

DEVELOPMENT SERVICES CENTER

Growth Management Department
 City of Rapid City
 300 Sixth Street, Rapid City, SD 57701-2724
 Phone: (605) 394-4120 Fax: (605) 394-6636 Web: www.rcgov.com

**APPLICATION FOR
 TAX INCREMENT
 FINANCING**

LEGAL DESCRIPTION

Legal Description *(Attached additional sheets as necessary)*

Location located in the Northeast QTR of the NORTHEAST QTR of SEC 3, TOWNSHIP 1 NORTH, RANGE 5E of BLM

BETWEEN Elk Vale Road and Abby Lane

Size of Site—Acres

APPLICANT

Name DOYLE D. ESTES Phone 605-343-3534
 Address P.O. Box 330 Fax 605-343-4131
 City, State, Zip RAPID CITY, SD 57709-0330

PROJECT PLANNER - AGENT

Name DOYLE D. ESTES Phone 605-343-3534
 Address P.O. Box 330 Fax 605-343-4131
 City, State, Zip RAPID CITY, SD 57709-0330

Property Owner Signature		Date		Property Owner Signature		Date	
<i>[Signature]</i>		<i>6/9/10</i>		<i>[Signature]</i>			
Applicant Signature <i>(if difference from Property Owner)</i>		Date		Applicant Signature <i>(if difference from Property Owner)</i>		Date	
Print Name: <u>x</u> <i>DOYLE ESTES</i>				Print Name:			
Title* <u>x</u> <i>APPLICANT</i>				Title*			

*required for Corporations, Partnerships, Etc.

An application for the use of Tax Increment Financing must include the following information or the project will not be processed. **Attachments may be provided in order to fully provide the following information.**

APPLICATION INFORMATION <i>(attach additional sheets as necessary)</i>	Submitted
1. A detailed project description.	<input checked="" type="checkbox"/>
2. Purpose of the Tax Increment Financing.	<input checked="" type="checkbox"/>
3. List of project costs to be funded by the Tax Increment Financing including identification of typical developer costs, exceptional costs and oversizing costs. The applicant shall provide written justification when the sum of the Necessary and Convenient Costs and Contingency Cost line items exceed 10% of the total Project Costs. The proposed project costs shall include an itemized list of all Estimated Costs, including the Professional Fees.	<input checked="" type="checkbox"/>
4. A preliminary development financing plan, including sources of funds, identification of lender, interest rates, financing costs and loan terms.	<input checked="" type="checkbox"/>
5. The applicant shall identify all persons and entities that have an interest in the project and/or in the entity applying for the tax increment financing district. The disclosures shall require identification of all members of an LLC or LLP, other partners, investors, shareholders and directors of a corporation or any other person who has a financial interest in the project or in the entity applying for the tax increment financing. This provision requires identification of all persons who have an interest in the project, including those whose interest exists through, an LLC, LLP, corporation (whether as a director or shareholder) or other legal entity. The applicant shall be under a continuing obligation to update this disclosure within thirty (30) days of any changes throughout the application process and throughout the	<input checked="" type="checkbox"/>

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**APPLICATION FOR
TAX INCREMENT
FINANCING**

