

WATER PERMIT NO. 1176A-1

Name of Applicant: Larry & Debbie Ellsbury

Address: PO Box 268, Sundance WY 82729

Phone: 307 283-3800

Amount of Water Claimed: no add'l

Total Acres: no add'l

Source of Water Supply: Whitewood Creek

Water to be used for: irrigation

County: Butte

Type of Waste Disposal System:

Location: 20 miles southeast of Belle Fourche

PRIORITY

Date Received: 7-25-06

Application/License Fee: \$100

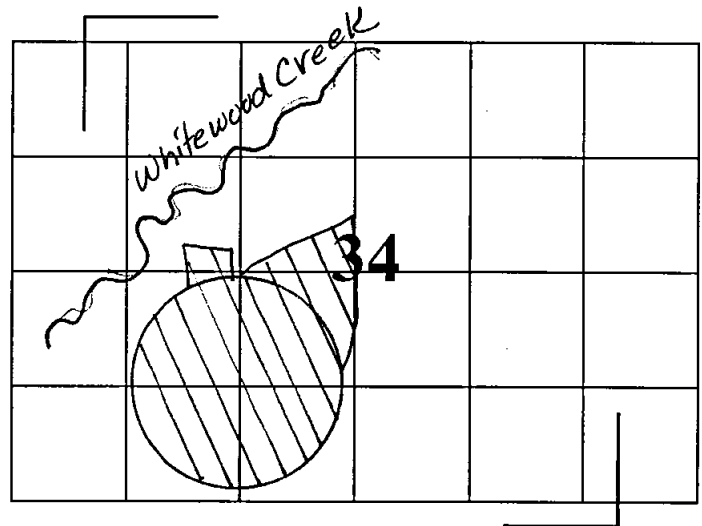
Corrected Application Received:

Period of Annual Use: April 1 – October 31

Remarks: Change acreage on Water Righth No. 1176-1 to allow for a center pivot system

Diversion Point: between points in NW ¼ SW ¼
and NE ¼ NW ¼ Sec 34-T8N-R5E

Land to be Irrigated: SW ¼, S ½ NW ¼ Sec 34-
T8N-R5E



Depth of Well: NA

Well Driller:

Remarks:

Type of Map: aerial

Prepared by: Eric Gronlund

Reviewed and the Number Assigned on: 7-25-06

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

Mail to:
Water Rights Program
Joe Foss Building
523 E. Capitol
Pierre, SD 57501-3181
(605) 773-3352

(office use only)
No. 1176A-1 Hydrologic Unit 10120202
Basin Belle Fourche River
Newspaper Belle Fourche Post, Belle Fourche

RECEIVED
JUL 25 2006
WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☐ New ☐ Vested Right ☒ Amendment/Correction to Permit No. 1176-1
(Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)

Propose to change acreage to allow a center pivot to be installed. There will be no increase in the authorized diversion rate or acres irrigate

- Name of Applicant Larry and Debbie Ellsbury Phone (307) 283-3800
(check one) ☐ Owner ☐ Tenant/lessee
Mailing Address PO Box 268 Sundance State WY 82729
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed no add'l *CFS or no add'l **GPM no add'l ***AF Total Acreage no add'l
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply Whitewood Creek
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Butte
a point between the NW 1/4 SW 1/4 and the NE 1/4 NW 1/4 Section 34, T8N, R5E
- County or counties where water will be used Butte
- Annual period during which water is to be used April 1 - October 31
- List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
all in Section 34, T8N R5E (Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
<u>NW SW</u>	<u>29</u>	<u>SW NW</u>	<u>10</u>
<u>NE SW</u>	<u>39</u>	<u>SE NW</u>	<u>3</u>
<u>SW SW</u>	<u>36</u>		
<u>SE SW</u>	<u>34</u>		

- Give a description of the project. (Attach sheet if more space is needed)

Rearrange acreage to allow a center pivot to be placed on the property. This will provide for more efficient irrigation. No additional acreage will be irrigated and there will be no increase in the diversion rate from Whitewood Creek.

