversion points within Rapid City are as follows:

(continued)

<u>Monthly</u>	<u>Monthly acre-feet at Pactola</u>	<u>Monthly acre-feet at diversion points within Rapid City</u>
May	6.61	13.22
June	7.69	15.38
July	10.45	20.89
August	13.40	26.80
September	9.09	18.17
October	0.00	0.00

Diversions during a month may be made at either Pactola Reservoir or at the diversion points within Rapid City, but not simultaneously at both Pactola and the Rapid City diversion points.

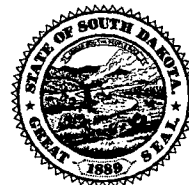
- The City shall only divert the amount associated with crop consumptive use when Water Right/Permit Nos. 653-2, 971-2, 1461-2, 1461A-2 or 2040-2 are ordering stored water.
- Permit No. 2316-2 authorizes diversion of only natural flow water by the City of Rapid City and does not include any rights to stored irrigation water available under contract from Pactola Reservoir.
- That the City of Rapid City report to the Chief Engineer annually the amount of water withdrawn each month at Pactola Reservoir or the diversion points within Rapid City.
- That the Water Management Board is retaining jurisdiction of Permit No. 2316-2 in the event that additional information shows that changes need to be made in the monthly or total annual volumes authorized by Permit No. 2316-2.
- Diversions under Permit No. 2316-2 may not interfere with existing water rights in effect prior to approval of No. 2316-2 or any domestic rights.
- The amount of water with a April 6, 1878 priority date which may be appropriated under Vested Water Right No. 1727-2 is reduced by 0.81 cfs.
- Approval of Permit No. 2316-2 retires the 64 acres, known as the Morris property which has been historically irrigated from Murphy Ditch, located in the W 1/2 SE 1/4 Section 9-T1N-R8E from future irrigation.

WATER MANAGEMENT BOARD

By: John Hatch
John Hatch, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JUN 10 1997

date



(type or print in ink)



N/A

- a) Drill Hole Diameter _____ Depth _____
- b) Casing Type _____ Diameter _____ Thickness _____
- c) Screen Type _____ Diameter _____ Thickness _____
- d) Gravel Pack Thickness _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth to Water (ground surface to water level) _____
- g) Distance to nearest existing domestic well:
On applicants property _____ On property owned by others _____

N/A

- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

(EXISTING PACTOLA RESERVOIR)

If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to be shown on the map submitted with the application.

- a) If a private engineering firm or government agency was involved in the design of this dam, please give their name and address:

b) Freeboard 3.3 FT.

c) Crest Width 40 FT.

Crest Length 5,200 FT.

(INCLUDING DIKES)

- d) Height 245 FT.

- e) Primary Outlet Capacity 1,150 CFS

If pipe, diameter TWO 2.75 FT. X

2.75 FT. GATES

- f) Secondary Spillway Capacity 245,000 CFS

Spillway Width 425 FT.

- g) X & Y Slope**

Upstream 2 - 1/2:1

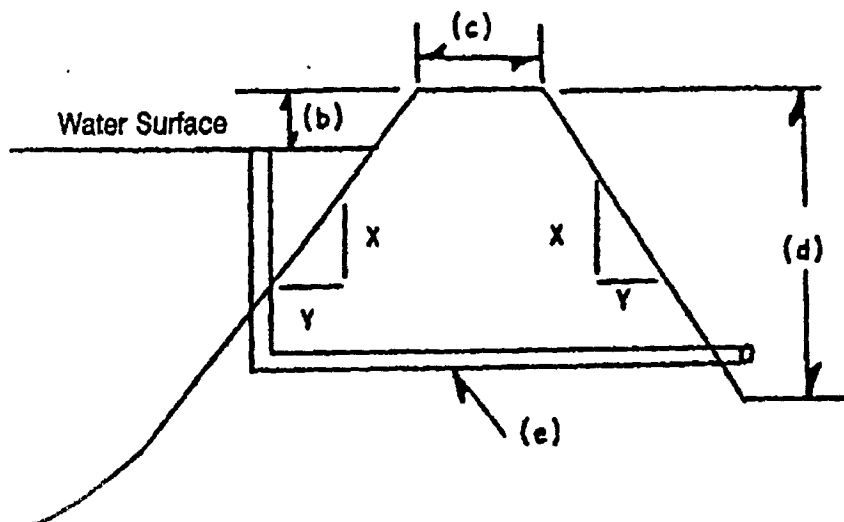
Downstream 2:1

- ### h) Surface Area of Impoundment 1,232 ACRES^{1/}

- i) Storage 99.029 1/ Acre Feet

- i) Drainage Area above Dam 319 SQ. MI Acres

1/ INCLUDES FLOOD POOL



7-92

Ed McLaughlin
Edward R. Mc Laughlin, Mayor
City of Rapid City, South Dakota

EXHIBIT 1

**LEGAL DESCRIPTION OF IRRIGATED LAND
AFFECTED BY APPLICATION**

A portion of the west one-half of the SE1/4, all south of the Murphy Ditch, all in Section Nine (9), Township One (1) North, Range Eight (8) East of the Black Hills Meridian, Pennington County, South Dakota, consisting of 64 acres, more or less.



EXHIBIT 2

APPLICATION FOR PERMIT TO APPROPRIATE WATER WITHIN THE STATE OF SOUTH DAKOTA



4. Location of Points of Diversion

City of Rapid City Water Treatment Plant:

North 71 degrees 39 feet west, 1,205 feet from east 1/4 corner of Section Three (3), Township One (1) North, Range Seven (7) East of the Black Hills Meridian.

Sioux Park "Girl Scout" Gallery:

1,270 feet north 54 degrees 05 feet east of southwest corner of Section Three (3), Township One (1) North, Range Seven (7) East of the Black Hills Meridian.

Meadowbrook Gallery:

2,032 feet south 31 degrees 41 feet west of northeast corner of Section Nine (9), Township One (1) North, Range Seven (7) East of the Black Hills Meridian.

Jackson Springs Gallery:

2,943 feet north 58 degrees 54 feet west of southeast corner of Section Eight (8), Township One (1) North, Range Seven (7) East of the Black Hills Meridian.

Alternate Pactola Reservoir Diversion (Inlet to Service Spillway):

South 19 degrees east, 3,740 feet of northwest corner of Section Two (2), Township One (1) North, Range Five (5) East of the Black Hills Meridian.

Reservoir generally located in portions of Sections Two (2), Three (3), Four (4), Five (5), Ten (10), and Eleven (11), Township One (1) North, Range Five (5) East of the Black Hills Meridian, and portions of Sections Thirty-one (31), Thirty-two (32), Thirty-three (33), and Thirty-four (34), Township One (1) North, Range Five (5) East of the Black Hills Meridian.

All of the above in Pennington County, South Dakota.

City of Rapid City South Dakota

8/1/94 ELS

PO Number 293714



Year

Vendor Number

V0

Computer Entry Date

SD 57501

Quantity/Description

Transfer 2039-2

Transfer 1727-2

Morris Property on Murphy
and Hawthorne Ditch

100.00 TOTAL

This order is regularly issued only when countersigned by Purchasing Agent and approved by the Mayor, if over \$500.00.

Formal Bid - Date Approved _____

Informal bid, see supporting data attached

No bid required

Will be reimbursed by _____

REMARKS

pt. Head 10/11/1941 Date

Date _____

For 11/1/77 Date

Date _____

Purchasing Agent _____ Date _____

Date _____

VENDOR COPY

RECEIPT

414257

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, August 18, 19 94

RECEIVED OF City of Rapid City, 300 6th St, Rapid City SD 57701

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

Fee for Application for Permit No. <u>2316-2</u> 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 _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	50 00

By John Hatch
Chief Engineer

JOHN HATCH

KS

Order

SOUTH DAKOTA DEPT ENV & NATL
523 E CAPITOL
PIERRE, SD 57501

Amount	Fund	PO #	CCtr	Invoice Number	Description
--------	------	------	------	----------------	-------------

50.00	0602	293714	0933	0	TRANSFER 2039-2 MORRIS
-------	------	--------	------	---	------------------------

50.00	0602	293714	0933	0	TRANSFER 1727-2 MORRIS
-------	------	--------	------	---	------------------------

*****100.00	*****	Check Total *****			
-------------	-------	-------------------	--	--	--



TABLE III-1

TR-21 POTENTIAL CONSUMPTIVE USE CALCULATIONS (AVERAGE) - ALFALFA

LATITUDE: 44 N

IRR. APPL. IN.: 3.00

F= 1.00067

CROP: ALFALFA

STATION: RAPID CITY WSO AP

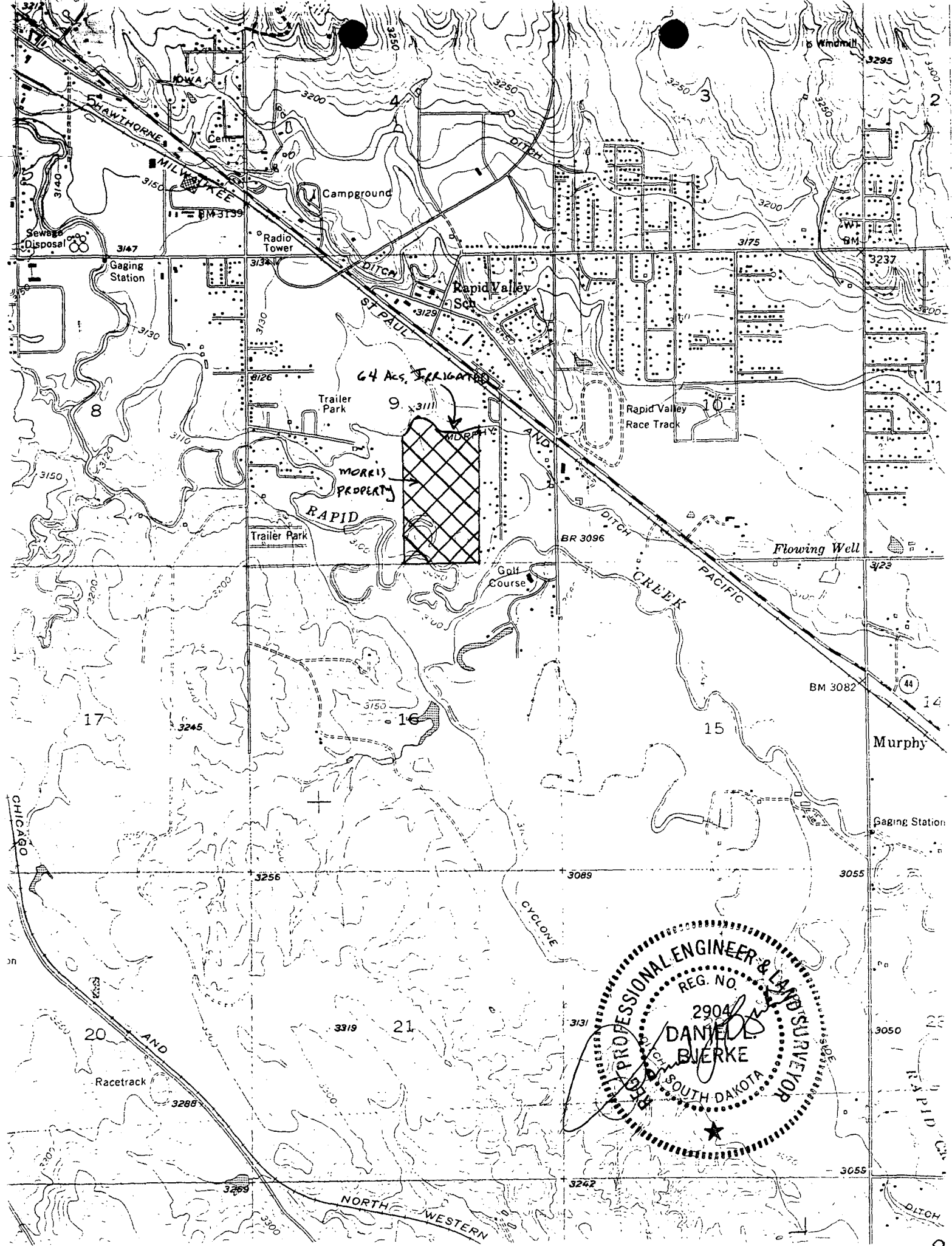
LIMIT: 50 F MEAN TEMP

YEAR: 49-54,56-59,63-68,70-79

MONTH	DAYS	TEMP	ADJ. TEMP.	% DAY	ADJ. DAY	CU FACTOR	CLIMATE COEFF.	GROWTH COEFF.	CU COEFF.	MONTH CU	MONTH PPT.	PPT. FACTOR	EFFECT. PPT.	ADJUSTED CU
A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
JAN	--	--	--	6.48	0.00	0.0000	0.3000	0.63	0.1890	0.00	--	-0.12	0.00	0.0000
FEB	--	--	--	6.57	0.00	0.0000	0.3000	0.73	0.2190	0.00	--	-0.12	0.00	0.0000
MAR	--	--	--	8.29	0.00	0.0000	0.3000	0.86	0.2580	0.00	--	-0.12	0.00	0.0000
APR	--	--	--	9.05	0.00	0.0000	0.3000	0.99	0.2970	0.00	--	-0.12	0.00	0.0000
MAY	31	55.4	55.4	10.25	10.25	5.6785	0.6444	1.08	0.6960	3.95	2.58	1.79	1.79	2.1636
JUN	30	63.2	63.2	10.39	10.39	6.5665	0.7794	1.13	0.8807	5.78	3.29	2.46	2.46	3.3270
JUL	31	72.3	72.3	10.49	10.49	7.5843	0.9368	1.11	1.0398	7.89	1.87	1.67	1.67	6.2193
AUG	31	70.8	70.8	9.71	9.71	6.8747	0.9108	1.06	0.9655	6.64	1.55	1.31	1.31	5.3295
SEP	30	60.5	60.5	8.41	8.41	5.0881	0.7327	0.99	0.7253	3.69	1.10	0.80	0.80	2.8892
OCT	15	49.3	55.1	7.64	3.92	2.1579	0.6392	0.91	0.5817	1.26	0.36	0.21	0.21	1.0491
NOV	--	--	--	6.50	0.00	0.0000	0.3000	0.78	0.2340	0.00	--	-0.12	0.00	0.0000
DEC	--	--	--	6.22	0.00	0.0000	0.3000	0.64	0.1920	0.00	--	-0.12	0.00	0.0000

SUM	168
-----	-----

INCHES	29.20	10.75	8.23	20.98
FEET	2.43		0.69	1.75



PROFESSIONAL ENGINEER & LAND SURVEYOR
REG. NO. 2904
DANIEL BIERKE
SOUTH DAKOTA



CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

Public Works Department

300 Sixth Street

605-394-4165

FAX 605-394-6636

August 8, 1994

Mr. John Hatch
Chief Engineer
Water Rights Division
SD Dept. of Environment & Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501



Re: Applications for Permit to Appropriate Water
Murphy Ditch - Morris Property
Hawthorne Ditch - Morris Property

Dear Mr. Hatch:

Transmitted herewith are two Applications for Permit to Appropriate Water within the State of South Dakota for transfer of natural flow water rights from Rapid Creek historically used on the Morris Property located in Rapid Valley via the Murphy Ditch and the Hawthorne Ditch.

Thank you for your assistance in this transfer.

Sincerely,
CITY OF RAPID CITY

Daniel L. Bjerke, PE/LS
Public Works Director of Engineering/Utilities

pc Mayor Ed McLaughlin
Robert R. Jackson, City Attorney



EQUAL HOUSING
OPPORTUNITY

EQUAL OPPORTUNITY EMPLOYER

WME

2316-2

Wright Water Engineers, Inc.

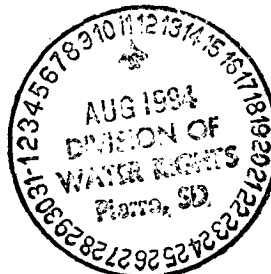
DENVER OFFICE
2490 West 26th Ave., Suite 100 A
Denver, Colorado 80211
FAX (303) 480-1020
(303) 480-1700

DRAFT

September 24, 1993

GLENWOOD SPRINGS OFFICE
818 Colorado Avenue
P.O. Box 219
Glenwood Springs, Colorado 81602
FAX (303) 945-9210
Denver Line (303) 893-1608
(303) 945-7755

Mr. Daniel L. Bjerke, P.E./L.S.
Water/Wastewater Division Manager
City of Rapid City
300 Sixth Street
Rapid City, South Dakota 57701



Re: Morris Property Water Rights Transfer

Dear Mr. Bjerke:

Wright Water Engineers, Inc. has quantified the irrigated acreage under the Murphy Ditch belonging to William J. and Barbara A. Morris, and Mary L. McMaster. This acreage has been used to determine the amount of water that can be transferred to Pactola Reservoir and the Rapid City water treatment plant and infiltration galleries based on data and engineering calculations detailed in the engineering report prepared for the Tyler property dated October 1990.

The Morris property, like the Tyler property, is adjacent to the Murphy Ditch (see attached copy of 1981 ASCS aerial photo). There are three parcels of irrigable land on the Morris property. The northwest and northeast parcels consist of approximately 53 acres of irrigated hay. These parcels are flood irrigated using water diverted from the Hawthorne Ditch. The third parcel is located south of the Murphy Ditch in the southeastern portion of the property. Flood irrigation is used to apply the Murphy Ditch water to approximately 64 acres of irrigable land. The crop irrigated on these acres is assumed to be alfalfa as per a telephone conference with you following your site inspection on September 23, 1993. The Tyler property crop was primarily alfalfa which was irrigated with a side roll sprinkler irrigation system (farm irrigation efficiency of 0.80). Table A (attached) is an equivalent to Table III-3 in the Tyler report showing the calculations for the amount of transferrable water available from the Morris property to both Pactola Reservoir and the Rapid City water treatment plant and infiltration galleries. These calculations are based on 1,426 acres irrigated by diversions at the Murphy Ditch headgate as discussed in our January 7, 1992 memo. These calculations assume a farm irrigation efficiency of 50 percent and a 11.0 percent seepage loss from the Murphy Ditch.

The January 7, 1980 Murphy Ditch vested rights under license No. 1727-2 lists 64 acres of irrigated land north of Rapid Creek in the west half of the southeast quarter of Section 9, Township 1 North, Range 8 East of the Black Hills Meridian. A 1981 ASCS aerial photograph indicates that only 34.5 acres of this parcel were irrigated that year. However, review of a 1990 aerial photograph shows that approximately 64 acres of land were irrigated south of the Murphy Ditch and north of Rapid Creek on the Morris property that year. A telephone conference with

the Pennington County ASCS office (Gary Witt, September 3, 1992) verified that there is no recorded irrigated acreage data available from ASCS for this property.

Therefore, for purposes of the calculations herein, we assumed 64.0 acres of hay are irrigated by the Murphy Ditch on the Morris property.

The consumptive use calculations in the attached Table A yield the following:

- a. To storage in Pactola Reservoir, the average year transferable amount would be:
$$(64.0 \text{ acres}) \times (0.74 \text{ acre-feet/acre}) = 47.2 \text{ acre-feet.}$$
- b. To the city WTP and infiltration galleries, the average year transferable amount would be:
$$(64.0 \text{ acres}) \times (1.48 \text{ acre-feet/acre}) = 94.5$$

The monthly transferable amounts to Pactola Reservoir and the City's WTP and infiltration galleries are presented in Table B. Diversion at the alternate points of Pactola Reservoir and the water treatment plant and infiltration galleries will only take place during the permitted irrigation season for the Murphy Ditch (April 15 to November 30); Table B, however, includes transferable amounts for only May through September because no historic diversion by the Murphy Ditch is recorded for April and October.

The rate of diversion for the transferable amount from the Morris property is calculated by the following method:

$$\frac{64.0 \text{ acres}}{1,191 \text{ acres}} \times 17.0 \text{ cfs at the ditch headgate (1878 priority)} \times (1.0 - 0.11) = 0.81 \text{ cfs}$$

where the 1,191 acres is the total irrigated acreage using the Murphy Ditch water per the December 20, 1991 telephone conference with Del Brosz and Mark Rath, the 17.0 cfs is the licensed diversion amount, and the 11.0 percent carriage loss is the amount that will remain in the ditch.

These transferable amounts and this rate of diversion insure that there will be no injury to downstream water rights, and that depletions to Rapid Creek will not exceed historic depletions.

Mr. Daniel J. Bjerke
September 24, 1993
Page 3

If you have any questions regarding these calculations, please do not hesitate to contact us.

Sincerely,

WRIGHT WATER ENGINEERS, INC.

By Leo M. Eisel by G.D. Witt
Leo M. Eisel, P.E.

By Gary D. Witt
Gary D. Witt

LME/GDW:ard
901-046.060
(RAPIDC/MORRISPR.GDW)
cc: Mark Rath (2) copies

DETERMINATION OF CONSUMPTIVE USE FOR TRANSFER
 RAPID CITY WATER RIGHTS
 901-046.060
 SEPTEMBER 24, 1993

TABLE A

Q	R
MONTH	MURPHY WATER (AF)
MAY	331
JUN	385
JUL	523
AUG	671
SEP	455
TOTAL	2365

TRANSFERABLE AMOUNT FROM MORRIS PROPERTY UNDER MURPHY DITCH (AVERAGE)

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	
MONTH	C.U. (IN)	PRECIP. (IN)	EFFECT. PRECIP. (IN)	PRECIP. ADJ. C.U. (IN)	EXCESS PRECIP. TO SOIL MOIST. DURING MONTH (IN)	SOIL MOIST. USED TO SATISFY ADJUST. C.U. (IN)	REMAIN. CROP REQUIR. (IN)	GROSS CROP NEEDS (IN)	FARM IRRIG. SUPPLY (IN)	EXCESS IRRIG. SOIL MOIST. CONTRIB. (IN)	ACCUM. SOIL MOIST. STORAGE AFTER IRRIG. (IN)	ADDITIONAL WATER REQUIRED TO MEET C.U. NEEDS FROM SUBIRRIG. (IN)	DEEP PERC. (25.0%) (IN)	SURFACE WATER RETURN FLOW (25.0%) (IN)	50% OF MORRIS HISTORIC DIVERSIO (IN)	CLAIMED IRRIG. C.U. FC TRANSFER (IN)
NOV	0.00	0.53	0.37	0.00	0.37	0.00	0.00	0.00	0.00	0.00	0.37	0.00	0.00	0.00	0.00	0.00
DEC	0.00	0.41	0.29	0.00	0.29	0.00	0.00	0.00	0.00	0.00	0.66	0.00	0.00	0.00	0.00	0.00
JAN	0.00	0.50	0.35	0.00	0.35	0.00	0.00	0.00	0.00	0.00	1.01	0.00	0.00	0.00	0.00	0.00
FEB	0.00	0.59	0.41	0.00	0.41	0.00	0.00	0.00	0.00	0.00	1.42	0.00	0.00	0.00	0.00	0.00
MAR	0.00	1.11	0.78	0.00	0.78	0.00	0.00	0.00	0.00	0.00	2.20	0.00	0.00	0.00	0.00	0.00
APR	0.00	2.11	1.48	0.00	1.48	0.00	0.00	0.00	0.00	0.00	3.68	0.00	0.00	0.00	0.00	0.00
MAY	3.95	2.58	1.78	2.16	0.00	2.16	0.00	0.00	2.48	1.24	2.75	0.00	0.62	0.62	1.24	1.24
JUN	5.78	3.29	2.46	3.33	0.00	2.75	0.58	1.15	2.88	0.87	0.87	0.00	0.72	0.72	1.44	1.44
JUL	7.83	1.87	1.66	-6.16	0.00	0.87	5.29	10.59	3.92	0.00	0.00	3.34	0.98	0.98	1.96	1.96
AUG	6.64	1.55	1.31	5.33	0.00	0.00	5.33	10.66	5.03	0.00	0.00	2.82	1.26	1.26	2.51	2.51
SEP	3.69	1.10	0.80	2.89	0.00	0.00	2.89	5.78	3.41	0.00	0.00	1.19	0.85	0.85	1.70	1.70
OCT	1.18	0.75	0.53	0.98	0.00	0.00	0.98	1.96	0.00	0.00	0.00	0.98	0.00	0.00	0.00	0.00
TOTAL	29.07	16.39	12.22	20.85	3.68	5.78	15.07	30.14	17.71	2.11	12.95	8.32	4.43	4.43	8.86	8.86

AVERAGE CONDITIONS, CROP = ALFALFA
 MURPHY DITCH IRRIGATED ACREAGE = 1426
 11% SEEPAGE LOSS
 MORRIS IRRIGATED ACREAGE = 64.0
 50% IRRIGATION EFFICIENCY USING FLOOD IRRIGATION
 DEEP PERCOLATION IS ONE HALF OF IRRIGATION INEFFICIENCY (25.0%) PLUS EXCESS SOIL MOISTURE
 OTHER HALF OF IRRIGATION INEFFICIENCY (25.0%) IS SURFACE WATER RETURN FLOW
 PACT. = PACTOLA RESERVOIR
 WTP = RAPID CITY WATER TREATMENT PLANT AND INFILTRATION GALLERIES

TRANSFERABLE AMOUNT FROM MORRIS PROPERTY UNDER MURPHY DITCH			
	(INCHES)	(FEET)	(AC.FT)
TO PACT.	8.86	0.74	47.2
TO WTP	17.71	1.48	94.5

1 cfs for 71.3 ac
 Ave Annual use 1.66 ac-ft/ac

TABLE B

MONTHLY TRANSFER SUMMARY MORRIS PROPERTY

MONTH	DIVERSION TO STORAGE IN PACTOLA RESERVOIR (AC.FT)*	DIVERSION AT THE RAPID CITY WTP AND INFILTRATION GALLERIES (AC.FT)**
MAY	6.61	13.22
JUNE	7.69	15.38
JULY	10.45	20.89
AUGUST	13.40	26.80
SEPTEMBER	9.09	18.17
OCTOBER	0.00	0.00
TOTAL	47.23	94.47

* Monthly amount transferable to storage in Pactola Reservoir:

Column P (Table A) x 64 acres x 1 foot/12 inches

** Monthly amount transferable to Rapid City WTP and infiltration galleries:

Column J (Table A) x 64 acres x 1 foot/12 inches

FOOTNOTES FOR TABLE III-4

The following describes how each column in Table III-4 is determined.

Column	Description
A	Month
B	Gross consumptive use calculated by Blaney-Criddle method in Table III-1 or Table III-2
C	1989 monthly precipitation taken from NOAA gage at Rapid City airport
D	Effective precipitation is precipitation available to meet crop consumptive use requirements
	Nongrowing season: $0.7 \times C_i$ Growing season: Calculated by Blaney-Criddle regression in Table III-1 or Table III-2
E	Net consumptive use
	Nongrowing season: 0 Growing season: $B_i - D_i$
F	Excess precipitation to soil moisture in storage
	All months: if $D_i \geq B_i$, then $D_i - B_i$, else 0
G	Soil moisture used to satisfy adjusted consumptive use
	All months: if $E_i = 0$, then 0, else if $L_{t-1} \geq E_i$, then E_i , else L_{t-1}
H	Remaining crop needs
	All months: if $E_i \geq L_{t-1}$, then $E_i - L_{t-1}$, else 0
I	Gross crop needs account for farm irrigation inefficiencies
	All months: $H/0.50$
J	Farm irrigation supply is prorated for the Morris property as percentage of Hawthorne water (18.0 percent Hawthorne Ditch seepage loss and 1,014 total acres of land irrigated by Hawthorne Ditch water rights).

FOOTNOTES FOR TABLE III-4 (Continued)

All months: $R \times 0.820 \times 12/1,014$ (1989 conditions)

K Excess irrigation soil moisture contribution

All months: if $J_i = 0$, then 0, else, if $J_i \leq I_i$, then 0, else $(J_i - I_i) \times 0.50$

L Accumulative soil moisture storage after irrigation

All months: if $J_i - I_i < 0$, then 0 else,
if $F_i = 0$ then $L_{t-1} - G_i + K_i$, else $L_{t-1} + F_i$

M Additional water required to meet consumptive use needs from subirrigation

All months: if $L_i = 0$, then $(I_i - J_i) \times 0.50$, else 0

N Deep percolation with flood irrigation

All months: if $L_i > 9.5$, then $L_i - 9.5 + (J_i \times 0.25)$, else $J_i \times 0.25$

O Surface water return flow

All months: $J_i \times 0.25$

P Claimed irrigation consumptive use for transfer from Morris property

All months: if $J_i = 0$, then $P_i = 0$;
if $E_i \leq 0.50 J_i$, then $P_i = E_i$;
if $E_i > 0.50 J_i$, then $P_i = 0.50 J_i$

Q Month during irrigation season

R Hawthorne Ditch diversions (AF)



Wright Water Engineers, Inc.

DENVER OFFICE
2490 West 26th Ave., Suite 100 A
Denver, Colorado 80211
(303) 480-1700
(303) 480-1020 FAX



GLENWOOD SPRINGS OFFICE
818 Colorado Avenue
P. O. Box 219
Glenwood Springs, Colorado 81602
(303) 945-7755
(303) 893-1608 Denver Direct Line
(303) 945-9210 FAX

September 30, 1994

Mr. Mark Rath
Water Rights Division
Department of Environment and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

Dear Mark:

Thank you for your analysis of the Morris transfer from the Hawthorne and Murphy Ditches. I have the following thoughts concerning this matter:

1. In your comments, you indicate that you have two priority dates just junior to the Murphy Ditch's 1878 priority and the other two are junior to the Hawthorne's 1886 priority. You attached water license no. 971-2 (Hamm and Johnson); water permit 1461A-2 (Warren Lamb Lumber Company); vested water rights no. 653-2 (Little Giant Ditch); and vested water right license no. 2040-2 (South Side Ditch). Therefore, the two rights which are senior to the Hawthorne and junior to the Murphy are the Southside Ditch and the Little Giant Ditch. The other rights which are junior to both the Hawthorne and Murphy are the Hamm and Johnson and the Warren Lamb Lumber Company.
2. It is my understanding that the four water rights have points of diversion downstream from the point at which return flows from the Morris property will return to Rapid Creek and upstream from the wastewater treatment plant effluent discharge.
3. Given this situation, we would maintain that the historic consumptive use credits from the Morris property under both the Hawthorne and Murphy Ditches can be exchanged upstream to the Rapid City water treatment plant/infiltration galleries and Pactola Reservoir as long as the Hawthorne Ditch is in-priority. If the Hawthorne Ditch is not in-priority, the consumptive use credits associated with the Hawthorne Ditch on the Morris property cannot be exchanged. The historic consumptive use credits associated with the Murphy Ditch on the Morris property could, however, be exchanged at all times because of the seniority of the Murphy Ditch.

Mr. Mark Rath
September 30, 1994
Page 2

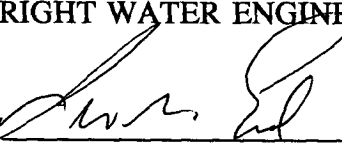
4. The diversion associated with the Morris property for both the Hawthorne and Murphy Ditch can, however, be exchanged to the Rapid City water treatment plant/infiltration galleries and Pactola Reservoir only at those times when the four rights are receiving their appropriations. If any of the four rights, including the two juniors, is not able to divert its appropriation, only the consumptive use can be exchanged to the water treatment plant/infiltration galleries and Pactola Reservoir.

Mark, after you have had a chance to read this, we can discuss it further by telephone. Thanks again for your review.

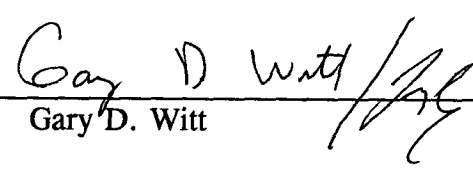
Sincerely,

WRIGHT WATER ENGINEERS, INC.

By


Leo M. Eisel, P.E.

By


Gary D. Witt

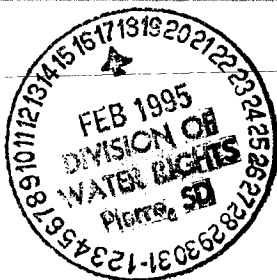
LME/GDW:ard
cc: Dan Bjerke
901-046.070
(RAPIDC/MORRTRAN.LME)



McLaughlin Water Engineers, Ltd.

2420 Alcott Street, Denver, Colorado 80211 (303) 458-5550
Facsimile (303) 480-9766

February 13, 1995



Mr. Mark Rath
Water Rights Division
Department of Environment and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

RONALD C. McLAUGHLIN
HALFORD E. ERICKSON
WILLIAM R. KENDALL
RALPH L. TOREN
TERRENCE P. KENYON
RICHARD E. McLAUGHLIN

GENE A. BURRELL
MICHAEL E. MERCER
JOHN M. PFLAUM
MICHAEL R. GALUZZI
SCOTT E. LEHMAN
BRIAN S. KOLSTAD
G. DEAN DEROSIER
EDWARD D. BAIN
BRIAN E. CHEVALIER
PAUL D. ZACHARY

J. HAROLD ROBERTS
LEANDER L. URMY
DANIEL M. PETRAMALA
RONALD D. LUCERO

RE: Response to Comments on the Transfer of Morris Water Rights in the Hawthorne and Murphy Ditches to the City of Rapid City

Dear Mark:

The purpose of this letter is to provide additional comments concerning the above referenced matter. These comments are in addition to those supplied in our letter of September 30, 1994 to you. We are responding to two basic concerns:

1. The upstream transfer of the Morris portion of the Hawthorne and Murphy ditch rights from their historic points of diversion in Rapid Creek to the City of Rapid City's water treatment plant and/or infiltration galleries will result in return flows to Rapid Creek at the City's sewage treatment plant rather than at the original historic upstream points of return flow near the Morris property. The basic concern is whether the intervening rights between the Hawthorne and Murphy Ditch headgates and the sewage treatment plant (i.e., the Warren Lamb Lumber Company right, Hamm & Johnson right, Little Giant Ditch right, and the South Side Ditch right) are adequately protected with respect to receiving their historic share of return flows in the proposed transfer.
2. Is the administration policy used by the water master in 1994 to administer Rapid City's transferred water rights fair and equitable?

The first question is responded to below; the second question will be responded to in a separate letter from Dan Bjerke.

THE RETURN FLOW ISSUE

The conditions proposed in the Engineering Report for the upstream transfer of the Morris portion of the Hawthorne Ditch right and the Morris portion of the Murphy Ditch did not specifically consider the effects on the flow rights detailed above from the change in location for return flows.

ASPEN, CO
(303) 925-1920

TULSA, OK
(918) 582-6800

PHOENIX, AZ
(602) 248-7702

In order to protect these rights, it would be necessary to include an additional condition on the upstream transfer of the Hawthorne and Murphy Ditch rights to the City of Rapid City's water treatment plant and infiltration galleries which would limit the City's diversion at the water treatment plant and infiltration galleries when there is insufficient natural flow to meet the Warren Lamb Lumber Company, Hamm & Johnson, Little Giant Ditch, and South Side Ditch rights. When Rapid Creek is being administered according to the priority system and there is insufficient natural flow to meet the actual diversion requirements of the four rights, Rapid City can exchange only the historic diversion associated with the Morris property net of the historic return flows. In the case of the Morris property irrigated by the Murphy Ditch, the property is immediately upgradient from Rapid Creek and there is a reasonable likelihood that return flows from the portion of the Morris property are returning directly to Rapid Creek. Consequently when there is insufficient natural flow to meet the actual diversion requirements of the four rights detailed above and Rapid Creek is being administered according to the priority system, Rapid City can exchange only the historic consumptive use associated with the Murphy Ditch irrigated portion of the Morris property to the WTP and/or infiltration galleries.

