

No. 100-1

Water Division No. 1

Grand River Water District.

(Blanks to be filled by the State Engineer.)

COPY

# APPLICATION FOR A PERMIT To Appropriate Water Within the State of South Dakota

Trans. 6/23/14

Floyd Howe

(NOTE—Draw a line through items not applicable.) Hettinger, N. D. 58639

1. Name of applicant Phoebe Surring  
V.G. Assoc. Inc. - Perkins Co. - Hettinger, N. D.  
 Postoffice address Bloom County Hettinger State South Dakota  
 (Residence and plant in Perkins County)

I. If a corporation: -----

(a) Name of same -----

(b) Date and place of incorporation -----

(c) Amount of capital stock -----

(d) Amount paid in -----

(e) Names and addresses of directors:-----

109-1  
773-1Floyd Howe  
Hettinger, ND

send correspondence to

Jim Howe  
RR #2  
Hettinger, ND 58639

(NOTE—A certified copy of articles of

Floyd Howe still owns, but  
wants the correspondence sent  
to Jim Howe.

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

(a) Method of accomplishing the work. (Whether by contract, employment of others, or by direct labor) Direct Labor

(b) Cash on hand, \$ ----- (c) Treasury stock, \$ -----

(d) Bonds to be issued, \$ ----- (e) Other resources, \$ -----

2. Name of diversion works Surring Diversion Works3. Quantity of water claimed 2 cubic feet per second.4. Source of water supply North Fork of Grand River5. Location of point of diversion N $\frac{1}{2}$  NW $\frac{1}{4}$  Section 27, Tr. 23 N. Range 10 East  
Black Hills Meridian or left bank.  
 (Right or left bank looking down stream.)6. Annual periods during which water is to be used During entire season

7. To be used for:

I. Irrigation or domestic use: Irrigation(a) Number of acres to be irrigated 73 acres.(b) Legal subdivisions to be irrigated NW $\frac{1}{4}$  NW $\frac{1}{4}$  40 acres 35 acres irrigable.

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.

NE $\frac{1}{2}$  NW $\frac{1}{4}$  40 acres - 38 acres irrigable, Total - 73 acres

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

For irrigation only

II. Mining, power, manufacturing, transportation, or other purposes:

(a) Nature of use Irrigation

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

(c) Location of plant -----

(d) Method of developing power -----

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

## 8. Estimated cost of works:

(a) Head gates, \$-----

(b) Pumping plant, \$ 300-----

(c) Fluming, \$-----

(d) Canal-earth, \$ 200-----

Rock, \$-----

(e) Other structures-----

\$-----

Total, \$ 500-----

## 9. Description of diversion works:

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

Pumping plant and ditches, and dam

## II. Dimensions of works:

(a) Dam: Height 3 feet; length at bottom 25 feet; length at top 108 feet; thickness at bottom 45 feet; thickness at top 15 feet; slope of front (water) face 3 to 1; slope of back face 2 to 1; material used in construction rock and earth

(b) Reservoir; Capacity when filled 50 acre feet. Surface area at highwater mark 12 acres.

| DEPTH AT<br>OUTLET-Feet | SURFACE AREA AT EACH-----FEET OF<br>DEPTH AT OUTLET--ACRES | CAPACITY--<br>ACRE-Feet |
|-------------------------|------------------------------------------------------------|-------------------------|
|                         |                                                            |                         |
|                         |                                                            |                         |
|                         |                                                            |                         |
|                         |                                                            |                         |
|                         |                                                            |                         |
|                         |                                                            |                         |
|                         |                                                            |                         |

(c) Head gate: Width-----feet; height-----feet;

Material-----

(d) Canal: Total length-----miles.

