

WATER PERMIT NO. VR 1645-1

Name of Applicant: B. Jr. & Ernie Melum

Address: HC 62, Box 5, Camp Crook, SD 57724

Phone: 406 972-4545

Amount of Water Claimed: 2.18 cfs

Total Acres: 153

Source of Water Supply: dry draw runoff

Water to be used for: irrigation

County: Harding

Type of Waste Disposal System: N/A

Location: 7 miles south and 2 miles east of Camp Crook

PRIORITY

Date Received: Oct. 1996

Fee: \$ 15

Corrected Application Received:

Period of Annual Use: Jan 1 - Dec 31

Remarks:

Diversion Point: SW1/4 SW1/4, NE 1/4 SW1/4

Section 17 and Lot 4 Section 18; all in T17N, R1E

Land to be Irrigated: SE1/4 NW1/4, E1/2 SW1/4,

SW1/4 NE1/4 and SE1/4 Section 34 and Lot 3

and Lot 4 of Section 35; all in T4S, R62E, in

Carter County, Montana

Depth of Well: N/A

Well Driller: N/A

Remarks: XX

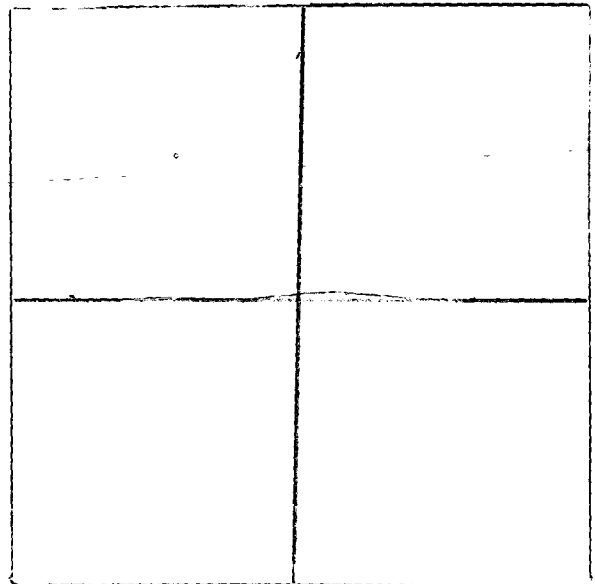
Type of Map: ASCS aerial

Prepared by: Ron Duvall

Reviewed and the Number Assigned on: Oct. 15, 1996

By: Eric Gronlund

Notice of Hearing - date to intervene: _____



STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 1645-1 FOR IRRIGATION

(1) B. Jr. and Ernie Melum, HC 62 Box 5, Camp Crook SD 57724 made Application No. 1645-1, October 15, 1996 for validation of a vested right claim to appropriate 2.18 cubic feet of water per second from dry draw runoff, Harding County, South Dakota, for irrigation purposes. Vested Water Right No. 1645-1 was validated November 25, 1996 with a priority date of June 1, 1951. Construction of the described water supply system and application of water to beneficial use has been completed and complies with applicable provisions of South Dakota State Law.

All of the diversion points are located in South Dakota and divert dry draw runoff. The acreage is located in Montana and is irrigated via a water spreading system including ditches and dikes to spread water. Inclusion of the acreage on the vested right is only for purposes of identifying the type of beneficial use and how much water could be claimed. Small impoundments in Montana are also used for stock watering.

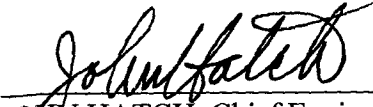
(2) The vested right owners are entitled to divert 2.18 cubic feet of water per second for beneficial use. The location of the diversion points are: 18 inch culvert: 1,300 feet north from the southwest corner of Section 18; 18 inch culvert: 1,250 feet north and 550 feet east from the southwest corner of Section 17; 12 inch culvert: 2,350 feet north and 1,900 feet east from the southwest corner of Section 17; Oleson dam: 600 feet south and 2,400 feet east of the northwest corner of Section 20; all in T17N-R1E.

