

Assigned on: 1-23-95 By: Karen Schlaak

**SOUTH DAKOTA
WATER PERMIT NO. 2326-2**

Date of first receipt of application January 23, 1995.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2326-2 to John L. Cooke, PO Box 909, Custer SD 57730 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. 2326-2 appropriates 15 gallons per minute (0.033 cubic feet of water per second) from one well (Crystalline Rock) 140 feet deep located in Lot A of Govt. Lot 1 (E 1/2 NE 1/4) Section 9-T3S-R4E.
2. The water appropriated shall be used for the purpose of supplying water to The Fort and a housing development and may not exceed the amount of water needed for beneficial use for commercial use and suburban housing development purposes.
3. The water is to be used during the following described annual period: January 1 - December 31.
4. The date of approval of Permit No. 2326-2 is March 13, 1995.
5. The date from which applicant may claim right is January 23, 1995.
6. One-fifth of the construction is to be completed on or before September 13, 1997.
7. All construction is to be completed on or before March 13, 2000.
8. Water is to be put to beneficial use on or before March 13, 2004.
9. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATION

The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

WATER MANAGEMENT BOARD

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

MAR 29 1995

date

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. 2326-2 Hydrologic Unit 10/20/09
Basin Upper Cheyenne
Newspaper Custer Co. Chronicle
(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: ☒ New ☐ Vested Right (Use predates Mar 2, 1955) ☐ Future Use Reservation
(check one) ☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____
☐ Amendment/Correction to Permit No. _____

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

- Name of Applicant JOHN L. COOKE Phone 605-673-4761
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address PO Box 909 CUSTER State SD 57730
(Street, RR, or Box) (City) (Zip Code)
- Amount of water claimed 0.033 *CFS or _____ **GPM 15 ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply WELL
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) LOT A OF GOLF LOT 1
SEC. 9 T3S, R4E, 34M LE 1/2 NE 1/4
County CUSTER
- County or counties where water will be used CUSTER
- Annual period during which water is to be used THRU DEC 31 1995
- 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)

ADDITION TO OTHER WELLS ON PROPERTY
TO ACCOMMODATE THE FORT - TOURIST BUSINESS
AND FUTURE DEVELOPMENT ON PROPERTY

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 Custer)^{SS}

I, JOHN L. COOKE, 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.

DEBRA A. MAYER Signed _____
NOTARY PUBLIC
Subscribed and sworn to before me this 20TH day of January 19 95
MY COMMISSION EXPIRES
NOVEMBER 17 1997

Debra A Mayer
Notary Public

Supplemental Information

(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter 8 1/2 Depth 140'
- b) Casing Type PLASTIC Diameter 6" Thickness _____
- c) Screen Type NONE Diameter _____ Thickness _____
- d) Gravel Pack Thickness NONE Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth to Water (ground surface to water level) 10'
- g) Distance to nearest existing domestic well:
On applicants property _____ On property owned by others ✓ 600'

2. Dugout Information

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

3. Water Storage Dams

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 _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____

If pipe, diameter _____

f) Secondary Spillway Capacity _____

Spillway Width _____

g) X & Y Slope

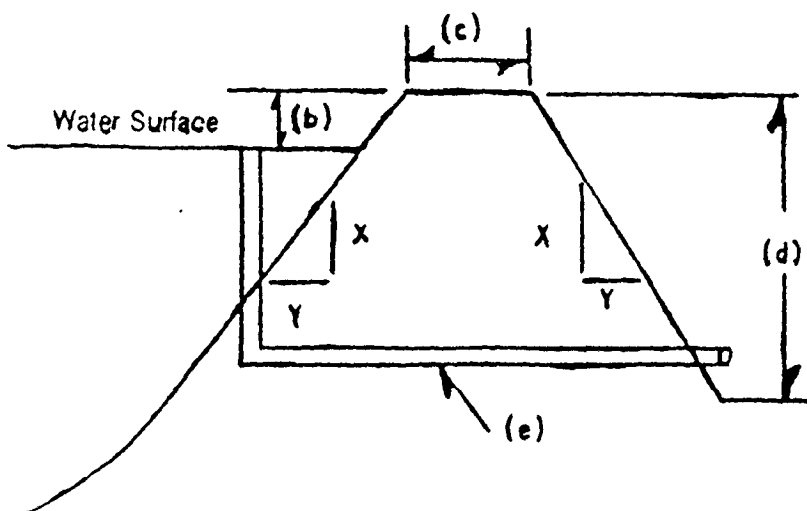
Upstream _____

Downstream _____

h) Surface Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres



RECEIPT

414378

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____, January 23, 19 95

RECEIVED OF John L Cooke, PO Box 909, Custer, SD 57730

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

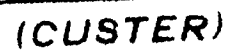
Fee for Application for Permit No. <u>2326-2</u> to Appropriate Water, to construct and to put water to beneficial use _____	50	00
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting 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

