

1. Considered 3-26 1980
2. Name of Applicant SPENCER QUARRIES INC.
3. Post Office Address SPENCER, S.D.
4. Amount of Water Claimed 1.8 (NON-CONSUMPTIVE)
5. Source of Water Supply OPEN MINING PIT
6. Water to be used for COMMERCIAL - WASH PLANT
7. Acres to be irrigated — maximum — acre feet
8. Water to be diverted and used in HANSON County
about 1 S 1 E 4 miles WEST NORTH of SPENCER ALF. INDRIA
9. PROOF OF PUBLICATION Received —

Not Received —

~~APPLICATION~~

Approved 3-24-80

VESTED RIGHT

Subject to —

Not Approved —

Action deferred —

Priority

Date

1935

Received 2-19-80 Application Complete yes — no — FEE 13⁰⁰ 1/1R

Remarks letter 2-19-80 requesting they fill out form 2B for vested Right

Date information and/or

fee or corrected Application received 3/10/80

Period of Annual use Parts of entire year

~~WATER QUALITY~~

Received yes — no — APPROVED/CONDITIONAL (Circle one)

WI-1 Descriptio. same as application yes — no — Remarks —

Disapproved —

Returned —

			24		

Diversion Points - Two Points in

SW⁴ NW⁴ 24-103-57

Lands to be irrigated —

~~WELL LOG~~

Remarks —

Driller — Licensed yes — no —

Depth —

Water Right No. _____

MAP Map No. 3718-3 Map located in Water Right X Map file _____
Type of Map Sub Map & Drain Prepared by Wiersma

+++++

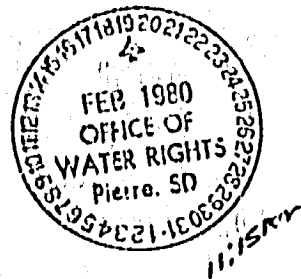
REVIEWED This Application was reviewed within 30 days of date received, accepted as complete, Number assigned and written up for advertisement before the Board on 3-26-80.
Vested Right J. Westhine
(Signed)

+++++

PROTESTS Letters/Petitions in File - yes _____ no _____ Remarks _____

REMARKS Date
F.F. & C Final Decision, including F.F. & C of Law were adopted _____
OF LAW, Date
FINAL Final Decision mailed to parties and/or parties notified that Final Decision
DECISIONS was adopted _____
ETC.

Remarks _____



No. 4493-3
 Map No. 3718-3 Water Division No. 3 JAMES RIVER District
 Above for Office Use

APPLICATION FOR PERMIT To Appropriate Water within the State of South Dakota

Check one of the following:

New ☒ Vested Right ☒ Future Use ☐Change in Diversion ☐ Additional Diversion ☐Change in acreage ☐ Additional Acreage ☐

1. Name of Applicant Spencer Quarries Inc Phone No. 246-2344
 Post Office Address Spencer, SD 57374 State South Dakota (Zip Code)
 If a corporation show date and place of incorporation April 24, 1973 ago in Hanson County
 2. Method of accomplishing work (contract, employment of others, or by direct labor) Contract & Direct Labor
 3. Name of diversion work Spencer Quarries Inc
 4. Amount of water claimed (cubic feet per second) 1.8 - no water will be consumptively used
 5. Source of water supply Open mining pit
 6. Location of point of diversion Point #1 - 2675' N 129° W of NE corner Sec 24-103-57
Point #2 - 2455' N 148° W of NE corner Sec 24-103-57
Hanson County
 7. Annual period or periods during which water is to be used Parts of entire year
 8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) Commercial
 9. For irrigation use, Total number of acres to be irrigated

List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

Land Description	No. Acres Irr.

Land Description	No. Acres Irr.

Attach sheet if more space is needed

10. Time required to complete construction of water supply system None years. Additional time required to complete application of water to the proposed beneficial use None years.
 11. Choice of county newspaper for publication of Notice of Intent to Appropriate Water Alexandria Herald
 12. Principal Features of the Proposed Water Supply System.

A. Works proposed to divert water from its natural source. Centrifugal pumpsB. Works proposed to transport water to place of use. closed conduitC. Works proposed to apply water to beneficial use. water used in rock quarry washing process - not consumptively usedEstimated Total Cost \$ 30,000

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map. (see instructions concerning preparation.)