| LOCATION BELOW<br>HEADGATE | DEPTH          | BOTTOM WIDTH   | WIDTH AT WATER<br>LINE | GRADE PER MILE |
|----------------------------|----------------|----------------|------------------------|----------------|
| At <u>  </u> mile          | <u>  </u> feet | <u>  </u> feet | <u>  </u> feet         | <u>  </u> feet |
| At <u>  </u> mile          | <u>  </u> feet | <u>  </u> feet | <u>  </u> feet         | <u>  </u> feet |
| At <u>  </u> mile          | <u>  </u> feet | <u>  </u> feet | <u>  </u> feet         | <u>  </u> feet |
| At <u>  </u> mile          | <u>  </u> feet | <u>  </u> feet | <u>  </u> feet         | <u>  </u> feet |
| At <u>  </u> mile          | <u>  </u> feet | <u>  </u> feet | <u>  </u> feet         | <u>  </u> feet |

[Give dimensions where reductions in size are made.]

10. Time required for completion of work 3 years.

11. Time required for complete application of water to the proposed beneficial use 2 years.

12. Choice of newspaper for publication of notice of intention to appropriate Perkins  
County SD al

STATE OF SOUTH DAKOTA

County of Perkins

I, Alfred S. Tubbs, being first duly sworn  
on my oath depose and say: That my relation to the above described undertaking is that of

Engineer

(owner, manager or engineer)

that I have read the above and  
foregoing statement, and 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 Alfred S. Tubbs

Subscribed and sworn to before me this 21st day of August, 1902

W. F. Eddy

Notary Public (or other qualified officer.)

(SEAL)



Remarks by State Engineer:

This application is for the right to appropriate and divert for irrigation purposes a portion of the waters of North Fork of Grand River at the point herein designated. The point of diversion and the lands to be irrigated are situated in Perkins County as herein described. Diversion to be from dam by means of centrifugal pump.

STATE OF SOUTH DAKOTA }  
County of Hughes }

Pierre, South Dakota, November 4, 1912.

This is to certify that the foregoing application was received at this office at nine o'clock a.m. upon the 23rd day of August 1912, and that after examination it was found to comply with the provisions of the Irrigation Code of South Dakota. Notice of intention to appropriate was published, proof of publication was duly filed, and a hearing was held in this office on October 25, 1912.

Samuel H. Lea  
State Engineer.

By B. B. Lea Deputy.

Number of permit 109-1

Date of first receipt of application August 23, 1912.

Date of return to applicant for correction - - - - - 1910

Date of receipt of corrected application - - - - - 1910

Date from which applicant may claim right August 23, 1912

Approved October 25, 1912, Recorded in Book 2, Page 188-189

This is to certify that I have examined the foregoing application for a permit to appropriate water of the State of South Dakota, and I 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 April 25, 1914.

2d. The whole of said work is to be completed on or before October 25, 1915.

3d. The limit of time for proof of beneficial use of water appropriated in accordance herewith is October 25, 1915.

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

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 1.3 cubic feet of water per second of time; 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 and beneficially applied for irrigation on or before October 25, 1915; said water to be used during the following described annual periods.

During entire season

Witness my hand this Fourth day of November 1912.

Samuel H. Lea  
State Engineer.

By Deputy.

COPY

No. 100-1

Division No. 1

Grand River Water District

PERMIT

to appropriate water from North

Fork of Grand River

Perkins County, South Dakota

Name of applicant

Phoebe Surring

Name of diversion works

Surring Diversion Works

Date of first receipt at office of State

Engineer August 23, 1902

Returned to applicant for Correction

190

Corrected application received

190

Date of water right

August 23, 1902

Recorded in Book 2 Page 188-189

One fifth of work to be completed

April 25, 1914

Whole work to be completed

October 25, 1915

Final proof of use of water

October 25, 1915

Approved October 25, 1902

Samuel H. Lee  
State Engineer

By B. B. Lee  
Deputy

STATE OF SOUTH DAKOTA,  
COUNTY OF HUGHES.

I hereby certify that the within and foregoing instrument is a true, correct and complete transcript of the instrument which it purports to be, as the same was filed for record in the office of the State Engineer.

Witness my hand and official seal, done at my office in Pierre, State of South Dakota

this 4th day of November, 1902

Samuel H. Lee  
State Engineer.