Chief Engineer

John Hatch



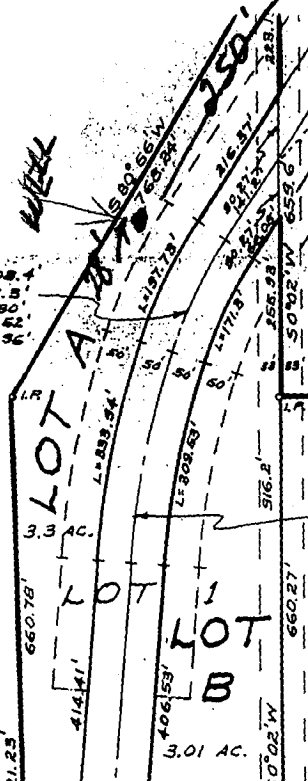
Appl. No. 2235-2

CENTER
SEC 4.

Jack H. Knust
RLS 4896



$\Delta = 15^{\circ}08.4'$
 $R = 458.5'$
 $T = 32.60'$
 $L = 184.62'$
 $L_c = 183.36'$

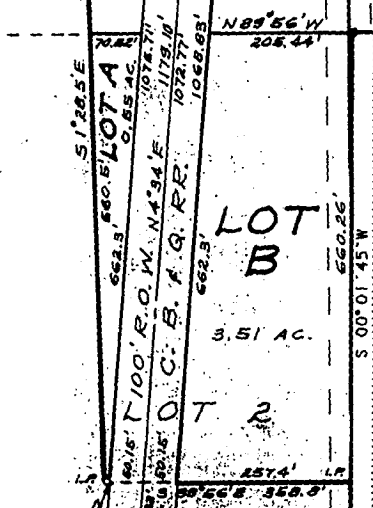


$\Delta = 13^{\circ}53'$
 $R = 1818.2'$
 $T = 161.64'$
 $L = 321.75'$
 $L_c = 320.82'$

$\Delta = 14^{\circ}12.6'$
 $R = 2585.3'$
 $T = 322.41'$
 $L = 641.54'$
 $L_c = 639.87'$

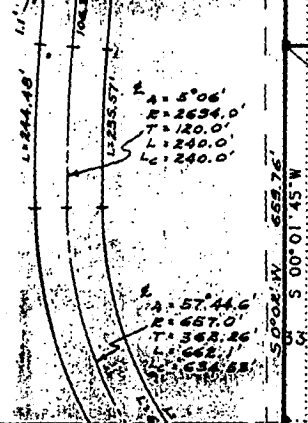
LOT A
9.55 ACRES
SW⁴ OF NW⁴ OF NW⁴

LOT B
0.06 AC.
 $\Delta = 5^{\circ}47'$
 $R = 2618.9'$
 $L = 172.34'$

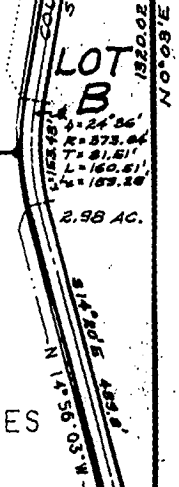


COOKE
TRACT
9.15 ACRES

SECTION LINE
1/4 SECTION LINE



FORT
TRACT
10.14 ACRES



INCY
3 LINES
3 RAILROAD

REPORT ON PERMIT APPLICATION No. 2326-2
JOHN L. COOKE
FEBRUARY 13, 1995

Water Right Application No. 2326-2 proposes to appropriate 15 gallons per minute (0.033 cubic feet of water per second) from one well 140 feet deep located in Lot A of Govt. Lot 1 (E 1/2 NE 1/4) Sec. 9, T3S-R4E. The water is for commercial use at The Fort and suburban housing development.

INTRODUCTION:

SDCL 46-2A-9 requires that a permit to appropriate water may only be issued if there is reasonable probability that there is unappropriated water available for the applicant's proposed use, that the proposed diversion can be developed without unlawful impairment of existing rights and that the proposed use is a beneficial use and in the public interest. This report will address the questions of water availability and the affects on existing rights.

