

No. 371-2Water Division No. 2 Fall River
(Blanks to be Filled by the Engineer for the W. H. C.)

District

RECEIVED
DEC 13 1959
STATE WATER RESOURCES COM.
FALL RIVER DISTRICTAPPLICATION FOR PERMIT
To Appropriate Water within the State of South Dakota

(NOTE--Draw a line through items not applicable.)

1. Name of applicant Hot Springs Water Company CITY OF HOT SPRINGS
Postoffice address Hot Springs, County of Fall River, State of South DakotaI. If a corporation Yes

- (a) Name of same Hot Springs Water Company
- (b) Date and place of incorporation September 1, 1955
100 West Tenth Street, Wilmington, Delaware
- (c) Amount of capital stock 10,000 shares of common stock without par value
- (d) Amount paid in \$100,000.00
- (e) Names and addresses of directors
Frank A. O'Neill, 327 South LaSalle Street, Chicago 4, Illinois
Mary E. Bilyeau, 327 South LaSalle Street, Chicago 4, Illinois
Martin P. Farrell, Medical Block, Hot Springs, South Dakota

(NOTE--A certified copy of articles of incorporation must accompany the application.)

II. Method of accomplishing the work and financial resources of the applicant:

- (a) Method of accomplishing work (Whether by contract, employment of others, or by direct labor)
-
- Work completed

- (b) Cash on hand, \$ N/A
- (c) Treasury stock, \$ N/A
- (d) Bonds to be issued, \$ N/A
- (e) Other resources, \$ N/A

2. Name of diversion work Well # 1; Well # 2; and Well # 3
3. Amount of water claimed Well # 1 500 gallons per minute
Well # 2 500 gallons per minute
Well # 3 700 gallons per minute
4. Source of water supply Ground Water
5. Location of point of diversion Wells # 1 and # 2 in NW 1/4 Sec 10, township 7 S Range 5 EBM; Well # 3, which is in the SE 1/4 Sec 14, Township 7 S Range 5, EBM, is in a tract within the city limits of Hot Springs, S D, containing 434 acres, the plat thereof being recorded in plat on bank County.
6. Annual period or periods during which water is to be used Continuous
7. To be used for municipal water supply of Hot Springs, South Dakota

I. Irrigation or domestic use: Gravity, overhead sprinkling or combination system? N/A

- (a) Number of acres to be irrigated
- N/A
- acres.

- (b) Legal subdivisions to be irrigated
- N/A

(NOTE--A list of lands to be irrigated, giving each subdivision and fraction with acreage thereof, should be written here, or may be appended as a part of this application. Same must also be shown on accompanying map.)

- (c) Statement as to domestic use (giving location, etc.)

City of Hot Springs water supply

II. Stockwatering, mining, milling, power, fish culture, fire protection and public recreation:

- (a) Nature of use
- Municipal use in and for City of Hot Springs, South Dakota

Name any of the above uses checked

- (b) Amount of power to be generated
- N/A
- horse power.

Amount claimed for engine cooling N/A

- (c) Location of plant
- N/A

- (d) Method of developing power
- N/A

- (e) Point where water will be returned to stream
- N/A

502-2
Map No.

8. Estimated cost of work: Wells # 1 and # 2 together: \$32,000.00
Well # 3 16,000.00
(a) Head Gates, \$----- (b) Pumping plant, \$-----
(c) Fluming, \$----- (d) Canal-earth, \$----- Rock, \$-----
(e) Other structures \$----- Total, \$-----

9. Description of diversion works:

I. Nature of works: (Reservoir, dam, ditch, flume, pumping plant, etc.)

N/A

II. Dimensions of works:

(a) Dam: Height N/A feet; length at bottom N/A feet; length at top N/A feet; thickness at bottom N/A feet; thickness at top N/A feet; slope at front water face N/A; slope at back face N/A material used in construction N/A
(b) Reservoir: Capacity when filled N/A acre feet. Surface area at highwater mark N/A acres.

DEPTH AT OUTLET-Feet	SURFACE AREA AT EACH DEPTH AT OUTLET-ACRES	FEET	ACRE-Feet CAPACITY
	N/A		

(c)* Head gate: Width N/A feet; height N/A feet;
Material N/A
(d) Canal: Total length N/A miles.

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER-LINE	GRADE PER MILE
At Mile	feet	feet	feet	feet
At Mile	feet	feet	feet	feet
At N/A Mile	feet	feet	feet	feet
At Mile	feet	feet	feet	feet
At Mile	feet	feet	feet	feet
At Mile	feet	feet	feet	feet

(Give dimensions where reductions in size are made.)

10. Time required for completion of work Completed years.
11. Time required for complete application of water to the proposed beneficial use years. Completed
12. Choice of newspaper for publication of notice of intention to appropriate N/A

STATE OF SOUTH DAKOTA
County of Fall River ss.

I, Martin P Farrell, Secretary of Hot Springs Water Company, being first duly sworn on my oath depose and say: That my relation to the above described undertaking is that of Secretary that I have read the above foregoing statement, examined the map accompanying the same, and that I know of my own personal knowledge that the matters therein stated and shown are true.

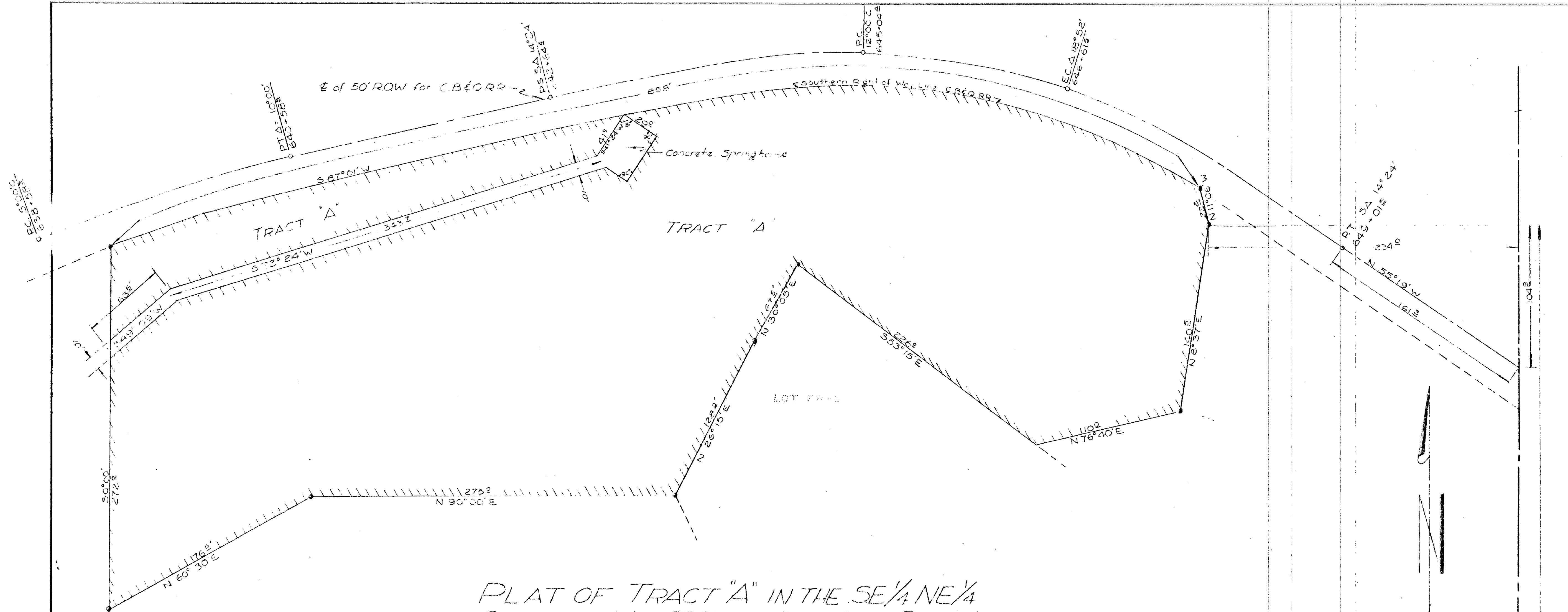
Signed Martin P Farrell

Subscribed and sworn to before me this 11 day of December 1958

My COMMISSION EXPIRES
JULY 21, 1959

Marjorie O. Nygaard
Notary Public (or other qualified officer)

*Each diversion must have a headgate or measuring device.