STATE OF SOUTH DAKOTA)

County of Brookings) ss.I, Ronald Weber Mgr the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.Signed Ronald Weber - ManagerSubscribed and sworn to before me this 11 day of Feb, 1986

Notary Public (or other qualified officer)

WATER RIGHT APPLICATION APPROVAL

The Board of Water Management hereby approves Water Right Application No. 44-93-3

SPENCER QUARRIES INC.
(Applicant)

Box 25, SPENCER
(Post Office Address)

SOUTH DAKOTA 57374
(State)

With the following qualifications.

"VESTED RIGHT CLAIMED"

Date of first receipt of application FEBRUARY 19, 1980

Date of return to applicant for correction, amendments or changes required _____, 19____

Date of receipt of corrected application _____, 19____

Approved MARCH 27, 1980, Recorded in Book 21 Page 161

WATER RIGHT PERMIT NO. 4493-3

The Board of Water Management hereby grants and issues this Water Right Permit No. 4493-3 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as qualified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is 1935, 1980
2. The equivalent of at least one-fifth of the work above specified is ~~to be~~ completed ~~on or before~~ _____, 19____
3. The whole of said work is ~~to be~~ completed ~~on or before~~ _____, 19____
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is COMPLETED, 1980
5. The water appropriated shall be used for the purpose of IRRIGATION

6. 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.

7. The amount of the appropriation herein granted shall not exceed 1.8 (NON-CONSUMPTIVE) cubic feet per second; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for beneficial uses served, and if for irrigation purposes said appropriation must be limited to not more than 2 acre feet per acre per year and be limited to not more than or seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied

for irrigation on or before THIS DATE, 1980; said water to be used during the following described annual period: PARTS OF THE ENTIRE YEAR

Witness my hand this 2ND day of APRIL, 1980

THE BOARD OF WATER MANAGEMENT

By: John Hatch
Chief Engineer, Water Rights

Certificate of Construction Issued 4-2-80, 19____

Water License Issued 4-2-80, 19____

12. Principal Features of the Proposed Water Supply System (continued).

D. Well Information

- (1) Drill Hole, Diameter _____, Depth _____
- (2) Casing, Type _____, Diameter _____, Thickness _____
(wood, concrete, steel, etc.)
- (3) Screen, Type _____, Diameter _____, Length _____
- (4) Gravel Pack, Thickness _____, Length of gravel pack _____

E. Dugout Information or Estimates

- (1) Surface dimensions, 120' - 30', Depth 18'

F. Fill out for Either a Well or a Dugout.

(1) Water Bearing Materials. (Attach a copy of test well log)

- Depth to top of water bearing material 40'
- Depth to bottom of water bearing material 90'
- Depth to water (ground surface to water level) 40'

Depth expressed as
distance from well
creek bed

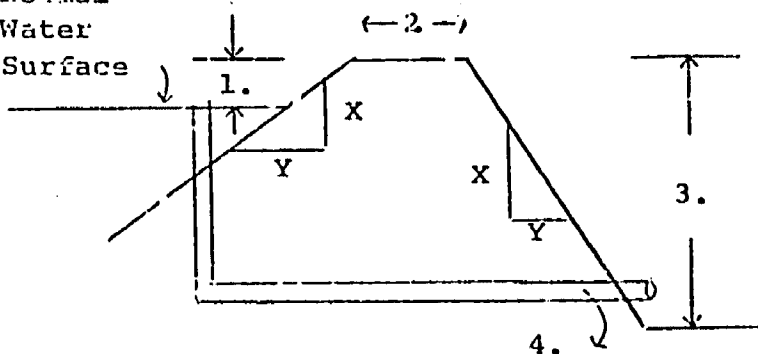
(2) Distance to nearest existing household or livestock watering well.

- On same owner's property this is roughly rds.
- On property owned by others 60 rds.

G. Water Storage Dams

If the proposed water use system contains one or more water storage dams, please show in the space below, the height, length, maximum water depth, surface area, drainage area, storage capacity, dam slope, dimensions, location and size of outlet works, of each storage dam. The location of each water storage dam should be shown on the water right map.

Normal
Water
Surface



1. Freeboard _____
2. Crest width _____
3. Height of Dam _____
4. Outlet dimensions:
Pipe diameter: _____
Spillway width _____
- X & Y slope:
Upstream _____
Downstream _____
Surface area of impoundment _____
- Drainage area above dam _____

Raymond M. M. M.
Signature Applicant

No. 4493-3

NOTE

This Form is supplemental to Form 2, and is to be used when an affidavit pertaining to construction and water use, already completed, is needed.