STATE OF SOUTH DAKOTA)
County of Hughes SS

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)

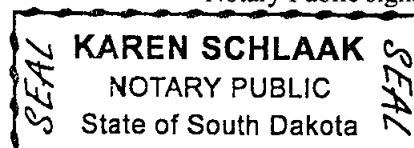
I, Larry Ellsbury, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Applicant's signature Larry Ellsbury

Subscribed and sworn to before me this 25th day of July 20 06

Karen Schlaak

Notary Public signature



**SOUTH DAKOTA
WATER PERMIT NO. 1176A-1**

Date of first receipt of application July 25, 2006.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 1176A-1 to Larry and Debbie Ellsbury, PO Box 268, Sundance WY 82729 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 1176A-1 amends Water Right No. 1176-1. Water Right No. 1176-1 appropriates 2.16 cubic feet of water per second from Whitewood Creek located between points in the NW 1/4 SW 1/4 and the NE 1/4 NW 1/4 Section 34 to irrigate 151 located in the SE 1/4 NE 1/4 Section 33 and W 1/2 Section 34; all in T8N-R5E. This permit authorizes transferring acreage to accommodate a center pivot system. The land being irrigated will be located in the SW 1/4, S 1/2 NW 1/4 Section 34-T8N-R5E. No increase in the diversion rate or number of acres irrigated is authorized by this permit.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – October 31.
3. The date from which applicant may claim right is August 10, 1978.
4. The date of approval of Permit No. 1176A-1 is October 2, 2006.
5. One-fifth of the construction is to be completed on or before April 2, 2009.
6. All construction is to be completed on or before October 2, 2010.
7. Water is to be put to beneficial use on or before October 2, 2014.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Low flows as needed for downstream domestic use, including livestock watering must be by-passed.
2. This permit does not authorize diversions of water from Whitewood Creek after August 15th of each calendar year, at any time when the creek flow is obviously low, unless written orders have been issued by the Chief Engineer. Diversion under this permit shall be in accordance with any written order by the Chief Engineer.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: Garland Erbele

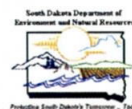
Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