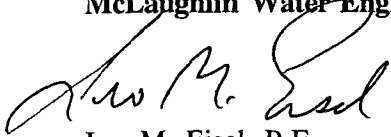
In the case of the Morris property irrigated by the Hawthorne Ditch, this land is located upgradient from the Murphy Ditch. Therefore, return flows from Morris land irrigated by the Hawthorne Ditch most likely returned to the Murphy Ditch and not Rapid Creek. In this situation, these return flows were not available to the Warren Lamb Lumber Company, Hamm and Johnson, South Side and Little Giant rights for diversion. Consequently, these rights will not be deprived of return flows from the Morris property historically irrigated by the Hawthorne Ditch because of the exchange to the Rapid City WTP and infiltration galleries.

When there is sufficient natural flow to meet the four rights, the City of Rapid City can divert the historic diversion associated with the Morris property portion of the Murphy and Hawthorne Ditch rights at the water treatment plant and the infiltration galleries.

If you have additional questions or concerns about this matter, please call us.

Thank you for your cooperation and assistance.

Very truly yours,
McLaughlin Water Engineers, Ltd.



Leo M. Eisel, P.E.
President

cc: Dan Bjerke



CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

Public Works Department

300 Sixth Street

605-394-4165

FAX 605-394-6636

February 14, 1995

Mr. Mark Rath
State of South Dakota
Department of Environment
and Natural Resources
Water Rights Division
Joe Foss Building
523 East Capitol
Pierre South Dakota 57501-3181



RE: Administration Policy for Rapid Creek

Dear Mark:

The purpose of this letter is to provide some comments on the proposed continuation of the 1994 Rapid Creek administration policy, make recommendations for alternatives, and suggest appropriate follow-up actions.

The administration policy used by the Water Master in 1994 for administering Rapid City's transferred Murphy and South Side Ditch rights is not equitable to Rapid City because it requires the bypassing of approximately 51 cfs of flow regardless of how much water is required by Rapid Creek water rights holders. This problem can be demonstrated with respect to the South Side Ditch. According to the 1994 administration policy, 51 cfs of inflow to Pactola Reservoir must exist before Rapid City can divert the approximately 5 to 6 cfs of diversion under the South Side Ditch right at the City's water treatment plant or infiltration galleries. This 51 cfs represent the total of all priorities senior to, and including, the South Side Ditch including Cleghorn Springs, Leedy Ditch, Meadow Brook, Murphy Ditch, Rapid Valley Water Service Company, Little Giant Ditch and the South Side Ditch. It includes 23.4 cfs for the South Side Ditch. If there is less than approximately 51 cfs of natural inflow to Pactola Reservoir, the 5 to 6 cfs of South Side Ditch rights transferred by the City will be proportionally reduced based on the reduced water available to the South Side Ditch right.

The major problem with the 1994 administration policy is the South Side Ditch has historically not taken its 23.4 cfs based on available records. The maximum diversion year for the South Side Ditch was 1974 when 4,290 acre-feet were reportedly diverted. The peak month in 1974 was August when an estimated 1,030 acre-feet were diverted. This amounts to an average of 16.8 cfs taken over



EQUAL HOUSING
OPPORTUNITY

EQUAL OPPORTUNITY EMPLOYER

Mr. Mark Rath
DENR Water Rights Division
February 14, 1995
Page 2

the entire month of August. In 1989 (another dry year), 3,644 acre-feet were diverted which equates to 14.2 cfs taken over the month of August. Finally, in 1990 and 1991 (two recent relatively dry years) approximately 1,800 acre-feet were diverted in each year which amounts to 7.0 cfs.

Therefore, by having a requirement to effectively bypass 23.4 cfs of diversion, the City is being shorted in its potential to divert the transferred water rights.

Another problem is that by measuring the bypass flows as inflow to Pactola Reservoir, the effect of return flows in meeting the various water rights on Rapid Creek is totally ignored.

In order to make the administration system more fair and equitable, I suggest that the prorated reduction of Rapid City's transferred portion of the South Side Ditch right be based on the actual shortage experienced by the South Side Ditch and other senior Rapid Creek irrigators and not on the full permitted right (23.4 cfs) in the case of the South Side Ditch. In other words, when the South Side Ditch irrigators are experiencing a shortage, they issue a priority call and Rapid City's transferred portion of the South Side right is reduced according to the proportion of available natural flows available for diversion at the South Side headgate. This administration policy would, however, require that any sharing of shortages by Rapid Creek water rights holders cease and the stream be administered according to the priority system; e.g., the South Side Ditch would purchase no water until the South Side was taking all the remaining natural flows in Rapid Creek after the diversion requirements of the Murphy Ditch were satisfied and the South Side actual irrigation requirements are still not met.

After you have had a chance to review this, we should probably discuss it. Thank you very much for your assistance in this matter.

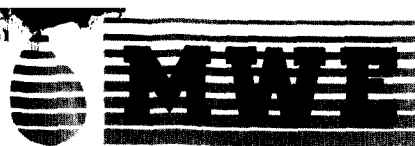
Sincerely,

CITY OF RAPID CITY
Public Works Department



DANIEL L. BJERKE, P.E./L.S.
Public Works Director of Design/Utilities

LE/DLB/jmg



McLaughlin Water Engineers, Ltd.

2420 Alcott Street, Denver, Colorado 80211 (303) 458-5550
Facsimile (303) 480-9766

April 7, 1995

Mr. Mark Rath
Water Rights Division
Department of Environment
and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181



RONALD C. McLAUGHLIN
HALFORD E. ERICKSON
WILLIAM R. KENDALL
RALPH L. TOREN
TERRENCE P. KENYON
RICHARD E. McLAUGHLIN

GENE A. BURRELL
MICHAEL E. MERCER
JOHN M. PFLAUM
MICHAEL R. GALUZZI
SCOTT E. LEHMAN
BRIAN S. KOLSTAD
G. DEAN DEROSIER
EDWARD D. BAIN
BRIAN E. CHEVALIER
PAUL D. ZACHARY

J. HAROLD ROBERTS
LEANDER L. URM
DANIEL M. PETRAMALA
RONALD D. LUCERO

**RE: Response to Comments on the Transfer of Morris Water Rights in the
Hawthorne and Murphy Ditches to the City of Rapid City**

Dear Mark:

This letter is in response to our meeting of April 4, 1995 and is an addition to my letter of February 13, 1995 concerning the above referenced matter.

As originally detailed in the February 13, 1995 letter, the Morris property irrigated by the Hawthorne Ditch is located upgradient from the Murphy Ditch. In the February 13, 1995 letter, I indicated that there was reasonable probability that return flows from the Morris land irrigated by the Hawthorne Ditch most likely return to the Murphy Ditch and not Rapid Creek. As per our discussion of April 4, I believe there is reasonable probability that the surface component of the return flows from the Morris land irrigated by the Hawthorne Ditch return to the Murphy Ditch and, consequently, reduce the amount of diversion by the Murphy Ditch from Rapid Creek. In addition, there is reasonable probability that the groundwater component of return flows from Morris land irrigated by the Hawthorne Ditch also reach the alluvium of Rapid Creek and, consequently, Rapid Creek. Therefore, surface and subsurface components of return flows from the Morris land irrigated by the Hawthorne Ditch can contribute to water availability for diversion by the Warren Lamb Lumber Company, Hamm & Johnson, Little Giant Ditch, and South Side Ditch rights.

Therefore, the same condition for the Murphy Ditch rights transfer to the City of Rapid City's water treatment plant and infiltration galleries should apply to the Hawthorne Ditch for transfer to the same locations. Briefly, this condition is: When Rapid Creek is being administered according to the priority system and there is insufficient natural flow to meet the actual diversion requirements of the Warren Lamb Lumber Company, Hamm & Johnson, Little Giant Ditch, and South Side Ditch rights, the City of Rapid City will exchange only the historic diversion associated with the Morris property Hawthorne Ditch rights net of the historic return flows, i.e., the historic consumptive use.

ASPEN, CO
(303) 925-1920

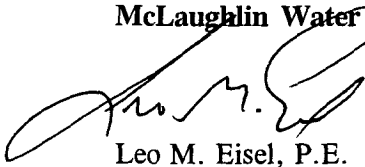
TULSA, OK
(918) 582-6800

PHOENIX, AZ
(602) 248-7702

Imposition of this additional condition, however, will require good monitoring by the water master of the water orders and diversions by the four rights. Orders and diversions by the four rights should not exceed the permitted amounts to each of the specific rights nor should the orders exceed what is required for current irrigation requirements.

I hope that this will fulfill any remaining concerns that the state has concerning this transfer. If you have questions or concerns please call me. Thank you for your continued assistance and consideration in this matter.

Very truly yours,
McLaughlin Water Engineers, Ltd.



Leo M. Eisel, P.E.
President

cc: Dan Bjerke, City of Rapid City

LME:djm
95-002.001
LME-6

Report on Water Permit Application No. 2316-2
City of Rapid City
May 9, 1995

Application No. 2316-2, City of Rapid City, proposes to transfer an annual volume of 94.5 acre-feet of water (ac-ft), if diverted at the city's water treatment plant or infiltration galleries, or 47.2 ac-ft, if stored in Pactola Reservoir. The maximum diversion rate proposed for this transfer is 0.81 cubic feet of water per second (cfs) from the natural flows of Rapid Creek. The transfer is from irrigation to municipal, industrial, commercial, common distribution system, rural water system, suburban housing, and domestic uses for the City of Rapid City. Application No. 2316-2 proposes to transfer Rapid Valley Water Company (a.k.a. Murphy ditch) stockholder/landowner's water which has been historically used to irrigate 64 acres located in W1/2 SE1/4 of Section 9 T1N-R8E also known as the Morris property.

The source of water for the proposed transfer is from the natural flow of Rapid Creek, when available, through Murphy ditch. Vested Water Right No. 1727-2, Rapid Valley Water Company was validated for 17.00 cfs with a priority date of April 6, 1878. The existing diversion point for Murphy ditch is located in the SW1/4 of Section 8 T1N-R8E. The locations of the diversion points for the proposed transfer are in the SE1/4 NE1/4 Section 3 (Rapid City Water Treatment Plant); SW1/4 SW1/4 Section 3 (Sioux Park Gallery); SE1/4 NE1/4 Section 9 (Meadowbrook Gallery); NW1/4 SE1/4 Section 8 (Jackson Springs Gallery); all in T1N-R7E and NW1/4 SW1/4 Section 2 T1N-R5E (Pactola Reservoir). Pactola Reservoir impounds water in portions of Sections 2, 3, 4, 5, 10, 11 of T1N-R5E and Sections 31, 32, 33, 34 of T2N-R5E. This application does not request any new water appropriation from Rapid Creek and the validated priority date of April 6, 1878 is to be retained by the city.

Review of Existing Water Rights

The water to be transferred has been appropriated under Vested Water Right No. 1727-2, Murphy ditch, with a priority date of April 6, 1878. The water right authorizes the irrigation of 64 acres of the Morris property. The 64 acres located in the W1/2 SE1/4 of Section 9 in T1N-R8E have been continually irrigated.

There are 76 existing water rights/permits appropriating 263.50 cfs from Rapid Creek between Pactola Reservoir and the confluence with the Cheyenne River. Of these, 4 water rights which appropriate approximately 3.37 cfs have priority dates which are senior to this proposed transfer.

Review of the Proposed Transfer

SDCL 46-5-34.1 states that no transfer can occur unless the transfer can be made without detriment to existing water rights, or to individual domestic use rights. SDCL 46-5-34.1 also states "No land which has had an irrigation right transferred from it pursuant to this section may qualify for another irrigation right from any water source." SDCL 46-2A-12 allows a change in use "only if the change does not unlawfully impair existing rights and is for a beneficial use and in

the public interest." Calculations using accepted scientific methods and available climatic and cropping data have been made to insure that adverse affects on existing water rights do not occur.

The volume of water which could be stored in Pactola Reservoir is 47.2 ac-ft annually. This volume of water is equal to the amount of water estimated to have been consumed annually by the crop. The amount of water which can be diverted at Rapid City water system intakes is 94.5 ac-ft annually. This volume of water includes the amount of water consumed by the crop plus the return water to Rapid Creek.

The volume of water estimated to have been consumed by the crop is calculated on a monthly basis. For each month the maximum amount of water the crop would use is calculated. This is compared to the amount of water that is available for the crop's use based on historical ditch diversions and the total acreage irrigated annually from the ditch. A determination is made, on a monthly basis, whether maximum crop water usage or available water supply is the limiting factor. The lesser of these is used as the volume of water consumed by the crop for that particular month.

A condition can occur which is unique to the transfer proposed by application No. 2316-2 that did not need to be considered in any of the preceding Rapid City water right transfers. Water which has been returned to Rapid Creek through irrigation would also be returned to Rapid Creek by Rapid City through their waste water treatment system (Wright, 1994). Rapid City has been allowed to divert this water, under previous water right transfers, because the return point for the City's treatment plant was in close proximity to the historical return point and there were no other diversion points that would be affected. Under this proposal there are five water rights/permits, Nos. 653-2, 971-2, 1461-2, 1461A-2, and 2040-2, with diversion points located downstream from the Murphy Ditch historical return point but upstream from the treatment plant return point which may be affected. Because of this, whenever any of these water rights are required to purchase water, the City will only be able to take the amount of water associated with crop consumptive use. If in the future the City of Rapid City stops returning effluent to Rapid Creek, then the diversion proposed by this application will need to be recalculated to reflect that condition.

Farm turnouts do not have measuring devices, so actual individual diversions from the ditch are unknown. Water in the ditch is shared by the users as needed. Based on actual past operations, the calculated diversion rate transfer is based on a pro rata share of the total ditch diversion. The proposed diversion rate transfer is based on water beneficially used as described under SDCL 46-1-8.

The transferable diversion rate is determined by acreage pro-rating the Murphy Ditch's 1878 priority diversion rate which is then decreased by the 11.0 percent carriage loss which is to remain in the ditch. This gives a transferable diversion rate of 0.81 cfs which has historically been used to irrigate the 64 acres.

If this transfer is approved, the diversion rate and acreage authorized by the April 6, 1878 priority date of Water Right No. 1727-2 should be decreased by 0.81 cfs and 64.0 acres due to the transfer.

The water available for transfer is only from the natural flow in Rapid Creek and does not include stored water or stored water releases from the Deerfield - Pactola Reservoirs.

To insure that the transfer of the water can be made without detriment to existing water rights, the Water Management Board should monitor the management and operation of the proposed transfer.

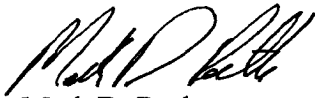
Conclusions

1. SDCL 46-5-34.1 allows for the transfer of irrigation water rights apart from the land to municipal use when the transfer can be made without causing detriment to existing rights. SDCL 46-2A-12 allows a change in use "only if the change does not unlawfully impair existing rights and is for a beneficial use and in the public interest."
2. The water has been historically used to irrigate 64.0 acres.
3. The priority date of April 6, 1878 should be retained.
4. The diversion rate to be transferred is 0.81 cfs, and is based on the pro-rated share of the total ditch diversion rate.
5. The amount of water requested to be transferred, 94.5 ac-ft and 47.2 ac-ft is reasonable. The following table lists the monthly diversion volume:

Month	Diversion at Pactola (ac-ft)	Diversion at Intakes (ac-ft)
-----	-----	-----
May	6.61	13.22
June	7.69	15.38
July	10.45	20.89
Aug	13.40	26.80
Sept	9.09	18.17
Oct	0.0	0.00

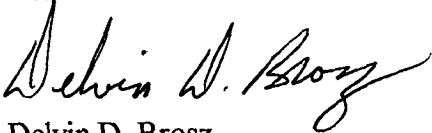
6. If application No. 2316-2 is approved, the authorized diversion rate and acreage for the Rapid Valley Water Company Water Right No. 1727-2 under the April 6, 1878 priority date should be decreased by 0.81 cfs and 64.0 acres.

7. The Water Management Board should continue to monitor the management and operation of the transfer of the water right and of existing water rights.
8. Approval of Application No. 2316-2, only approves transfer of natural flow water and does not include any rights to stored irrigation water available under contract from Pactola Reservoir.
9. Because the diversion points for Water Right/Permit Nos. 653-2, 971-2, 1461-2, 1461A-2, and 2040-2 are located between the historic Murphy Ditch return point and Rapid City's wastewater effluent return point; Rapid City may only take water associated with crop consumptive use whenever these water rights/permits are ordering stored water.
10. Approval of Water Right Application No. 2316-2 does not guarantee that natural flow water will be available for No. 2316-2 for diversion or storage during extreme low flow periods.
11. The effect of approval of No. 2316-2 will be to retire the Morris property from irrigation. SDCL 46-5-34.1 states "No land which has had an irrigation right transferred from it pursuant to this section may qualify for another irrigation right from any water source."



Mark D. Rath
Natural Resources Engineer III

Approved by,



Delvin D. Brosz
Natural Resources Engineer IV

References

1. Wright Water Engineers, Inc. 1990. Engineering Report for Transfer of Tyler Property Share of Validated 1878 Murphy Ditch Priority Wright Water Engineers, Inc. Engineering Consultants, Denver, Colorado.
2. U.S. Bureau of Reclamation. 1990. Rapid Valley Water Management Study. U.S. Bureau of Reclamation, Belle Fourche Projects Office, Newell, South Dakota.
3. S.D. Department of Environment and Natural Resources. Division of Water Rights Records.

**REVISED RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2316-2, City of Rapid City**

Pursuant to SDCL 46-2A-2, the following is the revised recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 2316-2, City of Rapid City, c/o Daniel Bjerke, 300 Sixth Street, Rapid City, SD 57701.

The Chief Engineer is recommending APPROVAL of Application No. 2316-2 because 1) the proposed diversion can be developed without unlawful impairment of existing rights, 2) the proposed use is a beneficial use and 3) in the public interest with the following qualifications:

1. Permit No.2316-2 is limited to a diversion rate of 0.81 cfs for a total annual volume of 47.2 acre feet at Pactola Reservoir or a total annual volume of 94.5 acre feet at Sioux Park Gallery (SW1/4 SW1/4 Section 3), Meadowbrook Gallery (SE1/4 NE1/4 Section 9), Jackson Springs Gallery (NW1/4 SE1/4 Section 8) and the Rapid City Water Treatment Plant (SE1/4 NE1/4 Section 3), all in T1N-R7E. Maximum monthly diversion volumes at Pactola or the diversion points within Rapid City area as follows:

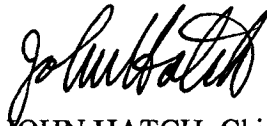
<u>Month</u>	<u>Monthly acre feet at Pactola</u>	<u>Monthly acre feet at diversion points within Rapid City</u>
May	6.61	13.22
June	7.69	15.38
July	10.45	20.89
August	13.40	26.80
September	9.09	18.17
October	0.00	0.00

Diversions during a month may be made at either Pactola Reservoir or at the diversion points within Rapid City, but not simultaneously at both Pactola and the Rapid City Diversion points.

2. The City shall only divert the amount associated with crop consumptive use when Water Right/Permit Nos. 653-2, 971-2, 1461-2, 1461A-2 or 2040-2 are ordering stored water.
3. Permit No. 2316-2 authorizes diversions of only natural flow water by the City of Rapid City and does not include any rights to stored irrigation water available under contract from Pactola Reservoir.

4. That the City of Rapid City report to the chief engineer annually the amount of water withdrawn each month at Pactola Reservoir or the diversion points within Rapid City.
5. That the Water Management Board is retaining jurisdiction of Permit No. 2316-2 in the event that additional information shows that changes need to be made in the monthly or total annual volumes authorized by Permit No. 2316-2.
6. Diversions under Permit No. 2316-2 may not interfere with existing water rights in effect prior to approval of No. 2316-2 or any domestic rights.
7. The amount of water with a April 6, 1878, priority date, which may be appropriated under Vested Water Right No. 1727-2 is reduced by 0.81 cfs.
8. Approval of Water Permit No. 2316-2 retires the 64 acres, known as the Morris property which has been historically irrigated from Murphy Ditch, located in the W1/2 SE1/4 Section 9, T1N, R8E from future irrigation.

See report on application for additional information.



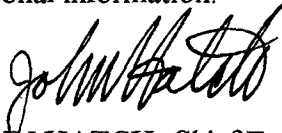
JOHN HATCH, Chief Engineer
July 18, 1995

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT APPLICATION
NO. 2316-2, City of Rapid City -**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 2316-2, City of Rapid City, c/o Daniel Bjerke, 300 Sixth Street, Rapid City, SD 57701.

The Chief Engineer is recommending DEFERRAL of Application No. 2316-2 to allow the applicant to supply additional documentation and for staff to investigate the application and prepare a report.

See report on application for additional information.

A handwritten signature in black ink, appearing to read "John Hatch", is positioned above the printed name.

JOHN HATCH, Chief Engineer
October 18, 1994



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.

July 26, 1995

Daniel Bjerke
City of Rapid City
300 6th Street
Rapid City, SD 57701

Dear Mr. Bjerke:

Water Permit Application Nos. 2234-2, 2316-2 and 2317-2 for municipal use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Rapid City Journal printed at Rapid City, SD (Ph # 605-394-8300). For your information, a copy of the notice, the recommendations of the Chief Engineer and reports on the applications are enclosed. Please review the notice prior to publication 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 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 been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the applications.

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 hearing. 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

July 26, 1995

Rapid City Journal
PO Box 450
Rapid City, SD 57709-0450

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application Nos. 2234-2, 2316-2 and 2317-2 to be published twice. Please publish the first notice on August 9, 1995, 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 the City of Rapid City, c/o Daniel Bjerke, 300 6th Street, Rapid City, SD 57701 (Ph # 605-394-4165).

A copy of BOTH publications must be SENT to the WATER RIGHTS PROGRAM. 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
Natural Resources Engineer
605 773-3352

enclosures

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

FIRST TRANSMITTAL NOTICE

TO: Eric Gronlund
Water Rights Program
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 9, 1995, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application Nos. 2234-2, 2316-2 and 2317-2 to Transfer Use

Notice is given that the City of Rapid City, c/o Daniel Bjerke, 300 6th Street, Rapid City, SD 57701 has filed Water Permit Application Nos. 2234-2, 2316-2 and 2317-2 pursuant to 46-5-34.1 to transfer the use of a portion of Rapid Creek natural flows appropriated for irrigation use to municipal, industrial, commercial, common distribution system, rural water system, suburban housing, and domestic use by the City of Rapid City.

Water Permit No. 2234-2 is to transfer the use of a portion of Rapid Creek natural flows historically used to irrigate 70 acres known as the Eisenbraun property from South Side Ditch. The portion of Rapid Creek natural flows to be transferred to the city is 0.79 cubic feet of water per second (cfs) with an annual volume limitation of 137.3 acre-feet, if diverted at the city's water treatment plant and infiltration galleries or 70.9 acre-feet, if stored in Pactola Reservoir. Historically, the 0.79 cfs has been used to irrigate approximately 70 acres located in the E 1/2 NE 1/4 Section 26-T1N-R8E. The existing diversion point on Rapid Creek for South Side Ditch is located in the SE 1/4 NW 1/4 Section 15-T1N-R8E. This application is to change the diversion point for the 0.79 cfs to diversion points for use by the city to be located in the SE 1/4 NE 1/4 Section 3 (Rapid City Water Treatment Plant); SW 1/4 SW 1/4 Section 3 (Sioux Park Gallery); SE 1/4 NE 1/4 Section 9 (Meadowbrook Gallery); NW 1/4 SE 1/4 Section 8 (Jackson Springs Gallery); all in T1N-R7E or to allow storage in Pactola Reservoir. The location of the Pactola Reservoir diversion point is the NW 1/4 SW 1/4 Section 2-T1N-R5E and the reservoir impounds water in portions of Sections 2, 3, 4, 5, 10, 11 of T1N-R5E and Sections 31, 32, 33, 34 of T2N-R5E. This application does not authorize any new water appropriation from Rapid Creek and the claimed priority date of May 3, 1880, for use of 0.79 cfs is to be retained by the city.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2234-2 with qualifications because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest.

Water Permit No. 2316-2 is to transfer the use of a portion of Rapid Creek natural flows historically used to irrigate 64 acres known as the Morris property from Murphy Ditch. The portion of Rapid Creek natural flows to be transferred to the city is 0.81 cfs with an annual volume limitation of 94.5 acre-feet, if diverted at the city's water treatment plants and infiltration galleries or 47.2 acre-feet, if stored in Pactola Reservoir. Historically, the 0.81 cfs has been used to irrigate approximately 64 acres located in the W 1/2 SE 1/4 Section 9-T1N-R8E. The existing diversion point on Rapid Creek for Murphy Ditch is located in the SW 1/4 Section 8-T1N-R8E. This application is to change the diversion point for 0.81 cfs to diversion points for use by the city to be located in the SE 1/4 NE 1/4 Section 3 (Rapid City Water Treatment Plant); SW 1/4 SW 1/4 Section 3 (Sioux Park Gallery); SE 1/4 NE 1/4 Section 9 (Meadowbrook Gallery); NW 1/4 SE 1/4 Section 8 (Jackson Springs Gallery); all in T1N-R7E or to allow storage in Pactola Reservoir. The location of the Pactola Reservoir diversion point is the NW 1/4 SW 1/4 Section 2-T1N-R5E and the reservoir impounds water in portions of Sections 2, 3, 4, 5, 10, 11 of T1N-R5E and Sections 31, 32, 33, 34 of T2N-R5E. This application does not authorize any new water appropriations from Rapid Creek and the claimed priority date of April 6, 1878, for use of 0.81 cfs is to be retained by the city.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2316-2 with qualifications because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest.

Water Permit No. 2317-2 is to transfer the use of a portion of Rapid Creek natural flows historically used to irrigate 46 acres known as the Morris property from Hawthorne Ditch. The portion of Rapid Creek natural flows to be transferred to the city is 0.84 cfs with an annual volume limitation of 93.6 acre-feet, if diverted at the city's water treatment plants and infiltration galleries or 46.8 acre-feet, if stored in Pactola Reservoir. Historically, the 0.84 cfs has been used to irrigate approximately 46 acres located in the

SW 1/4 NE 1/4, SE 1/4 NW 1/4, NE 1/4 SW 1/4, NW 1/4 SE 1/4 Section 9-T1N-R8E. The existing diversion point on Rapid Creek for Hawthorne Ditch is located in the SE 1/4 Section 6-T1N-R8E. This application is to change the diversion point for 0.84 cfs to diversion points for use by the city to be located in the SE 1/4 NE 1/4 Section 3 (Rapid City Water Treatment Plant); SW 1/4 SW 1/4 Section 3 (Sioux Park Gallery); SE 1/4 NE 1/4 Section 9 (Meadowbrook Gallery); NW 1/4 SE 1/4 Section 8 (Jackson Springs Gallery); all in T1N-R7E or to allow storage in Pactola Reservoir. The location of the Pactola Reservoir diversion point is the NW 1/4 SW 1/4 Section 2-T1N-R5E and the reservoir impounds water in portions of Sections 2, 3, 4, 5, 10, 11 of T1N-R5E and Sections 31, 32, 33, 34 of T2N-R5E. This application does not authorize any new water appropriations from Rapid Creek and the claimed priority date of July 12, 1886, for use of 0.84 cfs is to be retained by the city.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2317-2 with qualifications because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest.

Any person interested in opposing or supporting these applications 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 recommendations. The Chief Engineer's address is "Water Rights Program, 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 September 22, 1995. The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

The Water Management Board will consider these applications at 2:00 p.m., October 4, 1995, Conference Room, Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, SD. The actual time of the hearing may be later than 2:00 p.m. due to prior agenda items. If the hearing is not completed on October 4, 1995, the hearing will continue on October 5, 1995, beginning at 8:30 a.m. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing. The October 4, 1995, 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 these applications. The request for an automatic delay must be filed by September 22, 1995.

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 by September 22, 1995, at the above Water Rights Program address to request copies of information pertaining to these applications, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

These applications are 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; 46-5-33 thru 46-5-35; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. Nettie H. Myers, Secretary, Department of Environment and Natural Resources.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

FACSIMILE TRANSMITTAL COVER SHEET

TRANSMITTAL DATE: 7/31/95

PLEASE DELIVER THE FOLLOWING PAGE(S) TO:

NAME: Lori Proctor

DESTINATION: Rapid City Journal

ADDRESS: _____

PHONE: 394-8300 FAX: 394-8462

MESSAGE: On July 26, 1995, we sent this notice to you.

The 2 corrections are circled in the 2nd paragraph.

Call if you have questions. This should be published

Aug 9 & 16. Thanks

FROM: Karen Schlaak

AGENCY: DENR/WATER RIGHTS PROGRAM

ADDRESS: JOE FOSS BUILDING, 523 EAST CAPITOL, PIERRE, SD 57501-3181

PHONE: (605) 773-3352 FAX: (605) 773-4068

THIS TRANSMISSION INCLUDES 2 PAGES INCLUDING THIS PAGE

IF THERE IS ANY PROBLEM WITH THIS TRANSMITTAL, PLEASE CALL (605) 773-3352.

THANK YOU.

Instruction to Newspaper - Publish first Notice on August 9, 1995, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application Nos. 2234-2, 2316-2 and 2317-2 to Transfer Use

Notice is given that the City of Rapid City, c/o Daniel Bjerke, 300 6th Street, Rapid City, SD 57701 has filed Water Permit Application Nos. 2234-2, 2316-2 and 2317-2 pursuant to 46-5-34.1 to transfer the use of a portion of Rapid Creek natural flows appropriated for irrigation use to municipal, industrial, commercial, common distribution system, rural water system, suburban housing, and domestic use by the City of Rapid City.

Water Permit No. 2234-2 is to transfer the use of a portion of Rapid Creek natural flows historically used to irrigate 70 acres known as the Eisenbraun property from South Side Ditch. The portion of Rapid Creek natural flows to be transferred to the city is 0.79 cubic feet of water per second (cfs) with an annual volume limitation of 131.6 acre-feet, if diverted at the city's water treatment plant and infiltration galleries or 67.7 acre-feet, if stored in Pactola Reservoir. Historically, the 0.79 cfs has been used to irrigate approximately 70 acres located in the E 1/2 NE 1/4 Section 26-T1N-R8E. The existing diversion point on Rapid Creek for South Side Ditch is located in the SE 1/4 NW 1/4 Section 15-T1N-R8E. This application is to change the diversion point for the 0.79 cfs to diversion points for use by the city to be located in the SE 1/4 NE 1/4 Section 3 (Rapid City Water Treatment Plant); SW 1/4 SW 1/4 Section 3 (Sioux Park Gallery); SE 1/4 NE 1/4 Section 9 (Meadowbrook Gallery); NW 1/4 SE 1/4 Section 8 (Jackson Springs Gallery); all in T1N-R7E or to allow storage in Pactola Reservoir. The location of the Pactola Reservoir diversion point is the NW 1/4 SW 1/4 Section 2-T1N-R5E and the reservoir impounds water in portions of Sections 2, 3, 4, 5, 10, 11 of T1N-R5E and Sections 31, 32, 33, 34 of T2N-R5E. This application does not authorize any new water appropriation from Rapid Creek and the claimed priority date of May 3, 1880, for use of 0.79 cfs is to be retained by the city.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2234-2 with qualifications because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest.

Water Permit No. 2316-2 is to transfer the use of a portion of Rapid Creek natural flows historically used to irrigate 64 acres known as the Morris property from Murphy Ditch. The portion of Rapid Creek natural flows to be transferred to the city is 0.81 cfs with an annual volume limitation of 94.5 acre-feet, if diverted at the city's water treatment plants and infiltration galleries or 47.2 acre-feet, if stored in Pactola Reservoir. Historically, the 0.81 cfs has been used to irrigate approximately 64 acres located in the W 1/2 SE 1/4 Section 9-T1N-R8E. The existing diversion point on Rapid Creek for Murphy Ditch is located in the SW 1/4 Section 8-T1N-R8E. This application is to change the diversion point for 0.81 cfs to diversion points for use by the city to be located in the SE 1/4 NE 1/4 Section 3 (Rapid City Water Treatment Plant); SW 1/4 SW 1/4 Section 3 (Sioux Park Gallery); SE 1/4 NE 1/4 Section 9 (Meadowbrook Gallery); NW 1/4 SE 1/4 Section 8 (Jackson Springs Gallery); all in T1N-R7E or to allow storage in Pactola Reservoir. The location of the Pactola Reservoir diversion point is the NW 1/4 SW 1/4 Section 2-T1N-R5E and the reservoir impounds water in portions of Sections 2, 3, 4, 5, 10, 11 of T1N-R5E and Sections 31, 32, 33, 34 of T2N-R5E. This application does not authorize any new water appropriations from Rapid Creek and the claimed priority date of April 6, 1878, for use of 0.81 cfs is to be retained by the city.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2316-2 with qualifications because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest.

Water Permit No. 2317-2 is to transfer the use of a portion of Rapid Creek natural flows historically used to irrigate 46 acres known as the Morris property from Hawthorne Ditch. The portion of Rapid Creek natural flows to be transferred to the city is 0.84 cfs with an annual volume limitation of 93.6 acre-feet, if diverted at the city's water treatment plants and infiltration galleries or 46.8 acre-feet, if stored in Pactola Reservoir. Historically, the 0.84 cfs has been used to irrigate approximately 46 acres located in the

SW 1/4 NE 1/4, SE 1/4 NW 1/4, NE 1/4 SW 1/4, NW 1/4 SE 1/4 Section 9-T1N-R8E. The existing diversion point on Rapid Creek for Hawthorne Ditch is located in the SE 1/4 Section 6-T1N-R8E. This application is to change the diversion point for 0.84 cfs to diversion points for use by the city to be located in the SE 1/4 NE 1/4 Section 3 (Rapid City Water Treatment Plant); SW 1/4 SW 1/4 Section 3 (Sioux Park Gallery); SE 1/4 NE 1/4 Section 9 (Meadowbrook Gallery); NW 1/4 SE 1/4 Section 8 (Jackson Springs Gallery); all in T1N-R7E or to allow storage in Pactola Reservoir. The location of the Pactola Reservoir diversion point is the NW 1/4 SW 1/4 Section 2-T1N-R5E and the reservoir impounds water in portions of Sections 2, 3, 4, 5, 10, 11 of T1N-R5E and Sections 31, 32, 33, 34 of T2N-R5E. This application does not authorize any new water appropriations from Rapid Creek and the claimed priority date of July 12, 1886, for use of 0.84 cfs is to be retained by the city.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2317-2 with qualifications because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest.

Any person interested in opposing or supporting these applications 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 recommendations. The Chief Engineer's address is "Water Rights Program, 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 September 22, 1995. The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

The Water Management Board will consider these applications at 2:00 p.m., October 4, 1995, Conference Room, Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, SD. The actual time of the hearing may be later than 2:00 p.m. due to prior agenda items. If the hearing is not completed on October 4, 1995, the hearing will continue on October 5, 1995, beginning at 8:30 a.m. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing. The October 4, 1995, 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 these applications. The request for an automatic delay must be filed by September 22, 1995.

