

WATER PERMIT NO. 2374-2

Name of Applicant: Sugar Shack

Address: HC 73, Box 1808, Deadwood SD 57732

Phone: 605 341-6772

Amount of Water Claimed: 0.011 cfs (5 gpm) & 0.25 AF storage

Total Acres: NA

Source of Water Supply: groundwater & storage dam

Water to be used for: commercial

County: Pennington and Lawrence

Type of Waste Disposal System: septic tanks

Location: approximately 18 miles southeast of Deadwood

PRIORITY

Date Received: 10-28-96

Fee: \$15.00

Corrected Application Received: 11-7-96

Period of Annual Use: January 1- December 31

Remarks: Vested Right with claimed priority date of January 1, 1948

Diversion Point: (Lot A) SE 1/4 SW 1/4

Sec 7-T2N-R5E

Land to be Irrigated: NA

Depth of Well: 23 feet

Well Driller: NA

Remarks:

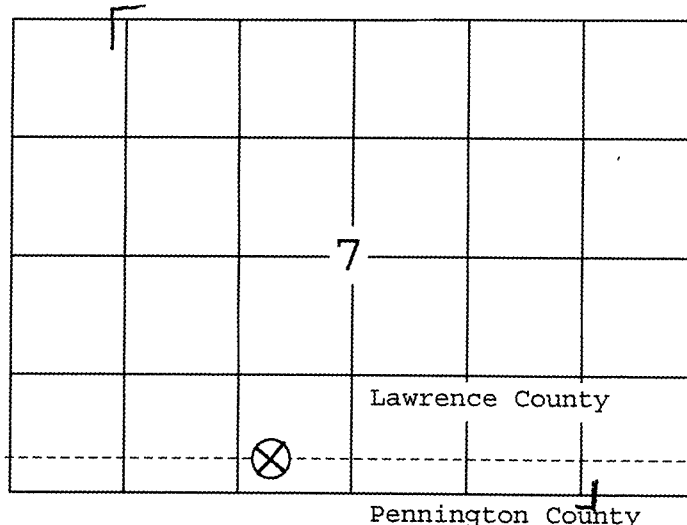
Type of Map: topographic

Prepared by: Ron Duvall

Reviewed and the Number Assigned on: 11-7-96

By: Karen Schlaak

Notice of Hearing - date to intervene: _____



FORM 2: Application for uses other than irrigation
(type or print)

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	(office use only)
	No. <u>2374-2</u> Hydrologic Unit <u>10/2011</u>
	Basin <u>Upper Cheyenne</u>
	Newspaper <u>Rapid City Journal, Rapid City, SD</u>



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

Check use(s) of water:

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

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 Sugar Shack Phone 341-6772
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address HC 73, Box 1808, Deadwood State SD 57732
(Street, RR. or Box) 0.25 AF storage (Zip Code)
- Amount of water claimed 0.011 *CFS or 5.0 **GPM ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply ground water 1 well & dam
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) ~~Lot A~~
S1/2 SW1/4 sec 7 - T2N - R5E
- County Pennington/Lawrence
- County or counties where water will be used Pennington/Lawrence
- Annual period during which water is to be used Jan 1 - Dec 31
- 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)
Water use is primarily for sanitary uses with some potable use.

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)

SS

County of _____)

I, _____, 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 Wendy Smalley

Subscribed and sworn to before me this 7th day of October 19 96

WENDY SMALLEY, NOTARY PUBLIC
PENNINGTON COUNTY, S.D.
My Comm. Exp. July 25, 1997

Wendy Smalley
Notary Public

SOUTH DAKOTA
VESTED WATER RIGHT NO. 2374-2

Date of Receipt of Claim October 28, 1996.

Date of Validation March 5, 1997.

The Water Management Board validated Vested Water Right Claim No. 2374-2 for Sugar Shack, HC 73, Box 1808, Deadwood SD 57732 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 2374-2 appropriates 0.011 cubic feet of water per second (5 gallons per minute) from one well 23 feet deep for commercial use at the convenience store and a 0.25 acre-feet storage dam along Jim Creek; all located in S 1/2 SW 1/4 Section 7-T2N-R5E.
2. The appropriated water is used for commercial use from the well and the water stored in the dam is used for fish and wildlife habitat and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following annual period: January 1 - December 31.
4. The priority date of the Vested Water Right is January 1, 1948.
5. The water use system has been constructed and water has been applied to beneficial use.
6. Water Rights obtained in compliance with the laws of the State of South Dakota must not be unlawfully impaired by this appropriation.

