

WATER PERMIT NO. 2457-2

Name of Applicant: City of Rapid City

Address: 300 6th Street, Rapid City, SD 57701

Phone: 394-5377 ext. 216

Amount of Water Claimed:

Total Acres: N/A

Source of Water Supply: Lime Creek

Water to be used for: municipal

County: Pennington

Type of Waste Disposal System: N/A

Location: within city limits

PRIORITY

Date Received: 03/29/2001

Fee: \$100 (\$50 application & \$50 license)

Corrected Application Received:

Period of Annual Use: Jan. 1 - Dec. 31

Remarks:

Diversion Point: NE ¼ NE ¼ Section 4

T1N, R7E

Land to be Irrigated:

Depth of Well: N/A

Well Driller: N/A

Remarks:

Type of Map: plat

Prepared by: Daniel Bjerke (cover letter)

Reviewed and the Number Assigned on: 04/02/2001

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

				X	

SOUTH DAKOTA
WATER PERMIT NO. 2457-2

Date of first receipt of application March 29, 2001.

The Water Management Board approved Water Permit Application No. 2457-2 on September 5, 2001 for the City of Rapid City, 300 6th St, Rapid City SD 57701 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

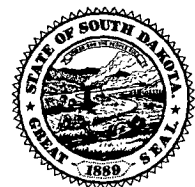
1. Water Permit No. 2457-2 authorizes construction of an overflow weir on Lime Creek in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 4, T1N, R7E. The project will maintain a minimum flow of 2.0 cubic feet of water per second (cfs) in Lime Creek's main channel. When flow in the main channel exceeds the base flow of 2.0 cfs, water will be proportionally diverted into a diversion channel. The diverted water will return to Lime Creek approximately 450 feet downstream from the diversion point.
2. The water appropriated shall be used for the purpose of supplying water for municipal use and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date from which applicant may claim right is March 29, 2001.
5. One-fifth of the construction is to be completed on or before March 5, 2003.
6. All construction is to be completed on or before September 5, 2006.
7. Water is to be put to beneficial use on or before September 5, 2010.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

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

NOV 07 2001

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	No. <u>2457-2</u> (office use only) Hydrologic Unit <u>10120110</u>
	Basin <u>Upper Cheyenne</u>
	Newspaper <u>Rapid City Journal, Rapid City</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. 2274-2

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

Add diversion point

- Name of Applicant City of Rapid City Phone 605-394-5377 Ext. 216
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 300 6th Street Rapid City State SD
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed Up to 0.78 *CFS non consumptive use **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 City Springs
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) Side overflow weir in the NE 1/4 of the NE 1/4 of Section 4, T1N, R7E, BHM at the east end of Brookside Drive, Rapid City, SD
County Pennington
- County or counties where water will be used Pennington
- Annual period during which water is to be used All year Jan 1 - Dec 31
- Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

Propose to maintain a 2.0 cfs base flow in the main channel. When flow in the channel exceeds the base flow, up to 0.78 cfs (existing water right) will be proportionally diverted into the diversion channel.

STATE OF SOUTH DAKOTA)
County of Pennington)

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)

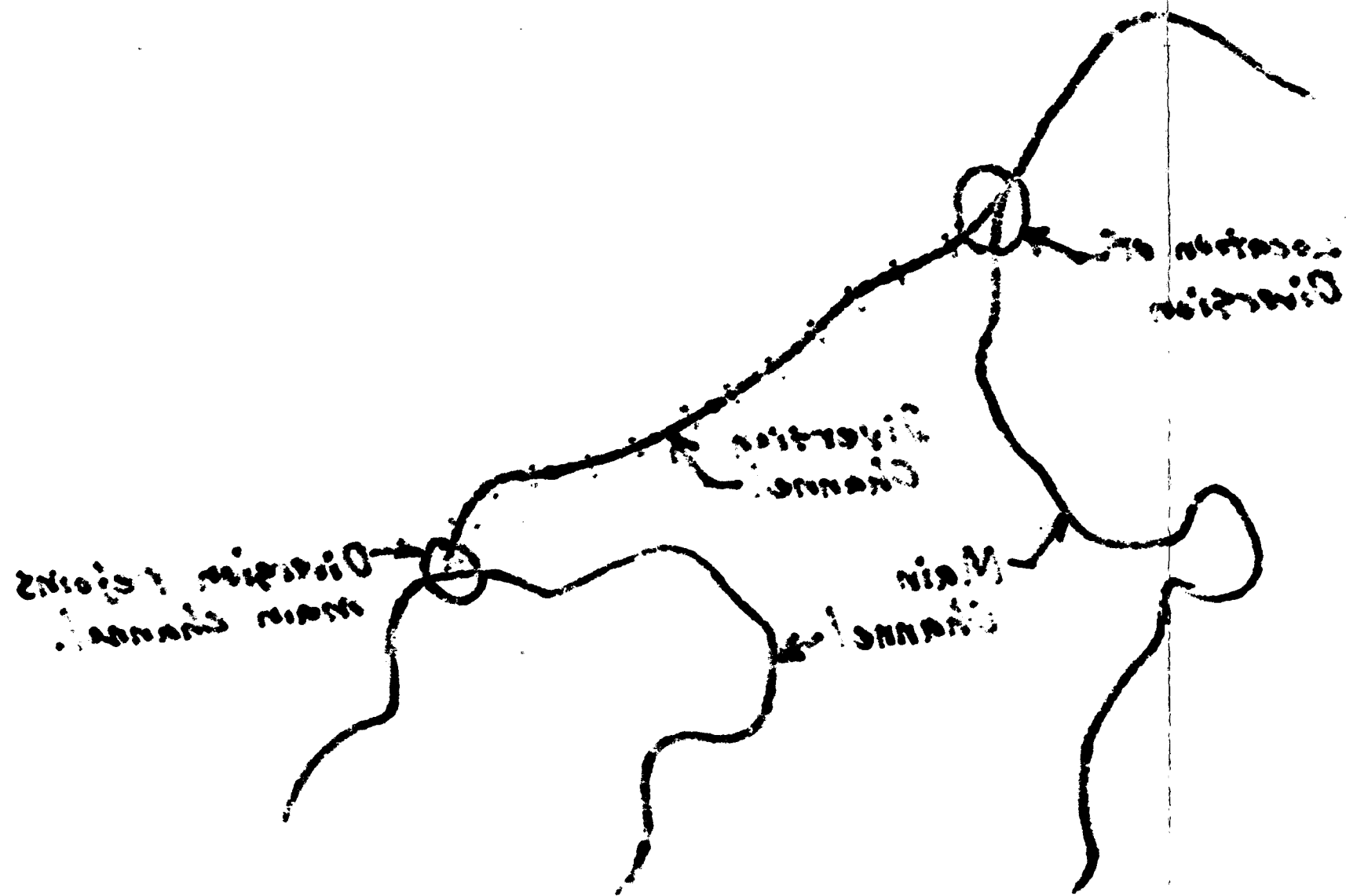
I, Jim Shaw, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Applicant's signature

Subscribed and sworn to before me this 16 day of March 20 01

Notary Public signature





RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

416823

Pierre, APRIL 18, 2001

RECEIVED OF City of Rapid City, Finance Office, Rapid City, SD 57709
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. <u>2457-2</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. <u>2457-2</u> _____	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	100 00