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 by September 22, 1995, at the above Water Rights Program address to request copies of information pertaining to these applications, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

These applications are 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; 46-5-33 thru 46-5-35; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. Nettie H. Myers, Secretary, Department of Environment and Natural Resources.

**Water Rights Division
File Documentation**

NAME OF PERSON OR FILE: Rapid City Journal - Lori Frohman

ADDRESS: Rapid City SD COUNTY: Pennington

DATE: 8-10-95 TELEPHONE: 394-8300

RE: Publication Notice

COMMENTS:

I talked with Lori from the Rapid City Journal. Lori stated that the Notice for the three Rapid City permits did not get published on August 9th. She wasn't sure why.

Lori said the Notice will be published on August 16 and the 23. I told her changing the publication dates to the 16th and 23rd would be O.K. None of the dates within the notice need to be changed.



Karen Schlaak
Environmental Scientist



Affidavit of Publication

STATE OF SOUTH DAKOTA

County of Pennington SS.

I, Samantha Wentworth, being first duly sworn,

upon his oath says: That he is now and was at all times hereinafter mentioned, an employee of the **RAPID CITY JOURNAL COMPANY**, a corporation, of **Rapid City, South Dakota**, the owner and publisher of the **RAPID CITY JOURNAL**, a legal and daily newspaper printed and published in **Rapid City, in said County of Pennington**, and has full and personal knowledge of all the facts herein stated as follows: that said newspaper is and at all of the times herein mentioned has been a legal and daily newspaper with a bonafide paid circulation of at least Two Hundred copies daily, and has been printed and published in the English language, at and within an office maintained by the owner and publisher thereof, at **Rapid City, in said Pennington County**, and has been admitted to the United States mail under the second class mailing privilege for at least one year prior to the publication herein mentioned; that the advertisement, a printed copy of which, taken from said **RAPID CITY JOURNAL**, the paper in which the same was published, is attached to this sheet and made a part of this affidavit, was published in said paper once each Week

for Two successive weeks, the first publication thereof being on the 16th day of September, 19 95, that the fees charged for the publication thereof are Two hundred thirty five Dollars and Sixty two cents.

Subscribed and sworn to before me this 11th day of

September, 19 95.

Sybil J. Harrington
Notary Public.

My commission expires: 6-26-96

of T2N-R5E. This application does not authorize any new water appropriation from Rapid Creek and the claimed priority date of May 3, 1880, for use of 0.79 cfs is to be retained by the city.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2234-2 with qualifications because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest.

Water Permit No. 2216-2 is to transfer the use of a portion of Rapid Creek natural flows historically used to irrigate 64 acres known as the Morris property from Murphy Ditch. The portion of Rapid Creek natural flows to be transferred to the city is 0.81 cfs with an annual volume limitation of 94.5 acre-feet, if diverted at the city's water treatment plants and infiltration galleries or 47.2 acre-feet, if stored in Pactola Reservoir. Historically, the 0.81 cfs has been used to irrigate approximately 64 acres located in the NW 1/4 Section 9-T1N-R5E. The existing diversion point on Rapid Creek for Murphy Ditch is located in the SW 1/4 Section 8-T1N-R5E. This application is to change the diversion point for 0.81 cfs to diversion points for use by the city to be located in the SE 1/4 NE 1/4 Section 3 (Rapid City Water Treatment Plant); SW 1/4 NE 1/4 Section 3 (Sioux Park Gallery); SE 1/4 NE 1/4 Section 9 (Meadowbrook Gallery); NW 1/4 SE 1/4 Section 8 (Jackson Springs Gallery); all in T1N-R7E or to allow storage in Pactola Reservoir. The location of the Pactola Reservoir diversion point is the NW 1/4 SW 1/4 Section 2-T1N-R5E and the reservoir impounds water in portions of Sections 2, 3, 4, 5, 10, 11 of T1N-R5E and Sections 31, 32, 33, 34 of T1N-R5E. This application does not authorize any new water appropriations from Rapid Creek and the claimed priority date of April 6, 1878, for use of 0.81 cfs is to be retained by the city.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2216-2 with qualifications because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest.

Water Permit No. 2217-2 is to transfer the use of a portion of Rapid Creek natural flows historically used to irrigate 46 acres known as the Morris property from Hawthorne Ditch. The portion of Rapid Creek natural flows to be transferred to the city is 0.84 cfs with an annual volume limitation of 99.6 acre-feet, if diverted at the city's water treatment plants and infiltration galleries or 46.8 acre-feet, if stored in Pactola Reservoir. Historically, the 0.84 cfs has been used to irrigate approximately 46 acres located in the NW 1/4 NE 1/4 Section 9-T1N-R5E. The existing diversion point on Rapid Creek for Hawthorne Ditch is located in the SE 1/4 Section 6-T1N-R5E. This application is to change the diversion point for 0.84 cfs to diversion points for use by the city to be located in the SE 1/4 NE 1/4 Section 3 (Rapid City Water Treatment Plant); SW 1/4 NE 1/4 Section 3 (Sioux Park Gallery); SE 1/4 NE 1/4 Section 9 (Meadowbrook Gallery); NW 1/4 SE 1/4 Section 8 (Jackson Springs Gallery); all in T1N-R7E or to allow storage in Pactola Reservoir. The location of the Pactola Reservoir diversion point is the NW 1/4 SW 1/4 Section 2-T1N-R5E and the reservoir impounds water in portions of Sections 2, 3, 4, 5, 10, 11 of T1N-R5E and Sections 31, 32, 33, 34 of T1N-R5E. This application does not authorize any new water appropriations from Rapid Creek and the claimed priority date of July 12, 1886, for use of 0.84 cfs is to be retained by the city.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2217-2

with qualifications because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest.

Any person interested in opposing or supporting these applications 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 recommendations. The Chief Engineer's address is "Water Rights Program, 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 September 22, 1995. The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel. If legal counsel is obtained.

The Water Management Board will consider these applications at 2:00 p.m., October 4, 1995, Conference Room, Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, SD. The actual time of the hearing may be later than 2:00 p.m. due to prior agenda items. If the hearing is not completed on October 4, 1995, the hearing will continue on October 5, 1995, beginning at 8:30 a.m. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing. The October 4, 1995, 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 these applications. The request for an automatic delay must be filed by September 22, 1995.

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 by September 22, 1995, at the above Water Rights Program address to request copies of information pertaining to these applications, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

These applications are 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; 46-5-33 thru 46-5-35; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

Nettie H. Myers
Secretary
Department of Environment
and Natural Resources

Have an item
or pet to give
away?

We'll place your
giveaway ad

FREE

for up to

10 DAYS

in Rapid City

Journal

CLASSIFIED

394-8383

Aug. 16, 22 L1367

NOTICE OF HEARING
ON APPLICATION NOS. 2234-2,
2216-2 AND 2217-2 TO TRANSFER
USE

Notice is given that the City of Rapid City, c/o Daniel Bierke, 300 6th Street, Rapid City, SD 57701 has filed Water Permit Application Nos. 2234-2, 2216-2 and 2217-2 pursuant to 46-5-34.1 to transfer the use of a portion of Rapid Creek natural flows appropriated for irrigation use to municipal, industrial, commercial, common distribution system, rural water system, suburban housing, and domestic use by the City of Rapid City.

Water Permit No. 2234-2 is to transfer the use of a portion of Rapid Creek natural flows historically used to irrigate 70 acres known as the Eisenbraun property from South Side Ditch. The portion of Rapid Creek natural flows to be transferred to the city is 0.79 cubic feet of water per second (cfs) with an annual volume limitation of 131.6 acre-feet, if diverted at the city's water treatment plant and infiltration galleries or 67.7 acre-feet, if stored in Pactola Reservoir. Historically, the 0.79 cfs has been used to irrigate approximately 70 acres located in the E 1/4 NE 1/4 Section 26-T1N-R5E. The existing diversion point on Rapid Creek for South Side Ditch is located in the SE 1/4 NW 1/4 Section 15-T1N-R5E. This application is to change the diversion point for the 0.79 cfs to diversion points for use by the city to be located in the SE 1/4 NE 1/4 Section 3 (Rapid City Water Treatment Plant); SW 1/4 NE 1/4 Section 3 (Sioux Park Gallery); SE 1/4 NE 1/4 Section 9 (Meadowbrook Gallery); NW 1/4 SE 1/4 Section 8 (Jackson Springs Gallery); all in T1N-R7E or to allow storage in Pactola Reservoir. The location of the Pactola Reservoir diversion point is the NW 1/4 SW 1/4 Section 2-T1N-R5E and the reservoir impounds water in portions of Sections 2, 3, 4, 5, 10, 11 of T1N-R5E and Sections 31, 32, 33, 34 of T1N-R5E. This application does not authorize any new water appropriations from Rapid Creek and the claimed priority date of May 3, 1880, for use of 0.79 cfs is to be retained by the city.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 27, 1995

Jerry Hammerquist
Rapid Valley Water Conservancy District
Box 26
Caputa, SD 57725

Dear Mr. Hammerquist:

Enclosed is a copy of the reports, recommendations and notice of hearing for Water Permit Application Nos. 2234-2, 2316-2 and 2317-2. These applications, filed by the City of Rapid City, propose to transfer the use of a portion of Rapid Creek natural flows appropriated for irrigation use to municipal uses.

If you have any questions concerning these applications, please contact Mark Rath at (605) 773-3352.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 27, 1995

Bruce Laymon, Project Manager
Bureau of Reclamation
P.O. Box 226
Newell, SD 57760

Dear Mr. Laymon:

Enclosed is a copy of the reports, recommendations and notice of hearing for Water Permit Application Nos. 2234-2, 2316-2 and 2317-2. These applications, filed by the City of Rapid City, propose to transfer the use of a portion of Rapid Creek natural flows appropriated for irrigation use to municipal uses.

If you have any questions concerning these applications, please contact Mark Rath at (605) 773-3352.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 27, 1995

Jerry Marsh
HCR 36, Box 35
Caputa, SD 57725

Dear Mr. Marsh:

Enclosed is a copy of the reports, recommendations and notice of hearing for Water Permit Application Nos. 2234-2, 2316-2 and 2317-2. These applications, filed by the City of Rapid City, propose to transfer the use of a portion of Rapid Creek natural flows appropriated for irrigation use to municipal uses.

If you have any questions concerning these applications, please contact Mark Rath at (605) 773-3352.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352

enclosures

Chief Engineer - Water Rights Program
Foss Building
523 E. Capitol
Pierre, S. D. 57501



We, the undersigned irrigators, Mark Kieffer, Jones Ranch, Zoltan Szakacs, Ham Ranch, Marsh Hereford Ranch, Jerry Hammerguist, Ed Taylor, Melvin Brassfield, Dustman Ranch, St. Germain Irrigating Co., George Sanders Ranch individually and collectively, are filing this protest with regard to Rapid City's applications Nos. 2234-2, 2316-2 and 2317-2 for transfers of irrigation water rights to municipal use.

We submit that Rapid City may not designate a portion of the effluent discharge from the City waste water treatment facility as replacement of those portions of the water rights to be transferred which would have been return flows to Rapid Creek. As a basis for our protest, we quote from the Deerfield Contract of 27 July, 1943, entered into and signed by the U. S. Bureau of Reclamation, Rapid City and the Rapid Valley Water Conservancy District. Pages 19 - 20, SUBSTITUTE WATER - ABANDONMENT OF RETURN FLOWS : "(b) The municipality hereby abandons all claims, present and prospective, of whatsoever nature, to any and all water, of every kind and description, after its municipal use thereof and when the same is returning, whether visibly or invisibly, to Rapid Creek or its tributaries, including natural springs.

As further evidence of our position we quote from the REPORT OF MEETING - RAPID VALLEY WATER USERS ASSN. (predecessor to the Rapid Valley Water Conservancy District) dated 12 April, 1941. Reference - Mr. W. J. Burke, District Council, U. S. Bureau of Reclamation. Statement made by Mr. Burke during discussion of the proposed Deerfield Contract, page 3, last paragraph. "Mr. Burke was definite in insisting upon language to the effect that Rapid City shall abandon any and all claim to water being returned to Rapid Creek from the sewage disposal plant. He stated that this is "free water" and belongs to the irrigators of Rapid Valley."

Further, our position is supported by research by George A. Bangs, Attorney at Law. In his report Mr. Bangs asserts "(4) Effluent flows historically available to downstream water rights, flows to which Rapid City has relinquished all claim for any purpose whatsoever under Article 19 of the Deerfield Contract, a contract affirmed by the S. D. Supreme Court, and under stipulation before and order of the S. D. Water Rights Commission on Nov. 7, 1963 with final order on May 7, 1964. May not be used to offset loss of irrigation return flows to downstream irrigators."

Therefore, we submit that the statement on page 2, second paragraph of the Report on Water Permit Application No. 2234-2 - City of Rapid City, "Water which has been returned to Rapid Creek through irrigation would also be returned to Rapid Creek through their waste water treatment system" is contrary to the terms of the Deerfield Contract and the

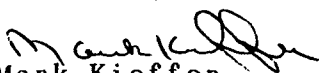
Commission. We submit that Rapid City must maintain flows in Rapid Creek, other than waste water effluent, equal to the flows that have historically returned from irrigation under the water rights proposed to be transferred.

In addition, statements made in Applications Nos. 2316-2 and 2317-2, page 2, third paragraph, Under this proposal there are five water rights/permits Nos. 653-2, 971-2, 1461-2, 1461A-2 and 2040-2, with diversion points located downstream from the Murphy(Hawthorne) ditch historical return point..." are erroneous. Water which has historically returned to Rapid Creek as irrigation return flows would and should be available to any and all downstream domestic users and/or irrigation water rights. Coincidentally, of the five water rights listed, only two are active irrigation rights, both of which have high priorities and seldom require purchased water.

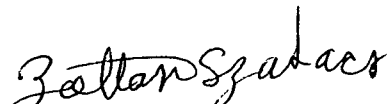
Further, we reiterate our previous protests that the effluent discharged into Rapid Creek by Rapid City's waste water treatment system is of considerably inferior quality than irrigation return flows would be, and as such are a detriment to domestic water supplies and irrigation water. We contend that this water quality problem adds to the continued degradation of water quality where this water is used for stock watering and to domestic and ground water where this water is used for irrigation due to infiltration and irrigation canal seepage. Historically, stream flows, including irrigation return flows, have provided a dilutant of the effluent and we contend that this is essential and that these sources of dilutant should continue. Additionally, the U. S. Bureau of Reclamation, in its environmental assessment, which assessment is required by law in the NEPA process before negotiations can begin on new contracts for Rapid City and the District access to Pactola water, have suggested that the effluent is of a quality that increased flows in Rapid Creek would improve downstream water quality. The conclusion must be made that decreased flows will decrease water quality.

Thus, we contend that the quantity and quality of the water which has historically been irrigation return flows must remain in Rapid Creek at all times.

Signed:

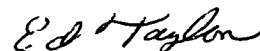

Mark Kieffer


Jones Ranch


Zoltan Szakacs


Ham Ranch


Marsh Ranch


Ed Taylor


Jerry Hammerquist


Dustman Ranch


Melvin Brassfield


St. Germain Irrigating Co.


George Sanders Ranch



NAMES AND ADDRESSES OF PROTEST SIGNERS

MARK KIEFFER KEYSTONE RT., BOX 3808, RAPID CITY, S.D. 57702
JONES RANCH 15248 CAPUTA LOOP , RAPID CITY, S. D. 57701
ZOLTAN SZAKACS PO BOX CAPUTA, S. D. 57725
HAM RANCH HCR 36 BOX 34, CAPUTA, S. D. 57725
MARSH RANCH HCR 36 BOX 35 CAPUTA, S. D. 57725
ED TAYLOR HCR 36 BOX 60 CAPUTA, S. D. 57725
JERRY HAMMERQUIST PO BOX 26 CAUTA, S. D. 57725
DUSTMAN RANCH PO BOX 53 CAPUTA, S. D. 57725
MELVIN BRASSFIELD PO BOX 24 CAPUTA, S. D. 57725
ST GERMAIN IRRIGATING CO PO BOX 32 CAPUTA, S. D. 57725
GEORGE SANDERS RANCH 3023 TOMAHAWK DR. RAPID CITY S. D. 57702
ODOM RANCH 23232 HUNTINGTON PLACE RAPID CITY, S. D. 57702



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 25, 1995

NOTICE

TO: Daniel L. Bjerke
Public Works Director of Engineering/Utilities
City of Rapid City
300 Sixth Street
Rapid City, SD 57701-2724
and Parties of Record (see attached list)

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

SUBJECT: Water Management Board Hearing on Water Permit Application Nos.
2234-2, 2316-2 and 2317-2, City of Rapid City

A petition in protest to Water Permit Application Nos. 2234-2, 2316-2 and 2317-2 has been filed with the Water Rights Program. The Water Management Board will still consider Application Nos. 2234-2, 2316-2 and 2317-2 on October 4, 1995, at 2:00 pm in the Conference Room, Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol Ave., Pierre, SD. The agenda time is an estimate and may be delayed due to prior agenda items. If the hearing is not concluded on October 4, 1995, the hearing will continue at 8:30 am on October 5, 1995. Parties should make any necessary arrangements in the event the hearing continues on October 5, 1995.

Applicable provisions of the Notice of Hearing published August 16 and 23, 1995 in the Rapid City Journal will apply at this hearing. This hearing is an adversary proceeding. Any party of record has the right to be present and 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 at (605) 773-3352, if you have any questions.

c: Diane Best, Assistant Attorney General
Bob Jackson, City Attorney

PARTIES OF RECORD LIST
APPLICATION NOS. 2234-2, 2316-2 AND 2317-2
CITY OF RAPID CITY

Applicant

Daniel L. Bjerke, P.E./L.S.
Water/Wastewater Division Manager
City of Rapid City
300 Sixth Street
Rapid City, SD 57701

Attorney for Applicant

Bob Jackson, Attorney
%City of Rapid City
300 Sixth Street
Rapid City, SD 57701

Petitioners

Mark Kieffer
Keystone Rt., Box 3808
Rapid City, SD 57702

Walter Jones
Jones Ranch
15248 Caputa Loop
Rapid City, SD 57701

Zoltan Szakacs
P.O. Box
Caputa, SD 57725

Wm Ham
Ham Ranch
HCR 36, Box 34
Caputa, SD 57725

Jerry Marsh
Marsh Ranch
HCR 36, Box 35
Caputa, SD 57725

Ed Taylor
HCR 36, Box 60
Caputa, SD 57725

Jerry Hammerquist
P.O. Box 26
Caputa, SD 57725

Robert Dustman
Dustman Ranch
P.O. Box 53
Caputa, SD 57725

Melvin Brassfield
P.O. Box 24
Caputa, SD 57725

Wm Ham, President
St. Germain Irrigating Co.
P.O. Box 32
Caputa, SD 57725

George Sanders Ranch
3023 Tomahawk Dr.
Rapid City, SD 57702

Tom Odom
Odom Ranch
23232 Huntington Place
Rapid City, SD 57702

CERTIFICATION

I hereby certify that on September 25, 1995, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated September 25, 1995, along with a copy of the Parties of Record List, regarding Water Management Board Hearing on Water Permit Application Nos. 2234-2, 2316-2 and 2317-2, City of Rapid City, addressed as stated below, and on the attached Parties of Record List:

Copy Sent Inter-office to:

Diane Best, Assistant Attorney General, Capitol Building.


Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)

COUNTY OF HUGHES)

SS

Sworn to, before me, this 28th day of September, 1995




Notary Public

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001



CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

Office of the City Attorney

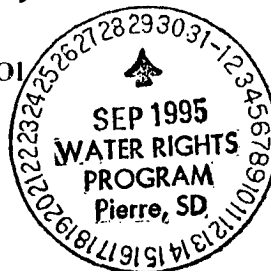
300 Sixth Street

Rapid City, South Dakota 57701

Telephone: 605-394-4140

Fax: 605-394-6636

September 27, 1995



TO: Board of Water Management

FROM: Robert R. Jackson, City Attorney, City of Rapid City

SUBJECT: Water Management Board Hearing on Water Permit Application Nos. 2234-2, 2316-2, and 2317-2, City of Rapid City.

REQUEST FOR CONTINUANCE

The City of Rapid City hereby moves the Board to continue the hearing in the above-captioned matters to its December, 1995, meeting. This motion is made upon the following bases:

- (1) The protest filed jointly by some twelve parties raises several issues which the City will need more than six business days to prepare to meet. Specifically, the protest refers rather vaguely to documents to which the City is not privy and to court decisions which not described with sufficient specificity to allow the City to determine which decisions are intended.
- (2) Two of the protesting parties, Jerry Hammerquist and Jerry Marsh, have informed the City that a December hearing would be fully acceptable to them and, further, that they do not believe that any of the other protestants would have any objection to a December hearing.
- (3) Diane Best, Assistant Attorney General, counsel for the Water Rights Division, has informed the City that she would not offer an objection to such continuance.

Respectfully submitted,

Robert R. Jackson
City Attorney
Attorney for the Applicant

RRJ:tpt



EQUAL HOUSING
OPPORTUNITY

EQUAL OPPORTUNITY EMPLOYER

**PARTIES OF RECORD LIST
APPLICATION NOS. 2234-2, 2316-2 AND 2317-2
CITY OF RAPID CITY**

WATER MANAGEMENT BOARD
DEPARTMENT OF ENVIRONMENT
& NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SD 57501-3181

DIANE BEST
ASSISTANT ATTORNEY GENERAL
CAPITOL BUILDING
500 EAST CAPITOL AVENUE
PIERRE, SD 57501-5070

Petitioners

Mark Kieffer
Keystone Rt., Box 3808
Rapid City, SD 57702

Walter Jones
Jones Ranch
15248 Caputa Loop
Rapid City, SD 57701

Zoltan Szakacs
P.O. Box
Caputa, SD 57725

Wm Ham
Ham Ranch
HCR 36, Box 34
Caputa, SD 57725

Jerry Marsh
Marsh Ranch
HCR 36, Box 35
Caputa, SD 57725

Ed Taylor
HCR 36, Box 60
Caputa, SD 57725

Jerry Hammerquist
P.O. Box 26
Caputa, SD 57725

Robert Dustman
Dustman Ranch
P.O. Box 53
Caputa, SD 57725

Melvin Brassfield
P.O. Box 24
Caputa, SD 57725

Wm Ham, President
St. Germain Irrigating Co.
P.O. Box 32
Caputa, SD 57725

George Sanders Ranch
3023 Tomahawk Dr.
Rapid City, SD 57702

Tom Odom
Odom Ranch
23232 Huntington Place
Rapid City, SD 57702



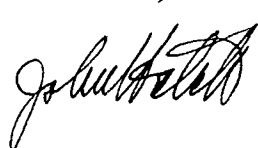
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 6, 1995

NOTICE

TO: Daniel L. Bjerke
Public Works Director of Engineering/Utilities
City of Rapid City
300 Sixth Street
Rapid City, SD 57701-2724
and Parties of Record (see attached list)

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

SUBJECT: Water Management Board Hearing on Water Permit Application Nos.
2234-2, 2316-2 and 2317-2, City of Rapid City

On October 4, 1995, The Water Management Board granted Rapid City's request for a continuance on Water Permit Application Nos. 2234-2, 2316-2 and 2317-2. The Board will now consider these applications on December 7, 1995, at 8:30 am in the Conference Room, Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol Ave., Pierre, SD. The agenda time is an estimate and may be delayed due to prior agenda items.

Applicable provisions of the Notice of Hearing published August 16 and 23, 1995 in the Rapid City Journal will apply at this hearing. This hearing is an adversary proceeding. Any party of record has the right to be present and 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 at (605) 773-3352, if you have any questions.

c: Diane Best, Assistant Attorney General
Bob Jackson, City Attorney

PARTIES OF RECORD LIST
APPLICATION NOS. 2234-2, 2316-2 AND 2317-2
CITY OF RAPID CITY

Applicant

Daniel L. Bjerke, P.E./L.S.
Water/Wastewater Division Manager
City of Rapid City
300 Sixth Street
Rapid City, SD 57701

Attorney for Applicant

Bob Jackson, Attorney
%City of Rapid City
300 Sixth Street
Rapid City, SD 57701

Petitioners

Mark Kieffer
Keystone Rt., Box 3808
Rapid City, SD 57702

Walter Jones
Jones Ranch
15248 Caputa Loop
Rapid City, SD 57701

Zoltan Szakacs
P.O. Box
Caputa, SD 57725

Wm Ham
Ham Ranch
HCR 36, Box 34
Caputa, SD 57725

Jerry Marsh
Marsh Ranch
HCR 36, Box 35
Caputa, SD 57725

Ed Taylor
HCR 36, Box 60
Caputa, SD 57725

Jerry Hammerquist
P.O. Box 26
Caputa, SD 57725

Robert Dustman
Dustman Ranch
P.O. Box 53
Caputa, SD 57725

Melvin Brassfield
P.O. Box 24
Caputa, SD 57725

Wm Ham, President
St. Germain Irrigating Co.
P.O. Box 32
Caputa, SD 57725

George Sanders Ranch
3023 Tomahawk Dr.
Rapid City, SD 57702

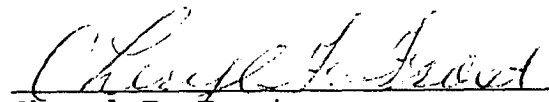
Tom Odom
Odom Ranch
23232 Huntington Place
Rapid City, SD 57702

CERTIFICATION

I hereby certify that on November 6, 1995, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated November 6, 1995, along with a copy of the Parties of Record List, regarding Water Management Board Hearing on Water Permit Application Nos. 2234-2, 2316-2 and 2317-2, City of Rapid City, addressed as stated below, and on the attached list:

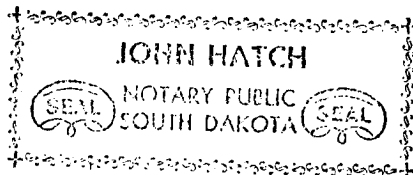
Copy of the above described Notice and Parties of Record List were sent inter-office to:

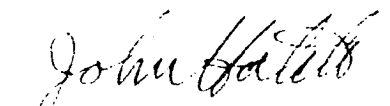
Diane Best, Assistant Attorney General, Capitol Building.


Cheryl F. Frost
Secretary

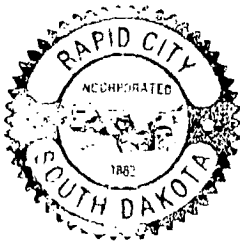
STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 7th day of November, 1995




Notary Public

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001



CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

December, 4, 1995



Ms. Diane Best
Attorney General's Office
500 E. Capitol
Pierre, SD 57501

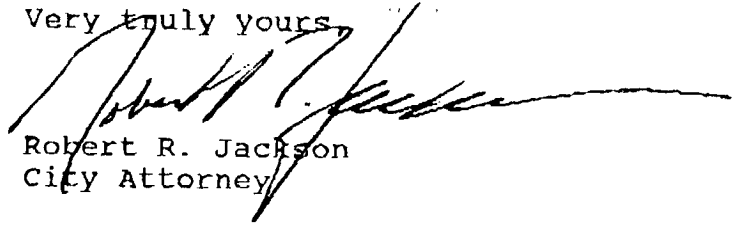
Re: Water Permit Application Nos. 2234-2, 2316-2 and
2317-2

Dear Diane:

This is to confirm that the City of Rapid City has
consented to the request made by the Petitioners.

Thank you.

Very truly yours,


Robert R. Jackson
City Attorney

RRJ/map

Post-It brand tax transmittal memo 7671		# of pages ▶ 1
To <i>DIANE BEST</i>	From <i>R. Jackson</i>	
Co. <i>AG's OFF.</i>	Co. <i>RL</i>	
Dept. <i>WATER RIGHTS</i>	Phone # <i>394-4440</i>	
Fax # <i>773-4068</i>	Fax #	



DATE: December 5, 1995

TO: Department of Environment and Natural Resources
ATTN: Eric Gronlund

FROM: Jerry Hammerquist, President
Rapid Valley Water Conservancy District

MESSAGE: We request that the Water Management Board grant
a delay on water permit applications:
2234-2; 2316-2; 2317-2, City of Rapid City



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 8, 1995

NOTICE

TO: Daniel L. Bjerke
Public Works Director of Engineering/Utilities
City of Rapid City
300 Sixth Street
Rapid City, SD 57701-2724
and Parties of Record (see attached list)

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

SUBJECT: Water Management Board Hearing on Water Permit Application Nos.
2234-2, 2316-2 and 2317-2, City of Rapid City

On December 6, 1995, the Water Management Board granted the petitioners request for a continuance of the hearing for Water Permit Application Nos. 2234-2, 2316-2 and 2317-2. The Water Management Board will now consider these applications at the March 6 and 7, 1996 meeting in Pierre.

Please plan your schedule so that you may be present at the hearing on March 6 or 7, 1996. Future notice of the exact time, date and location of the hearing will be provide to all parties. Please contact Eric Gronlund at (605) 773-3352, if you have any questions.

c: Diane Best, Assistant Attorney General
Bob Jackson, City Attorney

PARTIES OF RECORD LIST
APPLICATION NOS. 2234-2, 2316-2 AND 2317-2
CITY OF RAPID CITY

Applicant

Daniel L. Bjerke
Water/Wastewater Division Manager
Public Works Director of
Engineering/Utilities
300 Sixth Street
Rapid City, SD 57701-2724

Attorney for Applicant

Bob Jackson, Attorney
%City of Rapid City
300 Sixth Street
Rapid City, SD 57701

Petitioners

Mark Kieffer
Keystone Rt., Box 3808
Rapid City, SD 57702

Walter Jones
Jones Ranch
15248 Caputa Loop
Rapid City, SD 57701

Zoltan Szakacs
P.O. Box
Caputa, SD 57725

Wm Ham
Ham Ranch
HCR 36, Box 34
Caputa, SD 57725

Jerry Marsh
Marsh Ranch
HCR 36, Box 35
Caputa, SD 57725

Ed Taylor
HCR 36, Box 60
Caputa, SD 57725

Jerry Hammerquist
P.O. Box 26
Caputa, SD 57725

Robert Dustman
Dustman Ranch
P.O. Box 53
Caputa, SD 57725

Melvin Brassfield
P.O. Box 24
Caputa, SD 57725

Wm Ham, President
St. Germain Irrigating Co.
P.O. Box 32
Caputa, SD 57725

George Sanders Ranch
3023 Tomahawk Dr.
Rapid City, SD 57702

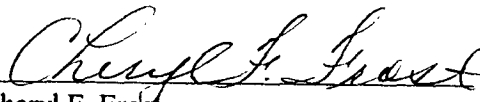
Tom Odom
Odom Ranch
23232 Huntington Place
Rapid City, SD 57702

CERTIFICATION

I hereby certify that on December 8, 1995, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated December 8, 1995, along with a copy of the Parties of Record list, regarding Water Management Board Hearing on Water Permit Application Nos. 2234-2, 2316-2 and 2317-2, City of Rapid City, addressed as stated below and on the attached Parties of Record list:

A copy of the above describe Notice and Parties or Record list was sent inter-office to:

Diane Best, Assistant Attorney General, Capitol Building.


Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 12th day of December, 1995




Notary Public

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 12, 1996

NOTICE

TO: Daniel Bjerke
Public Works Director of Engineering/Utilities
City of Rapid City
300 Sixth Street
Rapid City, SD 57701-2724
and Parties of Record (see attached list)

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

SUBJECT: Rescheduling Water Management Board Hearing on Water Permit Application
Nos. 2234-2, 2316-2 and 2317-2, City of Rapid City

On December 6, 1995, the Water Management Board granted the petitioner's request for a continuance of the hearing on Water Permit Application Nos. 2234-2, 2316-2, and 2317-2. The Board will now consider these application on March 6, 1996, at 1:30 pm, Conference Room, Floyd Matthew Training Center, Foss Building, 523 East Capitol Ave., Pierre, SD. The agenda time is an estimate and may be delayed due to prior agenda items. The hearing will continue in the morning of March 7, 1996, if necessary.

Applicable provisions of the Notice of Hearing published August 16 and 23, 1995 in the Rapid City Journal will apply at this hearing. This hearing is an adversary proceeding. Any party of record has the right to be present and 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 plan your schedule so that you may be present at the March, 6, 1996. hearing. Contact Eric Gronlund at (605) 773-3352, if you have any questions.

c: Diane Best, Assistant Attorney General
Bob Jackson, City Attorney

PARTIES OF RECORD LIST
APPLICATION NOS. 2234-2, 2316-2 AND 2317-2
CITY OF RAPID CITY

Applicant

Daniel L. Bjerke
Water/Wastewater Division Manager
Public Works Director of
Engineering/Utilities
300 Sixth Street
Rapid City, SD 57701-2724

Attorney for Applicant

Bob Jackson, Attorney
%City of Rapid City
300 Sixth Street
Rapid City, SD 57701

Petitioners

Mark Kieffer
Keystone Rt., Box 3808
Rapid City, SD 57702

Walter Jones
Jones Ranch
15248 Caputa Loop
Rapid City, SD 57701

Zoltan Szakaacs
P.O. Box
Caputa, SD 57725

Wm Ham
Ham Ranch
HCR 36, Box 34
Caputa, SD 57725

Jerry Marsh
Marsh Ranch
HCR 36, Box 35
Caputa, SD 57725

Ed Taylor
HCR 36, Box 60
Caputa,,SD 57725

Jerry Hammerquist
P.O. Box 26
Caputa, SD 57725

Robert Dustman
Dustman Ranch
P.O. Box 53
Caputa, SD 57725

Melvin Brassfield
P.O. Box 24
Caputa, SD 57725

Wm Ham, President
St. Germain Irrigating Co.
P.O. Box 32
Caputa, SD 57725

George Sanders Ranch
3023 Tomahawk Dr.
Rapid City, SD 57702

Tom Odom
Odom Ranch
23232 Huntington Place
Rapid City, SD 57702

CERTIFICATION

I hereby certify that on January 12, 1996, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated January 12, 1996, along with the Parties of Record List, regarding Rescheduling Water Management Board Hearing on Water Permit Application Nos. 2234-2, 2316-2 and 2317-2, City of Rapid City, addressed as stated below, and on the attached Parties of Record list:

Copy of the above described Notice was sent inter-office to:

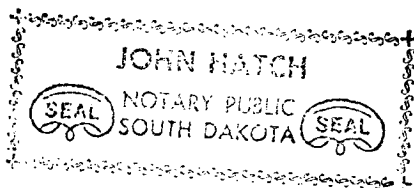
Diane Best, Assistant Attorney General, Capitol Building.



Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 17th day of January, 1996





Notary Public

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 13, 1996

NOTICE

TO: Daniel Bjerke
Public Works Director of Engineering/Utilities
City of Rapid City
300 Sixth Street
Rapid City, SD 57701-2724
and Parties of Record (see attached list)

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

SUBJECT: Preparation of Findings of Fact, Conclusions of Law and Final Decision

The Water Management Board directed John Guhin, the Board's attorney, to prepare proposed Findings of Fact, Conclusions of Law and a Final Decision for Water Permit Application Nos. 2234-2, 2316-2 and 2317-2. The Board will consider the proposed Findings, Conclusions and Final Decision at 11:00 AM on May 1, 1996, in the Education Center Room, Third Floor of the First Dakota National Bank, 225 Cedar Street, Yankton, SD 57078.