life of the developer's agreement. If the applicant is a publicly traded company, the applicant shall be deemed to have complied with this provision if it has provided the City a copy of its most recent annual report with the application.	<input type="checkbox"/>
6. A pro forma indicating projected costs and revenues.	<input type="checkbox"/>
7. A statement and demonstration that the project would not proceed without the use of Tax Increment Financing.	<input type="checkbox"/>
8. A statement identifying the specific Statutory, Other Local and Discretionary evaluation criteria that the applicant believes the request meets. <i>(Please refer to the Tax Increment Financing Guide for specific evaluation criteria).</i>	<input type="checkbox"/>
9. Conceptual plans, sketches, maps or site plans for the project.	<input checked="" type="checkbox"/>
10. A development time schedule including specific phasing of improvements and project costs.	<input checked="" type="checkbox"/>
11. A list of the specific public improvements and a list of the specific private improvements proposed to be constructed along with the project.	<input checked="" type="checkbox"/>
12. Corporation, LLC, partnership papers or other business documents identifying the parties with ownership interest in the corporation and property involved in the project, including land ownership, contract for deed or other contractual information relating to control of the property and the applicant's ability to complete the project.	<input checked="" type="checkbox"/>
13. A financial statement of the corporation, partnership, or individual for the most recent five years or life of the company.	<input checked="" type="checkbox"/>
14. A copy of the proposed wage scale, employee benefits package, and full and part time employment levels or, in the case of an affordable housing project, a copy of the applicable federal housing grant program.	<input checked="" type="checkbox"/>
15. The applicant shall notify by certified, return receipt mail every owner of property contained within the proposed boundaries of a tax increment district and shall notify by first class mail every owner of property that is adjacent to the proposed boundaries of the tax increment district. The notification shall contain the proposed boundaries as well as a description of the proposed improvements. The Growth Management Department shall provide the applicant with a list of property owners to be notified. The return receipts shall be directed to the Growth Management Department. The applicant shall pay a fee of \$20.00 per list for the cost of compiling the two property owners lists.	<input type="checkbox"/>
16. A \$1,000 non-refundable application fee.	<input checked="" type="checkbox"/>
17. Other information that may be required by the Tax Increment Finance Project Review Committee.	<input type="checkbox"/>

Doyle D. Estes
TIF #35
Reapplication
Reallocation to Project Plan Budget

Item #1–Project Description. The project made drainage improvements in the Race Track and Unnamed Tributary Drainage Basins adjacent to Elk Vale Road. The revised Project Plan reallocates funds among projects costs included in the original plan. The boundaries of the Tax Increment District and the total costs of the Project Plan will not change.

Item #2 - Purpose of the Tax Increment Financing. The Tax Increment District funds have been used to finance the construction of a storm drainage pipe to transport the storm drainage from a recently constructed detention cell lying east of Elk Vale Road. The pipe will be located along the western edge of Jolly Lane (formerly know as 39th Street) right-of-way. This improvement will assist in the cost of locating the Children’s Home Society’s Foster Care facility on the eastern edge of the proposed district. The Children’s Home Society facility will provide some expanded employment opportunities in the community. This not-for-profit agency provides an important and needed community service. Additionally, downstream properties will be better served by the improved storm drainage in the Race Track and Unnamed Tributary Drainage Basins.

Item #3–List of Project Costs.

Capital Costs:	
Drainage Pipe (including excavation, fill, materials, etc.)	\$ 185,000.00
Professional Services:	
Engineering Design, Construction and Administration	\$ 15,000.00
Financing Costs:	
Interest	\$ 264,103.23
Necessary and Convenient Costs:	
Contingency	\$ 50,000.00
Total TIF Costs	<u>\$ 514,103.23</u>

Item #4–Financing Plan. Tax Increment District #35 is currently financed by Great Western Bank of Rapid City and Doyle D. Estes. The note has an interest rate of 7.50%. The principal balance of the note at 6/03/10 is \$148,180.28.

Item #5–Persons and Entities with Interest. The applicant for Tax Increment District #35 is Doyle D. Estes, Individual.

Item #6–Pro Forma for Costs and Revenues.

Revenue:	W/Out TIF	With TIF
Tax Increment		\$514,103.23
Revenues(Lot Sale)	\$ 50,000.00	\$ 50,000.00
Capital Costs:		
Drainage Pipe (Including excavation, fill, materials, etc.)	\$185,000.00	\$185,000.00
Professional Services:		
Engineering Design, Construction and Administration	\$ 15,000.00	\$ 15,000.00
Financing Costs:		
Interest	\$264,103.23	\$264,103.23
Necessary and Convenient Costs:		
Contingency	\$ 50,000.00	\$ 50,000.00
<hr/>		
Total Costs	\$514,103.23	\$514,103.23
<hr/>		
Surplus(Deficit)	(\$464,103.23)	\$50,000.00
<hr/>		

Item #7–Project Need. This project would not have been economically feasible without the the Tax Increment Financing. This project greatly supports employment opportunities and needed development. The land where the Children’s Home Society is located would be land locked thus prohibiting development. The drainage from the 3rd (Lowest) dam on Penn Co. land would have to drain on the open area and would end up draining into the abandoned Iowa Ditch and a large open field and quite possibly through private property. Since it would cross many property lines there is no one developer able to justify installation of the drainpipe. This drainpipe is a continuation of the Pennington County TIF that constructed three retention ponds. The drainage now enters Rapid City and thus the need for the Rapid City TID #35.