By B. B. Lee  
Deputy.

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 109-1

WHEREAS, On the 21st day of August A. D. 1913

- - - - - Phoebe Surring - - - - -

of Bucyrus, County of \_\_\_\_\_ and State of  
(Residence and Plant in Perkins County)

North Dakota, duly made application (No. 109-1) to me for a permit to use -2-

cubic feet per second of the waters of North Fork of Grand River

County of Perkins State of South Dakota, for irrigation

purposes; and

WHEREAS, On the 11th day of November A. D. 1913

Permit No. 109-1 was issued to said applicant for the diversion of said water, and providing for the completion of the works of diversion therein described on or before the 25th

October

A. D. 1915 and for the application to beneficial use of said

water on or before the 25th day of October A. D. 1915.

and

WHEREAS, On the 11th day of June A. D. 1915

the holder of said permit duly made proof of the completion of adequate works for the diversion of

-2-

cubic feet per second of said waters, as evidenced by my Certificate No. 109-1

dated June 11, 1914, confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use -2-

with date of priority to August 28, 1912, and,

WHEREAS, On the 28th day of November A. D. 1914,

proof was duly made of the application to beneficial use of -2- cubic feet per second of said water;

For the irrigation of NW 1/4 NW 1/4 Sec. 27 - - - 35 acres,

NE 1/4 NW 1/4 " 27 - - 38 " Total 73 acres.

NOW, THEREFORE, By virtue of the authority vested in me by the laws of the State of South Dakota, I hereby grant and confirm to ..... Phoebe Surring .....  
of Buayrua, North Dakota ..... the holder, and owner, of said permit No. .... 109-1 .....  
a water right, dating from ..... August 28, 1913 ..... to the use of ..... -1.3- .....  
cubic feet per second of the waters of ..... North Fork of Grand River .....  
in the County of ..... Perkins ..... and State of South Dakota, or so much thereof as may be  
necessary for the purposes hereinbelow mentioned, to be diverted at ..... NW1/4 of Section 27, T. 23  
North, R. 10 East, Black Hills Meridian, .....  
and conducted to and upon ..... 73 acres in the NW1/4 and NE1/4 of Section 27, .....  
Township 23 North, Range 10 East B. H. M. ....

for the purpose of ..... irrigating said land .....

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 laterals 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 the seal of my office at Pierre, South Dakota,  
this ..... 3rd ..... day of ..... May ..... A. D. Nineteen  
Hundred and ..... Fifteen.

( S E A L )

( Signed ) ..... Homer M. Derr. ....

State Engineer.

STATE OF SOUTH DAKOTA

Water License No. 209-1

To Phoebe Surring

Bucyrus, N. D.  
Residence and Plant in Per-  
kins Co., S. D.

Source of Supply North Fork of  
Grand River.

Perkins County

Am't -1.2- Sec. Feet

Point of Diversion N. NW 1/4 Sec. 27, T.  
23 N., R. 10 E. P. M.

Place of Use NW 1/4 NW 1/4 & NE 1/4 NW 1/4 Sec.  
27-T 23 N - R 10. 7 acres.

Purpose Irrigation.

Date of Priority August 28, 1912.

Recorded May 3, 1915.

In Book 3 of Page 188-89

Permit No. 109-1

Water Division No. 1 Grand Riv. Water District

# Certificate of Application of Water to Beneficial Use.

### Deposition of Holder

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

Ans. Phoebe Surring, Perkins County, S. D., Housewife, E. O. Buoyrun,  
North 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.**

Ques. 3. State number and date of permit, and date of priority you propose to establish under the permit.

Ans. 109-1 August 23, 1912. Aug. 23, 1912.

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

Ans. North Fork Grand River..... N $\frac{1}{2}$  NW $\frac{1}{4}$  of Section 37, Tp. 23 North,  
Range 10 East, Black Hills Meridian.

Ques. 5. "Describe your works of diversion, 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.