OCT 10 2006
date



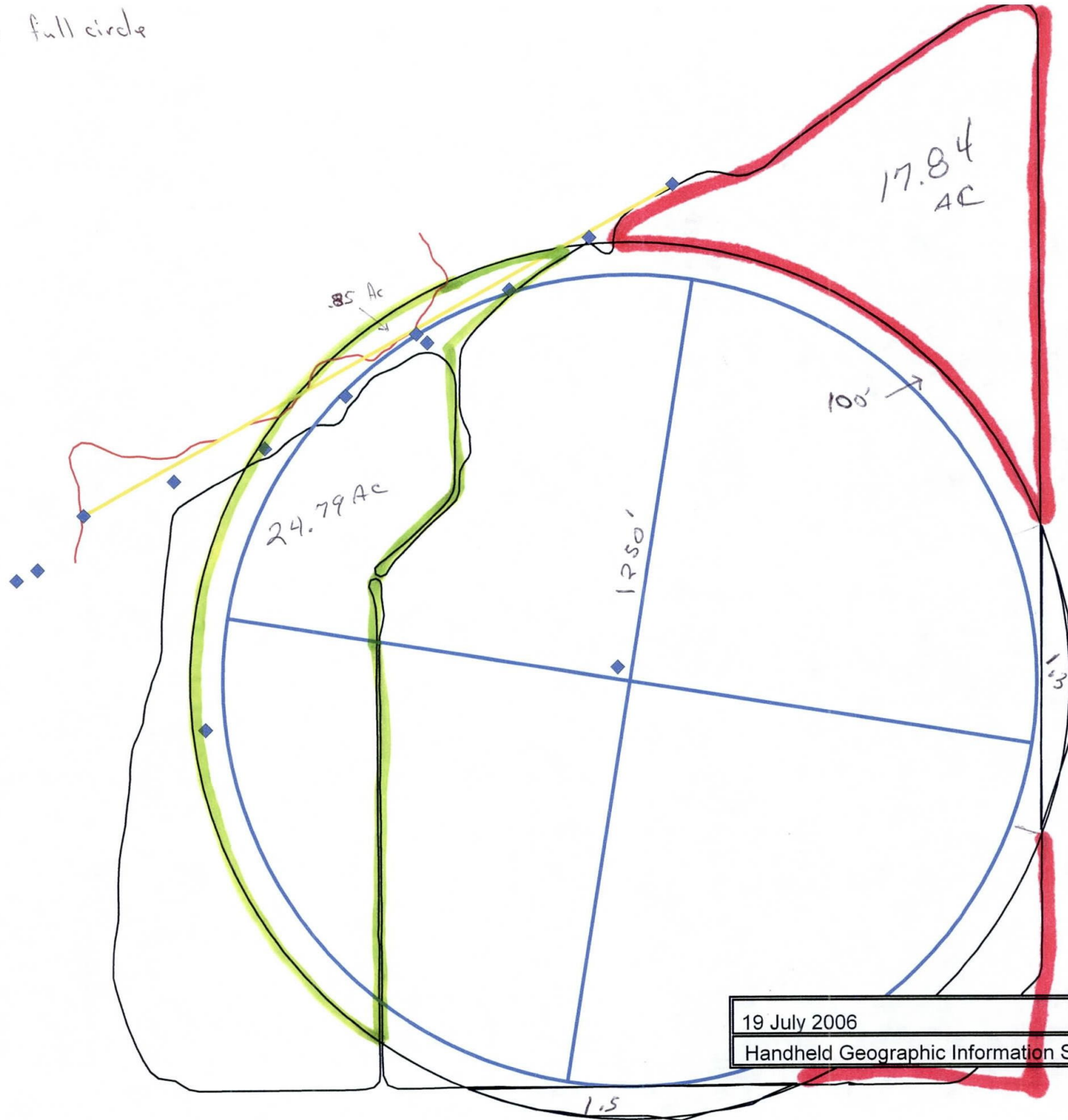


Application proposes to change acres for the purpose of accommodating center pivot irrigation on the land. Land in the N 1/2 NW 1/4 of Section 34 and the SE 1/4 NE 1/4 of Section 33 will no longer be irrigated. Diversion point will be between the NW 1/4 SW 1/4 and the NE 1/4 NW 1/4 of Section 34, T8N, R5E




Eric Gronlund
Water Rights Program, DENR

133.1 Ac full circle



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date JULY 25, 2006

RECEIVED OF Larry Ellsbury, PO Box 268, Sundance WY 82729

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

Fee for Application for Permit No. <u>1176A-1</u> to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>1176A-1</u>	50	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	100.00

No.

02523

By

Darland Erbe
Chief Engineer *gm*

REPORT ON WATER PERMIT APPLICATION NO. 1176A-1

Larry and Debbie Ellsbury

August 29, 2006

Application No. 1176A-1, Larry and Debbie Ellsbury, proposes to amend Water Right No. 1176-1. Water Right No. 1176-1 appropriates 2.16 cubic feet of water per second from Whitewood Creek located between points in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 34 to irrigate 151 acres located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 33 and W $\frac{1}{2}$ Section 34; all in T8N-R5E. This application proposes to transfer acreage to accommodate a center pivot system. The land being irrigated will be located in the SW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ Section 34-T8N-R5E. No increase in the diversion rate or number of acres irrigated is requested by this application. The appropriated water is and will continue to be used for irrigation purposes. The proposed project is located approximately 8 miles southwest of Newell in Butte County.

Review of the Proposed Project

The applicant proposes to amend an existing water right, No. 1176-1, by severing irrigation from existing acres and relocating the irrigation to other acres to facilitate irrigation by a center pivot irrigator. State Law (SDCL 46-5-34) allows an irrigation water right to be severed from one parcel of land and simultaneously transferred to another parcel if it becomes impracticable to use all or any part of the water beneficially or economically for irrigation on the current land. Mr. Ellsbury indicates that the center pivot irrigation is a more efficient method to place the water to beneficial use.

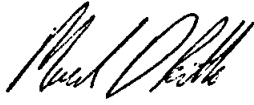
Review of the Water Source and Existing Water Rights

The source of water for this project is Whitewood Creek. Whitewood Creek originates in the Black Hills in south central Lawrence County. There are 8 existing water rights/permits appropriating 13.81 cfs from Whitewood Creek. Two of these water rights appropriating 4.27 cfs are located downstream of this project. Another of these rights, No. 1592A-1, appropriating 2.56 cfs is held by Game Fish and Parks for in-stream flow protection for a stream reach located upstream from this project and cannot be considered a consumptive use. Because this application is to amend an existing water right by relocating irrigated acres, these existing rights should not be adversely affected by this proposed change.

Conclusions

1. This application proposes to amend Water Right No. 1176-1 by relocating irrigated acreage to accommodate a center pivot irrigation system.
2. No increase in the diversion rate or number of acres irrigated is requested by this application.
3. SDCL 46-5-34 allows an irrigation water right to be severed from one parcel of land and simultaneously transferred to another parcel if it becomes impracticable to use all or any part of the water beneficially or economically for irrigation on the current land.
4. The applicants indicate that the center pivot irrigation is a more efficient method to place the water to beneficial use.
5. The source of water for this project is Whitewood Creek

6. This application is to amend an existing water right by relocating irrigated acres, existing water rights should not be adversely affected by this proposed change.

A handwritten signature in black ink, appearing to read 'Mark D. Rath', written in a cursive style.