Item #8–Statutory Criteria. The project has been determined to be an area blighted according to the criteria set forth in SDCL 11-9-8. The drainage area is regarded as an open area and substantially impairs sound growth and considered blighted. The district’s valuation base will increase (\$3,000,000.00) and the corresponding tax collections will continue to go to the local City, County and Schools. The Project is not economically feasible without the use of Tax Increment Financing. The improvements in the area is likely to enhance significantly the value of the other real property in the district. In addition the project will eliminate the actual and potential hazard of drainage and flood

control. The project will also provide economic opportunity to land currently inaccessible and will provide employment opportunities.

Item #9–Plans, Sketches, and Maps.-see attached.

Item #10–Time Schedule. The project is currently completed.

Item #11–List of Public and Private Improvements. – The project constructed a storm drainage pipe to transport the storm drainage from a recently constructed detention cell lying east of Elk Vale Road. This TID will help finance the costs associated with the drainage for Jolly Lane and thus making land accessible for construction of the Children’s Home Society’s foster care facility located in the vicinity. The Children’s Home Society facility will provide some expanded employment opportunities in the community. The not-for-profit agency provides an important and needed community service. Additional, downstream properties will be better served by the improved storm drainage in the Race Track and Unnamed Tributary Drainage Basins. Private residential development and commercial development will also be enhanced in the blighted area. There are no private improvements as a result of this TID.

Item #12–Documents. The applicant has been granted drainage and access easements along the project. See attached map and documents.

Item #13–Financial Statements. Please see attached.

Item #14–Wage Scales. The project was completed by local contractors in compliance with local wage and hour laws.

Proposed Budget Adjustments. Please see attached Budget vs. Actual Costs of completing the project. This request is for reallocating “Contingency” and “Interest” to cover actual cost of project. After the project was started, a law suit with a landowner, who contested the legal title of an easement and irrigation Company ROW. These legal fees established title to the land impacted by the drainpipe. The legal fees were necessary and convenient to complete the project. The lawsuit caused a delay in time but the project was completed according to plan and within budget. This application is for approval of reallocation and final certification so the City Finance Officer can complete payments of Tax Increment revenues to local financing entities and applicant.

Thank you for your consideration on this Project. We see great improvements to the District as a result of the efforts of the Growth Management Department of the City of Rapid City and its staff. We look forward to the future.

Doyle D. Estes
TID #35
Reallocation of Budget

Description	Original Budget	Variance	Proposed Budget
Capital Costs:			
Drainage Pipe (Excavation, fill, materials, etc.)	\$ 185,000.00	\$ 40,000.00	\$ 225,000.00
Professional Services:			
Engineering Design, Construction and Admin.	\$ 15,000.00	\$ 14,119.09	\$ 29,119.09
Financing Costs:			
Interest	\$ 264,103.23	\$ (32,487.40)	\$ 231,615.83
Necessary and Convenient Costs:			
Contingency	\$ 50,000.00	\$ (50,000.00)	-
Legal	\$ -	\$ 27,254.19	\$ 27,254.19
WREA		\$ 1,114.12	\$ 1,114.12
Total	\$ 514,103.23	\$ (0.00)	\$ 514,103.23

STATE OF SOUTH DAKOTA)
)SS
COUNTY OF PENNINGTON)

IN CIRCUIT COURT
SEVENTH JUDICIAL CIRCUIT

DOYLE D. ESTES and
KATHRYN O. JOHNSON,

Plaintiffs,

v.