PLAT OF TRACT "A" IN THE SE 1/4 NE 1/4 SECTION 14, T7S, R5E, BHM.

SURVEYOR'S CERTIFICATE

I, Frank R. Brady, Registered Land Surveyor, do hereby certify that at the direction of Central Electric and Gas Company, I have surveyed and plotted Tract "A" of the SE 1/4 NE 1/4 Section 14, T7S, R5E, BHM, as shown on this plat.

Frank R. Brady
Registered Land Surveyor

ACKNOWLEDGMENT OF SURVEYOR

On this 14 day of December, 1953, before me appeared Frank R. Brady, known to me to be the person described in and who executed the foregoing plat. My commission expires March 27, 1957. (SEAL ATTACHED)

L. A. Bingham
Notary Public

CERTIFICATE OF OWNER

Central Electric and Gas Company, owner of Tract "A" as shown hereon do hereby approve the survey and plat. Witness my hand this 14 day of JANUARY, 1954.

E. C. DEANE
Authorized Representative

ACKNOWLEDGMENT OF OWNER

On this 14 day of JANUARY, 1954, before me appeared E. C. DEANE known to me to be the person who is described in and who executed the foregoing certificate and acknowledged to me that he executed the same. My commission expires March 27, 1957. (SEAL ATTACHED)

L. A. Bingham
Notary Public

CERTIFICATE OF COUNTY TREASURER

I, Frederick W. Wilson, County Treasurer of Fall River County do hereby certify that all taxes which are liens upon the Tract as plotted above and as shown by receipts of my office, have been paid to date.

Frederick W. Wilson
County Treasurer

OFFICE OF THE REGISTER OF DEEDS

STATE OF SOUTH DAKOTA
COUNTY OF FALL RIVER

Filed for record this 13 day of January, 1954 at 4:30 PM and recorded in B. 1. 2 of Plats on page 1.

Mary E. Bingham
Register of Deeds

STATE OF SOUTH DAKOTA
County of Fall River

I hereby certify that I have carefully compared the within instrument with the original PLAT OF TRACT "A" IN SECTION 14, T7S, R5E, BHM copy on file in this office, and that it is a true and correct copy of the same, and the within certificate, of, and that the above is a true copy of the filing thereon.

Date January 24, 1954
W. H. Bingham
Register of Deeds

1/4 Corner Common to
Section 13 & 14 T7S, R5E, BHM

Map 502-2 (App. 511-2)

Remarks by State Water Resources Commission:

"Vested Right" claimed

STATE OF SOUTH DAKOTA

County of

Hughes

93.

Pierre, South Dakota,

December 17, 1958

This is to certify that the foregoing application was received by the Commission at 9:30 o'clock

9 a.m. upon the 13 day of December, 1958

State Water Resources Commission

By:

J. H. Brinner
Chief Engineer, Executive Officer

Number of permit 511-2

Date of first receipt of application December 13, 1958

Date of return to applicant for correction, amendments or changes required as follows: 19

Date of receipt of corrected application 19

Date from which applicant may claim right 1929 for 2.22 cfs. and February 1955 for 1.55 cfs. 19

Approved December 17, 1958 Recorded in Book 55 Page 78

This is to certify that we have examined the foregoing application for a permit to appropriate water of the State of South Dakota, and we hereby grant the same as stated herein, subject, however, to the following limitations and conditions:

1st. The equivalent of at least one-fifth of the work above specified is to be completed on or before

Completed, 19

2nd. The whole of said work is to be completed on or before Completed, 19

3rd. The limit of time for proof of beneficial use of water appropriated in accordance herewith is

Completed, 19

4th. The water appropriated shall be used for the purpose of municipal use

5th. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.

6th. The amount of the appropriation herein granted shall not exceed 3.77 cubic feet per second; neither shall it exceed the capacity of the above described system of diversion works, nor the least amount of water that experience may hereafter indicate as necessary for the production of crops in the exercise of the best husbandry; and further, said appropriation must be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually beneficially applied for irrigation on or before Completed, 19; said water to be used during the following described annual period:

Continuously

Witness my hand this 31 day of December, 1958

State Water Resources Commission

By:

J. H. Brinner
Chief Engineer, Executive Officer

Certificate of Construction Issued December 31, 1958

Water License Issued December 31, 1958

9. (Continued)

III. Well Specifications

(a) Hole and casing

Size of oral hole or excavation Gallery Depth 9 feet

Type of casing Concrete
(wood, concrete, steel, etc.)

Size of casing Gallery Thickness of casing 8 inches

Length of casing Gallery If collection gallery, length, size and depth of
gallery 20 feet by 16 feet

(b) Screens None

Type of perforated screen

Size of perforated screen
(diameter) (length)

Thickness of gravel pack length of gravel pack

(c) Water Bearing Materials

Distance to water 4 feet Character of water bearing materials

Gravel

Thickness of water bearing material 20 feet estimate

(d) Pump and Motor

Type of pump Centrifugal
(centrifugal, propeller, mixed flow, etc.)

Name of pump Goulds size 500 gallons per minute

Kind of motor Electric 3 phase, 220 volt
(gasoline, electric, diesel, etc.)

Horsepower 40 Name of Motor Howell Redband

(e) Complete well

Capacity 500 gallons per minute
at drawdown of 2 feet Estimated cost of wells #1 and #2
is \$32,000.(f) Owner of land upon which well is located Hot Springs Water Company
NameHot Springs, South Dakota
Address

(g) Distance to nearest existing wells

On same owner's property X X rods. On property owned by others 1/4 mile

X X Pumps on Well #1 and well #2 located in same pump house, pumps are separate galleries to
collect water about 20 feet apart.

9. (Continued)

III. Well Specifications

(a) Hole and casing

Size of drill hole or excavation Gallery , Depth 9 feet

Type of casing Concrete
(wood, concrete, steel, etc.)

Size of casing Gallery , Thickness of casing 8 inches

Length of casing Gallery If collection gallery, length, size and depth of
gallery 20 feet by 16 feet

(b) Screens None

Type of perforated screen

Size of perforated screen ,
(diameter) (length)

Thickness of gravel pack , length of gravel pack

(c) Water Bearing Materials

Distance to water 4 feet Character of water bearing materials

..... Gravel

Thickness of water bearing material 20 feet estimate

(d) Pump and Motor

Type of pump Centrifugal
(centrifugal, propeller, mixed flow, etc.)

Name of pump Goulds , size 500 gallons per minute

Kind of motor Electric 3 phase, 220 volt
(gasoline, electric, diesel, etc.)