By Tharland Erbe
Chief Engineer gms

Purchase Order

Rapid City, SD 57701

Phone (605) 394-4142

PO Number 449074

Year **2001**_____Vendor Number **V 0** _____

Computer Entry Date _____

Vendor South Dakota DENR
Remittance _____
Address 523 E. Capitol Avenue
Pierre SD 57501

CR	Amount	Cost Center	Line Item	Invoice No.
[]				
[]	\$100.00	7011	4225	
[]	00.00			
[]				

Quantity/Description

Application Permit Fee
 Lime Creek Diversion

TOTAL

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

☐ Formal Bid - Date Approved _____
☐ Informal bid, see supporting data attached
☐ No bid required
☐ Will be reimbursed by _____

REMARKS

Dept. Head _____ Date _____
Mayor _____ Date _____
Purchasing Agent _____ Date _____

WHITE: FINANCE COPY • CANARY: DEPARTMENT COPY
PINK: VENDOR COPY • GREEN: RECEIVING COPY

44074



CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

Public Works Department

300 Sixth Street

Telephone: (605) 394-4165

FAX: (605) 394-6636

Web: www.ci.rapid-city.sd.us



March 19, 2001

Mr. Mark Rath
Water Rights Division
SD Dept. of Water and Natural Resources
Joe Foss Building
523 E. Capitol Avenue
Pierre, SD 57501

Re: Lime Creek Diversion Using City Springs Water Right

Dear Mr. Rath:

Transmitted herewith is an Application For Permit to Divert the City's City Springs water right in the amount of 0.78 cfs through a side channel in Lime Creek in the vicinity of Brookside Drive. The diverted water will return to Lime Creek approximately 450 feet downstream from the diversion point. The proposal is to maintain a minimum flow of 2 cfs in the main channel and diversion of the City's water right would be for flow in excess of 2 cfs in the main channel.

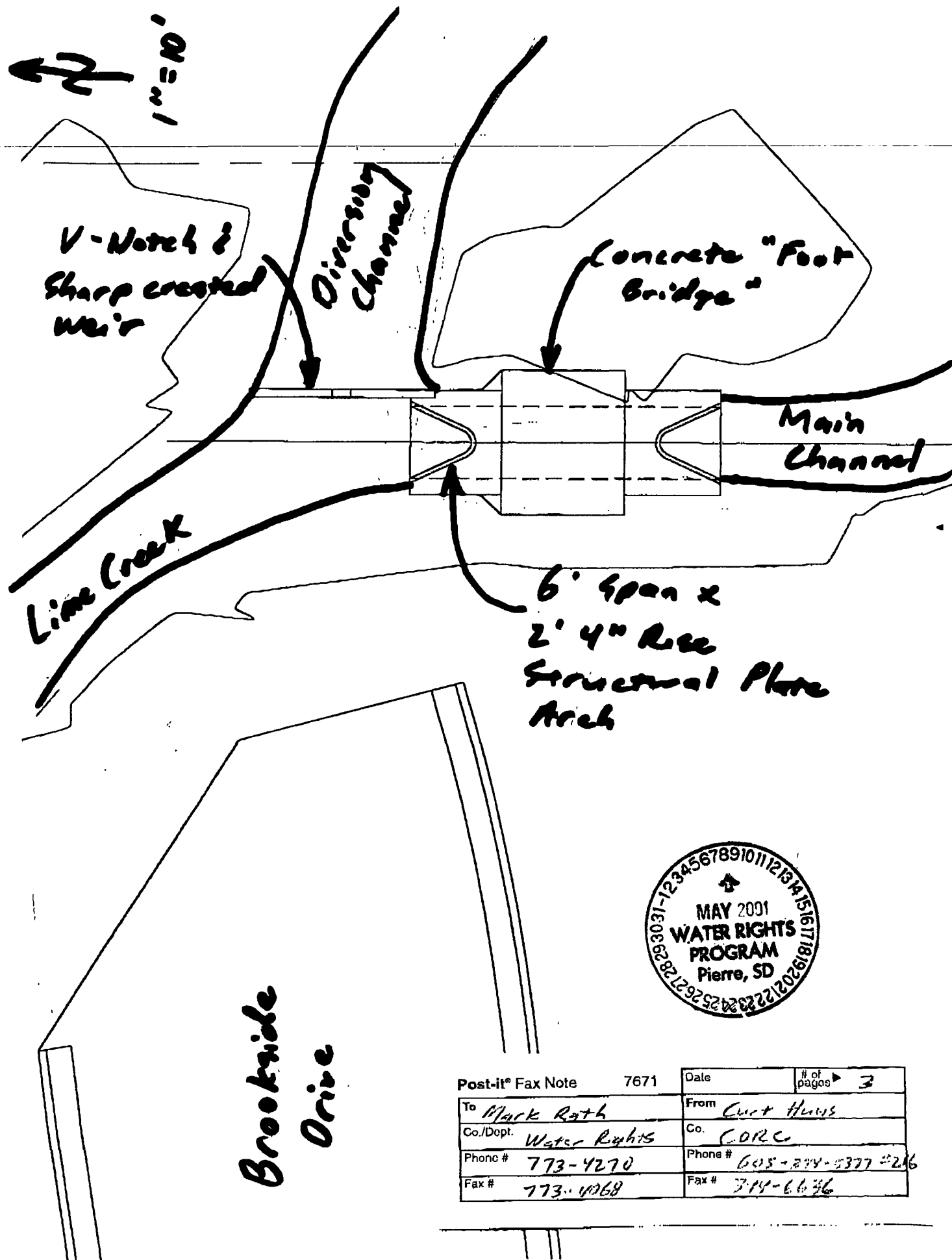
If you have any questions or need additional information, please call me at 394-4165 or Curt Huus at 394-4154.

Sincerely yours,
CITY OF RAPID CITY

Daniel L. Bjerke, PE/LS
Public Works Director



EQUAL OPPORTUNITY EMPLOYER



Post-it® Fax Note	7671	Date	# of pages	3
To	Mark Rath	From	Curt Huns	
Co./Dept.	Water Rights	Co.	CORC	
Phone #	773-4270	Phone #	605-278-5377 #216	
Fax #	773-4068	Fax #	714-6636	