ROGER L. ANDERSEN, SANDRA K.
ANDERSEN, STEPHEN P. PABST,

Defendants.

Civ. No. 03-226

ORDER GRANTING
PARTIAL SUMMARY JUDGMENT
AS TO THE 20' DRIVE AND
THE IOWA IRRIGATION DITCH
25' R.O.W.

Plaintiffs Doyle D. Estes and Kathryn O. Johnson filed a Motion for Partial Summary Judgment in the above referenced matter as to those certain parcels of land identified as "20' Drive" and as "Iowa Irr. Ditch 25' R.O.W." and depicted as such on the Plat of Lots 1, 2, 3, and 4 of the S1/2-N1/2-SW1/4, Section 3, T1N, R8E, BHM, Pennington County, South Dakota.

Plaintiffs' Motion for Partial Summary Judgment was supported by the Affidavit of Doyle D. Estes with attached exhibits. Defendant Stephen P. Pabst, Roger L. Andersen, and Sandra K.

Anderson resisted the Motion. Attorneys for the parties submitted briefs. Hearings were held on the Motion, pursuant to notice, on September 9, 2003, and again on October 17, 2003, during which attorneys for the parties presented arguments to the Court. The Court issued a bench ruling at the close of the hearing on October 17, 2003, granting Plaintiffs' Motion for Partial Summary Judgment.

The Court, having considered the affidavits, pleadings, admissions, exhibits, and other

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documents of record, having considered the briefs and arguments of counsel, and being advised in the premises, now, therefore, it is hereby,

ORDERED that Plaintiffs' Motion for Partial Summary Judgment as to the Twenty Foot (20') Drive ("20' Drive") and the Iowa Irrigation Ditch Twenty-Five Foot (25') Right of Way ("Iowa Irr. Ditch 25' R.O.W.") depicted on the Plat of Lots 1, 2, 3, and 4 of the S1/2-N1/2-SW1/4, Section 3, T1N, R8E, BHM, Pennington County, South Dakota, be, and the same hereby is, granted; and it is further hereby

ORDERED That Plaintiffs Doyle D. Estes and Catherine O. Johnson, and each of them, are hereby declared and determined to be the owners as tenants in common, in fee, of legal title to those parcels of real estate identified as the "20' Drive" and as the "Iowa Irr. Ditch 25' R.O.W." as depicted on the Plat of Lots 1, 2, 3, and 4 of the S1/2-N1/2-SW1/4, Section 3, T1N, R8E, BHM, Pennington County, South Dakota, which Plat is recorded with the Pennington County Register of Deeds at Book 8 of Plats, Page 125; and it is hereby further

ORDERED That the ownership by Doyle D. Estes and Catherine O. Johnson as tenants in common, in fee, of legal title to those parcels of real estate identified as the "20' Drive" and as the "Iowa Irr. Ditch 25' R.O.W." as depicted on the Plat of Lots 1, 2, 3, and 4 of the S1/2-N1/2-SW1/4, Section 3, T1N, R8E, BHM, Pennington County, South Dakota, be, and the same hereby is, declared and determined to be subject to all easements, rights of way, covenants, conditions, restrictions and reservations of record, if any; and it is further hereby

ORDERED, declared, and determined that Lots 1, 2, 3, and 4 of the Plat showing Lots 1, 2, 3, and 4 of the S1/2-N1/2-SW1/4 of Section 3, T1N, R8E, BHM, Pennington County, South Dakota, have the shapes, acreages, and dimensions as shown on said Plat for each of said lots,

and it is hereby further

ORDERED, declared, and determined that those parcels of property identified and depicted as the "20' Drive" and as the "Iowa Irr. Ditch 25' R.O.W." on the Plat showing Lots 1, 2, 3, and 4 of the S1/2-N1/2-SW1/4 of Section 3, T1N, R8E, BHM, Pennington County, South Dakota, are not part of Lot 1, are not part of Lot 2, are not part of Lot 3, and are not part of Lot 4 depicted on said Plat and are not part of Tract A of Neff's Subdivision No. 4 of the Plat of Tract A of Neff's Subdivision No. 4 ; and it is hereby further