**AFFIDAVIT OF CONSTRUCTION OF WATER USE
SYSTEM AND APPLICATION OF WATER TO BENEFICIAL USE**

Name of Applicant (Same as Form 2) Spencer Quarries, Inc.
 Post Office Address Box 25, State South Dakota 57374
 If a Corporation show date and place of incorporation 1944 Hanson County South Dakota

13. Notice of Appropriation (if available)

Date of Posting 1944 Date of Recording _____
 Recording Date _____

14. Date of start of construction of water supply system 193515. Date that water was first applied to beneficial use Approx. 6 months after above date.16. Name of owner of original water supply system Consolidated Sand & Stone Co., W. Barnhart, V. Pres17. Amount of water originally applied to beneficial use 25 gal/min. c.f.s.

18. Present Use of Water

Amount of water now being used 100 gal/min. c.f.s.Date that this amount of water was first used 1944

19. Chronological History of Water Use

- Originally water was pumped from pit into concrete reservoir, pumped into plant to wash rock, drained back into pit.
1947. water pumped into mill and ran water through a roto scoop to separate sand and water, water drained out through a flume into a settling pond.
- 1966 Spray system was established to bins and and water drained through flume and back into pit.
- 1975 Pumped through sand screw and water drained into a settling pond and recycled back into pit.

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

STATE OF SOUTH DAKOTA)

County of Hanson) ss.

I, Raymond A. Olsen, the applicant, certify that I have read the foregoing and that the matters therein stated are true.

Signed Raymond A. OlsenSubscribed and sworn to before me this 7th day of March, 1980W. C. Jean
(Notary Public or other qualified Officer)

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



Permit No. 4493-3

Water Diversion No. 3 James River Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That Spencer Quarries, Inc.

Vested
Right

_____ the holder _____ of
Permit No. 4493-3, issued upon Application No. 4493-3, bearing date of priority of 1935
_____ authorizing the diversion of 1.8 ^{non-consumptive} cu. ft. per second of the waters of _____
an open mining pit _____ County of Hanson, State of South Dakota at _____
points #1 - 2675'N 129°W of NE corner, and Point #2 - 2455'N 148°W of NE
corner both in Section 24, T103N, R57W
_____ for commercial - rock quarry washing process

purposes, have _____ 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 1.8 cu. ft. per second of water

Date April 2, 1980

John Hatch
JOHN HATCH, Chief Engineer
Water Rights, WND

WATER LICENSE NO. 4493-3.

(1) WHEREAS, On the 19th day of February A. D. 1980
Stencer Quarries, Inc.

made Water Right Application No. 4493-3 for a permit to use 1.6 ^{non-}~~consumptive~~ cubic feet per second of the waters of an open mining pit

County of Ransom State of South Dakota, for commercial

purpose; and

(2) WHEREAS, On the 27th day of March A. D. 1980

Permit No. 4493-3 with a date of priority of 1935

was issued to said applicant _____ for the diversion of said water, and ^{recognizing}~~xxxxxxx~~ the completion of construction of the water supply system therein described ~~xxxxxxx~~ xxxxxx ~~xxxxxxx~~ and for the application to beneficial use of said water ~~xxxxxxx~~ xxxxxx ~~xxxxxxx~~

and:

(3) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to completion of the construction of the water supply system and is entitled to divert 1.6 ^{non-}~~consumptive~~ cubic feet per second of water for beneficial use and,

(4) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to the application of water to beneficial use of the following extent,

water to be used in place for a rock quarrie washing operation

(5) 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 Spencer Quarries, Inc.

of Spencer SD
the holder S and owner S of said vested right No. 4493-3 a water right, dating from 1935

to use of 1.8 non-consumptive cubic feet per second of the waters
of an open mining pit

in the County of Pennington and State of South Dakota, or so much thereof as may be necessary for the
purpose hereinbelow mentioned, to be diverted at points #1 - 2675' N 125' W of NE corner, and point
#2 - 2155' N 140' W of NE corner, both in Section 24, T103N, R57W

and conduct and upon xxxxxxx thru the Spencer Quarries systems

for the purpose of commercial use

**This Water License No. 4493-3 is based on a Vested Right claim recorded and filed by
the Water Management Board.**

Subject to any limitations listed in Water Right Permit No. 4493-3 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this 2nd day of April A. D.