Ans. 1. A casolene pumping plant, 2. main irrigation ditch, and laterals proposed dam not built, and not necessary at present.

Ques. 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.)

( NW $\frac{1}{4}$  of NW $\frac{1}{4}$  Sec. 27 - 40 ) Acres, 36 acres irrigable  
Ans. Irrigation. { NE $\frac{1}{4}$  of NW $\frac{1}{4}$  " 27 - 40 " 38 " "  
and irrigated.

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

Ans. ....None

**Ques. 3.** What is the minimum amount of water required for the use specified above?

Ans. 2 cubic feet per second

Que. 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. I am the original applicant.

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

Ans. 1912, 1913 and 1914. By gasoline pumping plant.....1 cubic foot per second over entire tract. This is all the water that has been necessary so far.

(Sign.)

Phoebe Suring

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.....

Bucyrus

County of

Adams

State of ~~South~~ North Dakota, on this.....

12th

day of

November

A. D., 1914

Joseph W. Henry  
Notary Public

My commission expires April 5th, 1920

Permit No. 109-1

**Proof of Application of Water to  
Beneficial Use.**

**DEPOSITION OF HOLDER.**

Amount of water - 2 - second feet

Source N. Fork of Grand River

County Perkins

Purpose Irrigation

Place of Use

Date of priority Aug. 23 1912

Received and filed May 3, 1915.

Permit No. 109-1

Water Division No. 1 Grand River Water District

## Certificate of Examination of Works

## Report of Examining Engineer

To the State Engineer, Pierre, South Dakota:

Dear Sir: I hereby certify that in accordance with your letter of authorization dated S. H. Lea, May 15, 1908

I have this day made a thorough examination of the diversion works constructed by Phoebe Surring  
Post Office, Eucyrus, N. D., of  
Perkins County, South Dakota, holder of permit No. 109-1, issued  
 upon application No. 109-1 bearing date of priority of Aug. 23, 1912, authorizing the  
 diversion of 2 second feet of the waters of Grand River for Irrigation  
 purposes. I have to report on the condition of the same as follows:

The diversion works comprise a gasoline pumping plant, 3 main irrigation  
ditches with their laterals, and dam not yet built, and not necessary

and the system is in the following condition: The system is in good working order, and  
has been in practical operation during the last spring months.

The point of diversion is located in NE 1/4 Section 27, Tp. 23 North, Range 10  
East, Black Hills Meridian.

The works are capable of diverting and conveying to the place of use 2 second-feet of water,  
 which is to be used for irrigation.

The legal sub-divisions to be irrigated are NW 1/4 of NE 1/4, NE 1/4 of NW 1/4 of Section 27  
Tp. 23 North, Range 10 East, B. H. M.

comprising a total of 7.3 acres of land.

The domestic use intended comprises

The utilization for power, mining, or other beneficial uses comprises:

Witness my hand, this 11th day of June, A. D. 1914.

[Signature]  
 Examining Engineer.

Permit No 109

Water Div. No. 1 Water Dist. 1

**Certificate of Examination  
of Works**

Dated Aug. 23 1912

Stream N. Fork of Grand River

County Perkins

Amount - 2 - Second Feet

Date of Priority Aug. 23, 1912

Recorded in Book 2 Page 188-89

Filed in the office of the State Engineer this

8th day of March A.D. 1912

Homer M. Parr

State Engineer.

By L. H. H.

Dep. Secy.

**SOUTH DAKOTA Department of  
Water & Natural Resources**

Joe Foss Building  
Pierre, South Dakota 57501

Water Rights Division  
(605) 773-3352

SECOND NOTICE

September 10, 1981

Jim Howe  
RR #2, Box 56  
Hettinger, ND 58639

RE: Water Right Nos. 109-1 & 773-1

Mr. Howe:

On May 14, 1981, upon your request, transfer forms were sent to you for the transfer of Water Right Nos. 109-1 and 773-1 in the name of Floyd Howe. You had indicated at that time that your father had retired and you wanted the water rights changed over to your name. To date, nothing has been heard from you on this matter.