Horsepower 40 , Name of Motor Howell Redband

(e) Complete well

Capacity 500 gallons per minute
at drawdown of 2 feet Estimated cost of wells #1 and #2
is \$32,000(f) Owner of land upon which well is located Hot Springs Water Company
Name..... Hot Springs, South Dakota
Address

(g) Distance to nearest existing wells

On same owner's property X X rods. On property owned by others 1/4 miles rods.
x x Pumps on well #1 and well #2 located in same pumphouse. Pumps on separate Galleries to
collect water about 20 feet apart.

9 (Continued)

III. Well Specifications

(a) Hole and casing

Size of drill hole or excavation 6 feet, Depth 20 feet

Type of casing Concrete
(wood, concrete, steel, etc.)

Size of casing 6 feet, Thickness of casing 6 inches

Length of casing 22 feet If collection gallery, length, size and depth of
gallery N/A

(b) Screens

Type of perforated screen Bronze

Size of perforated screen 1/4 inches by 8 inches by 16 inches
(diameter) (length)

Thickness of gravel pack 20 feet, length of gravel pack unknown

(c) Water Bearing Materials

Distance to water 9 feet Character of water bearing materials
gravel

Thickness of water bearing material 20 feet estimate

(d) Pump and Motor

Type of pump Turbine (screw-type)
(centrifugal, propeller, mixed flow, etc.)

Name of pump Fairbanks-Morse, size 700 gal. or per minute

Kind of motor Electric 3 phase, 60 cycle, 220 or 440 volt, 1770 RPM
(gasoline, electric, diesel, etc.)

Horsepower 50 Name of Motor Fairbanks-Morse

(e) Complete well

Capacity 700 gallons per minute
at drawdown of 2 feet Estimated cost \$16,000.00(f) Owner of land upon which well is located Hot Springs Water Company
NameHot Springs, South Dakota
Address

(g) Distance to nearest existing wells

On same owner's property 9000 feet. On property owned by others 200 yards

STATE OF SOUTH DAKOTA

WATER LICENSE No. 511-2.

WHEREAS, On the 13th day of December A. D. 1958

The Hot Springs Water Company

of Hot Springs County of Fall River and State of South Dakota duly made application (No. 511-2) to us for Vested Right permit to use 3.77 cubic feet per second of the waters of ground water County of Fall River, State of South Dakota, for municipal purposes; and

WHEREAS, On the 31st day of December A. D. 1958

Vested Right Permit No. 511-2 was issued to said applicant for the diversion of said water, and recognizing completion of the works of diversion therein described in 1929 and February 1955 and XXXXX application to beneficial use of said water XXXXX XXXXX in 1929 and February 1955 XXXXX and,

WHEREAS, On the 13th day of December A. D. 1958

Vested Right the holder of said permit duly made proof of the completion of adequate works for the diversion of 3.77 cubic feet per second of said waters, as evidenced by our Certificate No. 511.2 dated December 31, 1958 confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use 3.77 cubic feet per second of water, with date of priority of 1929 for 2.22 c.f.s. and February 1955 for 1.55 c.f.s. XXXXX and,

WHEREAS, On the 13th day of December A. D. 1958

proof was duly made of the application to beneficial use of 3.77 cubic feet per second of said water; Through the distribution system of the Hot Springs Water Company in the City of Hot Springs.

NOW, THEREFORE, By the virtue of the authority vested in us by the laws of the State of South Dakota,
We hereby grant and confirm to The Hot Springs Water Company
of Hot Springs, South Dakota the holder and owner of said Vested Right
1929 for 2.22 c.f.s and permit No. 341-2
a water right, dating from February 1955 for 1.55 c.f.s. to the use of 3.77
cubic feet per second of the waters of ground water
in the County of Fall River and State of South Dakota, or so much thereof as may be
necessary for the purposes hereinafter mentioned, to be diverted at two (2) points in the NW 1/4 Sec. 10, and one (1) point located in an irregular 4.34 acre tract in the SE 1/4, Sec. 14 lying South of the C.R. & O Rwy., all in T 7 S, R 5 E
and conducted to ~~supply~~ the residents of the City of Hot Springs
for the purpose of municipal use

subject, however, to the laws of the State of South Dakota applicable to a license for the use of the waters of the State, and subject, also to the local or community customs, rules and regulations which have been or may be adopted from time to time by a majority of the users from a common source of supply, canal or lateral from which such water may be taken, when such rules and regulations have for their object the economical use of such water.

WITNESS, My hand and seal of our office at Pierre, South Dakota,
this 31st day of December A. D. Nineteen
Hundred and Fifty-eight

State Water Resources Commission

By:

J. W. GRIMES, Chief Engineer, Executive Officer

STATE OF SOUTH DAKOTA

Water License No. _____

To _____

Source of Supply _____

County _____

Am't _____ c. f. s.

Point of Diversion _____

Place of Use _____

Purpose _____

Date of Priority _____

Recorded _____

in Book _____ of _____ Page _____

Permit No. 511-2
FallWater Division No. 2 River Water District**Certificate of Completion of Works**

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That The Hot Springs Water Company

of Hot Springs, County of Fall River, and State of South Dakota, the holder of Vested Right of Permit No. 511-2, Issued upon Application No. 511-2, bearing date of priority of 1929 for 2.22 cfs and February 1935 for 1.55 cfs, authorizing the diversion of 3.77 cu. ft. per second of the waters of ground water

County of Fall River, State of South Dakota, at two (2) points in the NW 1/4 SW 1/4 Sec. 10, and one (1) point located in an irregular 4.34 acre tract in the SE 1/4 NE 1/4, Sec. 14, lying south of the C.B. & Q. Rwy., all in T 7 S, R 5 E BHM, for municipal

purposes, has fully complied with the provisions of the laws of the State of South Dakota relating to proof of completion of the works of diversion set out and described in said Permit; that said works are found in satisfactory condition for diverting and conveying to the place of intended use 3.77 cu. ft. per second of water; and that the ~~use of said water~~ is described as follows, to-wit: for municipal purposes in the City of Hot Springs

Witness my hand this 31st day of December A. D. 1958

State Water Resources Commission

By:

J. W. GRIMES,

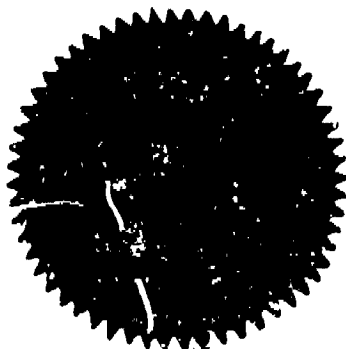
Chief Engineer, Executive Officer



Office of Secretary of State

I, George J. Schultz, Secretary of State of the State of Delaware,
do hereby certify that the above and foregoing is a true and correct copy of
Certificate of Incorporation of the "HOT SPRINGS WATER COMPANY",
as received and filed in this office the first day of September,
A.D. 1955, at 10 o'clock A.M.

In Testimony Whereof, I have hereunto set my hand
and official seal at Dover this thirteenth *day*
of November *in the year of our Lord*
one thousand nine hundred and fifty-eight.



George J. Schultz

Secretary of State

M. D. Johnson

Asst. Secretary of State

CERTIFICATE OF INCORPORATION

OF

HOT SPRINGS WATER COMPANY

-o-c-o-

FIRST: The name of this corporation is

HOT SPRINGS WATER COMPANY

SECOND: Its principal office or place of business in the State of Delaware is to be located at No. 100 West Tenth Street, in the City of Wilmington, County of New Castle. The name and address of its resident agent is The Corporation Trust Company, No. 100 West Tenth Street, Wilmington, Delaware.

