

WATER PERMIT NO. 2380-2

Name of Applicant: C Patrick Dillon

Address: PO Box 611, Custer SD 57730

Phone: 605 673-2155

Amount of Water Claimed: 0.022 cfs (10 gallons per minute)

Total Acres: NA

Source of Water Supply: French Creek

Water to be used for: industrial use

County: Custer

Type of Waste Disposal System:

Location: 1 mile west of Custer

PRIORITY

Date Received: 2-6-97

Fee: \$50.00

Corrected Application Received:

Period of Annual Use:

Remarks:

Diversion Point: E 1/2 SE 1/4 Sec 28-T3S-R4E

Land to be Irrigated: NA

Depth of Well: NA

Well Driller:

Remarks:

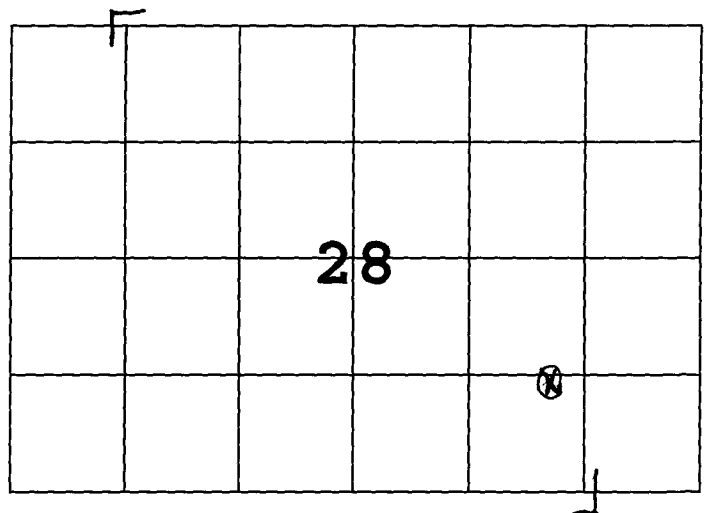
Type of Map: topo

Prepared by: Jack H Knust, P.E.

Reviewed and the Number Assigned on: 2-6-97

By: Karen Schlaak

Notice of Hearing - date to intervene: _____



**SOUTH DAKOTA
WATER PERMIT NO. 2380-2**

Date of first receipt of application February 6, 1997.

The Water Management Board approved Water Permit Application No. 2380-2 on July 9, 1997 for C Patrick Dillon, PO Box 611, 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. 2380-2 appropriates 0.022 cubic feet of water per second (10 gallons per minute) from French Creek located in the E 1/2 SE 1/4 Section 28-T3S-R4E.
2. The water appropriated shall be used for the purpose of supplying water for a small scale mining operation and may not exceed the amount of water needed for beneficial use for industrial use purposes.
3. The water is to be used during the following described annual period: March 1 - November 30.
4. The date from which applicant may claim right is February 6, 1997.
5. One-fifth of the construction is to be completed on or before January 9, 2000.
6. All construction is to be completed on or before July 9, 2002.
7. Water is to be put to beneficial use on or before July 9, 2006.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATION

Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.

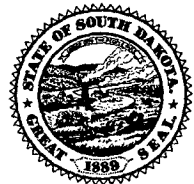
WATER MANAGEMENT BOARD

By: _____

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

AUG 4 1997

date



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>2380-2</u> Hydrologic Unit <u>10/20/09</u>
	Basin <u>Upper Cheyenne</u>
	Newspaper <u>Custer County Chronicle, Custer, 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.) _____

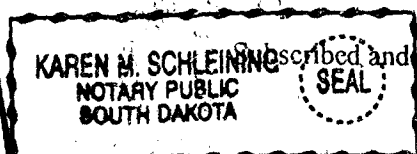
- Name of Applicant C. Patrick Dillon Phone (605) 673-2155
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address P. O. Box 611, Custer State SD 57730
(Street, RR. or Box) (Zip Code)
- Amount of water claimed 0.022 *CFS or 10.0 **GPM _____ ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply French Creek (Natural Pond)
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) 1 pond, E 1/2 of SE 1/4 of
Section 28, T3S, R4E, Custer County, South Dakota
County Custer
- County or counties where water will be used Custer
- Annual period during which water is to be used Spring to Fall. March 1 - November 30
- 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)

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, C. Patrick Dillon, 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.



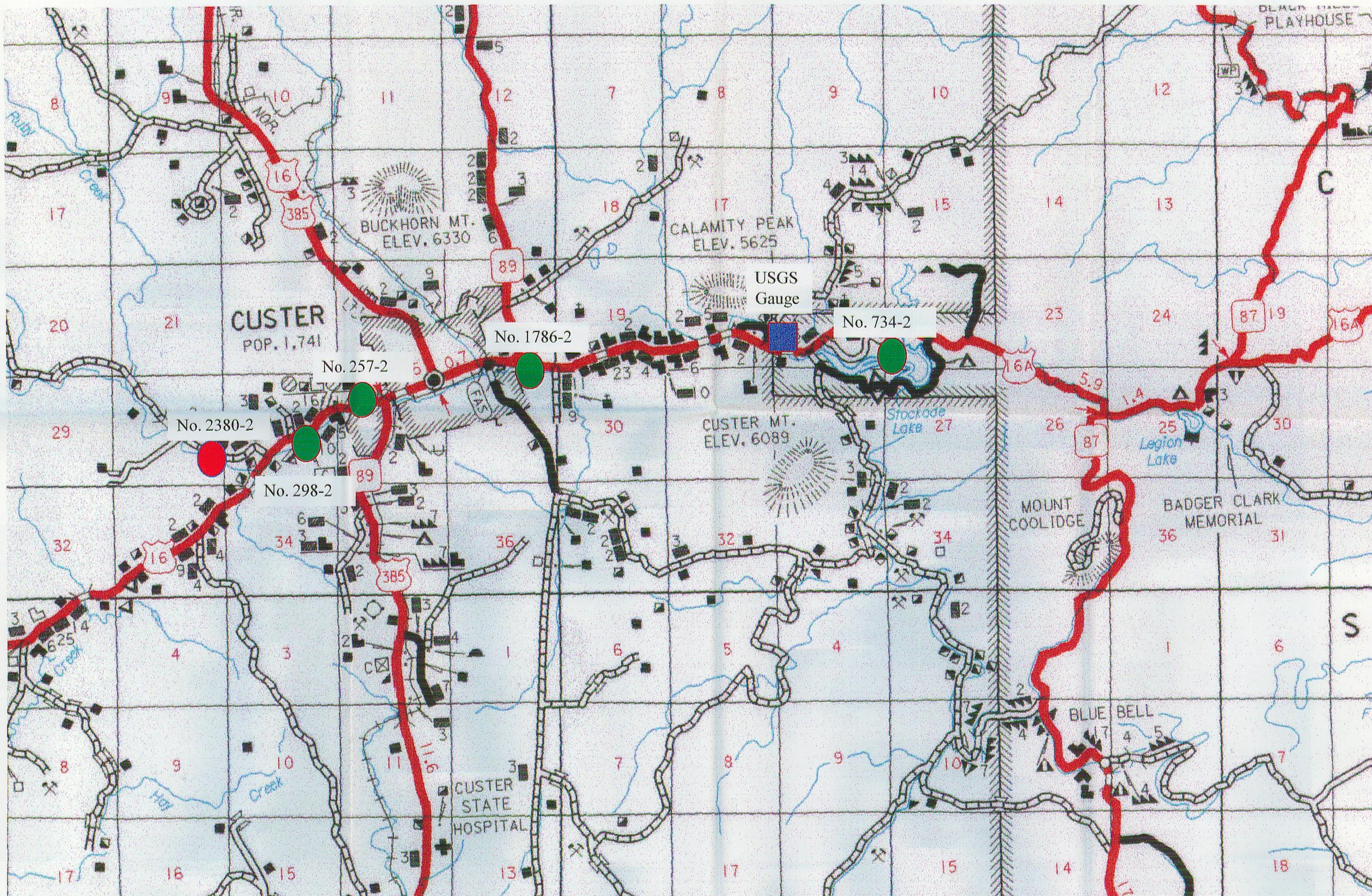
Signed [Signature]

My Commission Expires
September 28, 2001

[Signature]
Notary Public

Notary Public

Area Map for Application No. 2380-2



Supplemental Information

(type or print in ink)

1. Well Information - Proposed Construction

- 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 _____

2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field) Perculation Basin, Disposal For process.
- b) System Capacity (gallons) 2,000 c) Year Constructed 1997
- d) Connected to the City of N/A Sanitary System.

3. Dugout Information

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

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:

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

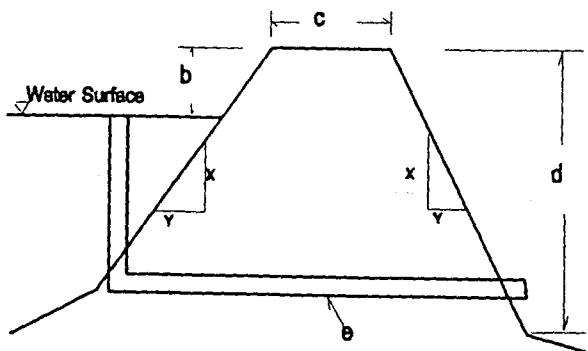
Upstream _____

Downstream _____

h) Surface Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres



C. Patrick Dillon
Water Permit Application

REFERENCE FORM 2 - Number 7

Material is shoveled into screen plant at a rate of 2 TPH. Material is then mixed with water, 1.5 GPM, then washed and separated to 3/4" for heavy mineral capture. Then +1/4" is dewatered and -1/4" is pumped into multi-tiered sand screens for separation and 1.5 GPM is added for classification. Material -200 is dewatered and presettled into two 5' diameter settle cones, then water and silts are pumped into 540 cubic feet plastic lined pond where the silts are allowed to settle down. Then the clear water is used for the next day's run. There are two alternate percolation basins that could be utilized in future developments or emergency high rainfall situations.

All thruput values are based on pilot run application and could fluctuate 75%.



RECEIPT

Division of Water Rights

415243

South Dakota Department of Environment and Natural Resources

Pierre, _____ February 6, 19 97

RECEIVED OF C. Patrick Dillon, P.O. Box 611, Custer, SD 57730

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

Fee for Application for Permit No. <u>2380-2</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 Hatcher
Chief Engineer



Application Form 2D —

New Sources and New Dischargers:

Application for Permit to Discharge Process Wastewater

Form
2D
NPDES



New Sources and New Dischargers Application for Permit to Discharge Process Wastewater

1. Outfall Location

For each outfall, list the latitude and longitude, and the name of the receiving water.

Outfall Number (list)	Latitude			Longitude			Receiving Water (name)
	Deg	Min	Sec	Deg	Min	Sec	
1	43°	45'	24"	103°	38'	23"	French Creek

II. Discharge Date (When do you expect to begin discharging?)

May 1, 1997

III. Flows, Sources of Pollution, and Treatment Technologies

A. For each outfall, provide a description of (1) All operations contributing wastewater to the effluent, including process wastewater, sanitary wastewater, cooling water, and stormwater runoff; (2) The average flow contributed by each operation; and (3) The treatment received by the wastewater. Continue on additional sheets if necessary.

[illegible]

B. Attach a line drawing showing the water flow through the facility. Indicate sources of intake water, operations contributing wastewater to the effluent, and treatment units labeled to correspond to the more detailed descriptions in Item III-A. Construct a water balance on the line drawing by showing average flows between intakes, operations, treatment units, and outfalls. If a water balance cannot be determined (e.g., for certain mining activities), provide a pictorial description of the nature and amount of any sources of water and any collection or treatment measures.

C. Except for storm runoff, leaks, or spills, will any of the discharges described in item III-A be intermittent or seasonal?

☒ Yes (complete the following table)

☐ No (go to item IV)

Outfall Number	1. Frequency		2. Flow		
	a. Days Per Week (specify average)	b. Months Per Year (specify average)	a. Maximum Daily Flow Rate (in XYZ gpd)	b. Maximum Total Volume (specify with units)	c. Duration (in days)
1	6	5	1680 gpd	201,600 gpy	120

IV. Production

If there is an applicable production-based effluent guideline or NSPS, for each outfall list the estimated level of production (projection of actual production level, not design), expressed in the terms and units used in the applicable effluent guideline or NSPS, for each of the first 3 years of operation. If production is likely to vary, you may also submit alternative estimates (attach a separate sheet).