WATER SOURCE: Crystalline Rock (CRSL)

General Information:

The crystalline rock in this area consists primarily of Precambrian aged, quartz-mica schist intruded with granite and pegmatite sills and dikes (Dewitt, et.al., 1989). The crystalline rock is exposed at the surface throughout this area. Ground water is derived from thin bedding planes, joints, and fractures that occur in the rock. The distribution, orientation and interconnection of these zones of secondary porosity and permeability are unpredictable, and the aquifer characteristics are site specific and highly variable. The effects of the geology on the groundwater flow system are not fully understood in this area. Faults, intrusives, the orientation of the beds, and lithologic changes within the rock may all serve as aquifer boundaries. Groundwater occurs under unconfined conditions in the aquifer.

Water Availability:

The availability of unappropriated water from the crystalline rock in this area can be evaluated by considering SDCL 46-6-3.1, which requires that an application to appropriate groundwater can not be approved if, according to the best information reasonably available, it is probable that the quantity of water withdrawn annually from a groundwater source will exceed the quantity of average estimated annual recharge.

Recharge to the crystalline rock in this area occurs through direct infiltration of precipitation via fractures and fissures, and possibly through streamflow losses from Laughing Water Creek and its tributaries. The average annual recharge has not been estimated for the crystalline rock in this area. However, the Division of Water Rights monitors an observation well completed into the crystalline rock (CU-TEMP) in the town of Custer (Sec.24, T3S-R4E). Measurements taken from the well indicate the water level fluctuates in response to seasonal and annual climatic conditions, that is the water level rises in the spring and declines the rest of the year, and the water level is lower during

drought years. Water level measurements suggest that withdrawals have not exceeded recharge over the period of record. Approval of this application will not cause withdrawals to exceed recharge.

Effects on Existing Water Rights:

The crystalline rock is a major source of water in this area. The Division of Water Rights has record of several domestic wells in the vicinity of this permit (Water Rights, 1995). The nearest Water Right/Permit to this permit are two permits belonging to Ruth Zoilkowski, they are approximately 1.5 miles north of this permit. Vested Right No. 2227-2 appropriates 0.155 cfs from two wells, and Permit No. 2228-2 appropriates 0.155 cfs from one well. The water is used for commercial use, aesthetics and fire protection. It is not likely that this appropriation will have an adverse impact on water rights in the area since the requested diversion rate is relatively low and the distance to existing wells is sufficient to minimize any interference.

CONCLUSIONS:

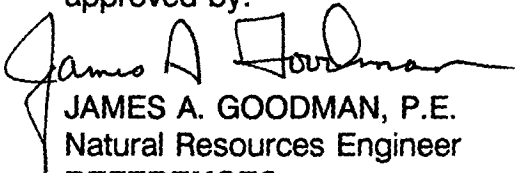
1. The crystalline rock is a viable source of groundwater in this area.
2. Groundwater flow through the crystalline rock is along joint, fractures, and down dip bedding planes.
3. Recharge to the crystalline rock, which is through direct infiltration of precipitation and streamflow from Laughing Water Creek, has not been quantified.
4. There is a reasonable probability that unappropriated groundwater is available from the crystalline rock in this area.
5. There are numerous domestic wells in this area. The nearest appropriative right is approximately 1.5 miles from the well that will supply this application.
6. The groundwater flow system in the crystalline rock is complex therefore interference would be difficult to predict. This proposed appropriation should have no adverse affect on existing water rights/permits due to the small diversion rate requested from the well.
7. The flow system in the crystalline rock is dominated by fracture flow. Fractures which may extend from surface to the bottom of the aquifer make the crystalline rock susceptible to surface contamination.
8. The SD Water Well Completion Report submitted with this application

indicates the well to be used to supply this permit was constructed in accordance with the SD Well Construction Standards.



KEN BUHLER
Natural Resource Engineer

approved by:



JAMES A. GOODMAN, P.E.
Natural Resources Engineer

REFERENCES:

Dewitt, D., J.Redden, D.Buscher, A.Wilson, 1989, Geologic Map of the Black Hills Area, South Dakota and Wyoming, Map I-1910, United States Geological Survey, Washington, D.C. 20242

Water Rights Division, 1995, "Water Permit and Domestic Well Log Files", DENR-Water Rights Division, Joe Foss Bldg, Pierre, SD.

