

WATER PERMIT NO. 2864-2

Name of Applicant: Rushmore Gold Town Inc/Big Thunder Gold Mine

Address: PO box 459, Keystone SD 57751 Phone: 605 430-9150

Amount of Water Claimed: 0.02 cfs Total Acres: NA

Source of Water Supply: Battle Creek

Water to be used for: commercial & recreational County: Pennington

Type of Waste Disposal System:

Location: 3 miles southeast of Keystone

PRIORITY Date Received: 1-19-23

Application/License Fee: \$300 (needs refund)

Corrected Application Received: 2-1-23

Period of Annual Use: April 1 – October 31

Remarks:

Commercial use cite
Diversion Point: SE 1/4 NW 1/4 Sec 13-T2S-R6E

*From Battle Creek
NW 1/4 NE 1/4 Sec 13*

Land to be Irrigated: NA

Depth of Well: NA

Well Driller:

Remarks:

Type of Map: aerial

13

Reviewed and the Number Assigned on: 2-3-23

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

**SOUTH DAKOTA
WATER PERMIT NO. 2864-2**

Date of first receipt of application January 19, 2023.

Date of return to applicant for corrections, amendments or changes January 23, 2023.

Date of receipt of corrected application February 1, 2023.

The Water Management Board approved Water Permit No. 2864-2 on May 3, 2023 for Rushmore Gold Town, Inc./Big Thunder Gold Mine, c/o Sandra McLain, PO Box 459, Keystone SD 57751 use 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. 2864-2 appropriates up to 2,850 gallons annually at a maximum pump rate of 0.022 cubic feet of water per second (cfs) [10 gallons per minute] from Battle Creek located in the NW 1/4 NE 1/4 Section 13; and used on Federal Claim #MTMMC211671 in the SE 1/4 NW 1/4 Section 13; all in T2S-R6E for commercial and recreational use. This site is located approximately 3 miles southeast of Keystone SD.
2. The water appropriated shall be used for the purpose of commercial 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: April 1 – October 31.
4. The date from which applicant may claim right is January 19, 2023.
5. One-fifth of the construction is to be completed on or before November 3, 2025.
6. All construction is to be completed on or before May 3, 2028.
7. Water is to be put to beneficial use on or before May 3, 2032.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Low flows as needed for downstream domestic use, including livestock water must be bypassed. Diversion of water under this permit shall be in accordance with any written orders issued by the Chief Engineer.
2. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from Battle Creek.
3. Water Permit No. 2864-2 authorizes a total annual diversion of up to 2,850 gallons of water from Battle Creek.

WATER MANAGEMENT BOARD

By: Eric Gronlund
Eric Gronlund, Chief Engineer
Water Rights Program
Department of Agriculture and Natural Resources

MAY 09 2023

date



JAN 19 2023

PAID

JAN 19 2023

Ck# 1065

Rec't#

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>2864-2</u> (office use only) Hydrologic Unit <u>10120109</u>	OFFICE OF WATER
	Basin <u>Upper Cheyenne</u>	
	Newspaper <u>Rapid City Journal</u>	

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

Check use(s) of water:

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

Type of Application: (check one)

☒ New	☐ Vested Right (Use predates Mar 2, 1955)	☐ Future Use Reservation
☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____		
☐ Amendment/Correction to Permit No. _____		

Asking for use of water from the creek for initial fill of system of 600 to 750 gallons once a year with additional 20 gallons every other day for evaporation from April 1st to October 31 for panning system in approved outdoor permit through Black Hills Forest Service.

- Name to Appear on Water Permit Rushmore Gold Town Inc (claim name) Big Thunder Gold Mine
Mailing Address PO Box 459 Keystone, SD 57751
(Address) (City) (State) (Zip Code)
Phone 605 666-4847 Mobile 605 430-9150 Email mclainsandra@aol.com
- Amount of water claimed 0.022*CFS or 10 **GPM and 2850 ***AF or 2850 Gallons
Flow rate and volume are both required. (*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use)
- Source of water supply Battle Creek NW 1/4 NE 1/4 Sec 13 - 25 - 6E (SE 1/4 NW 1/4)
- Location of point of diversion Federal Claim#MTMMC211671 T25 RP25, RG 6E, Section 13 County Pennington
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
If not a public water supply (e.g. municipal), will water be used outside of the area described above? ☒ Yes ☐ No
If "Yes," where will water be used? If creek dries up/haul water to site with water tank
(example - NW1/4 section 12-T104N-R53W)
- County or counties where water will be used Pennington County
- Annual period during which water is to be used April 1 through October 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)

See attached Word File description

I, Sandra McLain Sandra McLain Owner/President, the applicant, certify under
Name of Person Title (if applicable)

penalty of perjury that I have read this application, examined the attached map, and that the matters stated are true. I further certify, if acting on behalf of an entity or individual other than myself, that I am authorized to submit this application.

Supplemental Information

(type or print)

1. Well Information (check one or both as applicable) ☐ Drilling new well(s) ☐ Using existing well(s)a) If new wells, how many ____ Have test holes been drilled ☐ Yes ☐ No Drilled by N/A
(if yes, please provide copies of logs)b) If existing wells, how many ____ Provide copy of log(s), if available. Drilled by N/A

For either Existing or Proposed Wells:

c) Well Depth (required) N/A Depth to Top of Water Bearing Material N/A Depth to Water from Surface ____d) Distance to nearest domestic well on applicant's property N/A Property owned by others ____**2. Wastewater Disposal System Information**a) Type of System (i.e. septic tank, drain field) N/Ab) System Capacity (gallons) N/A Year Constructed ____c) Connected to the City of N/A Sanitary System**3. Dugout Information**a) Surface Dimensions N/A Depth ____b) Depth to water (ground surface to water level) N/A**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.

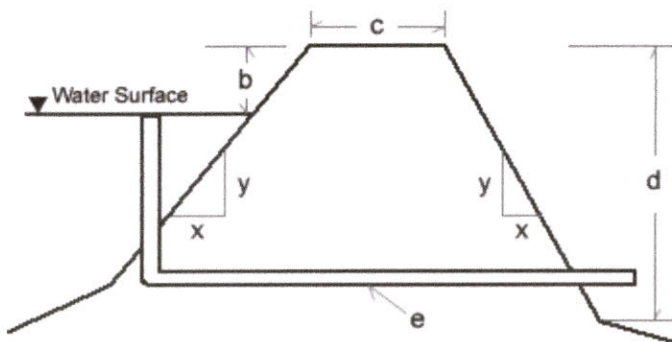
a) If a private engineering firm or government agency was involved in the design of this dam, please give their name and address:

b) Freeboard N/Ac) Crest Width N/ACrest Length N/Ad) Height N/Ae) Primary Outlet Capacity N/A

If pipe, diameter ____

f) Secondary Spillway Capacity N/ASpillway Width N/A

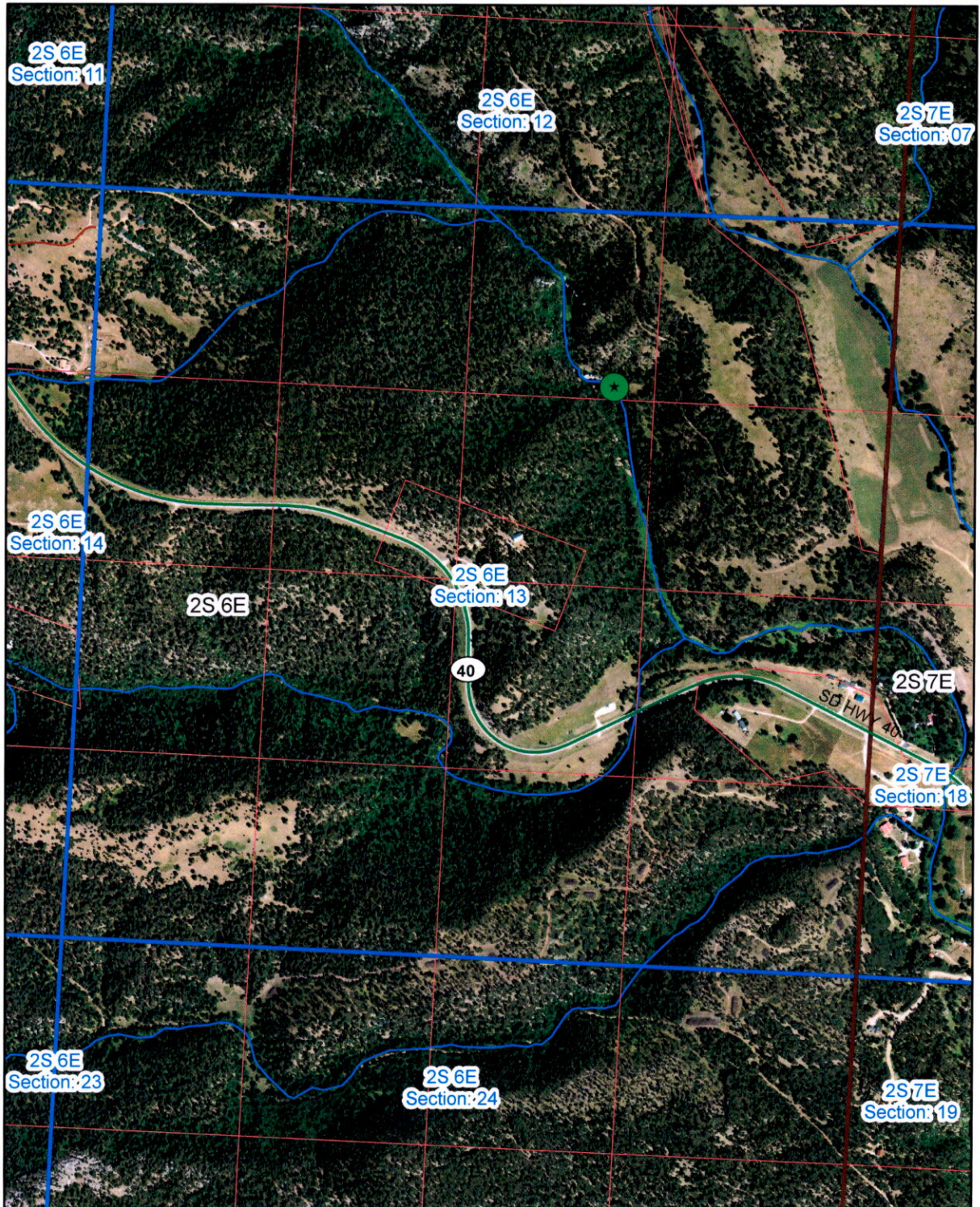
g) X & Y Slope (e.g. 3 to 1 is a typical slope)

Upstream N/ADownstream N/Ah) Surface Area of Impoundment N/Ai) Storage N/A Acre Feetj) Drainage Area Above Dam N/A Acres

Scale: 1 inch = 1,042 feet

1,400

Feet



DANR
SOUTH DAKOTA

Completed by:


Ron Duvall, W.R. Permitting Administrator
SD DANR, Water Rights Program

Date: February 10, 2023



Battle Creek diversion point location
as described by the applicant.

Application No. 2864-2

2S 6E
Section: 11

2S 6E
Section: 12

2S
Section

2S 6E
Section: 14

2S 6E
Section: 13

2S
Section

2S 6E
Section: 23

2S 6E
Section: 24

2S

BIG THUNDER GOLD MINE

PO BOX 459/604 BLAIR ST.

KEYSTONE, SD 57751

June 22, 2022

Department of Agriculture and Natural Resources

Joe Foss Building

523 E. Capital Ave.

Pierre, SD 57501-3182

Dear Kelli D. Buscher,

I appreciate our conversation on June 21 during the afternoon. Your answers to my questions were thorough and concise. This letter is in response to the warning letter dated June 16, 2022 (attached). Big Thunder Gold Mine has been working with the "Forest Service, specifically, Johnathan Manning. A team of specialists with the Forest Service asked us to cease and desist on May 5, 2022 at our claim site which is claimed under the Bureau of Land Management as "Hayward Halo" near "Little Falls," located on Highway 40. The communication was with Trent Braun, our employee, Communication transpired between Trent, myself and Johnathan about reclamation and the possible application for a special outdoor use permit with the Forest Service. Johnathan suggested the permit as a means to work with the current and future on the claim. We filled out the permit application which included approximately 80 pages in April. Discussion occurred about the claim and its current state before reclamation. The current state included a study that was done by an intern with the Forest Service last year in 2021 that impacted fish and the surrounding environment. Sediment had indicated an impact on the fish environment. During 2021, only small puddles of water existed in Battle creek for ½ of the season due the drought. An inspection was done and was recommended by the team of 8 people. A plan of operations, verbally, was recommended by the team on reclamation. They would consider the permit, but repair reclamation would have to be done.

Trent had indicated that 2 of our employees would work on the reclamation but no solid date was decided. Trent said they would try to get to it within the next few weeks. Jonathan has visited the site and commented to Mitch McQuay, our employee, that the work looks good, and that work is going well. We stopped taking tours to the claim at the end of the day on May 5. No guiding services has taken place on the claim at Hayward Halo since that date. The 2 employees are the only people doing reclamation. I have included total hours of Mitch McQuay. It shows our commitment to this project. Those are also enclosed.

I have included some links for pictures for your review on progress for reclamation. Final pics would be given to you after inspection. Johnathan is inspecting and reviewing information with Trent on morning of June 23, 2022 at the Hayward Halo. This will enter the final phase of reclamation for the project.

At this time of the project, we are nearing completion under the supervision of Jonathan Manning. We will be completed with the reclamation by June 28, 2022. Inspection of the site can be done from the 28 thru 30th or when the Forest Service and DANR deem it convenient. One of our staff would like to be present. We feel that the site looks good and back to the standards of the Forest Service. I believe Johnathan is a state approved engineer or serves in that capacity. We can apply for any additional permits if required. Today they said the site is fantastic, we have 3 boulders to move in the creek.

We thank you for working with us on the project and look forward to positive a future with all agencies. If you have any questions or additional comments please call me at 1 of 2 numbers: 605 666-4847 or 605 430 9150.

Respectively submitted.

Sandra McLain

Big Thunder Gold Mine

605 666-4847



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

June 16, 2022

Big Thunder Gold Mine
Sandra McLain
604 Blair Street
Keystone, SD 57751

WARNING LETTER

Certified Letter: Return Receipt Requested

Dear Ms. McLain:

Big Thunder Gold Mine is guiding and providing placer gold mining activities on Battle Creek. Battle Creek is protected as a coldwater fishery and for recreational uses. Your activities are degrading the biological integrity of Battle Creek, exceeding water quality standards for total suspended solids, and impacting the bed and bank of the creek. Big Thunder Gold Mine must cease and desist its activities in Battle Creek.

Your operation is violating a number of state laws and regulations:

- **Administrative Rules of South Dakota (ARSD) 74:51:01:12. Biological integrity of waters.** *All waters of the state must be free from substances, whether attributable to human-induced point source discharges or nonpoint source activities, in concentrations or combinations which will adversely impact the structure and function of indigenous or intentionally introduced aquatic communities.*
- **ARSD 74:51:01:06. Visible pollutants prohibited.** *Raw or treated sewage, garbage, rubble, unpermitted fill materials, municipal wastes, industrial wastes, or agricultural wastes which produce floating solids, scum, oil slicks, material discoloration, visible gassing, sludge deposits, sediments, slimes, algal blooms, fungus growths, or other offensive effects may not be discharged or caused to be discharged into surface waters of the state.*
- **South Dakota Codified Law (SDCL) 34A-2-36.** *No person may discharge any waste, pollutant, or combination of pollutants, into surface waters from a point source without a permit consistent with rules promulgated by the board pursuant to chapter 1-26 and this chapter. A violation of this section is subject to § 34A-2-75.*

The 30-day average total suspended solids criterion of 30 mg/L and the daily maximum total suspended solids criterion of 53 mg/L may not be exceeded. Directly placing dirt and sediment in the creek during gold mining activities is prohibited by DANR.