Year	a. Quantity Per Day	b. Units of Measure	c. Operation, Product, Material, etc (specify)
1997	1	Ton	Settled silts.
1998	1.5	Ton	Settled silts.
1999	2	Ton	Settled silts.

A, and B: These items require you to report estimated amounts (*both concentration and mass*) of the pollutants to be discharged from each of your outfalls. Each part of this item addresses a different set of pollutants and should be completed in accordance with the specific instructions for that part. Data for each outfall should be on a separate page. Attach additional sheets of paper if necessary.

Each part of this item requests you to provide an estimated daily maximum and average for certain pollutants and the source of information. Data for all pollutants in Group A, for all outfalls, must be submitted unless waived by the permitting authority. For all outfalls, data for pollutants in Group B should be reported only for pollutants which you believe will be present or are limited directly by an effluent limitations guideline or NSPS or indirectly through limitations on an indicator pollutant.

[illegible]

CONTINUED FROM THE FRONT	EPA ID Number (copy from Item 1 of Form 1)	
--------------------------	--	--

C. Use the space below to list any of the pollutants listed in Table 2D-3 of the instructions which you know or have reason to believe will be discharged from any outfall. For every pollutant you list, briefly describe the reasons you believe it will be present.

1. Pollutant	2. Reason for Discharge
N/A	

VI. Engineering Report on Wastewater Treatment

A. If there is any technical evaluation concerning your wastewater treatment, including engineering reports or pilot plant studies, check the appropriate box below.

☐ Report Available ☒ No Report

B. Provide the name and location of any existing plant(s) which, to the best of your knowledge, resembles this production facility with respect to production processes, wastewater constituents, or wastewater treatments.

Name	Location
None known	

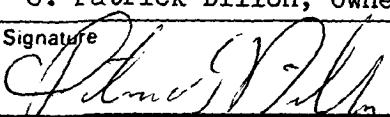
VII. Other Information (Optional)

Use the space below to expand upon any of the above questions or to bring to the attention of the reviewer any other information you feel should be considered in establishing permit limitations for the proposed facility. Attach additional sheets if necessary.

At this time I have no response.

VIII. Certification

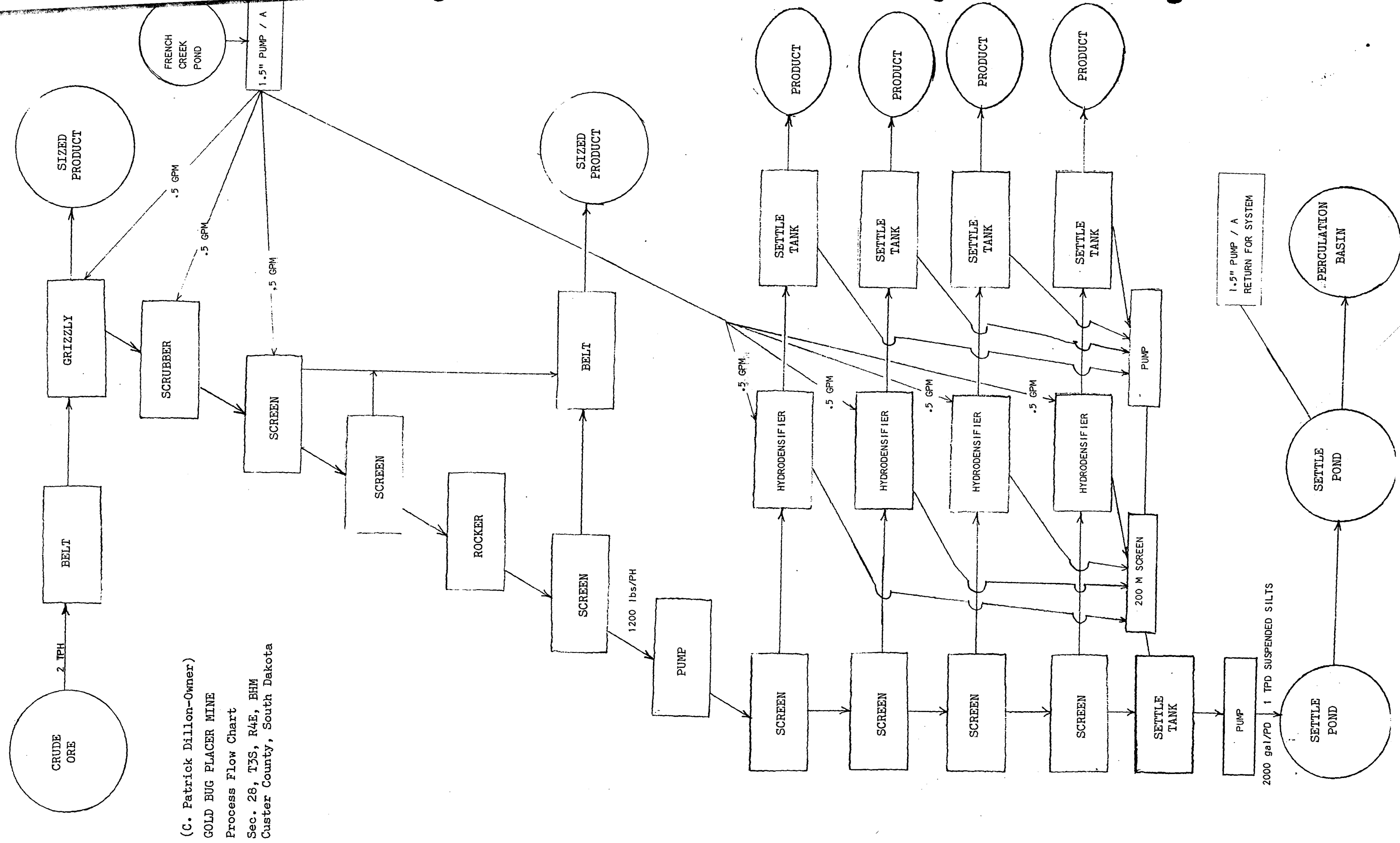
I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

A. Name and Official Title (type or print)	B. Phone No.
C. Patrick Dillon, Owner/Operator	605- 673-2155
C. Signature 	D. Date Signed 2-3-97

C. Patrick Dillon
Water Discharge Application

Material is shoveled into screen plant at a rate of 2 TPH. Material is then mixed with water, 1.5 GPM, then washed and separated to $3/4"$ for heavy mineral capture. Then $+1/4"$ is dewatered and $-1/4"$ is pumped into multi-tiered sand screens for separation and 1.5 GPM is added for classification. Material -200 is dewatered and presettled into two 5' diameter settle cones, then water and silts are pumped into 540 cubic feet plastic lined pond where the silts are allowed to settle down. Then the clear water is used for the next day's run. There are two alternate percolation basins that could be utilized in future developments or emergency high rainfall situations.

All thruput values are based on pilot run application and could fluctuate 75%.





← N

$\frac{1}{4}$ cor

French Creek Road USFS 286
City well

City Well

French creek

5400

Diversion
Point
(Natural Pond)

$\frac{1}{16}$ Corner

A = Mine Pit, Storm water Basin
N 68° W 85.5 FT from diversion point

B = Silt catch pond (lined)
W 16° S 149 FT from diversion point
18' x 12' x 2' Deep
Room For Two if necessary

C = percolation basin for clarified water reentry
N 69° 30' W 189 FT from diversion point
D = old well for alternate

Percolation basin
N 88° W 430 FT From Diversion point

This map to be used
with comparison to Registered Master

NOT To Scale

Sec 28

Sec 33

Sec 2

Sec. 3:



DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

South Dakota Surface Water Discharge Program
Application for Permit to Discharge Wastewater

APPENDIX C - NEW INDUSTRIAL PROCESS WASTEWATER





DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

South Dakota Surface Water Discharge Program
Application for Permit to Discharge Wastewater

GENERAL INFORMATION

This form is provided by the Secretary of the South Dakota Department of Environment and Natural Resources in accordance with §74:03:18:09 of the Administrative Rules of South Dakota. No South Dakota Surface Water Discharge Permit will be issued except under completion, and submittal of this form to:

South Dakota Department of Environment and Natural Resources
Point Source Control Program
Joe Foss Building
523 East Capitol Avenue
Pierre, South Dakota 57501-3181

Check the appropriate response:

☐ Permit Renewal ☒ New Application

Indicate type of facility (check most appropriate response):

☐ POTW ☒ Industry
☐ Water Treatment Plant ☐ Federal
☐ Other (please specify) _____

PLEASE PRINT OR TYPE

1. Name of Facility:

Gold Bug Placer

2. Mailing Address of Owner:

Name C. Patrick Dillon
Street P.O. Box 611
City Custer
State SD County Custer Zip Code 57730

3. Mailing address of facility (if different from owner):

Name _____
Street _____
City _____
State _____ County _____ Zip Code _____

Include other local contacts:

Name _____ Title _____ Phone _____
Name _____ Title _____ Phone _____

4. Telephone Number:

Owner: (605) 673-2155 Facility: () None

FOR SDDENR USE ONLY

Application Number:	_____	Permit Number:	_____
Date Received:	_____	Date Permitted:	_____
Now Facility:	_____	Existing Facility:	_____
Receiving Stream:	_____	PCS:	_____

5. Is this facility located on Indian lands?

☐ Yes

☒ No

6. Please include a brief description of the nature of the business conducted at this facility. Include from one to four Standard Industrial Classification (SIC) codes which best reflect the principal products or services provided by the facility.

SIC 1041, SIC 1446

Placer mining activity concentrating on gold recovery, aggregate sizing
and abrasive sand classifying.

Please list all the activities which require the applicant to obtain a discharge permit.

Aggregates are washed and processed thereby suspending soil solids in a
hydraulic medium.

7. Operational History:

Date Constructed: Winter of 1996

Operational Start-up: Spring of 1997

NOTE: Provide a narrative description of each change or improvement made to this facility, either currently underway or anticipated over the next five years, which will affect the quality of the discharge or generated sludge. For each change or improvement, provide projected dates, as accurately as possible, for completion of each step listed below:

A. Begin Construction Spring 1986

B. End Construction Summer of 1997

C. Begin Discharge Spring of 1997

D. Operational Level Attained Summer of 1998

This is a home built placer mining effort started in 1986. To this point and time, my efforts have produced a system that is 75% complete. It will process two tons per hour of an aggregate bed material. All future development will not exceed this limit. The next five years will see improvements in the sand classifying end of the system mainly to increase purity of finished product.

8. Type of treatment (check all appropriate boxes):

☒ A. No treatment

Stabilization pond:

- ☐ A. Effluent discharge to "Waters of the State"
☐ B. Effluent used for irrigation
☒ C. Total retention - No Discharge
☐ D. Stabilization pond/artificial wetland system
☒ E. Infiltration/percolation basins
☐ F. Aerated Lagoon
☐ G. Other, please explain: _____

Mechanical Treatment Facilities:

- ☐ A. Conventional Secondary Treatment
☐ B. Advanced Treatment - Tertiary
☐ C. Other, please explain: N/A

NOTE: Please attach a description of the treatment units employed by the facility, including a line drawing of the current wastewater treatment facility. Waters of the State can not be used for treatment

9. Number of separate discharge points which have an existing or potential release of treated or untreated wastewater (outfalls): 1

Describe the discharge and the type of wastewater from each outfall. Include all overflows, bypasses, or seasonal discharges from lift stations, lagoons, holding ponds, etc.:

Outfall 001 Silts
Outfall 002 _____
Outfall 003 _____

Attach additional sheets if necessary.

NOTE: Please place points of discharge on a topographic map, or other map if a topographic map is unavailable. This map should extend to one (1) square mile beyond the property boundaries of the facility and each of its intake and discharge facilities; each of its hazardous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, drinking water wells, and surface water intake structures listed in public records, or otherwise known to the applicant in the map area.