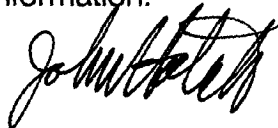
**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2326-2, John L. Cooke**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Environment and Natural Resources concerning Water Permit Application No. 2326-2, John L. Cooke, PO Box 909, Custer, SD 57730.

The Chief Engineer is recommending APPROVAL of Application No. 2326-2 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) in the public interest with the following qualification:

The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

See report on application for additional information.

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

JOHN HATCH, Chief Engineer
February 14, 1995



**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.**

February 16, 1995

John L. Cooke
PO Box 909
Custer, SD 57730

Dear Mr. Cooke:

Water Permit Application No. 2326-2 for commercial and suburban housing development use has 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 Custer County Chronicle printed at Custer, SD (Ph # 605-673-2217). For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice 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 application.

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 16, 1995

Custer County Chronicle
Box 551
Custer, SD 57730

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 2326-3 to be published twice. Please publish the first notice on February 23, 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 John L. Cooke, PO Box 909, Custer, SD 57730 (Ph # 605-673-4761).

A copy of BOTH publications must be SENT to the WATER RIGHTS DIVISION. IMMEDIATELY return the FIRST publication with the FIRST Transmittal form on the bottom of this page. The first copy is needed to check the publication for errors so any corrections can be made in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. No action may be taken on the permit application until proof of publication has been received.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----
FIRST TRANSMITTAL NOTICE TO: Eric Gronlund
Water Rights Division
Joe Foss Building
Pierre SD 57501-3181

No. _____

Date _____

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

Name

Newspaper

Instruction to Newspaper - Publish first Notice on February 23, 1995, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 2326-2 to Appropriate Water

Notice is given that John L. Cooke, PO Box 909, Custer, SD 57730 has filed an application for a water permit to appropriate 15 gallons per minute (0.033 cubic feet of water per second) from one well (Crystalline Rock) 140 feet deep located in Lot A of Government Lot 1 (E 1/2 NE 1/4) Section 9-T3S-R4E. The water is for commercial use at The Fort and suburban housing development.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2326-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and chief engineer. The applicant must file a petition if contesting the chief engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by March 13, 1995.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Division address to request copies of information pertaining to this application. Steven M. Pirner, Acting Secretary, Department of Environment and Natural Resources.

PROOF OF PUBLICATION



STATE OF SOUTH DAKOTA)
County of Custer) ss

I, James Anderson

certify that the attached printed Notice was

taken from the Custer Co

Chronicle

printed and published in Custer

County of Custer and State of

South Dakota. The notice was published in
the newspaper on the following two dates:

2/23/95

3/2/95

Cost of Printing: 36.29

James Anderson
(Signature)

(Title)

(Date Signed)

NOTICE OF HEARING

APPLICATION NO. 2326-2 TO
APPROPRIATE WATER

Notice is given that John L. Cooke, PO Box 909, Custer, SD 57730 has filed an application for a water permit to appropriate 15 gallons per minute (0.033 cubic feet of water per second) from one well (Crystalline Rock) 140 feet deep located in Lot A of Government Lot 1 (E 1/2 NE 1/4) Section 9-13S-R4E. The water is for commercial use at The Fort and suburban housing development.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2326-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and chief engineer. The applicant must file a petition if contesting the chief engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E. Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by March 13, 1995.

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#4572, 2/23, 3/2



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

MAR 29 1995

John L. Cooke
PO Box 909
Custer, SD 57730

Dear Mr. Cooke:

Enclosed is Water Permit No. 2326-2 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Also enclosed is Form 10, Notice of Completion of Works and Application of Water to Beneficial Use, which you are to complete and submit to the Chief Engineer when you have completed the system and/or have put the water to beneficial use. An inspection can then be scheduled so that the Water License may be issued, thus completing your acquisition of a Water Right.

Very truly yours,

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

enclosures

PLEASE NOTE: Certain changes can be made in your permit within the five year construction period, usually without affecting the priority date provided an application to amend your permit is made within the five year period - i.e. changes in location or number of diversion points (wells) or location of land to be irrigated. Well locations for wells into the same aquifer can be moved up to 660 feet without application.

Applications to amend a permit after the five year construction period will be assigned a new priority date. Applications to change water sources, to add lands or increase original diversion rates, if approved will usually receive the date of the new application as a priority date regardless of the five year construction period.

**NOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USE**Date July 27, 1995

TO: Water Rights Division, DENR
523 E. Capitol
Pierre, SD 57501-3181

FROM: John L Cooke P.O. Box 909
(name) (address)

CUSTER SD 57730 673-4761
(city) (state) (zip) (phone)

I have completed the construction of the water diversion system and I have put the water to beneficial use to the maximum extent it is going to be used. I have not exceeded the amounts specified in Water Permit No. 2326-2.

Water Permit No. 2326-2 states that the diversion system is to be constructed by MARCH 13, 2000, and that the water is put to beneficial use by MARCH 13, 2004.
(date) (date)

The diversion system was completed on JULY 12, 1995.
(date)

Applying the water to beneficial use was completed on JULY 12, 1995.
(date)

You may schedule an inspection so that the Water License may be issued.

John L. Cooke
(signature)



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 26, 2001

No. 2235-2 and 2326-2

Heritage Village
Ruth Ziolkowski
1 Village Ave
Crazy Horse SD 57730

Dear Ms. Ziolkowski:

Enclosed are a partially completed "Notice of Transfer" forms for use in filing an ownership change on Water Permit Nos. 2235-2 and 2326-2. The water permits are currently listed in the name of John L Cooke. It is our understanding that you are the owner of this property now.

The transfer forms should be checked over for accuracy and signed by the new owner in the presence of a notary public. Upon completion, return the form to our office with a required filing fee of \$2.50 each (\$5.00 total).

Also, enclosed are the 2000 South Dakota Water Use Questionnaires to be completed and returned in the postage paid envelope.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak
Water Rights Program
605 773-3352

enclosure

NOTICE OF TRANSFER OF OWNERSHIP



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

No. 2326-2

Date: 10-31-01

I/We request that Water Permit No. 2326-2

formerly owned by: John L. Cooke, Custer SD

be transferred to: (name & address) Heritage Village

One Village Ave. Crazy Horse, SD 57730-9506 Telephone No. 605-673-4681

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

1 well - NE 1/4 NE 1/4 Section 9-T3S-R4E

I/We understand that the validity of Water Permit No. 2326-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

A fee of Two Dollars and Fifty Cents (\$2.50) is attached to cover the filing fees as required under SDCL 46-2-13.

STATE OF SOUTH DAKOTA)

County of Custer)

I/We Ruth Ziolkowski being first duly sworn on my oath depose and say that my relation to the above described undertaking is that of Owner, that I have read the above foregoing statement, and that I know of my own personal knowledge that the information herein stated is true.

Ruth Ziolkowski
(Signed)

Subscribed and sworn to before me this 31st day of October, 2001.

Adrian Z Schultz
(Notary Public)

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

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 7, 2001

2235-2
2326-2

Ruth Ziolkowski
Heritage Village
1 Village Ave
Crazy Horse, SD 57730

Dear Ms. Ziolkowski:

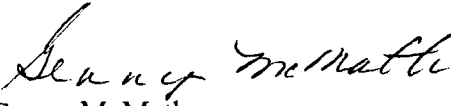
On January 26, 2001, we contacted you regarding ownership of Water Permit Nos. 2235-2 and 2326-2, currently listed in the name of John L Cooke, dba The Fort. The permits authorize diversion of ground water for commercial and suburban housing development purposes. Our January letter included "Notice of Transfer of Ownership" forms for use in filing the ownership changes. To date, we have not heard from you concerning the transfers.

In the event you no longer have the original transfer forms, I am including an additional set. Please review the forms for accuracy and complete as needed. Upon completion, please sign the forms in the presence of a notary and return them to our office with a required filing fee of \$2.50 each (total of \$5.00). The check or money order for the fees can be made payable to the Water Rights Program.

It is very important that ownership records be kept current. South Dakota Water Law 46-5-30.3 requires that any sale, grant, lease, conveyance or other transfer of a water permit to appropriate water be filed with our program within ninety days.

If you have any questions, please contact me. Thank you in advance for your help.

Sincerely,


Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 24, 2001

2326-2

Ruth Ziolkowski
Heritage Village
Avenue of Chiefs
Custer SD 57730

Dear Mr. Ziolkowski:

On October 15, 2001 the investigation of your water use system (Heritage Village), including the extent of application of water to beneficial use, as developed under Water Permit No. 2326-2, was completed by Donald E Stroup, a staff engineer with our program. Your final water right document, the water license, can now be issued.

State law requires we charge a \$50.00 fee for the investigation and issuance of the water license. Upon receipt of the \$50.00 fee, we will complete processing your water license.