In addition to these water quality requirements, a water right permit is required prior to the diversion of water for commercial purposes. In addition, no person, except under lawful authority to do so, may intentionally obstruct, tamper with, or interfere with the stage, level or flow of the public waters of South Dakota. **A water right permit is not in place** for either the diversion of water or placement of material in Battle Creek such that the stage, level or flow is raised or lowered.

If you fail to comply with these laws and regulations, you could face fines of up to \$10,000 per day per violation under SDCL 34A-2-75.

In response to these violations, Big Thunder Gold Mine must take the following corrective actions:

- Upon receipt of this letter, you must cease and desist your activities in Battle Creek.
- By August 1, 2022, you must hire a consulting engineer, registered as a Professional Engineer in the state of South Dakota, to develop a plan for correcting the damage to the creek.
- By September 30, 2022, you must submit the plan for DANR's review. The plan must include specific milestones and dates for completing the work.

DANR will be conducting an inspection to verify you have ceased activity at this site, along with periodic site visits to confirm your progress in correcting these violations. If you fail to comply with the terms of this warning letter, DANR will initiate formal enforcement action, which may include penalties.

Please feel free to contact the department with any questions or concerns 605-773-3351.

Sincerely,



Kelli D. Buscher, P.E.
Surface Water Quality Program
Kelli.Buscher@state.sd.us
(605) 773-3351

email:
Kelli.Buscher@state
sd.us

cc: Steve Naylor, US Army Corps of Engineers
Jonathan Manning, Forest Service
Kip Rounds, SD Department of Game, Fish and Parks



United States
Department of
Agriculture

Forest
Service

Mystic Ranger District

8221 Mount Rushmore Rd.
Rapid City, SD 57702
605-343-1567
Fax: 605-343-7134

File Code: 2700
Date: June 3, 2022

SANDRA MCLAIN
BIG THUNDER GOLD MINE
PO BOX 459 / 604 BLAIR STREET
KEYSTONE, SD 57751

Dear Ms. McLain;

Based upon recent concerns raised by the public that use the hiking trail near your mining claim, Mystic Ranger District resource specialists visited your mining claim site on May 5, 2022, which also serves as the tourist gold panning site for Big Thunder Gold Mine out of Keystone. Current surface disturbance is not approved by the Forest Service. The operation is likely not in compliance with the Clean Water Act, SD DANR, or Pennington County. This letter is to inform you that Big Thunder Gold Mine is to discontinue guided tours immediately at this site until your proposed activity is approved under a Forest Service special use permit. A special use permit is required for your business due to surface resource disturbance on National Forest System lands in the act of your providing a commercial use or activity. Currently the surface resource disturbance on National Forest System lands is not authorized, nor is the commercial business activity (guided tours) which you are conducting on National Forest System lands. Authorization is required to address surface resource-disturbing activity on National Forest System lands along with authorization of your commercial business activity.

Though your commercial business includes your customers paying you for gold panning guided tours on Forest Service lands, that activity is not authorized under Forest Service regulations for locatable minerals (mining claim). The guided tours require a special use permit which has not been approved yet.

The first step that must be completed is reclamation of the entire effected area in and along Battle Creek. All material placed in and along Battle Creek (from Big Thunder operations) must be moved from its current location (in and along the creek) to above the ordinary high-water mark. Material is to be placed back into disturbed areas where the material came from in order to prevent further sedimentation into the creek. The materials include rock and sediment dams, a settling pond, and sediment accumulation along the banks. Reclamation is to be completed by hand and hand use tools (shovels, buckets, etc.). All material that is feasible to move with hand tools must be moved beyond the ordinary high-water mark. The use of a suction dredge is not permitted.

After reclamation is complete, Mystic Ranger District resource specialists will inspect the area again. Then, we will resume evaluating proposed activity and guided tours under a special use permit.

I would like to offer an opportunity to meet in-person at the Mystic Ranger District Office located at 8221 South Mt. Rushmore Road in Rapid City to answer questions and facilitate a



successful resolution to this matter in the near future. Please contact Jonathan Manning of my staff at 605-673-9314 if you have any questions concerning reclamation requirements.

Please contact Ben Schumacher of my staff at 605-716-1977 if you have any questions concerning special use permitting of outfitters and guides and if you are interested in scheduling a meeting.

Sincerely,

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

JIM GUBBELS
District Ranger



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

August 23, 2022

Sandra McLain
Owner, Big Thunder Gold Mine
PO BOX 459 / 604 Blair Street
Keystone, SD 57751

RE: Reclamation Requirements
Sent via sandramclain@aol.com

Dear Sandra McLain:

On August 19th, representatives (Raul Vasquez-Surface Water Quality, and Mark Keenihan-Mining and Minerals) of the Department of Agriculture and Natural Resources took part in an inspection of the Big Thunder Gold Mining site located about 4 miles east of downtown Keystone. Arriving on site, there were four representatives from the United States Forest Service along with three members of the Big Thunder Gold Mine.

The focus area was a 300ft section of Battle Creek that had been partially reclaimed. The creek did look improved from previous pictures, but there were problematic areas in the stream that were addressed with the claim owner.

This letter is to remind you of the reclamation requirements discussed during the visit to the panning site. As discussed, the Department of Agriculture and Natural Resources is requiring:

- 1. The removal of silt/fines piles in Battle Creek**
- 2. Sections of the rock dam be removed to allow the passage of aquatic life**
- 3. The silt/fines pile on the bank of Battle Creek be located to a higher elevation**
- 4. Stabilize shoreline after removal of silt/fines pile**

The Big Thunder Gold Mine shall make progress on the clean up of Battle Creek by October 31, 2022.

These aforementioned silt/fines pile have the potential to create turbidity in Battle Creek. The movement of sediment is considered pollution by South Dakota Codified Laws as stated below. Changes in turbidity are not permitted in the waters of the state.

SDCL 32A-2-2:

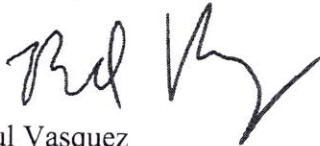
"Pollution," such contamination, or other alteration of the physical, chemical or biological properties, of any waters of the state as exceeds that permitted by state effluent or water quality standards, including change in temperature, taste, color, **turbidity**, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental, or injurious to public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life;

Failure to comply with South Dakota Codified Law can be subject to penalties of up to \$10,000 per day for each day the specified law is broken.

The owner shall not violate any of South Dakota Codified Law specified in section 32-2-2 that creates pollution in waters of the state.

Please feel free to contact me at (605) 394-2229 with any questions.

Sincerely,



Raul Vasquez
Natural Resource Engineer
Surface water Quality Program

4 → Called 08-30-22
left message

Cc: SWD File
Tim Flor, Enforcement

Save

Print

Clear

Form 3830-5a
(July 2019)UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENTMAINTENANCE FEE PAYMENT FORM FOR
PLACER MINING CLAIMSRemitter Name: Rushmore Goldtown IncMailing Address: PO Box 459City, State, Zip: Keystone, SD 57151☐ Check here if this is a change of address.BLM/Montana Mine Claims
5001 Southgate Dr.
Billings, Montana 59101

FOR COUNTY RECORDER'S USE

No. of claims 1Total due BLM \$ 165.00

1. The maintenance fee may be paid by cash, check, money order, Bureau of Land Management (BLM) Declining Deposit Account, or credit card (VISA, American Express, Discover, or MasterCard). Payments must be remitted to the BLM State Office where your claim or site is recorded and received on or before September 1. If the payment is mailed, the envelope must be postmarked by a bona fide delivery service on or before September 1 and received at the proper BLM State Office within 15 calendar days after the due date. Payments may also be made by telephone using a credit card. A complete listing of BLM State Offices with their addresses and phone numbers can be found at <https://www.blm.gov/locations>.

2. The maintenance fee for the following claim(s) applies to the assessment year 2022
2023

CLAIM NAME	BLM SERIAL NO.	ACRES IN CLAIM	PAYMENT DUE TO THE BLM (See Instructions on Page 2)
<u>MTMMC 211671-Hayward Hobbs</u>	<u>#1</u>	<u>under 20</u>	\$ <u>165.00</u>
			\$
			\$
			\$
			\$
			\$
			\$
			\$
			\$
			\$

Use a separate sheet for additional claim names, serial numbers, and claimant names and addresses.

INSTRUCTIONS

1. This is an optional form that may be used to satisfy the requirements for the Bureau of Land Management (BLM) under the provisions of 43 U.S.C. §1744 and 30 U.S.C. §28f and the regulations thereunder (43 CFR part 3834). Since local and State laws may vary, you should contact your local and State agencies where the claims are located to ensure all applicable laws and requirements are satisfied.
2. This form should be used to pay the maintenance fee for placer mining claims only. To pay the maintenance fee for lode mining claims, mill sites or tunnel sites, use Form 3830-5.
3. Complete the section for the number of claims and the amount being remitted to the BLM.
4. Enter the year in paragraph 2 for the applicable assessment year.
5. List all mining claim names and the BLM serial number associated to the claim if the BLM has notified you what the serial number is. Every attempt should be made to include the current BLM serial number for each claim listed. List the acreage for each claim and the amount due based on the acreage. See the chart below for amounts due.
6. The maintenance fee for placer mining claims is paid for every 20 acres of the claim **or portion thereof**. When making a maintenance fee payment for your placer claim, you should make your payment in accordance with the following chart:

Number of acres in the claim	Maintenance Fee Payment Due Per Claim
< = 20 acres	\$165
> 20 acres but < = 40 acres	\$330
> 40 acres but < = 60 acres	\$495
> 60 acres but < = 80 acres	\$660
> 80 acres but < = 100 acres	\$825
> 100 acres but < = 120 acres	\$990
> 120 acres but < = 140 acres	\$1,155
> 140 acres but < = 160 acres	\$1,320
> 160 acres	Contact the BLM

Legend: > means greater than; < means less than; = means equal to

7. The name and current mailing addresses of the person paying the maintenance fee(s) should be listed at the top of the form. If this is a change of address for a claimant, that should also be noted.
8. If needed, an additional sheet can be used to continue listing claim names, BLM serial numbers, acres in claim, payment due or the name and current mailing address of additional claimants.
9. If paying by credit card, you must complete the following credit card information on page 4: (a) exact name on the face of the credit card; (b) amount paid; (c) type of card; (d) credit card number; (e) expiration date of the card; and (f) telephone number. You must also sign page 4 to show authorization to charge the credit card.

NOTICES

THE PRIVACY ACT and 43 CFR 2.48(d) require that you be furnished with the following information in connection with the information requested by this form.

AUTHORITY: 30 U.S.C. 28f and 43 CFR part 3834 permit collection of the information requested by this form.

PRINCIPAL PURPOSE: The BLM will use the information you provide to record the annual maintenance fee payment for the claims listed and to verify that payment has been made in accordance with 30 U.S.C. 28f and 43 CFR part 3834.

ROUTINE USES: The BLM will only disclose this information in accordance with the provisions at 43 CFR 2.56(b) and (c).

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of the requested information is required by 30 U.S.C. 28f and 43 CFR part 3834 for claimants paying the annual maintenance fee. The use of this specific form when paying the maintenance fee is optional. However, when paying the maintenance fee, it is the requested information on this form that is required to be submitted along with the fee. Failure to submit all the required information will delay the BLM's processing of the information and may preclude the BLM's acceptance of the maintenance fee payment, which may result in forfeiture of the mining claim(s) by the claimant.

NOTICES

THE PRIVACY ACT and 43 CFR 2.223(d) require that you be furnished with the following information in connection with the information requested by this form.

AUTHORITY: 30 U.S.C. §28-28d and 43 CFR part 3835 permit collection of the information requested by this form.

PRINCIPAL PURPOSE: The BLM will use the information you provide to document compliance with 43 U.S.C. 1744 and that assessment work has been completed in accordance with 30 U.S.C. § 28-28d and 43 CFR part 3835 in lieu of paying the maintenance fee for the mining claims listed on this form.

ROUTINE USES: The BLM will only disclose this information in accordance with the provisions at 43 CFR 2.231(b) and (c). **EFFECT OF NOT PROVIDING INFORMATION:** Disclosure of the requested information is required by 30 U.S.C. § 28-28d and 43 CFR part 3835 for claimants qualified to perform assessment work in lieu of paying the maintenance fee. Failure to submit all the requested information or to complete this form will delay the BLM's processing of the form and may preclude the BLM's acceptance of the assessment work information, which may result in forfeiture of the mining claim(s) by the claimant.

RELEVANT SYSTEM OF RECORDS NOTICE (SORN) CITATION: The Recordation of Mining Claims SORN may be found at 47 FR 55326 (December 8, 1982).

THE PAPERWORK REDUCTION ACT requires us to inform you that:

Use of this form is optional. You must perform assessment if a waiver to pay the maintenance fee has been requested. This form is provided to help you attest that annual assessment work has been completed in lieu of paying the maintenance fee for your claim(s). Submission of the requested information is necessary to obtain or retain a benefit.

You do not have to respond to this or any other Federal agency-sponsored information collection unless it displays a valid OMB control number.

BURDEN HOURS STATEMENT: The estimated public reporting burden for this form is 30 minutes per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. You may submit comments regarding the burden estimate or any other aspect of this form to: U.S.

Department of the Interior, Bureau of Land Management (1004-0114), Bureau Information Collection Clearance Officer (WO-630), 1849 C Street, N.W., Room 2134LM, Washington, D.C. 20240.

COMPLETE THE FOLLOWING FOR CREDIT CARD PAYMENTS:

Exact name as shown on credit card: Big Thunder Inc. / Sandra McLain

Amount Paid: \$ 180.⁰⁰

Type of Card: ☐ VISA ☒ MASTERCARD ☐ DISCOVER ☐ AMERICAN EXPRESS

CREDIT CARD NUMBER

Expiration Date: 08/23 Telephone No.: 605 666-4847

Signature: Sandra McLain

Title 18 U.S.C. 1001 and 43 U.S.C. 1212 make it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

NOTE TO BLM EMPLOYEES: DETACH THIS PAGE BEFORE FILING THIS FORM IN APPLICABLE CASE FILES.