10. Are you able to bypass your treatment facility?

- ☐ Yes If yes, which outfall(s) listed above correspond to this bypass discharge? _____
☒ No

11. Is discharge (check one):

- ☒ A. Continuous
☐ B. Intermittent
☒ C. Seasonal
☐ D. No Discharge

If other than continuous, please explain: _____

12. Name of Receiving Waters: French Creek

If wastewater is discharged to places other than surface water, please explain: Clarified water will be pumped into percolation basin on 14' deep gravel bar for reabsorption into ground water.

13. Type of Sludge disposal (check all appropriate boxes):

☐ A. Land Application (please explain): _____

☒ B. Surface Disposal

☐ C. Landfill

☐ D. Other (please explain): _____

☐ F. Sludge is not generated or disposed of at this facility

14. If A, B, C, or D was marked in Question 13, provide a narrative on the following sludge production information:

A. Tons of dry sludge produced each year 300 tons

B. Average percent solids sludge produced 60%

C. Tons of dry sludge disposed of each year 300 tons

D. Average percent solids sludge sent for use and/or disposal 100%

E. Attach any sludge monitoring data obtained over the last year (including groundwater monitoring data, results of hazardous waste tests, and results of actions taken to determine whether sludge is hazardous). Include a description of the methods used and sampling locations and dates. N/A

15. List other information which you feel should be brought to the attention of the SDDENR in regard to the issuance of a discharge permit for the facility.

Efforts to clean lined pit of settled silt will provide sub-soil mixture for reclamation efforts. System use will prioritize reuse of process water.
~~Efforts to control storm water runoff have won merit.~~

Attach additional sheets if necessary.

16. Type of Discharge (check all that apply):

☐ Publicly Owned Treatment Works (Complete Appendix A)

☐ Existing Industrial process wastewater (Complete Appendix B)

☒ New Industrial process wastewater (Complete Appendix C)

☐ Non-contact cooling water, or other non-process wastewater (Complete Appendix D)

☐ Storm water associated with industrial activity (Complete Appendix E)

☐ Large or medium municipal separate storm sewer system

☐ Discharge to sanitary sewer and/or Publicly Owned Treatment Works (Complete Appendix C)

☐ Backwash from water treatment plants (Complete Appendix C)

☐ Concentrated animal feeding operation (Complete Appendix C)

☐ Concentrated aquatic animal production facility (Complete Appendix C)

☐ Privately owned treatment works (Complete Appendix C)

☐ Federal facility (except those located on Indian reservations) (Complete Appendix C)

☐ Silvicultural point source (Complete Appendix C)

☐ Other (please specify) _____

17. Does this application substantially duplicate an application by the same applicant which was denied by the SDDENR or the USEPA within the past five years and which has not been reversed by a court of competent jurisdiction?

☐ Yes

☒ No

18. Existing Environmental Permits

Please check all other Environmental Permits which are held by the facility. Include permit numbers in the space provided:

☐ A. NPDES or SWD (Discharges to Surface Water) _____

☐ B. UIC (Underground Injection of Fluids) _____

☐ C. RCRA (Hazardous Wastes) _____

☐ D. PSD (Air Emissions from Proposed Sources) _____

☒ E. Other (please specify) Forest Service Reclamation Permit

☒ F. Other (please specify) SDDENR Mine Permit

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I also certify that I will provide for the operation of this facility in accordance with the Rules and Regulations Governing Operation of Water Pollution Control Facilities and will provide certified operators as required by SDCL 34A-3, Water Supply and Treatment System Operators. I am aware that there are significant penalties for submitting false information, including revocation of the permit and the possibility of fine and imprisonment for knowing violations.

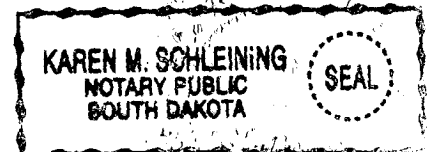
NOTE: Application must be signed by the authorized chief elective or executive officer of the applicant, or by the applicant, if an individual.

Name (print) C. Patrick Dillon
Title Owner/Operator
Date 2-3-97
Signature *C. Patrick Dillon*

Subscribed and sworn to before me this 3rd day of February, 1997.

Karen M. Schleining
Notary Public

My commission expires September 28, 2001



Department of Environment and Natural Resources
Air and Surface Water Program
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181
Telephone: (605) 773-3351

STATE OF SOUTH DAKOTA
BEFORE THE SECRETARY OF

THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

IN THE MATTER OF THE	)	CERTIFICATION OF
APPLICATION OF <u>C. Patrick Dillon</u>	)	
<u>Gold Bug Placer</u>	)	APPLICANT
(FACILITY NAME)	)	
STATE OF <u>South Dakota</u>	)	
COUNTY OF <u>Custer</u>	) SS	
	)	

I, C. Patrick Dillon, the applicant in the above matter after being duly sworn upon oath hereby certify the following information in regard to this application:

South Dakota Codified Laws Section 1-40-27 provides:

"The secretary may reject an application for any permit filed pursuant to Titles 34A or 45, upon making a specific finding that:

(1) The applicant is unsuited or unqualified to perform the obligations of a permit holder based upon a finding that the applicant, any officer, director, partner, or resident manager of the facility for which application has been made:

- (a) Has intentionally misrepresented a material fact in applying for a permit;*
- (b) Has been convicted of a felony or other crime of moral turpitude;*
- (c) Has habitually and intentionally violated environmental laws of any state or the United States which have caused significant and material environmental damage;*
- (d) Has had any permit revoked under the environmental laws of any state or the United States; or*
- (e) Has otherwise demonstrated through clear and convincing evidence of previous actions that the applicant lacks the necessary good character and competency to reliably carry out the obligations imposed by law upon the permit holder; or*

(2) The application substantially duplicates an application by the same applicant denied by the board within the past five years which denial has not been reversed by a court of competent jurisdiction. Nothing in this subdivision may be construed to prohibit an applicant from submitting a new application for a permit previously denied if the new application represents a good faith attempt by the applicant to correct the deficiencies that served as the basis for the board's denial in the original application.

All applications filed pursuant to Titles 34A and 45 shall include a certification, sworn to under oath and signed by the applicant, that he is not disqualified by reason of this section from obtaining a permit. In the absence of evidence to the contrary, that certification shall constitute a prima facie showing of the suitability and qualification of the applicant. If at any point in the application review, recommendation, or hearing process, the secretary finds the applicant has intentionally made any material misrepresentation of fact in regard to this certification, consideration of the application may be suspended and the application may be rejected as provided for under this section.

Applications rejected pursuant to this section constitute final agency action upon that application and may be appealed to circuit court as provided for under chapter 1-26."

Pursuant to SDCL 1-40-27, I certify that I have read the forgoing provision of state law, and that I am not disqualified by reason of that provision from obtaining the permit for which application has been made.

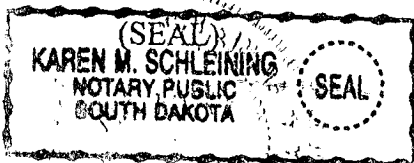
Dated this 3rd day of Feb, 1997.

[Signature]
Applicant

Subscribed and sworn before me this 3rd day of February, 1997.

[Signature]
Notary Public

My commission expires: My Commission Expires
September 26, 2001



PLEASE ATTACH SHEET DISCLOSING ALL FACTS PERTAINING TO
SDCL 1-40-27 (1) (a) THROUGH (e).
ALL VIOLATIONS MUST BE DISCLOSED, BUT WILL NOT
AUTOMATICALLY RESULT IN THE REJECTION OF AN APPLICATION.

Material is shoveled into screen plant at a rate of 2 TPH. Material is then mixed with water, 1.5 GPM, then washed and separated to $3/4"$ for heavy mineral capture. Then $+1/4"$ is dewatered and $-1/4"$ is pumped into multi-tiered sand screens for separation and 1.5 GPM is added for classification. Material -200 is dewatered and presettled into two 5' diameter settle cones, then water and silts are pumped into 540 cubic feet plastic lined pond where the silts are allowed to settle down. Then the clear water is used for the next day's run. There are two alternate percolation basins that could be utilized in future developments or emergency high rainfall situations.

All thruput values are based on pilot run application and could fluctuate 75%.

↑ N
T3S
R4E

⊕ corner

⊗ City well

French Creek Road USFS 286

French Creek

5400

5400

⊗
Diversion Point
(Natural Pond)

⊗
1/4 corner

A = Mine Pit, Storm water Basin
N 68° W 85.5 FT from diversion point
= Silt catch pond (lined)
W 16° S 199 FT from diversion point
18' x 12' x 2' Deep
Room For Two if necessary
= percolation basin for
clarified water reentry
N 69° 30' W 189 FT from Diversion point
= old well for alternate
percolation basin
N 88° W 430 FT from Diversion point