THIRD: The nature of the business, or objects or purposes to be transacted, promoted or carried on, are:

(a) To carry on a general water and water service business; to take, acquire, appropriate, purchase, develop, sell, store, purify, supply and furnish water for irrigation, manufacturing, industrial, mining and domestic uses and for any other purposes to which water can be applied; to buy, own, hold, or in any manner acquire franchises, contracts, rights or permits to carry on the business of supplying water to cities, towns, municipalities, buildings and places, both public and private.

(b) To acquire, construct, lease, maintain and operate reservoirs, dams, canals, ditches, flumes, pipelines, water powers and water power sites, wells, sources of water supply, pumping stations, water towers and machinery and equipment of any and all kinds for the development, diversion, storage, supply, purification, transmission and distribution for use of water.

(c) To manufacture, acquire, buy, hold, sell and dispose of in any lawful manner, and generally deal in and with goods, wares, merchandise, property and commodities of any and every class and description, and all articles used or useful in connection therewith, in so far as may be permitted by the laws of the State of Delaware; to engage in any business, whether manufacturing or otherwise, which this corporation may deem advantageous or useful in connection with any or all of the foregoing; and to purchase, acquire, manufacture, prepare for market, sell, and otherwise acquire, hold and dispose of any article or thing which this corporation may use in connection with its business, or which may be employed in utilizing the products sold or the services rendered by this corporation or by any other corporation, firm, association or individual in whose securities or obligations this corporation is interested either as holder, guarantor, or otherwise, or which will foster the sale or use of such products or services.

(d) To obtain the grant of, condemn by eminent domain proceedings or otherwise, appropriate, purchase, lease or otherwise acquire any franchises, easements, concessions, rights, options, patents, licenses, powers, authorities, privileges, lands, rights of way, sites, properties, undertakings, or businesses, or any right, option or contract in relation thereto, and to perform, carry out and fulfill the terms and conditions thereof, and to carry the same into effect, and to develop, maintain, lease, sell, transfer, dispose of and otherwise deal with the same, subject, however, to the provisions of the laws of the State of Delaware and the consent of any governmental authority, supreme, municipal or local that may be required by law.

(e) To organize, incorporate, reorganize, consolidate, merge, finance and to aid and assist, financially or otherwise, companies, corporations, joint stock companies, syndicates, partnerships and associations of all kinds, including so-called Massachusetts Trusts, particularly including, but not limited to, those engaged in operating water facilities, and to underwrite, subscribe for and purchase the bonds, stocks, securities, debentures,, notes or undertakings of any such company, corporation, joint stock company, syndicate, partnership or association, and to do any and all things necessary or convenient to carry any of such purposes into effect.

Provided, however, that, anything in this Certificate of Incorporation to the contrary notwithstanding, the corporation shall have no power or authority to engage in the business of banking or investment banking, or to act as a trust company, or to engage in the business of underwriting or participating in the marketing of securities of a public utility or of supplying electrical equipment to a public utility. The term "public utility" within the meaning of this paragraph means an electric utility company or a gas utility company.

(f) To purchase at a discount or otherwise, acquire by exchange of its own stock, bonds, debentures or other securities or otherwise, take, subscribe for, contract to purchase, own, hold, sell, assign, transfer, mortgage, hypothecate, pledge, contract to sell or otherwise dispose of bonds, debentures, shares of stock, securities, scrip, mortgages, real estate certificates, obligations, contracts and notes issued or created by other corporations, associations, societies or companies, whether public, private or municipal, or any corporate body; to exercise and enjoy to the same full extent as natural persons could do all rights and privileges accruing to or vesting in the holder or owners of the said property and choses in action aforesaid and to do everything

needful, convenient, desirable or considered proper, for the protection, improvement, betterment or enhancement of the value of the said property or choses in action or any class thereof, and in any manner to aid or co-operate with such corporations, associations, societies or companies or with the bondholders or stockholders thereof as circumstances may require and as may be necessary, convenient or proper and as may be permitted by law.

(g) In furtherance of and for the accomplishment of its objects and purposes, to guarantee the payment of dividends on any shares of the capital stock of any corporation, joint stock company or association in which this corporation has or may at any time have an interest, to endorse or otherwise guarantee the payment of the principal of, or interest on, any scrip, bonds, coupons, mortgages, debentures or other securities issued or created by any corporation, joint stock company or association, including so-called Massachusetts Trusts, in which this corporation has an interest, or whose shares or securities it owns, to become surety for and to guarantee the carrying out or the performance of any and all contracts of every kind or character of any corporation, joint stock company or association in which this corporation has an interest, or whose shares or securities it owns, and to do any and all lawful things designed

to protect, preserve, improve, or enhance the value of any such shares, scrip, voting trust certificates, bonds, coupons, mortgages, debentures, securities or other evidence of indebtedness of any corporation, joint stock company or association in which this corporation has an interest or whose shares or securities it may own.

(h) To construct, acquire, extend, improve, equip, finance, maintain, manage and/or operate, for itself or for others, any corporation or association and/or any property or properties of any kind and/or to advise, aid and/or assist therein and for any of said purposes to furnish the services and advice of engineers, appraisers, supervisors, technical experts, technical advisers, auditors, executives and other assistants in any of such matters; and to aid in any manner the issuer of any stocks, bonds, debentures, evidences of indebtedness, obligations, warrants or securities of any kind at any time held by this corporation, and to do any and all lawful acts or things designed to protect, preserve, enhance or improve the value of any securities held by this corporation, and to use the funds, assets and/or credit of this corporation for any of said purposes.

(i) Subject to the provisions of the laws of the State of Delaware, to borrow money, and to draw, make, accept, endorse, transfer, assign, execute

and issue bonds, debentures, promissory notes, and other evidences of indebtedness, and for the purpose of securing any of its obligations or contracts to convey, transfer, assign, deliver, mortgage and/or pledge all or any part of the property or assets at any time owned or held by this corporation, as may be permitted by law.

(j) To purchase, hold, sell, transfer and reissue the shares of its own capital stock; provided it shall not use its funds or property for the purchase of its own shares of capital stock when such use would cause any impairment of its capital; and provided, further, that shares of its own capital stock belonging to it shall not be voted upon directly or indirectly.

(k) To enter into and make, and perform and carry out contracts of any kind and description made for any lawful purpose, without limit as to amount, with any person, firm, association or corporation, either public or private, or with any territory or government or agency thereof.

(l) To acquire, and to take over as a going concern and thereafter to carry on the business of any person, firm or corporation engaged in any business which this corporation is authorized to carry on, and in connection therewith, to acquire the good-will and all or any of the assets and to assume or otherwise provide for all or any of the liabilities of any such business.

(m) To apply for, obtain, register, purchase, lease or otherwise acquire any concessions, rights, options, patents, privileges, patent rights and privileges, inventions, improvements and processes, copyrights, trade-marks and trade names, or any right, option or contract in relation thereto, and to perform, carry out and fulfill the terms and conditions thereof, and to develop, maintain, lease, sell, transfer, dispose of, and otherwise deal with the same.

(n) To do all and everything necessary, suitable and proper for the accomplishment of any of the purposes or the attainment of any of the objects or the furtherance of any of the powers hereinbefore set forth, either alone or in association with other corporations, firms, or individuals, and to do every other act or acts, thing or things, incident or appurtenant to or growing out of or connected with the aforesaid business or powers or any part or parts thereof, provided the same be not inconsistent with the laws under which this corporation is organized.

(o) To have one or more offices, to carry on all or any part of its operations or business without restriction as to amount or to otherwise acquire, hold, own, mortgage, sell, convey or otherwise dispose of real and personal property of every class and description in any of the states, districts, territories or counties of the United States, and in any and all foreign countries subject to the laws of such state, district, territory, colony or country.