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

FORM APPROVED
OMB NO.: 1004-0114
Expires: April 30, 2023

AFFIDAVIT OF ANNUAL ASSESSMENT WORK

Prepared by and
WHEN RECORDED, MAIL DOCUMENT TO:
NAME: Rushmore Goldtown Inc
ADDRESS: PO Box 459
CITY, STATE, ZIP: Keystone, SD
605 666-4847 5761
TO ALL WHOM IT
MAY CONCERN:



A202211783
July 26, 2022 2:25 PM
Audra Casteel
Pennington County, SD

\$30.00
Pgs: 4

FOR COUNTY RECORDER'S USE

No. of Claims 1 x \$15/claim
Total due BLM \$ \$15.00

1. The undersigned certifies that at least \$100 per claim was expended for development, labor and improvements, or equivalent value added, as the annual assessment work for the assessment year ending September 1, 2022 for the following contiguous unpatented mining claim(s), located in the County of Pennington, in the State of SD

BLM Serial No.	Name of Claim	Tp	Rg	Sec	Mer	County Recordation Book and Page No.	Co. Recording Date
MTMMC 211671	Hayward Halo	25	6E	13	MTM MC		07-26-22

2. Type of labor and improvements (specify what was done and give the total value for that labor and improvement to show at least \$100 for each claim). If a geological, geochemical, or geophysical survey was performed, as per 30 U.S.C. 28-1, reference the title of the report of survey, give cost and date of the survey and report, and indicate it was filed with the County Recorder:

Description of Work Performed	Value of Work Performed	Date Work Was Performed
cutting trees, reclamation of gravel, smoothing paths, moving rock	\$4500	April 15 - August 1 2022

3. Name and mailing address of each person who performed the labor and improvements:

Name (please print)

Current Mailing Address (please print)

Trent Braein
Mitch

904 Old Hill City, Rd Keystone
604 Burst Keystone, SD SD

4. Name and mailing address of each person who holds and claims the subject mining claim(s) for the valuable minerals contained therein. Be sure to indicate if there is a change of address:

Name (please print)

Current Mailing Address (please print)

Sandra McLain
Mike McLain

PO Box 459 Keystone, SD
PO Box 459 Keystone, SD

5. The undersigned testifies that on the date of July 26, 2022, all monuments required by law were erected upon the subject claim(s), and all notices required by law were posted on the subject claim(s) or copies thereof were in place, and at said date, each corner monument bore or contained markings sufficient to appropriately designate the corner of the claim to which it pertains and the name of the claim(s).

United States Department of the Interior**Bureau of Land Management**

DIV OF SUPPORT SERVICES

5001 SOUTHGATE DRIVE

BILLINGS, MT 59101 -4669

Phone:

Receipt

No:

5079356

Transaction #: 5219319**Date of Transaction:** 08/08/2022

CUSTOMER:

RUSHMORE GOLDTOWN INC
PO BOX 459
KEYSTONE,SD 57751-0459 US

LINE #	QTY	DESCRIPTION	REMARKS	UNIT PRICE	TOTAL
1	1.00	MLRS MINING CLAIMS / MINING CLAIMS-EXISTING- MLRS ONLY / MAINTENANCE FEE CASES: MT101676822/\$165.00		- n/a -	165.00

Transaction #: 5219321**Date of Transaction:** 08/08/2022

CUSTOMER:

RUSHMORE GOLDTOWN INC
PO BOX 459
KEYSTONE,SD 57751-0459 US

LINE #	QTY	DESCRIPTION	REMARKS	UNIT PRICE	TOTAL
1	1.00	MLRS MINING CLAIMS / MINING CLAIMS-EXISTING- MLRS ONLY / PROOF OF LABOR/ASSESSMENT CASES: MT101676822/\$15.00		- n/a -	15.00

TOTAL: \$180.00**PAYMENT INFORMATION**

NOTE: Items will appear on credit card statement as "Bureau of Land Mgmt CO".

1	AMOUNT:	180.00	POSTMARKED:	N/A
	TYPE:	CREDIT CARD	RECEIVED:	08/08/2022
	NAME:	RUSHMORE GOLDTOWN INC PO BOX 459 KEYSTONE SD 57751-0459 US		
	CARD NO:	XXXXXXXXXXXX6557	AUTH CODE:	719540
	NAME ON CARD:	BIG THUNDER INC		



Received
Bureau of Land Management

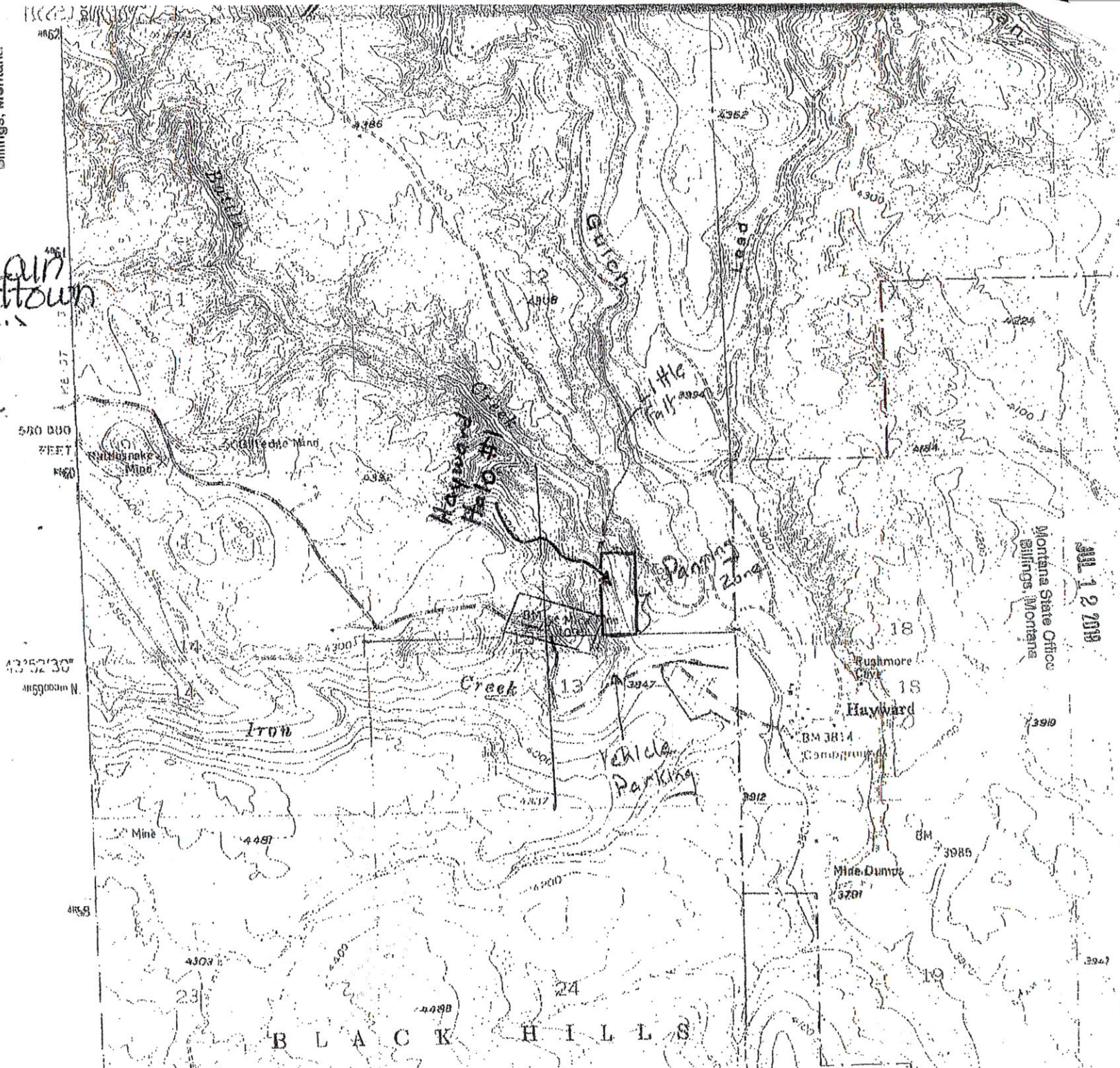
AUG 20 2020

Montana State Office
Billings, Montana

Claimed by:
Sandra McLain
Rushmore Goldtown
Inc
PO Box 459
Keystone
SD
57751



Book: 132
Page: 2655
Page: 004 of 004
R04-10881.0 Page: 004 of 004
05/28/2004 10:46a South Dakota
Pennington County Location
Donna M. Hayer



Montana State Office
Billings, Montana

JUL 12 2019

SOUTH DAKOTA
SECRETARY OF STATE**STEVE BARNETT**SOUTH DAKOTA
SECRETARY OF STATE

(605) 773-4845

corpinfo@state.sd.us

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big thunder Inc

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Business ID

Business ID

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Show 100 ▼ entries

Business ID	Type	Name	Name Type	Filing Date	Status
DB034251	CORP	BIG THUNDER, INC. SOUTH DAKOTA	Entity	04/06/1994	Good Standing

Showing 1 to 1 of 1 entries

[Previous](#)

1

[Next](#)

Information about individual business entities can be searched, viewed and printed using this search tool for free.

If you want to get an electronic file of all business entities in the database, the full database can be downloaded for a fee by [clicking here](#).

ANNUAL OPERATING PLAN

YEAR:

Rushmore Gold Town Inc

Name of Outfitter

Sandra McLain

Designated Agent

PO Box 459/604 Blair Street

Address

605 666-4847/605 430 9150

Telephone Number

Black Hills

National Forest

Mystic

Ranger District

When signed by both the Special Use permit holder and the Forest Service authorized officer, this operating plan becomes part of the permit. This plan is the key basis upon which the outfitter's performance will be evaluated annually. The authorized officer must approve in advance any changes to the operating plan.

Plan prepared by: Sandra McLain Date 08-24-22
Outfitter or Designated Agent

Plan approved by: _____ Date _____
Ben Schumacher, Permit Administrator

Plan approved by: _____ Date _____
James Gubbels District Ranger

I. Mission, Goals, Objectives – Include statements of overall philosophy of the operations, goals for visitor service, care of land and resources, Wilderness objectives (if in Wilderness), etc.

The mission of Rushmore Gold Town Inc is to continue as a corporation representing Big Thunder Gold Mine' Advanced Claim Experience. The Advanced Claim Experience allows customers the ability to pan near the creek on the prepared woods environment. The environment allows experienced panners the ability to classify, and sluice plus pan in a controlled environment as pictured with this permit. The environment is not connected to the creek nor dispenses any water back into the creek. The systems is one that we have created and experimented with on our private property at Big Thunder Gold Mine. The customer who has experience will dig the material from the dig site on Forest Service claim property. The environment includes a system which can classify the material powered by a battery pack. The system for sluicing includes several tubs connected by 1-2 sluices which draw the gold out of the material. The system would be operated by a battery pack as well. All sediment from both the classification system and the sluicing would automatically be removed by hand and placed in the ground digging site to reclaim the holes every 1-2 days as the experience continues. The experience is very similar to dry sluicing but with water in dry areas in southwestern panning sites. We will apply through DANR for a water permit. We would ask for usage of creek water from 250-600 gallons of water in the initial set up of the system. Occasional filling of the system would occur because of evaporation and some leakage which total approximately several gallons daily. This system would be placed above the high watermark area of the dig site above Battle Creek. Customers have enjoyed the system at Big Thunder Gold Mine. They see it as means to protect our creeks and water to fish and habitat. This is the customer experience. The clean up process will continue on scheduled days of advanced panning. This means will not have as many customers as does our beginning system on our property at the mine. Reclamation is done right away during the week. Garbage will be picked up by passing people on the way to Little Falls. We will be responsible for garbage on our claim.

II. Description of the Operation – Season of use, Area of operations, Type of Services offered.

Season of use included March 30 thru October 31. Set up would be done for summer in spring. All of items including equipment would be removed for the winter. The description of what would be done is listed above in Mission. During the winter nothing would be done just initial cleanup after October 30. The creek would not be used except for water if approved. Plan B on water if not approved would be a water tank brought by the closed road. Road closure permit would be requested to open for entry. Will let you know DANR position for use of creek water. We would use the dig sites and process the reclamation dirt regularly. We will not be in the water unless permit approves us to remove a certain amount of water. Operations are to provide panning services to our advanced customers. On an average we have 2-3 all day claims each week during peak times. Spring and fall are less. Amount of people increase as we get to May 15. After May 15. Multiple tours occur daily with all day experienced. All guests are escorted. A

guide will remain with them the entire time. 2-3 guides are used for the operation. Currently we use Jake Menken, Mitch McQuay and Ross Curry who have been with us for years. Peak season will have between 2-4 tours per week with 3 families maximum per tour. Off season may have 1-2 tours per week.

a. Anticipated number of service days, request additional use, or waiver for non-use. Approximately 200 days of service at the maximum are anticipated. The time is March 30 to October 31. If the weather is bad, they do not schedule.

b. Roads, trails, routes used, (include updated map). Trails used is the Little Falls Trail. See map on claim.

c. Campsites, type (transfer, road end, base, drop, progressive, etc.) location, description, layout, sketch maps, improvements, firewood areas, handling of food, water, wastes, campfires, LNT techniques.
N/A

d. Livestock Operation, grazing, feeding, salting, watering, handling of injuries/death of livestock.
N/A

e. Other Equipment used, vehicles, boats, or aircraft.

We need to request that we bring a chest size storage unit down, large enough to place current equipment in the chest to lock up. This houses sluices, buckets, shovels, rakes and asst other equipment.

f. Pre-trip information sent to guests, (enclose copies of current brochures and other advertising).

I have included copies of our website information. This is the updated version of the changes we have made this year.

g. Guest orientation, identification of hazards and risks, safety considerations, search, rescue and evacuation procedures, communications. We notify all guests of the hazards before the tour.

We also do that on the website. We have all customers sign a waiver which I have included.

h. Fee schedule amount charged to customers for various trips.

Fee schedule is on the website. www.bigthundermine.com under claim panning. All day fees are the ones for the outdoor permit.

III. Outfitter Staff, Qualifications, Training, Certifications.

We have multiple claim guides employed by Big Thunder Inc. We do ask that our claim guides have general knowledge of how to operate a placer mining dig site. The guide must always regard the safety of a dig site, this requires them to have the capability to reclaim the site as needed. Basic first aid, customer service certifications, good evaluations are required. There are no formal certifications for such service and are not available currently. It is not required but our guides can carry a firearm for protection which requires a permit. If they choose to carry, they must have taken a safety class. All guides are aware of evacuation plan, and they do carry a radio which has a connect at Rush Mountain tower. Radios have a connect to emergency and the gift shop in Keystone.

IV. Future Planning – ideas for expansion, reduction, changes envisioned, etc.

Future planning includes increase of advanced panning clients. With this system we can pan when the creek is dry. Future rules of the forest predict this is the future. Businesses will not be allowed to pan in the creek due to extreme weather patterns and sediment concerns along with protection of habitat.

V. Other Comments

We appreciate all help that both agencies haven given to our plight. What have I learned: we must all communicate regularly.

VI. Additional Forest Service Stipulations

A. Insurance Policy. Holder's insurance certificate shall show the United States Government as additional insured.

B. Combustion Engines. Operating or using any internal or external combustion engine on any timber, brush, or grass-covered land, including trails traversing such land, without a spark arrester is prohibited. It must be maintained in effective working order meeting either (1) Department of Agriculture, Forest Service Standard 5100-1a; or (2) the 80 per cent efficiency level determined according to appropriate Society of Automotive Engineers (SAE) recommended practices J335 and J350, 36 CFR 261.52(j).

C. Wild land Fire Precautions. The holder shall review wild land fire hazards and precautions with his customers and employees prior to beginning each trip. Open fires are prohibited by state law within the Black Hills Fire Protection Boundary, which includes the permitted area. All fires on the open ground are prohibited. This prohibition does not apply to camp stoves or other container fires approved by the authorized Forest Service Officer.

D. Cave Protection. To ensure protection and to further evaluation of cave resources in the permitted area, the holder and his employees and customers are prohibited from entering or disturbing any cave encountered in or adjacent to the permitted area and are required to immediately notify the District Ranger of any caves discovered or suspected.