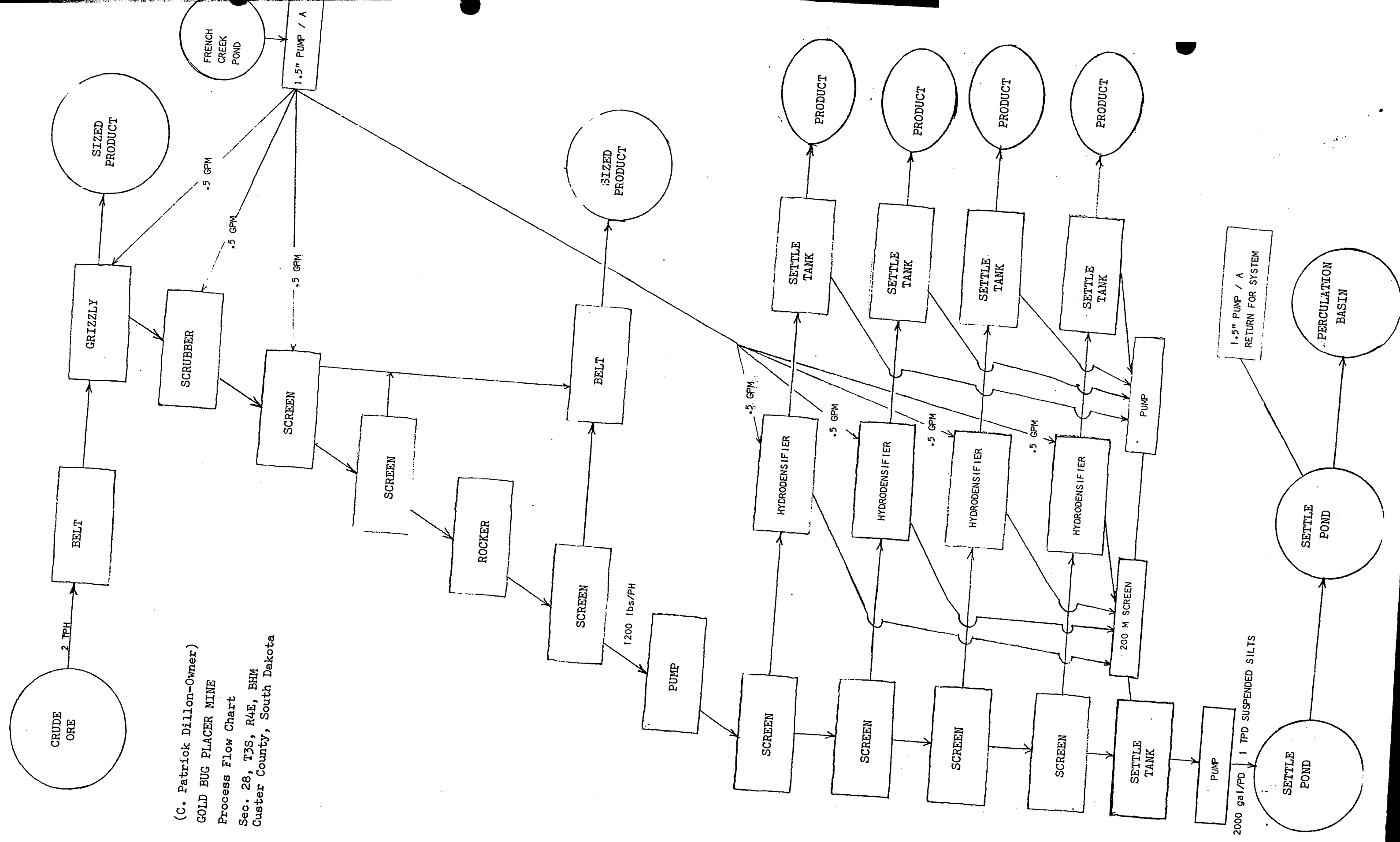
NOT To Scale

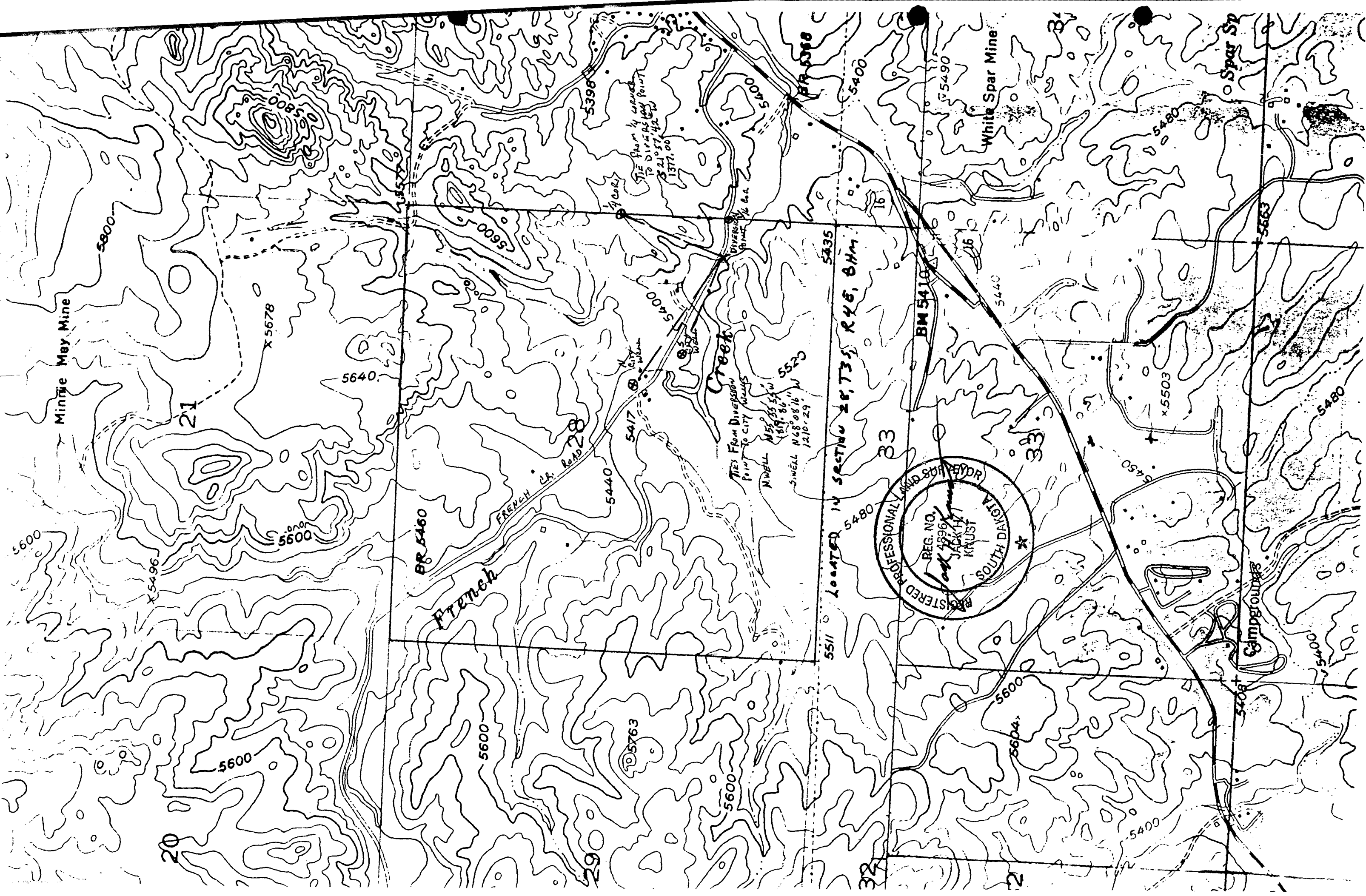
Sec 28

Sec 27

Sec 33

Sec. 34





↑ N
T3S
R4E

1/4 corner

City Well

French Creek Road 4575 286

French Creek

5400

5400

Diversion Point
(Natural Pond)

1/4 corner

= Mine Pit, Storm water Basin
N 88° W 85.5 FT from diversion point
= Silt catch pond (lined)
W 160 S 199 FT from diversion point
18' x 12' x 24' Deep
Room for two if necessary

= percolation basin for
clarified water ready to
N 69° 30' W 189 FT from Diversion point
old well for alternate
Percolation basin
N 88° W 430 FT from Diversion point

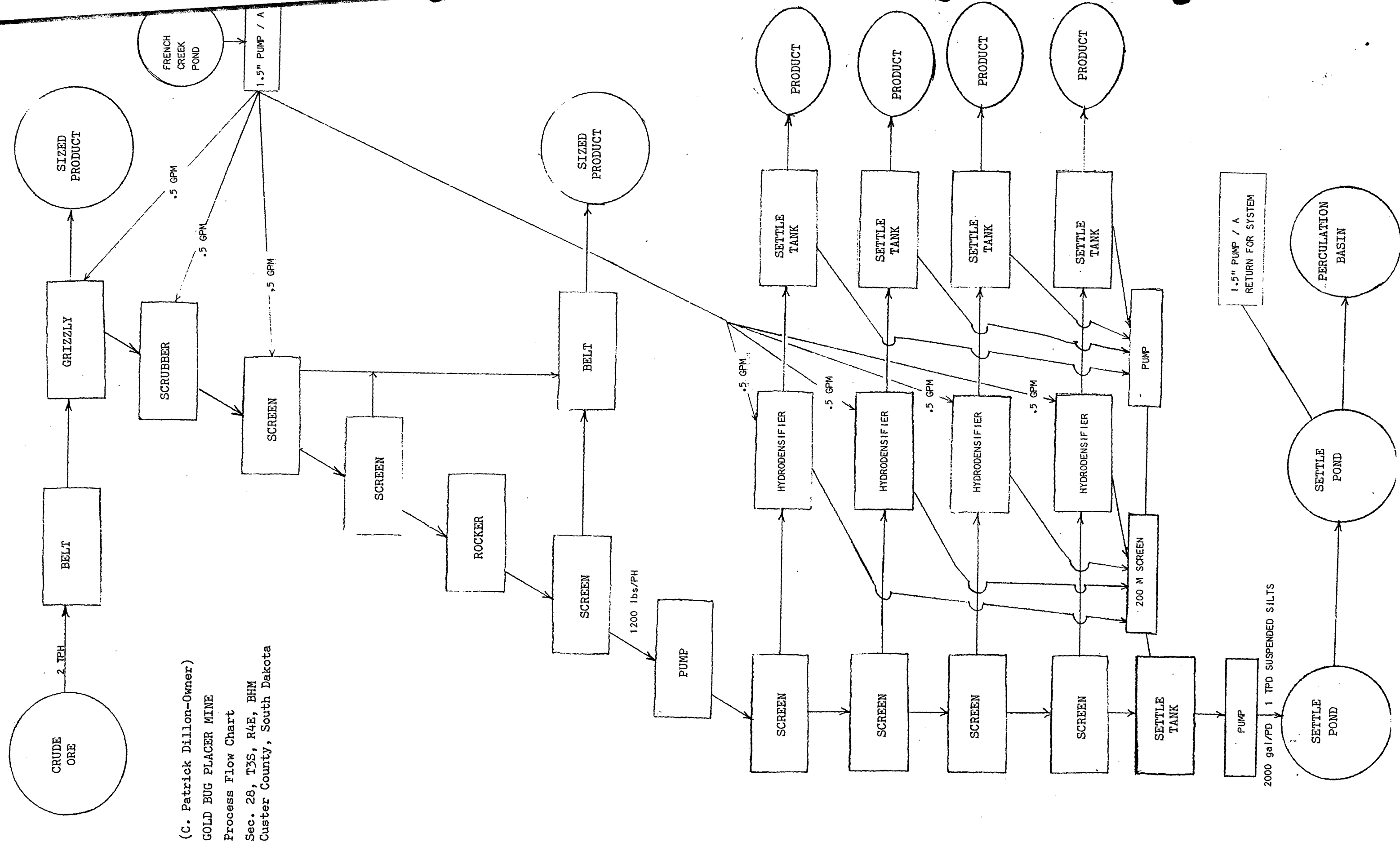
This map to be used
for comparison to Registered Master
of To Scale

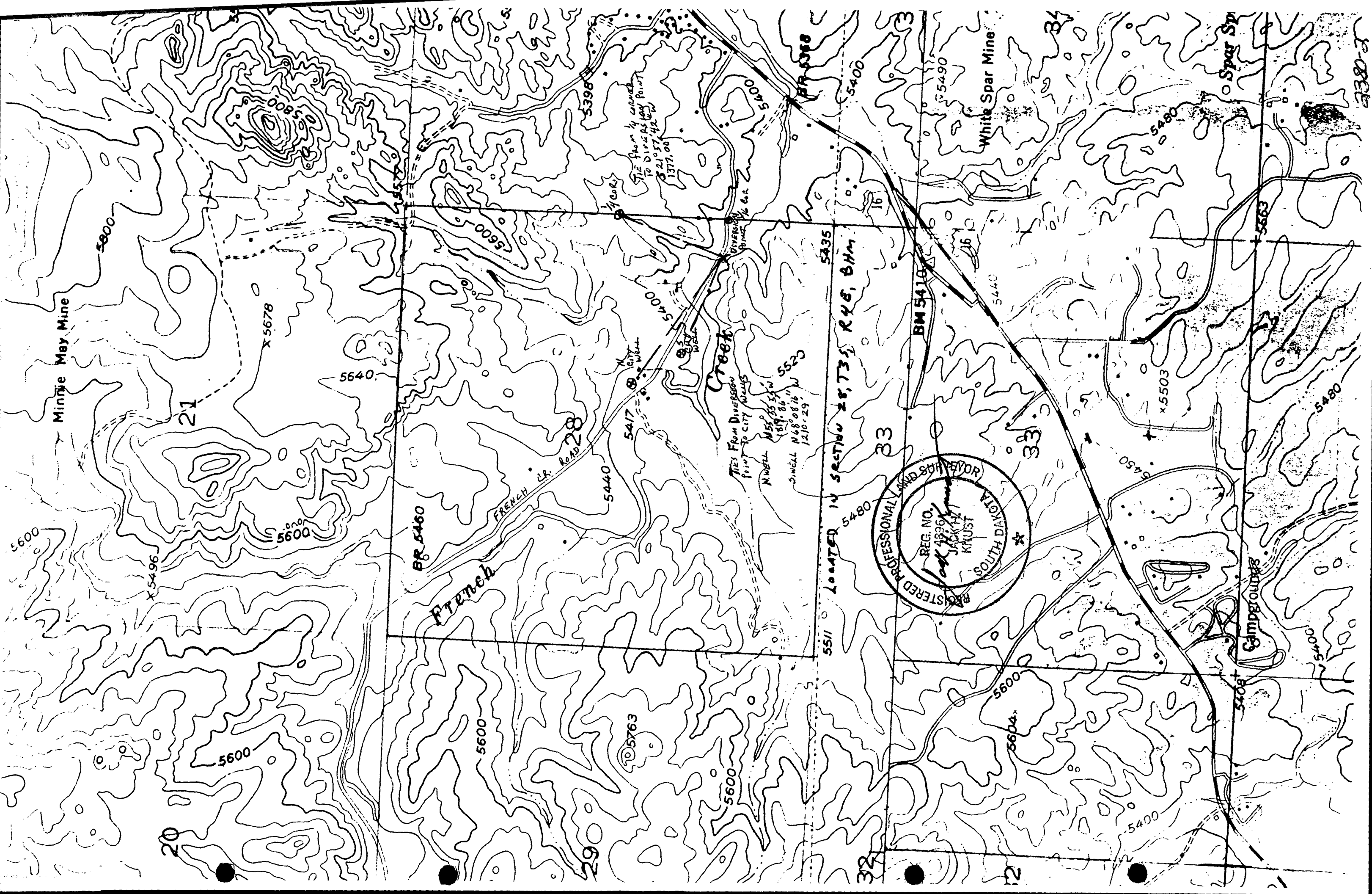
Sec 28

Sec 2

Sec 33

Sec 3





Minnie May Mine

White Spar Mine

Spar Sp

French

FRENCH Lk. ROAD

Creek

TIES FROM DIVERSION POINT TO CITY WELLS

NWELL N55°55'55"W 89.86' SS23

SINELL N68°08'16"W 1210.29'

REGISTERED PROFESSIONAL LAND SURVEYOR
REG. NO. 4896
JACK H. KRAUS
SOUTH DAKOTA

5511 LOCATED IN SECTION 28, T3S, R4E, B1M

BM 5410

BM 5398

Campgrounds

20

21

29

28

32

33

32

33

34

3380-2



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 11, 1996

Patrick Dillon
PO Box 611
Custer SD 57730

Dear Mr. Dillon:

This letter is in response to our December 11, 1996, phone conversation concerning your mining activities near Custer SD. Thank you for your inquiry concerning what permits are needed for your mining activities. I have enclosed the following applications for your use:

1. Water Right Permit Application
2. Application to Discharge Wastewater

Each application has instructions, but please call us if you need assistance with either of the applications. We will try to assist you in any way possible with completion of the applications. The business cards attached to the applications will refer you to the appropriate contact person.