The Board requested that a copy of the proposed Findings, Conclusions and Final Decision be mailed to each Board member and all Parties of Record and their attorneys (name and addresses enclosed) by April 11, 1996. Written objections or comments in support of the proposed Findings, Conclusions and Final Decision, or alternative Findings, Conclusions and Final Decision, are to be mailed to each Board member, the Board attorney and all Parties of Record by April 22, 1996.

Oral arguments by parties filing written comments in opposition or support of the proposed Findings, Conclusions and Final Decision, or alternative Findings, Conclusions and Final Decision, may be made on May 1, 1996. The public hearing was completed March 6, 1996. No additional testimony will be received on May 1, 1996.

enclosures

c: John Guhin, Deputy Attorney General
Diane Best, Assistant Attorney General

**PARTIES OF RECORD LIST
APPLICATION NOS. 2234-2, 2316-2 AND 2317-2
CITY OF RAPID CITY**

Applicant

Daniel L. Bjerke, P.E./L.S.
Water/Wastewater Division Manager
City of Rapid City
300 Sixth Street
Rapid City, SD 57701

Attorney for Applicant

Bob Jackson, Attorney
%City of Rapid City
300 Sixth Street
Rapid City, SD 57701

Petitioners

Mark Kieffer
Keystone Rt., Box 3808
Rapid City, SD 57702

Walter Jones
Jones Ranch
15248 Caputa Loop
Rapid City, SD 57701

Zoltan Szakacs
P.O. Box
Caputa, SD 57725



Jerry Marsh
Marsh Ranch
HCR 36, Box 35
Caputa, SD 57725

Ed Taylor
HCR 36, Box 60
Caputa, SD 57725

Jerry Hammerquist
P.O. Box 26
Caputa, SD 57725

Robert Dustman
Dustman Ranch
P.O. Box 53
Caputa, SD 57725

Melvin Brassfield
P.O. Box 24
Caputa, SD 57725

Wm Ham, President
St. Germain Irrigating Co.
P.O. Box 32
Caputa, SD 57725

George Sanders Ranch
3023 Tomahawk Dr.
Rapid City, SD 57702

Tom Odom
Odom Ranch
23232 Huntington Place
Rapid City, SD 57702

WATER MANAGEMENT BOARD MEMBERS

Dwayne A. Rollag - Chairman
320 Lincoln Lane South
Brookings, SD 57006

Francis E. Brink
1214 South Wells Street
Aberdeen, SD 57401

Bernita Loucks
219 42nd Street
Rapid City, SD 57702

Marian Gunderson
811 West 3rd
Yankton, SD 57078

Rodney Freeman, Jr.
PO Box 176
Huron, SD 57350

Joel Rickenbach
Box 97
Oelrichs, SD 57763

Leo Holzbauer
RR 1 Box 170
Wagner, SD 57380-9681

BOARD ATTORNEY

John Guhin, Deputy Attorney General
Office of Attorney General
Natural Resource Section
State Capitol Building
Pierre, SD 57501

DIVISION OF WATER RIGHTS

Department of Environment and
Natural Resources

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

STAFF ATTORNEY

Diane Best
Assistant Attorney General
Office of Attorney General
Natural Resource Section
State Capitol Building
Pierre, SD 57501

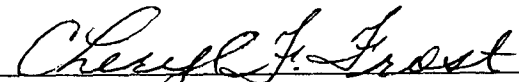
CERTIFICATION

I hereby certify that on March 13, 1996, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 13, 1996, along with a copy of the Parties of Record list, and a copy of the names and addresses of the Water Management Board members, regarding Preparation of Findings of Fact, Conclusions of Law and Final Decision for Water Permit Application Nos. 2234-2, 2316-2 and 2317-2, addressed as stated on the attached "Notice" and Parties of Record List:

A copy of the above described Notice and attachments were sent inter-office to:

John Guhin, Deputy Attorney General, Capitol Building.

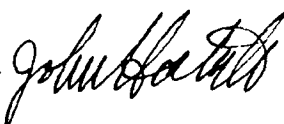
Diane Best, Assistant Attorney General, Capitol Building.


Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 14th day of March, 1996




Notary Public
JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 2316-2,)
AN APPLICATION OF THE CITY)
OF RAPID CITY TO TRANSFER THE)
USE OF WATER APPROPRIATED)
UNDER VESTED WATER RIGHT)
NO. 1727-2, RAPID VALLEY WATER)
COMPANY.)

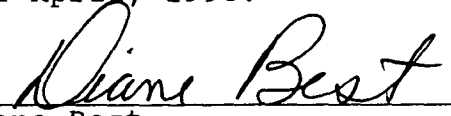
DIVISION RESPONSE TO
FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND FINAL DECISION

COMES NOW, the Department of Environment and Natural Resources, Division of Environmental Regulation (hereinafter Division), and requests that the Board make the following changes to the proposed Findings of Fact, Conclusions of Law, and Final Decision in the above-entitled matter.

1. On page 6, Conclusion of Law 8 addresses the fact that Rapid City would be limited to using only "crop consumptive" water (and not return flows) during certain times. The Division requests that Conclusion No. 8 be amended to state:

Because the diversion points for water right or permit numbers 653-2, 971-2, 1461-2, 1461A-2, and 2040-2 are located between the historical Murphy Ditch return point and Rapid City's waste water effluent return point, Rapid City may take only water previously associated with crop consumptive use (and may not take that quantity of water represented by historical return flows) whenever natural flow water is not available for water rights or permits 653-2, 971-2, 1461-2, 1461A-2 and 2040-2.

Dated this 19th day of April, 1996.


Diane Best
Assistant Attorney General
500 E. Capitol
Pierre, South Dakota 57501-5070
Telephone: (605) 773-3215
Attorney for Division

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copies of Division Response to proposed Findings of Fact, Conclusions of Law, and Final Decision of the Water Management Board were served upon each of the following by enclosing the same in envelopes with first class postage, prepaid and affixed thereto, and depositing said envelopes in the United States mail at Pierre, South Dakota, on this 19th day of April, 1996:

Francis E. Brink
1214 S. Wells St.
Aberdeen, SD 57401-7351

Rodney Freeman, Jr.
P.O. Box 176
Huron, SD 57350-0176

Marian Gunderson
811 W. Third
Yankton, SD 57078-3702

Joel Rickenbach
P.O. Box 97
Oelrichs, SD 57763-0097

Bernita Loucks
219 42nd St.
Rapid City, SD 57702-2123

Leo Holzbauer
RR 1, Box 170
Wagner, SD 57380-9681

Dwayne A. Rollag
320 Lincoln Lane South
Brookings, SD 57006-2741

Daniel L. Bjerke, PE/LS
Water/Wastewater Div.
City of Rapid City
300 Sixth St.
Rapid City, SD 57701

Bob Jackson
City Attorney
300 Sixth St.
Rapid City, SD 57701

Mark Kieffer
Keystone Rt., Box 3808
Rapid City, SD 57702

Walter Jones
Jones Ranch
15248 Caputa Loop
Rapid City, SD 57701

Zoltan Szakacs
Caputa, SD 57725

Jerry Marsh
Marsh Ranch
HCR 36, Box 35
Caputa, SD 57725

Robert Dustman
Dustman Ranch
P.O. Box 53
Caputa, SD 57725

Ed Taylor
HCR 36, Box 60
Caputa, SD 57725

Jerry Hammerquist
P.O. Box 26
Caputa, SD 57725

Melvin Brassfield
P.O. Box 24
Caputa, SD 57725

George Sanders Ranch
3023 Tomahawk Dr.
Rapid City, SD 57702

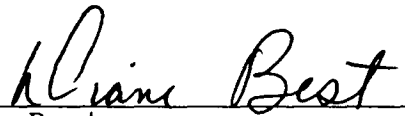
William Ham, President
St. Germain Irrigating Co.
P.O. Box 32
Caputa, SD 57725

Tom Odom
Odom Ranch
23232 Huntington Pl.
Rapid City, SD 57702

and sent by interoffice mail to the following on the same date:

John Hatch
Chief Engineer
Department of Environment
& Natural Resources
Foss Building
Pierre, SD 57501

John P. Guhin
Deputy Attorney General
500 E. Capitol
Pierre, SD 57501-5070



Diane Best
Assistant Attorney General

d-pld13.db(dh)

MAY - 6 1996

BANGS McCULLEN LAW FIRM

Bangs, McCullen, Butler, Foye & Simmons, L.L.P.

818 St. Joe Street

Mailing Address P.O. Box 2670

Rapid City, South Dakota 57709-2670

605-343-1040

Telecopier 605-343-1503

Joseph M. Butler
Thomas H. Foye
Thomas E. Simmons
Charles L. Riter
Allen G. Nelson
James P. Hurley
Michael M. Hickey
Terry L. Hofer
Patrick Duffy
Rod Schlauger *
Daniel F. Duffy
Jeffrey G. Hurd
Veronica L. Bowen
John H. Reforth
John C. Quinn

George A. Bangs (1943-1995)
W.A. McCullen (1943-1987)

* Also admitted in Minnesota,
Nebraska and North Dakota

May 3, 1996

Diane Best
Assistant Attorney General
500 E. Capitol
Pierre, SD 57501

Re: In the Matter of Water Permit Application No. 2316-2 an Application
of the City of Rapid City to Transfer the Use of Water Appropriated
Under Vested Water Right No. 1727-2, Rapid Valley Water Company;

In the Matter of Water Permit Application No. 2317-2 an Application
of the City of Rapid City to Transfer the Use of Water Appropriated
Under Vested Water Right No. 2039-2, Hawthorne Ditch Company; and

In the Matter of Water Permit Application No. 2234-2 an Application
of the City of Rapid City to Transfer the Use of Water Appropriated
Under Vested Water Right No. 2040-2, Hawthorne Ditch Company;

Dear Diane:

Our office represents Jerry Hammerquist, Jerry Marsh, and other protesters in connection with the above-referenced actions. They are in receipt of your April 19, 1996 Response to the Findings of Fact, Conclusions of Law, and Final Decision. My clients intend to appeal the Board's decision if your response is not included in the Findings of Fact and Conclusions of Law. If your response is included, there will be no appeal. Please send me a copy of the formal Findings and Conclusions adopted by the board.

May 3, 1996

Page 2

Let me know if you have any questions.

Sincerely,

BANGS, McCULLEN, BUTLER,
FOYE & SIMMONS, L.L.P.

Joseph M. Butler

Joseph M. Butler

jmb:sw

cc: Jerry Hammerquist
Jerry Marsh



OFFICE OF ATTORNEY GENERAL

500 EAST CAPITOL
Pierre, South Dakota 57501-5070
Phone (605) 773-3215



LAWRENCE E. LONG
CHIEF DEPUTY ATTORNEY GENERAL

MARK W. BARNETT
ATTORNEY GENERAL

May 17, 1996

MEMORANDUM

TO: Persons and entities listed on the enclosed Certificate of Service

FROM: John P. Guhin, Deputy Attorney General

RE: In the Matter of Water Permit Application No. 2316-2 an Application of the City of Rapid City to Transfer the Use of Water Appropriated Under Vested Water Right No. 1727-2, Rapid Valley Water Company;

In the Matter of Water Permit Application No. 2317-2 an Application of the City of Rapid City to Transfer the Use of Water Appropriated Under Vested Water Right No. 2309-2, Hawthorne Ditch Company; and

In the Matter of Water Permit Application No. 2234-2 an Application of the City of Rapid City to Transfer the Use of Water Appropriated Under Vested Water Right No. 2040-2, Hawthorne Ditch Company

At the direction of Prehearing Chairman, I am herewith enclosing a copy of a May 3, 1996, letter from Mr. Joseph Butler, attorney for Jerry Hammerquist, Jerry Marsh, and other protesters of the above-noted water permit applications.

Mr. Freeman has directed me to inform each of you that he has elected to treat this letter as a motion to reopen. Mr. Freeman has further requested me to request that any person who wishes to state a view on whether the matter should be reopened in light of the May 3, 1996, letter should make that view known to him by letter postmarked no later than May 30, 1996.

Upon receiving responses, if any, Mr. Freeman will enter an appropriate order.

MEMORANDUM
May 17, 1996
Page 2

Any responses should be sent to the attention of all persons listed upon the Certificate of Service. In addition, it should be sent to:

Mr. Rodney Freeman, Jr.
P.O. Box 176
Huron, SD 57350-0176

John P. Guhin
Deputy Attorney General
500 E. Capitol Avenue
Pierre, SD 57501-5070

JPG:nan

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Letter of May 17, 1996, and the Letter of May 3, 1996, in relation to In the Matter of Water Permit Application No. 2316-2 an Application of the City of Rapid City to Transfer the Use of Water Appropriated Under Vested Water Right No. 1727-2, Rapid Valley Water Company; In the Matter of Water Permit Application No. 2317-2 an Application of the City of Rapid City to Transfer the Use of Water Appropriated Under Vested Water Right No. 2309-2, Hawthorne Ditch Company; and In the Matter of Water Permit Application No. 2234-2 an Application of the City of Rapid City to Transfer the Use of Water Appropriated Under Vested Water Right No. 2040-2, Hawthorne Ditch Company, was served by United States mail, first class, postage prepaid upon

Bob Jackson
City Attorney
300 Sixth St.
Rapid City, SD 57701

Walter Jones
Jones Ranch
15248 Caputa Loop
Rapid City, SD 57701

Zoltan Szakacs
P.O. Box
Caputa, SD 57725

Ed Taylor
HCR 36, Box 60
Caputa, SD 57725

Robert Dustman
Dustman Ranch
P.O. Box 53
Caputa, SD 57725

Mark Kieffer
Keystone Rt., Box 3808
Rapid City, SD 57702

Daniel J. Bjerke, PE/LS
Water/Wastewater Division
City of Rapid City
300 Sixth Street
Rapid City, SD 57701

Jerry Marsh
Marsha Ranch
HCR 36, Box 35
Caputa, SD 57725

Jerry Hammerquist
P.O. Box 26
Caputa, SD 57725

Melvin Brassfield
P.O. Box 24
Caputa, SD 57725

Wm. Ham, President
St. Germain Irrigating Co.
P.O. Box 32
Caputa, SD 57725

George Sanders Ranch
3023 Tomahawk Dr.
Rapid City, SD 57702

Tom Odom
Odom Ranch
23232 Huntington Pl.
Rapid City, SD 57702

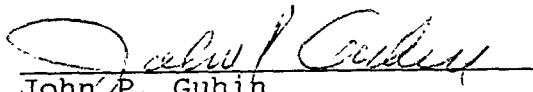
and by interoffice mail to:

John Hatch, Chief Engineer
Division of Water Rights
523 East Capitol Avenue
Pierre, SD 57501-3181

and hand-delivered to:

Diane Best
Assistant Attorney General
500 E. Capitol Avenue
Pierre, SD 57501-5070

on this 17th day of May, 1996.


John P. Guhin
Deputy Attorney General
500 E. Capitol Avenue
Pierre, South Dakota 57501-5070

n-cert17.jpg

MAY - 6 1996

BANGS McCULLEN LAW FIRM

Bangs, McCullen, Butler, Foye & Simmons, L.L.P.

818 St. Joe Street
 Mailing Address P.O. Box 2670
 Rapid City, South Dakota 57709-2670
 605-343-1040
 Telecopier 605-343-1503

May 3, 1996

Diane Best
 Assistant Attorney General
 500 E. Capitol
 Pierre, SD 57501

Joseph M. Butler
 Thomas H. Foye
 Thomas E. Simmons
 Charles L. Riter
 Allen G. Nelson
 James P. Hurley
 Michael M. Hickey
 Terry L. Hofer
 Patrick Duffy
 Rod Schlauger *
 Daniel F. Duffy
 Jeffrey G. Hurd
 Veronica L. Bowen
 John H. Raforth
 John C. Guinn

George A. Bangs (1943-1995)
 W.A. McCullen (1943-1987)

* Also admitted in Minnesota,
 Nebraska and North Dakota

Re: In the Matter of Water Permit Application No. 2316-2 an Application
 of the City of Rapid City to Transfer the Use of Water Appropriated
 Under Vested Water Right No. 1727-2, Rapid Valley Water Company;

In the Matter of Water Permit Application No. 2317-2 an Application
 of the City of Rapid City to Transfer the Use of Water Appropriated
 Under Vested Water Right No. 2039-2, Hawthorne Ditch Company; and

In the Matter of Water Permit Application No. 2234-2 an Application
 of the City of Rapid City to Transfer the Use of Water Appropriated
 Under Vested Water Right No. 2040-2, Hawthorne Ditch Company;

Dear Diane:

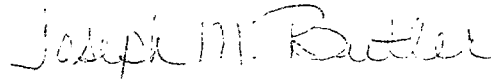
Our office represents Jerry Hammerquist, Jerry Marsh, and other protesters in connection with the above-referenced actions. They are in receipt of your April 19, 1996 Response to the Findings of Fact, Conclusions of Law, and Final Decision. My clients intend to appeal the Board's decision if your response is not included in the Findings of Fact and Conclusions of Law. If your response is included, there will be no appeal. Please send me a copy of the formal Findings and Conclusions adopted by the board.

May 3, 1996
Page 2

Let me know if you have any questions.

Sincerely,

BANGS, McCULLEN, BUTLER,
FOYE & SIMMONS, L.L.P.

A handwritten signature in cursive script that reads "Joseph M. Butler".

Joseph M. Butler

jmb:sw

cc: Jerry Hammerquist
Jerry Marsh

BANGS McCULLEN LAW FIRM

Bangs, McCullen, Butler, Foye & Simmons, L.L.P.

818 St. Joe Street
Mailing Address P.O. Box 2670
Rapid City, South Dakota 57709-2670
605-343-1040
Telecopier 605-343-1503

May 22, 1996



Joseph M. Butler
Thomas H. Foye
Thomas E. Simmons
Charles L. Riter
Allen G. Nelson
James P. Hurley
Michael M. Hickey
Terry L. Hofer
Patrick Duffy
Rod Schlauger *
Daniel F. Duffy
Jeffrey G. Hurd
Veronica L. Bowen
John H. Reforth
John C. Quinn

George A. Bangs (1943-1995)
W.A. McCullen (1943-1987)

* Also admitted in Minnesota,
Nebraska and North Dakota

Rodney Freeman, Jr.
P.O. Box 176
Huron, SD 57350-0176

Re: Water Permit Application Nos. 2316-2, 2317-2, and 2234-2

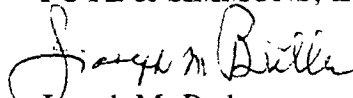
Dear Mr. Freeman:

I received a copy of John Guhin's memorandum letter dated May 17 setting out your decision to treat my letter of May 3 as a motion to reopen. I am afraid I did not make myself very clear. I understand that Diane Best's response to the proposed findings and conclusions were ultimately included in the final decision but that it has not as yet been signed because of my letter. The purpose of my letter was merely to be assured that Diane's response would be included by the Board in its final decision.

Simply stated, I see no reason to have the hearing reopened so long as the wording of Diane's response is included in the final decision. Let me know if you have any questions.

Sincerely,

BANGS, McCULLEN, BUTLER,
FOYE & SIMMONS, L.L.P.


Joseph M. Butler

jmb:sw

cc: John P. Guhin
Bob Jackson
Walter Jones
Zoltan Szakacs
Ed Taylor
Melvin Brassfield
George Sanders Ranch
John Hatch

Robert Dustman
Mark Kieffer
Daniel J. Bjerke
Jerry Marsh
Jerry Hammerquist
Wm. Ham
Tom Odom
Diane Best

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

500 EAST CAPITOL
Pierre, South Dakota 57501-5070
Phone (605) 773-3215



MARK W. BARNETT
ATTORNEY GENERAL

LAWRENCE E. LONG
CHIEF DEPUTY ATTORNEY GENERAL

May 29, 1996

Rodney Freeman Jr.
Attorney at Law
P.O. Box 176
Huron, SD 57350-0176

Re: Water Permit Application Nos. 2316-2, 2317-2 and 2234-2

Dear Mr. Freeman:

I have received a copy of Mr. Butler's May 3, 1996, letter regarding the Findings of Fact, Conclusions of Law and Final Decision in the above-entitled matter. I have also received Mr. Guhin's May 17, 1996, Memorandum as well as Mr. Butler's Response dated May 22, 1996.

Mr. Butler has indicated that his letter was not intended as a motion to reopen the hearing. The Water Rights Program is also of the opinion that the hearing need not be reopened.

Sincerely,

Diane Best
Diane Best
Assistant Attorney General

DB:mjj
Enc.

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 2316-2 AN)
APPLICATION OF THE CITY OF)
RAPID CITY TO TRANSFER THE) ORDER
USE OF WATER APPROPRIATED)
UNDER VESTED WATER RIGHT)
NO. 1727-2, RAPID VALLEY)
WATER COMPANY;)

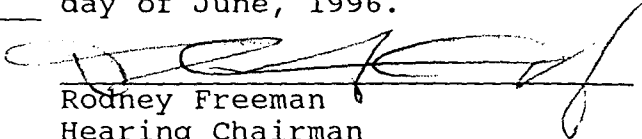
IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 2317-2 AN)
APPLICATION OF THE CITY OF)
RAPID CITY TO TRANSFER THE)
USE OF WATER APPROPRIATED)
UNDER VESTED WATER RIGHT)
NO. 2309-2, HAWTHORNE DITCH)
COMPANY; AND)

IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 2234-2 AN)
APPLICATION OF THE CITY OF)
RAPID CITY TO TRANSFER THE)
USE OF WATER APPROPRIATED)
UNDER VESTED WATER RIGHT)
NO. 2040-2, HAWTHORNE DITCH)
COMPANY)

The Prehearing Chairman, having reviewed the responses to the May 17, 1996, letter sent at its direction, has concluded that no party requests that the applications in question be reopened. It is therefore

ORDERED that the case not be reopened and that the Findings of Fact, Conclusions of Law and Final Decision, as revised by the Board, be submitted to the chairman of the Water Management Board for his signature.

Dated this 10th day of June, 1996.


Rodney Freeman
Hearing Chairman

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

500 EAST CAPITOL
Pierre, South Dakota 57501-5070
Phone (605) 773-3215
FAX# (605) 773-4106

MARK W. BARNETT
ATTORNEY GENERAL

LAWRENCE E. LONG
CHIEF DEPUTY ATTORNEY GENERAL



June 17, 1996

MEMORANDUM

TO: Persons and entities listed on the enclosed Certificate of Service

FROM: John P. Guhin, Deputy Attorney General *John P. Guhin*

RE: In the Matter of Water Permit Application No. 2316-2 an Application of the City of Rapid City to Transfer the Use of Water Appropriated Under Vested Water Right No. 1727-2, Rapid Valley Water Company;

In the Matter of Water Permit Application No. 2317-2 an Application of the City of Rapid City to Transfer the Use of Water Appropriated Under Vested Water Right No. 2309-2, Hawthorne Ditch Company; and

In the Matter of Water Permit Application No. 2234-2 an Application of the City of Rapid City to Transfer the Use of Water Appropriated Under Vested Water Right No. 2040-2, Hawthorne Ditch Company

I am herewith enclosing, at the direction of the Prehearing Chairman, an Order dated June 10, 1996.

JPG:nan

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the Order of June 10, 1996, in relation to In the Matter of Water Permit Application No. 2316-2 an Application of the City of Rapid City to Transfer the Use of Water Appropriated Under Vested Water Right No. 1727-2, Rapid Valley Water Company; In the Matter of Water Permit Application No. 2317-2 an Application of the City of Rapid City to Transfer the Use of Water Appropriated Under Vested Water Right No. 2309-2, Hawthorne Ditch Company; and In the Matter of Water Permit Application No. 2234-2 an Application of the City of Rapid City to Transfer the Use of Water Appropriated Under Vested Water Right No. 2040-2, Hawthorne Ditch Company, was served by United States mail, first class, postage prepaid upon

Bob Jackson
City Attorney
300 Sixth St.
Rapid City, SD 57701

Mark Kieffer
Keystone Rt., Box 3808
Rapid City, SD 57702

Walter Jones
Jones Ranch
15248 Caputa Loop
Rapid City, SD 57701

Daniel J. Bjerke, PE/LS
Water/Wastewater Division
City of Rapid City
300 Sixth Street
Rapid City, SD 57701

Zoltan Szakacs
P.O. Box
Caputa, SD 57725

Jerry Marsh
Marsha Ranch
HCR 36, Box 35
Caputa, SD 57725

Ed Taylor
HCR 36, Box 60
Caputa, SD 57725

Jerry Hammerquist
P.O. Box 26
Caputa, SD 57725

Robert Dustman
Dustman Ranch
P.O. Box 53
Caputa, SD 57725

Melvin Brassfield
P.O. Box 24
Caputa, SD 57725

Wm. Ham, President
St. Germain Irrigating Co.
P.O. Box 32
Caputa, SD 57725

George Sanders Ranch
3023 Tomahawk Dr.
Rapid City, SD 57702

Tom Odom
Odom Ranch
23232 Huntington Pl.
Rapid City, SD 57702

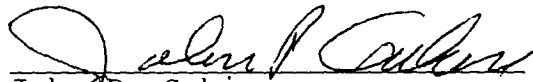
and by interoffice mail to:

John Hatch, Chief Engineer
Division of Water Rights
523 East Capitol Avenue
Pierre, SD 57501-3181

and hand-delivered to:

Diane Best
Assistant Attorney General
500 E. Capitol Avenue
Pierre, SD 57501-5070

on this 17th day of June, 1996.



John P. Guhin
Deputy Attorney General
500 E. Capitol Avenue
Pierre, South Dakota 57501-5070

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)	FINDINGS OF FACT,
APPLICATION NO. 2316-2,)	CONCLUSIONS OF LAW
AN APPLICATION OF THE CITY)	AND FINAL DECISION
OF RAPID CITY TO TRANSFER THE)	
USE OF WATER APPROPRIATED)	
UNDER VESTED WATER RIGHT)	
NO. 1727-2, RAPID VALLEY WATER)	
COMPANY.)	

FINDINGS OF FACT

I

The City of Rapid City has applied for a change in the use of water which has been used to irrigate 64 acres of land known as the Morris property. The water in question is supplied by the Rapid Valley Water Company from Rapid Creek and all the water at issue constitutes "natural flows."

II

The water to be transferred has been appropriated under Vested Water Right No. 1727-2, Rapid Valley Water Company, which had a priority date of April 6, 1878.

III

Rapid City wishes to change the diversion point either to one of several points within the City of Rapid City including the Rapid City Water Treatment Plant, Sioux Park Gallery, Meadowbrook Gallery, or Jackson Springs Gallery or, alternatively, to Pactola Reservoir.

IV

The City of Rapid City seeks the transfer as part of a comprehensive approach to future water planning which also includes water conservation, search for new ground water

supplies, purchase of water rights, and negotiations with the United States seeking storage in Pactola Reservoir for its water.

V

The diversion rate which may be transferred from Vested Water Right No. 1727-2 is determined by pro-rating acreage entitled to the Murphy Ditch's 1878 priority diversion rate; the result is decreased by an 11% carriage loss, which carriage loss is to remain in the ditch. This yields a transferable diversion rate of .81 cfs which has been historically used to irrigate the 64 acres.

VI

The Board finds that the volume of water which has been consumed annually by the crops planted on the 64 acres is 47.2 acre feet.

VII

The Board finds that the amount of water actually diverted was 94.5 acre feet of which 47.2 acre feet was consumed by the crop; the remainder was returned to Rapid Creek as return flow.

VIII

Under the Rapid City proposal, there are five water rights or permits (Nos. 653-2, 971-2, 1461-2, 1461A-2 and 2040-2) with diversion points located downstream from the Murphy Ditch historical return point, but upstream from the treatment plant return point which could be affected by the

grant of this permit. Accordingly, whenever any of the five named water rights purchase water, the city should be able to take only the amount of water associated with crop consumptive use. Further, if in the future the City of Rapid City stops returning effluent to Rapid Creek, then the diversion proposed by this application must be recalculated to reflect that condition.

IX

The following table of monthly diversion volumes indicates those which can be made at Pactola or alternatively at the Rapid City sites, without adversely affecting present users:

Month	Diversion at Pactola (ac-ft)	Diversion at Intakes (ac-ft)
May	6.61	13.22
June	7.69	15.38
July	10.45	20.89
Aug	13.40	26.80
Sept	9.09	18.17
Oct	0.0	0.00

X

Testimony was received demonstrating that opponents of the transfer believe that water which is discharged from the city's wastewater treatment plant is of lower quality than water which is discharged as return flow by irrigators. The opponents of the application therefore argue that allowing the transfer will further degrade downstream water supplies.

XI

The opponents further allege that, at present, water quality downstream is not good, especially in the months of July and August, and is at times not fit for irrigation or stockwater use.

XII

The waters in question are classified by the state's system as warm water semi-permanent waters fit for fish life propagation, limited contact recreation, immersion recreation, wildlife propagation, stockwater and irrigation water.

XIII

Unrefuted testimony indicates that the City of Rapid City subjects the waste water to tertiary treatment. Furthermore, the City of Rapid City's discharge system is permitted and is in compliance with state discharge standards.

XIV

Unrefuted testimony indicates that the standards Rapid City has been obliged to meet have substantially increased in the last twenty to thirty years. The City of Rapid City, as of January 1, 1996, was obligated to meet further stringent standards.

XV

The Board credits the expert testimony of a state water quality expert who tested water both upstream and

downstream of the Rapid City discharges. While a slight difference in the water quality was detected, the difference was not adjudged to be significant. Furthermore, the expert testimony revealed that the beneficial use standards were easily met both above and below the water treatment plant.

XVI

Because the amount of water at issue here is very small, even when combined with the other two permits under consideration today, because testing credited by the Board indicates that there is at present only a slight difference in water quality upstream and downstream of the city treatment plant, because the opponents of the permit have failed to demonstrate that the transfer at issue will in fact have an adverse affect on or will actually impair their rights, and because the Board is retaining jurisdiction of this matter, the permit should be granted.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter.
2. The applicant's request for a change in use can be made without detriment or impairment to existing rights when accomplished as set forth in the Final Decision.
3. The proposed change from irrigation use to municipal use is a beneficial use and is in the public interest. The Board finds specifically that the changes in water use are in support of Rapid City's long-term comprehensive plans for the development and conservation of a

municipal water supply and that such long-term planning and conservation is to the public benefit and should be encouraged.

4. The priority date of April 6, 1878, which is the priority date of Vested Water Right No. 1727-2, should be retained for the transferred water right.

5. The diversion rate which should be transferred under this permit is .81 cfs.

6. Approval of this application necessitates that the authorized diversion rate and acreage for Rapid Valley Water Company Water Right No. 1727-2 under the April 6, 1878, priority date should be decreased by .81 cfs and decreased by 64 acres.

7. Additional information may be made available to the Board with regard to water quality, seepage rates, or hydrology which may require adjustment of monthly or total annual volumes or diversion rates authorized by this permit. Therefore, the Board should retain jurisdiction to make these and other appropriate adjustments.

8. Because the diversion points for water right or permit numbers 653-2, 971-2, 1461-2, 1461A-2 and 2040-2 are located between the historical Murphy Ditch return point and Rapid City's waste water effluent return point, Rapid City may take only water previously associated with crop

consumptive use (and may not take that quantity of water represented by historical return flows) whenever natural flow water is not available for water rights or permits 653-2, 971-2, 1461-2, 1461A-2 and 2040-2.

9. The opponents of the application have urged in their September 25, 1995, letter that the application is contrary to the Deerfield Contract of July 27, 1943. The Board rejects the contention. First, the entire contract has not been submitted to the Board for its analysis. Second, the Board's reading of the language quoted by the opponents has not been demonstrated to be dispositive of any issue presented here. The Board specifically does not credit the apparent argument of the opponents that because the City cannot claim its return flows as its property, the return flows do not actually exist and are not relevant to the resulting stream flow.

10. Approval of Water Right Application No. 2316-2 does not guarantee that natural flow water will be available for the permit for diversion or storage during extreme low flow periods.

11. The effect of approval of Water Permit Application No. 2316-2 will be to retire the Morris property from irrigation. SDCL 45-6-34.1.

FINAL DECISION

1. Application No. 2316-2 is granted subject to the following qualifications:

1. Permit No. 2316-2 is limited to a diversion rate of 0.81 cfs for a total annual volume of 47.2 acre feet at Pactola Reservoir or a total annual volume of 94.5 acre feet at Sioux Park Gallery (SW1/4 SW1/4 Section 3), Meadowbrook Gallery (SE1/4 NE1/4 Section 9), Jackson Springs Gallery (NW1/4 SE1/4 Section 8) and the Rapid City Water Treatment Plant (SE1/4 NE1/4 Section 3), all in T1N-R7E. Maximum monthly diversion volumes at Pactola or the diversion points within Rapid City area as follows:

Month Diversion	Diversion	
	at Pactola (ac-ft)	at Intakes (ac-ft)
May	6.61	13.22
June	7.69	15.38
July	10.45	20.89
Aug	13.40	26.80
Sept	9.09	18.17
Oct	0.0	0.00

Diversions during a month may be made at either Pactola Reservoir or at the diversion points within Rapid City, but not simultaneously at both Pactola and the Rapid City Diversion points.

2. The City shall only divert the amount associated with crop consumptive use when Water Right/Permit Nos. 653-2, 971-2, 1461-2, 1461A-2 or 2040-2 are ordering stored water.

3. Permit No.2316-2 authorizes diversions of only natural flow water by the City of Rapid City and does not include any rights to stored irrigation water available under contract from Pactola Reservoir.

4. That the City of Rapid City report to the chief engineer annually the amount of water withdrawn each month at Pactola Reservoir or the diversion points within Rapid City.

5. That the Water Management Board is retaining jurisdiction of Permit No. 2316-2 in the event that additional information shows that changes need to be made in the monthly or total annual volumes authorized by Permit No. 2316-2.

6. Diversions under Permit No. 2316-2 may not interfere with existing water rights in effect

prior to approval of No. 2316-2 or any domestic rights.

7. The amount of water with a April 6, 1978, priority date, which may be appropriated under Vested Water Right No. 1727-2 is reduced by 0.81 cfs.

8. Approval of Water Permit No. 2316-2 retires the 64 acres, known as the Morris property which has been historically irrigated from Murphy Ditch, located in the W1/2 SE1/4 section 9, T1N, R8E from future irrigation.

Dated this 24th day of ^{June}~~May~~, 1996.

BY THE BOARD:


Chairman

pld409.jpg(mas)



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 26, 1996

NOTICE

TO: Daniel Bjerke
Public Works Director of Engineering/Utilities
City of Rapid City
300 Sixth Street
Rapid City, SD 57701-2724
and parties of record

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

SUBJECT: Adoption of Findings of Fact, Conclusions of Law and Final Decision

This is to notify you that the Final Decisions, including Findings of Fact and Conclusions of Law, were adopted May 1, 1996, by the Water Management Board for Water Permit Application Nos. 2234-2, 2316-2 and 2317-2. Copies of the signed Findings of Fact, Conclusions of Law and Final Decisions are enclosed.