Mark D. Rath
Natural Resources Engineering Specialist



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 1176A-1, Larry and Debbie Ellsbury**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 1176A-1, Larry & Debbie Ellsbury, PO Box 268, Sundance WY 82729

The Chief Engineer is recommending APPROVAL of Application No. 1176A-1 because 1) the proposed diversion can be developed without unlawful impairment of existing rights, 2) the proposed use is a beneficial use and 3) it is in the public interest with the following qualifications:

1. Low flows as needed for downstream domestic use, including livestock watering must be by-passed.
2. This permit does not authorize diversions of water from Whitewood Creek after August 15th of each calendar year, at any time when the creek flow is obviously low, unless written order have been issued by the Chief Engineer. Diversion under this permit shall be in accordance with any written order by the Chief Engineer.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Garland Erbele, Chief Engineer
September 6, 2006

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA
COUNTY OF BUTTE

Cathy Dabney, being duly sworn, says: That the *Belle Fourche Post* or *Belle Fourche Bee* is, and during all times hereafter mentioned, was a legal newspaper as defined in SDCL 17-2-2, as amended, published at Belle Fourche, Butte County, South Dakota, by Lee Enterprises; that affidavit is and, during all of said times, was employed as an Office Manager by the publisher of such newspaper and has personal knowledge of the facts stated in the affidavit; that the notice, order or advertisement, a printed copy of which is attached, was published in said newspaper for successive issues, bearing the following dates:

SEPTEMBER 13	200	6	200
SEPTEMBER 20	200	6	200
	200		200
	200		200
	200		200

that the full amount of the fee charged for publishing the same, to-wit, the sum of \$ _____, insures solely to the benefit of the publisher of said newspaper: that no agreement or understanding for the division of the fee has been made with any person, and that no part of the fee has been agreed to be paid to any other person.

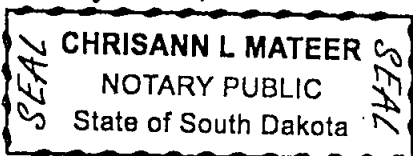
Cathy Dabney
Office Manager

Subscribed and sworn to before me this

2nd day of October, 2006

Chrisann L. Mateer

Notary Public, South Dakota



My Commission Expires Nov. 19, 2007

RECEIVED

Account No. _____ OCT - 3 2006

Total Amount _____ WATER RIGHTS PROGRAM

NOTICE OF APPLICATION

NO. 1176A-1

to Appropriate Water

Notice is given that Larry and Debbie Ellsbury, PO Box 268, Sundance WY 82729 have filed an application for a water permit to amend Water Right No. 1176-1. Water Right No. 1176-1 appropriates 2.16 cubic feet of water per second from White-wood Creek located between points in the NW 1/4 SW 1/4 and the NE 1/4 NW 1/4 Section 34 to irrigate 151 located in the SE 1/4 NE 1/4 Section 33 and W 1/2 Section 34; all in T8N-R5E. This application proposes to transfer acreage to accommodate a center pivot system. The land being irrigated will be located in the SW 1/4, S 1/2 NW 1/4 Section 34-T8N-R5E. No increase in the diversion rate or number of acres irrigated is authorized by this application.

State Law (SDCL 46-5-34) allows an irrigation water right to be severed from one parcel of land and simultaneously transferred to another parcel if it becomes impracticable to use all or any part of the water beneficially or economically for irrigation on the current land. Mr. Ellsbury indicates that the center pivot irrigation is a more efficient method to place the water to beneficial use.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1176A-1

because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by October 2, 2006.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

**Publ. Sept. 13, 20, 2006
Belle Fourche Post**

Instruction to Newspaper - Publish first Notice on September 13, 2006 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 1176A-1 to Appropriate Water

Notice is given that Larry and Debbie Ellsbury, PO Box 268, Sundance WY 82729 have filed an application for a water permit to amend Water Right No. 1176-1. Water Right No. 1176-1 appropriates 2.16 cubic feet of water per second from Whitewood Creek located between points in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 34 to irrigate 151 located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 33 and W $\frac{1}{2}$ Section 34; all in T8N-R5E. This application proposes to transfer acreage to accommodate a center pivot system. The land being irrigated will be located in the SW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ Section 34-T8N-R5E. No increase in the diversion rate or number of acres irrigated is authorized by this application.

State Law (SDCL 46-5-34) allows an irrigation water right to be severed from one parcel of land and simultaneously transferred to another parcel if it becomes impracticable to use all or any part of the water beneficially or economically for irrigation on the current land. Mr. Ellsbury indicates that the center pivot irrigation is a more efficient method to place the water to beneficial use.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1176A-1 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by October 2, 2006.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

September 6, 2006

Belle Fourche Post
PO Box 400
Belle Fourche SD 57717-0400

ATTENTION: Legal Public Notice

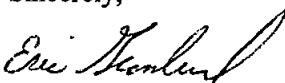
Enclosed is a Notice on Application No. 1176A-1 to amend a water right to be published twice. Please publish the first notice on September 13, 2006 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

Please BILL the APPLICANT for the cost of publication. The APPLICANT is Larry & Debbie Ellsbury, PO Box 268, Sundance WY 82729 (Ph # 307-283-3800).