Sincerely,

Ron Duvall
Natural Resources Engineer
Water Rights Program

C. Patrick Dillon
P. O. Box 611
Custer, SD 57730
605-673-2155



February 4, 1997

Ron Duvall,
Natural Resources Engineer
Division of Water Rights

Lonnie W. Steinke
Natural Resources Engineer
Point Source Control Program

State of South Dakota
Department of Environment & Natural Resources
Joe Foss Building
523 East Capitol Ave.
Pierre, SD 57501

Dear Ron & Lonnie:

Please find enclosed Permit Applications and Water Permit Application fee in the amount of \$50.00. I will be in Pierre on business February 12, 13 and 14 and would like an appointment on the 14th to discuss the enclosed applications. Please call me at 605-673-4419 during business hours to schedule a time convenient to you.

Respectfully,

C. Patrick Dillon

CHEYENNE RIVER BASIN
06402995 FRENCH CREEK ABOVE STOCKADE LAKE, NEAR CUSTER, SD

61

LOCATION.--Lat 43°46'10", long 103°32'10", in SE1/4 NW1/4 SW1/4 sec.21, T.3 S., R.5 E., Custer County, Hydrologic Unit 10120109, on right bank, 0.3 mi above Stockade Lake, 0.4 mi below mouth of Willow Creek, and 2.5 mi east of Custer on Highway 16A.

DRAINAGE AREA.--68.7 mi².

PERIOD OF RECORD.--August 1990 to current year.

GAGE.--Water-stage recorder. Elevation of gage is 5,190 ft above sea level, from topographic map.

REMARKS.--Records good except those for estimated daily discharges, which are poor. Water temperature and specific conductance measured during the year are compiled in the Miscellaneous Temperature Measurements and Field Determinations section.

DISCHARGE, CUBIC FEET PER SECOND, WATER YEAR OCTOBER 1994 TO SEPTEMBER 1995
DAILY MEAN VALUES

DAY	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
1	.24	1.7	e1.7	e.40	e2.0	3.6	2.5	7.0	65	35	10	3.5
2	.42	e1.6	e1.7	e.20	e1.8	3.6	2.8	8.7	69	34	9.0	3.3
3	.43	e1.6	e1.6	e.10	e1.6	3.2	2.6	12	68	36	7.8	3.0
4	.46	e1.8	e1.4	e.15	e1.3	2.2	2.6	13	94	32	8.8	3.0
5	.37	2.1	e1.2	e.20	e1.0	2.0	2.8	12	124	28	12	4.1
6	6.8	2.3	e1.0	e.25	e.95	1.7	3.4	38	92	24	14	4.0
7	2.1	3.5	e1.0	e.30	e.91	1.3	3.7	44	74	23	10	3.4
8	.67	4.9	e1.0	e.40	e.90	1.2	3.8	277	87	20	7.7	3.5
9	.41	5.1	e1.2	e.60	e.80	2.2	3.9	153	136	19	6.5	3.9
10	.36	4.0	e1.3	e1.0	e.64	e70	3.6	93	152	18	6.1	4.1
11	.33	3.5	e1.4	e.90	e.50	e120	3.0	75	130	16	5.9	4.4
12	.32	3.3	e1.3	e.80	e.40	e70	3.5	70	106	15	5.6	4.2
13	.31	e3.0	e1.2	e.80	e.30	41	4.6	179	106	14	5.2	3.8
14	.32	e2.7	e1.0	e.90	e.25	15	4.6	150	86	15	4.6	3.4
15	4.4	e2.5	e.80	e1.0	e.20	9.4	4.2	107	74	16	4.5	3.2
16	18	e2.9	e.70	e.90	e.20	8.7	4.4	90	66	25	4.1	2.9
17	8.3	e2.4	.75	e.70	e.30	5.9	4.8	85	59	20	3.8	2.8
18	12	e2.0	.77	e.60	e.50	4.7	4.5	75	53	17	3.7	4.3
19	7.0	e1.8	.80	e.70	e2.0	6.0	4.2	93	49	37	3.6	5.5
20	5.0	e1.6	.76	e.60	e10	5.0	4.4	78	44	31	3.4	7.2
21	4.0	e1.3	.71	e.50	e50	4.8	5.4	66	98	21	3.6	7.0
22	3.4	e1.0	.69	e.50	e37	5.7	5.4	61	81	21	5.1	6.4
23	2.7	e1.0	.67	e.60	25	4.7	5.2	59	61	16	7.6	6.4
24	2.3	e1.2	.70	e.70	17	4.2	5.1	55	52	15	5.4	6.0
25	2.2	e1.3	.84	e.90	12	3.4	5.8	60	48	32	5.2	5.4
26	2.1	e1.2	.81	e1.2	9.6	3.0	6.4	86	44	20	9.4	5.0
27	2.1	e1.0	.83	e1.6	e6.8	2.6	5.6	89	41	14	8.4	4.6
28	2.0	e.90	.82	e1.2	4.9	2.3	5.0	81	43	11	6.4	4.3
29	1.8	e1.0	e.70	e1.0	---	e2.0	5.2	76	46	10	5.7	4.2
30	1.7	e1.4	e.60	e1.3	---	e2.2	6.5	66	39	9.2	4.4	4.4
31	1.6	---	e.50	e1.7	---	2.4	---	61	---	10	3.7	---
TOTAL	94.14	65.60	30.45	22.70	188.85	414.0	129.5	2419.7	2287	654.2	201.2	131.2
MEAN	3.04	2.19	.98	.73	6.74	13.4	4.32	78.1	76.2	21.1	6.49	4.37
MAX	18	5.1	1.7	1.7	50	120	6.5	277	152	37	14	7.2
MIN	.24	.90	.50	.10	.20	1.2	2.5	7.0	39	9.2	3.4	2.8
AC-FT	187	130	60	45	375	821	257	4800	4540	1300	399	260

STATISTICS OF MONTHLY MEAN DATA FOR WATER YEARS 1991 - 1995, BY WATER YEAR (WY)

	1991	1992	1993	1994	1995
MEAN	2.16	1.83	1.10	.80	2.83
MAX	5.03	2.67	2.24	2.32	6.74
(WY)	1994	1994	1994	1994	1995
MIN	.42	.60	.30	.19	.31
(WY)	1993	1993	1991	1991	1993

SUMMARY STATISTICS

FOR 1994 CALENDAR YEAR

FOR 1995 WATER YEAR

WATER YEARS 1991 - 1995

ANNUAL TOTAL	1659.02	6638.54	
ANNUAL MEAN	4.55	18.2	8.36
HIGHEST ANNUAL MEAN			18.2
LOWEST ANNUAL MEAN			2.64
HIGHEST DAILY MEAN	82	277	277
LOWEST DAILY MEAN	.07	.10	.07
ANNUAL SEVEN-DAY MINIMUM	.11	.23	.11
INSTANTANEOUS PEAK FLOW		408	408
INSTANTANEOUS PEAK STAGE		7.40	7.40
ANNUAL RUNOFF (AC-FT)	3290	13170	6060
10 PERCENT EXCEEDS	12	67	18
50 PERCENT EXCEEDS	1.7	4.1	2.6
90 PERCENT EXCEEDS	.17	.66	.30

e Estimated

a Also Aug. 28 and Sept. 20, 1994.

REPORT ON WATER PERMIT APPLICATION NO. 2380-2

C. Patrick Dillon

March 7, 1997

Water Permit Application No. 2380-2, C. Patrick Dillon, proposes to appropriate 0.022 cubic feet of water per second (10 gallons per minute) from French Creek for industrial use in a small scale mining operation. The diversion point is located in the E 1/2 SE 1/4 of Section 28, T3S-R4E. The project is located approximately one mile west of Custer, SD.

Review of Water Source

SDCL 46-2A-9 states a permit to appropriate water may be issued only 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.

United States Geological Survey (USGS) gauging station No. 06402995 installed in August 1990 and located 0.3 mile above Stockade Lake shows an annual mean flow of 8.4 cubic feet of water per second (cfs) and a low annual mean of 2.6 cfs. There have been times during the summer months that the flow has dropped well below 1 cfs.

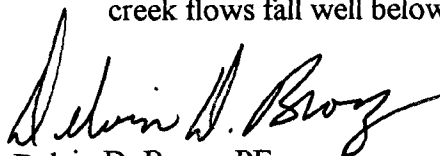
Review of Existing Water Rights

Four water rights/permits use French Creek as a water source. The South Dakota Department of Game, Fish, and Parks holds a Vested Water Right Claim for Stockade Lake. Stockade Lake has a surface area of 130 acres and the claim is for an annual fill of the reservoir. The city of Custer has a water right for the annual fill of a dam that holds approximately 30 acre-feet. The city of Custer also has a water right for 0.23 cfs from a well constructed along the banks of French Creek. The fourth is a water permit for 1.0 cfs for a small mining project downstream from the city of Custer. All four water rights/permits are downstream from the proposed diversion for Water Permit Application No. 2380-2.

Water would only be available for Water Permit Application No. 2380-2 after the appropriations for the downstream water rights/permits have been met.

Conclusions

1. Water Permit Application No. 2380-2, C. Patrick Dillon, proposes to divert 0.022 cfs from French Creek for industrial use in a small scale mining operation.
2. Water for this project will only be available when domestic use and the four senior water rights permits have been satisfied.
3. Records for a USGS gauging station on French Creek show that during some summer months creek flows fall well below 1 cfs.



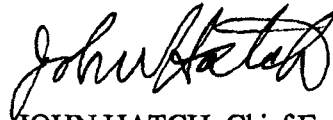
Delvin D. Brosz, PE
Natural Resources Engineer
Water Rights Program

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2380-2, C. Patrick Dillon**

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. 2380-2, C. Patrick Dillon, PO Box 611, Custer, SD 57730.

The Chief Engineer is recommending DENIAL of Application No. 2380-2 for the following reasons: 1) unappropriated water is not available, 2) existing rights will be unlawful impaired, and 3) it is not in the public interest to allow new appropriations of water from this segment of French Creek.

See report on application for additional information.

A handwritten signature in black ink, appearing to read "John Hatch", with a stylized flourish at the end.

JOHN HATCH, Chief Engineer
March 25, 1997



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 27, 1997

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

C Patrick Dillon
PO Box 611
Custer SD 57730

Dear Mr. Dillon:

We have reviewed Water Permit Application No. 2380-2 to appropriate 10 gallons per minute from French Creek for your mining operation. The enclosed report and recommendation of the Chief Engineer recommend DENIAL of the application.

You can oppose the recommendation to DENY Application No. 2380-2 by instructing the newspaper to publish the notice of hearing. A hearing before the Water Management Board will then be scheduled for April 30, 1997. The notice of hearing has been sent to the Publisher of the Custer County Chronicle printed at Custer SD (Ph # 605 673-2217).