E. Mining Areas. Mines have the potential to be dangerous. All activities should be directed away from these areas.

F. Range Improvements. The holder is reminded that grazing cattle is an authorized use on National Forest System lands in the permitted area. Range improvements such as fences, gates, stock tanks, and developed springs are to be left in the same condition in which they are initially encountered (i.e. open gates should be left open, closed gates should be left closed, etc.).

G. Operating Plan Submission. Outfitter-Guides should submit their Annual Operating Plan to the District by February 1st.

H. Actual Use Records. Actual Use Records, including Service Days and Gross Revenue, need to be submitted by February 1st.

VI. Fee Determination – 3% of gross revenue.

*Service Day = 1 person on Forest System Land per day regardless of amount of time spent. Count number of clients per day multiplied by total number of days per trip for total service days if applicable, ie.....5 day trip X 2 clients = 10 service days.

VII. Annual Calendar of Activities - i.e. meeting with authorized officer, submittal of itinerary, estimated use, partial payments, campsite set-up, actual use, campsite take-down, compliance review, Title VI review, inspection, performance evaluation, etc.







well as book your next tour or adventure at Big Thunder Gold Mine! There are so many things to do in the Black Hills – we hope you'll come see us next time you're in the area.

Seasonal Hours

(Open Daily, Second Week of March – October)

March: 10 AM – 4 PM (Thursday Through Sunday, Beginning Second Weekend)

April: 9 AM – 5 PM

May: 9 AM – 6 PM

June: 8 AM – 8 PM

July: 8 AM – 8 PM

August: 8 AM – 8 PM

September: 9 AM – 6 PM

October: 9 AM – 5 PM

November – February: Open by Reservation Only

Mine Tours

Off-Season Tours

Big Thunder Gold Mine is happy to accommodate your unique travel plans during our off-season from November through February given adequate notice. Whether you're looking to explore the rich history of our mine on a Mine Tour or want to get up close and personal with nature on an off-season Claim Panning Adventure, give us a call today at 605-666-4847 to make arrangements for your off-season visit.

All off-season reservations must be made at least 24 hours in advance of your intended tour date.

Refund Policy

We understand that we're at the beckon call of Mother Nature here at Big Thunder Gold Mine, which is why we offer refunds on Mine Tours/Claim Panning Adventures should the weather choose to not cooperate on the date of your intended visit to the Mine. We also offer refunds for those who are unable to attend their tour given documented medical circumstances. Should you be in need of a refund or need to change the date of your tour, kindly call us at [605-666-4847](tel:605-666-4847) and we'll be happy to assist you.

Follow Us



Application for Transportation and utility systems and facilities on federal lands

Continuation of application

7. Project description in detail:

Project description includes MTMMC211671 Hayward Halo #1. Coordinates of the Federal Mining Claim Tp 25, RG 6E, Sec 13, Mer MTMMC, filed federally and locally with Pennington County September 7, 2021. This is approximately 20 acres of land along Battle Creek. (attached is a map of the proposed area) We operate this claim through Rushmore Goldtown Inc for Big Thunder gold Mine (Big Thunder Inc.). Operations include seasonal use from late March through October 31 by Big thunder Gold Mine Claim Experience. This claim experience introduces creek panning techniques including an experienced Panning Guide's introduction (Trent and Mitch) of past history of the Gold Rush, explanation of beginning geology of the Black Hills, explanation of the respect of the land, explanation of techniques and rules of digging material, classifying the material on the settling pond near or on bank of the creek. Currently sluice procedures centered in the creek which allows water to flow through the hand sluice and customers pan the material captured in the sluice. We would like to propose and ask permission to utilize a solar powered highbanker that would direct the sediment toward the sediment pond. We would like to utilize a settling pond at side of the creek. I know that we have been creating more sediment than we should, but this would correct the problem in discussion. Would that be possible? Rolled grass bags could be utilized at the edge of the creek to keep the sediment from rolling into the creek. Sediment could be directed to a settling pond and a suction dredge could be used to remove the built up sediment. Customers could pan the remaining material from the highbanker on or near the bank of the creek. The experience is limited to a small group of people from 2-10 people from a frequent 1-2 times weekly in the non-peak season to the same number of people, 2-10 twice a day through June, July and August, and then the same 2-10 people several times a week. We do not use the claim during the winter because of weather and frozen ice. This is after from November through most of March. This summer was challenging as the creek did not have water in Battle Creek for several months. The reclamation of gravel will be done weekly by our staff. Reclamation includes filling in larger areas to maintain control to several smaller digging areas. Our staff will make a concerned effort to keep up with all reclamation efforts. We want to work with the USFS to keep everyone happy. The control of traffic who are going to Little Falls by path make it difficult to control un-wanted digging and trash when we are not there. We will put up several game cameras that may help to see that influx.

12. Give statement of your technical and financial capability to construct, operate, maintain the proposed area.

Big Thunder Gold Mine is a reputable business since 1957 attracting visitors from all over the world. Our evaluations of all the activities we offer, especially the Claim Experience demonstrate our reputation and our follow-through as to taking care of our customers and the environment. (I have included some evaluations for you to read). What we offer is very unique and follows an historical flare which shows the hard work miners did each day. It is "Learning History the Fun Way." We are very proud of our accomplishments. When we bought the mine in 1993, we have bought additional property to expand the visitors experience in the beautiful black Hills. They cherish this experience as you can see in some of the evaluations. You may also review our website which highlights many of those comments. Our evaluations on an average score a 4.4 out of 5 to 4.9 out of 5 on the Claim Experience. As you look at the

biographies on Trent and Mitch, you will see. Although certifications on gold panning are not available, experience and stamina say everything. Our staff is highly experienced not only with the claim but with tours and the restaurant. We have earned the George Michelson State Hospitality Award not only once but twice. It not only speaks about our staff but about their attitude. They sell our state and sell Keystone, SD. We have increased traffic at our attraction by 2/3. We still maintain the small group experience with the Claim creek panning tour even though our numbers increase. We sacrifice money for quality. We are here to learn and grow. We have been doing the Claim Experience for over 15 years. We have never had an accident, nor an insurance claim on the claim because we emphasize care of the land and safety. Trent has over 8 years of experience with the claim and the management of its activities. He lives and breathes this experience of learning history by a 4-hour display of mining in the Black Hills. He passes his passion on to our visiting guests, who continue to return to do it again. We spend an enormous amount of money taking care of the Forest Service Property. That money is spent on labor primarily, but we cut trees that have fallen, and then stacking it to groom the forest and allow access on a path to the claim. We promote the claim with all the beauty the Forest has to offer.

15. Provide statement of need for project, including the economic feasibility and items such as: a. cost of proposal b. estimated cost of next best alternative: and c, expected public benefits.

The need to get an outfitters permit is high. Together the United States Forest Service and a private corporation can work together to produce an outstanding experience that both of us can be proud of. Our new proposal for the reclamation procedure can clean up creek sediment whether we created it or not. Increased reclamation procedures can not only benefit the USFS but better our skills for reclamation. It can help the USFS by us maintaining clean-up processes of garbage along the path of Little Falls Traffic. Cameras can help see where problems areas are and what can be done. We have been spending money to reclaim in the past. We will have increased labor, camera costs and possible storage unit cost: if allowed. Those are all areas that Big Thunder gold Mine will be able to cover. We have currently raised our rates on the claim to accommodate cost increases. The rates are \$60.00 per adult (16 and above), \$45.00 per child (6-15) for ½ day. We pay our guides \$17.00- \$36.19 per hour. Most of the work will be in labor with some supplies and advertising. The expected public benefits are the reputation that comes with working together as private and government. Each will learn the effects all problems that exist and the benefits of a positive relationship of working together and producing a lifetime memory for all of our guests.

16. Describe probable effects on the population in the area, including social and economic effects.

I actually see that effect of this Claim experience will have on the population will be more supervision of the all ready busy path by Little Falls Traffic visitors will be more controlled. If they see a small group of people down at the site they are less likely to litter cause problems. With new proposal camera may identify problems happening during a time we are not on the claim. I would say it would remain the same or go down if problems are identified on camera. Last year was a very busy year due to the Governor opening our state to all guests. I do not see it being as busy due to gas situation, lack of money by the customer, inflation, war and so on. It is a difficult time and we must all work together for a better earth.

17. Describe likely environmental effects:

I do not see that our proposed project if approved will have any effect on air quality, as we do not allow smoking in the forest, we are not polluting the air by any equipment. Following our new proposal visual impact will be slightly effected. If we reduce the number and size of dug holes, then it will be much improved. Our new proposal as suggested, and if proposed will effect the removal of sediment from going down the immediate stream flow, build-up of gravel will be reduced, number of dig holes will be filled in and reduced in size. The proposed plan will maintain more control on sediment being released into the stream. Drought situations like last year may not have as much water going through the stream bed. The fish may have died due to lack of water in the stream. Puddles of water were not connected together allowing the fish to be trapped. That happened all the way to Keystone in Battle Creek. The proposal of sediment pond and the use of a solar powered highbanker would allow us to remove sediment effectively. With just 2-10 people there is not a noise problem. The true noise comes from Little Falls. We have always maintained the vegetation and forced all of our guests to go only on the public path to the claim, We would highly encourage you to look at the Little Falls area. The trash at that location beside our claim does create a problem, possibly signage and removal from the map as a backwoods path might be encouraged.

18. Describe the probable effects that the proposed project will have on populations of fish, plantlife, wildlife, and marine life.

Probable effects will improve due to our possible proposed plan. The plan will remove much of the sediment we are creating through the panning process. Changing the location of the equipment will help tremendously. Asking to use a solar highbanker will not destroy the air quality. Sediment manual suction dredges will remove sediment which will not have an effect on fish. Reclaiming our dig holes to be smaller in size and less in number will reclaim the property effectively. Our main goal is to provide a historical experience. Miners did not have much of the equipment that is being used today. We want to work with the environment. The only thing we cannot control are the drought conditions which I believe killed most of the fish. They cannot live without water. Last year there were unconnected puddles all the way up and down Battle Creek. We are willing to take pictures and I have instructed Trent to take pictures each week to monitor the situation, he also will maintain a journal. Trent felt sorry for the fish last year and put meal worms in the puddles to help save the fish. When there is no stream flow, it is very difficult to maintain a plan. Again, our prosed plan, I believe will clean-up and maintain safe water quality with all populations of animals and fish types.

19. State whether any hazardous material:

No hazardous material will be used in any of our processes of our proposal. Everything will be used that is manual and generated from the sun.

20. Name all departments that this application will be filed at:

United States Forest Service

Black Hills Insurance Agency

Bureau of Land Management

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Arlette Ov... 20

Auctions 2

Avalon 29

Banking 133

Beverage ... 11

BH Area D... 6

RE: [External Email]Checking back with you. Big Thunder Gold Mine

Manning, Jonathan - FS (Jonathan.Manning2@usda.gov)

To: you Details ▾

Sandi,

Inspection is complete and satisfactory to the SD DANR and myself. Please proceed with app

Thank you,



Jonathan Manning, EIT
Geological Engineer

Forest Service
Black Hills National Forest

p: 605-673-9314

jonathan.manning2@usda.gov

1019 N 5th St
Custer, SD 57730

www.fs.usda.gov



Caring for the land and serving people

From: Y <mclainsandra@aol.com>

Sent: Monday, October 24, 2022 3:25 PM

To: Manning, Jonathan - FS <Jonathan.Manning2@usda.gov>

Subject: [External Email]Checking back with you. Big Thunder Gold Mine

[External Email]

If this message comes from an **unexpected sender** or references a **vague/unexpected topic**;

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Jonathan: Just checking with youm I had not heard from you since the inspection. Had the ins

Sandi McLain

This electronic message contains information generated by the USDA solely for the intended this message in error, please notify the sender and delete the email immediately.

To: Jonathan.Manning2@usda.gov,

Thank you so much Jonathan so much for all your help. Sandi McLain

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Old Mail

Drafts 71

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Y mclainsandra@aol.com v

To: Jonathan.Manning2@usda.gov,

 Subject: Re: USFS - June 3 2022 Letter

Stationery

Thank you for including me now. I have not received any communications til now, I have put together a response to the warning letter Buscher for some time and she is now aware of our plans and I will share with you that communication once I send to her the response to the Forest Service. Good to have everyone on the same page. Did you guys contact DANR? She was not sure where it had come from in the letter. Your name was copied at the bottom. I would be glad to meet with Jim when might this happen? Which office is he in?

-----Original Message-----
 From: Manning, Jonathan - FS <Jonathan.Manning2@usda.gov>
 To: mclainsandra@aol.com <mclainsandra@aol.com>
 Sent: Wed, Jun 22, 2022 4:16 pm
 Subject: USFS - June 3 2022 Letter

Sandra,

Benefits Of Upgrading

Your Trial Has Expired!

Upgrade Now



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load up
to 44%
faster



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Annoying
Video
Ads



Block
Unlimited
Ads &
Trackers

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Time Saved	95 min
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Allied Arts 16

AllTrips 22

Alumni Gr... 26

Archive

Arlette Ov... 20

Auctions 2

Avalon 29

Banking 133

Beverage ... 11

BH Area D... 8

Battle Creek Requirements

Vasquez, Raul (Raul.Vasquez@state.sd.us)

To: you Details ▾ Slideshow

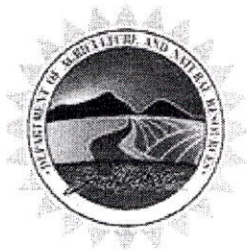
Big Thunder Gold Mine Letter.p... (361 KB)

image001.jpg (43 KB)

Sandra,

I am enclosing the department's response letter to the discussion we had last week. Feel free

Thank you,



Raul Vasquez

Surface Water Quality Program

Engineer II - Biosolids Coordinator

2050 West Main, Suite #1

Rapid City, SD 57702

605-394-2229

danr.sd.gov

1 Attached Images



Reply

Reply All

Forward

CTM 16

Custer Chronicle 55

CWAM 67

David Holmgren 20

Deadwood - stuff 65

DirectTV 9

discover 7

Drafts 32

Eagle 4

Economic Devel... 30

Education Outdoors

Education Travel

Employment 3

Epic 47

Fareharbor 3

First Data

Food Bank 6

Fox Den 40

Front Porch Co... 336

Gem Center USA 1

Geo Central 9

Group Tour Media 21

Group Tours

Groupon 8

Health Inspections

Hill City Area Ch... 49

Holy Terror Days... 19

Insurance 47

Job Fairs 8

Jobe

Junk

Junk E-mail 74

Keene 40

Keystone Area ... 16

Keystone Cha... 271

Keystone Senior ... 1

Keystone Town B... 9

Lamar Billboards 12

Laurie Alvarez

Legal Services 8

Linn Productions 8

Loans 9

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Merchant Servic... 30

Mike Trike 1

Mining Claim

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Jonathan: Of course the water in the creek is getting lower and lower, I remember that the DANR said that going too low meaning the gravel that is pulled out if it goes to low will harm and make more sediment.

Can you and him look at what is done and get a final reading on the areas to remove I do not want to violate what DANR said and create more of a problem. My son and Mitch could also go so they know what exactly needs to be done. One area of concern was the growing vegetation in the one area. I will have Mitch and my son do that this week so we can finalize the reclamation. I am filling out the water permit info this week with DANR, Thhe people I talked to said it may be denied depending on how much we are asking for but I can appeal to the governor and her committee. That is where we are on the permit. If it is denied at both levels we may just have to use a trough like ours on our property to utilize like Rattlesnake Randy. If you could get back to me Jonathan. Sandi McLain Rushmore Gold Town Inc.