(p) Anything herein to the contrary notwithstanding, the corporation shall not have the power to engage in the business of constructing, maintaining and operating public utilities within the State of Delaware.

It is intended that said paragraphs be construed both as purposes and as powers, and generally that the corporation shall be authorized to exercise and enjoy all other powers, rights and privileges granted or which may hereafter be granted by the laws of the State of Delaware relating to corporations; and the enumeration of certain powers as herein specified is not intended as exclusive of or as waiver of any of such other powers, rights or privileges granted or to be granted by the laws of the State of Delaware.

FOURTH: The total number of shares of all classes of stock which the corporation shall have authority to issue is ten thousand (10,000) shares of common stock, without par value.

The holders of the common stock shall have the preemptive right to subscribe for, purchase and receive their proportionate share of any shares of common stock which may be issued and sold for money from time to time, provided that upon any issue of common stock for property, services or any other consideration, other than money, no holder of the common stock shall have any preemptive or other right to subscribe for, purchase or receive any proportionate or other share of the common stock so to be

issued, but the Board of Directors may dispose of all or any portion of such stock, if and when it may determine, free of any such rights, in any manner which the Board of Directors may deem advisable.

FIFTH: The minimum amount of capital with which the corporation will commence business is One Thousand Dollars (\$1,000.00).

SIXTH: The names and places of residence of each of the incorporators are as follows:

<u>NAMES</u>	<u>RESIDENCES</u>
S. E. Manuel	Wilmington, Delaware
L. E. Gray	Wilmington, Delaware
A. D. Atwell	Wilmington, Delaware

SEVENTH: The corporation is to have perpetual existence.

EIGHTH: The private property of the stockholders shall not be subject to the payment of corporate debts to any extent whatever.

NINTH: In case of vacancies in the Board of Directors, the remaining directors may fill such vacancies if so permitted by the by-laws of the corporation. Any director may be removed by the holders of three-fourths (3/4) in number of the shares of common stock at the time outstanding, at any annual or special meeting of such holders, for any cause deemed sufficient by such holders. Directors of the corporation shall not be required to own stock therein.

TENTH: In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized:

(a) From time to time to fix and vary the amount of the working capital, and to direct and determine the use and disposition of any surplus or net profits over and above the capital; and in its discretion to use and apply any such surplus or shares of the capital stock of the corporation to such extent and in such manner and upon such terms as the Board of Directors shall deem expedient; provided that no such funds or property shall be used for the purchase of its own shares of capital stock except as permitted by law; but shares of capital stock when acquired may, from time to time, successively be resold and repurchased.

(b) From time to time, as and when and upon such terms and conditions as it may determine, to issue any part of the authorized capital stock of the corporation.

(c) To purchase or otherwise acquire for the corporation any property, rights or privileges which the corporation is authorized to acquire, at such price or consideration and generally upon such terms and conditions as it deems advisable for the corporation.

(d) In its discretion, to pay for any property or rights acquired by the corporation, either wholly or partly in money, stocks, bonds, debentures, or other securities of the corporation and to determine conclusively at the time of such acquisition what initial valuation shall be placed

upon any property or rights acquired by the corporation and paid for otherwise than in money.

(e) To make, alter, amend, change, add to or repeal by-laws for this corporation, without any action on the part of the stockholders, unless otherwise provided in said by-laws. The by-laws made by the directors may be amended, altered, changed, added to or repealed by the vote of the holders of at least a majority in number of the shares of the common stock of the corporation at the time outstanding, provided that the by-laws may require a greater vote in respect of the amendment, alteration, change, addition or repeal of or to any or all of the provisions thereof.

(f) To authorize and cause to be executed mortgages and liens, without limit as to amount, upon the real and personal property of this corporation.

(g) To issue bonds, debentures, or other obligations of this corporation from time to time, without limit as to amount, for any of the objects or purposes of the corporation, and to secure the same by mortgage, pledge, deed of trust or otherwise, upon any part or all of its property, and to cause the corporation to guarantee bonds, debentures, notes, indebtedness, dividends or other obligations of persons, firms or other corporations.

(h) Subject to the provisions of Article Fourth hereof, to provide as part of the terms of

any one or more issues of bonds, notes, debentures or other obligations, that the holders of any such bonds, notes, debentures or other obligations shall have the right and privileges to convert their bonds, notes, debentures or other obligations into any class or classes of stock of the corporation upon such conditions and provisions as may be agreed upon at the time of issuing any such bonds, notes, debentures or other obligations, and in the foregoing event, the directors shall have power to reserve from the authorized, but unissued, stock such amounts as in their discretion they may find expedient.

(i) To procure the corporation to be licensed in any state, county, city or other municipality of the United States, the territories thereof, the District of Columbia, colonial possessions, or territorial acquisitions and in any foreign country, and in any town, city or municipality thereof, to conduct its business and have one or more offices therein.

(j) By resolution or resolutions passed by a majority of the whole Board, to designate one or more committees, each committee to consist of two or more directors of the corporation, which to the extent provided in said resolution or resolutions or in the by-laws of the corporation, shall have and may exercise the powers of the Board of Directors in the management of the business and

affairs of the corporation, and may have power to authorize the seal of the corporation to be affixed to all papers which may require it. Such committee or committees shall have such name or names as may be stated in the by-laws of the corporation or as may be determined from time to time by resolution adopted by the Board of Directors.

All the powers of this corporation in so far as the same lawfully may be vested by this Certificate of Incorporation in the Board of Directors, except as hereinbefore specifically provided, are hereby conferred upon the Board of Directors of this corporation.

Both the stockholders and the Board of Directors shall have power if the by-laws so provide, to hold their meetings, either within or without the State of Delaware, and to have one or more offices in addition to the principal office in Delaware, and to keep the books of this corporation (subject to the provisions of the statutes) outside of the State of Delaware at such places as may from time to time be designated by them.

ELEVENTH: The corporation at the time of its organization or at any time or times thereafter, may purchase or acquire shares, stocks, bonds, debentures and other securities or obligations, or any property, real, personal or mixed, from any person or persons, corporations or corporation, who may stand in a position toward this corporation of being promoters, officers or directors, and each stockholder of this corporation shall be deemed, by reason of his having become such, to have waived any and all objections to the

acquisition of shares, stocks, bonds, debentures and other securities, obligations or property, real, personal or mixed, from any promoter, officer or director.

TWELFTH: The corporation may enter into contracts or transact business with any firm of which one or more of its directors are members and with any corporation or association in which any one of its directors is a stockholder, director or officer, and such contract or transaction shall not be invalidated or in any wise affected by the fact that such director or directors have or may have interests therein which are or might be adverse to the interests of the corporation, even though the vote of the director or directors having such adverse interest shall have been necessary to obligate the corporation upon such contract or transaction; and no director or directors having such adverse interest shall be liable to the corporation or to any stockholder or creditor thereof, or to any other person, for any loss incurred by it under or by reason of such contract or transaction; nor shall any such director or directors be accountable for any gains or profits realized thereon; always provided, however, that such contract or transaction shall at the time at which it was entered into have been a reasonable one to have been entered into and shall have been upon terms that at the time were fair, and any such contract or transaction shall be prima facie presumed to have been a fair and reasonable one to have been entered into and upon terms that at the time were fair.

THIRTEENTH: This corporation may in its by-laws make any other provisions or requirements for the management or conduct of the business of this corporation, provided the same be not inconsistent with the provisions of this certificate or contrary to the laws of the State of Delaware or of the United States.

FOURTEENTH: This corporation reserves the right to amend, alter, change, add to or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter provided by law, and all rights conferred on officers, directors and stockholders are granted subject to this reservation.