The location of the irrigated acreage is: **all in T4S-R62W**

Section 34	SE 1/4 NW 1/4	10 acres	Section 34	SW 1/4 SE 1/4	5 acres
	NE 1/4 SW 1/4	36 acres		NE 1/4 SE 1/4	20 acres
	SE 1/4 SW 1/4	5 acres		SE 1/4 SE 1/4	9 acres
	SW 1/4 NE 1/4	3 acres	Section 35	Lot 3	35 acres
	NW 1/4 SE 1/4	21 acres		Lot 4	9 acres

Total 153 acres

(3) Pursuant to Section 46-5-30.1 B. Jr. and Ernie Melum, HC 62 Box 5, Camp Crook SD 57724 the holders and/or owners of Vested Water Right No. 1645-1 are issued a license to appropriate 2.18 cubic feet of water per second from dry draw runoff with a priority date of June 1, 1951 from the location specified in (2) of this license. The water is to be used for the purpose of irrigation and livestock watering. This license is subject to any limitations, conditions or qualifications listed in Vested Water Right No. 1645-1 and subject to South Dakota State Law.


JOHN HATCH, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JAN 21 1997

date



SOUTH DAKOTA

VESTED WATER RIGHT NO. 1645-1 FOR IRRIGATION

Date of Receipt of Claim October 15, 1996.

Date of Validation November 25, 1996.

The Chief Engineer, on behalf of the Water Management Board validated Vested Water Right Claim No. 1645-1 for B. Jr. and Ernie Melum, HC 62, Box 5, Camp Crook SD. 57724 irrigation purposes for with the following limitations, conditions and qualifications:

1. Vested Water Right No. 1645-1 appropriates 2.18 cubic feet of water per second from dry draw runoff at points located in the SW 1/4 SW 1/4, NE 1/4 SW 1/4 Section 17 and Lot 4 Section 18; all in T17N-R1E to irrigate 153 acres via waterspreading. The Oleson dry draw dam (22 acre feet storage capacity) located in the NE 1/4 NW 1/4 Section 20-T17N-R1E serves to divert water to the culvert in the NE 1/4 SW 1/4 Section 17-T17N-R1E which then diverts a portion of the flow toward the irrigated acreage. The irrigated acres are located in Carter County Montana in the SE 1/4 NW 1/4, E 1/2 SW 1/4, SW 1/4 NE 1/4 and SE 1/4 Section 34 and Lot 3 and Lot 4 Section 35; all in T4S-R62E. This acreage is described solely for determining the amount of water that may be claimed pursuant to SDCL 46-5-6. Any water right needed from the State of Montana for irrigation of the described acreage or for stock watering is not voided or replaced by this claim. Water is also used for stockwatering.
2. The appropriation may not exceed the amount of water needed for beneficial use for irrigation and livestock watering. The appropriation may not exceed 3 acre feet per irrigated acre per year. The water is to be used during the following annual period: January 1 - December 31.
3. The priority date of the Vested Water Right is June 1, 1951.
4. The water use system has been constructed and water has been applied to beneficial use.
5. Water Rights obtained in compliance with the laws of the State of South Dakota must not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

By: John Hatch
John Hatch, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JAN 21 1997

date



Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>1645-1</u>	(office use only) Hydrologic Unit <u>10110201</u>
	Basin <u>Little Missouri</u>	
	Newspaper <u>Nation's Center News, Buffalo, SD</u>	



Application For Permit To Appropriate Water For Irrigation

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

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.) Water From
diversion points used for stockwater besides irrigation

1. Name of Applicant B. Jr. & Ernie Melum Phone (406) 972-4545
(check one) ☒ Owner Tenant/lessee
Mailing Address HC 62, Box 5, Camp Crook State SD 57724
(Street, RR. or Box) (Zip Code)

2. Amount of water claimed 2.18 *CFS or **GPM ***AF Total Acreage 153
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply dry draw runoff Oleson dry draw: NE 1/4 NW 1/4 Section 20-T17N-R1E

4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) 1,300 feet N from SW corner sec
18 (Lot 4); 550 feet E and 1,250 feet N (SW 1/4 SW 1/4); 1,900 feet E and 2,350 feet N (NE 1/4 SW 1/4);
both from the SW corner of section 17; all in T17N-R1E County Harding

5. County or counties where water will be used Carter county, Montana

6. Annual period during which water is to be used When available -- Jan 1 - Dec 31

7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
See Attachment A			

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

A vested right is claimed for diversions made in South Dakota to irrigate 153 acres located in Carter county, Montana.