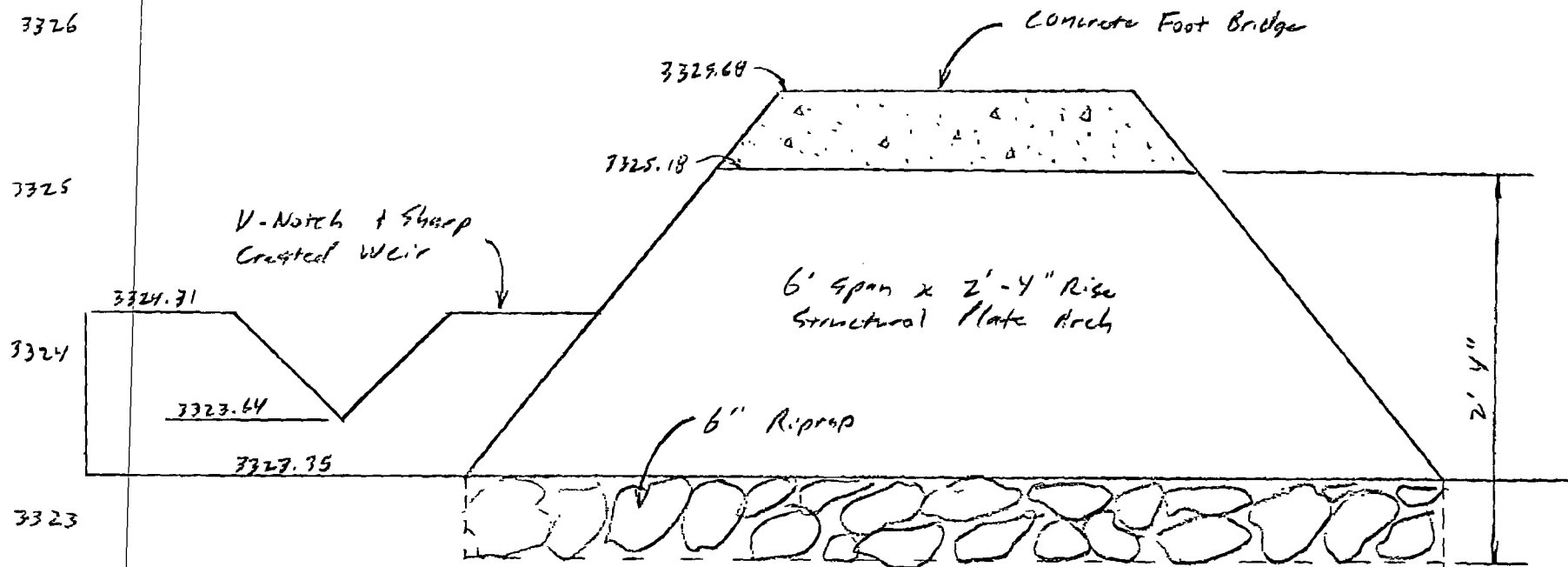
May 7, 2001

Lime Creek Weir
DR00-958

Rating Curve

Elevation	Flow in Main Chan (cfs)	Flow in Diversion Chan (cfs)		Total Flow (cfs)
		(V-Notch)	(Sharp Crest)	
3323.35	0.00	0.00	0.00	0.00
3323.64	2.00	0.00	0.00	2.00
3323.68	2.38	0.001	0.00	2.38
3323.77	3.30	0.014	0.00	3.31
3323.85	4.26	0.050	0.00	4.31
3323.93	5.26	0.115	0.00	5.38
3324.02	6.28	0.215	0.00	6.50
3324.10	7.30	0.356	0.00	7.66
3324.18	8.31	0.540	0.00	8.85
3324.27	9.30	0.772	0.00	10.07
3324.35	10.27	0.772	0.128	11.17
3324.43	11.22	0.772	0.663	12.66
3324.52	12.13	0.772	1.426	14.33
3324.60	13.00	0.772	2.363	16.14
3324.68	13.83	0.772	3.445	18.05
3324.77	14.61	0.772	4.654	20.04
3324.85	15.35	0.772	5.980	22.10
3324.93	16.03	0.772	7.412	24.21
3325.02	16.67	0.772	8.942	26.38
3325.10	17.25	0.772	10.566	28.59
3325.18	17.78	0.772	12.277	30.83





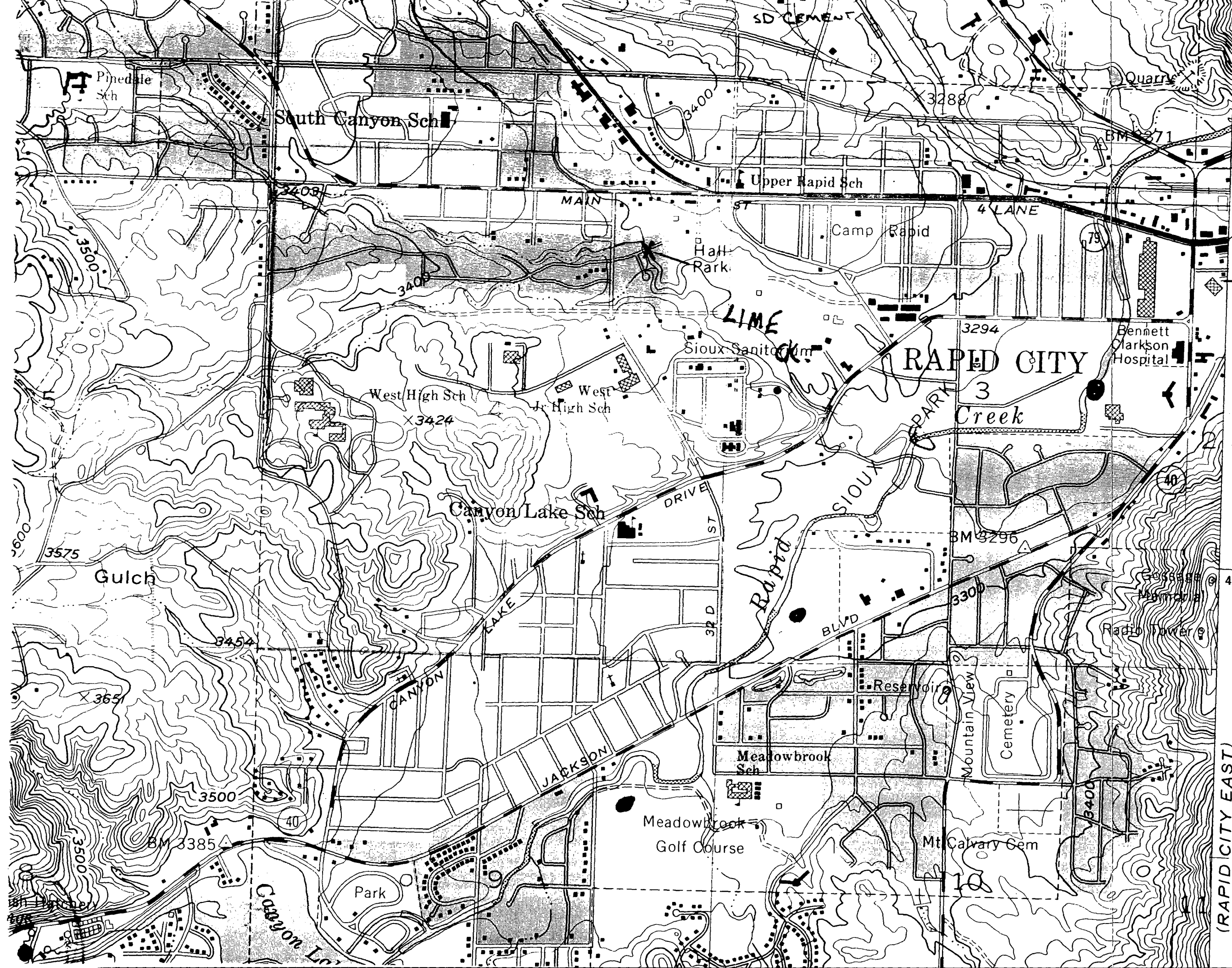
22-141	50 SHEETS
22-142	100 SHEETS
22-144	200 SHEETS



Table A7-4. Discharge of 90° V-notch weirs, in ft³/sec, computed from the formula $Q=2.49h_1^{2.48}$.