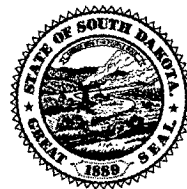
WATER MANAGEMENT BOARD

By: _____

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

JUN 12 1997

date



STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 2374-2

(1) Sugar Shack, HC 73 Box 1808, Deadwood SD 57732 made Application No. 2374-2, for validation of a vested right claim to appropriate 0.011 cubic feet of water per second and 0.25 acre-feet of storage from groundwater (one well), on the county line between Pennington and Lawrence Counties, South Dakota, for commercial and fish/wildlife habitat purposes. Vested Water Right No. 2374-2 was validated March 5, 1997 with a priority date of January 1, 1948. Construction of the described water supply system and application of water to beneficial use has been completed and complies with applicable provisions of South Dakota State Law.

(2) The vested right owner is entitled to divert 0.011 cubic feet of water per second and store 0.25 acre-feet for beneficial use. The location of the diversion point is: S 1/2 SW 1/4 Section 7-T2N-R5E.

(3) Pursuant to Section 46-5-30.1 Sugar Shack, HC 73 Box 1808, Deadwood SD 57732 the holder and/or owner of Vested Water Right No. 2374-2 is issued a license to appropriate 0.011 cubic feet of water per second and storage of 0.25 acre-feet of groundwater (one well) with a priority date of January 1, 1948 from the location specified in (2) of this license. The water is to be used for the purpose of commercial use and fish/wildlife habitat. This license is subject to any limitations, conditions or qualifications listed in Vested Water Right No. 2374-2 and subject to South Dakota State Law.



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

JUN 12 1997

date



Affidavit of Water Use

No. _____

(Type or Print in Ink)

Note: This Form is supplemental to Form 2 and is to be used when an affidavit pertaining to construction and water use already constructed is needed, primarily with vested right claims.

Affidavit Of Construction Of Water Use System And Application Of Water To Beneficial Use

Name of Applicant (Same as Form 2) Sugar Shack

Post Office Address HC 73 Box 1808 Deadwood, SD - 57732
(Street, RR or Box) (State) (Zip Code)

☒ A. Notice of Appropriation 10-2-96 Date of Posting _____

Date of recording _____ Recording date _____
Where Book Page

B. Date of start of construction of water supply system _____

C. Date that water was first applied to beneficial use 1948

D. Name of owner of original water supply system ALTA KLOOZ

E. Amount of water originally applied to beneficial use 100%

F. Present Use of Water - Amount of water now being used Mostly Rest Rooms (Depends on people)

Date that this water was first used 1948

G. Chronological History of Water Use

Well used for Tourism, Business use only -

Attach to this Form 2B any copies of notices, postings, filings, publications, affidavits, or other records that apply. You may also attach any written statement by you, or by others, that you deem pertinent.

State of South Dakota)

ss

County of _____)

I, DAVID J. HARTEN - Sugar Shack the applicant, certify that I have read the foregoing
(print or type) and that the matters therein stated are true.

Signed David J. Harten

Subscribed and sworn to before me October 8, 1996

ROZELLE L. PURCHASE, Notary Public

PENNINGTON COUNTY, SD

My Comm. Exp. May 14, 1998 Notary Public or other qualified officer

I, the undersigned do hereby certify that I know about the water use system described above, that I have read the foregoing, and that the matters therein stated are true.

(Print name) 19____

(Print name) 19____



Supplemental Information

(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter _____ Depth 23 feet
 b) Casing Type steel Diameter 6 in 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 none On property owned by others ~300'

2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field) 2 septic tanks
 b) System Capacity (gallons) 1500 + 500 c) Year Constructed 1948
 d) Connected to the City of _____ Sanitary System. 1948 pumped twice a year

3. Dugout Information

- a) Surface Dimensions 1' Depth 23'
 b) Depth to water (ground surface to water level) 8'

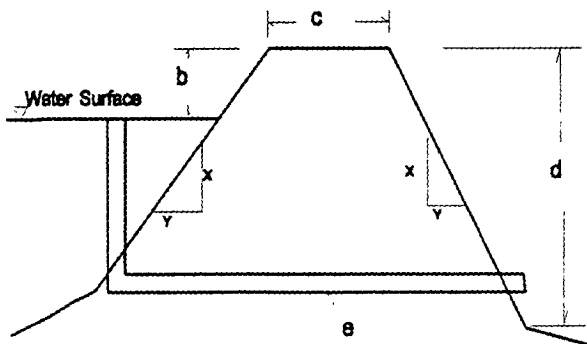
4. Water Storage Dams

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:

2

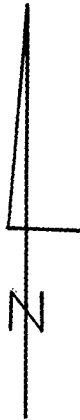
- b) Freeboard STEEL DAM
 c) Crest Width 8' wide
 Crest Length 165' long
 d) Height 3'
 e) Primary Outlet Capacity _____
 If pipe, diameter 18"
 f) Secondary Spillway Capacity _____
 Spillway Width 10' wide
 g) X & Y Slope
 Upstream ✓
 Downstream _____



- h) Surface Area of Impoundment PART of Jim Creek
 i) Storage ~0.25? Acre Feet
 j) Drainage Area Above Dam ? Acres

~6 sq miles





LAWRENCE COUNTY
PENNINGTON COUNTY

U. S. HWY. 385



Pond

STREAM

1.20 ACRES

STREAM

~~REDACTED~~/DAVID HORTON-AGT.

"SUGAR SHACK"

T2N, R5E, SECTION 7
PENNINGTON CO., SOUTH DAKOTA

24-55

1-20

Section 7

Commercial

Lot A of SEH 5444

Antenna (Hertz) - (Quaker) Division, etc. & type
Kend. Guitierrez II

22495 Highway 385

1-27-95 paid

6/25/76

2862

Stank. Erickson II - Trailer

1948 - 16 x 46 - White Star

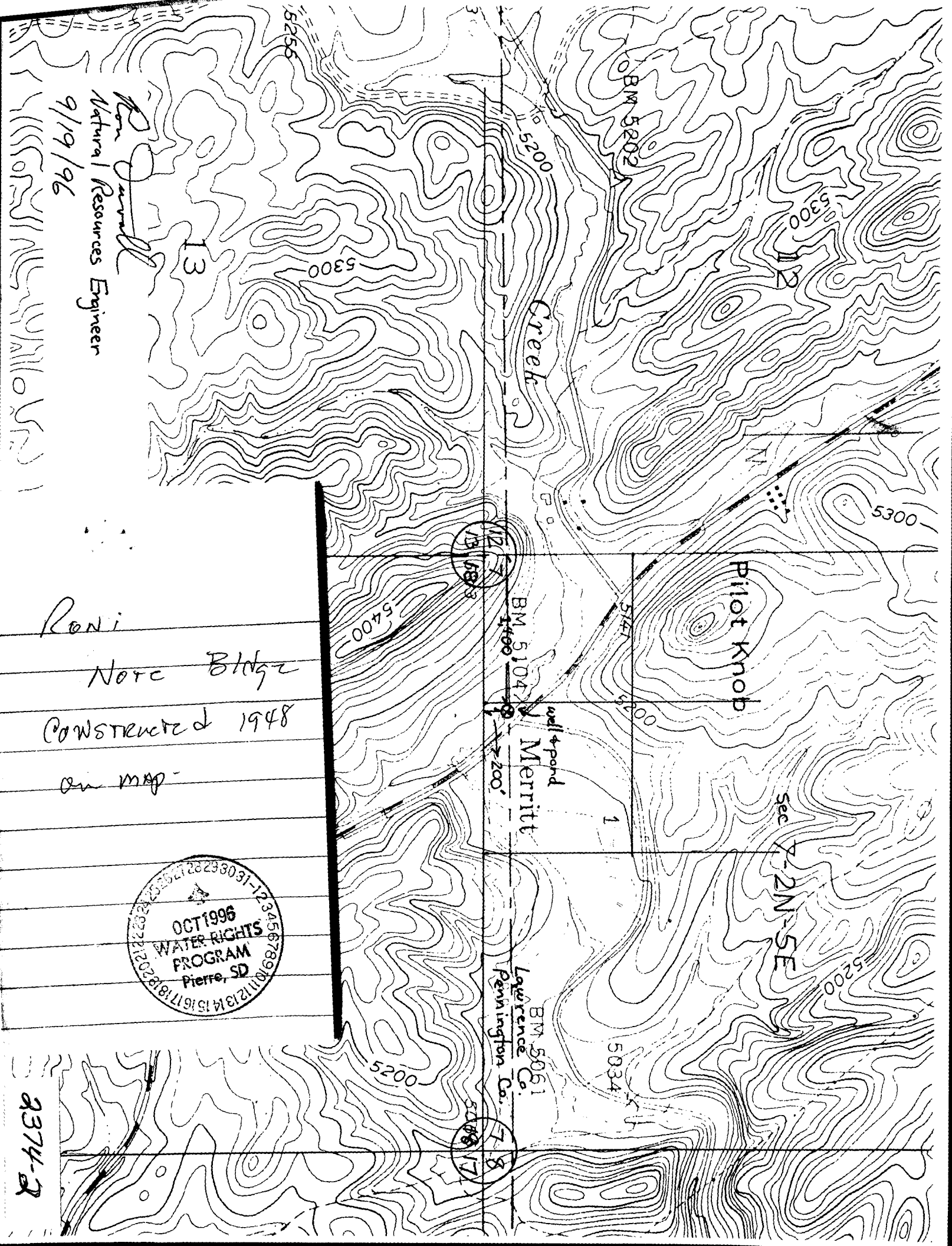


Ken Jurell
Natural Resources Engineer
9/19/96

Roni
Nore Bldg
constructed 1948
on map



2374-2



RECEIPT

415180

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____

November 7, 19 96

RECEIVED OF Sugar Shack, HC 73, Box 1808, Deadwood, SD 57732

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

Fee for Application for Permit No. <u>2374-2</u> to Appropriate Water, to construct and to put water to beneficial use _____	15	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	15 00

By

Chief Engineer

John Hatch 



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 29, 1996

David Horton
Sugar Shack
HC 73 Box 1808
Deadwood SD 57732

Dear Mr. Horton:

I am writing in response to receipt of your vested water right claim for the Sugar Shack on October 28, 1996. Thank you for returning the completed application.

In order to begin processing your vested water right claim, I need the following information:

1. The small dam located behind the Sugar Shack has been included on the application as part of the vested water right claim. Has the small dam been in place since 1948? If the dam was constructed at a later date, then the claimed 1948 priority date is not applicable to the dam and the dam can not be part of the claim.
2. In order to estimate the amount of water in storage, I will need to know the approximate surface area of the dam and the water depth at the face of the dam when the water level is at the spillway elevation.
3. Is the entire pond area, well, and any water use by the Sugar Shack all located in Pennington county or should Lawrence county also be included in the area where water is used?
4. The application fee for a vested right claim is \$15.00. Therefore, I am returning your check for \$50.00. Please remit the correct application fee.

Please respond to the above items and we will begin the processing of your application as soon as possible. If you have any questions concerning the above items, please contact me at (605) 773-3352. I will try to assist you in any way possible.

Sincerely,

Ron Duvall
Natural Resources Engineer
Water Rights Program

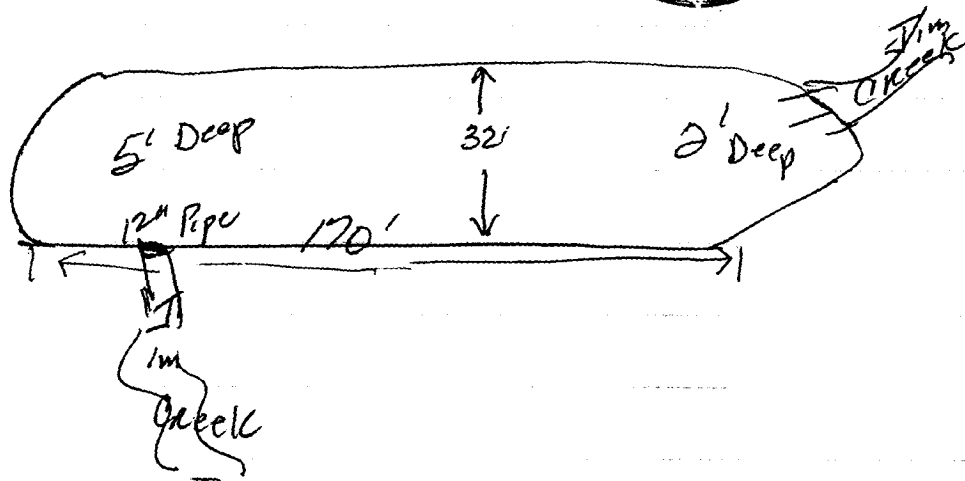
enclosure

ATTN: Ron Duvall

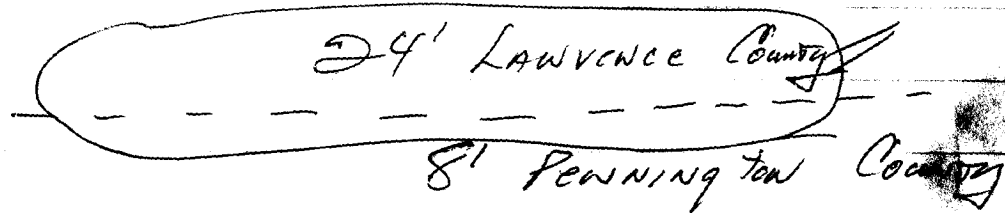


1) Yes

2)