Transfer forms were previously sent to you, enclosed please find an additional set. Please sign, have notarized and return the forms to this office with the required filing fee of \$2.50 apiece or a total of \$5.00. The water rights can then be transferred to your name.

If your request was misunderstood and you only wanted the correspondence sent to you, but wished to retain the water rights in your father's name, please indicate so. This can be noted in the files accordingly.

If you have any questions, please contact this office. Your prompt attention in this matter would be appreciated.

Very truly yours,

JOHN HATCH, Chief Engineer  
Water Rights Division

JH/GY/gy

encl

*Equal Opportunity Employer*

Water Rights Division  
(605) 773-3352

May 14, 1981

Jim Howe  
RR #2, Box 56  
Hettinger, ND 58639

Dear Mr. Howe:

RE: Water Rights Nos. 109-1 & 773-1

This will acknowledge your letter of May 11, 1981 in which you requested that all future correspondence be sent to you since your father has retired.

In order for the permits to be listed in your name, the permits will have to be transferred. Enclosed please find two Form 20's "Notice of Transfer of Water Permit" for Water Right No. 109-1 and No. 773-1. Please check over, sign, date and have notarized before returning them to this office with a required filing fee of \$2.50 each (\$5.00 total). The Water Rights will then be transferred to your name, and all future correspondence will be sent directly to you.

If you have any questions concerning this matter, please contact this office. Thank you for your assistance in this matter.

Sincerely,

GENNY YOUNG  
Staff Assistant

gy

encl

109-1

**SOUTH Dakota Department of  
Water & Natural Resources**  
Joe Foss Building Division of Water Rights (605) 773-3352  
Pierre, South Dakota 57501

September 8, 1980

109-1  
Floyd Howe  
Hettinger, ND 58639

This letter will revoke the order dated September 4, 1980 shutting off irrigation pumping from the North Fork of the Grand River between Shadehill Reservoir and the North Dakota border.

In an effort to provide more local control of the pumping from the North Fork of the Grand River, we are going to allow the local Irrigators Association to attempt to regulate themselves to better utilize the limited flows in the North Fork. The primary requirement will be that water for livestock use will need to be made available for downstream use.

We expect that someone from this office will be in the area this week.

Very truly yours,

*John Hatch*  
JOHN HATCH, Chief Engineer  
Water Rights Division

JH/gy

*Equal Opportunity Employer*

109-1

**SOUTH DAKOTA**  
**Department of**  
**Water & Natural Resources**  
Joe Foss Building      Division of Water Rights      (605) 773-3352  
Pierre, South Dakota 57501

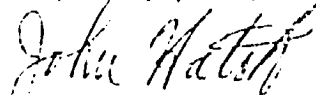
September 4, 1980

You are hereby ordered to cease pumping water from the North Fork of the Grand River from the North Dakota - South Dakota border to the tailwaters of the Shadehill Reservoir, for the remainder of the year, unless written notice is received indicating otherwise. Apparently there was some misunderstanding with the order issued July 15, 1980 and this order is issued to clarify any misunderstanding.

This order is issued in accordance with the South Dakota Water Laws which require the Water Management Board to control and regulate all waters of the State to assure water for domestic supplies and prior water rights.

All the permits above the Shadehill contain the qualification that low flows as needed for downstream domestic use, including livestock watering must be bypassed.

Very truly yours,



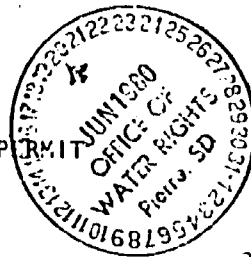
JOHN HATCH, Chief Engineer  
Water Rights Division

JH/gy

*Equal Opportunity Employer*

NO. 109-1

NOTICE OF TRANSFER OF WATER PERMIT



TO: Water Rights  
Foss Building  
Pierre, SD 57501

Date: June 17, 1980

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

NW $\frac{1}{4}$  NW $\frac{1}{4}$ , NE $\frac{1}{4}$  NW $\frac{1}{4}$ , (73 acres) Section 27, T23N, R10E

formerly owned by Phoebe Surring, Hettinger, ND

has been transferred to Floyd Howe, ~~Hettinger~~ <sup>Reed</sup>, ND 58639

together with any rights to the beneficial use of water thereon as evidenced by  
Water Right Permit No. 109-1 as provided for in SDCL 46-5-32 and 46-5-33.