Head	Discharge	Head	Discharge	Head	Discharge	Head	Discharge
H, ft	Q, ft ³ /sec	H, ft	Q, ft ³ /sec	H, ft	Q, ft ³ /sec	H, ft	Q, ft ³ /sec
0.20	0.046	0.65	0.856	1.10	3.15	1.55	7.38
.21	.052	.66	.889	1.11	3.23	1.56	7.50
.22	.058	.67	.922	1.12	3.30	1.57	7.62
.23	.065	.68	.957	1.13	3.37	1.58	7.74
.24	.072	.69	.992	1.14	3.45	1.59	7.86
.25	.080	.70	1.03	1.15	3.52	1.60	7.99
.26	.088	.71	1.06	1.16	3.60	1.61	8.11
.27	.097	.72	1.10	1.17	3.68	1.62	8.24
.28	.106	.73	1.14	1.18	3.75	1.63	8.36
.29	.116	.74	1.18	1.19	3.83	1.64	8.49
.30	.126	.75	1.22	1.20	3.91	1.65	8.62
.31	.136	.76	1.26	1.21	3.99	1.66	8.75
.32	.148	.77	1.30	1.22	4.08	1.67	8.88
.33	.159	.78	1.34	1.23	4.16	1.68	9.02
.34	.172	.79	1.39	1.24	4.25	1.69	9.15
.35	.184	.80	1.43	1.25	4.33	1.70	9.28
.36	.198	.81	1.48	1.26	4.42	1.71	9.42
.37	.212	.82	1.52	1.27	4.50	1.72	9.56
.38	.226	.83	1.57	1.28	4.59	1.73	9.70
.39	.241	.84	1.62	1.29	4.68	1.74	9.83
.40	.257	.85	1.66	1.30	4.77	1.75	9.98
.41	.273	.86	1.71	1.31	4.86	1.76	10.1
.42	.290	.87	1.76	1.32	4.96	1.77	10.3
.43	.307	.88	1.81	1.33	5.05	1.78	10.4
.44	.325	.89	1.87	1.34	5.15	1.79	10.6
.45	.344	.90	1.92	1.35	5.24	1.80	10.7
.46	.363	.91	1.97	1.36	5.34	1.81	10.8
.47	.383	.92	2.02	1.37	5.44	1.82	11.0
.48	.403	.93	2.08	1.38	5.53	1.83	11.1

.49	.425	.94	2.14	1.39	5.63	1.84	11.3
.50	.446	.95	2.19	1.40	5.74	1.85	11.4
.51	.469	.96	2.25	1.41	5.84	1.86	11.6
.52	.492	.97	2.31	1.42	5.94	1.87	11.8
.53	.516	.98	2.37	1.43	6.05	1.88	11.9
.54	.540	.99	2.43	1.44	6.15	1.89	12.1
.55	.565	1.00	2.49	1.45	6.26	1.90	12.2
.56	.591	1.01	2.55	1.46	6.36	1.91	12.4
.57	.618	1.02	2.62	1.47	6.47	1.92	12.6
.58	.645	1.03	2.68	1.48	6.58	1.93	12.7
.59	.673	1.04	2.74	1.49	6.69	1.94	12.9
.60	.701	1.05	2.81	1.50	6.81	1.95	13.0
.61	.731	1.06	2.88	1.51	6.92	1.96	13.2
.62	.761	1.07	2.94	1.52	7.03	1.97	13.4
.63	.792	1.08	3.01	1.53	7.15	1.98	13.5
.64	.823	1.09	3.08	1.54	7.27	1.99	13.7



4883

5'

1 MI. TO U.S. 16

HOT SPRINGS 67 MI.

T. 1 N.

4881

(RAPID CITY EAST)

5372 II SW

REPORT ON WATER PERMIT APPLICATION NO. 2457-2

City of Rapid City

May 14, 2001

Application No. 2457-2, City of Rapid City, proposes the construction of an overflow weir on Lime Creek located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 3 T1N, R7E to divert 0.78 cubic feet of water per second (cfs). Water that surfaces at City Springs is allowed to flow down Lime Creek into Rapid Creek then to the water treatment plant intakes. This structure will be capable of diverting a portion of the Lime Creek flow into a diversion channel. Water flowing in this diversion channel will eventually flow back into Lime Creek approximately 450 feet downstream from the diversion structure. The diversion of water will be a non-consumptive use. The proposed project is located within Rapid City in Pennington County.

Review of the Proposed Project

The City of Rapid City holds Water Right No. 2274-2, having a priority date of January 1, 1886, for 0.78 cfs of water from City Springs. Water from City Springs flows into Lime Creek which is a tributary to Rapid Creek. The City of Rapid City is authorized to divert this City Springs water at their water treatment plant located on Rapid Creek. The City is requesting to allow a non-consumptive diversion of water from Lime Creek into a diversion channel for approximately 450 feet then back into Lime Creek.

Prior to 1972, flow down Lime Creek, except under extraordinary conditions, remained in the main channel past the site of the proposed diversion structure. During the 1972 Rapid City Flood, water overtopped the bank and cut the diversion channel cutting off an oxbow. Following the flood, the City constructed a flagstone structure across the diversion channel forcing water back into the main channel. Over the years the flagstone structure deteriorated until water began to flow in the diversion channel again.

In 1999, staff from the Water Rights Program met with staff from the City and some local property owners. There was concern about what the City's plans were in replacing the flagstone structure. Following this meeting, a letter to the City of Rapid City from the Chief Engineer stated the City could reconstructed the structure to its original dimensions. Since then, the City has been in discussions with local property owners, some who want the Lime Creek flow to remain in the main channel and some who want the flow to remain in the diversion channel. To address both of these concerns, the City is applying for a permit allowing them to split the flow between the main channel and the diversion channel.

The proposed Lime Creek diversion will consist of a combination V-notch/sharp crested weir structure. The structure will be designed to allow for a minimum flow of up to 2.0 cfs in the downstream Lime Creek main channel before water will begin to flow in the diversion channel, Figure 1.