South Dakota Statutes provide that decisions of the Board may be appealed to the Courts. Notice of appeal of the Board's decision must be filed within thirty days of this notice and be in accordance with procedures established in SDCL 1-26-31.

enclosures

c: John Guhin, Deputy Attorney General
Diane Best, Assistant Attorney General
Joseph Butler, Bangs McCullen Law Firm

**PARTIES OF RECORD LIST
APPLICATION NOS. 2234-2, 2316-2 AND 2317-2
CITY OF RAPID CITY**

Applicant

Daniel L. Bjerke
Water/Wastewater Division Manager
Public Works Director of
Engineering/Utilities
300 Sixth Street
Rapid City, SD 57701-2724

Attorney for Applicant

Bob Jackson, Attorney
%City of Rapid City
300 Sixth Street
Rapid City, SD 57701

Petitioners

Mark Kieffer
Keystone Rt., Box 3808
Rapid City, SD 57702

Walter Jones
Jones Ranch
15248 Caputa Loop
Rapid City, SD 57701

Zoltan Szakacs
P.O. Box
Caputa, SD 57725

Jerry Marsh
Marsh Ranch
HCR 36, Box 35
Caputa, SD 57725

Ed Taylor
HCR 36, Box 60
Caputa, SD 57725

Jerry Hammerquist
P.O. Box 26
Caputa, SD 57725

Robert Dustman
Dustman Ranch
P.O. Box 53
Caputa, SD 57725

Melvin Brassfield
P.O. Box 24
Caputa, SD 57725

Wm Ham, President
St. Germain Irrigating Co.
P.O. Box 32
Caputa, SD 57725

George Sanders Ranch
3023 Tomahawk Dr.
Rapid City, SD 57702

Tom Odom
Odom Ranch
23232 Huntington Place
Rapid City, SD 57702

CERTIFICATION

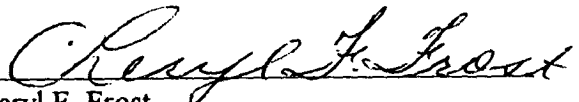
I hereby certify that on June 26, 1996, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated June 26, 1996, along with a copy of the Findings of Fact, Conclusions of Law and Final Decision for Water Permit Application No. 2234-2, Water Permit Application No. 2316-2, and Water Permit Application No. 2317-2, and also a copy of the Parties of Record List, regarding Adoption of Findings of Fact, Conclusions of Law and Final Decision, addressed as stated below, and on the attached Parties of Record List:

Joseph Butler, Bangs, McCullen Law Firm, P.O. Box 2670, Rapid City, SD 57709-2670.

A copy of the above described Notice and attachments were sent Inter-office to:

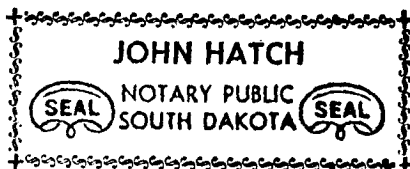
John Guhin, Deputy Attorney General, Capitol Building.

Diane Best, Assistant Attorney General, Capitol Building.


Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 27th day of June, 1996




Notary Public

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001

BANGS McCULLEN LAW FIRM

Bangs, McCullen, Butler, Foye & Simmons, L.L.P.

818 St. Joe Street
Mailing Address P.O. Box 2670
Rapid City, South Dakota 57709-2670
605-343-1040
Telecopier 605-343-1503

July 22, 1996



Joseph M. Butler
Thomas H. Foye
Thomas E. Simmons
Charles L. Riter
Allen G. Nelson
James P. Hurley
Michael M. Hickey
Terry L. Hofer
Patrick Duffy
Rod Schlauger*
Daniel F. Duffy
Jeffrey G. Hurd
Veronica L. Bowen
John H. Raforth
John C. Guinn

George A. Bangs (1943-1995)
W.A. McCullen (1943-1987)

* Also admitted in Minnesota,
Nebraska and North Dakota

Clerk of Courts
P.O. Box 230
Rapid City, SD 57709

Re: Hammerquist, et al. v. State of South Dakota

Dear Clerk:

Enclosed for filing are the following original documents:

1. Three Notices of Appeal (Application Nos. 2317-2, 2316-2, and 2234-2);
2. Three Order for Transcript of Proceedings; and
3. Three Statements of Issues on Appeal.

Also enclosed are three checks made payable to your office in the amount of \$35 each for the appeal filing fees.

Please don't hesitate to contact me if you have any questions.

Sincerely,

BANGS, McCULLEN, BUTLER,
FOYE & SIMMONS, L.L.P.

Joseph M. Butler
Joseph M. Butler

jmb:sw

Enclosures

cc: Jerry Hammerquist
Jerry Marsh
Water Management Board
Diane Best
Francis Brink
Marian Gunderson
Leo Holzbauer

John P. Guhin
Bob Jackson
Dwayne Rollag
Dan Bjerke
Bernita Loucks
Rodney Freeman
Joel Rickenbach

IN CIRCUIT COURT
SEVENTH JUDICIAL CIRCUIT

ORDER FOR TRANSCRIPT OF PROCEEDINGS

By: Joseph M. Butler
Joseph M. Butler
Attorneys for Appellants
818 St. Joe St.; P.O. Box 2670
Rapid City, SD 57709
(605) 343-1040

Received and acknowledged this _____ day of _____, 1996. The transcripts should be completed and delivered by _____, 1996.

Court Reporter

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served a copy of this legal document upon the persons herein next designated, all on the date below shown, by depositing copies thereof in the United States mail at Rapid City, South Dakota, postage prepaid, by certified mail, in envelopes addressed to said addressees, to wit:

John P. Guhin
Deputy Attorney General
Office of Attorney General
500 East Capitol
Pierre, SD 57501-5070

Diane Best
Assistant Attorney General
Office of Attorney General
500 East Capitol
Pierre, SD 57501-5070

Bob Jackson
City Attorney
300 6th Street
Rapid City, SD 57701

Dan Bjerke
City of Rapid City
300 6th Street
Rapid City, SD 57701

Water Management Board
Department of Environment
and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

Dwayne Rollag
Chairman, Water Management Bd.
320 Lincoln Lane South
Brookings, SD 57006

Francis Brink
1214 S. Wells Street
Aberdeen, SD 57401

Bernita Loucks
219 42nd Street
Rapid City, SD 57702

Marian Gunderson
811 West 3rd
Yankton, SD 57078

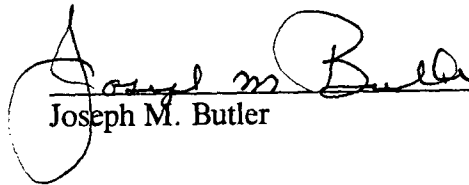
Rodney Freeman
P.O. Box 176
Huron, SD 57350

Leo Holzbauer
R.R. 1, Box 170
Waggoner, SD 57380-9681

Joel Rickenbach
P.O. Box 97
Oelrichs, SD 57763

which are the last addresses of the addressees known to the subscriber.

Dated this 22nd day of July, 1996.



Joseph M. Butler

STATE OF SOUTH DAKOTA:
SS
COUNTY OF PENNINGTON :

IN CIRCUIT COURT
SEVENTH JUDICIAL CIRCUIT

JERRY HAMMERQUIST and)
MARSH HERFORD RANCH, INC.,)
Appellants,)

Civil No. _____

vs.)

NOTICE OF APPEAL

STATE OF SOUTH DAKOTA)
ACTING AS THE WATER)
MANAGEMENT BOARD OF THE)
DEPARTMENT OF ENVIRONMENT)
AND NATURAL RESOURCES,)
Respondent.)

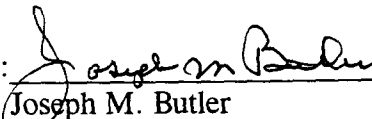
TO: RESPONDENT THE STATE OF SOUTH DAKOTA ACTING AS THE WATER
MANAGEMENT BOARD OF THE DEPARTMENT OF ENVIRONMENT AND
NATURAL RESOURCES.

Please take notice that the above-named Appellants, pursuant to SDCL 1-26-30 through
1-26-37 hereby appeal to the Circuit Court within and for the County of Pennington, State of
South Dakota, Seventh Judicial Circuit, from a decision of the South Dakota Water Management
Board of the Department of Natural Resources within and for the County of Pennington, State of
South Dakota, Seventh Judicial Circuit, from a decision of the South Dakota Water Management
Board of the Department of Natural Resources in re In the Matter of the Water Permit
Application No. 2316-2 an Application of the City of Rapid City to Transfer the Use of Water
Appropriated Under Vested Water Right No. 1727-2, Rapid Valley Water Company.

The final decision of the South Dakota Water Management Board of the Department of Environment and Natural Resources was rendered on June 24, 1996. Notice of that decision was served on the Appellants on June 26, 1996.

Dated this 22nd day of July, 1996.

BANGS, McCULLEN, BUTLER,
FOYE & SIMMONS, L.L.P.

By: 
Joseph M. Butler
Attorneys for Appellants
818 St. Joe St.; P.O. Box 2670
Rapid City, SD 57709
(605) 343-1040

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served a copy of this legal document upon the persons herein next designated, all on the date below shown, by depositing copies thereof in the United States mail at Rapid City, South Dakota, postage prepaid, by certified mail, in envelopes addressed to said addressees, to wit:

John P. Guhin
Deputy Attorney General
Office of Attorney General
500 East Capitol
Pierre, SD 57501-5070

Diane Best
Assistant Attorney General
Office of Attorney General
500 East Capitol
Pierre, SD 57501-5070

Bob Jackson
City Attorney
300 6th Street
Rapid City, SD 57701

Dan Bjerke
City of Rapid City
300 6th Street
Rapid City, SD 57701

Water Management Board
Department of Environment
and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

Dwayne Rollag
Chairman, Water Management Bd.
320 Lincoln Lane South
Brookings, SD 57006

Francis Brink
1214 S. Wells Street
Aberdeen, SD 57401

Bernita Loucks
219 42nd Street
Rapid City, SD 57702

Marian Gunderson
811 West 3rd
Yankton, SD 57078

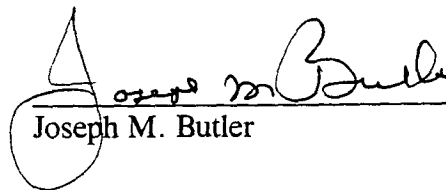
Rodney Freeman
P.O. Box 176
Huron, SD 57350

Leo Holzbauer
R.R. 1, Box 170
Waggoner, SD 57380-9681

Joel Rickenbach
P.O. Box 97
Oelrichs, SD 57763

which are the last addresses of the addressees known to the subscriber.

Dated this 22nd day of July, 1996.



Joseph M. Butler

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)	FINDINGS OF FACT,
APPLICATION NO. 2316-2,)	CONCLUSIONS OF LAW
AN APPLICATION OF THE CITY)	AND FINAL DECISION
OF RAPID CITY TO TRANSFER THE)	
USE OF WATER APPROPRIATED)	
UNDER VESTED WATER RIGHT)	
NO. 1727-2, RAPID VALLEY WATER)	
COMPANY.)	

FINDINGS OF FACT

I

The City of Rapid City has applied for a change in the use of water which has been used to irrigate 64 acres of land known as the Morris property. The water in question is supplied by the Rapid Valley Water Company from Rapid Creek and all the water at issue constitutes "natural flows."

II

The water to be transferred has been appropriated under Vested Water Right No. 1727-2, Rapid Valley Water Company, which had a priority date of April 6, 1878.

III

Rapid City wishes to change the diversion point either to one of several points within the City of Rapid City including the Rapid City Water Treatment Plant, Sioux Park Gallery, Meadowbrook Gallery, or Jackson Springs Gallery; or, alternatively, to Pactola Reservoir.

IV

The City of Rapid City seeks the transfer as part of a comprehensive approach to future water planning which also includes water conservation, search for new ground water

supplies, purchase of water rights, and negotiations with the United States seeking storage in Pactola Reservoir for its water.

V

The diversion rate which may be transferred from Vested Water Right No. 1727-2 is determined by pro-rating acreage entitled to the Murphy Ditch's 1878 priority diversion rate; the result is decreased by an 11% carriage loss, which carriage loss is to remain in the ditch. This yields a transferable diversion rate of .81 cfs which has been historically used to irrigate the 64 acres.

VI

The Board finds that the volume of water which has been consumed annually by the crops planted on the 64 acres is 47.2 acre feet.

VII

The Board finds that the amount of water actually diverted was 94.5 acre feet of which 47.2 acre feet was consumed by the crop; the remainder was returned to Rapid Creek as return flow.

VIII

Under the Rapid City proposal, there are five water rights or permits (Nos. 653-2, 971-2, 1461-2, 1461A-2 and 2040-2) with diversion points located downstream from the Murphy Ditch historical return point, but upstream from the treatment plant return point which could be affected by the

grant of this permit. Accordingly, whenever any of the five named water rights purchase water, the city should be able to take only the amount of water associated with crop consumptive use. Further, if in the future the City of Rapid City stops returning effluent to Rapid Creek, then the diversion proposed by this application must be recalculated to reflect that condition.

IX

The following table of monthly diversion volumes indicates those which can be made at Pactola or alternatively at the Rapid City sites, without adversely affecting present users:

Month	Diversion at Pactola (ac-ft)	Diversion at Intakes (ac-ft)
May	6.61	13.22
June	7.69	15.38
July	10.45	20.89
Aug	13.40	26.80
Sept	9.09	18.17
Oct	0.0	0.00

X

Testimony was received demonstrating that opponents of the transfer believe that water which is discharged from the city's wastewater treatment plant is of lower quality than water which is discharged as return flow by irrigators. The opponents of the application therefore argue that allowing the transfer will further degrade downstream water supplies.

XI

The opponents further allege that, at present, water quality downstream is not good, especially in the months of July and August, and is at times not fit for irrigation or stockwater use.

XII

The waters in question are classified by the state's system as warm water semi-permanent waters fit for fish life propagation, limited contact recreation, immersion recreation, wildlife propagation, stockwater and irrigation water.

XIII

Unrefuted testimony indicates that the City of Rapid City subjects the waste water to tertiary treatment. Furthermore, the City of Rapid City's discharge system is permitted and is in compliance with state discharge standards.

XIV

Unrefuted testimony indicates that the standards Rapid City has been obliged to meet have substantially increased in the last twenty to thirty years. The City of Rapid City, as of January 1, 1996, was obligated to meet further stringent standards.

XV

The Board credits the expert testimony of a state water quality expert who tested water both upstream and

downstream of the Rapid City discharges. While a slight difference in the water quality was detected, the difference was not adjudged to be significant. Furthermore, the expert testimony revealed that the beneficial use standards were easily met both above and below the water treatment plant.

XVI

Because the amount of water at issue here is very small, even when combined with the other two permits under consideration today, because testing credited by the Board indicates that there is at present only a slight difference in water quality upstream and downstream of the city treatment plant, because the opponents of the permit have failed to demonstrate that the transfer at issue will in fact have an adverse affect on or will actually impair their rights, and because the Board is retaining jurisdiction of this matter, the permit should be granted.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter.
2. The applicant's request for a change in use can be made without detriment or impairment to existing rights when accomplished as set forth in the Final Decision.
3. The proposed change from irrigation use to municipal use is a beneficial use and is in the public interest. The Board finds specifically that the changes in water use are in support of Rapid City's long-term comprehensive plans for the development and conservation of a

municipal water supply and that such long-term planning and conservation is to the public benefit and should be encouraged.

4. The priority date of April 6, 1878, which is the priority date of Vested Water Right No. 1727-2, should be retained for the transferred water right.

5. The diversion rate which should be transferred under this permit is .81 cfs.

6. Approval of this application necessitates that the authorized diversion rate and acreage for Rapid Valley Water Company Water Right No. 1727-2 under the April 6, 1878, priority date should be decreased by .81 cfs and decreased by 64 acres.

7. Additional information may be made available to the Board with regard to water quality, seepage rates, or hydrology which may require adjustment of monthly or total annual volumes or diversion rates authorized by this permit. Therefore, the Board should retain jurisdiction to make these and other appropriate adjustments.

8. Because the diversion points for water right or permit numbers 653-2, 971-2, 1461-2, 1461A-2 and 2040-2 are located between the historical Murphy Ditch return point and Rapid City's waste water effluent return point, Rapid City may take only water previously associated with crop

consumptive use (and may not take that quantity of water represented by historical return flows) whenever natural flow water is not available for water rights or permits 653-2, 971-2, 1461-2, 1461A-2 and 2040-2.

9. The opponents of the application have urged in their September 25, 1995, letter that the application is contrary to the Deerfield Contract of July 27, 1943. The Board rejects the contention. First, the entire contract has not been submitted to the Board for its analysis. Second, the Board's reading of the language quoted by the opponents has not been demonstrated to be dispositive of any issue presented here. The Board specifically does not credit the apparent argument of the opponents that because the City cannot claim its return flows as its property, the return flows do not actually exist and are not relevant to the resulting stream flow.

10. Approval of Water Right Application No. 2316-2 does not guarantee that natural flow water will be available for the permit for diversion or storage during extreme low flow periods.

11. The effect of approval of Water Permit Application No. 2316-2 will be to retire the Morris property from irrigation. SDCL 45-6-34.1.

FINAL DECISION

1. Application No. 2316-2 is granted subject to the following qualifications:

1. Permit No. 2316-2 is limited to a diversion rate of 0.81 cfs for a total annual volume of 47.2 acre feet at Pactola Reservoir or a total annual volume of 94.5 acre feet at Sioux Park Gallery (SW1/4 SW1/4 Section 3), Meadowbrook Gallery (SE1/4 NE1/4 Section 9), Jackson Springs Gallery (NW1/4 SE1/4 Section 8) and the Rapid City Water Treatment Plant (SE1/4 NE1/4 Section 3), all in T1N-R7E. Maximum monthly diversion volumes at Pactola or the diversion points within Rapid City area as follows:

Month Diversion	Diversion	
	at Pactola (ac-ft)	at Intakes (ac-ft)
May	6.61	13.22
June	7.69	15.38
July	10.45	20.89
Aug	13.40	26.80
Sept	9.09	18.17
Oct	0.0	0.00

Diversions during a month may be made at either Pactola Reservoir or at the diversion points within Rapid City, but not simultaneously at both Pactola and the Rapid City Diversion points.

2. The City shall only divert the amount associated with crop consumptive use when Water Right/Permit Nos. 653-2, 971-2, 1461-2, 1461A-2 or 2040-2 are ordering stored water.

3. Permit No. 2316-2 authorizes diversions of only natural flow water by the City of Rapid City and does not include any rights to stored irrigation water available under contract from Pactola Reservoir.

4. That the City of Rapid City report to the chief engineer annually the amount of water withdrawn each month at Pactola Reservoir or the diversion points within Rapid City.

5. That the Water Management Board is retaining jurisdiction of Permit No. 2316-2 in the event that additional information shows that changes need to be made in the monthly or total annual volumes authorized by Permit No. 2316-2.

6. Diversions under Permit No. 2316-2 may not interfere with existing water rights in effect

prior to approval of No. 2316-2 or any domestic rights.

7. The amount of water with a April 6, 1978, priority date, which may be appropriated under Vested Water Right No. 1727-2 is reduced by 0.81 cfs.

8. Approval of Water Permit No. 2316-2 retires the 64 acres, known as the Morris property which has been historically irrigated from Murphy Ditch, located in the W1/2 SE1/4 section 9, T1N, R8E from future irrigation.

Dated this 24th day of ^{June}~~May~~, 1996.

BY THE BOARD:


Chairman

p1d409.jpg(mas)

STATE OF SOUTH DAKOTA:
SS
COUNTY OF PENNINGTON :

IN CIRCUIT COURT
SEVENTH JUDICIAL CIRCUIT

JERRY HAMMERQUIST and)
MARSH HERFORD RANCH, INC.,)
Appellants,)

vs.)

**STATEMENT OF ISSUES
ON APPEAL**

STATE OF SOUTH DAKOTA)
ACTING AS THE WATER)
MANAGEMENT BOARD OF THE)
DEPARTMENT OF ENVIRONMENT)
AND NATURAL RESOURCES,)
Respondent.)

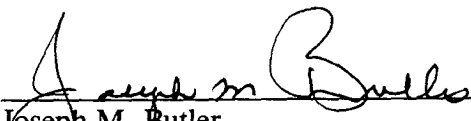
Appellants, Jerry Hammerquist and Marsh Hereford Ranch, Inc., for their Statement of Issues on Appeal in re In the Matter of the Water Permit Application No. 2316-2, an Application of the City of Rapid City to Transfer the Use of Water Appropriated Under Vested Water Right No. 1727-2, Rapid Valley Water Company, pursuant to SDCL 1-26-31.4 submit the following:

I.

The Conclusions of Law are erroneous in that they fail to include the language proposed by the Department of Environmental and Natural Resources and required by the Deerfield contract restricting the City of Rapid City to taking only water previously associated with crop consumptive use and to not take any water represented by historical return flows when natural water was not available.

Dated this 22nd day of July, 1996.

BANGS, McCULLEN, BUTLER,
FOYE & SIMMONS, L.L.P.

By: 
Joseph M. Butler
Attorneys for Appellants
818 St. Joe St.; P.O. Box 2670
Rapid City, SD 57709
(605) 343-1040

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served a copy of this legal document upon the persons herein next designated, all on the date below shown, by depositing copies thereof in the United States mail at Rapid City, South Dakota, postage prepaid, by certified mail, in envelopes addressed to said addressees, to wit:

John P. Guhin
Deputy Attorney General
Office of Attorney General
500 East Capitol
Pierre, SD 57501-5070

Diane Best
Assistant Attorney General
Office of Attorney General
500 East Capitol
Pierre, SD 57501-5070

Bob Jackson
City Attorney
300 6th Street
Rapid City, SD 57701

Dan Bjerke
City of Rapid City
300 6th Street
Rapid City, SD 57701

Water Management Board
Department of Environment
and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

Dwayne Rollag
Chairman, Water Management Bd.
320 Lincoln Lane South
Brookings, SD 57006

Francis Brink
1214 S. Wells Street
Aberdeen, SD 57401

Bernita Loucks
219 42nd Street
Rapid City, SD 57702

Marian Gunderson
811 West 3rd
Yankton, SD 57078

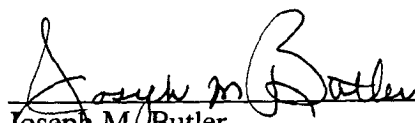
Rodney Freeman
P.O. Box 176
Huron, SD 57350

Leo Holzbauer
R.R. 1, Box 170
Waggoner, SD 57380-9681

Joel Rickenbach
P.O. Box 97
Oelrichs, SD 57763

which are the last addresses of the addressees known to the subscriber.

Dated this 22nd day of July, 1996.



Joseph M. Butler



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 21, 1996

Civ. 96 - 619

Civ. 96 - 620

Civ. 96 - 621

Renae Truman
Pennington County Clerk of Courts
P.O. Box 230
Rapid City, SD 57709

Re: **In the Matter of City of Rapid City's Water Permit Application Nos. 2234-2, 2316-2
and 2317-2**

Dear Clerk Truman:

Consistent with SDCL 1-26-33, I am transmitting the original agency record for the above-entitled matters. As of this date, the court reporter has not filed the transcripts from the hearing with this agency. In addition, I have prepared a chronological and alphabetical index of the agency record which is being transmitted pursuant to SDCL 1-26-33. A copy of each index submitted is also being sent to all parties of record on this date.

The only exhibit introduced during the hearing were the agency files.

Sincerely,

Eric Gronlund
Eric Gronlund
Water Rights Program
(605) 773-3352

enclosure

STATE OF SOUTH DAKOTA)
 : ss.
COUNTY OF PENNINGTON)

IN CIRCUIT COURT

SEVENTH JUDICIAL CIRCUIT

)
IN THE MATTER OF THE)
APPLICATION OF THE CITY)
OF RAPID CITY FOR WATER)
PERMIT APPLICATION NO.)
2316-2)

Civ. 96 - 620

CERTIFICATION AND TRANSMITTAL
OF RECORD FOR WATER PERMIT
APPLICATION NO. 2316-2

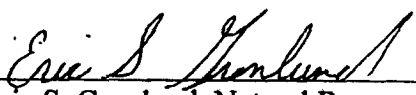
I, Eric S. Gronlund, Natural Resource Engineer, Water Rights Program, Department of Environment and Natural Resources, certify as follows:

1. As a Natural Resource Engineer employed by the Water Rights Program, Department of Environment and Natural Resources, I am responsible for maintaining the formal agency file on all applications to appropriate water which are subject to the jurisdiction of the South Dakota Water Management Board.

2. Consistent with my responsibilities in the Water Rights Program, I have prepared a true and correct copy of the agency records for Water Permit Application No. 2316-2. The true and correct copy of the record is herewith transmitted to the above-captioned reviewing court pursuant to SDCL 1-26-33.

3. In addition, I have prepared a chronological and alphabetical index of the agency record which are herewith transmitted to the above-captioned reviewing court pursuant to SDCL 1-26-33. A copy of the index submitted is also being sent to the counsel for the parties of record on this date.

Dated this 20th day of August, 1996.

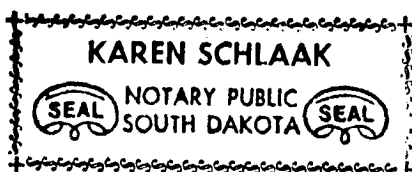

Eric S. Gronlund, Natural Resource Engineer
Water Rights Program
Dept. of Environment & Natural Resources

Subscribed and sworn to before me this
20th day of August, 1996


Notary Public

My commission expires: KAREN SCHLAACK, Notary Public
My Commission Expires
April 1, 2001

SEAL



STATE OF SOUTH DAKOTA

)

IN CIRCUIT COURT

: SS

COUNTY OF PENNINGTON

)

SEVENTH JUDICIAL COURT

(Civ. 96 - 620)

IN THE MATTER OF
CITY OF RAPID CITY'S
WATER PERMIT
APPLICATION NO. 2316-2

)

)

)

)

CHRONOLOGICAL
INDEX

<u>Entry</u>	<u>Date</u>	<u>Document</u>	<u>Pages</u>
1.	August 11, 1994	Letter to John Hatch from Daniel Bjerke transmitting application	1
2.	August 11, 1994	Purchase Order No. 293714 (for filing fee)	2
3.	August 11, 1994	Application No. 2234-2, with Form 2A, Exhibit 1, Exhibit 2 and Map	3 - 8
4.	August 11, 1994	Letter to Daniel Bjerke from Leo Eisel and Gary Witt on Morris Property Transfer (draft letter is dated September 24, 1993)	9 - 15
5.	August 11, 1994	Table III-1 Potential Consumptive Use Calculations	16
6.	August 18, 1994	Receipt for Application Filing Fee (w/ check stub)	17 - 18
7.	October 5, 1994	Letter to Mark Rath from Leo Eisel and Gary Witt on Morris Transfer	19 - 20
8.	October 18, 1994	Recommendation of Chief Engineer to Defer Application	21
9.	February 15, 1995	Letter to Mark Rath from Daniel Bjerke	22 - 23
10.	February 17, 1995	Letter to Mark Rath from Leo Eisel	24 - 25
11.	April 13, 1995	Letter to Mark Rath from Leo Eisel	26 - 27
12.	May 9, 1995	Report on Water Permit Application No. 2316-2 prepared by Mark Rath	28 - 31
13.	July 18, 1995	Revised Recommendation of the Chief Engineer	32 - 33

<u>Entry</u>	<u>Date</u>	<u>Document</u>	<u>Pages</u>
14.	July 26, 1995	Letter to Rapid City Journal from Eric Gronlund to publish notice of hearing	34
15.	July 26, 1995	Letter to Daniel Bjerke from Eric Gronlund on publishing notice of hearing (w/ notice of hearing)	35 - 37
16.	July 27, 1995	Letter to Jerry Hammerquist from Eric Gronlund	38
17.	July 27, 1995	Letter to Bruce Laymon from Eric Gronlund	39
18.	July 27, 1995	Letter to Jerry Marsh from Eric Gronlund	40
19.	July 31, 1995	Fax cover sheet to Lori Frohman of Rapid City Journal from Karen Schlaak on corrections to notice of hearing	41 - 43
20.	August 10, 1995	File Documentation of Karen Schlaak's on publishing date error	44
21.	August 17, 1995	First Transmittal of the Notice of Hearing from the Rapid City Journal	45
22.	September 13, 1995	Affidavit of Publication from the Rapid City Journal	46
23.	September 25, 1995	Petition protesting water permit application	47 - 49
24.	September 25, 1995	Notice from John Hatch on hearing time before Water Management Board (w/ parties list and certificate)	50 - 52
25.	September 29, 1995	Request for Continuance by Robert Jackson, attorney for Rapid City (w/ parties)	53 - 54
26.	November 6, 1995	Notice Rescheduling Hearing before Water Management Board (w/ parties list and certificate)	55 - 57
27.	December 5, 1995	Request for Continuance from Jerry Hammerquist on behalf of Rapid Valley Water Conservancy District	58
28.	December 5, 1996	Letter to Diane Best from Bob Jackson agreeing to Petitioners Request for Continuance	59
29.	December 8, 1995	Notice from John Hatch on Continuance of Hearing (w/ parties list and certificate)	60 - 62

<u>Entry</u>	<u>Date</u>	<u>Document</u>	<u>Pages</u>
30.	January 12, 1996	Notice Rescheduling Hearing before Water Management Board (w/ parties list and certificate)	63 - 65
31.	March 13, 1996	Notice on Preparation of Findings of Fact, Conclusions of Law and Final Decision (w/ parties list and certificate)	66 - 69
32.	April 19, 1996	Division Response to Findings of Fact, Conclusions of Law and Final Decision	70 - 72
33.	May 3, 1996	Letter to Diane Best from Joseph Butler	73 - 74
34.	May 20, 1996	Memorandum to Parties from John Guhin on reopening hearing (w/ certificate)	75 - 80
35.	May 23, 1996	Letter to Rodney Freeman, Jr. from Joseph Butler	81
36.	May 31, 1996	Letter to Rodney Freeman, Jr. from Diane Best	82
37.	June 10, 1996	Order of Rodney Freeman (an enclosure of Guhin's June 18, 1996, memorandum)	83
38.	June 18, 1996	Memorandum to Parties from John Guhin (w/ certificate)	84 - 86
39.	June 24, 1996	Findings of Fact, Conclusions of Law and Final Decision	87 - 95
40.	June 26, 1996	Notice of Adoption of Findings of Fact, Conclusions of Law and Final Decision (w/ parties list and certificate)	96 - 98
41.	July 23, 1996	Letter to Clerk of Courts from Joseph Butler on Notice of Appeal	99
42.	July 23, 1996	Order for Transcript (w/ certificate)	100 - 102
43.	July 23, 1996	Notice of Appeal (w/ certificate and copy of findings)	103 - 114
44.	July 23, 1996	Statement of Issues on Appeal (w/ certificate)	115 - 117

STATE OF SOUTH DAKOTA

COUNTY OF PENNINGTON

)
: SS
)

IN CIRCUIT COURT

SEVENTH JUDICIAL COURT

(Civ. 96 - 620)

IN THE MATTER OF
CITY OF RAPID CITY'S
WATER PERMIT
APPLICATION NO. 2316-2

)
)
)
)

ALPHABETIC
INDEX

<u>Entry</u>	<u>Date</u>	<u>Document</u>	<u>Pages</u>
1.	September 13, 1995	Affidavit of Publication from the Rapid City Journal	46
2.	August 11, 1994	Application No. 2234-2, with Form 2A, Exhibit 1, Exhibit 2 and Map	3 - 8
3.	April 19, 1996	Division Response to Findings of Fact, Conclusions of Law and Final Decision	70 - 72
4.	July 31, 1995	Fax cover sheet to Lori Frohman of Rapid City Journal from Karen Schlaak on corrections to notice of hearing	41 - 43
5.	August 10, 1995	File Documentation of Karen Schlaak's on publishing date error	44
6.	June 24, 1996	Findings of Fact, Conclusions of Law and Final Decision	87 - 95
7.	August 17, 1995	First Transmittal of the Notice of Hearing from the Rapid City Journal	45
8.	July 27, 1995	Letter to Bruce Laymon from Eric Gronlund	39
9.	July 23, 1996	Letter to Clerk of Courts from Joseph Butler on Notice of Appeal	99
10.	July 26, 1995	Letter to Daniel Bjerke from Eric Gronlund on publishing notice of hearing (w/ notice of hearing)	35 - 37
11.	August 11, 1994	Letter to Daniel Bjerke from Leo Eisel and Gary Witt on Morris Property Transfer (draft letter is dated September 24, 1993)	9 - 15

<u>Entry</u>	<u>Date</u>	<u>Document</u>	<u>Pages</u>
12.	December 5, 1996	Letter to Diane Best from Bob Jackson agreeing to Petitioners Request for Continuance	59
13.	May 3, 1996	Letter to Diane Best from Joseph Butler	73 - 74
14.	July 27, 1995	Letter to Jerry Hammerquist from Eric Gronlund	38
15.	July 27, 1995	Letter to Jerry Marsh from Eric Gronlund	40
16.	August 11, 1994	Letter to John Hatch from Daniel Bjerke transmitting application	1
17.	February 15, 1995	Letter to Mark Rath from Daniel Bjerke	22 - 23
18.	February 17, 1995	Letter to Mark Rath from Leo Eisel	24 - 25
19.	April 13, 1995	Letter to Mark Rath from Leo Eisel	26 - 27
20.	October 5, 1994	Letter to Mark Rath from Leo Eisel and Gary Witt on Morris Transfer	19 - 20
21.	July 26, 1995	Letter to Rapid City Journal from Eric Gronlund to publish notice of hearing	34
22.	May 31, 1996	Letter to Rodney Freeman, Jr. from Diane Best	82
23.	May 23, 1996	Letter to Rodney Freeman, Jr. from Joseph Butler	81
24.	June 18, 1996	Memorandum to Parties from John Guhin (w/ certificate)	84 - 86
25.	May 20, 1996	Memorandum to Parties from John Guhin on reopening hearing (w/ certificate)	75 - 80
26.	December 8, 1995	Notice from John Hatch on Continuance of Hearing (w/ parties list and certificate)	60 - 62
27.	September 25, 1995	Notice from John Hatch on hearing time before Water Management Board (w/ parties list and certificate)	50 - 52
28.	June 26, 1996	Notice of Adoption of Findings of Fact, Conclusions of Law and Final Decision (w/ parties list and certificate)	96 - 98

<u>Entry</u>	<u>Date</u>	<u>Document</u>	<u>Pages</u>
29.	July 23, 1996	Notice of Appeal (w/ certificate and copy of findings)	103 - 114
30.	March 13, 1996	Notice on Preparation of Findings of Fact, Conclusions of Law and Final Decision (w/ parties list and certificate)	66 - 69
31.	November 6, 1995	Notice Rescheduling Hearing before Water Management Board (w/ parties list and certificate)	55 - 57
32.	January 12, 1996	Notice Rescheduling Hearing before Water Management Board (w/ parties list and certificate)	63 - 65
33.	July 23, 1996	Order for Transcript (w/ certificate)	100 - 102
34.	June 10, 1996	Order of Rodney Freeman (an enclosure of Guhin's June 18, 1996, memorandum)	83
35.	September 25, 1995	Petition protesting water permit application	47 - 49
36.	August 11, 1994	Purchase Order No. 293714 (for filing fee)	2
37.	August 18, 1994	Receipt for Application Filing Fee (w/ check stub)	17 - 18
38.	October 18, 1994	Recommendation of Chief Engineer to Defer Application	21
39.	May 9, 1995	Report on Water Permit Application No. 2316-2 prepared by Mark Rath	28 - 31
40.	September 29, 1995	Request for Continuance by Robert Jackson, attorney for Rapid City (w/ parties)	53 - 54
41.	December 5, 1995	Request for Continuance from Jerry Hammerquist on behalf of Rapid Valley Water Conservancy District	58
42.	July 18, 1995	Revised Recommendation of the Chief Engineer	32 - 33
43.	July 23, 1996	Statement of Issues on Appeal (w/ certificate)	115 - 117
44.	August 11, 1994	Table III-1 Potential Consumptive Use Calculations	16



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 21, 1996

NOTICE

TO: Robert R. Jackson, City Attorney
City of Rapid City
300 Sixth Street
Rapid City, SD 57701

Joseph M. Butler
Bangs McCullen Law Firm
P.O. Box 2670
Rapid City, SD 57709-2670

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

SUBJECT: In the Matter of City of Rapid City's Water Permit Application Nos. 2234-2, 2316-2,
and 2317-2, City of Rapid City

Consistent with SDCL 1-26-33, a certified copy of the agency record for the above entitled matters are being transmitted to the Seventh Judicial Circuit Court. As of the date of this mailing, the court reporter has not filed the transcripts of the hearing with this agency. A chronological and alphabetical index of the agency record is also being transmitted to the court. A copy of each index is enclosed.

enclosures

c: John Guhin, Deputy Attorney General
Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on August 21, 1996, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated August 21, 1996, along with a copy of the chronological and alphabetical index of the agency record, regarding In the Matter of City of Rapid City's Water Permit Application Nos. 2234-2, 2316-2, and 2317-2, City of Rapid City, addressed as stated below:

Robert R. Jackson, City Attorney, City of Rapid City, 300 Sixth Street, Rapid City, SD 57701.