3)



4) Che for 15.00 enclosed

Thanks
Dale Harper

Water Rights Program -- File Documentation

NAME: Dave Horton, dba Sugar Shack

ADDRESS: HC 73, Box 1808, Deadwood SD 57732

DATE: December 17, 1996 **COUNTY:** Pennington/Lawrence

RE: Small dam

COMMENTS:

Dave Horton was contacted via phone to determine the:

1. Type of water use associated with the small dam located on Jim Creek behind the Sugar Shack; and
2. Location of the property line between the Sugar Shack and Trout Haven.

Mr. Horton indicated that the small dam is used for fish habitat and wildlife purposes. The property line between the Sugar Shack and Trout Haven is located about 8 feet in on the embankment and follows the dam embankment. According to Mr. Horton, the impounded water is located on Trout Haven property.



Ron Duvall, Natural Resources Engineer
Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 23, 1996

Steve and Debbie Klima
HC 73, Box 1806
Deadwood, SD 57732

Dear Mr. and Ms. Klima:

Enclosed you will find a copy of the Report, Recommendation and Notice of Publication for Vested Water Right Application No. 2374-2 for Sugar Shack. This information is being sent to you because of the interest you expressed in the Sugar Shack's operation.

If you have any questions, please feel free to contact me.

Sincerely,

Eric Gronlund
Natural Resources Engineer
Water Rights Program
(605) 773-3352

enclosures

REPORT ON VESTED WATER RIGHT APPLICATION NO. 2374-2
for Sugar Shack
November 12, 1996

Application No. 2374-2 proposes to validate a vested water right claim to appropriate 0.011 cfs (5 gpm) from one well approximately 23 feet deep and a 0.25 acre feet storage dam both located in the S 1/2 SW 1/4 of Section 7, T2N-R5E. Portions of this property are located in Pennington and Lawrence Counties. The commercial use of water from the well and water stored in the dam for fish habitat and wildlife purposes have a claimed priority date of January 1, 1948.

AQUIFER - ALLUVIUM (ALQ) or PRECAMBRIAN ROCK (CRSL)

The alluvium in this area consists of sand, gravel and clay which would have been deposited by streamflow action. The Precambrian rock in this area is a metagraywacke which consists of a medium to dark gray siliceous mica schist and impure quartzite (DeWitt, 1989). This is the major rock type of the central and southern core of the Black Hills. Ground water is found within fractures and natural foliations of the Precambrian rock and within natural porosity of the alluvium. Both the alluvium and the Precambrian rock are probably under unconfined or water table conditions. In fact, due to the shallow nature of the existing well the source of water is likely the alluvium lying directly upon the Precambrian surface. The alluvium and Jim Creek would probably be hydraulically connected. There is no completion information available for this well. There is nearby information for a domestic well which is reportedly 55 feet deep, has a static water level of about 32 feet below land surface and is completed into Precambrian rock. Also, there is an existing well 21 feet deep for Water Right No. 688-1 which is completed into gravel (alluvium) located about 300 feet northwest of this application.

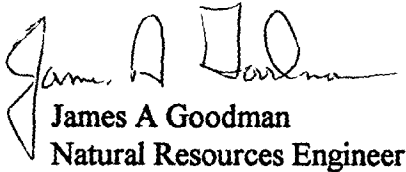
The Water Rights Program does not monitor any observation wells completed into Precambrian rock in this area. The only observation well completed into Precambrian rock in the Black Hills is near Custer. This well responds to climatic conditions, that is, rising water levels during wet years (recharge) and gradually declining water levels during dry years (Water Rights, 1996). Ground water levels probably behave similarly in this area.

REVIEW OF EXISTING WATER PERMITS/RIGHTS

There is one existing Water Right No. 688-1 with a well located approximately 300 feet northwest of the well for this application. Interference is not expected to be a problem. These wells have been in existence for many years with no apparent problems. The diversion rate for this well is very small and should not have a noticeable effect. If this application is validated as a vested right, however, this diversion would have priority over the exiting water right No. 688-1.