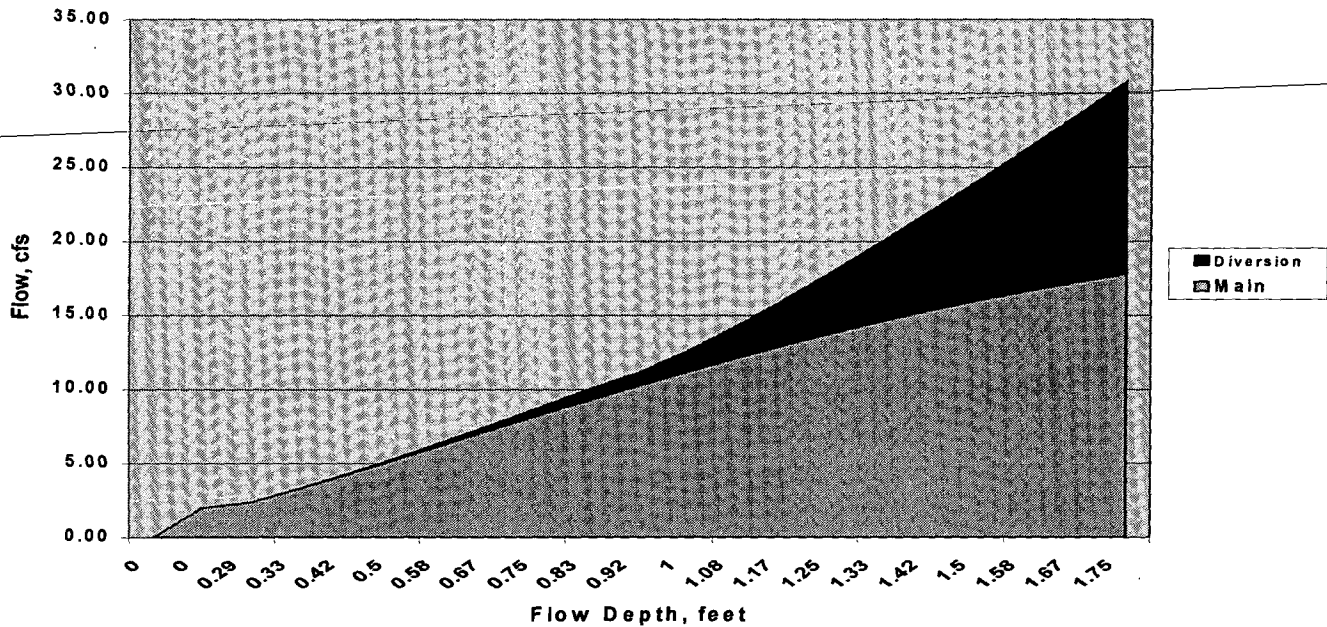


Figure 1. Proposed Lime Creek main channel and diversion channel flow at the diversion structure.

As flow in Lime Creek increases above the base flow, a portion of the additional flow will pass over the weir into the diversion channel while the remainder of the water will stay in the main channel. Proportionately, a much larger amount of the flow, particularly at the lower stages, stays in the main channel in relation to the diversion channel, Figure 2.

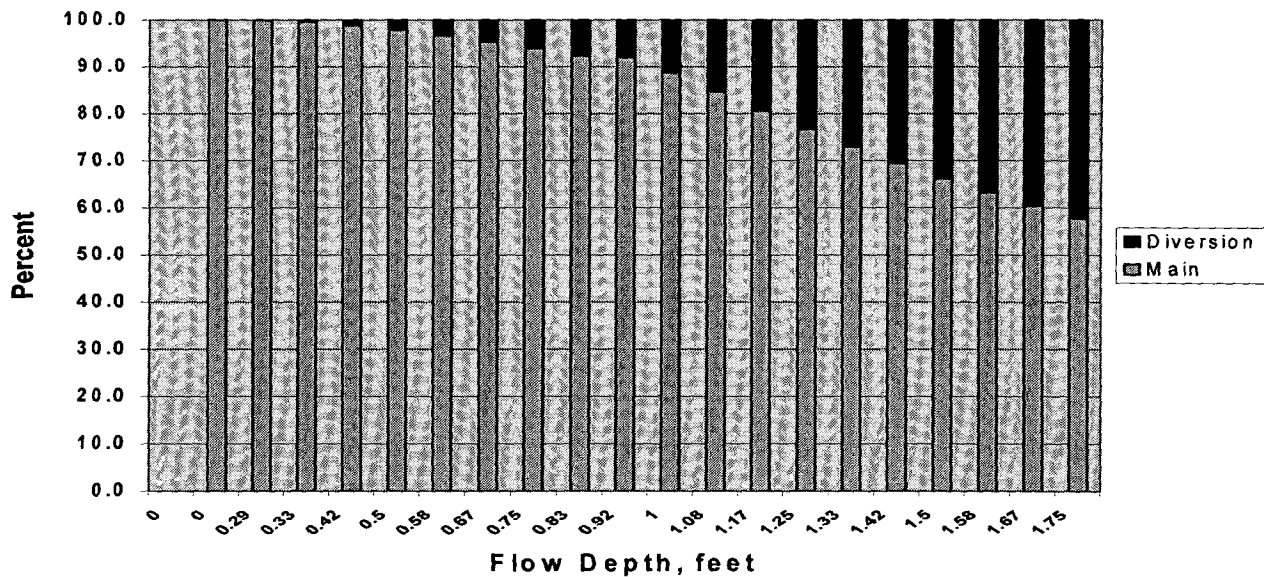


Figure2. Percent of total flow remaining in the main channel versus flow in the diversion channel.

The V-notch portion of the diversion structure will function when water in the channel is about 0.3 of a foot deep and until the water depth reaches 1 foot deep. The division of flow at 1 foot deep is approximately 0.78 cfs through the weir and about 9.30 cfs flowing down the main channel. When the water depth exceeds one foot above the bottom of the main channel, water will begin to flow over the sharp crested weir portion of the structure. This will be similar to the situation when water overtopped the existing flagstone structure.

Review of Existing Water Rights

There are no other existing water rights located on Lime Creek downstream from this project site. There are 75 existing water rights/permits appropriating 247.39 cfs from Rapid Creek located downstream of the Lime Creek confluence. Since this application is a non-consumptive use, the project, if approved, would not be expected to adversely affect existing downstream water rights.

Conclusions

1. This application proposes to construct an overflow weir on Lime Creek to divert a portion of the Lime Creek flow into a diversion channel.
2. The request is for a non-consumptive diversion of 0.78 cfs from Lime Creek into a diversion channel for approximately 450 feet then back into Lime Creek.
3. The V-notch portion of the diversion structure will function when water in the channel is about 0.3 of a foot deep and until the water depth reaches 1 foot deep.
4. When the water depth exceeds one foot above the bottom of the main channel, water will begin to flow over the sharp crested weir portion of the structure. This will be similar to the situation when water overtopped the existing flagstone structure.
5. If this application is approved, it would not be expected to adversely affect existing downstream water rights.



Mark D. Rath
Natural Resources Engineering Specialist



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING

523 EAST CAPITOL

PIERRE, SOUTH DAKOTA 57501-3182

www.state.sd.us/denr

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2457-2, City of Rapid City**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 2457-2, City of Rapid City, c/o Daniel Bjerke, Public Works Director, 300 Sixth Street, Rapid City SD 57701-2724.

The Chief Engineer is recommending APPROVAL of Application No. 2457-2 because 1) the proposed diversion has been developed without unlawful impairment of existing rights, 2) the proposed use is a beneficial use and 3) it is in the public interest.

See report on application for additional information.

Garland Erbele, Chief Engineer
May 23, 2001

**NOTICE OF
APPLICATION NO. 2457-2**

Notice is given that City of Rapid City, c/o Daniel Bierke, Public Works Director, 300 6th Street, Rapid City, SD 57701-2724, has filed an application to construct an overflow weir on Lime Creek in the NE¼ NE¼ Section 4, T1N, R7E. The proposal is to maintain a minimum flow of 2.0 cubic feet of water per second (cfs) in Lime Creek's main channel. When flow in the main channel exceeds the base flow of 2.0 cfs, water will be proportionally diverted into a diversion channel. The diverted water will return to Lime Creek approximately 450 feet downstream from the diversion point. The City of Rapid City currently holds Water Right No. 2274-2 which transferred the diversion authority of 0.78 cfs from City Springs Gallery on Lime Creek for municipal use. Water that surfaces at City Springs is allowed to flow down Lime Creek into Rapid Creek then to the water treatment plant intakes. Water will continue to be available for municipal use at the city's treatment plant.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2457-2 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest.