Joseph M. Butler, Bangs McCullen Law Firm, P.O. Box 2670, Rapid City, SD 57709-2670.

A copy of the above described Notice and attachments were sent Inter-office to:

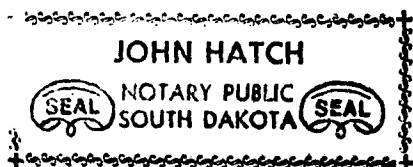
John Guhin, Deputy Attorney General, Capitol Building.

Diane Best, Assistant Attorney General, Capitol Building.


Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 26th day of August, 1996




Notary Public

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001

STATE OF SOUTH DAKOTA:
SS
COUNTY OF PENNINGTON :

IN CIRCUIT COURT
SEVENTH JUDICIAL CIRCUIT

JERRY HAMMERQUIST and
MARSH HERFORD RANCH, INC.,

Civil No. 96-620

Appellants,

vs.

ORDER DISMISSING APPEAL

STATE OF SOUTH DAKOTA
ACTING AS THE WATER
MANAGEMENT BOARD OF THE
DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES,

Respondent.

Upon motion of the Appellants, the above-entitled appeal be and hereby is in all things dismissed.

Dated this 17 day of September, 1996.

BY THE COURT:

Hon. John E. Fitzgerald, Jr.
Circuit Court Judge

ATTEST:
Clerk of Courts

Rance Truman

By: Annelle
Deputy

(SEAL)

Pennington County, S.D.
FILED
IN CIRCUIT COURT

SEP 17 1996

Rance Truman, Clerk of Courts
By: CH Deputy

BEFORE THE SOUTH DAKOTA

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER)
PERMIT APPLICATION NO. 2316-2,)
AN APPLICATION OF THE CITY OF)
RAPID CITY TO TRANSFER THE) MOTION
USE OF WATER APPROPRIATED)
UNDER VESTED WATER RIGHT)
NO. 1727-2, RAPID VALLEY WATER)
COMPANY)

COMES NOW the Department of Environment and Natural Resources, Water Rights Program, and requests that this Board correct its previously issued Findings of Fact, Conclusions of Law and Final Decision. Specifically, the document appears to contain a typographical error with respect to the year in the "Final Decision No. 7." The year given should be 1878 rather than 1978.

The DENR has provided notice of this Motion to all parties.

Dated this 13th day of January, 1997.



Diane Best
Assistant Attorney General
500 E. Capitol Avenue
Pierre, South Dakota 57501-5070
Telephone: (605) 773-3215

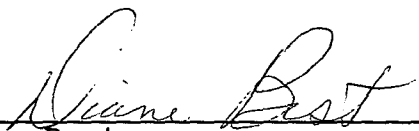
BEFORE THE SOUTH DAKOTA

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER)
PERMIT APPLICATION NO. 2316-2,)
AN APPLICATION OF THE CITY OF)
RAPID CITY TO TRANSFER THE)
USE OF WATER APPROPRIATED)
UNDER VESTED WATER RIGHT)
NO. 1727-2, RAPID VALLEY WATER)
COMPANY)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Motion and proposed Order in the above-captioned matter was served by United States mail, first class, postage prepaid upon Robert R. Jackson, City Attorney, 300 6th Street, Rapid City, South Dakota 57701 and Joseph M. Butler, Attorney at Law, P.O. Box 2670, Rapid City, South Dakota 57709 on this 13th day of January, 1997.


Diane Best
Assistant Attorney General
500 E. Capitol Avenue
Pierre, South Dakota 57501-5070
Telephone: (605) 773-3215

BEFORE THE SOUTH DAKOTA

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER)
PERMIT APPLICATION NO. 2316-2,)
AN APPLICATION OF THE CITY OF)
RAPID CITY TO TRANSFER THE)
USE OF WATER APPROPRIATED)
UNDER VESTED WATER RIGHT)
NO. 1727-2, RAPID VALLEY WATER)
COMPANY)

NOTICE OF HEARING

Notice of Hearing on the attached Motion was previously provided to you. The time for hearing on the Motion has now been rescheduled and will be held at 8:30 a.m., March 6, 1997, in the Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, South Dakota.

Dated this 3rd day of February, 1997.



Diane Best
Assistant Attorney General
500 E. Capitol Avenue
Pierre, South Dakota 57501-5070
Telephone: (605) 773-3215

BEFORE THE SOUTH DAKOTA

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER)
PERMIT APPLICATION NO. 2316-2,)
AN APPLICATION OF THE CITY OF)
RAPID CITY TO TRANSFER THE) MOTION
USE OF WATER APPROPRIATED)
UNDER VESTED WATER RIGHT)
NO. 1727-2, RAPID VALLEY WATER)
COMPANY)

COMES NOW the Department of Environment and Natural Resources, Water Rights Program, and requests that this Board correct its previously issued Findings of Fact, Conclusions of Law and Final Decision. Specifically, the document appears to contain a typographical error with respect to the year in the "Final Decision No. 7." The year given should be 1878 rather than 1978.

The DENR has provided notice of this Motion to all parties.

Dated this 17th day of January, 1997.



Diane Best
Assistant Attorney General
500 E. Capitol Avenue
Pierre, South Dakota 57501-5070
Telephone: (605) 773-3215

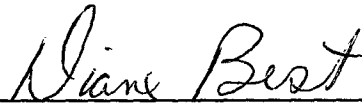
BEFORE THE SOUTH DAKOTA

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER)
PERMIT APPLICATION NO. 2316-2,)
AN APPLICATION OF THE CITY OF)
RAPID CITY TO TRANSFER THE)
USE OF WATER APPROPRIATED)
UNDER VESTED WATER RIGHT)
NO. 1727-2, RAPID VALLEY WATER)
COMPANY)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Notice of Hearing in the above-captioned matter was served by United States mail, first class, postage prepaid upon Robert R. Jackson, City Attorney, 300 6th Street, Rapid City, South Dakota 57701, and Joseph M. Butler, Attorney at Law, P.O. Box 2670, Rapid City, South Dakota 57709 on this 3rd day of February, 1997.



Diane Best
Assistant Attorney General
500 East Capitol Avenue
Pierre, South Dakota 57501-5070
Telephone: (605) 773-3215

BEFORE THE SOUTH DAKOTA

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER)
PERMIT APPLICATION NO. 2316-2,) ORDER
AN APPLICATION OF THE CITY OF)
RAPID CITY TO TRANSFER THE)
USE OF WATER APPROPRIATED)
UNDER VESTED WATER RIGHT)
NO. 1727-2, RAPID VALLEY WATER) ORDER
COMPANY)

The South Dakota Water Management Board issued its Findings of Fact, Conclusions of Law and Final Decision in the above-entitled matter on June 24, 1996. The Water Rights Program has now requested that this Board correct a typographical error set forth in "Final Decision No. 7" of the Board's previously issued order. Notice was provided to all parties and the matter was considered on March 6, 1997. Given the typographical error in the previously issued order, it is hereby

ORDERED that the "Final Decision No. 7" be and hereby is corrected to reflect that the correct priority date is April 6, 1878, rather than the priority date set forth in the previous order.

Dated this 6 day of March, 1997



Dwayne Rollag, Chairman

BEFORE THE SOUTH DAKOTA

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER)
PERMIT APPLICATION NO. 2316-2,)
AN APPLICATION OF THE CITY OF)
RAPID CITY TO TRANSFER THE)
USE OF WATER APPROPRIATED)
UNDER VESTED WATER RIGHT)
NO. 1727-2, RAPID VALLEY)
WATER COMPANY)

NOTICE OF ENTRY
OF ORDER

TO: The City of Rapid City and its attorney, Robert R. Jackson;
and to Intervenor in the above-entitled proceeding and
their attorney, Joseph M. Butler:

You are hereby notified that on the 6th day of March,
1997, the South Dakota Water Management Board made and entered
its Order herein. This Order was filed on March 6, 1997, with
the Water Rights Program, Department of Environment and Natural
Resources, Foss Building, Pierre, South Dakota. A true, correct
and complete copy of the Order is hereunto annexed and herewith
served upon you and made a part of this notice the same as if
fully and completely set forth herein.

Dated this 17th day of March, 1997.

Diane Best

Diane Best
Assistant Attorney General
500 E. Capitol Avenue
Pierre, South Dakota 57501-5070
Telephone: (605) 773-3215

Counsel for Division of Water
Rights

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Notice of Entry of Order in In the Matter of Water Permit Application No. 2316-2, an Application of the City of Rapid City to Transfer the Use of Water Appropriated under Vested Water Right No. 1727-2, Rapid Valley Water Company, was served by United States mail, first class, postage prepaid upon Robert R. Jackson, City Attorney, 300 6th Street, Rapid City, South Dakota 57701 and Joseph M. Butler, Attorney at Law, Post Office Box 2670, Rapid City, South Dakota 57709-2670 on this 17th day of March, 1997.



Diane Best
Assistant Attorney General

n-pld27.db(word)

BEFORE THE SOUTH DAKOTA

WATER MANAGEMENT BOARD

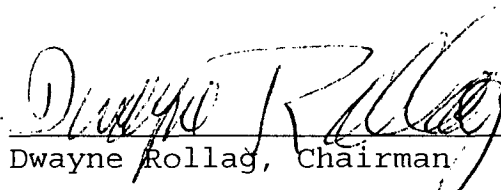
IN THE MATTER OF WATER)
PERMIT APPLICATION NO. 2316-2,)
AN APPLICATION OF THE CITY OF)
RAPID CITY TO TRANSFER THE)
USE OF WATER APPROPRIATED)
UNDER VESTED WATER RIGHT)
NO. 1727-2, RAPID VALLEY WATER)
COMPANY)

ORDER

The South Dakota Water Management Board issued its Findings of Fact, Conclusions of Law and Final Decision in the above-entitled matter on June 24, 1996. The Water Rights Program has now requested that this Board correct a typographical error set forth in "Final Decision No. 7" of the Board's previously issued order. Notice was provided to all parties and the matter was considered on March 6, 1997. Given the typographical error in the previously issued order, it is hereby

ORDERED that the "Final Decision No. 7" be and hereby is corrected to reflect that the correct priority date is April 6, 1878, rather than the priority date set forth in the previous order.

Dated this 6 day of March, 1997


Dwayne Rollag, Chairman



JUN 10 1997

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Daniel L. Bjerke
Public Works Director of Engineering/Utilities
City of Rapid City
300 6th St
Rapid City SD 57701-2724

Dear Mr. Bjerke:

Enclosed are Water Permit Nos. 2234-2, 2276-2, 2316-2, 2317-2 and Vested Right No. 2294-2 issued to the City of Rapid City.

As long as the City uses the water beneficially, as stated in the various permits, State Water Laws provide that the City of Rapid City has a continuing right to use the water.

Very truly yours,

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

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

November 5, 1998

Daniel L Bjerke
City of Rapid City
300 6th St
Rapid City SD 57701-2724

Dear Mr. Bjerke:

The investigation of the City of Rapid City's water use systems was conducted on September 9, 1998, by Mark Rath, staff engineer. The investigation included the extent of application of water to beneficial use, as developed under each permit. The final water right documents, the Water Licenses, can now be issued. Below is a list of the permits that were investigated.

Permit No.	amount	source	
2136-2	0.78 cfs	Rapid Creek	Sioux Park
2138-2	12.38 cfs	Rapid Creek	Water Treatment Plant
* 2274-2	0.78 cfs	Rapid Creek	Water Treatment Plant
2156-2	1.11 cfs	Madison Formation	SW ¼ SE ¼ Sec 16-T1N-R7E
transfer the use of a portion of Rapid Creek flows			formerly known as
2142-2	0.62 cfs	Murphy Ditch	Tyler property
2199-2	0.05 cfs	Murphy Ditch	Pelle property
2201-2	0.13 cfs	Murphy Ditch	Long property
2217-2	0.33 cfs	South Side Ditch	Keller property
2218-2	2.16 cfs	South Side Ditch	Stromer property
2234-2	0.79 cfs	South Side Ditch	Eisenbraun property
2249-2	1.19 cfs	South Side Ditch	Weber property
2296-2	2.85 cfs	South Side Ditch	Jundt property
2316-2	0.81 cfs	Murphy Ditch	Morris property
2317-2	0.84 cfs	Hawthorne Ditch	Morris property
2360-2	0.37 cfs	South Side Ditch	Soetaert property
2397-2	0.59 cfs	South Side Ditch	Eisenbraun property
2399-2	0.75 cfs	Murphy & Little Giant Ditch	Wileman property

* license fee already submitted

Statutes require that we charge \$50.00 fee for the investigation and issuance of the each Water License. Upon receipt of the \$800.00 fee (16 permits x \$50) we will process the Water Licenses.

Please sent fee to: Dept. of Environment & Natural Resources, Water Rights Program, 523 E. Capitol, Pierre, SD 57501-3181. If you have questions, please contact us.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

N2 415962

Pierre, December 9, 19 98

RECEIVED OF City of Rapid City, 300 6th St., Rapid City, SD 57701-2724
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. 2316-2

50 00

Fee for Filing Transfer Form _____

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

50 00

By

Chief Engineer

John Hatch

Permit No. 2316-2
Cheyenne River - Water District

Report Of Examination Of Works

TO: Chief Engineer, Water Rights Program, DENR, Foss Bldg., Pierre, SD 57501

On, September 9, 1998, I made a thorough examination of the water use system constructed by City of Rapid City of 300 6th St, Rapid City SD holder of Permit No. 2316-2, bearing the priority of April 6, 1878 authorizing the diversion of 0.81 cu. ft. per second and an annual appropriation of 94.5 acre-feet if taken at Rapid City's municipal diversion points or 47.2 acre-feet if stored in Pactola Reservoir of the natural flow waters of surface water from Rapid Creek for municipal, industrial, commercial, common distribution system, rural water system, suburban housing, and domestic purposes, in Pennington County.

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

A. Works used to divert the water:

Pumps at the water treatment plant, Jackson Springs Gallery Sioux (aka Girl Scout) Gallery, Meadowbrook Gallery and storage in Pactola Reservoir.

The system is in the following condition good. The points of diversion are located in the SE1/4 NE1/4 Section 3 (Rapid City Water Treatment Plant); SW1/4 SW1/4 Section 3 (Sioux Park Gallery); SE1/4 NE1/4 Section 9 (Meadowbrook Gallery); NW1/4 SE1/4 Section 8 (Jackson Springs Gallery); all in T1N-R7E and NW1/4 SW1/4 Section 2 T1N-R5E (Pactola Reservoir). Pactola Reservoir impounds water in portions of Sections 2, 3, 4, 5, 10, 11 of T1N-R5E and Sections 31, 32, 33, 34 of T2N-R5E. The permit holder is entitled to divert and convey to the place of use 0.81 cu. ft. per second of water and an annual appropriation of 94.5 acre-feet if taken at Rapid City's municipal diversion points or 47.2 acre-feet if stored in Pactola Reservoir which is to be used for municipal, industrial, commercial, common distribution system, rural water system, suburban housing, and domestic purposes. Water has been put to beneficial use to the maximum extent and the license should be issued for 0.81 cfs and an annual appropriation of 94.5 acre-feet if taken at Rapid City's municipal diversion points or 47.2 acre-feet if stored in Pactola Reservoir

Applicable permit qualifications have been complied with: yes

Exceptions to compliance are: none



Mark D. Rath
Natural Resources Engineer
DENR, Water Rights Program

9/29/98

Date

REPORT ON INSPECTION OF PERMIT NO. 2316-2

DATE OF INSPECTION: September 9, 1998

Contact Person & Address: John Wagner, 300 6th St, Rapid City SD 57701

DIVERSION POINT LEGAL LOCATIONS: are in the SE1/4 NE1/4 Section 3 (Rapid City Water Treatment Plant); SW1/4 SW1/4 Section 3 (Sioux Park a.k.a. Girl Scout Gallery); SE1/4 NE1/4 Section 9 (Meadowbrook Gallery); NW1/4 SE1/4 Section 8 (Jackson Springs Gallery); all in T1N-R7E and NW1/4 SW1/4 Section 2 T1N-R5E (Pactola Reservoir). Pactola Reservoir impounds water in portions of Sections 2, 3, 4, 5, 10, 11 of T1N-R5E and Sections 31, 32, 33, 34 of T2N-R5E.

WATER SUPPLY Source: Rapid Creek

WATER TREATMENT PLANT

Pump\ Motor:

- | | |
|---------------------------------------|-----------------------------------|
| 1) Pump Make <u>Peerless</u> | 2) Model <u>258595</u> |
| 3) Capacity <u>5600</u> GPM | 4) Motor Make <u>GE</u> |
| 5) Model No. <u>5K405DP7011B FR2G</u> | 6) Horsepower rating <u>75</u> hp |

- | | |
|----------------------------------|------------------------------------|
| 1) Pump Make <u>Layne Bowler</u> | 2) Model <u>14MSL</u> |
| 3) Capacity <u>2780</u> GPM | 4) Motor Make <u>US Electrical</u> |
| 5) Model No. <u>326UP</u> | 6) Horsepower rating <u>30</u> hp |

- | | |
|-------------------------------|------------------------------------|
| 1) Pump Make <u>Vertiline</u> | 2) Model <u>27908</u> |
| 3) Capacity <u>5560</u> GPM | 4) Motor Make <u>US Electrical</u> |
| 5) Model No. <u>445UPY</u> | 6) Horsepower rating <u>60</u> hp |

- | | |
|----------------------------------|-----------------------------------|
| 1) Pump Make <u>Layne Bowler</u> | 2) Model <u>85522</u> |
| 3) Capacity <u>5875</u> GPM | 4) Motor Make <u>Louis Allis</u> |
| 5) Model No. <u>COG5B</u> | 6) Horsepower rating <u>60</u> hp |

- | | |
|-------------------------------|------------------------------------|
| 1) Pump Make <u>Vertiline</u> | 2) Model <u>27989</u> |
| 3) Capacity <u>8000</u> GPM | 4) Motor Make <u>US Electrical</u> |
| 5) Model No. <u>CFU</u> | 6) Horsepower rating <u>100</u> hp |

SIOUX PARK (a.k.a. Girl Scout) GALLERY

Pump\ Motor:

- | | |
|---------------------------------|------------------------------------|
| 1) Pump Make <u>Worthington</u> | 2) Model <u>12H13501</u> |
| 3) Capacity <u>1400</u> GPM | 4) Motor Make <u>US Electrical</u> |
| 5) Model No. <u>324UP</u> | 6) Horsepower rating <u>25</u> hp |

- | | |
|---------------------------------|------------------------------------|
| 1) Pump Make <u>Worthington</u> | 2) Model <u>12H13501</u> |
| 3) Capacity <u>1400</u> GPM | 4) Motor Make <u>US Electrical</u> |
| 5) Model No. <u>324UP</u> | 6) Horsepower rating <u>25</u> hp |

MEADOWBROOK GALLERY

Pump\ Motor:

- | | |
|---------------------------------|------------------------------------|
| 1) Pump Make <u>Worthington</u> | 2) Model <u>10QHA0</u> |
| 3) Capacity <u>1525</u> GPM | 4) Motor Make <u>US Electrical</u> |
| 5) Model No. <u>2743715</u> | 6) Horsepower rating <u>15</u> hp |

- | | |
|---------------------------------|------------------------------------|
| 1) Pump Make <u>Worthington</u> | 2) Model <u>10QHA0</u> |
| 3) Capacity <u>1475</u> GPM | 4) Motor Make <u>US Electrical</u> |
| 5) Model No. <u>2745675</u> | 6) Horsepower rating <u>15</u> hp |

- | | |
|---------------------------------|------------------------------------|
| 1) Pump Make <u>Worthington</u> | 2) Model <u>10QHA0</u> |
| 3) Capacity <u>1525</u> GPM | 4) Motor Make <u>US Electrical</u> |
| 5) Model No. <u>2744261</u> | 6) Horsepower rating <u>15</u> hp |

JACKSON SPRINGS GALLERY

Pump\ Motor:

- | | |
|-------------------------------------|-----------------------------------|
| 1) Pump Make <u>Fairbanks-Morse</u> | 2) Model <u>T4B242990A</u> |
| 3) Capacity <u>1390</u> GPM | 4) Motor Make <u>GE</u> |
| 5) Model No. <u>5K6258XH1A</u> | 6) Horsepower rating <u>75</u> hp |

Pump\ Motor:

- | | |
|-------------------------------------|------------------------------------|
| 1) Pump Make <u>Fairbanks-Morse</u> | 2) Model <u>T4B242992A</u> |
| 3) Capacity <u>2085</u> GPM | 4) Motor Make <u>GE</u> |
| 5) Model No. <u>5K6268XH1A</u> | 6) Horsepower rating <u>125</u> hp |

Pump\ Motor:

- | | |
|-------------------------------------|------------------------------------|
| 1) Pump Make <u>Fairbanks-Morse</u> | 2) Model <u>T4B242991A</u> |
| 3) Capacity <u>2085</u> GPM | 4) Motor Make <u>GE</u> |
| 5) Model No. <u>5K6258XH1A</u> | 6) Horsepower rating <u>125</u> hp |

PACTOLA RESERVOIR : This is a US Bureau of Reclamation dam with 55, 972 acre-feet of active storage

DISTRIBUTION LINES OR CANALS:

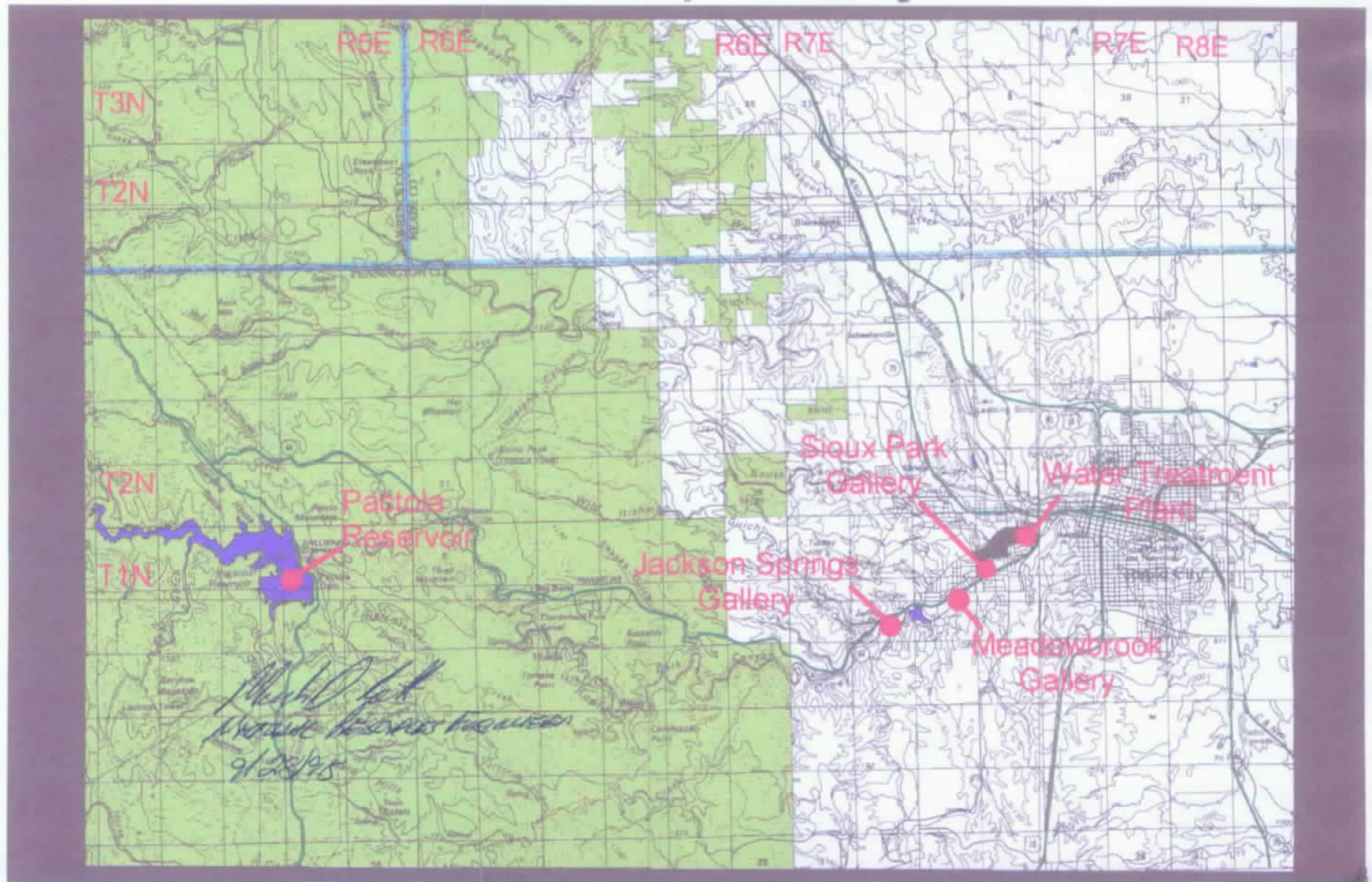
Municipal distribution system

PERMIT QUALIFICATIONS AND REGULATIONS:

- 1) Special qualifications to permit being abided by yes
- 2) All structures, wells and lands on map yes

COMMENTS: #

Area Map for Pactola Reservoir to Rapid City



STATE OF SOUTH DAKOTA

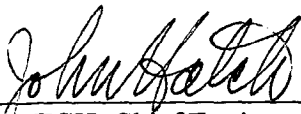
WATER LICENSE NO. 2316-2

(1) The City of Rapid City, 300 6th St, Rapid City SD 57701 made Application No. 2316-2, August 11, 1994 for a water permit to divert 0.81 cubic feet of water per second (cfs) from Rapid Creek with an annual volume limitation of 94.5 acre-feet, if diverted at the city's water treatment plant and infiltration galleries or 47.2 acre-feet, if stored in Pactola Reservoir, Pennington County, South Dakota for municipal, industrial, commercial, common distribution system, rural water system, suburban housing and domestic purposes. Permit No. 2316-2, with a priority date of April 6, 1878 (established by Murphy Ditch) was approved May 1, 1996 and issued to the City of Rapid City for diversion of water with construction of the described water supply system and the application to beneficial use of said water completed.

(2) It is certified that the City of Rapid City 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 0.81 cfs from Rapid Creek with an annual volume limitation of 94.5 acre-feet, if diverted at the city's water treatment plant and infiltration galleries or 47.2 acre-feet, if stored in Pactola Reservoir for beneficial use. The location of the diversion points are: SE ¼ NE ¼ Section 3 (Rapid City Water Treatment Plant); SW ¼ SW ¼ Section 3 (Sioux Park Gallery); SE ¼ NE ¼ Section 9 (Meadowbrook Gallery); NW ¼ SE ¼ Section 8 (Jackson Springs Gallery); all in T1N-R7E and NW ¼ SW ¼ Section 2-T1N-R5E (Pactola Reservoir). Pactola Reservoir impounds water in portions of Sections 2, 3, 4, 5, 10, 11 of T1N-R5E and Sections 31, 32, 33, 34 of T2N-R5E.

(3) The City of Rapid City has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use.

(4) Pursuant to South Dakota Water Law 46-5-30.1 the City of Rapid City, 300 6th St, Rapid City SD 57701 the holder and/or owner of Water Right No. 2316-2 is issued a license to appropriate water, the right to use 0.81 cfs from Rapid Creek with an annual volume limitation of 94.5 acre-feet, if diverted at the city's water treatment plant and infiltration galleries or 47.2 acre-feet, if stored in Pactola Reservoir with a priority date of April 6, 1878 (established by Murphy Ditch) from the locations specified in (2) of this license for municipal, industrial, commercial, common distribution system, rural water system, suburban housing and domestic purposes. This license is subject to any limitations or qualifications listed in Water Right No. 2316-2 and subject to South Dakota State Law.



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

JAN 15 1999

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

JAN 15 1999

Daniel L Bjerke
City of Rapid City
300 6th St
Rapid City SD 57701-2724

Dear Mr. Bjerke:

Enclosed are the Water Licenses and receipts for the investigation and issuance of the water licenses. These water licenses are the final document which complete the process of obtaining a water right.

As long as the City of Rapid City uses the water beneficially, as stated in the water licenses, State Water Law provides that the City has a continuing right to use the water.

Very truly yours,

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

ks

enclosures



2316-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 30, 2005

INTERNAL MEMORANDUM

TO: Garland Erbele, Chief Engineer
DENR Water Rights Program

FROM: Donald E. Stroup *Donald E. Stroup*
Natural Resources Project Engineer
DENR Water Rights Program

SUBJECT: Rapid City – Rapid Valley Water Rights Transfers

A total of 16.75 cubic feet per second (cfs) of water has been transferred from Rapid Valley irrigation ditches to Rapid City, SD. The amounts of flow transferred and acres retired by ditch are:

<u>Ditch</u>	<u>Flow (cfs)</u>	<u>Acres</u>
Murphy	4.12	325
Little Giant	0.99	26
South Side	10.80	1001.8
Hawthorne	0.84	46

The locations of the land retired from irrigation are shown on the Rapid City-Rapid Valley Water Rights Transfers Map. Following is a list summarizing the water transfers from Rapid Valley irrigators to Rapid City:

- 2399-2:** Retired 52-acres and 0.75-cfs of Wileman property from future irrigation, 26-acres and 0.33-cfs from Murphy Ditch and 26-acres and 0.42-cfs from Little Giant Ditch. Land located in the NE¼ Section 24 T1N R8E and water via Murphy Ditch at the same location.
- 2316-2:** Retired 64-acres and 0.81-cfs of Morris property from future irrigation via Murphy Ditch. Land located in the SE¼ Section 9 T1N R8E and water via Murphy Ditch at the same location.
- 2201-1:** Retired 10-acres and 0.13-cfs of Long property from future irrigation via Murphy Ditch. Land located in the center of Section 14 T1N R8E and water via Murphy Ditch at the same location.
- 2199-2** Retired 4-acres and 0.05-cfs of Pelle property from future irrigation via Murphy Ditch. Land located in the NW¼ Section 19 T1N R9E and water via Murphy Ditch at the same location.
- 2142-2** Retired 49-acres and 0.62-cfs of Tyler property from future irrigation via Murphy Ditch. Land located in the NW¼ and SW¼ Section 19 T1N R9E and water via Murphy Ditch at the same location.

- 2469-2 Retired 27-acres and 0.34-cfs of Murphy property from future irrigation via Murphy Ditch. Land located in the NW¼ and SW¼ Section 14 T1N R8E and water via Murphy Ditch at the same location.
- 2512-2 Retired 145-acres and 1.84-cfs of Schroeder property from future irrigation via Murphy Ditch. Land located in Section 19 T1N R9E and water via Murphy Ditch at the same location.
- 2513-2 Retired 74.9-acres and 0.84-cfs of Steen property from future irrigation via South Side Ditch. Land located in the NE¼ Section 25, and SW¼ and SE¼ Section 24 T1N R8E and water via South Side Ditch in Section 25 T1N R8E. The turnout for the supplying lateral has a turn screw gate that is functional.
- 2234-2 Retired 70-acres and 0.79-cfs of Eisenbraun property from future irrigation via South Side Ditch. Land located in the NE¼ Section 26 T1N R8E and water via South Side Ditch at the same location. The turnout for the supplying lateral is into a buried pipeline capped with a plastic bucket.
- 2411-2 Retired 3.6-acres and 0.04-cfs of Eisenbraun property from future irrigation via South Side Ditch. Land located in the NE¼ Section 26 T1N R8E and water via South Side Ditch at the same location. The turnout for the supplying lateral is into a buried pipeline capped with a plastic bucket.
- 2397-2 Retired 59.3-acres and 0.59-cfs of Eisenbraun property from future irrigation via South Side Ditch. Land located in the NE¼ Section 26 T1N R8E and water via South Side Ditch at the same location. The turnout for the supplying lateral is into a buried pipeline capped with a plastic bucket.
- 2468-2 Retired 34.8-acres and 0.57-cfs of Howie property from future irrigation via Little Giant Ditch water delivered via Murphy Ditch. Land located in the SW¼ Section 19 and NW¼ Section 30 T1N R9E and water via Murphy Ditch in the NE¼ Section 19 T1N R9E. The turnout for the supplying lateral is blocked by a silted-in board.
- 2249-2 Retired 105.5-acres and 1.19-cfs of Weber property from future irrigation via South Side Ditch. Land located in the NW¼ and SW¼ Section 30 T1N R9E and water via South Side Ditch in the SW¼ Section 30 T1N R9E.
- 2296-2 Retired 253.4-acres and 2.85-cfs of Jundt property from future irrigation via South Side Ditch. Land located in Section 33 T1N R9E and water via South Side Ditch in the NE¼ Section 33 T1N R9E. The turnout for the supplying lateral is not blocked and ditch and lateral do not appear to be maintained.
- 2360-2 Retired 32.6-acres and 0.37-cfs of Soetaert property from future irrigation via South Side Ditch. Land located in the E½ Section 33 T1N R9E and water via South Side Ditch in the NE¼ Section 33 T1N R9E. The turnout for the supplying lateral is not blocked and ditch and lateral do not appear to be maintained.
- 2415-2 Retired 146-acres and 1.64-cfs of Howie property from future irrigation via South Side Ditch. Land located in the NE¼ and SE¼ Section 32 T1N R9E and water via South Side Ditch in the NE¼ Section 32 T1N R9E. The turnout for the supplying lateral is not blocked and ditch and lateral do not appear to be maintained.