WE, THE UNDERSIGNED, being each of the incorporators hereinbefore named, for the purpose of forming a corporation to do business both within and without the State of Delaware, and in pursuance of the General Corporation Law of the State of Delaware, being Title 8 of the Revised Code of Delaware and the acts amendatory thereof and supplemental thereto, do make and file this Certificate, hereby declaring and certifying that the facts herein stated are true and accordingly have hereunto set our hands and seals this 1st day of September, A. D. 1955.

In The Presence of:

M. Ruth Manning

L. E. Maguire
L. E. Gray
C. B. Atwell

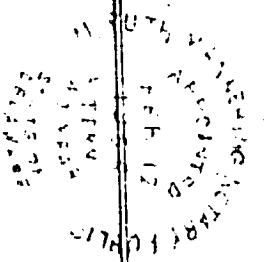
STATE OF DELAWARE }
COUNTY OF NEW CASTLE } ss:

BE IT REMEMBERED, that on this 1st day of
September, A. D. 1955, personally came before me,

M. Ruth Mannering , a Notary Public for the State of
Delaware , S. E. Manuel , L. E. Gray
and A. D. Atwell , all of the parties to the
foregoing certificate of incorporation, known to me personally
to be such, and severally acknowledged the said certificate
to be the act and deed of the signers respectively and that
the facts therein stated are truly set forth.

GIVEN under my hand and seal of office, the day and
year aforesaid.

M. Ruth Mannering
Notary Public



Location No. 5-11-2Water Division No. 2Fall River Water District**Proof of Application of Water to Beneficial Use****PETITION OF HOLDER**

Ques. 1. State your name, residence, occupation and postoffice address.

Ans. Martin P. Farrell, 321 Dakota Street, Hot Springs, South Dakota
Lawyer, Medical Block, Hot Springs, South Dakota

Ques. 2. If acting in behalf of a corporation, state its name, principal place of business (if a foreign corporation, give name and postoffice of statutory agent,) your position with reference to same, and your authority for appearing in its behalf.

Ans. Hot Springs Water Company, Hot Springs, South Dakota. I am the secretary,
resident agent and a director of the Hot Springs Water Company.

Ques. 3. State date of posting and date of recording notice of appropriation.

Ans. N/A (Not Applicable)

Ques. 4. State source of water supply and give exact location of point of diversion.

Ans. Ground water; Wells # 1 and # 2 in NW 1/4 Sec 10, Township 7 S Range 5 SBIM;
Well # 3 in a tract of 4.34 acres in the SE 1/4 Sec 14, Township 7 S Range 5, SBIM,
which tract is within the city limits of the City of Hot Springs, South Dakota,
the plat of said 4.34 acres being recorded in plat book 2, page 1, office of the
register of deeds, Fall River County, South Dakota.

Ques. 5. Describe your works of diversion giving length and height of each dam and state amount of water they are capable of conveying from point of diversion to place of use, and give name of canal or ditch or other works by which water is conducted to such place of use, and date of completion of same.

Ans. At Wells #1 and #2 are two Goulds pumps, each 500 gallon per minute capacity,
each electric 3 phase, 220 volt with 40 horsepower Howell Red Band motors; at
Well # 3 is a Fairbanks-Morse pump with 700 gallon per minute capacity with 50
horsepower Fairbanks-Morse electric 3 phase, 60 cycle; water distribution system
from wells to and within City of Hot Springs has about 48 miles of water mains, said
mains being from 2 inches to 12 inches in diameter with one stone reservoir of 600,000
gallon capacity and one standpipe of 100,000 gallon capacity plus other property used in
city water distribution system

Ques. 6. State for what purpose water is used and describe place of use. (If for irrigation, name each subdivision in which used, and number of acres in each subdivision that have ACTUALLY been irrigated with said water.)

Ans. The Hot Springs Water Company supplies water to the City of Hot Springs,
South Dakota. Within the City the State Soldiers Home and the Veterans Administration
Center have their own individual water wells however in the event of an emergency the
Hot Springs Water Company supplies water to these institutions.

Ques. 7. If for other than irrigation purpose, state how applied, amount of horse power generated, etc.

Ans. N/A

Ques. 8. What is the minimum amount of water required for the use specified above?

Ans. 20,400 gallons per minute

Ques. 9. If you are not the person or representative of the corporation to whom above mentioned permit was originally issued, please state how ownership was acquired by present holder.

Ans. Water from Wells #1 and #2 have been used for more than 29 years by the
following owners: Water, Light and Power Company of Hot Springs; Central West
Public Service Company; Central Electric and Telephone Company later Central
Electric and Gas Company; Hot Springs Water Company

Ques. 10. State when, how, in what amount and to what extent, the water diverted under above mentioned permit has been used.

Ans. Wells # 1 and # 2 were constructed in 1929 and have been in use since that time. The contract on Well # 3 was let in February 1955 and the well has been in operation since August 1955. The capacity of the pump of Well # 1 is 500 gallons per minute; the pump on Well # 2 is 500 gallons per minute; the pump on Well # 3 is 700 gallons per minute; Well # 3 has been pumped at the rate of 1,500 gallons per minute which resulted in a draw down of only two feet and continued pumping at that rate did not make water draw down any further; the Hot Springs Water Company supplies water to the City of Hot Springs from these three wells and in times of emergency also supplies water to the State Soldiers Home and Veterans Administration Center. (Sign) Martin Pearl

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Hot Springs, County of Fall River

State of South Dakota on this 11th day of December A. D. 19 58
Gusky A. Callan
Julius M. Hry } Witnesses. Marjorie A. Fitzgerald

I, the undersigned, do hereby certify that I am a duly qualified elector residing in the immediate vicinity of the diversion works designated in the foregoing testimony, that I have no interest in the works, water or land above described, that I have read the foregoing testimony and that I know of my own personal knowledge that the matters therein stated are true.

Location No. _____

**PROOF OF APPLICATION OF
WATER TO BENEFICIAL USE**

PETITION OF HOLDER

Amount of Water _____ c. f. s.

Source _____

County _____

Purpose _____

Place of Use _____

Date of recording _____

Received and filed _____

EVAN'S PLUNGE PUMP

April 7,345,000 gal $\div$ 43,200 minutes per month = 170.02 gpm

May 3,673,000 gal $\div$ 44,640 minutes per month = 82.28 gpm

June 4,460,000 gal $\div$ 43,200 minutes per month = 103.24 gpm

NOTICE OF TRANSFER OF WATER PERMIT

TO: **WATER RIGHTS COMMISSION**

State Office Building No. 2
Pierre, South Dakota 57501

Date July 18, 1975

This is to notify you that title to the lands described as follows:

Hot Springs Water Company Wells #1, #2, and #3

formerly owned by Hot Springs Water Company

has been transferred to the City of Hot Springs

together with any rights to the beneficial use of water thereon as evidenced by Water Right Permit No. 511-2 as provided for in Section 61.0127 of the 1960 Supplement to the South Dakota Code of 1939.

You are therefore hereby requested to file this "Notice of Transfer of Water Permit" in its appropriate file at the Office of Water Resources Commission as evidence of the change of ownership.

WATER RIGHTS COMMISSION

A fee of one dollar is hereto attached to cover filing fees as required under Section 61.0159 of the 1960 Supplement to the South Dakota Code of 1939.

STATE OF SOUTH DAKOTA)

County of FALL RIVER) ss.