Nineteen Hundred and Eighty

Board of Water Management

By:

John Hatch
Chief Engineer

, JOHN HATCH

RECEIPT

WATER RIGHTS COMMISSION
State of South Dakota

NO 4 7372

PIERRE, March 10, 1916

Spencer Quarries, Inc., Spencer SD 57374

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

Fee for Application for Permit to Appropriate Water No. 4493-3 (examination processing, recording and filing) _____	8	0
Fee for inspecting Construction, and issuing Cert of Construction No. 4493-3 _____	2	50
Fee for inspecting Beneficial Use, and issuing Water License No. 4493-3 _____	2	50
Fee for issuing Location Certificate-Dry Draw, No. _____		
Fee for filing _____		
Fee for certified copy of _____		
Fee for Print copy of map _____		
Fee for Certifying _____		
Fee for _____ (any other work as provided by law)		
TOTAL	12	00

WATER RIGHTS COMMISSION

By John Hatch
Chief Engineer, Executive Officer
JOHN HATCH kw

South Dakota

GREAT FACES. GREAT PLACES.

DEPARTMENT OF WATER & NATURAL RESOURCES

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

April 26, 1991

4493-3

Spencer Quarries Inc.
Box 25
Spencer SD 57374

Dear Sir/Madam:

The Water Management Board has validated the enclosed Vested Water Right No. 4493-3. 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

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

enclosure

SOUTH DAKOTA

VALIDATION OF VESTED WATER RIGHT CLAIM NO. 4493-3

Date Claim Accepted For Filing February 19, 1980.

Date of Validation September 27, 1989.

Pursuant to SDCL 46-2A-17 the Water Management Board validated Vested Water Right Claim No. 4493-3 for Spencer Quarries Inc, Box 25, Spencer, South Dakota 57374 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 4493-3 appropriates 1.6 cubic feet of water per second (non-consumptive) from an open mine pit and used in a rock quarry washing process. The points of diversion are located in the SW 1/4 NE 1/4, Section 24, T103, R57W.

2. The appropriated water is used for supplying water for a rock quarry washing operation and may not exceed the amount of water needed for beneficial use for commercial purposes.

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

3. The priority date of the Vested Water Right is: January 1, 1935.

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: _____

John H. H. H.
Chief Engineer
Division of Water Rights
Dept. of Environment and Natural Resources

APR 29 1991

date



4493-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 27, 1998

Richard Waldera
Spencer Quarries, Inc.
PO Box 198
Spencer SD 57374

Dear Mr. Waldera:

I am writing in response to our meeting on February 25, 1998, with the Corps of Engineers and our phone call on February 26, 1998.

During your presentation it was mentioned that the quarry is discharging approximately 2 million gallons of water per day into Wolf Creek. This equates to an average pump rate of 1,388 gallons per minute (gpm) or 3.10 cubic feet of water per second (cfs). I have reviewed our water rights records and the quarry does have a vested water right (copy enclosed) that allows diversion of 1.8 cfs for use in a rock quarry washing process.

According to our phone conversation on February 26, 1998, the quarry is diverting a portion of the water for rock washing. This may amount to about 100 gpm to the rock washing reservoir with the remainder diverted to dewater the quarry at a current pump rate of about 2,200 gpm (4.9 cfs). Since the current diversion rate of 4.9 cfs exceeds the 1.8 cfs diversion rate authorized by the vested right, a new water right permit will be needed for the 3.1 cfs increase. Application forms are enclosed. If possible, please include the total volume of water diverted per year. This yearly volume figure may well be the 2 million gpd figure you cited at the February 25, 1998, meeting.

In regard to the flood control permit application to reroute the creek, it will be necessary to show that the proposed creek changes will not increase the severity or likelihood of flood damages in other areas (South Dakota Codified Law 46-2A-11). You may wish to work with a consultant that is familiar with a HEC flood routing program or a similar hydrologic analysis tool to address this requirement. Also, you may submit the water permit application and flood control permit application at the same time or separately.

Please let me know if you have any questions concerning this information. I can be reached at (605) 773-3352 and I will try to help in any way possible. If you have internet access, you can also get information about water right requirements through the department website located at www.state.sd.us/denr.