ORDERED That the "20' Drive" depicted on the Plat of Lots 1, 2, 3, and 4 of the S1/2-N1/2-SW1/4 of Section 3, T1N, R8E, BHM, Pennington County, South Dakota, be, and the same hereby is, declared and determined to be burdened with a permanent access easement and right of way for ingress and egress over, across, and upon said Twenty Foot (20') Drive as depicted on the Plat Showing Lots 1, 2, 3, and 4, of the S1/2-N1/2-SW1/4 of Section 3, T1N, R8E, BHM, Pennington County, South Dakota, for purposes of ingress and egress to and from Lots 1, 2, 3, and 4 of the Plat Showing Lots 1, 2, 3, and 4 of the S1/2-N1/2-SW1/4 of Section 3, T1N, R8E, BHM, Pennington County, South Dakota, and for purposes of ingress and egress to and from Tract A of Neff's Subdivision No. 4 of the Plat of Tract A of Neff's Subdivision No. 4 filed of record with the Pennington County Register of Deeds at Book 21 of Plats, page 106; and it is hereby further

ORDERED That the parcel of land depicted as the "Iowa Irr. Ditch 25' R.O.W." on the Plat Showing Lots 1, 2, 3, and 4 of the S1/2-N1/2-SW1/4 of Section 3, T1N, R8E, BHM, Pennington County, South Dakota, is subject to a drainage easement impressed upon that parcel of land for the construction, maintenance, and operation of a drainage facility for the purpose of

draining surplus water from: (1) Lots 1, 2, 3, and 4 of the Plat Showing Lots 1, 2, 3, and 4 of the S1/2-N1/2-SW1/4, of Section 3 T1N, R8E, BHM, Pennington County, South Dakota; (2) Tract A of Neff's Subdivision No. 4 of the Plat of Tract A of Neff's Subdivision No. 4; and (3) The unplatted portion of the S1/2-N1/2-SW1/4 of Section 3, T1N, R8E, BHM, Pennington County, South Dakota;

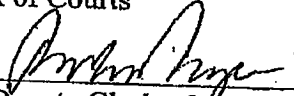
Dated this 30 day of December, 2003.

BY THE COURT:


A. P. Fuller
Circuit Court Judge

ATTEST: 

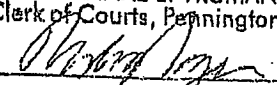
Clerk of Courts

By: 
Deputy Clerk of Courts

(SEAL)


State of South Dakota } Seventh Judicial
County of Pennington } Circuit Court
I hereby certify that the foregoing instrument
is a true and correct copy of the original as
the same appears on record in my office this

DEC 30 2003

RANAE L. TRUMAN
Clerk of Courts, Pennington County
By:  Deputy

Pennington County, SD
FILED
IN CIRCUIT COURT

DEC 30 2003

Ranae Truman, Clerk of Courts
By:  Deputy


State of South Dakota)
)SS.
County of Pennington)

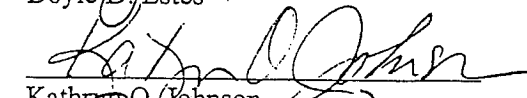
**MAJOR DRAINAGE AND ACCESS
EASEMENT**

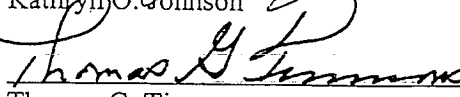
For and in consideration of One Dollar (\$1.00) and other good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, Doyle D. Estes and Kathryn O. Johnson, husband and wife, of 3220 West Main Street, Rapid City, South Dakota 57702, Buyers under a certain Contract For Deed with Thomas G. Timmons, a/k/a Tom Timmons, as Seller, and Thomas G. Timmons of Rapid City, South Dakota, grant to Pennington County, a political subdivision of the State of South Dakota, a major drainage and access easement to construct a water metering dam known as County Heights Detention Cell No. 103, as described in the attached Exhibit "A", which is incorporated herein by reference. This easement is located in the Northeast Quarter of the Northeast Quarter (NE1/4NE1/4) of Section Three (3), Township One North (T1N), Range Eight East (R8E) of the Black Hills Meridian (BHM), Pennington County, South Dakota.