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

No. 1176A-1

TO: Eric Gronlund
Water Rights Program
Joe Foss Building
Pierre SD 57501-3181

Date _____

We are in receipt of your letter of September 6, 2006 enclosing Notice to Appropriate Water by Application No. 1176A-1 which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPER RIGHT AWAY.

September 6, 2006

Larry & Debbie Ellsbury
PO Box 268
Sundance WY 82729

Dear Mr. & Mrs. Ellsbury:

Water Permit Application No. 1176A-1 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Publisher of the Belle Fourche Post printed at Belle Fourche, SD (Ph # 605-892-2528). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization, the publisher has been instructed to publish your notice once each week for two consecutive weeks. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

OCT 10 2006

Larry & Debbie Ellsbury
PO Box 268
Sundance WY 82729

Dear Mr. & Ms. Ellsbury:

Enclosed is Water Permit No. 1176A-1 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

An informational sheet *Common Water Right Questions* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

NOTICE OF SHUTOFF ORDER

July 20, 2012

TO: LARRY & DEBBIE ELLSBURY
327 FARRALL RD
SUNDANCE WY 82729

FROM: GARLAND ERBELE, Chief Engineer
SD DENR Water Rights Program

SUBJECT: Shutoff Order for Whitewood Creek Water Rights

Shutoff Order for Water Right Nos. 1176-1(1176A-1)

Flow in Whitewood Creek has dropped to the point where domestic use of water, which includes livestock watering from the river, has become a concern. Therefore to protect domestic use, the department is issuing shutoff orders for Whitewood Creek. Effective immediately, no diversions of water from Whitewood are authorized under your water rights.

This order will be rescinded as soon as conditions improve. If conditions do not improve, this order will remain in effect until **December 31, 2012**.

The USGS maintains a website where you can view real-time stream flow measurements at several sites along the river, the web address is:

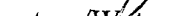
<http://waterdata.usgs.gov/sd/nwis/rt>

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

If you have any questions, please contact Mark Rath (605- 773-3352) or Aaron Tieman (605-394-2229) with the Water Rights Program. Thank you.

I hereby certify that on July 20, 2012, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated July 20, 2012 regarding shutoff orders on Whitewood Creek addressed as stated below:

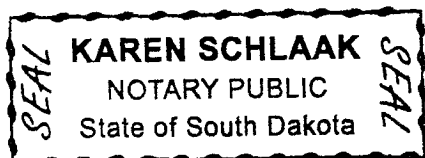
PERMIT_NO	PNO_2	LAST_NAME	FIRST_NAME	ADDRESS2	CITY	STATE	ZIP
1176-1	1176A-1	ELLSBURY	LARRY & DEBBIE	327 FARRALL RD	SUNDANCE	WY	82729
611-1	1190-1	SHUCK	NEIL & FAITH	19269 SHUCK RD	VALE	SD	57788
912-1		ALAN	COREY ROLAND/MARY	20044 WHITEWOOD VALLEY RO	WHITEWOOD	SD	57793
926-1		BERGER	ANN	19688 ASPEN PLACE	WHITEWOOD	SD	57793
928-1		WENNBERG	CHARLES	20164 WHITEWOOD VALLEY RD	WHITEWOOD	SD	57793


Gail Jacobson
Secretary/Water Rights

[illegible]

Sworn to, before me, this 20th day of July, 20 12.

Karen Schlaak
Karen Schlaak
Notary Public
My Commission expires April 1, 2013



Permit Nos. 1176A-1
Upper Cheyenne River - Water District

Report of Examination of Works and/or Application of Water to Beneficial Use

TO: Chief Engineer, Water Rights Program, DENR, Foss Bldg., Pierre, SD 57501

I have on this day, January 8, 2016, made a thorough examination of the water use system constructed by Larry & Debbie Ellsbury, 327 Farral Rd., Sundance, WY 82729 holder of Permit No. 1176A-1 which proposes to amend Water Right No. 1176-1 by transferring irrigated acres to accommodate a center pivot system. Water Right No. 1176-1, bearing the priority of August 10, 1978, authorizes the diversion of 2.16 cubic foot of water per second (cfs), of the waters of the Whitewood Creek for irrigation purposes, in Butte County.

I have to report on the condition of the same as follows:

A. Works used to divert the water:

Tractor powered pump capable of pumping 969 gallons per minute.

B. Works used to transport/apply water to beneficial use:

Water is applied to the irrigated acreage through a 7 tower center pivot and sprinkler system.