If you want to proceed you must contact the Custer County Chronicle 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.

If you decide to withdraw the application or have any questions, please contact me.

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

March 27, 1997

Custer County Chronicle
Box 551
Custer, SD 57730-0551

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 2380-2 to be published twice. Please publish the first notice on April 3, 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 C. Patrick Dillon, P.O. Box 611, Custer, SD 57730 (Ph # (605) 673-2155).

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
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. 2380-2

Date 3

We are in receipt of your letter of 3/27/97 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 April 3, 1997, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 2380-2 to Appropriate Water

Notice is given that C Patrick Dillon, PO Box 611, Custer SD 57730 has filed an application for a water permit to appropriate 0.022 cubic feet of water per second (10 gallons per minute) from French Creek located in the E 1/2 SE 1/4 Section 28-T3S-R4E. The water is for industrial use for a small scale mining operation.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends DENIAL of Application No. 2380-2 for the following reasons: 1) unappropriated water is not available, 2) existing rights will be unlawfully impaired, 3) it is not in the public interest to allow new appropriations of water from the segment of French Creek.

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 April 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 8:00 a.m., April 30, 1997, Floyd Matthew Training Center, Joe Foss Building, 523 East 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 April 30, 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 April 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 April 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.

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 County
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:

4-3-97

4-10-97

Cost of Printing \$ 57.03

(Signature)

(Title)

(Date Signed)



**NOTICE OF
APPLICATION NO. 2380-2
TO APPROPRIATE WATER**

Notice is given that C. Patrick Dillon, PO Box 611, Custer SD 57730 has filed an application for a water permit to appropriate 0.022 cubic feet of water per second (10 gallons per minute) from French Creek located in the E1/2 SE1/4 Section 28-T3S-R4E. The water is for industrial use for a small scale mining operation.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends DENIAL of Application No. 2380-2 for the following reasons: 1) unappropriated water is not available, 2) existing rights will be unlawfully impaired, 3) it is not in the public interest to allow new appropriations of water from the segment of French Creek.

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 April 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 8:00 a.m., April 30, 1997, Floyd Mathew Training Center, Joe Foss Building, 523 East 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 April 30, 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 April 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 April 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.

NOTICE OF COMPLETION OF WORKS AND APPLICATION OF WATER TO BENEFICIAL USE

Date 7-7-02

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

RECEIVED

JUL 10 2002

WATER RIGHTS
PROGRAM

FROM:

Patrick Dillon
(name)PO Box 611
(address)Custer
(city)SD
(state)57730
(zip)Message 605 390 4714
605 673 2155
(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. 2380-2.

Water Permit No. 2380-2 states that the diversion system is to be constructed by

7-9-2002, and that the water is put to beneficial use by
(date)

7-9-2004.
(date)

The diversion system was completed on 6-1999.
(date)

Applying the water to beneficial use was completed on 6-1999.
(date)

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

[Signature]
(signature)



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 28, 1997

Sue Bennett, Finance Officer
City of Custer
622 Crook Street
Custer, SD 57730-1698

Dear Ms. Bennett:

A water right permit application has been filed by C. Patrick Dillon requesting an appropriation of water from French Creek. The Chief Engineer is recommending denial of this pending application. Enclosed is a copy of the notice of hearing which is scheduled to be published April 3 and 10, 1997, in the Custer County Chronicle.

I am sending you this notice and a copy of the report and recommendation because the city of Custer holds a water right for a dam along French Creek. If the city wants to participate in the hearing, a petition to intervene must be filed by April 21, 1997.

Please forward this information to the appropriate city official for review. If you have any questions, please feel free to contact me.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352

enclosure

CITY OF CUSTER CITY

622 CROOK ST.
CUSTER, SD 57730-1698
PH. 605-673-4824
FAX 605-673-2411



OFFICE OF THE MAYOR

April 10, 1997

SD Dept. of Environment & Natural Resources
Mr. Eric Gronlund, Water Rights Program
Joe Foss Building, 523 East Capitol
Pierre, South Dakota 57501-3181

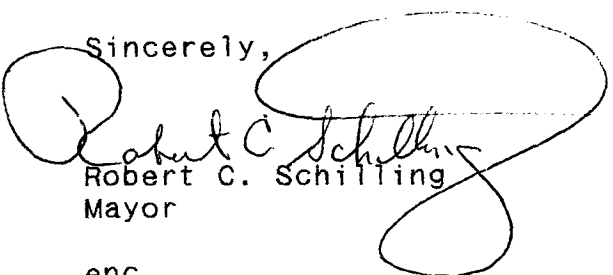
Dear Mr. Gronlund,

Thank you for informing the City of the application for water rights permit filed by C. Patrick Dillon. Please consider this as the City's petition for denial of the permit.

I am enclosing documents which will support the City's position of maintaining adequate water rights in this area of French Creek. These documents include a list of the City's water right permits prepared by John Kelley, Water/Wastewater Supervisor; a letter dated February 10, 1992 regarding the development of new private wells from our engineers, The Alliance of Architects and Engineers; and a letter from Dr. J. P. Gries, a consulting geologist regarding groundwater supply available to the City.

Please let me know if you have any questions or if you feel it will be necessary for a presentation to the Water Management Board. Again, thank you.

Sincerely,



Robert C. Schilling
Mayor

enc.

cc: City Council
John Kelley, Supervisor

RCS/scb

SCENIC AND HISTORIC CENTER
OF THE BLACK HILLS

CITY OF CUSTER CITY

622 CROOK ST.

CUSTER, SOUTH DAKOTA 57730-1698

PH. 605-673-4824

FAX 605-673-2411

MEMORANDUM

TO: Mayor & City Council

FROM: John Kelley, Water/Wastewater Supervisor

DATE: April 7, 1997

SUBJ: Water Right Permit No. 2380-2
Filed by Pat Dillon

I would like to recommend that the City file a request for denial of this permit with the Water Rights Program.

At this time the City of Custer holds water rights along French Creek for West Dam and municipal use.

WATER RIGHT #298-2 -- Appropriates 30 AC/FT of storage on French Creek located in the SE 1/4 Section 27-T3S-R4E. The priority for this right is April 1943.

VESTED WATER RIGHT #2143-2 -- Appropriates 0.35 CFS from one (1) well located in the NE 1/4 NW 1/4 Section 26-T3S-R4E. Vested May 1991.

VESTED WATER RIGHT #2144-2 -- Appropriates 0.45 CFS from one (1) well located in the NE 1/4 SE 1/4 Section 27-T3S-R4E. Vested May 1991.

VESTED WATER RIGHT #2145-2 -- Appropriates 0.56 CFS from one (1) well located in the NE 1/4 NW 1/4 Section 26-T3S-R4E. Vested May 1991.

WATER RIGHT #1251-2 -- Appropriates 0.56 CFS from one (1) well, located in the NW 1/4 SE 1/4 Section 28-T3S-R4E. This right has a priority date of March 17, 1975.

WATER PERMIT #1924-2 -- Appropriates 0.10 CFS from one (1) well, located in the SW 1/4 SE 1/4 Section 19-T3S-R4E. This permit has a priority date of March 5, 1985.

WATER PERMIT #1963-2 -- Appropriates 1.11 CFS from one (1) well, located in the NW 1/4 SW 1/4 Section 21-T3S-R4E. This permit has a priority date of April 29, 1986.

WATER PERMIT #1407-2 -- Appropriates for future use, 1.5 CFS from ground water on French Creek from French Creek from points located in Section 28, S 1/2 Section 27 All in T3S-R4E.

Also enclosed are reports from the Alliance and a letter from Dr. Gries explaining the water situation in this area of the Black Hills.



THE ALLIANCE OF ARCHITECTS & ENGINEERS
RAPID CITY • WATERTOWN

1107 Mt. Rushmore Road, Suite #3, Rapid City, SD 57701
605/342-9470

February 10, 1992

Mayor and City Council
City of Custer
622 Crook Street
Custer, South Dakota 57730

Re: Developing New Private Wells
Custer, South Dakota

Dear Mayor and Council:

The Alliance of Architects and Engineers, in association with Dr. Gries from the South Dakota School of Mines and Technology, have been asked to address the potential impact to Custer's water supply system resulting from the development of new private wells within the City of Custer.

Because of several years of continuing drought in the Custer area prior to 1991, the city was faced with an extreme water supply shortage. So severe was this shortage that the City Council placed water restrictions on the community which banned all outside watering. In addition to the water restrictions, the city embarked on an aggressive program to locate new sources of water. City Council members, city staff, Dr. Gries and Dallas Wasserburger scoured the countryside in and around Custer in an attempt to locate suitable sites to drill for water. This effort resulted in establishing approximately twelve potential drill sites in or within a reasonable distance of Custer.

Proposals were sent to local well drillers and a massive drilling program was begun. The following is a short chronology of the drilling operations:

The first well was drilled east of the athletic field in northeast Custer. This well was test pumped for 72 hours which resulted in drawdown occurring within the adjacent Homestead Addition. This area was served at that time by private wells and septic tanks. Because water quality samples of existing private wells indicated high nitrate levels, the city was reluctant to proceed with finishing this well. However, the city ultimately annexed the entire Homestead Addition, and in 1990 completed construction on a new water and sewer system for the that area. It is the city's

intention to wait until groundwater samples indicate no trace of pollution before proceeding toward completion of this well. In addition, because of the high iron content of the water, the city will need to pipe this water to an existing iron removal plant for treatment.

It was then decided to move back to the west end of the athletic field and drill, further away from the area that had contaminated ground water. However, this well only produced a small amount of water and was eventually capped rather than plugged because the quality of the water was acceptable.

The next site chosen was adjacent to the west end of West Dam. This area had previously been drilled about ten years earlier and the driller had been unable to properly control the fine sand entering the borehole. A new well was drilled near the previous site and the problem area was cemented off. However, the water bearing zone also produced large quantities of sand and this hole was ultimately plugged.

Another location was selected also along French Creek on property owned by Bradeen. Although the site looked promising, no appreciable amount of water was found and the hole was plugged.

The drill rig was then moved to a location south of the Pacer Corporation and again an insufficient amount of water was located and the site was abandoned after plugging the hole.

Since no usable wells had been located within the City of Custer, it was decided to explore a location previously selected near an existing city well on upper French Creek several miles west of the city. This well was successful, with good quality water, and was developed and placed on line.

The next effort was directed toward an area in Harbach Park inside the city limits. A well was developed in the park that produced about 50 gallons per minute of water with a moderate iron content. However, after this well was placed on line, the iron content escalated to an extremely high level and the usage of the well was discontinued.

The next location was on property owned by Custer Lumber. This well was a good producer with only slightly elevated iron readings. It was immediately developed and placed on line.

The alley east of the Berean Church was chosen as the next drill site. Again another good producing well was discovered, but the iron content of this water was sufficiently high that it requires treatment in an iron removal plant.

City of Custer
February 10, 1992
Page 3

As the chronology indicates, considerable efforts and funds were expended by the City of Custer to ensure an adequate supply of water for their community.

One of the main reasons the city continued pursuing additional wells after locating and placing the first two good producing wells on line was the impact the drought was having on their existing wells. Voluminous records were kept on all producing wells by the city during this crucial time frame. The result of analyzing these pumping, drawdown and recovery records clearly showed that all of these wells were unable to recover after being pumped, even with three days rest between pumping cycles. Several of these wells were experiencing a loss rate of six to twelve inches from their previous recovered water level after every pump cycle.

Therefore, even though the city placed additional wells on line, the long rest period required between pumping cycles did not allow the city to actually produce that many additional gallons of water. However, the new wells did allow the city to maintain the quantity of water required for restricted use.

Having studied and worked with the Custer water system for many years, it is our opinion that the amount of water available for use is very limited in the Custer area and that it is very dependent upon yearly rainfall and runoff, especially runoff carried by French Creek. With this in mind, the City of Custer is, and should be, very concerned about other private wells drawing from the same source of water used by the city. In addition, during drought periods, the city can restrict usage of water from their own system, but have very little, if any, control over private wells.