Any person interested in opposing or supporting 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 July 2, 2001. 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 the Matthew Training Center, Foss Building, 523 E. Capitol Ave., Pierre, SD, at 10:30 a.m., July 11, 2001. 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 July 11, 2001, 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 July 2, 2001.

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 July 2, 2001, 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, 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; and Board Rules ARSD 74:02:01 thru 74:02:01:15.

Steven M. Pirner, Secretary


PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) SS
County of Pennington)

I, Patricia K. Van Datten

certify that the attached printed Notice was taken

from the Rapid City Journal

printed and published in Rapid City

County of Pennington and

state of South Dakota. The notice was published

in the newspaper on the following two dates:

March 31, 2001

June 7, 2001

Cost of Printing One hundred thirty-eight
dollars and thirty-two cents (\$138.32)

Patricia K. Van Datten
(Signature)

Legal Advertising Representative
(Title)

June 7, 2001
(Date Signed)

Instruction to Newspaper - Publish first Notice on May 31, 2001 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 2457-2

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Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2457-2 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest.

Any person interested in opposing or supporting 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 July 2, 2001. 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 The Matthew Training Center, Foss Building, 523 E Capitol Ave., Pierre, SD at 10:30 A.M. July 11, 2001. 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 July 11, 2001 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 July 2, 2001.

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 July 2, 2001, 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; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

May 24, 2001

Rapid City Journal
PO Box 450
Rapid City, SD 57709

ATTENTION: Legal Public Notice

Enclosed is a Notice of Hearing on Application No. 2457-2 to Appropriate Water to be published twice. Please publish the first notice on May 31, 2001 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 City of Rapid City, %Daniel Bjerke, Public Works Director, 300 6th St., Rapid City, SD 57701-2724 (Ph # 605-394-5377 Ext. 216).

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

No. 2457-2

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

Date _____

We are in receipt of your letter of May 24, 2001 enclosing Notice of Hearing to Appropriate Water by Application No. 2457-2 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name _____

Newspaper _____



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

May 24, 2001

City of Rapid City
% Daniel Bjerke, Public Works Director
300 6th Street
Rapid City, SD 57701-2724

Dear Mr. Bjerke:

Water Permit Application No. 2457-2 for municipal use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Rapid City Journal printed at Rapid City, SD (Ph # 605-394-8300). For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice of Hearing and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. The newspaper has been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

May 24, 2001

James R. Nelson
722 Payton Court
Rapid City SD 57702

Dear Mr. Nelson:

The city of Rapid City filed a water right permit application to construct an overflow weir on Lime Creek. We have conducted our review and are prepared to public notice the application for a July 11th hearing before the Water Management Board. Please find enclosed a copy of the report, recommendation and notice on the application. The notice is scheduled to be published May 31st and June 6th in the Rapid City Journal.

Last fall, we met at your house to discuss concerns you had with the diversion channel. The staff report prepared by Mark Rath on the application contains informative graphs showing how the flow split between the main channel on Lime Creek and the diversion channel if this new overflow weir is constructed. I ask that you review the staff report carefully.

If you want to participate in the July 11th hearing before the Water Management Board, you will need to file a letter by July 2nd stating your interest in the application.

Please feel free to contact Mark Rath or myself if you have any questions.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352

enclosure

Gronlund, Eric

From: Gronlund, Eric
Sent: Thursday, May 31, 2001 4:28 PM
To: Erbele, Garland; Rath, Mark
Subject: Rapid City's Lime Creek application

JR Nelson called regarding the application. He's the guy we met with last September at his place along Lime Creek. He will be filing a petition but didn't know if he'd be able to make it to the hearing because of his health. I explained that a petition by itself is hearsay because parties can not cross-exam him and that he should really try to make it to the hearing. He believes this is all political because the Rapid City chief of police lives there and gets a benefit from the diversion channel. He also has distrust for Dan Bjerke.

He was disappointed that after the meeting we had with him that we didn't take his position to disapprove the application and require the creek to be put to it's natural state. I asked him if he closely review the graphs from Mark's report which show that the lion's share of the flow would go down the natural channel. I tried to get him to focus (with little avail) on the new application and the flow split if the new structure is put in. He said he did review the graphs and understood them but it doesn't change the fact that this diversion channel was put in illegal in 1993 and shouldn't be allowed now. He wants all the flow and anything else is unacceptable. He fails to see how this is a beneficial use so I read to him the beneficial use definition and explained that I thought this was to be a park area with ultimately a nature trail. He said no kids ever play down there and I told him that's not true because I played down as a kid numerous times. He replied that the diversion channel just went under some trees and was more of a hazard than anything else. He also believe that since 1993 the reduced flow in the creek has cause undercutting which is the reason for all the erosion. We went around in circles on these issues a number of times.

Sir:

I received your letter approving application #2457-2. I am opposed to this illegal diversion of lime creek. I have already stated to 3 of your guys why apparently you ignore me and the rest of the people whose property about lime creek? Your note:

1. Existing rights will not be unlawfully impaired? Did you look at my property and see where I had to rip-rap my land where the creek flows, as sod was falling into the creek. Decreased water flow caused a stop in fish flow (ask one of your own GF& Parks employees, who asked his name not be used).
2. Beneficial use of water; how is it beneficial?
3. It is in the public interest. Where do you get such info? This diversion benefits 8 houses on Hall Street, as they "like a creek running through their backyard".

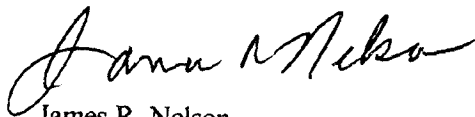
I will be contacting some environmental folks here in Rapid City. Plus, I've already probed an environmental attorney to stop in action that Mr. Bjerke keeps ignoring, that the diversion was created by an illegal act of busting up of the flagstone structure by personnel on Hall Street. And the spading up of sod to create a diversion bed. I have pictures and I told you guys that.

You will have to explain to me how you come to the conclusion that: 1. "Unlawful impairment" and 2. "Beneficial use" (you take our flow away and give it to Hall Street residents. I see a possible conflict of interest as Mr. Bjerke has friends on Hall Street.) Another reason showing Mr. Bjerke's bias is he was twice instructed to put the dam back (by then Mayor Shaw). He influenced Mayor Shaw to rescind. The city could have put this back when we requested per letter dated July 1, 1999 (enclosed).

There was a meeting trying to resolve this issue with a mediator set up by Mayor Shaw (which stated he would be there, but wasn't, and left Mr. Bjerke as a representative). About "rights" again, where are mine? When I asked Judge Young about fish flow he stated, "The hell with fish flow". And when I stated, I had a heart problem, while shoveling rock into my land to stop it from falling into Lime Creek. I ended up having a four way bypass in April of 1999. Judge Young said, "Hire it done". Now since then I have had to have a pacemaker put in and a lot is due to stress over this issue. Every day I see my creek go down or up according to the politics of Mr. Bjerke and the DENR.

I will try and get to the meeting on July 11, however, I have been advised not to drive and will have to get to Pierre in a vehicle where I can rest.