This Grant of Easement shall run with the land and shall be binding on and shall inure to the benefit of the parties hereto, their heirs, successors and assigns.

The purpose of this Easement is to allow for the construction of a water retention dam, and further to provide access to said dam to allow for maintenance of same.


Doyle D. Estes

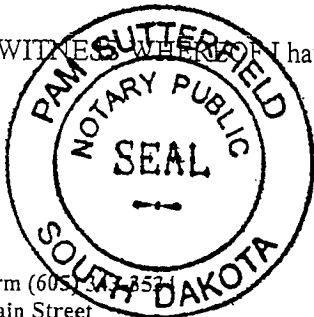

Kathryn O. Johnson

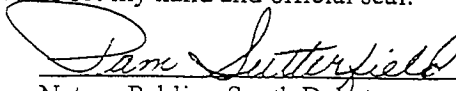

Thomas G. Timmons

State of South Dakota)
)ss.
County of Pennington)

On this 6th day of March, 2001, before me the undersigned officer, personally appeared Doyle D. Estes, Kathryn O. Johnson and Thomas G. Timmons, known to me or satisfactorily proven to be the persons whose names are subscribed to the within document and acknowledged to me that the same was executed for the purposes therein contained.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.




Notary Public - South Dakota
My Commission Expires: 8/5/2005

(SEAL)

Prepared by:
Estes Law Firm (605) 347-8521
3220 West Main Street
Rapid City, SD 57702-2316



Book: 88
Page: 9363

R01- 3643.0 Page 001 of 003

03/20/2001 11:52a 14.00
Danna M. Mayer Misc Real Est

State of South Dakota)

)ss.

MAJOR DRAINAGE AND ACCESS EASEMENT

County of Pennington)

For and in consideration of One Dollar (\$1.00) and other good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, Doyle D. Estes and Kathryn O. Johnson, husband and wife, of 3220 West Main Street, Rapid City, South Dakota 57702, grant to Pennington County, a political subdivision of the State of South Dakota, a major drainage and access easement to construct a water metering dam known as County Heights Detention Cell No. 100, as described in the attached Exhibit "B", which is incorporated herein by reference. This easement is located in the Northeast Quarter of the Southwest Quarter (NE1/4SW1/4) of Section Three (3), Township One North (T1N), Range Eight East (R8E) of the Black Hills Meridian (BHM), Pennington County, South Dakota.

This Grant of Easement shall run with the land and shall be binding on and shall inure to the benefit of the parties hereto, their heirs, successors and assigns.

The purpose of this Easement is to allow for the construction of a water retention dam, and further to provide access to said dam to allow for maintenance of same.

Doyle D. Estes

Kathryn O. Johnson

State of South Dakota)

)ss.

County of Pennington)

On this 28th day of February, 2001, before me the undersigned officer, personally appeared Doyle D. Estes and Kathryn O. Johnson, known to me or satisfactorily proven to be the persons whose names are subscribed to the within document and acknowledged to me that the same was executed for the purposes therein contained.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

Notary Public - South Dakota PHILIP N. HOGEN

My Commission Expires: _____ Notary Public South Dakota
My Commission Expires 1/30/99

(SEAL)

Prepared by:
Estes Law Firm (605) 343-3534
3220 West Main Street
Rapid City, SD 57702-2316

Westlaw.

694 N.W.2d 721 (Table)

694 N.W.2d 721 (Table)

(Cite as: 694 N.W.2d 721)

Page 1

Briefs and Other Related Documents

(The decision of the Court is referenced in the North Western Reporter in a table captioned "Abstracts of Summary Dispositions." These summary dispositions may not be cited or relied upon as authority in litigation in any court in South Dakota except when the opinion establishes the law of the case, res judicata or collateral estoppel, or in a criminal action or proceeding involving the same defendant or a disciplinary action or proceeding involving the same person. SDCL 15-26A-87.1(E).)