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

A fee of Two Dollars and Fifty Cents (\$2.50) is hereto attached to cover filing fees  
as required under SDCL 46-2-13.

✓ <sup>ACRTH</sup>  
STATE OF ~~SOUTH~~ DAKOTA )  
County of ADAMS ) ss.

I, Floyd Howe 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 infor-  
mation herein stated is true.

(Signed)

Subscribed and sworn to before me this 17<sup>th</sup> Day of June, 1980.

(Notary Public)

L. C. MENSING, HETTINGER, N. D.  
NOTARY PUBLIC ADAMS COUNTY, N. DAK.  
MY COMMISSION EXPIRES FEB. 15, 1983

# RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

NO 4 7548

RECEIVED OF Floyd Howe, HOWE HEREFORDS, Bucyrus, ND 58624 PIERRE, June 20, 19 80  
the following amount in fees for services rendered as provided for by law:

|                                                                                                                     |             |
|---------------------------------------------------------------------------------------------------------------------|-------------|
| Fee for Application for Permit to Appropriate Water No. _____ (examination, processing, recording and filing) _____ |             |
| Fee for Inspecting Construction, and Issuing Cert. of Construction No. _____                                        |             |
| Fee for Inspecting Beneficial Use, and Issuing Water License No. _____                                              |             |
| 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 _____ transfer of WR# 109-1                                                                                 | 2.50        |
| (any other work as provided by law)                                                                                 |             |
| <b>TOTAL</b>                                                                                                        | <b>2.50</b> |

WATER RIGHTS COMMISSION

By John Hatch  
Chief Engineer, Executive Officer  
JOHN HATCH / (bt)

**SOUTH DAKOTA** Department of  
**Water & Natural Resources**  
Joe Foss Building Water Rights, Water Management Division  
Pierre, South Dakota 57501 (605) 773-3352

June 11, 1980

Floyd Howe  
Reeder, ND 58649

Dear Mr. Howe:

This letter is in reference to Water Right No. 109-1 in which we have listed in the name of Phoebe Surring. On June 4, 1980 we mailed out a shut-off order to all North Grand River Irrigators. This notice sent to Ms. Surring was returned stamped "Deceased".

A conversation with the Perkins County ASCS Office indicated the land covered under Water Right No. 109-1, namely 73 acres in the N $\frac{1}{2}$  NW $\frac{1}{4}$  of Section 27, T23N, R10E, was now owned by you. Enclosed is our Form 20, "Notice of Transfer of Water Permit". Please check over, sign, have notarized and return it to this office with the required filing fee of \$2.50. The Water Right can then be transferred to your name. However, if you are not the owner of the land described above, please notify this office as to who does own it, so that proper handling of the water right can continue.

Also, if you have not irrigated for some time, or do not intend on irrigating, notify this office so that the Water Right can be brought before the Water Management Board for cancellation. If you are irrigating enclosed is the shutoff order that was mailed out to the North Grand river irrigators.

If you have any questions, please contact this office.

Sincerely,

GENNY YOUNG  
Staff Assistant

gy

encl

*Equal Opportunity Employer*

# AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA  
County of Perkins ss.

Thomas D. Potvin of said County and State, being first duly sworn, on his oath says: That the Perkins County Signal is a morning newspaper of general circulation, printed and published in Lewiston, in said County and State, by Thomas D. Potvin, and has been such newspaper during the times hereinafter mentioned; and that I, Thomas D. Potvin the undersigned, am Publisher of said newspaper, in charge of the advertising department thereof, and have personal knowledge of all the facts stated in this affidavit; and that the advertisement headed

Notice of Intention to appropriate water

a printed copy of which is hereunto attached, was printed and published in the regular and entire issue of said newspaper, and not in supplement, once each week for four successive weeks, the first publication being made on the 4 day of Sept, 1912 and the last publication on the 25 day of Sept, 1912.