Let's look at what could happen. I could die from my heart problems, which are increased 100 fold on account of this diversion being so illegal in the first place. Why you ignore pictures of these people spading up a path for this "so called" diversion is beyond me. You are condoning illegal acts and I have instructed my wife (on my death) to take Hall Street residents to court in a civil action, also to sue the DENR, City of Rapid City, and Mr. Bjerke personally.



James R. Nelson
722 Payton Court
Rapid City, SD. 57702-8155



The following addresses will sign a petition:

726 Payton Court

730 Payton Court

708 Payton Court

3425 Brookside Drive

3421 Brookside Drive

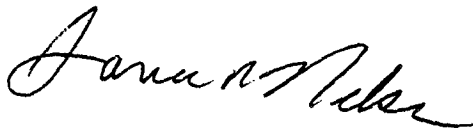
3411 Brookside Drive

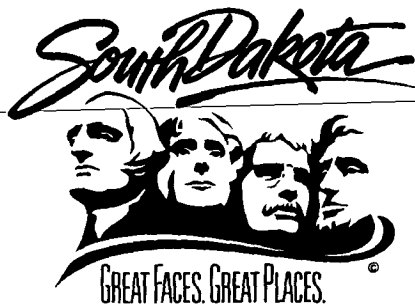
3415 Brookside Drive (Mrs. Haege

Request for Automatic Delay:

Due to health problems now and by July 11, I request a delay until the Doctors can find out why I'm not healing well. I'm under a doctor's care right now and I hope I covered everything as I can't think too good right now.

Thank you,
James R. Nelson
722 Payton Court
Rapid City, SD. 57702

A handwritten signature in cursive script, appearing to read "James R. Nelson", written in dark ink.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 2, 2001

NOTICE

TO: Daniel Bjerke, Public Works Director
City of Rapid City
300 Sixth Street
Rapid City SD 57701-2724

James R. Nelson
722 Payton Court
Rapid City SD 57702-8155

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Automatic Delay of Hearing on Water Right Permit Application No. 2457-2, City of Rapid City

In response to the notice of hearing published in the Rapid City Journal, James Nelson has filed a petition to Water Right Permit Application No. 2457-2. This application proposes to construct an overflow weir on Lime Creek located in the NE ¼ NE ¼ Section 4, T1N, R7E. A copy of the petition is enclosed to the applicant.

The petition also requested an automatic delay of the July 11, 2001, hearing before the Water Management Board. Therefore, the hearing on Application No. 2457-2 is automatically delayed pursuant to SDCL 46-2A-4 and 46-2A-5 and will not be held on July 11, 2001.

The hearing to consider Application No. 2457-2 will now be scheduled for the September 26 and 27, 2001, Water Management Board meeting. Future notice of the exact date, time and place of the hearing for Application No. 2457-2 will be provided to all parties of record.

Please contact Eric Gronlund at (605) 773-3352, if you have any questions.

enclosure

c: Diane Best, Assistant Attorney General

CERTIFICATION

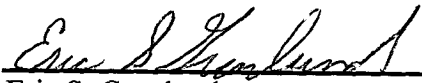
I hereby certify that on July 2, 2001, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated July 2, 2001, regarding Automatic Delay of Hearing on Water Right Permit Application No. 2457-2, City of Rapid City, addressed as stated below:

Daniel Bjerke, Public Works Director
City of Rapid City
300 Sixth Street
Rapid City SD 57701-2724

James R. Nelson
722 Payton Court
Rapid City SD 57702-8155

A copy of the Notice was sent Inter-office to:

Diane Best, Assistant Attorney General, Capitol Building



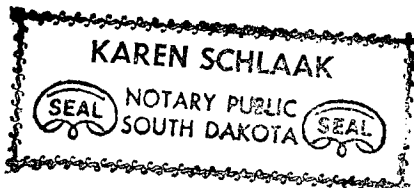
Eric S. Gronlund
Natural Resources Engineer
Water Right Program

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 3rd day of July, 2001.



Karen Schlaak
Notary Public
My Commission expires April 1, 2007





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 25, 2001

NOTICE

TO: Daniel Bjerke, Public Works Director
City of Rapid City
300 Sixth Street
Rapid City SD 57701-2724

James R. Nelson
722 Payton Court
Rapid City SD 57702-8155

FROM: Garland Erbele, Chief Engineer
Water Rights Program 

SUBJECT: Scheduling of the Hearing on Water Right Permit Application No. 2457-2, City of Rapid City

Water Permit Application No. 2457-2 proposes to construct an overflow weir on Lime Creek in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sections 4, T1N, R7E in Pennington County. The July 11, 2001 hearing before the Water Management Board was automatically delayed at the request of the petitioner.

The Water Management Board will now consider Application No. 2457-2 on September 5, 2001, at 9:30 AM, in the Conference Room at the Kelly Inn, 1607 East Highway 50, Yankton SD.

Applicable provisions of the Notice published May 31 and June 7, 2001, in the Rapid City Journal will still apply at the September 5, 2001 hearing before the Water Management Board. This hearing is an adversary proceeding. Any party of record has the right to be present and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Please contact Eric Gronlund at (605) 773-3352, if you have any questions.

c: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on July 25, 2001, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated July 25, 2001, regarding Scheduling of the Hearing on Water Right Permit Application No. 2457-2, City of Rapid City, addressed as stated below:

Daniel Bjerke, Public Works Director
City of Rapid City
300 Sixth Street
Rapid City SD 57701-2724

James R. Nelson
722 Payton Court
Rapid City SD 57702-8155

A copy of the Notice was sent Inter-office to:

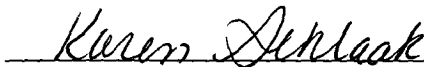
Diane Best, Assistant Attorney General, Capitol Building



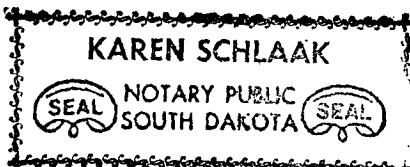
Eric Gronlund
Natural Resource Engineer
Water Rights Program

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 26th day of July, 2001.



Karen Schlaak
Notary Public
My Commission expires April 1, 2007





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

September 25, 2001

James Nelson
722 Payton Court
Rapid City SD 57702-8155

Dear Mr. Nelson:

I am writing to inform you that the Water Management Board approved the water permit application filed by the city of Rapid City to construct an overflow weir on Lime Creek. Since you were unable to attend the hearing, I want you to know that a copy of your petition was provided to the Board members at the time of the hearing.

The water permit is in the process of being issued to the city authorizing construction. Once the structure is constructed, a Water Rights staff person will conduct an on-site inspection to ensure construction is consistent with what was authorized by the Board.

Mr. Nelson, I realize the Board's approval of this application is not the decision you were hoping for. I want you to know that we thoroughly reviewed this application and believe the Board's decision is correct. Please keep an open mind to what the city is trying to do in this park area.