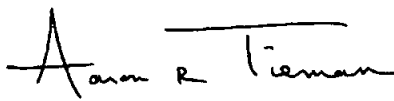
The system is in the following condition good. The point of diversion is located along the segment of the creek (Point A) 1630 feet N and 400 feet W from the SE corner of Section 33, T8N-R5E (NE¼SE¼), Lat/Lon N44.608953/W-103.509788 and (Point B) 575 feet S and 2115 feet E from the NW corner of Section 34, T8N-R5E (NE¼NW¼), Lat/Lon N44.617294/W-103.499430. The works are capable of diverting and conveying to the place of use 2.16 cfs which is to be used for irrigation purposes. Water has been put to beneficial use to the maximum extent and the license should be issued for 2.16 cfs. Water has been put to beneficial use to the maximum extent as follows:

Section 34, T8N-R5E
NW¼ SW¼ - 29.0 acres
NE¼ SW¼ - 39.0 acres
SW¼ SW¼ - 36.0 acres
SE¼ SW¼ - 34.0 acres
SW¼ NW¼ - 10.0 acres
SE¼ NW¼ - 3.0 acres
Total – 151.0 acres

All structures, wells and lands on map Y

Exceptions to compliance are: none

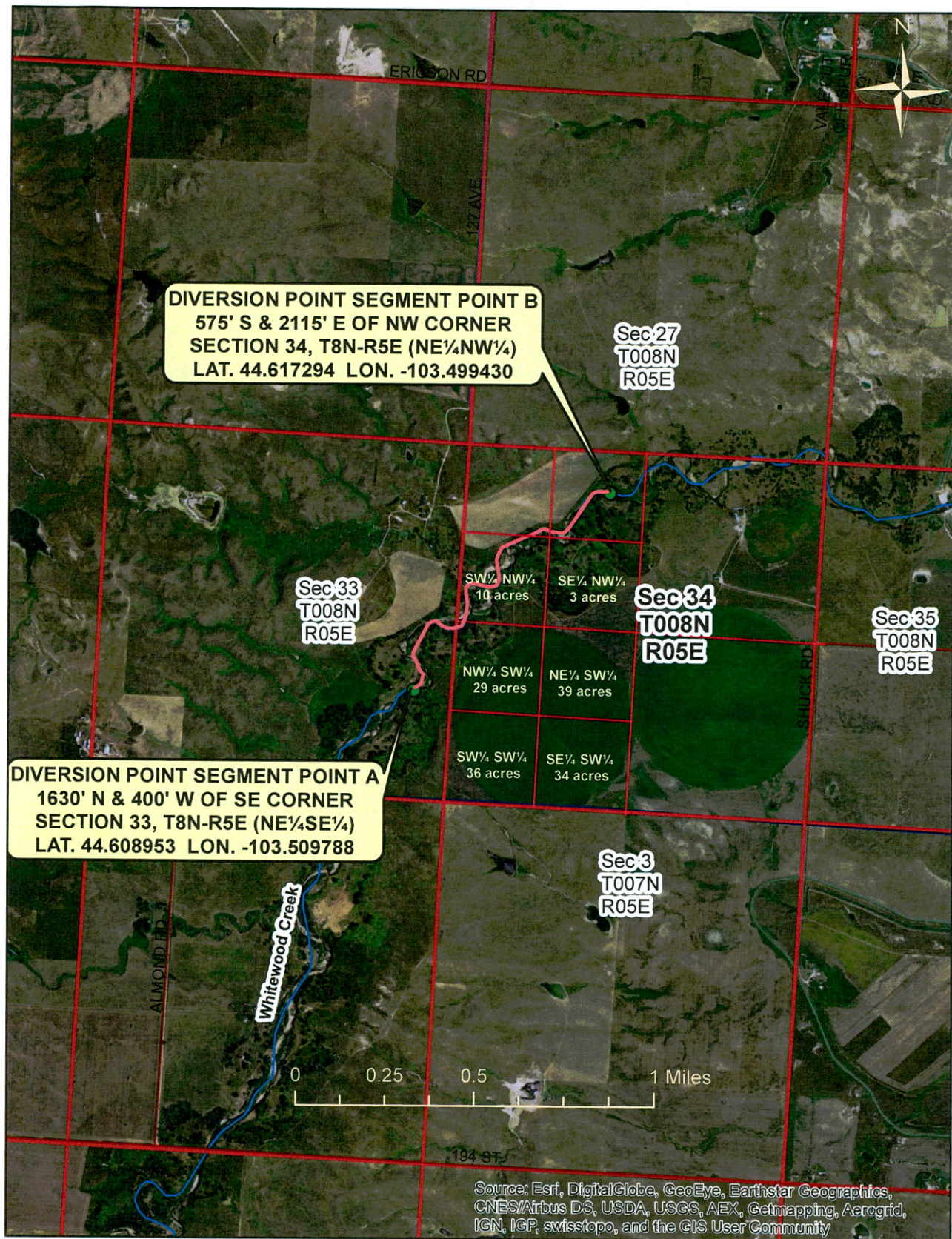
Comments: This permit does not authorize diversions of water from Whitewood Creek after August 15th of each calendar year, at any time when the creek flow is low, unless written orders have been issued by the Chief Engineer.