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

Also, enclosed is a *Notice of Transfer of Ownership* form. The form needs to be completed, signed by the owner, notarized and returned with a \$2.50 filing fee. The check or money order for the fees (\$52.50) should be made payable to the "Water Rights Program".

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

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program

enclosure

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

416965

Pierre, November 8, 20 01

RECEIVED OF Heritage Village Inc., 24829 Village Avenue, Crazy Horse, SD 57730-9506
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>2326-2</u>	50	00
Fee for Filing Transfer Form <u>232602</u>	2	50
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	52 50

By

Darland Erbele

Chief Engineer

gmw

Permit No. 2326-2
Custer County

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

Report Of Examination Of Works

On **October 15, 2001**, I made a thorough examination of the water use system authorizing the appropriation of 0.033 cubic feet per second (cfs) of water from a well for commercial and suburban housing purposes at The Fort and bearing the priority date of January 23, 1995.

The well and distribution system are in good condition and capable of pumping water at 15 gallons per minute (gpm) or 0.033 cfs. The diversion point is in the NE¼ NE¼ of Section 9 T2S R4E (N43° 48.619' W103° 38.276'), 210-feet South and 55-feet West of the Northeast Corner of the section. 3 43. 8103 . 63 793

Review of Permit Qualifications And Regulations:

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

Report On the Specifics of the System

Diversion Point Information:

- | | |
|--|-----------------------------------|
| 1) Well Drilling Firm: Howe Well Drilling | 2) No. of Wells: 1 |
| 3) Depth(s): 140 feet | 4) Well log available: Yes |

Casing:

- 1) Diameter: **6-inch**
- 2) Length: **26 feet**
- 3) Type: **Steel**

Screen:

- | | |
|---------------------------------------|----------------------|
| 1) Type: None | 2) Length: NA |
| 3) Static water level: 10-feet | |

Pump\ Motor:

- | | |
|--|-------------------------------------|
| 1) Pump Make: Franklin, Submersible, Electric | 2) Pump Model: NA |
| 3) Capacity: 15 gpm | 4) Motor Make: NA |
| 5) Motor Model No.: Unknown | 6) Horsepower rating: 1.5 hp |

Distribution System:

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

COMMENTS:

This commercial property is presently owned and operated as Heritage Village by Ruth Ziolkowski, Crazy Horse Memorial, Avenue of the Chiefs, Custer, SD 57730. This well should be licensed for the as built 15 gpm (0.033 cfs) diversion rate and the license transferred to Ruth Ziolkowski.


Donald E. Stroup

Natural Resources Project Engineer
DENR, Water Rights Program

10/24/01
Date

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 2326-2

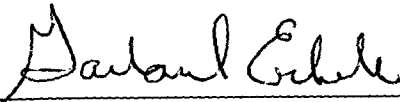
(1) John L Cooke, Custer SD made Application No. 2326-2, January 23, 1995 for a water permit to divert 0.033 cubic feet of water per second from groundwater (one well), Custer County, South Dakota for commercial and suburban housing development purposes. Permit No. 2326-2, with a priority date of January 23, 1995 was approved March 13, 1995 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before March 13, 2000 and for the application to beneficial use of said water on or before March 13, 2004.

On November 8, 2001, Water Permit No. 2326-2 was transferred to Heritage Village.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 0.033 cubic feet of water per second for beneficial use. The location of the diversion point is 210 feet south and 55 feet west of the northeast corner (NE ¼ NE ¼) Section 9-T3S-R4E.

(3) The permit holder 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 Heritage Village, One Village Ave, Crazy Horse SD 57730-9506 the holder and/or owner of Water Right No. 2326-2 is issued a license to appropriate water, the right to use 0.033 cubic feet of water per second from groundwater (one well) with a priority date of January 23, 1995 from the location specified in (2) of this license for commercial and suburban housing development purposes. This license is subject to any limitations or qualifications listed in Water Right No. 2326-2 and subject to South Dakota State Law.



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

DEC 07 2001

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

DEC 07 2001

2326-2

Heritage Village
% Ruth Ziolkowski
One Village Ave.
Crazy Horse, SD 57730-9506

Dear Ms. Ziolkowski:

Enclosed is Water License No. 2326-2. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 416965 in the amount of \$52.50 which you paid for the investigation and issuance of the Water License and the transfer of ownership.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 2326-2, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

As long as you use the water beneficially, as stated in the Water License, the State Water Laws provide that you have a continuing right to use the water. If you have any questions, please contact our office.

Sincerely,

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

enclosures