Sincerely,

Ron Duvall
Natural Resources Engineer
Water Rights Program

enclosure

SPENCER QUARRIES INC

Spencer South Dakota 57374

Raymond Weber Manager

Point #1 - 2675' N 129° W

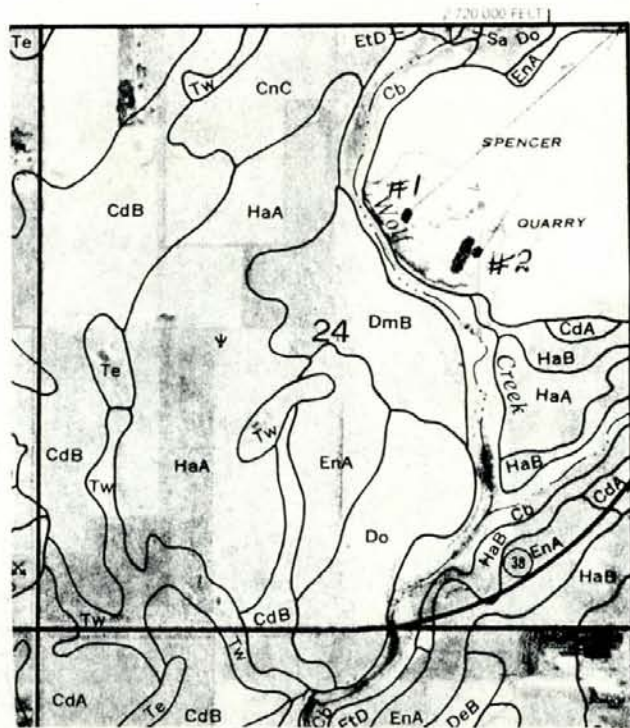
of NE corner sec 24-103-57

Pump lifts water from mining pit with 1/2 going to dugout and 1/2 going into wolfe creek. Maximum pumping capacity - 1.8 cfs

Point #2 - 2955' N 148° W

of NE corner of sec 24-103-57

Pump lifts water to gravel washing operation. Water goes through settling basins and then back to point #1. Maximum pumping capacity - 0.9 cfs



Scale - 1" = 1675'



Pumping is not continuous

Maximum pumping at point #1
is 480 acre feet per year

Maximum pumping at point #2
is 240 acre feet per year

Maximum pumping into wolfe
creek for dewatering - 240 acre
feet per year

2-12-80

Certified Correct

John L. Williams

~~Map 3718-3~~

Appl 4493-3

SPENCER QUARRIES INC

Spencer South Dakota 57374

Raymond Weber Manager

Point #1 - 2675' N 129° W

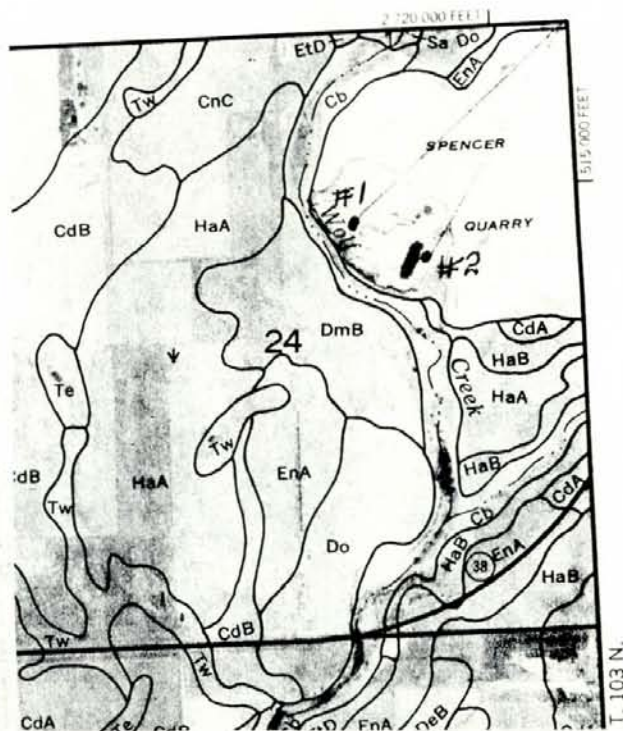
of NE Corner Sec 24-103-57

Pump lifts water from mining pit with 1/2 going to dugout and 1/2 going into Wolfe Creek. Maximum pumping capacity - 1.8 cfs

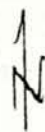
Point #2 - 2955' N 148° W

of NE Corner of Sec 24-103-57

Pump lifts water to gravel washing operation. Water goes through settling basins and then back to point #1. Maximum pumping capacity - 0.9 cfs



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Maximum pumping into Wolfe
Creek for dewatering - 240 acre
feet per year

2-12-80

Certified Correct.

John L. Williams

~~Map # 3718-3~~

Appl. 4493-3 1/2