Aaron Tieman
Natural Resources Engineer II
DENR Water Rights Program

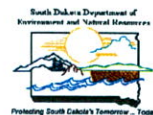
Date Report Completed: June 23, 2016

WATER PERMIT NO. 1176A-1
JUNE 23, 2016



Aaron R. Tieman

Aaron Tieman
Natural Resources Engineer II
DENR Water Rights Program



**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 1176A-1**

(1) Larry & Debbie Ellsbury, 327 Farrall Rd., Sundance WY 82729 made Application No. 1176A-1, July 25, 2006 for a water permit to amend Water Right No. 1176-1 by transferring acreage to accommodate a center pivot system. No. 1176A-1 did not authorize an increase in the diversion rate from Whitewood Creek or the number of acres irrigated. The project is located in Butte County, South Dakota. Permit No. 1176A-1, with a priority date of August 10, 1978 (established under No. 1176-1) was approved October 2, 2006 and issued to the applicants for diversion of water with construction of the described water supply system to be completed on or before October 2, 2010 and the application to beneficial use of water on or before October 2, 2014.

The applicable portions of Water Right No. 1176-1 are incorporated into this Water License No. 1176A-1.

(2) It is certified that the permit holders have complied with the provisions of South Dakota State Law relating to completion of the water supply system and are entitled to divert 2.16 cubic feet of water per second for beneficial use. The location of the diversion points are on Whitewood Creek between "**Point A**" 1,630 feet N and 400 feet W of the SE corner of Section 33, T8N, R5E (NE $\frac{1}{4}$ SE $\frac{1}{4}$) and "**Point B**" 575 feet S and 2,115 feet E of the NW corner of Section 34, T8N, R5E (NE $\frac{1}{4}$ NW $\frac{1}{4}$).

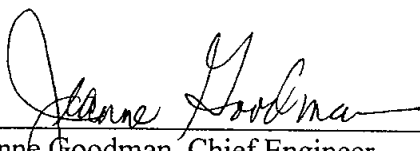
(3) The permit holders have complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate the following land:

Section 34, T8N, R5E			
NW $\frac{1}{4}$ SW $\frac{1}{4}$	29 acres	SW $\frac{1}{4}$ NW $\frac{1}{4}$	10 acres
NE $\frac{1}{4}$ SW $\frac{1}{4}$	39 acres	SE $\frac{1}{4}$ NW $\frac{1}{4}$	3 acres
SW $\frac{1}{4}$ SW $\frac{1}{4}$	36 acres		
SE $\frac{1}{4}$ SW $\frac{1}{4}$	34 acres	Total	151 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 Larry & Debbie Ellsbury, 327 Farrall Rd., Sundance WY 82729 the holders and/or owners of Incorporated Water Right No. 1176A-1 are issued a license to appropriate water, the right to use 2.16 cubic feet of water per second from Whitewood Creek with a priority date of August 10, 1978 from the locations specified in (2) of this license for irrigation purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 1176A-1 and subject to the following qualifications:

- Low flows as needed for downstream domestic use, including livestock water and prior water rights must be bypassed.
- This permit does not authorize diversions of water from Whitewood Creek after August 15th of each calendar year or at any time when the creek flow is obviously low unless written orders have been issued by the Chief Engineer. Diversion under this permit shall be in accordance with any written order by the Chief Engineer.
- This permit is approved subject to the irrigation water use questionnaire being submitted each year.



Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JUN 29 2016

date



1176A-1



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

JUN 29 2016

1176-1
1176A-1

Larry & Debbie Ellsbury
327 Farrall Rd
Sundance WY 82729

Dear Mr. & Mrs. Ellsbury:

Enclosed is Water License No. 1176A-1. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

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

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

Note: Upon licensing, the applicable portions of Water Right No. 1176-1 were incorporated into Water License No. 1176A-1.

1176A-1



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.denr.sd.gov

November 7, 2017

1176A-1

Larry & Debbie Ellsbury
327 Farrall Rd
Sundance WY 82729

Dear Mr. & Mrs. Ellsbury:

Thank you for calling concerning the change needed for Water Right No. 1176A-1.

Enclosed is a partially completed Notice of Transfer of Ownership form for filing an ownership change. Upon completion, please sign the form and return it to our office with a required filing fee of \$50.00. The check or money order for the fee can be made payable to the Water Rights Program.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Genny McMath".