We appreciate your input and providing us a personal tour of the area last fall.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

NOV 07 2001

City of Rapid City
% Daniel Bjerke, Public Works Director
300 6th Street
Rapid City, SD 57701-2724

Dear Mr. Bjerke:

Enclosed is Water Permit No. 2457-2 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

An informational sheet *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

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

enclosures

**Permit No. 2457-2
Pennington County**

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

Other permit/license(s) associated with project: **None**

Contact Person & Address: **John Wagner, City of Rapid City, 300 6th Street, Rapid City, SD 57701**

Report of Examination of Works

On **July 19, 2005**, I made a thorough examination of the water use system constructed by **the City of Rapid City** holder of Permit No. **2457-2**, bearing the priority of **March 29, 2001** authorizing a diversion **weir** on **Lime Creek**.

The weir was constructed on Lime Creek to pass flows greater than 2 cubic feet per second (cfs) into a diversion channel. The diversion channel returns the water back to Lime Creek approximately 450-feet downstream of the weir.

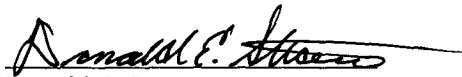
The system is in the following condition: **Good**. The small weir is capable of diverting flow greater than 2-cfs. The weir is located in the NE ¼ NE ¼ Section 4 T1N R7E at longitude W103.274863 latitude N44.080839 744-feet west 534-feet south of the NE corner Section 4.

Review of Permit Qualifications and Regulations:

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

COMMENTS:

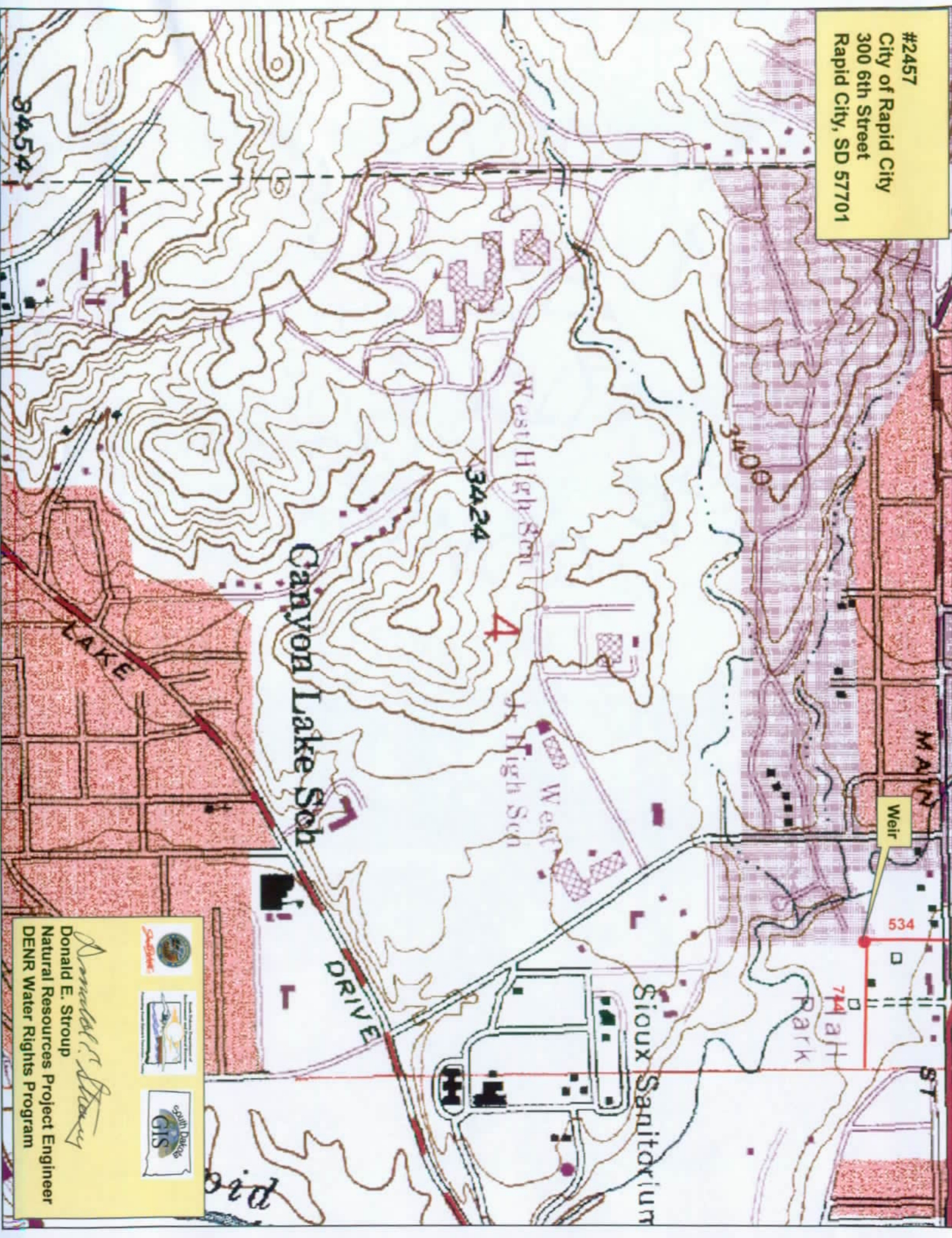
Permit No. 2457-2 should be licensed for the diversion of Lime Creek flows greater than 2-cfs.



Donald E. Stroup
Natural Resources Project Engineer
DENR, Water Rights Program

8/3/2005
Date

#2457
City of Rapid City
300 6th Street
Rapid City, SD 57701



Donald E. Stroup
Donald E. Stroup
Natural Resources Project Engineer
DENR Water Rights Program

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 2457-2

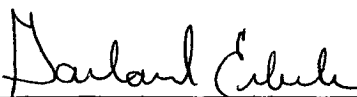
(1) The City of Rapid City, 300 6th St, Rapid City SD 57701 made Application No. 2457-2, March 29, 2001 for a water permit to construct an overflow weir on Lime Creek to divert flows that are in excess of 2.00 cubic feet of water per second (cfs). The project is located in Pennington County, South Dakota and is a non-consumptive use of water for municipal purposes. Permit No. 2457-2, with a priority date of March 29, 2001 was approved September 5, 2001 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before September 5, 2006 and for the application to beneficial use of water on or before September 5, 2010.

The purpose of the project is to maintain a minimum flow of 2.00 cfs in Lime Creek's main channel. When the flow in the main channel exceeds the base flow of 2.00 cfs, water will be proportionately diverted into a diversion channel. The diverted water is returned to Lime Creek approximately 450 feet downstream of the diversion point.

(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, the City of Rapid City the holder and/or owner of Water Right No. 2457-2 is issued a license, bearing a priority date of March 29, 2001 to maintain a minimum flow of 2.00 cubic feet of water per second in Lime Creek's main channel. When flows in the channel exceed the base flow of 2.00 cfs, water will be diverted into a diversion channel for municipal purposes.

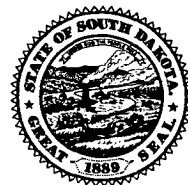
The weir is located: 744 feet west and 534 feet south of the NE corner of Section 4, T1N, R7E
(NE ¼ NE ¼)

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 2457-2.



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

AUG 08 2005
date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

AUG 08 2005

2457-2

John Wagner, Water Supt
City of Rapid City
300 6th St
Rapid City SD 57701

Dear Mr. Wagner:

Enclosed is Water License No. 2457-2. The water license is the final document which completes the process of obtaining a water right. Also enclosed is a map prepared by the staff engineer who conducted the field investigation.

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