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Arlette Ov... 20

Auctions 2

Avalon 29

Banking 133

Beverage ... 11

BH Area D... 8

Battle Creek Inspection

Manning, Jonathan - FS (Jonathan.Manning2@usda.gov)

To: you Details ▾

Sandi,

Went well

I have reached out to SD DANR and we have agreed to meet on site for inspection on Friday at 10:00 A

Thanks!



Jonathan Manning, EIT
Geological Engineer

Forest Service

Black Hills National Forest

p: 605-673-9314
jonathan.manning2@usda.gov

1019 N 5th St
Custer, SD 57730
www.fs.fed.us



Caring for the land and serving people

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May 8, 2023

PAYMENT REQUEST FORM

PAYEE: Rushmore Gold Town, Inc./Big Thunder Gold
c/o Sandra McLain
PO Box 459
Keystone, SD 57751

FROM: DANR Water Rights Program
523 E. Capitol Ave
Pierre, SD 57501-3181

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Over payment Application/License fee

AMOUNT: \$650.00

FUNDING SOURCE: WR Fees

GENERAL:

FEDERAL:

OTHER:

COMMENTS:

AUTHORIZATION: *Eve Hunscheid* *5/8/2023*

I declare and affirm under the penalties of perjury that this claim is in all things, true and correct.
I further agree to comply with the provisions of the Civil Rights Act of 1964 and regulations issued thereunder relating to nondiscrimination in federal assisted programs.

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date January 19, 2023

RECEIVED OF Big Thunder Inc. PO Box 459 Keystone SD 57751

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

Fee for Application for Permit No. <u>2864-2</u> to Appropriate Water, to construct and to put water to beneficial use	\$ <u>750.00</u>
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>2864-2</u>	\$ <u>200.00</u>
Fee for Filing Transfer Form _____	\$ _____
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law)	
TOTAL	\$ <u>950.00</u>

By

Eric Gronlund
Chief Engineer
ERG



OFFICE OF THE SECRETARY OF STATE

MONAE L. JOHNSON, SECRETARY OF STATE
THOMAS J. DEADRICK, DEPUTY SECRETARY OF STATE

Filing Information

Name: **RUSHMORE GOLDTOWN, INC.**

General Information

SOS Business ID DB035542
Filing Type: Business Corporation - Domestic
03/14/1995
Status: Good Standing
Duration Term: Perpetual

Registered Agent Address

SANDRA MCLAIN
604 BLAIR ST
KEYSTONE, SD 57751-2028

Principal Address

604 BLAIR ST
KEYSTONE, SD 57751-2028

The following document(s) was/were filed in this office on the date(s) indicated below:

Date Filed	Filing Description	Image #
12/31/2021	2022 Annual Report	B0204-1726
12/31/2020	2021 Annual Report	B0163-8163
02/25/2020	2020 Annual Report	B0130-8259
03/05/2019	2019 Annual Report	B0092-6866
04/08/2018	2018 Annual Report	B0057-7711
01/15/2017	2017 Annual Report	B0022-0123
01/02/2016	2016 Annual Report	
06/16/2015	2015 Annual Report	
02/17/2014	2014 Annual Report	
03/31/2013	2013 Annual Report	
04/19/2012	2012 Annual Report	
02/23/2011	2011 Annual Report	
03/01/2010	2010 Annual Report	
03/10/2009	2009 Annual Report	
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03/01/2006	2006 Annual Report	
03/01/2005	2005 Annual Report	
10/29/2004	2004 Annual Report	

Filing Information

Name: **RUSHMORE GOLDTOWN, INC.**

04/03/2003	2003 Annual Report
03/01/2002	2002 Annual Report
03/08/2001	2001 Annual Report
04/17/2000	2000 Annual Report
06/28/1999	1999 Annual Report
04/22/1998	1998 Annual Report
03/20/1997	1997 Annual Report
03/11/1996	1996 Annual Report
03/14/1995	Initial Filing

DB035542



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
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PIERRE SD 57501-3182
danr.sd.gov

January 23, 2023

Rushmore Gold Town Inc.
c/o Sandra McLain
PO Box 459
Keystone SD 57751

Dear Ms. McLain:

Thank you for submitting the *Application for a Permit to Appropriate Water* located in Pennington County. To complete the application, the following is required.

- You have indicated recreational use on the application. Your application meets the criteria for commercial use as well. Do you agree with adding commercial use to the application?
- What is the proposed pump rate from Battle Creek? If the pump rate is 45 gallons per minute or less, the application/license fee will be \$300.00. You submitted a check for \$950.00. Once we know the pump rate, a portion of your fee will be refunded, if necessary.
- Enclosed is the aerial photo map for Section 13-T2S-R6E. On the map, please mark the location of the Battle Creek diversion point with an "X".

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352
karen.schlaak@state.sd.us

enclosures

Big Thunder Gold Mine

PO Box 459

Keystone, SD 57751

DANR/Permitting

Hello, this is Sandra McLain with Big Thunder Gold Mine/Rushmore Gold Town Inc in Keystone SD 57751. I have been working with The Black Hills National Forest on obtaining an Outdoor Permit for our claim operation down by Little Falls near Rushmore Cave and Rush Mountain. We have been through the reclamation process on our claim which has been in operation for nearly 23 years. Our which is a placer claim has been obtained through BLM.

Reclamation has been finished as indicated through communications in the application. We are at this point advised to not pan in the creek due to New Green operations after all this time. We at Big Thunder Gold Mine have an alternative plan where creek waters are not affected. Run off and sediment from panning will not go into the creek but be captured outside the creek basin. Tubs with attached sluices and classifiers will be utilized. This system has been approved through Johnathan Manning through the Forest Service. We are using this system at our location at Big Thunder Gold Mine. The operation sits above Battle Creek 400 feet away from the creek and is operated by Keystone City Water.

Our request is for our claim and the Outdoor Permit through the Black Hills Forest Service for use of very minimal water from Battle Creek on the claim property. We will not be in Battle Creek with the Outdoor Permit but only asking for use of 750 gallons of water per season April thru October with a 20 gallon fill of the operational tubs on the site.

Review the material enclosed, as we are very proud of what we have developed. If you have any questions, documentation is enclosed that includes information on the following documents:

1. BLM Claim documentation
2. Emails on reclamation completion and approval through NFS
3. Water permit Application to DANR
4. Question #7 Answer attachment
5. Payment for application
6. Outdoor Permit Application (cannot complete until Water permit approved)
7. DANR letters and response

Thank you so very much, call if you have questions: Sandra McLain 605 666-4847 or any of the attached phone numbers enclosed in the documentation.

Respectively submitted,

Sandra McLain, Big Thunder Gold Mine/Rushmore Goldtown Inc.

RECEIVED
JAN 19 2023
OFFICE OF
WATER

7. GIVE A DESCRIPTION OF THE PROJECT FOR THE WATER PERMIT:

Rushmore Gold Town Inc/Big Thunder Gold Mine have applied for an outdoor permit through the Black Hills National Forest. That process started this summer with final reclamation procedures on the claim being finalized this fall in October and approved through Jonathan Manning. The final stages of the permit gave us the go-ahead to apply for a water permit at Battle Creek. The project has changed several times on the claim with several meetings with the Forest Service and DANR.

The revised plan which is also in the attachment in the packet for the Forest Service. For 20 years we have been able to pan in the creek but recent changes in the environment, changes need to be made. We have duplicated this system on our private property at the mine. The environment is in the woods 400 feet from the creek and does not impact or touch the creek waters. Everything is run in an environment with buried tubs, attached sluices and classification stations. The claim experience on our private property is for beginning and some experienced clients. The federal claim will be for advanced panners. To fill the tubs and system it will take an initial 725 gallons with refill of 20 gallons of water every other day due to evaporation, we are asking to use from Battle creek a little over 2100 gallons per year. It is not much use but would give the clients a super experience. The Forest Service has approved the system and likes its efficiency, and the fact that it does not impact the creek in any way. I will also send pictures of the system as well.

Please consider this permit. I feel it is good use of green techniques and still provides a quality experience. Customers are able to learn the techniques of gold panning without any harm to the creek waters and safe for fish habitat. Unfortunately, we were told that we would never be able to pan in a creek as a business again. Storm sediment has more impact than panning sediment, it was hard for us to understand this in the beginning. How do we stop storms? We want our customers to have the best experience they can have. This system has been tested through the months of August through October and works well with the environment. My son came up with the design and I believe this will work in the federal claim atmosphere. Our tax dollars with hospitality are important to the state and its revenue. We are a large attraction who is growing and the success of our gold panning, tours and restaurant need to be considered. Thank you for listening. PLEASE CONSIDER OUR PERMIT.

Big Thunder Gold Mine/Rushmore Gold Town Inc.

PO Box 459

Keystone SD 57751

RECEIVED

FEB 01 2023

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WATER

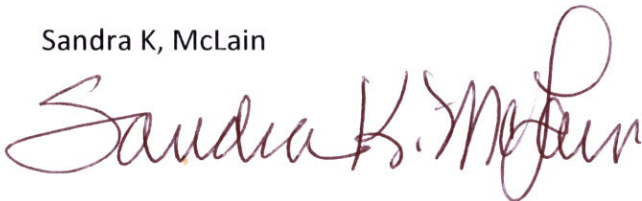
Dear Ms. Schlaak:

Enclosed is the required information from your letter dated January 23, 2023. I have included all information including 3 items to finish the application:

1. Yes, it is permissible to add commercial use as well. So the application will be amended to include recreational and commercial as we are a commercial entity. I do agree.
2. The Proposed pump rate would be approximately 10 gallons per minute during the initial fill of all of our tubs for the panning operation. The pump would pull the 750 gallons from the creek during the essential fill of tubs for the operation. It is important to know that the tubs would lie outside of the flood plain and that no water is excreted back into the creek. It would drain and soak back into the ground when they are drained and removed. Each week because of evaporation an additional 20 gallons would be added to the tubs through the end of October of each year. Yes, knowing that this would qualify for the fee of \$300.00 and a refund would be appropriate if approved.
3. The aerial photo is a little hard to read and visualize. The diversion/location of pumped water would be in the middle of the claim on the creek bed of Section 13-T2S-R6E. An X marks the spot. Approximately located in the spot where the outcropping of rocks into the creek lie.

Respectively submitted:

Sandra K. McLain



Big Thunder Gold Mine/Rushmore Gold Town Inc.

mclainsandra@aol.com

Schlaak, Karen

From: mclainsandra <mclainsandra@aol.com>
Sent: Friday, February 10, 2023 12:54 PM
To: Schlaak, Karen
Subject: RE: [EXT] FW: Battle Creek Pump Location

Yes it is. It is on our claim. Is that all you need Kare

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: "Schlaak, Karen" <Karen.Schlaak@state.sd.us>
Date: 2/10/23 7:56 AM (GMT-07:00)
To: mclainsandra <mclainsandra@aol.com>
Subject: RE: FW: Battle Creek Pump Location

The green dot on this map indicates Battle Creek just below Little Falls near an ATV trail. Is this the location of where the water will be taken from Battle Creek?

From: mclainsandra <mclainsandra@aol.com>
Sent: Thursday, February 9, 2023 9:09 PM
To: Schlaak, Karen <Karen.Schlaak@state.sd.us>
Subject: RE: [EXT] FW: Battle Creek Pump Location

I think if you could make it right away. The yellow is Battlecreek. It would help on the map where little falls is. That would help with location for me. The location is just down from there and rock dam that protrudes into creek. That is point where it would be taken out. Thank you. Raul was working with us on reclamation and that is where the dig site is located on the hill.

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: "Schlaak, Karen" <Karen.Schlaak@state.sd.us>

Date: 2/9/23 3:47 PM (GMT-07:00)

To: mclainsandra@aol.com

Subject: FW: Battle Creek Pump Location

Sandra,

Regarding the application for Rushmore Gold Town, on the map you returned, I believe you marked the spot where the water will would be used.

I highlighted Battle creek in yellow. The proposed pumping point from the creek needs to be located.

If this doesn't work, I can mail you a copy of this map.



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**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2864-2, Rushmore Gold Town Inc.**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit Application No. 2864-2, Rushmore Gold Town, Inc. / Big Thunder Gold Mine, c/o Sandra McLain, PO Box 459, Keystone SD 57751.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2864-2 because 1) there is a reasonable probability water is available in Battle Creek upstream of the loss zone, 2) the proposed diversion can be developed without unlawful impairment of existing domestic water uses and water rights, 3) the proposed use is a beneficial use and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board with the following qualifications:

1. Low flows as needed for downstream domestic use, including livestock water must be bypassed. Diversion of water under this permit shall be in accordance with any written orders issued by the Chief Engineer.
2. The Permit holder shall report to the Chief Engineer annually the amount of water withdrawn from Battle Creek.
3. Water Permit No. 2864-2 authorizes a total annual diversion of up to 2,850 gallons of water from Battle Creek.

See report on application for additional information.

Eric Gronlund, Chief Engineer
March 13, 2023

REPORT ON WATER PERMIT APPLICATION NO. 2864-2

Rushmore Gold Town Inc.

Big Thunder Gold Mine

March 3, 2023

Application No. 2864-2, proposes to appropriate up to 2,850 gallons annually at a maximum pump rate of 0.022 cubic feet of water per second (cfs) [10 gallons per minute] from Battle Creek located in the NW 1/4 NE 1/4 Section 13; and used on Federal Claim #MTMMC211671 in the SE 1/4 NW 1/4 Section 13; all in T2S-R6E for commercial and recreational use. This site is located approximately 3 miles southeast of Keystone, SD in Pennington County.

South Dakota Codified Law (SDCL) 46-2A-2 directs the Chief Engineer to make a recommendation to the Water Management Board on a permit application. The Chief Engineer needs to consider four criteria in making a recommendation on whether a permit should be approved, approved with qualifications, denied, or deferred. They are: 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing domestic water uses and water rights, 3) the proposed use is a beneficial use, and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board. This report will analyze the available information to make a recommendation to the Chief Engineer on the first two criteria the Chief Engineer needs to consider in making an official recommendation to the Water Management Board.

Review of the Proposed Project

The applicant has operated a placer mine claim on Battle Creek for several years. In June of 2022, the US Forest Service notified the applicant to discontinue tours because they did not have the appropriate permits to operate a commercial business or cause surface-resource disturbance. The same month the DNR Surface Water Quality Program issued a cease-and-desist order to halt activities in the creek because Battle Creek is classified as a protected cold-water fishery, is utilized for recreational use, and the mining activities were exceeding water quality standards and degrading the biological integrity of the Battle Creek. The applicant intends to relocate a commercial and recreational gold panning operation 400 feet away from the creek, located off US Forest Service property and on private property. The applicant proposes to pump water from Battle Creek at a maximum pump rate of 0.022 cfs (10 gallons per minute). The maximum amount of water requested annually is 2,850 gallons. They indicated they intend to initially pump 750 gallons to holding tubs with the water utilized in the panning operation with the intent of catching and reusing the water. They intend to divert 20 gallons every other day April 1st through October 31st to offset evaporative losses. The applicant also stated they intend to haul water if the creek dries up.

Review of the Water Source

Battle Creek is a perennial stream with its headwaters in the central Black Hills in southern Pennington County. The creek flows to the southeast crossing the Madison-Minnelusa outcrop between the towns of Keystone and Hermosa and meeting up with the Cheyenne River in eastern Custer County, Figure 1.

The upper portion of the Battle Creek watershed drains off the crystalline central core of the Black Hills. Streamflow is from direct runoff with relatively small contributions from groundwater. Stream flow in this upper portion tends to diminish quickly during periods of dry climatic conditions (USGS. 2002).