CONCLUSIONS

1. The affidavit filed by David Horton indicates the well for this application was completed and put to use in 1948. An inspection on September 19, 1996 by Ron Duvall of the Water Rights Program verified that the pump in the well was capable of producing five gallons per minute.
2. This well is used for commercial purposes and wastewater is disposed of through septic tanks. Presently, the Sugar Shack water supply is in violation of Drinking Water Standards.
3. Based upon the information available (including the map for Water Right No. 688-1), it appears that the well is located in Pennington County. It also appears that the pond is located in both Pennington and Lawrence Counties.
4. No affidavit was filed for the dam just a response to a letter from Ron Duvall to Dave Horton.


James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

DeWitt, D., J.A. Redden, D. Buscher, A.B. Wilson, 1989, Geologic Map of the Black Hills Area, South Dakota and Wyoming, USGS Miscellaneous Map Series, Map I-1910.

Water Rights, 1996, Unpublished Observation Well Data for the Black Hills, SD DENR, Division of Environmental Services, Water Rights Program, Pierre, SD, 57501.

RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED WATER

RIGHT APPLICATION NO. 2374-2, Sugar Shack

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 Validation of Vested Water Right Application No. 2374-2, Sugar Shack, %David Horton, HC 73, Box 1808, Deadwood, SD 57732.

The Chief Engineer is recommending VALIDATION of Application No. 2374-2 for 0.011 cfs (5 gpm) and for storage of 0.25 acre feet in a storage dam because 1) water from the well has been appropriated as described for commercial use and the water stored in the dam has been used for fish habitat and wildlife purposes with a priority date of January 1, 1948, 2) the use has been developed without unlawful impairment of existing rights, 3) the use is a beneficial use and 4) it is in the public interest.

See report on application for additional information.

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

JOHN HATCH, Chief Engineer
December 17, 1996



**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 NEWSPAPERS RIGHT AWAY**

December 23, 1996

Sugar Shack
%David Horton
HC 73, Box 1808
Deadwood, SD 57732

Dear Mr. Horton:

Your Application No. 2374-2 for a vested water right claim has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of your claim has been sent to the Publishers of the Rapid City Journal printed at Rapid City, SD (Ph # (605) 394-8446) and the Lawrence Co. Centennial printed at Deadwood, SD (Ph # (605) 578-3305). For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice and notify this office, if you have any corrections or questions.

Be sure to contact the above newspapers to authorize publication of your notice of hearing to validate a vested right and to arrange for payment. Early contact with the papers can eliminate delays. The publishers have been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. We must receive Proof of Publication before the application can be considered.

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

December 23, 1996

Lawrence Co. Centennial
Box 512
Deadwood, SD 57732-0512

ATTN: Legal Publications:

Enclosed is a Notice of Hearing to Validate Vested Right Application No. 2374-2 to be published twice. Please publish the notice on January 8, 1997, 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 Sugar Shack, %David Horton, HC 73, Box 1808, Deadwood, SD 57732 (Ph # (605) 341-6772).

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. The permit application cannot be considered until proof of publication has been received.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

FIRST TRANSMITTAL NOTICE

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

Date _____

We are in receipt of your letter of _____ enclosing Notice of Hearing to Validate A Vested Right Application which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION. _____

Name

Newspaper



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 23, 1996

Rapid City Journal
P.O. Box 450
Rapid City, SD 57709-0450

ATTN: Legal Publications:

Enclosed is a Notice of Hearing to Validate Vested Right Application No. 2374-2 to be published twice. Please publish the notice on January 8, 1997, 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 Sugar Shack, %David Horton, HC 73, Box 1808, Deadwood, SD 57732 (Ph # (605) 341-6772).

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. The permit application cannot be considered until proof of publication has been received.

Sincerely,

Eric Gronlund
Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

FIRST TRANSMITTAL NOTICE

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

Date _____

We are in receipt of your letter of _____ enclosing Notice of Hearing to Validate A Vested Right Application which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION. _____

Name

Newspaper

Instruction to Newspaper - Publish first Notice on January 8, 1997, with the second publication 7 days later. The applicant is responsible for payment.

**NOTICE OF APPLICATION To Validate
Vested Water Right Application No. 2374-2 to Appropriate Water**

Notice is given that the Sugar Shack, HC 73, Box 1808, Deadwood SD 57732 has filed an application to validate a vested water right claim to appropriate 0.011 cubic feet of water per second (5 gallons per minute) from one well, 23 feet deep, and a 0.25 acre-feet storage dam located in the S 1/2 SW 1/4 Section 7-R2N-R5E. The commercial use of water from the well and water stored in the dam for fish habitat and wildlife have a claimed priority date of January 1, 1948.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 2374-2 because 1) water from the well has been appropriated as described for commercial use and the water stored in the dam has been used for fish habitat and wildlife purposes with a priority date of January 1, 1948, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) it is in the public interest.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights 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 February 21, 1997. 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.