Sincerely,

ALLIANCE OF ARCHITECTS AND ENGINEERS


E. Dallas Wasserburger, P.E. & L.S.
President

JOHN PAUL GRIES

Consulting Geologist
238 ST. CHARLES STREET
RAPID CITY, SOUTH DAKOTA

February 5, 1992

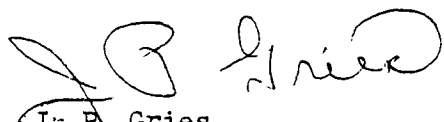
Memorandum

To: Dallas Wasserburger
Alliance of Architects & Engineers

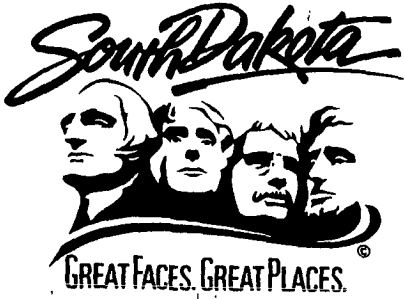
Re: Groundwater supply available to the City of Custer.

There is only one aquifer available to Custer and the immediate vicinity. That is the dense schist bedrock. Small fractures within the bedrock offer the only storage, and permit only slow transmission of water. The storage volume is very much less than it would be in a sandstone or gravel. Recharge comes from French Creek, and from local rainfall. During the recent dry years, demand has exceeded recharge, and the water level has dropped seriously.

The City has, by means of severe restrictions, reduced withdrawals and maintained a precarious balance between recharge and consumption. Any other large consumers, operating without restrictions, could seriously upset the balance maintained by the City.


Jr. P. Gries
Certified Professional Geologist
No. 771

JPG/me



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 15, 1997

C. Patrick Dillon
PO Box 611
Custer, SD 57730

Dear Mr. Dillon:

Please find enclosed a copy of a petition received in response to your water permit application.

Sincerely,

A handwritten signature in cursive script that reads 'Eric Gronlund'.

Eric Gronlund
Water Rights Program
(605) 773-3352

enclosure

c: Charles Mickel, Attorney, PO Box 2859, Rapid City, SD 57709



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 11, 1997

Charles Mickel
PO Box 2859
Rapid City, SD 57709

Dear Mr. Mickel:

Enclosed are the four existing water rights that are referenced in the report prepared on Water Permit Application No. 2380-2 for C. Patrick Dillon. These water rights are located between Mr. Dillon's diversion point and Stockade Lake. There are other French Creek water rights located downstream of Stockade Lake. However, these other water rights were not reviewed in assessing Mr. Dillon's pending application. Enclosed is also a listing of all French Creek water rights.

It is my understanding that at the spillway elevation, Stockade Lake's storage capacity is approximately 1,820 acre feet of water. The Department of Game, Fish and Park's holds a recognized vested water right claim for Stockade Lake. This recognized vested water right claim has yet to be validated in accordance with SDCL 46-2A-17. The claim was originally filed for water 'as required to fill lake to spillway outlet' and listed an amount of 400 acre feet of water. I believe the 400 acre feet represented an estimate of annual evaporation from the lake.

Please let me know if I may be of further assistance.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352

enclosure



April 15, 1997

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Robert C. Schilling, Mayor
City of Custer
622 Crook Street
Custer, SD 57730-1698

Dear Mayor Schilling:

This letter acknowledges receipt of the City of Custer's petition for denial of Water Permit Application No. 2380-2 filed by C. Patrick Dillon. I want to make you aware that I forwarded a copy of the city's petition to Mr. Dillon and his attorney, Charles Mickel.

At the conclusion of the city's petition you ask whether it is necessary for the city to be present at the hearing before the Water Management Board. The Water Rights Program encourages public participation before the Board. Personal appearance before the Board puts direct testimony of the city's concerns into the record. It also allows the Board or other parties to ask questions on the city's position. If the city is not represented at the hearing, a copy of the city's petition will be handed out to the Board.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Eric Gronlund
Water Rights Program
605 773-3352

c: John Kelley, Water/Wastewater Supervisor

LAW OFFICE OF
CHARLES J. MICKEL, P.C.



BOX 2859, RAPID CITY, SOUTH DAKOTA 57709-2859

(605) 348-2527

FAX: (605) 348-1976

April 16, 1997



John Hatch
Chief Engineer
Water Rights Division
Department of Environment and
Natural Resources
Joe Foss Building
523 E. Capitol
Pierre SD 57501-3181

Dear Mr. Hatch:

Please find enclosed application C. Patrick Dillon's Petition in support of his application number 2380-2 to appropriate water from French Creek, Custer County, South Dakota. Applicant and Petitioner, C. Patrick Dillon, also requests a delay of 20 days from the time period now set for the hearing at 8:00 A.M. on April 30, 1997 to allow him more time to prepare for and to support his application at a hearing before the Water Resources Board.

If you have any questions, please contact me.

Sincerely,

Charles J. Mickel
CJM/dw
enc
cc: Client

BEFORE THE WATER MANAGEMENT BOARD
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
PIERRE, SOUTH DAKOTA

IN THE MATTER OF APPLICATION NUMBER 2380-2 TO APPROPRIATE WATER

C. PATRICK DILLON, APPLICANT

PETITION

The undersigned petitions the Water Management Board as follows:

1. Petitioner is the applicant in application number 2380-2 to appropriate water in the amount of .022 cubic feet of water per second from French Creek located in the East One-Half (E 1/2) of the Southeast One Quarter (SE 1/4) of Section Twenty-eight (28), Township Three (3) South, Range Four (4) East of the Black Hills Meridian, Custer, South Dakota.

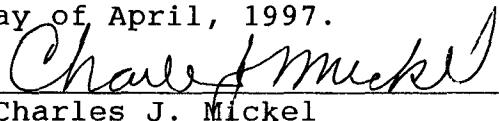
2. On March 25, 1997, John Hatch, Chief Engineer, entered his recommendation that application number 2380-2 be denied for the reasons stated in the denial.

3. Application disagrees with the recommendation of the Chief Engineer and believes that sufficient waters are available in French Creek to allow him the amount of water requested in his application at all times except in drought conditions wherein the available water would be restricted. For these reasons, Petitioner opposes the recommendations of the Chief Engineer of the State of South Dakota.

4. Applicant's name is C. Patrick Dillon, whose address is 611, Custer, South Dakota 57730.

5. Applicant herein requests the Water Management Board to delay the hearing which is now set for 8:00 A.M. on April 30, 1997, for at least twenty (20) days in order to allow Applicant more time to prepare for and support his application at the hearing on the application.

Dated this 16 day of April, 1997.


Charles J. Mickel
Attorney for Applicant, C. Patrick Dillon
816 6th Street
PO Box 2859
Rapid City SD 57709
(605) 348-2527



DEPARTMENT OF GAME, FISH AND PARKS

Foss Building
523 East Capitol
Pierre, South Dakota 57501-3182



April 21, 1997

Mr. John Hatch, Chief Engineer
Water Rights Program
SD Department of Environment and Natural Resources
Foss Building, 523 East Capitol Ave.
Pierre, SD 57501

RE: Water Rights Application No. 2380-2, C. Patrick Dillon, French Creek
Petition to Oppose Issuance of Permit

Dear Mr. Hatch:

The South Dakota Department of Game, Fish and Parks (GF&P) has reviewed the notice of hearing, report and Chief Engineer's recommendations for the above referenced water right application to appropriate water for a small scale mining operation.

Pursuant to SDCL 1-26 we request that GF&P be made a party of record in the proceedings for this application. GF&P is an interested and potentially affected party by virtue of our water right (No. 734-2) to store water to the outlet elevation of Stockade Lake downstream from the proposed water diversion. We may also be affected by virtue of our statutory authority to manage fish and wildlife resources of the state (SDCL Chapter 41). Due to prior appropriations and chronic low flow conditions in French Creek, we agree with the recommendation to deny this application.

Thank you for the opportunity to comment.

Sincerely,

Tim Olson
Water Permits Coordinator

cc: C. Patrick Dillon



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 21, 1997

NOTICE

TO: C. Patrick Dillon
P.O. Box 611
Custer, SD 57730
and Parties of Record (see attached list)

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

SUBJECT: Automatic Delay of Hearing on Water Permit Application No. 2380-2, C. Patrick Dillon

A petition to intervene has been filed in the matter of Water Permit Application No. 2380-2 for C. Patrick Dillon. This application proposes an appropriation of 10 gallons permit from French Creek for a small scale mining operation. Charles Mickel, on behalf of Mr. Dillon, has filed a request for delay of the hearing. Therefore, the hearing on Application No. 2380-2 is automatically delayed pursuant to SDCL 46-2A-4 and 46-2A-5 and will not be held on April 30, 1997.

The hearing on Application No. 2380-2 will now be tentatively scheduled for the July 1 and 2, 1997, Water Management Board meeting. Future notice of the exact date, time and place of the hearing for Application No. 2380-2 will be provided to all parties of record.

Diane Best, Assistant Attorney General, is counsel for the Water Rights Program. Procedural questions can be directed to Ms. Best at (605) 773-3215.

c: Diane Best, Assistant Attorney General
John Kelley, City of Custer Water/Wastewater Supervisor

PARTIES OF RECORD

WATER PERMIT APPLICATION NO. 2380-2, C. Patrick Dillon

APPLICANT

C. Patrick Dillon
PO Box 611
Custer, SD 57730

represented by:

Charles Mickel
PO Box 2859
Rapid City, SD 57709

PETITIONERS

Robert C. Schilling, Mayor
City of Custer
622 Crook Street
Custer, SD 57730-2411

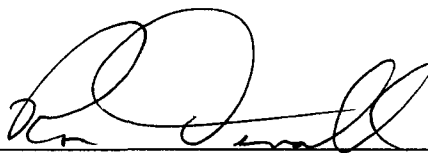
CERTIFICATION

I hereby certify that on April 21, 1997, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated April 21, 1997, along with a copy of the Parties of Record List, regarding Automatic Delay of Hearing on Water Permit Application No. 2380-2, C. Patrick Dillon, addressed as stated below, and on the attached Parties of Record List:

John Kelley, City of Custer, Water/Wastewater Supervisor, 622 Crook Street, Custer, SD 57730-2411.

A copy of the above described Notice and attachment was sent Inter-office to:

Diane Best, Assistant Attorney General, Capitol Building.

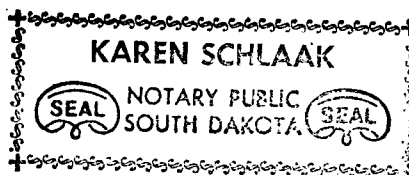


Ron Duvall
Natural Resources Engineer IV

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 23rd day of April, 1997


Notary Public



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

CERTIFICATION

I hereby certify that on April 22, 1997, I have personally hand delivered a copy of a Notice dated April 21, 1997, regarding Automatic Delay of Hearing on Water Permit Application No. 2380-2, C. Patrick Dillon, and a copy of the new Parties of Record List addressed as stated below:

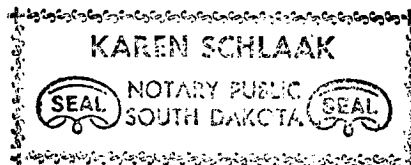
Tim Olson, Water Permit Coordinator, Department of Game, Fish & Parks, Joe Foss Building.


Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 23rd day of April, 1997


Notary Public



KAREN SCHLAACK, 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

May 22, 1997

NOTICE

TO: C. Patrick Dillon
P.O. Box 611
Custer, SD 57730
and Parties of Record (see attached list)

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

SUBJECT: Scheduling of Hearing on Water Permit Application No. 2380-2, C. Patrick Dillon

Petitions to intervene were filed in the matter of Water Permit Application No. 2380-2 for C. Patrick Dillon. The application proposes to appropriate 10 gallons permit from French Creek for a small scale mining operation. Charles Mickel, on behalf of Mr. Dillon, filed a request for delay of the April 30, 1997, hearing before the Water Management Board.