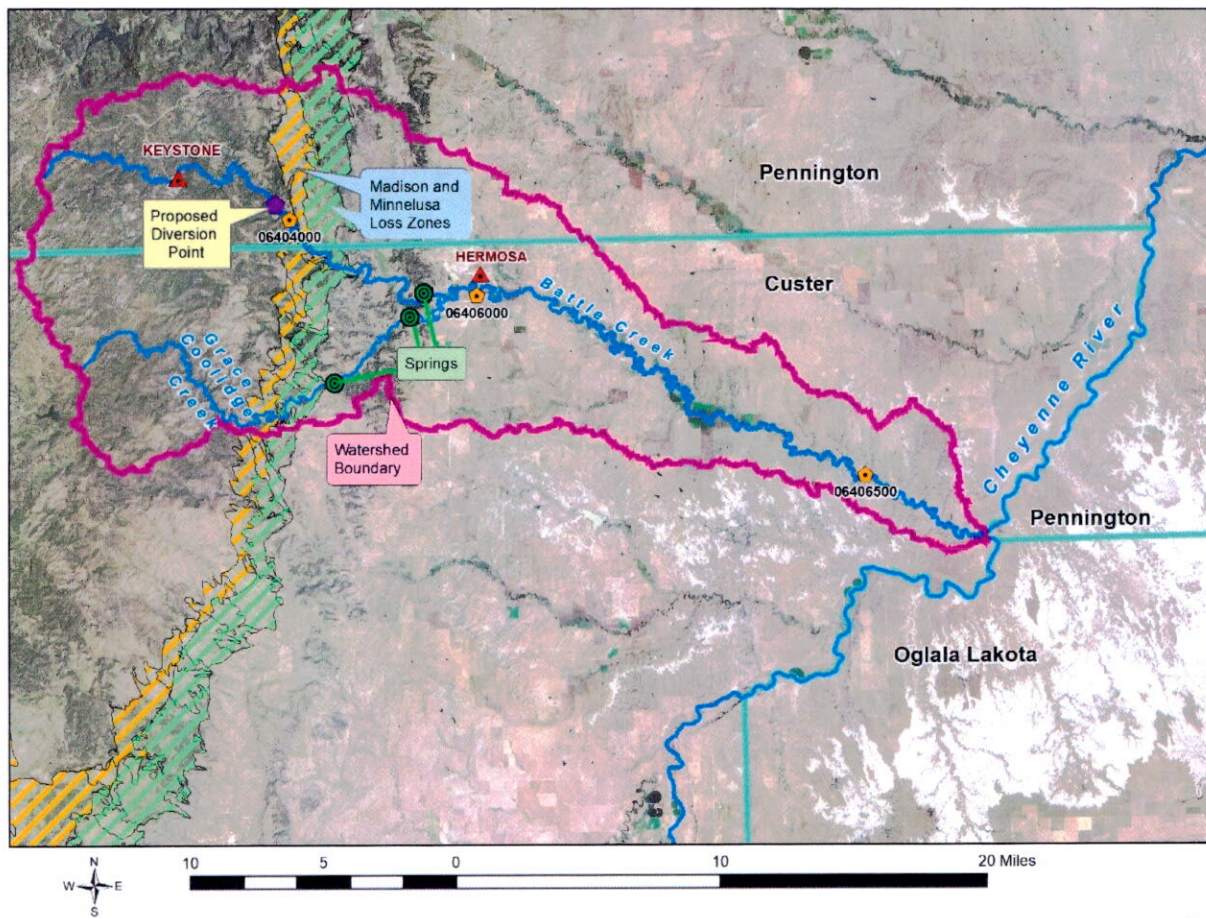


Figure 1. Area map for Water Permit Application No. 2864-2 (Water Rights. 2023).

The proposed diversion location for this project is located approximately 4 miles southeast of the town of Keystone SD. The United States Geological Survey (USGS) maintains multiple stream flow gaging stations on Battle Creek downstream of the proposed diversion point.

The USGS Stream Gaging No. 06404000 Battle Creek near Keystone, SD is located approximately 0.7 river miles downstream from the proposed diversion point. Figure 2, is a daily percentile hydrograph showing the 50, 25 and 10 percentile daily flow values. The median or 50 percentile hydrograph for this stream gage exhibits the daily flow values at or below this level on average one out of two years. The hydrograph shows an increase in flow in Battle Creek from early March until the first of June corresponding to spring snowmelt and rain events. The figure shows the median daily flow values curtailing after the mid-June time frame and dropping off until the first of September, after that flows level off around one to two cfs for the remainder of the fall. At the 25 percentile level corresponding to drier years, occurring on average one out of four years, there is an increase from early March until the first of June. The figure shows the daily flow values curtailing after the mid-June time frame and dropping off until the first of September. The flow then hovers just above zero before rising to around one cfs in mid-October through the remainder of the year. At the 10 percentile level, occurring on average one out of ten years, there is an increase from 0.5 cfs starting mid-February until early April before leveling off at about two cfs until the first of June. Flows then steadily decrease until mid-July to near zero for the remainder of the year.

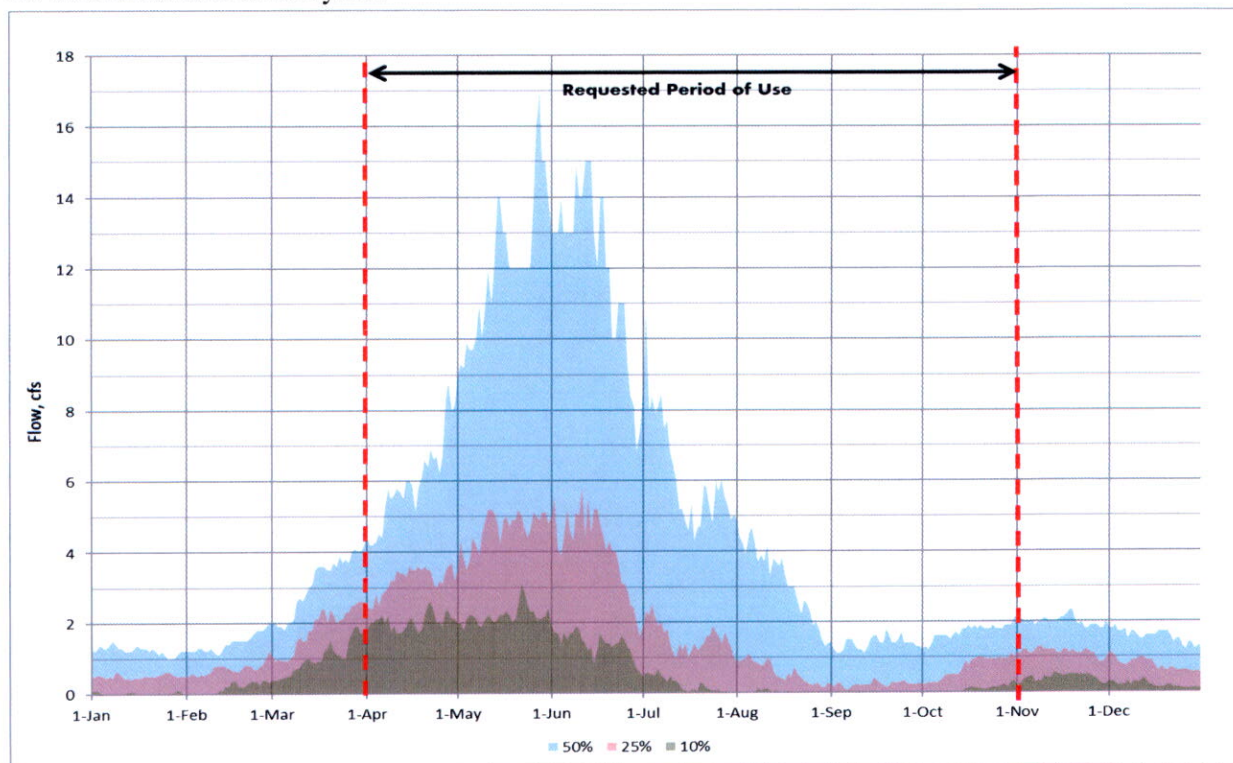


Figure 2. USGS Stream Gaging Station No. 06404000, Battle Creek near Keystone 1961-2022, (USGS. 2023).

Approximately 1.5 miles downstream from the USGS gaging station, the creek begins to cross the Madison and Minnelusa formations. The USGS estimated in a 1998 study that 12 cfs of flow

is lost to the Madison formation with no determination if flow is also lost to the Minnelusa formation due to the presence of a series of bedrock springs with variable discharge within that formation (USGS. 1998). The 12 cfs is considered the loss zone flow threshold, meaning any flow in Battle Creek entering the loss zone would lose up to 12 cfs to the Madison Aquifer and would not be available for use downstream. Based upon this information, during times of drier climatic conditions, much of the time there would not be sufficient flow in the creek crossing the Madison and Minnelusa formation loss zone to exceed the loss threshold of 12 cfs.

The USGS Stream Gaging No. 06406000 Battle Creek at Hermosa, SD is located approximately 9 river miles downstream from the lower end of the Madison and Minnelusa formations and 2.7 miles downstream from the confluence of Grace Coolidge Creek with Battle Creek, Figure 1. Flow in Battle Creek at the confluence is augmented by the presence of springs along both creeks (USGS. 2023a).

Figure 3 is a percentile hydrograph for the USGS Stream Gaging No. 06406000 Battle Creek at Hermosa, SD showing the 50, 25 and 10 percentile daily flow values. The 50 percentile hydrograph for flow at or below this level on average one out of two years, shows a flow from January through March of 4 cfs. From early April through mid-June, there is a steady increase in flow, corresponding to spring snowmelt and rain events, peaking out at approximately 16 cfs. The figure shows the median daily flow values curtailing after the mid-June time frame and dropping off until the first of September at approximately 4 cfs, after that flows level off around one to two cfs for the remainder of the fall. For the 25 percentile level, occurring on average one out of four years, there is an increase from zero flow starting mid-February until early April before leveling off at about two cfs until the first of June. Flows then steadily decrease until mid-July to near zero for the remainder of the year. At the 10 percentile level, occurring on average one out of ten years, flows hover between 0.5 to two cfs throughout the year.

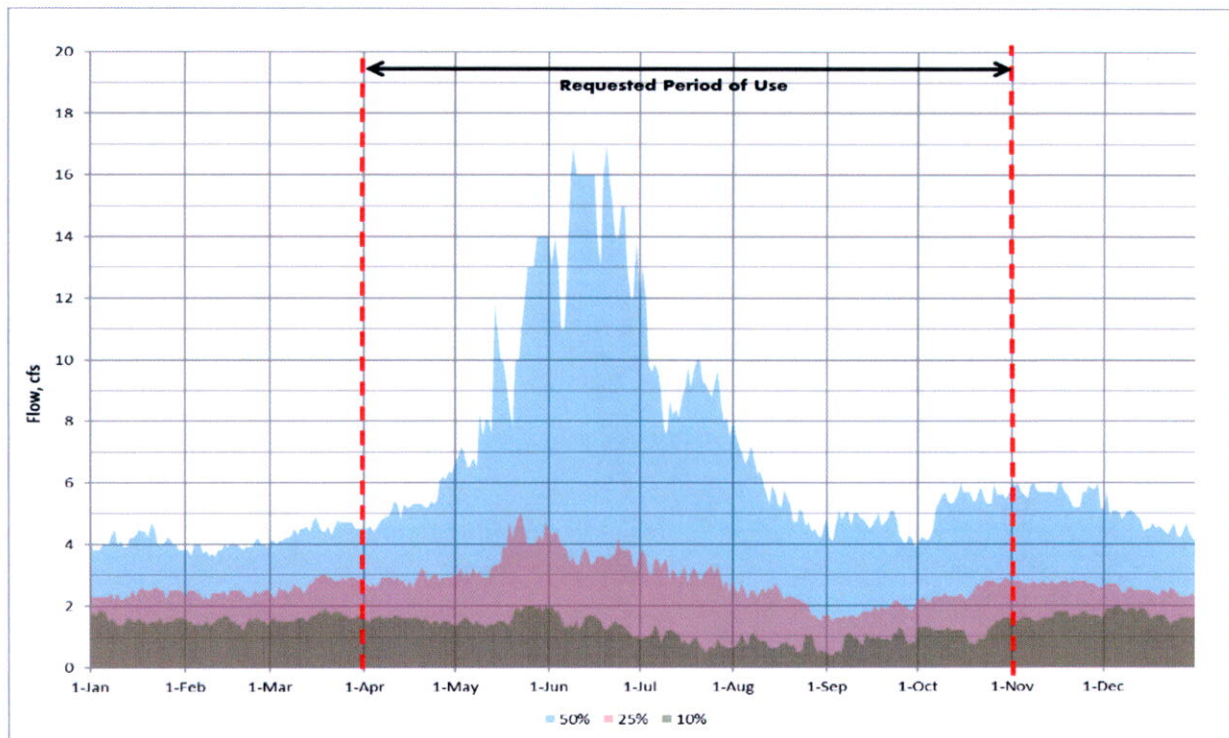


Figure 3. USGS Stream Gaging Station No. 06406000, Battle Creek at Hermosa 1949-2022, (USGS. 2023).

Review of Existing Water Rights

There are 12 existing water rights/permits appropriating 18.45 cfs from Battle Creek located downstream on Battle Creek from the proposed diversion point and below the Madison and Minnelusa formation loss zone. There are no existing water rights/permits located above the loss zone. On September 25, 2002, the Water Management Board held a hearing on Water Permit Application No. 2467-2 for irrigation from Battle Creek. The proposed diversion point was located near the town of Hermosa. The Board denied the application because there was not a reasonable probability that unappropriated water was available for the applicant's proposed use. The Board also concluded granting that permit was not in the public's interest due to the marginal water quantity situation (Water Rights, 2002).

In 2005, the Water Management Board amended the existing water rights/permits on Battle Creek requiring a 1.5 cfs domestic use bypass as measured at the USGS Stream Gaging Station No. 06406500, Battle Creek below Hermosa located approximately 10 miles upstream from the confluence with the Cheyenne River, Figure 1 (Water Rights. 2023).

Discussion

Based on the Water Management Board's previous denial of an application seeking to appropriate water from Battle Creek, there is not a reasonable probability that unappropriated

water is available in Battle Creek. Typically, a recommendation on the application for denial would be warranted for the same reason. However, this application is a request to divert a small amount of water upstream of the Madison and Minnelusa formation loss zone which USGS studies and an analysis of historical flow data demonstrate during drier periods, there will not be sufficient flow in the creek crossing the Madison and Minnelusa formation loss zone to exceed the loss threshold of 12 cfs.

From a water rights perspective this is akin to a futile call. A futile call is a situation in which a junior (more recent) priority right is allowed to continue diverting water despite of the presence of downstream senior rights when shutting down the junior right will not result in additional water being available to downstream senior rights. Denial of this application will have no discernable effect on whether the downstream existing rights have sufficient water in Battle Creek to satisfy their authorized use of water.

Conclusions

1. This application proposes to appropriate 0.022 cfs from Battle Creek and an annual volume no greater than 2,850 gallons per year for commercial and recreational use.
2. The proposed diversion point is located upstream from the Madison and Minnelusa formation loss zone.
3. There is a reasonable probability water is available in Battle Creek upstream of the loss zone that will not impact downstream senior rights due to the natural hydrologic conditions.
4. USGS studies and flow data demonstrate during drier periods, much of time there is not sufficient flow in the creek crossing the Madison and Minnelusa formation loss zone to exceed the loss threshold of 12 cfs.
5. Pumping by this project would have no discernable effect on downstream existing rights.