The First publication being made on the 4 day of Sept, 1912

The Second publication being made on the 11 day of Sept, 1912

The Third publication being made on the 18 day of Sept, 1912

The Fourth publication being made on the 25 day of Sept, 1912

The Fifth publication being made on the        day of       , 1912

The Sixth publication being made on the        day of       , 1912

The Seventh publication being made on the        day of       , 1912

The Eighth publication being made on the        day of       , 1912

That said newspaper is a legal newspaper, and has a bona fide circulation of more than two hundred copies weekly, and has been published within the County of Perkins for more than fifty-two successive weeks next prior to the first publication of said notice, and is printed in English in an office maintained in Lewiston South Dakota, the place of publication of said newspaper. That the full amount of the fee paid for the publication of the annexed notice is \$ 6.75, and inures solely to the benefit of the said publisher; that no agreement or understanding for a division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whatsoever.

Thomas D. Potvin  
Subscribed and sworn to before me this 10 day of October, 1912  
Notary Public

## Notice of Intention to appropriate Water

(First Publication Sept. 4, 1912.) No. 109-1

Appropriation of Water. Office of the State Engineer, Pierre, S. D., August 26, 1912.

Notice is hereby given that Phoebe Fanning whose post-office address is Bloom, Harding County, S. D., has made an application in accordance with the provisions of the Irrigation laws of South Dakota for a permit to appropriate for beneficial use 2 cubic feet of water per second of time from North Fork of Grand River through the Suring Diversion Works the point of diversion of which is to be located upon the left bank of said stream in the NW 1/4 of the NW 1/4 of section 27, Township 23 N., Range 10 E., B. H. M., said water to be used for the purpose of irrigation upon the NW 1/4 NW 1/4 and NE 1/4 NW 1/4 Section 27, Twp. 23 North, Range 10 East, B. H. M.

This application will be taken up by the State Engineer at his office at Pierre for consideration and appropriate action upon the 25th day of October, 1912, at 9 a. m., at which time all persons who believe that the prior rights would be injuriously affected, or that the allowance of the permit would be detrimental to the public welfare, and also parties making the application, and to be benefited, are notified to be present either by sworn affidavit or in person for the purpose of presenting any relative testimony.

Samuel H. Lea, State Engineer.

RECEIVED

OCT 14 1912

OFFICE OF STATE ENGINEER,  
PIERRE, S. DAK.

Publication Fees, \$ 6.75

Received Payment,

Thomas D. Potvin

(First Publication                      1912)

## APPROPRIATION OF WATER.

Office of the State Engineer,

Pierre, S. D., August 28 1912

Notice is hereby given that Phoebe Surring  
whose postoffice address is Bloom Harding County,  
S. D., has made an application in accordance with the provisions of  
irrigation laws of South Dakota for a permit to appropriate for beneficial  
use 2 cubic feet of water per second of time from North Fork of  
Grand River through the Surring Diversion Works  
the point of diversion of which is to be located upon the left  
bank of said stream on the N $\frac{1}{2}$  of the N. W. of section  
27 township 23 N. range 10 E., B.H.M., said water  
to be used for the purpose of irrigation  
upon the NW $\frac{1}{4}$ , NW $\frac{1}{4}$ , and NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , Section 27, Twp. 23 North, Range 10  
East, B.H.M.

This application will be taken up by the state engineer at his office  
at Pierre for consideration and appropriate action upon the 25th  
day of October 1912, at 9 a. m., at which time all persons  
who believe that the prior rights would be injuriously affected, or that  
the allowance of the permit would be detrimental to the public welfare,  
and also parties making the application, and to be benefited, are notified  
to be present either by sworn affidavit or in person for the purpose of  
presenting any relative testimony.