- 2217-2** Retired 29.2-acres and 0.33-cfs of Keller property from future irrigation via South Side Ditch. Land located in the SE¼ Section 29 T1N R9E and water via South Side Ditch in the NE¼ Section 32 T1N R9E. The turnout for the supplying lateral is not blocked and ditch and lateral do not appear to be maintained.
- 2218-2** Retired 192.5-acres and 2.16-cfs of Stromer property from future irrigation via South Side Ditch. Land located in the NW¼, SW¼ , and SE¼ of Section 29 T1N R9E and water via South Side Ditch in the SW¼ Section 29 T1N R9E. The turnout for the supplying lateral is not blocked and ditch and lateral do not appear to be maintained.
- 2317-2** Retired 46-acres and 0.84-cfs of Morris property from future irrigation via Hawthorne Ditch. Land located in the center of Section 9 T1N R8E and water via Hawthorne Ditch in the NE¼ Section 9 T1N R8E. Hawthorne Ditch is now piped underground through the area where the turnout for the supplying lateral was and the new Elk Vale Road by-pass, a school, and Western Electric have been constructed where the lateral previous ran. There is no evidence of a lateral at the location.

cc: Individual Files

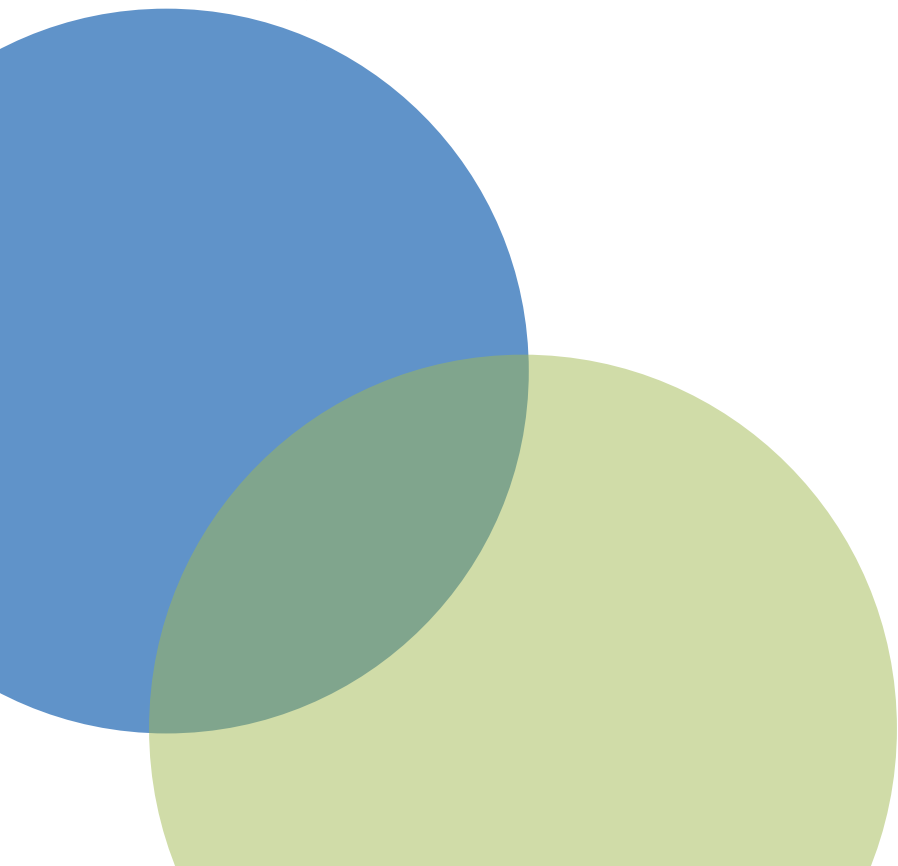
DOCUMENTATION OF
IRRIGATION DIVERSION POINT ABANDONMENT
FOR CITY OF RAPID CITY
PROJECT NO. 12-2034, CIP NO. 50922

Topical Report RSI-2317

prepared for

City of Rapid City
Public Works Department
Water Division
300 6th Street
Rapid City, SD 57701

January 2016



DOCUMENTATION OF
IRRIGATION DIVERSION POINT ABANDONMENT
FOR CITY OF RAPID CITY
PROJECT NO. 12-2034, CIP NO. 50922

Topical Report RSI-2317

by

Peter P. Rausch
Curtis D. Anderson
Adam J. Rutz
Jared K. Oswald

RESPEC
3824 Jet Drive
Rapid City, South Dakota 57703

prepared for

City of Rapid City
Public Works Department
Water Division
300 6th Street
Rapid City, SD 57701

January 2016

TABLE OF CONTENTS

1.0 BACKGROUND	1
2.0 DATA SOURCES	2
3.0 IRRIGATION DITCH SUMMARIES	4
3.1 CYCLONE DITCH	4
3.1.1 Permit 2655-2	4
3.1.1.1 Turnout	4
3.1.1.2 Access	4
3.1.1.3 Disablement	4
3.2 HAWTHORNE DITCH	5
3.2.1 Permit 2317-2	5
3.2.1.1 Turnout	6
3.2.1.2 Access	6
3.2.1.3 Disablement	6
3.3 MURPHY DITCH	6
3.3.1 Permit 2316-2	6
3.3.1.1 Turnout	7
3.3.1.2 Access	8
3.3.1.3 Disablement	8
3.3.2 Permit 2469-2	10
3.3.2.1 Turnouts	10
3.3.2.2 Access	10
3.3.2.3 Disablement	11
3.3.3 Permit 2201-2	13
3.3.3.1 Turnout	13
3.3.3.2 Access	13
3.3.3.3 Disablement	13
3.3.4 Permit 2399-2	14
3.3.4.1 Turnouts	14
3.3.4.2 Access	14
3.3.4.3 Disablement	16
3.3.5 Permit 2468-2	18
3.3.5.1 Turnouts	18
3.3.5.2 Access	18
3.3.5.3 Disablement	18
3.3.6 Permits 2142-2 and 2199-2	19
3.3.6.1 Turnout	19
3.3.6.2 Access	19
3.3.6.3 Disablement	19
3.3.7 Permit 2512-2	20

TABLE OF CONTENTS

3.3.7.1	Turnouts.....	20
3.3.7.2	Access	20
3.3.7.3	Disablement.....	20
3.4	SOUTH SIDE DITCH	23
3.4.1	Permits 2234-2, 2397-2, and 2411-2	24
3.4.1.1	Turnouts.....	24
3.4.1.2	Access	24
3.4.1.3	Disablement.....	24
3.4.2	Permit 2513-2	25
3.4.2.1	Turnouts.....	25
3.4.2.2	Access	27
3.4.2.3	Disablement.....	27
3.4.3	Permit 2249-2	28
3.4.3.1	Turnouts.....	28
3.4.3.2	Access	32
3.4.3.3	Disablement.....	32
3.4.4	Permit 2218-2	36
3.4.4.1	Turnouts.....	36
3.4.4.2	Access	36
3.4.4.3	Disablement.....	36
3.4.5	Permit 2415-2	37
3.4.5.1	Turnouts.....	37
3.4.5.2	Access	41
3.4.5.3	Disablement.....	41
3.4.6	Permit 2217-2	46
3.4.6.1	Turnouts.....	46
3.4.6.2	Access	46
3.4.6.3	Disablement.....	46
3.4.7	Permit 2296-2 and 2360-2	47
3.4.7.1	Turnouts.....	47
3.4.7.2	Access	47
3.4.7.3	Disablement.....	47
4.0	PERMITS AND REGULATIONS	48
4.1	CLEAN WATER ACT SECTION 404 PERMIT.....	48
4.2	CLEAN WATER ACT SECTION 402 PERMIT.....	48
4.3	FLOODPLAIN DEVELOPMENT PERMITS	48
4.4	HISTORIC PRESERVATION.....	48
5.0	REFERENCES	49
	APPENDIX A TURNOUT VICINITY MAPS.....	A-1

LIST OF TABLES

TABLE	PAGE
2-1 Information for Water Rights Transferred to the City of Rapid City.....	3
3-1 Cyclone Ditch Turnout Information	4
3-2 Hawthorne Ditch Turnout Information	5
3-3 Murphy Ditch Turnout Information	6
3-4 South Side Ditch Turnout Information.....	24

LIST OF FIGURES

FIGURE	PAGE
3-1 The Turnout Ditch (Left Arrow) and Former Location of Flume (Right Arrow) Associated With Permit 2655-2	5
3-2 Wooden Flume Used as a Check for Permit 2316-2	7
3-3 Opening to 12-Inch-Diameter Corrugated Metal Pipe Turnout for Permit 2316-2.....	7
3-4 Removal of Turnout associated with Permit 2316-2	8
3-5 Removal of Turnout associated with Permit 2316-2	9
3-6 Pipe Turnout A for Permit 2469-2	10
3-7 Pipe Turnout B for Permit 2469-2	11
3-8 Removal of Turnout A Associated with Permit 2469-2	12
3-9 Removal of Turnout B Associated with Permit 2469-2	12
3-10 Photograph Taken From in the Murphy Ditch Running Right to Left (Bank in Foreground Is Likely Former Turnout Location for Permit 2201-2).....	13
3-11 Wooden Remains Found Near the Site for Permit 2201-2.....	14
3-12 Backfill Material at the Former Location of Turnout A for Permit 2399-2.....	15
3-13 Turnout B for Permit 2399-2 (The 12-Inch Steel Canal Gate was Located on the Far Bank Adjacent to the Concrete Culvert, and Murphy Ditch Runs Right to Left).....	15
3-14 Removal of Turnout B for Permit 2399-2 Located on Murphy Ditch on Radar Road.	16
3-15 Removal of Turnout B for Permit 2399-2 Located on Murphy Ditch on Radar Road.....	17
3-16 Disabled Turnout Ditch for Permit 2468-2 Running From the Foreground to the Background Along the East Side of Radar Hill Road (The Lateral Ditch Is in the Left Foreground, Turning Left at the Visible Tree Root).....	18
3-17 Former Location of the Turnout for Permits 2142-2 and 2199-2 (The Concrete Check Structure and a Disconnected Corrugated Metal Pipe Segment Sit on the Far Bank, and Murphy Ditch Flows Right to Left).....	19
3-18 Pipe Used for Turnout A of Permit 2512-2 (Red Arrow).....	20
3-19 Plywood Headgate for Turnout B of Permit 2512-2.	21
3-20 Junction Box With 24-Inch Canal Gate for Turnout C of Permit 2512-2 (Turnout C Shown With Red Arrow, Leading South).....	21
3-21 Removal of Turnout C for Permit 2512-2 Located on Murphy Ditch on the East Side of Airport Road.....	22
3-22 Removal of Turnout C for Permit 2512-2 Located on Murphy Ditch on the East Side of Airport Road Going South to the Airport.....	23
3-23 Turnout for Permit 2234-2	25
3-24 Inlet Structure, Weir Box, and Air Vent Associated With Turnout 2513-2	26

LIST OF FIGURES (continued)

FIGURE	PAGE
3-25 Inlet Structure, Weir Box, and Air Vent Associated With Turnout 2513-2	26
3-26 Inside the Weir Box for Turnout 2513-2.....	27
3-27 Removal of Turnout for Permit 2513-2	28
3-28 Turnout A structure Associated with Permit 2249-2	29
3-29 Culvert Crossing Used as a Check for Turnout B Associated with Permit 2249-2	29
3-30 Outlet end of Turnout B pipe (Red Arrow). (Looking South, Towards South Side Ditch)	30
3-31 Second Culvert Crossing, Used as Check for Turnout C Associated With Permit 2249-2	30
3-32 Wooden Structure (Red Arrow) for Turnout C Associated With Permit 2249-	31
3-33 Metal Framed Canal Gate of Turnout D Associated With Permit 2249-2.....	31
3-34 Turnout D Division Box Associated With Permit 2249-2	32
3-35 Turnout A Associated with Permit 2249-2.....	33
3-36 Turnout B Associated with Permit 2249-2.....	33
3-37 Turnout C Associated With Permit 2249-2	34
3-38 Turnout D Associated With Permit 2249-2.....	34
3-39 Turnout D Associated With Permit 2249-2.....	35
3-40 Turnout D Associated With Permit 2249-2.....	35
3-41 Turnout for Permit 2218-2	36
3-42 Turnout A for Permit 2415-2	37
3-43 Wooden Flume Used as a Check for Turnout A of Permit 2415-2.....	38
3-44 Turnout B (Red Arrow) and the Flume Associated with Permit 2415-2.....	38
3-45 Turnout C (Red Arrow) and the Wooden Weir Associated With Permit 2415-2	39
3-46 Turnout C and the 24-Inch-Diameter Concrete Pipe (Red Arrow) Associated With Permit 2415-2	39
3-47 Concrete Flume/Check Structure for Turnout D Associated With Permit 2415-2 (Looking Downstream).....	40
3-48 North Flume/Check Structure Wall and Outlet for Turnout D Associated With Permit 2415-2	40
3-49 South Flume/Check Structure Wall and Outlet for Turnout D Associated With Permit 2415-2	41
3-50 Removal of Turnout A associated with Permit 2415-2	42
3-51 Turnout A Wooden Flume Structure Associated With Permit 2415-2, Removed.....	43
3-52 Turnout B Associated With Permit 2415-2. Timber Turnout Removed.....	43
3-53 Turnout B Associated With Permit 2415-2. Wooden Flume Structure Removed	44

LIST OF FIGURES (continued)

FIGURE	PAGE
3-54 Turnout C Associated With Permit 2415-2 Timber Gate Turnout Structure, Concrete Abutments, and Timber Weir Check Structure Removed.....	44
3-55 Turnout C Associated With Permit 2415-2	45
3-56 Turnout D Associated With Permit 2415-2.....	45
3-57 Turnout D Associated With Permit 2415-2.....	46
3-58 Turnout Associated With Permit 2296-2 and Permit 2360-2, Currently Serving an Active Permit for 50 Acres Irrigated by Mr. Donald Jundt	47
A-1 Cyclone Ditch Turnout Vicinity Map.	A-2
A-2 Hawthorne Ditch Turnout Vicinity Map.	A-3
A-3 Murphy Ditch Turnout Vicinity Map (1 of 2).....	A-4
A-4 Murphy Ditch Turnout Vicinity Map (2 of 2).....	A-5
A-5 South Side Ditch Turnout Vicinity Map (1 of 2).	A-6
A-6 South Side Ditch Turnout Vicinity Map (2 of 2)	A-7

1.0 BACKGROUND

The City of Rapid City has obtained the water permits from several irrigators served by Rapid Creek in the Rapid Valley area. According to the South Dakota Department of Environment and Natural Resources (SD DENR) Water Rights Division, the holder of a transferred permit shall permanently render inoperable the structural means of diverting water to land that is no longer subject to the water permit. The City of Rapid City has record of transfers and has now completed abandonment of the aforementioned diversion structures. The abandonment of the structures was performed by the City of Rapid City and reviewed by SD DENR personnel. This report documents the permits transferred, the diversion points associated with those permits, and the abandonment of those diversion points.

2.0 DATA SOURCES

Six sources were used to identify the diversion structures (turnouts) to be disabled. The first is the South Dakota Water Rights Program online permit database that is operated by the SD DENR [2012]. This database includes water rights documentation for each of the Rapid Valley irrigation ditches, identifies all permit transfers, and has documentation for individual water rights permits.

The second source is the Rapid Valley Water Management Study, which was completed in 1990 by the U.S. Bureau of Reclamation for ditches that have storage in Deerfield Reservoir, including the South Side, Cyclone, Little Giant, and Hawthorne irrigation ditches [U.S. Bureau of Reclamation, 1990]. The Murphy Ditch was excluded from the Rapid Valley Water Management Study because its water right is for natural Rapid Creek flows and, therefore, contractually has no storage in Deerfield Reservoir managed by the Bureau of Reclamation. The documentation from the study includes photographs of irrigation turnouts; associated notes; and irrigation ditch maps with turnout locations, photograph locations, and irrigated acreages.

The third source is an undocumented study conducted by the City of Rapid City in 2008. This study includes photographs of irrigation turnouts, associated notes, and maps that include data pertinent to water rights transferred to the city. The last three sources include parcel delineation and owner information from RapidMap [City of Rapid City and Pennington County, 2014], field investigations, and direct communication with irrigation ditch personnel and landowners.

Searches were conducted within the SD DENR Water Rights Program database to identify the water rights transferred to the City of Rapid City. Permit documentation associated with these transfers was downloaded. The water rights flow rate, acreage, location, previous owner, and approval date were identified for each transfer and this information is provided in Table 2-1.

By combining the information from Table 2-1 with the data from the RapidMap geodatabase, the parcels associated with each transfer were identified. Then, structure location maps from the Rapid Valley Water Management Study were used to identify the locations of turnouts requiring disablement. These locations were field-verified with help from ditch personnel and were recorded with Global Positioning System (GPS). Verified structure locations were digitized with ArcGIS mapping software.

Table 2-1. Information for Water Rights Transferred to the City of Rapid City

Permit No.	Ditch(s)	Previous Owner	Acres	Flow (cfs) ^(a)	Section	Township	Range	Quarter	Transfer Date
2655-2	Cyclone	Lamb	58	0.83	22	1N	8E	SW NW, NW NW	12/1/2010
2317-2	Hawthorne	Morris	46	0.84	9	1N	8E	SW NE, SE NW, NE SW, NW SE	5/1/1996
2399-2	Little Giant and Murphy	Wileman	52	0.75	24	1N	8E	E NE	5/7/1998
2468-2	Little Giant via Murphy	Howie	34.8	0.57	19; 30	1N	9E	W SW; NW NW	12/5/2001
2142-2	Murphy	Tyler	49	0.62	19	1N	9E	W NW, NW SW	5/1/1991
2199-2	Murphy	Pelle	4	0.05	19	1N	9E	NW NW	5/7/1992
2201-2	Murphy	Long	10	0.13	14	1N	8E	C	5/7/1992
2316-2	Murphy	Morris	64	0.81	9	1N	8E	W SE	5/1/1996
2469-2	Murphy	Murphy	27	0.34	14	1N	8E	S NW, N SW	12/5/2001
2512-2	Murphy	Schroeder	145	1.84	19	1N	9E	E NW, NE SW, SW SE, N SE, S NE	12/3/2003
2217-2	South Side	Keller	29.2	0.33	29	1N	9E	SE SE	7/22/1992
2218-2	South Side	Stromer	192.5	2.16	29	1N	9E	SW	7/22/1992
2234-2	South Side	Eisenbraun	70	0.79	26	1N	8E	E NE	5/1/1996
2249-2	South Side	Weber	105.5	1.19	30	1N	9E	E NW, NW SW, E SW	5/5/1993
2296-2	South Side	Jundt	253.4	2.85	28; 33	1N	9E	SW, SW SE; NW, W NE, NW SE, N SW	1/6/1994
2360-2	South Side	Soetaert	32.6	0.37	33	1N	9E	W NW	7/10/1996
2397-2	South Side	Eisenbraun	59.3	0.59	26	1N	8E	W NE	2/25/1998
2411-2	South Side	Eisenbraun	3.6	0.04	26	1N	8E	N NE	10/1/1998
2415-2	South Side	Howie	146	1.64	32	1N	9E	NE, N SE	12/2/1998
2513-2	South Side	Steen	74.9	0.84	24; 25	1N	8E	W SE; SW NE	12/3/2003

(a) cfs = cubic feet per second

3.0 IRRIGATION DITCH SUMMARIES

The information gathered for turnouts to parcels with water rights transferred from irrigation use to the City of Rapid City is described by permit number in the following sections. The information includes each turnout location, access, and disablement information. All maps can be found in Appendix A.

All references to compacted backfill or compacted embankment were completed according to City of Rapid City Specifications Section 14-Embankment. Rapid City Specifications are located at www.rcgov.org under Departments – Public Works – Engineering Services – Standard Specifications & Details 2007.

3.1 CYCLONE DITCH

A single Cyclone Ditch water right has been transferred to the City of Rapid City with a single associated turnout. Table 3-1 describes the turnout location and Figure A-1 maps the vicinity. The following section describes the turnout details.

Table 3-1. Cyclone Ditch Turnout Information

Turnout	Longitude	Latitude	Adjacent Landowner
2655-2	-103.151	44.034	David Lamb

3.1.1 Permit 2655-2

This permit is for 58 acres and 0.85 cubic feet per second (cfs) transferred from Mr. David Lamb.

3.1.1.1 Turnout

The single turnout for this permit was an open ditch cut through the bank of Cyclone Ditch. Water was directed down the turnout ditch by boarding up a steel flume immediately downstream in the Cyclone Ditch.

3.1.1.2 Access

The turnout was located adjacent to property owned by the Rapid City Area School District No. 51-4 (PIN 3822100004). Direct access to the site is along an over 1-mile, two-track road that runs through fields on property owned by Mr. David Lamb. It is accessible by a private driveway at 4555 Reservoir Road, south of East Highway 44.

3.1.1.3 Disablement

The flume has been removed, the turnout ditch filled, and the ditch reshaped by the landowner as illustrated in Figure 3-1.



Figure 3-1. The Turnout Ditch (Left Arrow) and Former Location of Flume (Right Arrow) Associated With Permit 2655-2. Cyclone Ditch Runs From Foreground to Background Through Large Concrete Pipe.

3.2 HAWTHORNE DITCH

A single Hawthorne Ditch water right has been transferred to the City of Rapid City with a single associated turnout. Table 3-2 provides the turnout location and Figure A-2 maps the vicinity. The following section describes the turnout details.

Table 3-2. Hawthorne Ditch Turnout Information

Turnout	Longitude	Latitude	Current Landowner
2317-2	-103.162	44.064	N/A

3.2.1 Permit 2317-2

This permit is for 46 acres and 0.84 cfs transferred from Mr. Morris.

3.2.1.1 Turnout

The supplying lateral and turnout for this permit no longer exist. An internal memorandum of SD DENR dated September 30, 2005, states “Hawthorne Ditch is now piped underground through the area where the turnout for the supplying lateral was and the new Elk Vale Road bypass, a school, and (the West River Electric Association building) have been constructed where the lateral previously ran. There is no evidence of a lateral at the location” [Stroup, 2005]. This statement was field-verified.

3.2.1.2 Access

The approximate, former location of the turnout is along East Highway 44 near the Elk Vale Road bypass.

3.2.1.3 Disablement

The turnout was previously disabled.

3.3 MURPHY DITCH

Eight Murphy Ditch water rights have been transferred to the City of Rapid City, and 11 associated turnout locations are described in Table 3-3 in order from upstream to downstream. Two vicinity maps of the turnouts are illustrated by Figures A-3 and A-4. The following sections describe each of the Murphy Ditch turnout locations by permit. The ditch has a 20-foot easement on either side for access and maintenance.

Table 3-3. Murphy Ditch Turnout Information

Turnout	Longitude	Latitude	Adjacent Landowner
2316-2	-103.158	44.059	Yasmeen Dream
2469-2 A	-103.128	44.049	Dennis Murphy
2469-2 B	-103.127	44.049	Dennis Murphy
2201-2	-103.121	44.047	Ramona Buchholz
2399-2 A	-103.097	44.038	Michelle Minnerath
2399-2 B	-103.091	44.037	Penn. Co. ROW
2468-2	-103.091	44.031	SD DOT
2142-2 and 2199-2	-103.089	44.037	Randall Albers or Melvin Ross
2512-2 A	-103.083	44.035	Rapid City
2512-2 B	-103.077	44.034	Rapid City
2512-2 C	-103.070	44.031	Rapid City ROW

3.3.1 Permit 2316-2

This permit is for 64 acres and 0.81 cfs transferred from Mr. Morris.

3.3.1.1 Turnout

A single turnout was associated with this permit. A wooden flume within the Murphy Ditch was used to check water up to a 12-inch-diameter corrugated metal pipe (CMP). The flume throat was 8 feet long, 4 feet 8 inches wide, and 4 feet 2 inches tall. The CMP was sedimented in and remained in segments. Figure 3-2 is a photograph of the flume and Figure 3-3 is a photograph of the CMP opening.



Figure 3-2. Wooden Flume Used as a Check for Permit 2316-2.



Figure 3-3. Opening to 12-Inch-Diameter Corrugated Metal Pipe Turnout for Permit 2316-2.

3.3.1.2 Access

The flume and pipe were adjacent to property owned by Yasmeen Dream that is accessible from Lytle Lane off of East Highway 44.

3.3.1.3 Disablement

The following are the procedures the City of Rapid City used in disabling the Permit 2316-2 turnout:

- Removed the wooden flume and all associated concrete from Murphy Ditch
- Removed the upstream CMP section from the ditch embankment
- Backfilled with compacted embankment material where items were removed
- Reshaped the ditch banks through the project area to match the cross section of existing banks outside of the project area

Figure 3-4 and Figure 3-5 document removal of the turnout.



Figure 3-4. Removal of Turnout associated with Permit 2316-2. Date 3/20/2014



Figure 3-5. Removal of Turnout associated with Permit 2316-2. Date 3/20/2014

3.3.2 Permit 2469-2

This permit is for 27 acres and 0.34 cfs transferred from Ms. Arlene Murphy.

3.3.2.1 Turnouts

Two turnouts were associated with this permit, and they were located at either end of an inverted siphon through which the Murphy Ditch passes. Both turnouts were approximately 10-inch-diameter plastic pipes through the ditch bank. The upstream pipe (Turnout A) was mostly buried and is shown in Figure 3-6. The downstream pipe (Turnout B) was exposed, as illustrated in Figure 3-7.



Figure 3-6. Pipe Turnout A for Permit 2469-2.

3.3.2.2 Access

Both turnouts were adjacent to property owned by Dennis Murphy (PIN 3814105010), and the sites are accessible from a private driveway at 5670 East Highway 44. Direct access to both turnouts was through fields along a two-track path. Access to the Turnout B site requires crossing an existing drainage or can alternatively be accessed by a two-track path off the end of Springfield Road.



Figure 3-7. Pipe Turnout B for Permit 2469-2.

3.3.2.3 *Disablement*

The following are the procedures the City of Rapid City used in disabling the Permit 2469-2 turnouts

- Removed both pipe turnouts from the ditch embankment
- Backfilled with compacted embankment material to match the existing bank cross section

Figures 3-8 and Figure 3-9 document removal of the turnouts.



Figure 3-8. Removal of Turnout A Associated With Permit 2469-2. Date 4/22/2014



Figure 3-9. Removal of Turnout B Associated With Permit 2469-2. Date 4/22/2014.

3.3.3 Permit 2201-2

This permit is for 10 acres and 0.13 cfs transferred from Mr. Long.

3.3.3.1 Turnout

The old turnout ditch for this permit was identified, but the turnout had been removed. No evidence of a turnout could be identified on the ditch side of the bank, as illustrated in Figure 3-10. The remains of wooden structures, possibly related to the turnout, were found nearby, as shown in Figure 3-11.

3.3.3.2 Access

The site is adjacent to property owned by Ms. Ramona Buchholz (PIN 3814326004) and is located directly west of Apple Tree Road. It is accessible from East Highway 44.

3.3.3.3 Disablement

The structure was previously disabled.



Figure 3-10. Photograph Taken From in the Murphy Ditch Running Right to Left (Bank in Foreground Is Likely Former Turnout Location for Permit 2201-2).



Figure 3-11. Wooden Remains Found Near the Site for Permit 2201-2.

3.3.4 Permit 2399-2

This permit is for 52 acres and 0.75 cfs transferred from Mr. Wesley Wileman.

3.3.4.1 *Turnouts*

Two turnout locations were associated with this permit. Turnout A had been removed but was not properly backfilled, as illustrated in Figure 3-12. A meeting on site with Mr. Jeep Williams, watermaster for Murphy Ditch, in April 2014 verified that the backfill at that site has been repaired since the photograph was taken. Turnout B was a 12-inch steel canal gate, as shown in Figure 3-13.

3.3.4.2 *Access*

The Turnout A site is adjacent to property owned by Ms. Michelle Minnerath (PIN 3824200002) and is north of Morris Lane. Direct access to the location is through a field with no defined path. Turnout B was located in the west ditch of Radar Hill Road.



Figure 3-12. Backfill Material at the Former Location of Turnout A for Permit 2399-2. This area has since had material added to the bank.



Figure 3-13. Turnout B for Permit 2399-2 (The 12-Inch Steel Canal Gate was Located on the Far Bank Adjacent to the Concrete Culvert, and Murphy Ditch Runs Right to Left).

3.3.4.3 *Disablement*

The following are the procedures the City of Rapid City used in disabling the Permit 2399-2 turnouts:

- Turnout A was previously disabled
- Turnout B
 - Removed the canal gate from Murphy Ditch
 - Removed a portion of the pipe from the ditch bank and backfilled with compacted embankment material to match the existing bank cross section

Figure 3-14 and Figure 3-15 document removal of Turnout B.



Figure 3-14. Removal of Turnout B for Permit 2399-2 Located on Murphy Ditch on Radar Road.
Date 4/22/2014



Figure 3-15. Removal of Turnout B for Permit 2399-2 Located on Murphy Ditch on Radar Road.
Date 4/22/2014

3.3.5 Permit 2468-2

This permit is for 34.8 acres and 0.57 cfs transferred from Mr. Gordon Howie.

3.3.5.1 *Turnouts*

A single turnout for this permit was once located on a lateral ditch. The turnout ditch was identified, as shown in Figure 3-16, but no turnout structure exists.



Figure 3-16. Disabled Turnout Ditch for Permit 2468-2 Running From the Foreground to the Background Along the East Side of Radar Hill Road (The Lateral Ditch Is in the Left Foreground, Turning Left at the Visible Tree Root).

3.3.5.2 *Access*

The site is located on property owned by the South Dakota Department of Transportation (SD DOT) on the east side of Radar Hill Road, south of East Highway 44 (PIN 3824427001).

3.3.5.3 *Disablement*

The structure was previously disabled.

3.3.6 Permits 2142-2 and 2199-2

Permit 2142-2 is for 49 acres and 0.62 cfs transferred from Mr. Tyler. Permit 2199-2 is for 4 acres and 0.05 cfs transferred from Mr. Pelle.

3.3.6.1 Turnout

A single turnout location was used for these two permits. Upon inspection, the turnout ditch was identified and a short, disconnected segment of a 12-inch-diameter CMP was found lying in the ditch at the site, but an existing turnout structure was not evident. The concrete check structure for the turnout has been removed and sits on the ditch bank at the location illustrated in Figure 3-17.



Figure 3-17. Former Location of the Turnout for Permits 2142-2 and 2199-2 (The Concrete Check Structure and a Disconnected Corrugated Metal Pipe Segment Sit on the Far Bank, and Murphy Ditch Flows Right to Left).

3.3.6.2 Access

The site is adjacent to property owned by Mr. Randall Albers (PIN 3919100002) along Morris Lane. Direct access to the site is through the Albers property or the neighboring property owned by Melvin Ross (PIN 391900001), or from the top side of the Murphy Ditch through Mr. Jerry Olson's property.

3.3.6.3 Disablement

The structure was previously disabled and no further action was required, as per a meeting with SD DENR personnel in April 2014.

3.3.7 Permit 2512-2

This permit is for 145 acres and 1.84 cfs transferred from Ms. Marilyn Schroeder.

3.3.7.1 Turnouts

Three turnouts were associated with this permit. Turnout A was a 10-inch-diameter plastic pipe through the ditch bank but was capped and buried, as shown in Figure 3-18. Turnout B was a clay pipe 12-inches in diameter and 20 feet long through the ditch bank. The downstream end of this pipe was previously buried. Figure 3-19 is a photograph of a plywood headgate used for Turnout B. Turnout C was a 24-inch steel canal gate secured in a concrete junction box, as shown in Figure 3-20. The junction box is on a lateral ditch and is shared with an identical gate for a separate, active permit.



Figure 3-18. Pipe Used for Turnout A of Permit 2512-2 (Red Arrow).

3.3.7.2 Access

Turnouts A and B were located adjacent to property owned by the City of Rapid City (PIN 3919200001). Turnout C was located in the west right-of-way for Airport Road.

3.3.7.3 Disablement

The following are the procedures the City of Rapid City used in disabling the Permit 2512-2 turnouts:

- Turnout A was previously disabled and no further action was required per discussion with the Murphy Ditch watermaster and SD DENR personnel in April 2014.
- Turnout B was previously disabled and no further action was required per discussion with the Murphy Ditch watermaster and SD DENR personnel in April 2014.

- Turnout C

- Removed the canal gate and disabled the pipe with a Class M-5 concrete plug.

Figure 3-21 and Figure 3-22 document disablement of the Turnout C structure.



Figure 3-19. Plywood Headgate for Turnout B of Permit 2512-2.



Figure 3-20. Junction Box With 24-Inch Canal Gate for Turnout C of Permit 2512-2 (Turnout C Shown With Red Arrow, Leading South).



Figure 3-21. Removal of Turnout C for Permit 2512-2 Located on Murphy Ditch on the East Side of Airport Road. Date 4/22/2014



Figure 3-22. Removal of Turnout C for Permit 2512-2 Located on Murphy Ditch on the East Side of Airport Road Going South to the Airport. Date 4/22/2014.

3.4 SOUTH SIDE DITCH

Ten South Side Ditch water rights have been transferred to the City of Rapid City, and 13 associated turnout locations were identified by using maps from the Rapid Valley Water Management Study [U.S. Bureau of Reclamation, 1990] and field investigations. The locations are described in Table 3-4 from upstream to downstream. Two vicinity maps of the turnouts are provided by Figures A-5 and A-6.

Table 3-4. South Side Ditch Turnout Information

Turnout	Longitude	Latitude	Adjacent Landowner
2234-2, 2397-2 & 2411-2	-103.115	44.017	Reinhold Eisenbraun (south) Randy Christensen (north)
2513-2	-103.100	44.018	City of Rapid City
2249-2 A	-103.095	44.017	City of Rapid City
2249-2 B	-103.091	44.015	City of Rapid City
2249-2 C	-103.091	44.015	City of Rapid City
2249-2 D	-103.084	44.011	City of Rapid City
2218-2	-103.071	44.010	Merlin Stromer
2415-2 A	-103.065	44.008	Matt Bowen
2415-2 B	-103.061	44.006	Matt Bowen
2415-2 C	-103.059	44.006	Matt Bowen
2415-2 D	-103.056	44.006	Matt Bowen
2217-2	-103.056	44.011	Leonard V. Keller Trust
2296-2 and 2360-2	-103.05	44.007	Donald Jundt

3.4.1 Permits 2234-2, 2397-2, and 2411-2

Permit 2234-2 is for 70 acres and 0.79 cfs, Permit 2397-2 is for 59.3 acres and 0.59 cfs, and Permit 2411-2 is for 3.6 acres and 0.04 cfs, all transferred from Mr. Reinhold Eisenbraun.

3.4.1.1 Turnouts

One turnout structure could be found in the described vicinity of these permits, located in Section 26, 1N 8E. The ditch was walked for approximately 1/2 mile to the west and the only turnout found is shown in Figure 3-23.