Mark D. Rath
Natural Resources Engineer III

References

1. USGS. 1998. Streamflow Losses in the Black Hills of Western South Dakota - Water Resources Investigations Report 98-416. United States Geological Survey, Rapid City, South Dakota.
2. USGS. 2002. Atlas of Water Resources in the Black Hills Area, South Dakota. United States Geological Survey, Reston Virginia.

3. USGS. 2023. United States Geological Survey, National Water Information System – Stream Gaging Station Network for South Dakota.
4. USGS. 2023a. United States Geological Survey, National Water Information System – Mapper.
5. Water Rights. 2023. Water Right/Permit Files. SD DANR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
6. Water Rights. 2002, Administrative Record for Water Permit Application No. 2467-2. SD DANR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.



**DEPARTMENT of AGRICULTURE
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PIERRE SD 57501-3182
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**NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPER RIGHT AWAY.**

March 15, 2023

Rushmore Gold Town Inc/
Big Thunder Gold Mine
c/o Sandra McLain
PO Box 459
Keystone, SD 57751

Dear Ms. McLain:

Water Permit Application No. 2864-2 for commercial use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Rapid City Journal printed at Rapid City, SD (see attachment for contact number). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and 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 and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization from you, the publisher has been instructed to publish your notice. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
(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.

NOTICE OF HEARING on Application No. 2864-2 to Appropriate Water

Notice is given that Rushmore Gold Town Inc/Big Thunder Gold Mine, c/o Sandra McLain, PO Box 459, Keystone SD 57751 has filed an application for a water permit to appropriate up to 2,850 gallons annually at a maximum pump rate of 0.022 cubic feet of water per second (cfs) [10 gallons per minute] from Battle Creek located in the NW 1/4 NE 1/4 Section 13; and used on Federal Claim #MTMMC211671 in the SE 1/4 NW 1/4 Section 13; all in T2S-R6E for commercial and recreational use. This site is located approximately 3 miles southeast of Keystone SD.

South Dakota Codified Law (SDCL) 46-2A-4(10) provides that “if the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the Chief Engineer’s recommendation and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board.” In this case, the Chief Engineer finds that this application presents important issues of public interest that should be heard by the Water Management Board.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends approval of Application No. 2864-2 with qualifications because 1) unappropriated water is available, 2) existing domestic water uses and water rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest as it pertains to matters within the regulatory authority of the Water Management Board. The Chief Engineer’s recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

The Water Management Board will consider this application at 9:30 AM (Central Time) on May 3, 2023, in the Matthew Training Center, Joe Foss Bldg., 523 E. Capitol Ave., 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.

Any person who intends to participate in the hearing shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by April 3, 2023.

The petition shall be in writing and shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The May 3, 2023, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose the application. The request for an automatic delay must be filed by April 3, 2023. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to the applicant and all petitioners regarding the time, date, and location.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by April 3, 2023.

Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Agriculture and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is April 3, 2023. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31, 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:25.02; 74:02:01:35.01.

Published once at an approximate cost of_____.

Rodriguez, Rachel

From: RCY Legals <legals@rapidcityjournal.com>
Sent: Friday, March 17, 2023 10:26 AM
To: Rodriguez, Rachel
Subject: RE: [EXT] 2864-2 Rushmore Gold Town Inc/Big Thunder Gold Mine

Thank you and payment has been received.

Shawn Killinger

Legal Advertising Bismarck Tribune, Casper Star Tribune, Chadron Record, Mandan News and Rapid City Journal

307-266-0554

legals@bismarcktribune.com Bismarck Tribune and Mandan News

cas-legals@trib.com Casper Star Tribune

legals.chadron@lee.net Chadron Record

legals@rapidcityjournal.com Rapid City Journal



From: Rodriguez, Rachel [mailto:Rachel.Rodriguez@state.sd.us]
Sent: Friday, March 17, 2023 7:36 AM
To: RCY Legals <legals@rapidcityjournal.com>
Subject: RE: 2864-2 Rushmore Gold Town Inc/Big Thunder Gold Mine

This Message Is From an External Sender

This message came from outside your organization.

Good morning,

I have reviewed the notice and confirm for publication.

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us



From: RCY Legals <legals@rapidcityjournal.com>
Sent: Thursday, March 16, 2023 4:48 PM
To: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Subject: RE: [EXT] 2864-2 Rushmore Gold Town Inc/Big Thunder Gold Mine

Rachel

This notice is attached for review & confirmation
It is scheduled to publish as requested, Mar. 23, 2023
Legal No: 55429
Cost: \$147.95 Once you have approved this notice I will call Sandra at Gold Town Inc. for payment.

Approval of the notice is subject to Publisher's approval of credit and content.

An affidavit of publication will be mailed out to your from our Rapid City office after the last day of publication of your legal notice.

Thank you

Shawn Killinger
Legal Advertising Bismarck Tribune, Casper Star Tribune, Chadron Record, Mandan News and Rapid City Journal
307-266-0554
legals@bismarcktribune.com Bismarck Tribune and Mandan News
cas-legals@trib.com Casper Star Tribune
legals.chadron@lee.net Chadron Record
legals@rapidcityjournal.com Rapid City Journal



From: Rodriguez, Rachel [<mailto:Rachel.Rodriguez@state.sd.us>]
Sent: Tuesday, March 14, 2023 1:45 PM
To: RCY Legals <legals@rapidcityjournal.com>
Subject: 2864-2 Rushmore Gold Town Inc/Big Thunder Gold Mine

This Message Is From an External Sender

This message came from outside your organization.

Attached is a notice to be published on March 23, 2023.

Sandra McLain, Rushmore Gold Town Inc/Big Thunder Gold Mine, c/o Sandra McLain, PO Box 459, Keystone SD 57751, 605-430-9150 has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

Let me know if you have questions. Please acknowledge receipt of this email.

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us



Customer Ad Proof

132-60010032 S.D. DANR - GROUND WATER

Order Nbr 55429

Publication	Rapid City Journal		
Contact	S.D. DANR - GROUND WATER	PO Number	
Address 1	523 E CAPITOL AVE	Rate	Open
Address 2		Order Price	147.95
City St Zip	PIERRE SD 57501	Amount Paid	0.00
Phone	6057733351	Amount Due	147.95
Fax			
Section	Legal	Start/End Dates	03/23/2023 - 03/23/2023
SubSection		Insertions	1
Category	0072 Public Notices	Size	224
Ad Key	55429-1	Salesperson(s)	Legals 90
Keywords	NOTICE OF APPLICATION 2864-2 to Appropriate	Taken By	Shawn Killinger
Notes			

Ad Proof

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Customer Ad Proof

132-60010032 S.D. DANR - GROUND WATER

Order Nbr 55429

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(Published March 23, 2023 for a total approximate cost of \$147.95 and may be viewed for free at www.sdpublishnotices.com)
Legal No: 55429

*** Proof of Publication ***

STATE OF SOUTH DAKOTA)

County of Pennington)

SS:

S.D. DANR - GROUND WATER

523 E CAPITOL AVE

PIERRE SD 57501

ORDER NUMBER 55429

RECEIVED

MAR 29 2023

OFFICE OF
WATER

The undersigned, being duly sworn, upon his/her oath says: That he/she is now and was at all time hereinafter mentioned, a clerk of the RAPID CITY JOURNAL, a corporation of Rapid City, South Dakota, a legal and daily newspaper printed and published in Rapid City, in said County of Pennington, and has full and personal knowledge of all the facts herein stated as follows: that said newspaper is and at all of the times herein mentioned has been a legal and daily newspaper with a bonafide paid circulation of at least Two Hundred copies daily, and has been printed and published for at least one year prior to the first date of the published notice.

This affidavit is a true and corrected copy of notice which appeared

in said newspaper once each day for 1

successive day, the first publication there of being on the

23 day of March, 20 23.

Section: Legal

Category: 0072 Public Notices

PUBLISHED ON: 03/23/2023

TOTAL AD COST: 147.95

FILED ON: 3/24/2023

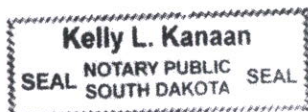
Subscribed and sworn to before me this

24th day of March, 20 23.

Kelly L. Kanaan Notary Public

My commission expires

Jan 17, 20 25



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Application No. 2864-2 to
Appropriate Water**

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(Published March 23, 2023 for a total approximate cost of \$147.95 and may be viewed for free at www.sdpublishing.com)
Legal No: 55429

SEAL
NOTARY PUBLIC
KELLY L. KENNEDY
SOUTH DAKOTA

Rodriguez, Rachel

From: RCY Legals <legals@rapidcityjournal.com>
Sent: Thursday, March 16, 2023 4:48 PM
To: Rodriguez, Rachel
Subject: RE: [EXT] 2864-2 Rushmore Gold Town Inc/Big Thunder Gold Mine
Attachments: AdProof 55429.pdf

Rachel

This notice is attached for review & confirmation
It is scheduled to publish as requested, Mar. 23, 2023
Legal No: 55429

Cost: \$147.95 Once you have approved this notice I will call Sandra at Gold Town Inc. for payment.

Approval of the notice is subject to Publisher's approval of credit and content.

An affidavit of publication will be mailed out to your from our Rapid City office after the last day of publication of your legal notice.

Thank you

Shawn Killinger

Legal Advertising Bismarck Tribune, Casper Star Tribune, Chadron Record, Mandan News and Rapid City Journal

307-266-0554

legals@bismarcktribune.com Bismarck Tribune and Mandan News

cas-legals@trib.com Casper Star Tribune

legals.chadron@lee.net Chadron Record

legals@rapidcityjournal.com Rapid City Journal



From: Rodriguez, Rachel [mailto:Rachel.Rodriguez@state.sd.us]
Sent: Tuesday, March 14, 2023 1:45 PM
To: RCY Legals <legals@rapidcityjournal.com>
Subject: 2864-2 Rushmore Gold Town Inc/Big Thunder Gold Mine

This Message Is From an External Sender

This message came from outside your organization.

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Let me know if you have questions. Please acknowledge receipt of this email.

Thank you,

Rachel Rodriguez
DANR | Program Assistant
Rachel.Rodriguez@state.sd.us



Rodriguez, Rachel

From: mclainsandra <mclainsandra@aol.com>
Sent: Monday, March 20, 2023 5:57 PM
To: Rodriguez, Rachel
Subject: RE: [EXT] 2864-2 Rushmore Gold Town Inc/Big Thunder Gold Mine

Thank you I will let them know. Thanks. Sandi

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: "Rodriguez, Rachel" <Rachel.Rodriguez@state.sd.us>
Date: 3/20/23 2:46 PM (GMT-07:00)
To: Y <mclainsandra@aol.com>
Subject: RE: 2864-2 Rushmore Gold Town Inc/Big Thunder Gold Mine

Hello Sandi,

The public notice is only required to be published in the county where the project works are located. You do not need to have the Prevailor/Chronicle publish the notice.

Thank you,

Rachel Rodriguez

DANR | Program Assistant

Rachel.Rodriguez@state.sd.us



Rodriguez, Rachel

From: Rodriguez, Rachel
Sent: Monday, March 20, 2023 3:47 PM
To: Y
Subject: RE: [EXT] 2864-2 Rushmore Gold Town Inc/Big Thunder Gold Mine

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Thank you,

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DANR | Program Assistant
Rachel.Rodriguez@state.sd.us



From: Y <mclainsandra@aol.com>
Sent: Monday, March 20, 2023 6:12 AM
To: Rodriguez, Rachel <Rachel.Rodriguez@state.sd.us>
Subject: Re: [EXT] 2864-2 Rushmore Gold Town Inc/Big Thunder Gold Mine

Rachel Rodriguez: Hello this is Sandi McLain with Rushmore Gold Town Inc and Big Thunder Gold Mine. I have paid the ad with the Rapid City Journal on Friday of last week and have now sent the same informatrion to the Prevailor/Chronicle in Custer. The Prevailor is component of Pennington County that the classified ad will run. I will make payment today and have requested that they contact you with the proof of the run and the payment. Wated to keep you updated. Jason and Eric are the contacts for that to happen. I will talk to them this morning for the completion of the payment. Sandra McLain Rushmore GodlTown Inc/Big Thunder Gold Mine

On Friday, March 17, 2023 at 06:39:32 AM PDT, Rodriguez, Rachel <rachel.rodriquez@state.sd.us> wrote:

Good morning,

Attached is a copy of the notice to be published on March 23, 2023. Please contact Shawn Killinger for payment.

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Subject: Re: [EXT] 2864-2 Rushmore Gold Town Inc/Big Thunder Gold Mine
Attachments: AdProof 55429.pdf

Rachel Rodriguez: Hello this is Sandi McLain with Rushmore Gold Town Inc and Big Thunder Gold Mine. I have paid the ad with the Rapid City Journal on Friday of last week and have now sent the same informatrion to the Prevailor/Chronicle in Custer. The Prevailor is component of Pennington County that the classified ad will run. I will make payment today and have requested that they contact you with the proof of the run and the payment. Wated to keep you updated. Jason and Eric are the contacts for that to happen. I will talk to them this morning for the completion of the payment. Sandra McLain Rushmore GodITown Inc/Big Thunder Gold Mine

On Friday, March 17, 2023 at 06:39:32 AM PDT, Rodriguez, Rachel <rachel.rodriguez@state.sd.us> wrote:

Good morning,

Attached is a copy of the notice to be published on March 23, 2023. Please contact Shawn Killinger for payment.

Thank you,

Rachel Rodriguez

DANR | Program Assistant

Rachel.Rodriguez@state.sd.us





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

MAY 09 2023

Rushmore Gold Town, Inc./Big Thunder Gold Mine
c/o Sandra McLain
PO Box 459
Keystone SD 57751

Dear Ms. McLain:

Enclosed is Water Permit No. 2864-2 authorizing construction of the water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

An application/license filing fee of \$950.00 was submitted with your application. The correct fee for this permit is \$300.00, \$650.00 will be refunded to you. The refund check should be received within the next couple of weeks.

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,

Eric Gronlund, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

**Affidavit of Public Notice
on DANR Website**

Pursuant to SDCL § 46-2A-4, public notice of the following application was posted on the DANR web site at <https://danr.sd.gov/public>. The posted public notice is the same notice as published in the pertinent newspaper(s) and a copy of the public notice is maintained in the application file. If the application is contested, the posting is moved to the DANR contested case website at <https://danr.sd.gov/public/ContestedCase.aspx> until final action is taken on the application pursuant to SDCL § 46-2A-4.

Application No.: 2864-2

Name of Applicant: Rushmore Gold Town Inc., c/o Sandra McLain

Date of Posting: 3/20/2023

Date of Removal: 5/9/2023



Ron Duvall, Water Rights Permitting Administrator

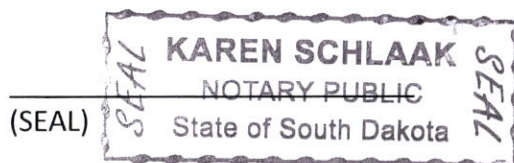
5/9/23

Date

Subscribed and sworn to before me, a notary public, this 9th day of May, 2023.