State Engineer.

**South Dakota Department of  
Water & Natural Resources**

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

January 20, 1988

JIM HOWE  
BUCYRUS, ND 58624

**NOTICE**

Re: Violation of Requirement To Submit 1987 Irrigation  
Questionnaire

Our records indicate that the 1987 Irrigation Questionnaire has not been submitted for Permit No(s). 773-1, 109-1. The request for the Questionnaire was dated October 8, 1987. The Water Management Board has directed that owners of water permits who have not submitted 1987 Irrigation Questionnaires be given notice of hearing(s) to be held by the Board to determine if any action is to be taken concerning the violation.

The hearings will be held at 9:00 am, March 2, 1988 in Room 216, Joe Foss Building, 523 E Capitol, Pierre SD.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to procedures contained in SDCL 1-26. Following the hearing(s), the Water Management Board can:

1. Amend Permit No(s). 773-1, 109-1 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action;
3. Take no action.

The hearing(s) is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

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

NOTE: If the questionnaire(s) is received in this office before the March 2 hearing date, your name will be deleted from the agenda for the hearing.

**South Dakota Department of  
Water & Natural Resources**

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

February 9, 1988

109-1  
773-1

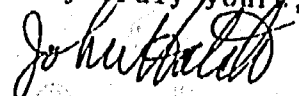
Jim Howe  
Bucyrus ND 58624

Dear Mr. Howe:

I am writing to acknowledge receipt of your 1987 Irrigation Questionnaire(s). A notice was sent to you January 29, 1988 regarding the requirement to submit the Irrigation Questionnaire(s) for Water Permit No. 109-1 & 773-1 and the hearing date before the Water Management Board.

Since your questionnaire was received prior to the March 2, 1988 Water Management Board Meeting, your name has been deleted from the Board Meeting agenda. If you have any questions, please contact us.

Very truly yours,



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

 **Department of  
Water & Natural Resources**

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

May 26, 1988

Jim Howe

Bucyrus, ND 58624

Dear Mr. Howe:

I am writing in regard of our review of irrigation questionnaire records. No irrigation has been reported for the last five irrigation seasons under Permit No(s). 1C9-1.

South Dakota Codified Laws state that when any person fails to use water for the purpose for which it was appropriated for a period of three years, or abandons the use of the water, such unused water shall revert to the public. An exception to the law is when there is legal excuse for nonuse of water. Examples of legal excuse for nonuse of water are when water is not available or legal proceedings which prevent the use of water.

Since your permit(s) has (have) not been used for five years, the permit(s) may be subject to cancellation by the Water Management Board unless there is a legal reason for not using water. Please advise by June 17, 1988 if you still want to keep your water right and if there is a reason why water has not been used. Let us know, if you have any questions.

Very truly yours,



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



Water Rights Division - DWR  
Conversation or File Documentation

File No. 109-1

NAME OF PERSON OR FILE: Jim Howe  
ADDRESS: Bucyrus, ND COUNTY Parkins  
DATE: June 2, 1988 TELEPHONE \_\_\_\_\_  
RE: Response to letter - 5 yrs of no irrigation  
COMMENTS:

Mrs Howe called on June 2, 1988. She stated  
that the reason they have not been irrigating is  
because there has been no water in the river. An  
irrigator in ND takes all of the water for his  
irrigation system and leaves the river dry.

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: William W. Broy, P.E.  
Hydrologist

 **Department of  
Water & Natural Resources**

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

773-1

SEP 14 1989

Floyd Howe  
c/o Jim Howe  
Bucyrus, ND 58624

Dear Mr. Howe:

Enclosed is Water License No. 773-1. This is the final water right document completing your process of obtaining a water right.

As long as you use the water beneficially, as stated in the Water License, the 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

enclosures

Note: The applicable portions of Water Right No. (109-1) have been incorporated into this Water License No. 773-1.