HOT SPRINGS WATER CO.,

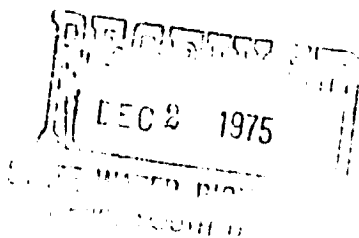
By: Frank R. O'Neil

I, Frank R. O'Neil, being first duly sworn on my oath depose and say: That my relation to the above described undertaking is that of Owner, that I have read the above foregoing statement, and I know of my own personal knowledge that the information herein stated is true.

HOT SPRINGS WATER CO.
By: Frank R. O'Neil Exec. V.P.
(Signed)

Suscribed and sworn before me this 12th day of December, 19 75.

Allen G. Wilson
(Notary Public)



SOUTH DAKOTA

VESTED WATER RIGHT CLAIM NO. 511-2

Date of Receipt of Claim December 13, 1958.

Date of Validation May 6, 1992.

The Water Management Board validated Vested Water Right Claim No. 511-2 for the City of Hot Springs, 303 N River, Hot Springs SD 57747 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 511-2 appropriates 3.77 cubic feet of water per second (cfs) from three wells located in the SW 1/4 SE 1/4 Section 10 and the SE 1/4 NE 1/4 Section 14; all in T7S-R5E.
2. The appropriated water is used for supplying water to the City of Hot Springs and may not exceed the amount of water needed for beneficial use for municipal purposes.

The water is to be used during the following annual period: January 1 - December 31.

3. The priority dates of the Vested Water Right are:
2.22 cfs - January 1, 1929
1.55 cfs - February 1, 1955
4. The water use system has been constructed and water has been applied to beneficial use.
5. Water Rights obtained in compliance with the laws of the State of South Dakota must not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

By: _____


Chief Engineer

JUN 29 1992

date

Division of Water Rights
Dept. of Environment and Natural Resources



JUN 29 1992

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

City of Hot Springs
Cheryl Gunwall, Finance Officer
303 N River
Hot Springs SD 57747

Dear Ms. Gunwall:

The Water Management Board has validated the enclosed Vested Water Right No. 511-2. This validation gives legal status to the claim and is the final document for your vested right.

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

Very truly yours,

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

enclosure

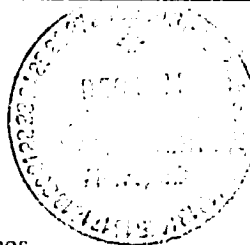
511-2

City of Hot Springs

303 North River Street

Hot Springs, South Dakota 57747

John P. Scheltens
City Engineer



Phone 605 745-3135
December 28, 1994

Mr. Eric Gronlund
Water Rights Division
S.D. Department of Environment and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

Ref: Evans Pumping Station

Dear Eric:

Following up on our phone conversation, please find enclosed an application for upgrading our Evans Pumping Station.

The Hot Springs project proposes to improve our existing pumping station at Evans Plunge by adding a second pump and a new expanded pump house building. No new additional water rights are requested. The existing pump house and well was constructed in 1952. It is a single pump operation that taps into the top of a Madison aquifer free-flowing spring. This facility supplies domestic water for approximately 1/2 of the water needs for Hot Springs. A second pump is needed as back-up.

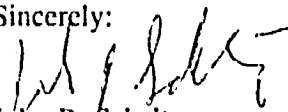
The work includes drilling a second well casing into the top of the spring only ten feet (10') from the existing well. The perforated well casings are more like spring collection galleries that allows a place to install the pump. The same water source is tapped: No new diversion point is made. Please refer to the enclosed drawings for reference.

This project has been approved and partially funded through a grant from the S.D. Board of Water & Natural Resources. All plans have been reviewed and approved by DENR.

The Evans Pumping Station will need to be closed down during construction. During this time all municipal water will be drawn from the Hot Brook Pumping Station. This can be done during the light water demand months of winter and spring. However, all work on the Evans Pumping Station must be completed prior to May 25th to be ready for the heavy summer water demands. Contract documents with our contractor reflect this critical time schedule be kept.

Please let me know if you need any additional information. Thanks Eric.

Sincerely:

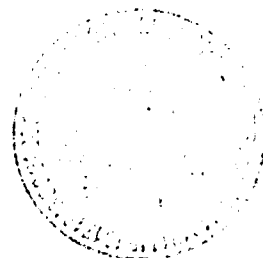

John P. Scheltens
City Engineer

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

511-2

• Mail to:
Water Rights Division
Joa Foss Building
523 E Capitol
Pierre SD 57501-3181
605 773-3352

No. _____ Hydrologic Unit _____
Basin _____
Newspaper _____
(office use only)



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

Check use of water:

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

Type of Application: ☐ New ☒ Vested Right (Use predates Mar 2, 1955) ☐ Future Use Reservation
(check one) ☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____
☒ Amendment/Correction to Permit No. 511-2

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.) _____
Adding second pump and well casing to existing diversion. Second pump and well casing is ten feet (10') from existing pump and well casing. No additional water rights are needed. Second pump is for back-up.

- Name of Applicant City of Hot Springs Phone 605 745-3135
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 303 N. River Street, Hot Springs State S.D. 57747
(Street, RH, or Box) (City) (Zip Code)
- Amount of water claimed 3.77 *CFS or _____ **GPM _____ ***AF _____
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet -- storage capacity of dam/dugout or annual use if applicable)
- Source of water supply Warm water springs
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) _____
SE1/4 NE1/4 Section 14, T.7S., R.5E. BHM
County Fall River
- County or counties where water will be used Fall River
- Annual period during which water is to be used All Year
- 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 letter)

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Attach map and any other technical information. (see instructions)

STATE OF SOUTH DAKOTA)

County of Fall River)^{SS}

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

Signed John P. Schellings City Engineer

Subscribed and sworn to before me this 28th day of December 1994

Brian J. Kindred Notary Public
My Commission Expires 06-28-01

511-2

Form 2A
(Complete applicable portions only)

Supplemental Information

(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter 24" Depth 80'
- b) Casing Type Ductile Iron Diameter 16" Thickness 0.34"
- c) Screen Type Ductile Iron Diameter 16" Thickness 0.34"
- d) Gravel Pack Thickness 4" Length of Gravel Pack 60'
- e) Depth to Top of Water Bearing Material 20'
- f) Depth to Water (ground surface to water level) 20'
- g) Distance to nearest existing domestic well:
On applicants property 10' On property owned by others @ 1/2 mile

2. Dugout Information

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

3. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to be shown on the map submitted with the application.

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

_____ b) Freeboard _____
_____ c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____

if pipe, diameter _____

f) Secondary Spillway Capacity _____

Spillway Width _____

g) X & Y Slope

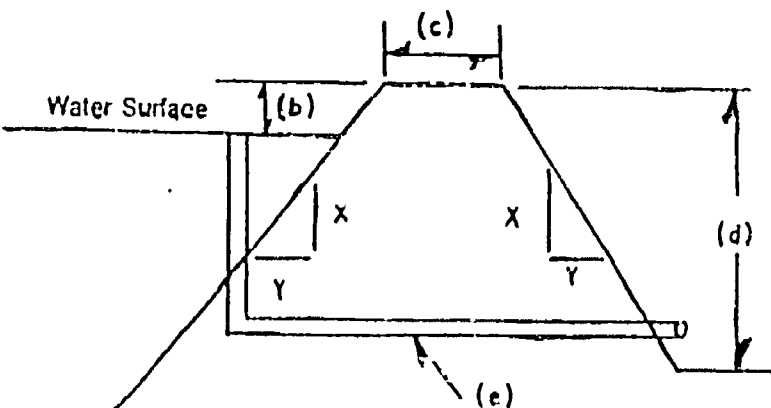
Upstream _____

Downstream _____

h) Surface Area of Impoundment _____

i) Storage _____ Acre Feet

j) Drainage Area Above Dam _____ Acres





511-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

March 23, 1995

John P. Scheltens, City Engineer
City of Hot Springs
303 North River Street
Hot Springs, SD 57747

Dear Mr. Scheltens:

I am writing in regard to the City of Hot Springs request for one additional diversion point to Vested Water Right No. 511-2. Vested Water Right No. 511-2 appropriates 3.77 cubic feet of water per second (cfs) from three wells located in the SW1/4 SE1/4 Section 10 and the SE1/4 NE1/4 Section 14; all in T7S, R5E.