3.4.1.2 Access

The turnout for Permit 2234-2 is accessed off of Highway 44 by turning south on Anderson Rd. and continuing south past Southside Dr. approximately 3/8 mile to South Side Ditch. The site is approximately 1/4 mile west. The land north of the ditch, including the structure, is owned by Mr. Randy Christensen, and the land south of the ditch is owned by Mr. Eisenbraun.

3.4.1.3 Disablement

The structure was previously disabled, and no further action was required by SD DENR personnel.



Figure 3-23. Turnout for Permit 2234-2. Note the headwall sticking out of the snow just upstream from the culvert crossing on the left or north side of the ditch (red arrow). The ditch behind the headwall has been filled in.

3.4.2 Permit 2513-2

This permit is for 74.9 acres and 0.84 cfs transferred from Mr. Steen.

3.4.2.1 Turnouts

One turnout was associated with Permit 2513-2. The turnout was located straight south of the Rapid City Water Treatment Plant near the middle of section 25 on South Side Ditch. The turnout inlet structure was concrete with a 15-inch canal gate and PVC pipe going under the north bank to a weir box. On the north side of the weir box, 15-inch PVC pipe ran from the box to a vertical PVC air vent and then continued north. Figures 3-24, 3-25, and 3-26 show the structures associated with Permit 2513-2.



Figure 3-24. Inlet Structure, Weir Box, and Air Vent Associated With Turnout 2513-2.



Figure 3-25. Inlet Structure, Weir Box, and Air Vent Associated With Turnout 2513-2.



Figure 3-26. Inside the Weir Box for Turnout 2513-2. Note center wall weir and PVC pipe exiting the box.

3.4.2.2 Access

The site is located on land owned by the City of Rapid City and occupied by Mr. Bud Steen. The site may be accessed by turning off Highway 44 on Anderson Rd., then turning east on Southside Dr. to the treatment plant, then south on Redemption Road at the west edge of the treatment plant. At South Side Ditch, the site is located just east of the road.

3.4.2.3 Disablement

The following are the procedures the City of Rapid City used in disabling the turnout associated with Permit 2513-2:

- Cut existing turnout pipe 5 feet north from air vent
- Removed the air vent, inlet structure, and appurtenances.
- Backfilled with compacted embankment material

Figure 3-27 documents disablement of the structure.



Figure 3-27. Removal of Turnout for Permit 2513-2. Headgate removed, measurement box filled with dirt and pipeline air vent removed. Date: 10/29/2015

3.4.3 Permit 2249-2

This permit is for 105.5 acres and 1.19 cfs transferred from Mr. Weber.

3.4.3.1 *Turnouts*

Four turnouts were associated with Permit 2249-2. Turnout A was located 1,500 feet downstream from the Permit 2513-2 turnout site and consisted of a steel-framed headgate and concrete headwall. The structure is shown in Figure 3-28.

Turnout B was located upstream from a culvert crossing, shown in Figure 3-29. This culvert was used as a check structure for Turnout B and is located just west of the line between Section 25, 1N 8E and Section 30, 1N 9E. Figure 3-30 shows the outlet end of the Turnout B pipe.

Turnout C consisted of a wooden structure on the north bank of South Side Ditch, just upstream from a second culvert crossing, shown in Figure 3-31. The Turnout C site is shown in Figure 3-32 and located just east of the line between Section 25, 1N 8E and Section 30, 1N 9E.

Turnout D was located in the SW1/4 of Section 30 T1N R9E and consisted of a steel frame canal gate and division box. The gate is shown in Figure 3-33 and the division box is shown in Figure 3-34.



Figure 3-28. Turnout A structure Associated with Permit 2249-2.



Figure 3-29. Culvert Crossing Used as a Check for Turnout B Associated with Permit 2249-2.



Figure 3-30. Outlet end of Turnout B pipe (Red Arrow). (Looking South, Towards South Side Ditch).



Figure 3-31. Second Culvert Crossing, Used as Check for Turnout C Associated With Permit 2249-2.



Figure 3-32. Wooden Structure (Red Arrow) for Turnout C Associated With Permit 2249-2. This structure is immediately upstream of the culvert crossing in Figure 3-31, on the north bank.



Figure 3-33. Metal Framed Canal Gate of Turnout D Associated With Permit 2249-2.



Figure 3-34. Turnout D Division Box Associated With Permit 2249-2. Date 10/30/2015.

3.4.3.2 Access

The turnout sites may be accessed by turning south from Highway 44 on Anderson Rd., then east on Southside Dr. to the treatment plant. The sites are adjacent to property owned by the City of Rapid City, southeast from the treatment plant.

3.4.3.3 Disablement

The following are the procedures the City of Rapid City used in disabling turnouts A, B, C, and D associated with Permit 2249-2:

- Turnout A
 - Removed turnout head gate
 - Placed concrete plug in turnout pipe
 - Filled turnout ditch with compacted material
- Turnout B
 - Removed pipe and structure
 - Backfilled with compacted embankment material to match existing ditch cross section
- Turnout C
 - Removed the wooden structure
 - Backfilled with compacted embankment material to match existing ditch cross section
- Turnout B
 - Removed the steel framed canal gate and structure
 - Backfilled with compacted embankment material to match the existing ditch cross section

Figures 3-35 through Figure 3-40 document the disablement of these four turnouts.



Figure 3-35. Turnout A Associated with Permit 2249-2. Headgate removed, turnout pipe filled with concrete, and outlet filled in. Date 10/29/2015



Figure 3-36. Turnout B Associated with Permit 2249-2. The old turnout structure has been removed. Date 10/29/2015.



Figure 3-37. Turnout C Associated With Permit 2249-2. Removed turnout structure. Date 10/29/2015.



Figure 3-38. Turnout D Associated With Permit 2249-2, removed by the City. Date 10/30/2015



Figure 3-39. Turnout D Associated With Permit 2249-2. Turnout being backfilled. Date 10/30/2015.



Figure 3-40. Turnout D Associated With Permit 2249-2. Photo of the division box being removed and backfilled by the City. Date 10/30/2015.

3.4.4 Permit 2218-2

This permit is for 192.5 acres and 2.16 cfs transferred from Mr. Merlin Stromer.

3.4.4.1 *Turnouts*

One turnout was associated with Permit 2218-2. The turnout consisted of a pipe inlet, a metal valve well, and an air vent immediately downstream of the valve well, shown in Figure 3-41.

3.4.4.2 *Access*

The turnout site for Permit 2218-2 is located turning south on Airport Road from Highway 44 and travelling about 0.7 miles to the driveway into Mr. Merlin Stromer's property, then another 0.3 miles south through the Stromer property to South Side Ditch.

3.4.4.3 *Disablement*

A discussion with Mr. Merlin Stromer in April of 2014 was that after Mr. Stromer sold his water rights to the city, he hired a contractor to disable the turnout. No water can be or has been delivered through the turnout since the water right transfer. Discussion with SD DENR was that this would satisfy abandonment requirements and the turnout would not be disturbed since it has been disabled.



Figure 3-41. Turnout for Permit 2218-2. This turnout has been disabled and will not be disturbed.

3.4.5 Permit 2415-2

This permit is for 146 acres and 1.64 cfs transferred from Mr. Gordon Howie.

3.4.5.1 Turnouts

Four turnouts were associated with Permit 2415-2, designated Turnout A through Turnout D (upstream to downstream on the South Side Ditch). Turnout A consisted of a gate structure composed of timber and is shown in Figure 3-42. A wooden flume was used as a check structure for Turnout A, located approximately 35 feet downstream and shown in Figure 3-43.

Turnout B was also a gate structure composed of timbers. As shown in Figure 3-44, a wooden flume was located next to Turnout B (Turnout B indicated by red arrow) and was used as a check structure.

Turnout C consisted of a wooden gate structure supported by concrete abutments. Figure 3-45 displays Turnout C (red arrow) along with a wooden weir check structure located downstream from Turnout C. The ditch from Turnout C led to a 24-inch-diameter concrete pipe that was used to convey diverted water, shown in Figure 3-46.

Turnout D consisted of a concrete flume/check structure, shown in Figure 3-47. The structure included outlets on both the north and south walls, with timbers used to convey diverted water from the structure. Figures 3-48 and 3-49 show the north and south outlets, respectively.



Figure 3-42. Turnout A for Permit 2415-2. The turnout is composed of timber.



Figure 3-43. Wooden Flume Used as a Check for Turnout A of Permit 2415-2.



Figure 3-44. Turnout B (Red Arrow) and the Flume Associated with Permit 2415-2.



Figure 3-45. Turnout C (Red Arrow) and the Wooden Weir Associated With Permit 2415-2.



Figure 3-46. Turnout C and the 24-Inch-Diameter Concrete Pipe (Red Arrow) Associated With Permit 2415-2.



Figure 3-47. Concrete Flume/Check Structure for Turnout D Associated With Permit 2415-2 (Looking Downstream).



Figure 3-48. North Flume/Check Structure Wall and Outlet for Turnout D Associated With Permit 2415-2.



Figure 3-49. South Flume/Check Structure Wall and Outlet for Turnout D Associated With Permit 2415-2.

3.4.5.2 Access

Turnouts A through D are adjacent to property owned by Mr. Matt Bowen (PINs 3932100003 and 3932200001). The sites are accessed by travelling approximately 1/2 mile south on Bradsky Road from Highway 44 to a private drive just north of the South Side Ditch crossing.

- The Turnout A and Turnout B sites are accessed by travelling west on the private drive for approximately 1/2 mile from Bradsky Road, crossing South Side Ditch, then leaving the private drive and following South Side Ditch along its south bank.
- The Turnout C and Turnout D sites are accessed from the private drive on the north bank of South Side Ditch, approximately 1/2 mile and 1/4 mile west of Bradsky Road, respectively.

3.4.5.3 Disablement

The following are the procedures the City of Rapid City used in disabling the four turnouts associated with Permit 2415-2.

- Turnout A
 - o Removed the timber turnout and the wooden flume structure
 - o Backfilled with compacted embankment material to match existing ditch cross section

- Turnout B
 - o Removed the timber turnout and the wooden flume structure
 - o Backfilled with compacted embankment material to match existing ditch cross section
- Turnout C
 - o Removed the wooden gate turnout structure, concrete abutments, and wooden weir check structure from South Side Ditch
 - o Backfilled ditch banks with compacted embankment material to match existing ditch cross section
 - o Backfilled existing turnout ditch from South Side Ditch to existing concrete pipe with compacted material to match existing adjacent grade
- Turnout D
 - o Removed the concrete inlets and wooden turnouts from the north and south banks.
 - o Backfilled with compacted embankment material to match existing ditch cross section.

Figures 3-50 through 3-57 document the disablement of the structures associated with the four turnouts.



Figure 3-50. Removal of Turnout A associated with Permit 2415-2. Date 7/30/2015



Figure 3-51. Turnout A Wooden Flume Structure Associated With Permit 2415-2, removed. Date 7/30/2015



Figure 3-52. Turnout B Associated With Permit 2415-2. Timber Turnout Removed. Date 7/30/2015.



Figure 3-53. Turnout B Associated With Permit 2415-2. Wooden Flume Structure Removed. Date 7/30/2015.



Figure 3-54. Turnout C Associated With Permit 2415-2 Timber Gate Turnout Structure, Concrete Abutments, and Timber Weir Check Structure Removed. Date 7/30/2015.



Figure 3-55. Turnout C Associated With Permit 2415-2. Turnout ditch filled in. Date 7/30/2015.



Figure 3-56. Turnout D Associated With Permit 2415-2. Headgate removed and concrete plug put in place for south turnout. Date 7/30/2015



Figure 3-57. Turnout D Associated With Permit 2415-2. Headgate removed and concrete plug put in place for north turnout. Date 7/30/2015.

3.4.6 Permit 2217-2

This permit is for 29.2 acres and 0.33 cfs transferred from Mr. Leonard Keller.

3.4.6.1 *Turnouts*

No turnouts associated with this permit were located.

3.4.6.2 *Access*

The site is along Back Country Trail off of Bradsky Road.

3.4.6.3 *Disablement*

This turnout was previously disabled.

3.4.7 Permit 2296-2 and Permit 2360-2

Permit 2296-2 is for 253.4 acres and 2.85 cfs transferred from Mr. Donald Jundt. Permit 2360-2 is for 32.6 acres and 0.37 cfs transferred from Mr. Soetaert.

3.4.7.1 Turnouts

The turnout structure associated with transferred Permit 2296-2 and transferred Permit 2360-2, shown in Figure 3-58, also serves the active Permit 2526-2 for 0.71 cfs currently serving 50 acres of irrigated land owned by Mr. Donald Jundt. The turnout will not be disabled.



Figure 3-58. Turnout Associated With Permit 2296-2 and Permit 2360-2, Currently Serving an Active Permit for 50 Acres Irrigated by Mr. Donald Jundt.

3.4.7.2 Access

The turnout for Permit 2296-2 and Permit 2360-2 is located approximately 1/2 mile south of Highway 44 on the east side of Bradsky Road at the South Side Ditch. All associated structures are on property owned by Mr. Donald Jundt.

3.4.7.3 Disablement

No disablement was required.

4.0 PERMITS AND REGULATIONS

4.1 CLEAN WATER ACT SECTION 404 PERMIT

According to the U.S. Army Corps of Engineers [2007]:

“Under Section 404(f)(1)(C) of the CWA (see also 33 CFR 323.4(a)(3) and 40 CFR 232.3(c)(3)), discharges of dredged or fill material associated with construction or maintenance of irrigation ditches, or the maintenance (but not construction) of drainage ditches, are not prohibited by or otherwise subject to regulation under Section 404 of the CWA (i.e., these activities are exempt from the need to obtain a Section 404 Permit from the Department of the Army (DA)). Discharges of dredged or fill material associated with siphons, pumps, headgates, wingwalls, weirs, diversion structures, and such other facilities as are appurtenant to and functionally related to irrigation ditches are included in the exemption for irrigation ditches.”

A 404 Permit was not required.

4.2 CLEAN WATER ACT SECTION 402 PERMIT

According to the South Dakota Department of Environment and Natural Resources [2010] Section 2.2.2:

“Storm water discharges from operators disturbing less than one acre that are part of a larger common plan of development or sale that, combined, disturb one or more acres.”

The combination of ground area disturbed by the combination of all disablements associated with this project did not exceed 1 acre.

A 402 Permit was not required.

4.3 FLOODPLAIN DEVELOPMENT PERMITS

After reviewing both the Pennington County and Rapid City Flood Insurance Rate Maps, it was determined that none of the disablement sites lie within the 100-year floodplain.

Floodplain permits were not required.

4.4 HISTORIC PRESERVATION

As required by State Preservation Law (South Dakota Codified Law (SDCL) 1-19A-11.1), the Office of History was given notice and an opportunity to investigate and comment on this proposed project. The Office of History concluded that the irrigation ditches in Rapid Valley are listed on neither the State nor the National Register of Historic Places. Additionally, because federal funding will not be used for this proposed project, Section 106 of the National Historic Preservation Act did not apply.

5.0 REFERENCES

City of Rapid City and Pennington County, 2012. *RapidMap*, retrieved September 19, 2012, from <http://www.rcgov.org/GIS/rapidmap.html>

South Dakota Department of Environment and Natural Resources, 2012. *South Dakota Water Rights*, retrieved September 19, 2012, from <http://denr.sd.gov/des/wr/dbwrsearch.aspx>

South Dakota Department of Environment and Natural Resources, 2010. *General Permit for Storm Water Discharges Associated With Construction Activities*, prepared by the South Dakota Department of Environment and Natural Resources, Pierre, SD.

Stroup, D. E., 2005. *Rapid City – Rapid Valley Water Rights Transfers*, internal memorandum from D. E. Stroup, South Dakota Department of Environment and Natural Resources, Water Rights Program, Pierre, SD, to G. Eberle, South Dakota Department of Environment and Natural Resources, Water Rights Program, Pierre, SD, September 30.

U.S. Army Corps of Engineers, 1990. *Exemptions for Construction or Maintenance of Irrigation Ditches and Maintenance of Drainage Ditches under Section 404 of Clean Water Act*, Regulatory Guidance Letter, prepared by U.S. Army Corps of Engineers, Washington, DC, July 4.

U.S. Bureau of Reclamation, 1990. *Rapid Valley Water Management Study*, prepared by U.S. Bureau of Reclamation, Newell, South Dakota.

APPENDIX A

TURNOUT VICINITY MAPS

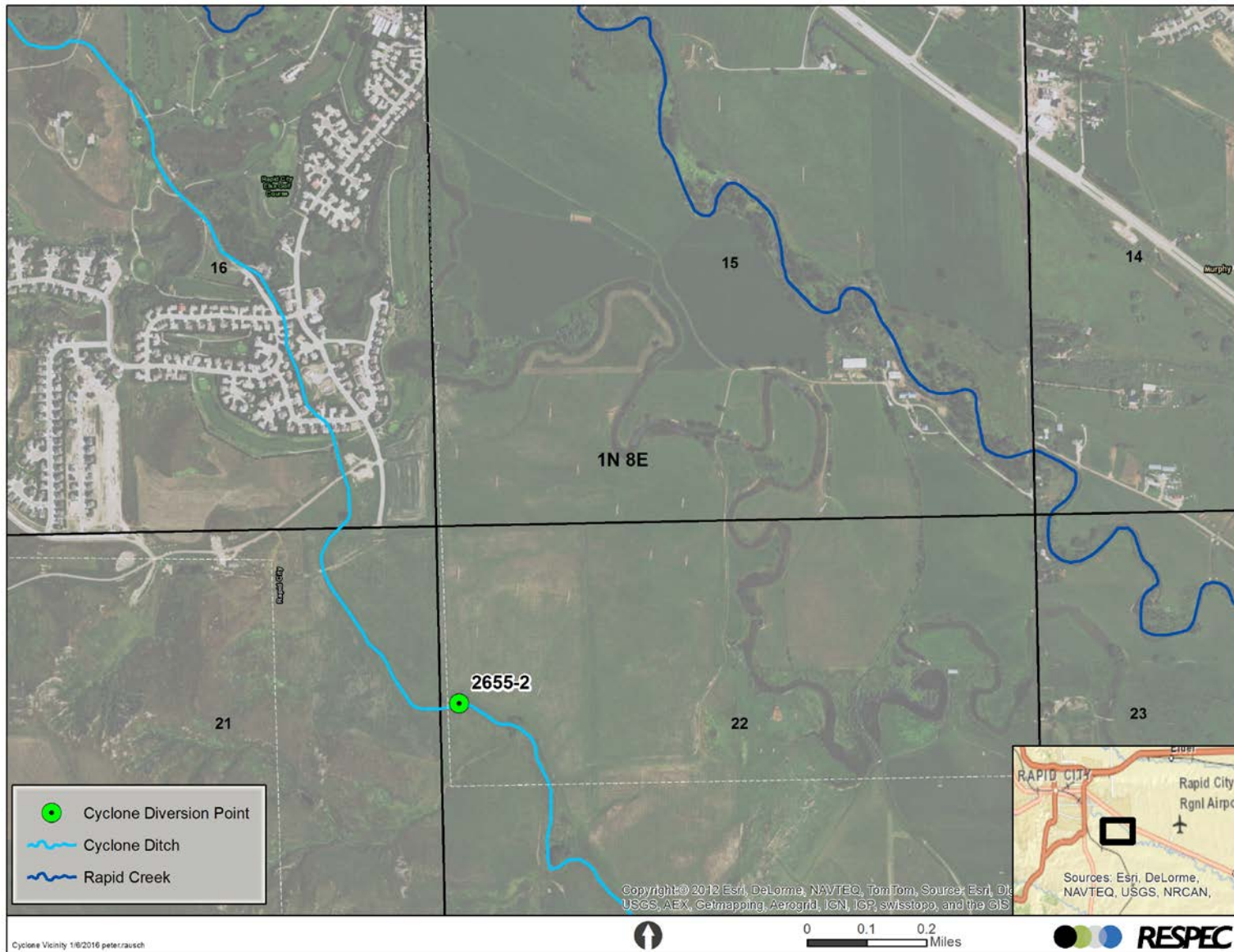


Figure A-1. Cyclone Ditch Turnout Vicinity Map.



Figure A-2. Hawthorne Ditch Turnout Vicinity Map.

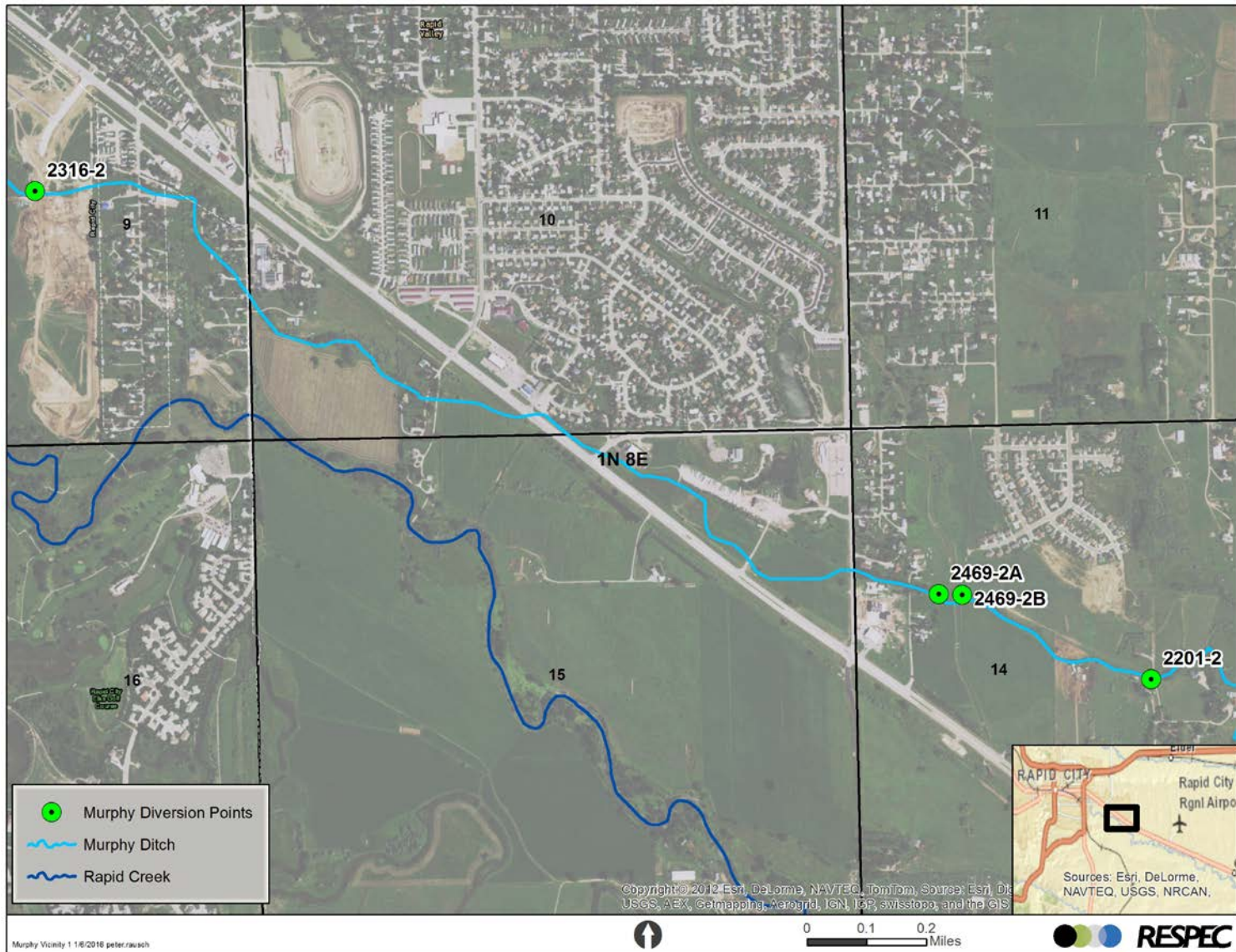


Figure A-3. Murphy Ditch Turnout Vicinity Map (1 of 2).

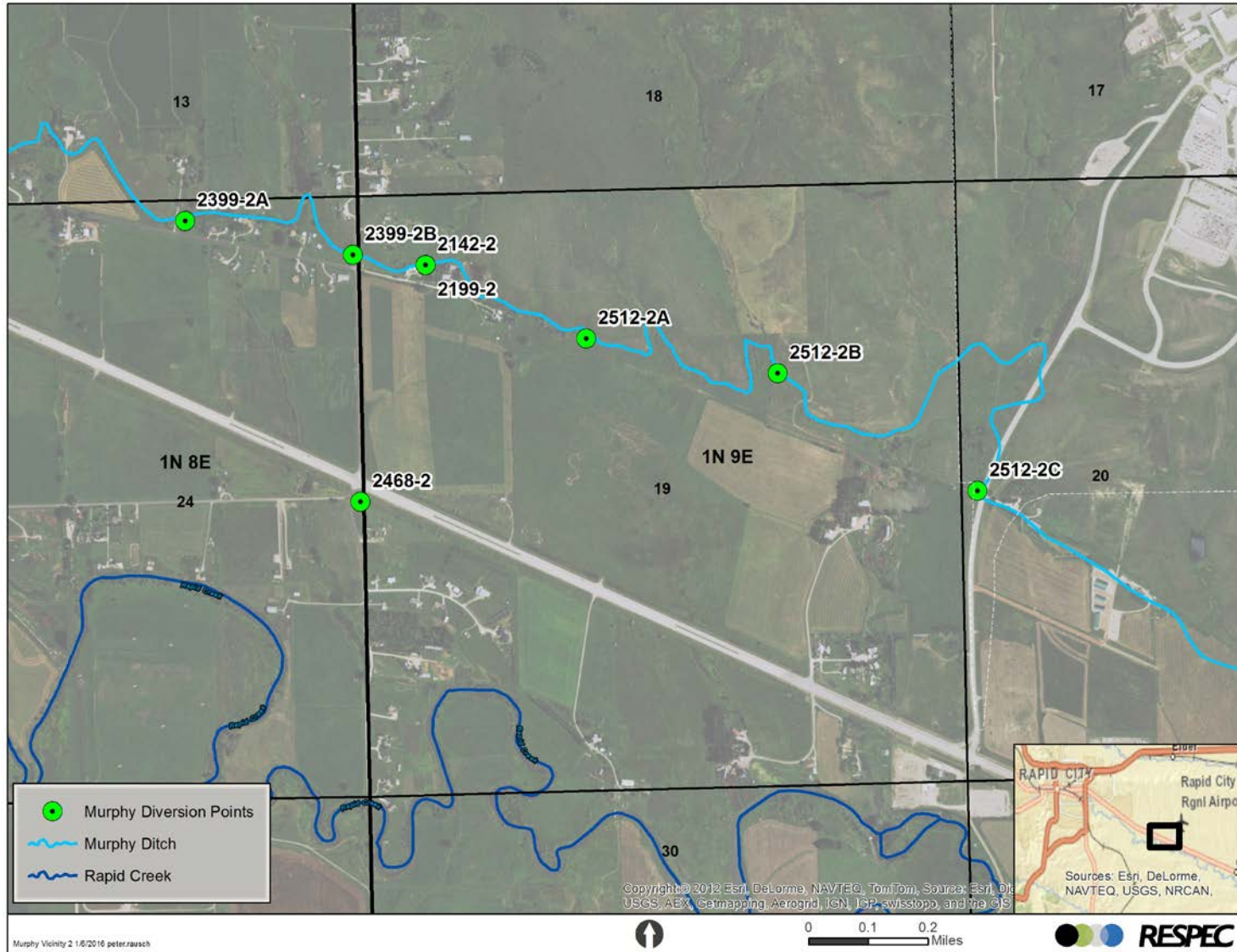


Figure A-4. Murphy Ditch Turnout Vicinity Map (2 of 2).



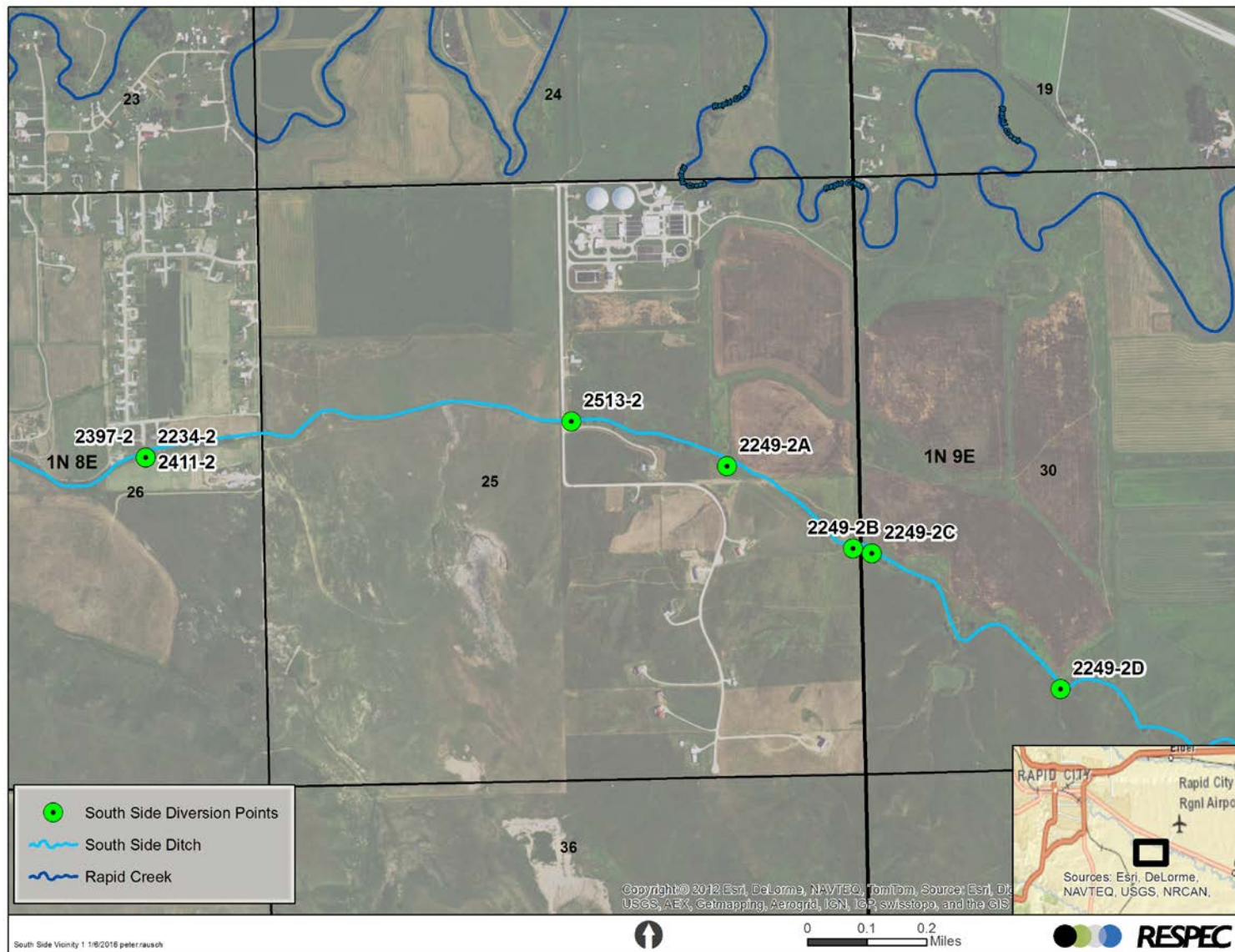


Figure A-5. South Side Ditch Turnout Vicinity Map (1 of 2).

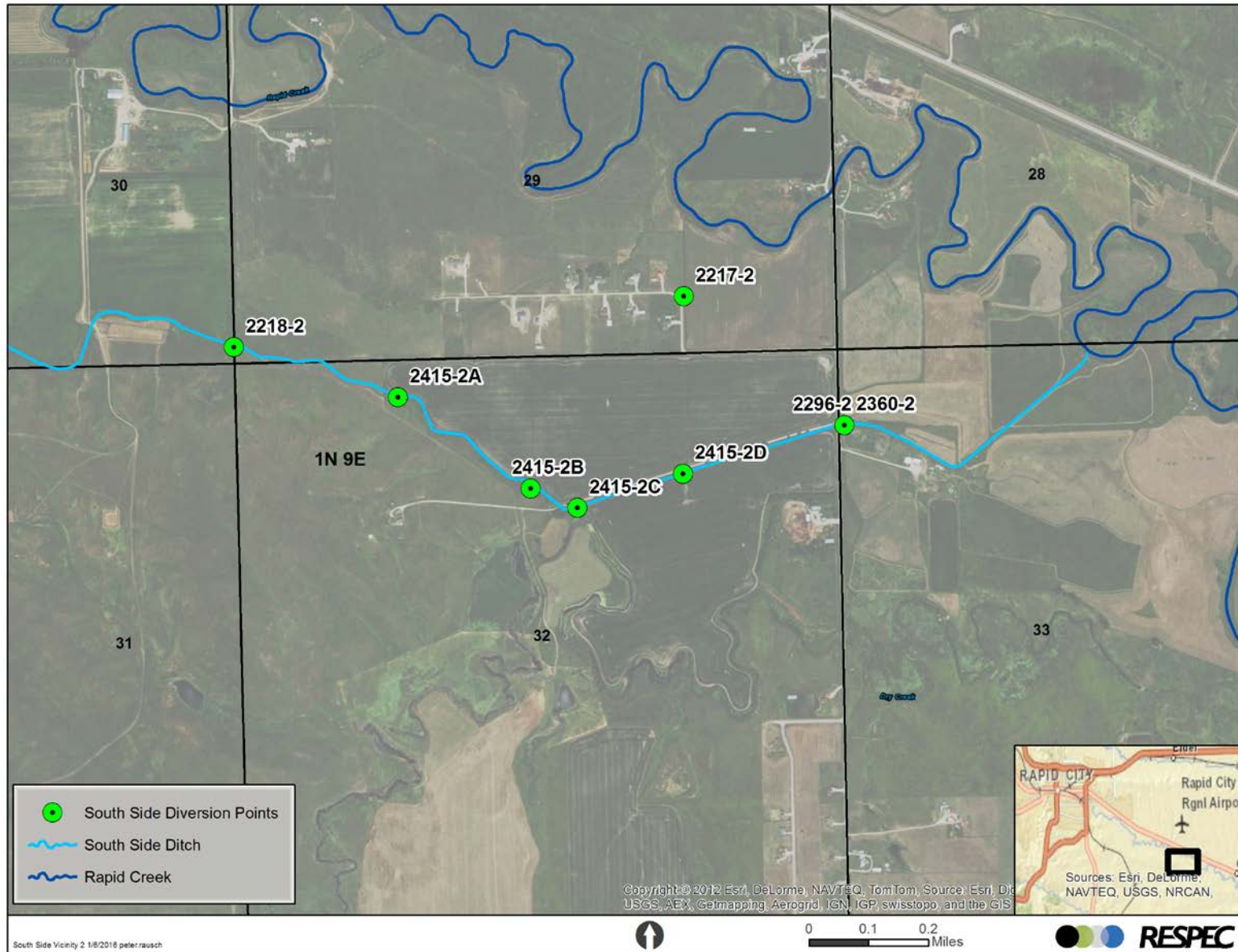


Figure A-6. South Side Ditch Turnout Vicinity Map (2 of 2)