The Water Management Board will consider this application at 10:00 a.m. (CST), March 5, 1997, Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol, Pierre, SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The March 5, 1997, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by February 21, 1997.

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 February 21, 1997, at the above Water Rights Program address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. Nettie H. Myers, Secretary, Department of Environment and Natural Resources.



Sugar Shack applies for water rights

NOTICE OF APPLICATION To Validate Vested Water Right Application No. 2374-2 to Appropriate Water

Notice is given that the Sugar Shack, HC 73, Box 1808, Deadwood SD 57732 has filed an application to validate a vested water right claim to appropriate 0.011 cubic feet of water per second (5 gallons per minute) from one well, 23 feet deep, and a 0.25 acre-feet storage dam located in the S1/2 SW1/4 Section 7-T2N-R5E. The commercial use of water from the well and water stored in the dam for fish habitat and wildlife have a claimed priority date of Jan. 1, 1948.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 2374-2 because 1) water from the well has been appropriated as described for commercial use and the water stored in the dam has been used for fish habitat and wildlife purposes with a priority date of Jan. 1, 1948, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) it is in the public interest.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant

and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights 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 Feb. 21, 1997. 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.

The Water Management Board will consider this application at 10 a.m. (CST), March 5, 1997, Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol, Pierre, SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The March 5, 1997, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by Feb.

21, 1997.

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 Feb. 21, 1997 at the above Water Rights Program address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

Nettie H. Meyers, Secretary
Department of Environment and Natural Resources

Publ: Jan. 8 & 15, 1997
Lawrence County Centennial

199

199

199

199

that the full amount of the fee charged for publishing the same, to-wit, the sum of \$ 55.82, inures solely to the benefit of the publisher of said newspaper; that no agreement or understanding for the division of the fee has been made with any person, and that no part of the fee has been agreed to be paid to any other person.

Erin O. Pate

Subscribed and sworn to before me this

15 day of January, 1997

Malinda S. Griffin

Notary Public, South Dakota

Lawrence Co. Centennial
Hickson (Dickson Media)

Malinda S. Griffin
Notary Public
My Commission Expires July 1, 2002

18545e[11]

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Pennington) SS

I, Patricia K. Van Patten

certify that the attached printed Notice was taken
from the Rapid City Journal

printed and published in Rapid City

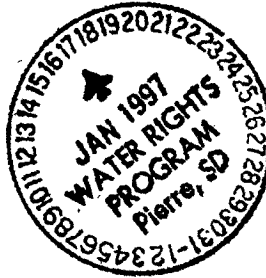
County of Pennington and

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

January 8, 1997

January 15, 1997

Cost of Printing \$ 111.50



Patricia K. Van Patten
(Signature)

Legal Advertising Rep.
(Title)

1/15/97
(Date Signed)

Jan. 8, 1997 L2992

NOTICE OF APPLICATION TO VALIDATE VESTED WATER RIGHT APPLICATION NO. 2374-2

TO APPROPRIATE WATER

Notice is given that the Sugar Shack, HC 73, Box 1808, Deadwood, SD 57732, has filed an application to validate a vested water right claim to appropriate 0.011 cubic feet of water per second (5 gallons per minute) from one well, 23 feet deep, and a 0.25 acre-foot storage dam located in the S1/4SW1/4 Section 7-T2N-R5E. The commercial use of water from the well and water stored in the dam for fish habitat and wildlife have a claimed priority date of January 1, 1948.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 2374-2 because 1) water from the well has been appropriated as described for commercial use and the water stored in the dam has been used for fish habitat and wildlife purposes with a priority date of January 1, 1948, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) it is in the public interest.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights 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 February 21, 1997. 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.

The Water Management Board will consider this application at 10:00 a.m. (CST), March 5, 1997, Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol, Pierre, S.D. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The March 5, 1997, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by February 21, 1997.

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 February 21, 1997, at the above Water Rights Program address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

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

February 11, 1997

NOTICE

TO: David Horton
Sugar Shack
HC 73, Box 1808
Deadwood, SD 57732

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

SUBJECT: Change of Hearing Time for Water Permit Application No. 2374-2, Sugar Shack

The hearing before the Water Management Board on Application No. 2374-2 has been rescheduled to **3:00 PM**, March 5, 1997, in the Conference Room, Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave., Pierre, SD. The hearing time was previously set for 10:00 AM on March 5, 1997.