Supreme Court of South Dakota

Estes

v.

Pabst

NO. 23178

October 12, 2004

Affirmed (APF).

694 N.W.2d 721 (Table)

~~Briefs and Other Related Documents (Back to top)~~

- 2004 WL 2505498 (Appellate Brief) Appellee's Brief (Jun. 30, 2004)Original Image of this Document (PDF)
- 2004 WL 2505497 (Appellate Brief) Appellant's Brief (May. 14, 2004)Original Image of this Document with Appendix (PDF)

END OF DOCUMENT

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STATE OF SOUTH DAKOTA)
)SS
COUNTY OF PENNINGTON)

IN CIRCUIT COURT
SEVENTH JUDICIAL CIRCUIT

DOYLE D. ESTES and
KATHRYN O. JOHNSON,

Plaintiffs,

v.

ROGER L. ANDERSEN, SANDRA K.
ANDERSEN, STEPHEN P. PABST,

Defendants.

Civ. No. 03-226

ORDER

Plaintiffs, Doyle D. Estes and Kathryn O. Johnson, have moved this Court for a Second Motion for Partial Summary Judgment as to Andersen Tract A seeking certain declarations from the Court with respect to easements depicted on the Plat of Tract A of Neff's Subdivision No. 4. Plaintiffs' Motion for Partial Summary Judgment is supported by a brief and affidavits. Defendants Roger L. Andersen and Sandra K. Andersen, through their attorney, responded to this Motion with a Memorandum of Law together with an Affidavit of Roger L. Andersen and Sandra K. Andersen and an Affidavit of Michelle Tyndall. The Motion having come on duly before the undersigned, pursuant to Notice on January 20, 2004, Plaintiffs appeared at the Motion Hearing by Scott Sumner, their attorney of Rapid City, South Dakota. Defendants Roger L. Andersen and Sandra K. Andersen appeared in person and through their attorney, Brad A. Schreiber of Belle Fourche, South Dakota. Defendant Stephen P. Pabst was also present in person and also represented by Mr. Schreiber as his attorney.

Attorney Schreiber advised the Court that Defendants had no objection to that portion of Plaintiffs' Second Motion for Partial Summary Judgment as to Andersen Tract A that seeks a declaration from the Court that there is upon the southerly 125 feet of Tract A as depicted on the Plat of Tract A Of Neff's Subdivision No. 4 a major drainage easement as depicted on that Plat. Defendants further advised the Court that they have no objection to that portion of Plaintiffs' Motion seeking a declaration from the Court that there are drainage easements denoted as utility and minor drainage easements 8 feet wide on the interior side of all subject lot lines of Tract A of the Plat of Tract A of Neff's Subdivision No. 4 as depicted upon said Plat of Tract A of Neff's Subdivision No. 4. The Court being advised in the premises, now, therefore, it is hereby

FOO ORDERED that there is upon the southerly 125 feet of Tract A of the Plat of Tract A of Neff's Subdivision No. 4 a major ^{drainage} easement as depicted upon said Plat; and it is further hereby

ORDERED that there are drainage easements denoted as utility and minor drainage easements 8 feet wide on the interior side of all subject lot lines on Tract 8 of the Plat of Tract A of Neff's Subdivision No. 4 as depicted upon said Plat of Tract A of Neff's Subdivision No. 4; and it is further

ORDERED that the remainder of Plaintiffs' Second Motion for Summary Partial Judgment as to Andersen Tract A be and the same hereby is, denied.

Dated this 26 day of January, 2004.

BY THE COURT:

A.P. Fuller
A. P. Fuller

Seventh Circuit Court Judge

State of South Dakota }
County of Pennington }
I hereby certify that the foregoing instrument is a true and correct copy of the original as the same appears on record in my office this

JAN 26 2004

Pennington County, SD
FILED
IN CIRCUIT COURT

JAN 26 2004

Ranae Truman, Clerk of Court
By R Deputy

RANAEL. TRUMAN
Clerk of Courts, Pennington County
By [Signature] Deputy

Ranae Truman
By *[Signature]*
Deputy