Genny McMath
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

enclosure

RECEIVED

NOV 30 2017

WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

To: Chief Engineer
Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

No. 1176A-1

Date: 11-10-17

I/We request that Water Right No. 1176A-1

formerly owned by: Larry & Debbie Ellsbury, 327 Farrall Rd, Sundance WY 82729

be transferred to: (name & address) Wyodak Ranches, LLC

327 Farrall Rd, Sundance WY 82729

Telephone No. 307-283-3800

Title to the following described land(s)/property has been transferred as described above:

151 acres – SW ¼ and S ½ NW ¼ Section 34, T8N, R5E

I/We understand that the validity of Water Right No. 1176A-1 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

A fee of Fifty Dollars (\$50.00) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

I/We Wyodak Ranches LLC, the new owner, certify that the above information is true and correct.

Larry Ellsbury, manager
(Signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date December 4, 20 17

RECEIVED OF Wyodak Ranches LLC 327 Farrall Road Sundance, WY 82729

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____	50	00
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No. **08381**

By Jeanne Goodman
Chief Engineer *vm*



South Dakota Secretary of State

SHANTEL KREBS

Filing Information

Name: **WyoDak Ranches LLC**

General Information

SOS Business ID **FA129317**
Filing Type: Limited Liability Company - Foreign
 01/03/2017
Status: Good Standing
Duration Term: Perpetual
Business Type: Farm
Managed By: Member-Managed

Registered Agent Address

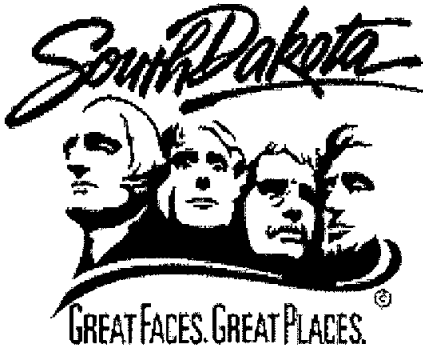
LESTER NIES
109 MAIN STREET
SPEARFISH, SD 57783

Principal Address

327 FARRALL RD
SUNDANCE, WY 82729-9520

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

<u>Date Filed</u>	<u>Filing Description</u>	<u>Image #</u>
01/03/2017	Initial Filing	B0020-2235
01/03/2017	Farm Qualification	B0026-4205



1176A-1

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.denr.sd.gov

December 6, 2017

1176A-1

Larry Ellsbury, Manager
WyoDak Ranches LLC
327 Farrall Rd
Sundance WY 82729

Dear Mr. Ellsbury:

I am writing to acknowledge receipt of the transfer of ownership form and filing fee you submitted for filing an ownership change on Water Right No. 1176A-1.

The ownership change has been completed. Water Right No. 1176A-1 formerly listed in the names of Larry & Debby Ellsbury is not listed in the name of WyoDak Ranches LLC.

Enclosed for your records is Receipt No. 08381 in the amount of \$50 which you paid for filing the ownership change. If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath".

Genny McMath
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

June 18, 2026

Dear Whitewood Creek Water Right Holder:

I am writing to the water right holders and operators who use water from Whitewood Creek regarding below normal streamflow for this time of year. South Dakota law gives the highest priority to domestic use, including livestock watering. Historically, there has been generally adequate water available to meet both domestic use and other needs at this time of year. However, once water availability reaches critically low levels, water use may begin to interfere with domestic use and senior water rights. If water levels become critically low, the Department may be forced to issue shutoff orders to protect domestic use, including livestock watering, and those water rights that are most senior.

This is not a shutoff order. We are only speculating that shutoff orders may become necessary, if severe drought conditions persist. This letter is intended to give you advanced notice shutoff orders may be necessary this year. If shutoff orders are issued, you will receive another letter from the Department. In the meantime, water right holders can help by closely monitoring water usage to minimize use when possible and avoid any waste of water.

If you are interested, the US Geological Survey has an Internet site showing current flows at stream gauging stations across the state, including several gages on Whitewood Creek. To view the latest real-time stream flow, go to: <https://waterdata.usgs.gov/state/south-dakota/>

There is not a set shutoff based on flow in Whitewood Creek. The last time shutoffs orders were issued for Whitewood Creek was in 2012. Discharges from the Whitewood Creek Near Whitewood, SD - USGS-06436190 gage at that time were ranging from 4.5 to 5.0 cfs. However, that is not a guarantee of when a shutoff may occur since flows needed for domestic use and senior water rights can vary over time.

Thank you for your cooperation. If you have any questions, please contact Nakaila Steen at (605) 394-2229, or Whitney Kilts or myself at (605) 773-3352 with the Water Rights Program.

Sincerely,

Adam Mathiowetz, Acting Chief Engineer
Water Rights Program