Any person that petitions to intervene in the hearing on Application No. 2374-2 will be provided notice of the change in hearing time. The 3:00 PM agenda time is an estimate and may be delayed due to prior agenda items.

If you have any questions, please contact Eric Gronlund at (605) 773-3352

c: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on February 12, 1997, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated February 11, 1997, regarding Change of Hearing Time for Water Permit Application No. 2374-2, Sugar Shack, addressed as stated below:

David Horton, Sugar Shack, HC 73, Box 1808, Deadwood, SD 57732.

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

Diane Best, Assistant Attorney General, Capitol Building.



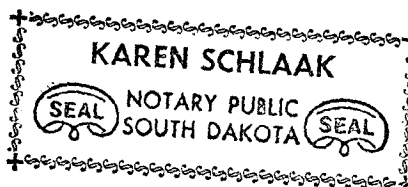
Eric S. Gronlund
Natural Resources Engineer III

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 13th day of February, 1997



Notary Public



KAREN SCHLAAK, Notary Public
My Commission Expires
April 1, 2001

Permit No. XXXX-X
X River - Water District

Report of Examination of Works and/or Application of Water to Beneficial Use

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

I have this day, **September 19, 1996**, made a thorough examination of the water use system held by **Sugar Shack** of **HC 73 Box 1808, Deadwood SD 57732** holder of Permit No. **XXXX-X**, bearing the priority of **date** authorizing the diversion of **x.xx** cu. ft. per second and/or the storage of **xx** acre-feet of the waters of **water source** for **commercial** purposes, in **Pennington** County.

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

A. Works used to divert the water:

Pump:

- 1) Make **Water Ace**
- 2) Serial # **9860394**
- 3) Capacity **5** GPM

Motor:

- 1) Make **General Electric**
- 2) Horsepower rating **1/2** hp

B. Works used to transport/apply water to place of use:

pipeline/ditch

The system is in the following condition **fair**. The point of diversion is located **well: ≈ 1,400 feet E and 200 feet N from the SW corner of section 7-T2N-R5E (SE¼SW¼)**. The works are capable of diverting and conveying to the place of use **x.xx** cu. ft. per second of water and/or storing **xx** acre-feet of water which is to be used for **commercial**. Water has been put to beneficial use to the maximum extent as follows:

legal description/acreage

comprising a total of **xx** acres of land and the license should be issued for **x.xx** cfs and/or **xx** acre-feet of storage.

Applicable permit qualifications have been complied with: Yes **X** No **X**

Exceptions to compliance are: **list** Date report completed: **date**

Ron Duvall
Natural Resources Engineer
DENR, Water Rights Program

The map prepared as part of the onsite investigation is also serving as the application map submitted with the vested water right claim.

FIELD INVESTIGATION REPORT FOR PERMIT NO. _____

DATE OF INVESTIGATION:	September 19, 1996
NAME & ADDRESS OF INVESTIGATION CONTACT/ RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE	
NAME & ADDRESS OF PERMIT HOLDER	Dave Horton Sugar Shack HC 73 Box 1808 Deadwood SD 57732
DIVERSION POINT LEGAL LOCATION	well: $\approx$ 1,400 feet E and 200 feet N from the SW corner of section 7-T2N-R5E

Other permit(s) associated with the project: **none**

WELL INFORMATION:

- 1) Well Drilling Firm: **unknown**
- 2) No. of Wells **1**
- 3) Depth(s) **23** feet
- 4) Well log is available **N**

Casing:

- 1) Diameter **6** inches at surface
- 2) Type **steel**

Screen:

- 1) Type **unknown**

Pump:

- 1) Make **Water Ace**
- 2) Serial # **9860394**
- 3) Capacity **5** GPM

Motor:

- 1) Make **General Electric**
- 2) Horsepower rating **1/2** hp

DISTRIBUTION LINES OR CANALS:



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

JUN 12 1997

VR 2374-2

Sugar Shack
%Steve and Debbie Klima
HC 73, Box 1806
Deadwood, SD 57732

Dear Mr. and Ms. Klima:

Enclosed are your Validated Vested Water Right and Water License No. 2374-2. As long as you use the water beneficially, as stated in the Water License, the State Water Laws provide that you have a continuing right to use the water.

Very truly yours,

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

enclosures