Notary Public - South Dakota
My commission expires: 4/1/2025





2864-2

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

August 15, 2023

Rushmore Goldtown Inc
Big Thunder Gold Mine
c/o Sandra McLain
PO BOX 459
Keystone SD 57751

2864-2

Dear Ms. McLain:

I am writing to acknowledge receipt of the "Notice of Completion of Works" form that you sent in to let us know that you are completed with your water use system.

The system is now ready for inspection. Inspections are done on a county-by-county basis as staff time permits. You have done everything you need to do and the intervening time between the completion of your project and the staff inspection has no bearing on your water permit.

Someone from our office will contact you prior to the inspection to set up a time that is convenient for you. If you have any questions, please contact me.

Sincerely,

Amanda Dewell
Water Rights Program
(605) 773-3352
email: Amanda.Dewell@state.sd.us

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

Date 08-14-23

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

FROM: Big Thunder Gold Mine/Rushmore Goldtown Inc
(name)
PO Box 459
(address)
Keystone, SD 57751 605-666-4847
(city, state, zip) (phone)

I have completed the construction of the water use system and I have put the water to beneficial use to the maximum extent it is going to be used.

Water Permit No. 2864-2 states that the water use system is to be constructed by 08-15-23 , and water is to be put to beneficial use by 08-22-23 *erwhe approved*
(date) (date)

The water use system was completed on 08-15-23
(date)

Applying the water to beneficial use was completed on 08-22-23
(date)

You may schedule an investigation so that the water license may be issued.

Sandra McLean
(signature)

eric.gronlund@
state.sd.us



Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 2864-2

I have this day August 23, 2023, made a thorough examination of the water use system constructed by Big Thunder Gold Mine/Rushmore Gold Town Inc., PO Box 459 Keystone, SD 57751 of Permit No. 2864-2, bearing the priority of January 19, 2023 authorizing the diversion of 0.022 cu. ft. per second of the waters of Battle Creek for commercial and recreational purposes, in Pennington County.

Inspection contact & relationship
to permit holder, if applicable:

Permit Holder: Sandra McLain (605) 430-9150
Inspection Contact: Mike McLain (son)

A. Works used to divert the water:

Pump:

- 1) Make SmartPond – Intertek submersible waterfall pump
- 2) Model 52305
- 3) Size (in) 10 x 4.75 x 6 (L x W x H)
- 4) Capacity 60 GPM (0ft if head, pumping is against head, making production much less. 10gpm is reasonable)

Power:

- 1) Source Portable Battery
- 2) Horsepower Rating did not obtain – brought the smaller one to inspection, indicated there was a larger one also
- 3)

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

- 1) Type Corrugated Plastic Pipe
- 2) Length 60 feet
- 3) Diameter 1.5 inch

Indicated use of five-gallon bucket at end of pipe to transport water to holding tubs due to lack of head pressure from Battle Creek to uphill location.

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Y
List any extended period of nonuse: **none**
- 2) Exceptions to compliance are: **none**

E. Condition and Location:

1. The system is in good condition with the point(s) of diversion located as follows: (SW ¼ NE ¼) 3730 ft E & 1700 ft S of the NW corner of Section 13-T2S-R6E, lat43.87829/long-103.34537
2. The works are capable of diverting and conveying to the place of use 0.022 cu. ft. per second of water.
3. The system should be licensed for 0.022 cu.ft. per second which is to be used for commercial and recreational use.

Storage works consist of three 100-gallon tubs, and one 300-gallon tub.

4. All structures, wells and lands on map Y

F. Comments or other permit(s) associated with the project: None

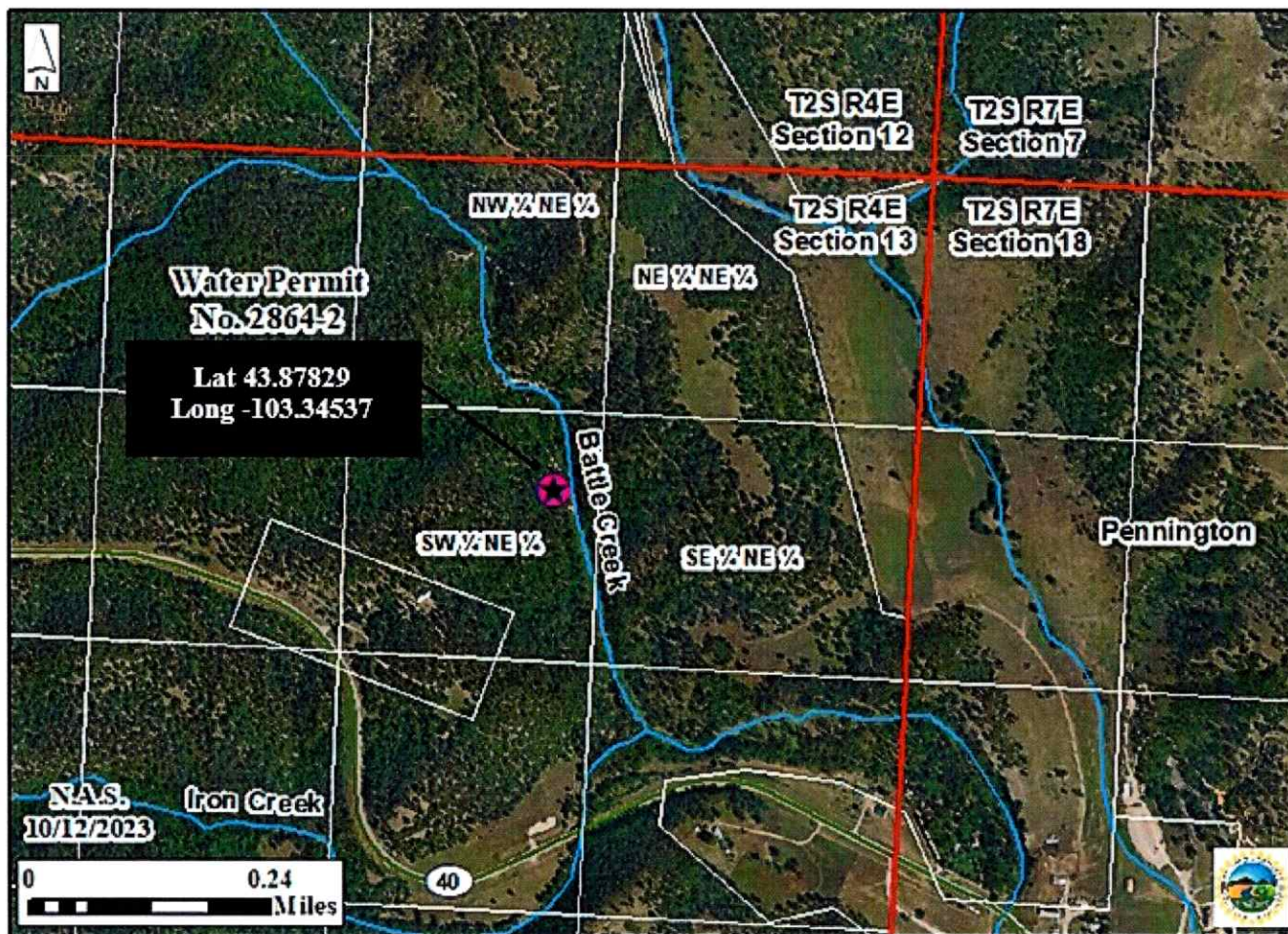
Nakaila Steen

Nakaila Steen
Natural Resources Engineer II
SD DANR - Water Rights Program

Date report completed: October 12, 2023

Report of Examination of Works
Permit No. 2864-2





Approval of Location Change and/or Additional Diversion Point(s)

NAME: Big Thunder Gold Mine/Rushmore Gold Town Inc.

ADDRESS: PO Box 459, Keystone SD 57751

DATE: December 15, 2023

COUNTY: Custer

GENERAL DESCRIPTION OF AUTHORIZED PROJECT:

The permit holder is authorized to construct a diversion point on Battle Creek to divert up to 0.022 cfs in the NW ¼ NE ¼ of Section 13 T2S-R6E for commercial and recreational use.

AUTHORITY:

Pursuant to SDCL 46-5-13.1, the location of a diversion point may be changed, or additional diversion points may be licensed provided the following conditions are met and the potential for interference with other existing diversions is not increased:

- **Developed water source same as permitted source and no additional water appropriated**

The permit holder constructed a Battle Creek diversion point in the SW ¼ NE ¼ of Section 13 T2S-R6E

- **If irrigation, no new land is irrigated**

This was not for irrigation.

- **Review of Existing Diversions**

There are no other existing water permits/rights located downstream on Battle Creek to the Madison/Minnelusa formation loss zone. When this permit was issued, it was determined that there was reasonable probability that construction of this Battle Creek diversion point would not adversely or unlawfully impair existing rights. The same would be expected for a Battle Creek diversion in the new location.

RECOMMENDED ACTION

Based on the above criteria, it is recommended that the diversion point(s) be licensed as developed.


Mark D. Rath, Natural Resources Engineer
Water Rights Program

The Chief Engineer makes a finding pursuant SDCL 46-5-13.1 and ARSD 74:02:01:14.01 that:

This change in location and/or additional diversion point(s) does not increase the potential for adverse effects to existing diversions.


Eric Gronlund, Chief Engineer
Water Rights Program

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 2864-2**

(1) Rushmore Gold Town Inc./Big Thunder Gold Mine; PO Box 459, Keystone SD 57751, made Application No. 2864-2, January 19, 2023, for a water permit to divert 0.022 cubic feet of water per second from Battle Creek, Pennington County, South Dakota for commercial and recreational purposes. Permit No. 2864-2, with a priority date of January 19, 2023, was approved by the Water Management Board May 3, 2023, and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before May 2, 2028, and for the application to beneficial use of water on or before May 3, 2032.

The applicant submitted a "Notice of Completion of Works" on August 14, 2023, indicating that construction was completed, and water had been put to beneficial use.

An investigation conducted for licensing purposes found the diversion point developed outside of the permitted area. Pursuant to SDCL 46-5-13.1 and ARSD 74:02:01:14.01, the Chief Engineer made a finding that the change in the diversion point location did not increase the potential for adverse effects to existing diversions.

(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:

- 1,855 ft W & 1,650 ft S of the NE corner of Section 13, T2S, R6E (SW $\frac{1}{4}$ NE $\frac{1}{4}$)
(Latitude 43.87829 & Longitude -103.34537)

(3) The amount of appropriation may not exceed 2,850 gallons annually. The water is to be used during the following described annual period: April 1 – October 31.

(4) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use.

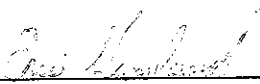
(5) Pursuant to South Dakota Water Law 46-5-30.1 Rushmore Gold Town Inc./Big Thunder Gold Mine, the holder and/or owner of Water Right No. 2864-2 is issued a license to appropriate water, the right to use 0.022 cubic feet of water per second from Battle Creek, with a priority date of January 19, 2023, from the location specified in (2) of this license for commercial and recreational purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 2864-2 and subject to the following qualifications:

1. Low flows as needed for downstream domestic use, including livestock water must be bypassed. Diversion of water under this Water Right shall be in accordance with any written orders issued by the Chief Engineer.
2. The Water Right holder shall report to the Chief Engineer annually the amount of water withdrawn from Battle Creek.

continued

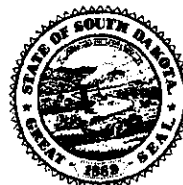
3. Water Right No. 2864-2 authorizes a total annual diversion of up to 2,850 gallons of water from Battle Creek.



Eric Gronlund, Chief Engineer
Water Rights Program
Department of Agriculture and Natural Resources

DEC 21 2023

date





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

DEC 20 2023

2864-2

Rushmore Gold Town Inc.
Big Thunder Gold Mine
c/o Sandra McLain
PO Box 459
Keystone SD 57751

Dear Ms. McLain:

Enclosed is Water License No. 2864-2. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

So 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,

Eric Gronlund, Chief Engineer
Water Rights Program
(605) 773-3352

NOTE: Permit No. 2864-2 authorized the diversion of 0.022 cubic feet of water per second (10 gallons per minute). Diversion under this license is limited to 0.022 cfs.

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

RAPID CITY ONE-STOP
221 MALL DRIVE, SUITE 201
RAPID CITY, SD 57701
danr.sd.gov

RUSHMORE GOLD TOWN INC

2864-2

SANDRA MCLAIN

PO BOX 459

KEYSTONE, SD 57751

April 15, 2026

Dear Battle Creek Water Right/Permit Holder:

I am writing to remind Battle Creek water right/permit holders and operators of the bypass qualification that was placed on your water permit by the Water Management Board in 2005:

A minimum flow of 1.5 cubic feet of water per second (cfs) shall be maintained at the SD Highway 40 gage to insure flows for domestic use and prior existing water rights.

Recently, creek flows measured at the USGS gaging station at the SD Highway 40 bridge have been near 2.5 cfs and this winter and spring have been very dry. We are closely monitoring the gage. When flow past the gage drops to the 1.5 cfs cutoff or less, diversion of water from the creek shall cease. This 1.5 cfs limit is in place to protect domestic use, including livestock watering and those water rights that are most senior.

Realtime flows in the in Battle Creek can be monitored by going to the following website:

<https://waterdata.usgs.gov/monitoring-location/USGS-06406500/#dataTypeId=daily-00060-0&period=PLY&showFieldMeasurements=true>

USGS Stream Gage No. 06406500 – Battle Creek below Hermosa, SD

Thank you for your cooperation. If you have any questions, please contact Nakaila Steen or another member of the DANR-Water Rights Program at (605) 394-2229 (Rapid City Office) or (605) 773-3352 (Pierre Office). We would appreciate it if you would call Nakaila in our Rapid City office and provide an up-to-date phone number and email for faster communication on this matter.

Sincerely,

Adam Mathiowetz, PE
Acting Chief Engineer
Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

RAPID CITY ONE-STOP
221 MALL DRIVE, SUITE 201
RAPID CITY, SD 57701
danr.sd.gov

Notice of Shutoff Order

June 18, 2026

To: RUSHMORE GOLD TOWN INC
SANDRA MCLAIN
PO BOX 459
KEYSTONE, SD 57751

From: ADAM MATHIOWETZ, PE
ACTING CHIEF ENGINEER, WATER RIGHTS PROGRAM

Subject: Shutoff Order for Water Right No. 2864-2

To protect domestic users, the department is issuing shutoff orders to Battle Creek water rights/permit holders. Effective immediately, diversions of water from Battle Creek will not be allowed until further notice. This order is being issued due to USGS Gage 06404000 Battle Creek Near Keystone reaching 0 cubic feet of water per second (cfs) on June 16 and June 17.

Flow in Battle Creek has declined to the point where domestic use of water, which includes livestock watering from the creek, has become a concern. This order will be rescinded if conditions improve. If a runoff event temporarily raises flow at the USGS Gage 06404000 Battle Creek Near Keystone above 0.25 cfs, the Water Rights Program can be contacted to see if temporary permission to utilize water from the creek can be allowed while the gage is above 0.25 cfs.

If conditions do not improve, this order will remain in effect until **December 31, 2026**.

The USGS maintains a website where you can view real-time stream flow measurements at several sites along the creek, the web address is:
<https://waterdata.usgs.gov/state/south-dakota/>

I am asking for your cooperation in complying with this shutoff order. The ongoing drought is creating hardship for all the water right holders along the creek.

If you have any questions, please contact Nakaila Steen or another member of the DANR-Water Rights Program at (605) 394-2229 (Rapid City Office) or (605) 773-3352 (Pierre Office).