The City has requested an additional point of diversion to be located in the SE1/4 NE1/4 Section 14, T7S, R5E. This project is to improve the City's existing pumping station at Evans Plunge by drilling an additional well to be used as needed for back-up. The request is not for any additional appropriation of water.

Upon review of the application, pursuant to SDCL 46-5-13.1, I have made a finding that the additional diversion point will not increase the potential for interference with existing diversions. In making the finding, "does not increase the potential for interference" is interpreted to mean potential for adverse interference. You are authorized to develop the additional diversion point without application or publication of a notice of hearing pursuant to SDCL 46-2A-4.

I believe that once construction is complete an inspection should be completed of the City's Vested Water Right No. 511-2 and Water Permit No. 1878-2.. This will quantify the City's water use and determine the City's compliance with water rights law.

Very truly yours,

John Hatch, Chief Engineer
Water Rights Division
605 773-3352

511-2

Water Rights Division - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: City of Hot Springs

ADDRESS: COUNTY: Fall River

DATE: 2/2/95 TELEPHONE: 745-3135

RE: Call to John Scheltens

COMMENTS:

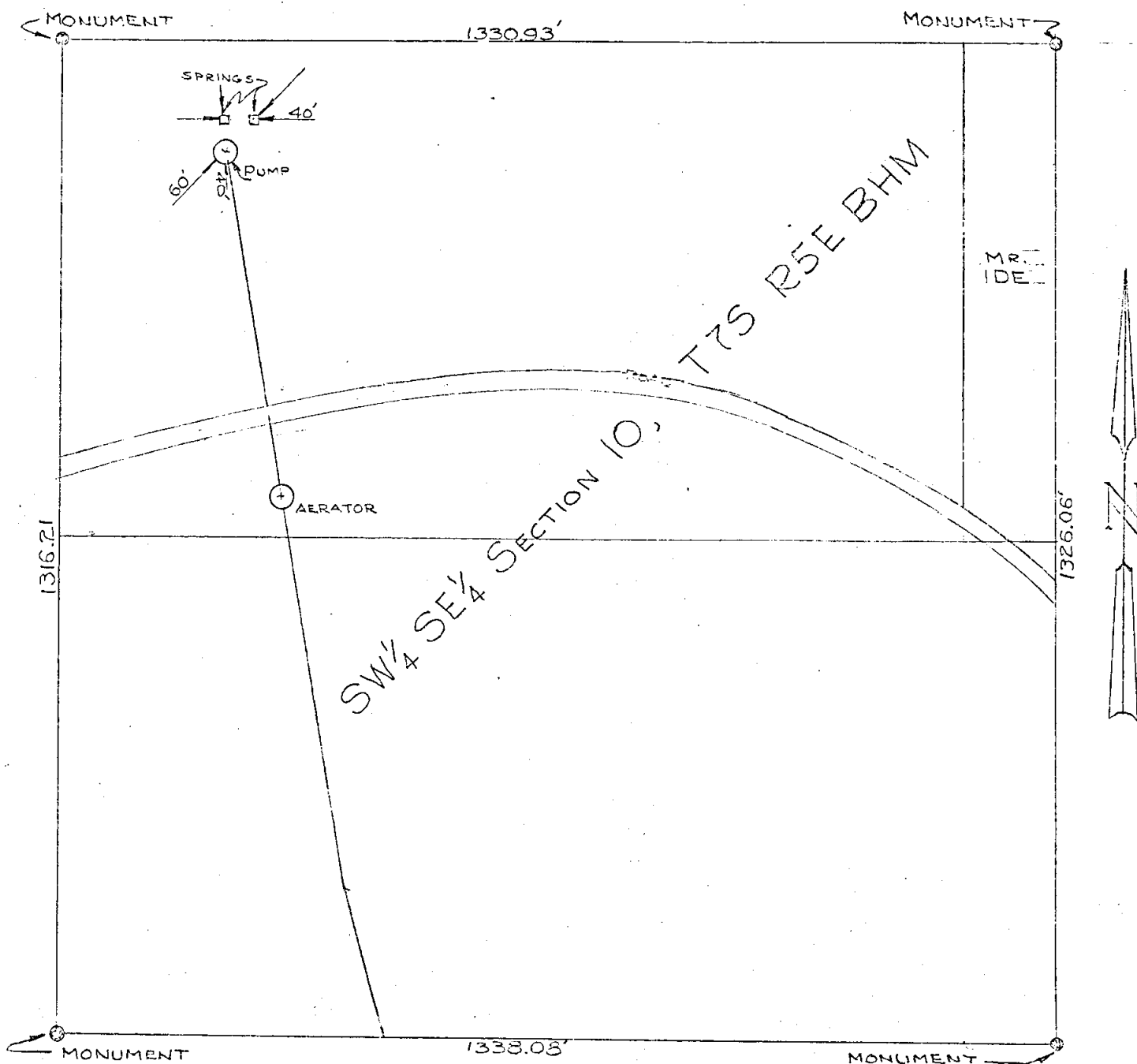
I contacted John Scheltens, Hot Springs city engineer regarding the capacity of the Evans pumping station (SE NE Sect. 14, T7S, R5E). The city has submitted a request to add an additional diversion point right next to the existing point. The additional pump station is to act as an back-up system.

From a review of the file (1991 letter), the capacity of the Evans pump station is 2.2 cfs. Mr. Scheltens' documents submitted December 29, 1995, requesting authorization of an additional diversion point stated 3.77 cfs as the amount of water claimed. I contacted Mr. Scheltens to find out if the 2.2 cfs was still the capacity of the pumping station. Mr. Scheltens stated the pumping capacity is 1,000 gpm (2.2 cfs) and that this back-up supply system will not increase the diversion from this location. The back-up system is to be used only when the existing pump breaks down or is down for maintenance. He fully realized that if the City intends to pump at a rate greater than 2.2 cfs at the Evans site that a water permit will need to be obtained out of their future use permit for amount of the increase.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME:

Eric Scheltens



"SURVEYORS CERTIFICATE"

I, FRED BRADY, REGISTER LAND SURVEYOR, STATE OF SOUTH DAKOTA, DO HEREBY CERTIFY THAT AT THE DIRECTION OF THE HOT SPRINGS WATER COMPANY I HAVE SURVEYED AND PLATTED FROM RECORD THE LOCATION OF TWO SPRINGS AND PUMP IN THE SW 1/4 SE 1/4 SECTION 10, TOWNSHIP 7 SOUTH, RANGE 5 EAST OF THE BLACK HILLS MERIDIAN, AS SHOWN ON THIS PLAT.

Fred H. Brady
REGISTERED LAND SURVEYOR

ACKNOWLEDGMENT

STATE OF SOUTH DAKOTA :
COUNTY OF LAWRENCE : SS

ON THIS 24 DAY OF NOVEMBER 1958, BEFORE ME APPEARED FRED BRADY KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE.

My Commission Expires Feb. 18, 1961

Harry M. Carr
NOTARY PUBLIC

(Att. 511-2)