The Water Management Board will now consider Application No. 2380-2 at 10:30 AM (CDT) on July 9, 1997, in the Conference Room, Floyd Matthew Training Center, Joe Foss Building, 523 E. 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 April 3 and 10, 1997 in the Custer County Chronicle will still 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 or Diane Best, Assistant Attorney General at (605) 773-3215, if you have any questions.

c: Diane Best, Assistant Attorney General
John Kelley, City of Custer Water/Wastewater Supervisor

PARTIES OF RECORD

WATER PERMIT APPLICATION NO. 2380-2, C. Patrick Dillon

APPLICANT

C. Patrick Dillon
PO Box 611
Custer, SD 57730

represented by:

Charles Mickel
PO Box 2859
Rapid City, SD 57709

PETITIONERS

Robert C. Schilling, Mayor
City of Custer
622 Crook Street
Custer, SD 57730-2411

Tim Olson, Water Permit Coordinator
SD Department of Game, Fish and Parks
Foss Building
523 East Capitol Ave.
Pierre, SD 57501-3182

CERTIFICATION

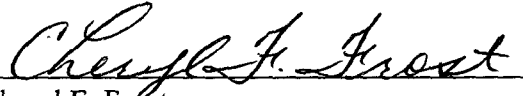
I hereby certify that on May 22, 1997, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated May 22, 1997, along with a copy of the Parties of Record List, regarding Scheduling of Hearing on Water Permit Application No. 2380-2, C. Patrick Dillon, addressed as stated below, and on the attached Parties of Record List:

John Kelley, City of Custer Water/Wastewater Supervisor, 622 Crook Street, Custer, SD 57730-2411.

A copy of the above described Notice and attachment was sent Inter-office to:

Diane Best, Assistant Attorney General, Capitol Building.

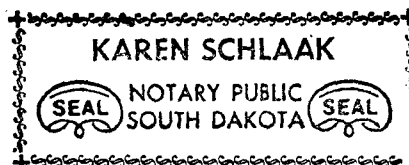
Tim Olson, Water Permit Coordinator, Department of Game, Fish & Parks, Joe Foss Building.


Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 29th day of May, 1997


Karin Schlaak
Notary Public



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

PARTIES OF RECORD

WATER PERMIT APPLICATION NO. 2380-2, C. Patrick Dillon

APPLICANT

C. Patrick Dillon
PO Box 611
Custer, SD 57730

represented by:

Charles Mickel
PO Box 2859
Rapid City, SD 57709

PETITIONERS

Robert C. Schilling, Mayor
City of Custer
622 Crook Street
Custer, SD 57730-2411

Tim Olson, Water Permit Coordinator
SD Department of Game, Fish and Parks
Foss Building
523 East Capitol Ave.
Pierre, SD 57501-3182

CITY OF CUSTER CITY

622 CROOK ST.
CUSTER, SD 57730-1698
PH. 605-673-4824
FAX 605-673-2411



OFFICE OF THE MAYOR

June 24, 1997

SD Dept. of Environment & Natural Resources
Attn: Mr. John Hatch, Chief Engineer
Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-31181

re: Water Permit Application No. 2380-2, C. Patrick Dillon

Dear Mr. Hatch,

The City Council was contacted by Mr. Dillon regarding our petition for denial of the above stated water permit application. He explained his mining procedure and indicated that the flowing water in French Creek will not affect the ground water. If this statement is fact, please consider this letter as our request to rescind our previous notice of denial. It is the City's intention to protect the water rights in order to supply quality water to our citizens. Please contact my office if you have any questions regarding this issue. Thank you.

Sincerely,

Edward Starr
Council President

cc: City Council
J Kelley, W/WW Supervisor
C Patrick Dillon

ES/scb



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

AUG 4 1997

C. Patrick Dillon
P.O. Box 611
Custer, SD 57730

Dear Mr. Dillon:

Enclosed is Water Permit No. 2380-2 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 Program
605 773-3352

enclosures

PLEASE NOTE: Certain changes may be made to your water permit usually without affecting the priority date. The location of a point of diversion may be changed or additional points of diversion may be approved if the water source remains unchanged; no additional water is appropriated; and, if irrigating, no additional land is irrigated. The change may be allowed without application or publication, if the Water Rights Program is contacted and the chief engineer makes a finding that the change does not increase the potential for interference with existing diversions.

A new water permit application is required to change water sources, increase the permitted diversion rate, or increase the irrigated acreage. If the application is approved, the water permit will receive a new priority date.















2380-2

C. Patrick Dillon
P.O. Box 611
Custer, S.D. 57730

Aug. 31, 2005

Don Stroub
SDENR Water Rights
2050 W Main
Rapid City S.D. 57702

RECEIVED

SEP 02 2005

WATER RIGHTS
PROGRAM

Dear Sir,

Many apologies for the delay in answering your inquiry. In response to the same, I was operating last year, then my mother (age 84) fell and broke her knee. It took my sister and I as alternate "live ins" to nurse her back to where she has some quality of life, free of the nursing home. It was worth the time though, as she is getting about, doing her thing now.

We have had enough rain here this spring/summer to promote plant growth, thus, last years activity has growth on it. Claim years start on Sept 1 and I make it a point to have the years assesment work done between 9-1 and November.

My water use permit allows me to use water only when the stream volume has it available.

I follow that rule, and am somewhat powerless, (as is everyone) to change drought patterns.

In 2005, in spring, the creek level was up, for a time.

It is in operating plan that the water I use is taken from the stream, when available, & stored in a tank, then used to wash placer, then returned to the tank.

There are some concerns I have about the section of creek I work, As a permit holder, city water user, and tax bond payer.

In the past Stokade Lake was drained. During that time city users were saddled with bond debt to put in wells, because, the water table dropped. Somewhere during this time an effluent line was built to take treated water to another watershed on Lame Johnny Creek.

As Black Hills water sources are zonal, depending on watershed, with some fault fracture

figured in; this water removed to another watershed does not help to build a static level from the watershed which it is drawn. Regardless, it is as it is.

With this in mind, there is a dam, West Dam.

In the past 3 years, the boards on the outflow structure have been cut at least a couple times.

By Who? Don't Know! Someone downstream I suspect. There is some damaged concrete that hold the boards, and personally I think it leaks a little to much. But i do know that the city has replaced the boards.

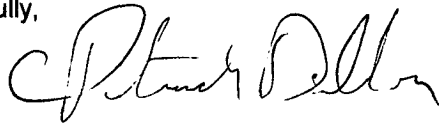
In a time of drought fixing the dam would probably have little impact. Understand though, as a permit holder, to watch the water table drop in a good year, then finally find out, (too late), that some "night sneak" had taken a chain saw to the dam—I feel cheated!

I have a vision for Custer, a vision that could create constuction jobs, recreation opportunities, address utility supply issues, and could have other economic spinoffs. To see this vision reality it would take a person, (or people) of power and sheer grit to battle the few that would seek to quell development of a project for the many.

Someday mayhaps I'll share that vision with the right person. Till then I'll be content to pick about the placer when I can, and hope for a good snowfall.

I hope this letter addresses your concerns.

Respecfully,

A handwritten signature in black ink, appearing to read "Peter Dillon". The signature is fluid and cursive, with a large initial "P" and a long, sweeping underline.

Permit No. 2380-2
Upper Cheyenne 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 28, 2010, made a thorough examination of the water use system constructed by C. Patrick Dillon of PO Box 611, Custer, SD 57730 holder of Permit No. 2380-2, bearing the priority of February 6, 1997 authorizing the diversion of 0.022 cu. ft. per second of the waters of French Creek for industrial use, in Custer County.

Inspection contact & relationship to permit holder, if applicable: **Jacob Dillon, (C. Patrick Dillon's son)**

A. Works used to divert the water:

Pump:

- 1) Make YB
- 2) Model Centrifugal
- 3) Serial No 2153C
- 4) Size 1 1/2 -inch inlet necked down to 1 1/4- inch, 1-inch outlet necked down to 3/4-inch
- 5) Capacity 10 GPM

Motor:

- 1) Make Wisconsin
- 2) Model No. 4-cylinder gasoline
- 3) Horsepower 28 hp

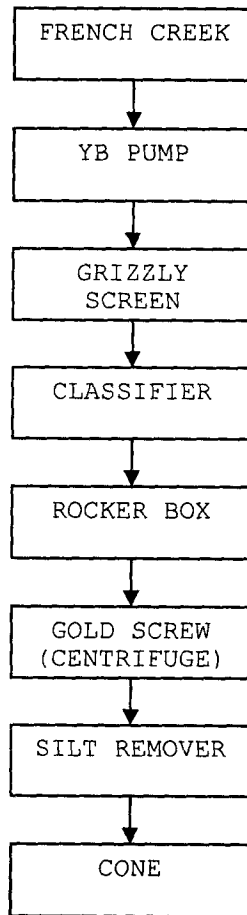
B. Works used to transport water to place of use:

- 1) Type garden hose
- 2) Size 5/8 inches
- 3) Length 50 feet

C. Works used to apply water to beneficial use:

Water is pumped from the creek through the mining equipment (see "MINING WATER FLOW CHART"). From the mining equipment the water is either returned to French Creek or pumped with a Teal Pump through a the garden hose to a 2,000 gallon steel tank and/or a lined pit to be reused later. The operation is capable of processing about 1/2 ton of ore per hour.

MINING WATER FLOW CHART



D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Yes
- 2) Exceptions to compliance are: none

The system is in good condition with the point(s) of diversion located as follows: 1,363 feet north and 515 feet west of the south east corner of Section 28, T3S-R4E, (Latitude 43.75653353, and Longitude -103.64014315).

The works are capable of diverting and conveying to the place of use 0.022 cu. ft. per second of water which is to be used for industrial use. Water has been put to beneficial use to the maximum extent and the license should be issued for 0.022 cfs.

All structures, wells and lands on map Y/N


Ken Buhler

DENR, Water Rights Program

Date report completed: November 2, 2010





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

December 28, 2010

2380-2

C Patrick Dillon
PO Box 611
Custer SD 57730-0611

Dear Mr. Dillion:

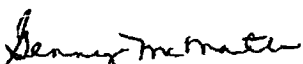
On September 28, 2010 the investigation of your water use system, including the extent of application of water to beneficial use, as developed under Water Permit No. 2380-2, was completed by Ken Buhler, a staff engineer with our program. Your final water right document, the water license, can now be issued.

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

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

If you have any questions regarding the water permit, investigation of your water use system or payment of the fee, please contact me.

Sincerely,


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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 1/20, 20 11

RECEIVED OF C Patrick Dillon PO Box 611 Custer SD 57730

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	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. <u>2380-2</u>		
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____	50 00	
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No.

04853

By

[Signature]
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

FEB 10 2011

2380-2

C Patrick Dillion
PO Box 611
Custer SD 57730 0611

Dear Mr. Dillion:

Enclosed is Water License No. 2380-2. The license is the final document which completes the process of obtaining a water right. Included with your license is a map prepared by the staff engineer who conducted the field investigation and also Receipt No. 04853 for \$50.00 which was assessed for an investigation and issuance of the license.

As long as you use the water beneficially, as stated in the Water License, State Water Laws provide that you have a continuing right to use the water.

Sincerely,

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

enclosures

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 2380-2

(1) C Patrick Dillion, PO Box 611, Custer SD 57730-0611 made Application No. 2380-2, February 6, 1997 for a water permit to divert 0.022 cubic feet of water per second (10 gallons per minute) from French Creek, Custer County, South Dakota for industrial purposes. Permit No. 2380-2, with a priority date of February 6, 1997 was approved July 9, 1997 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before July 9, 2002 and for the application to beneficial use of said water on or before July 9, 2006.

(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 0.022 cubic feet of water per second for beneficial use.

The location of the diversion point is 1,363 feet north and 515 feet west of the SE corner of Section 28, T3S, R4E (NE ¼ SE ¼).

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use in supplying water to a small scale mining operation.

(4) Pursuant to South Dakota Water Law 46-5-30.1 C Patrick Dillion, PO Box 611, Custer SD 57730-0611 the holder and/or owner of Water Right No. 2380-2 is issued a license to appropriate water, the right to use 0.022 cubic feet of water per second from French Creek with a priority date of February 6, 1997 from the location specified in (2) of this license for industrial purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 2380-2 and subject to the following qualification:

- Low flows as needed for downstream domestic use, including livestock water and prior water rights must be bypassed.

Garland Erbele
Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

FEB 10 2011

date