STATE OF SOUTH DAKOTA) SS

County of Harding)

We Ernie Melum
B. Jr. Melum

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)

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

Signed Ernie Melum
B. Jr. Melum

Subscribed and sworn to before me this 10 day of October 19 96

Lail E Turbville

Notary Public

Attachment A

The irrigated acreage described below is located in Carter county, Montana. This acreage is described as part of this claim solely for purposes of determining the amount of water that may be claimed (1 cfs per 70 acres) pursuant to SDCL 46-5-6. Validation of this claim for diversion of water in South Dakota does not replace or void any water right that may be needed from the state of Montana to irrigate the acreage described below.

Land Description	Acres	Land Description	Acres
SE $\frac{1}{4}$ NW $\frac{1}{4}$ section 34-T4S-R62E	10	SW $\frac{1}{4}$ SE $\frac{1}{4}$ section 34-T4S-R62E	5
NE $\frac{1}{4}$ SW $\frac{1}{4}$ section 34-T4S-R62E	36	NE $\frac{1}{4}$ SE $\frac{1}{4}$ section 34-T4S-R62E	20
SE $\frac{1}{4}$ SW $\frac{1}{4}$ section 34-T4S-R62E	5	SE $\frac{1}{4}$ SE $\frac{1}{4}$ section 34-T4S-R62E	9
SW $\frac{1}{4}$ NE $\frac{1}{4}$ section 34-T4S-R62E	3	Lot 3 section 35-T4S-R62E	35
NW $\frac{1}{4}$ SE $\frac{1}{4}$ section 34-T4S-R62E	21	Lot 4 section 35-T4S-R62E	9

Total Acreage **153 acres**



Affidavit of Water Use

Form 2B

(Type or Print in Ink)

Note: This Form is supplemental to Form 2 and is to be used when an affidavit is needed to document historical water use, primarily with vested right claims.

Affidavit Of Construction Of Water Use System And Application Of Water To Beneficial Use



Name of Applicant (Same as Form 2) B. Jr. & Ernie Melum

Mailing Address HC 62, Box 5, Camp Crook SD 57724
(Street, RR or Box) (City) (State) (Zip Code)

A. Notice of Appropriation _____ Date of Posting _____

Date of Recording _____ Recording Date _____

B. Date of start of construction of water supply system 1951

C. Date that water was first applied to beneficial use June 1951

D. Name of owner of original water supply system State of South Dakota (property owner)

E. Amount of water originally applied to beneficial use Runoff available for water spreading

F. Present use of water - amount of water now being used Runoff available for water spreading

Date that this water was first used June 1951

G. Chronological History of Water Use

My grandfather came to this place and set claim in 1894. The place where we live. They built a dam up this draw with flume in bottom to irrigate fields below. In the 1930s my father built a dam up this draw by big hill for stock water and to flood fields. As time went on he built more spreader dikes to spread the water better.

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

State of South Dakota)
SS

County of Harding)

We Ernie Melum

X, B. Jr. Melum

(print or type)

the applicant, certify that I have read the foregoing and that the matters therein are true.

Signed

Ernie Melum
B. Jr. Melum

Subscribed and sworn to before me

October 10, 19 96

Lail E Turberville

Notary Public

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

_____, 19_____
(Print Name)

_____, 19_____
(Print Name)

RECEIPT

415149

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____, October 15, 19 96

RECEIVED OF B. Jr. and Ernie Melum, HC 62, Box 5, Camp Crook, SD 57724

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

Fee for Application for Permit No. <u>1645-1</u> to Appropriate Water, to construct and to put water to beneficial use _____	15	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 Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	15 00

By John Hatch
Chief Engineer

NOTICE OF APPROPRIATION OF WATER RIGHT

STATE OF MONTANA } ss.
County of Carter

KNOW ALL MEN BY THESE PRESENTS, That the undersigned,

B. A. Lolum

of

Capitol

Montana, did on

the 13 day of March, 1950 appropriate and claim from the natural flow and flood, seepage, and waste waters of Tributary to Little Missouri River

20

cubic feet per second of water to be used for the irrigation of approximately 200 acres of land described as follows: SE 1/4, E 1/4, SE 1/4, SW 1/4, Section 34 Twp. 4S Rge. 62E Montana PM

4S Rge. 62E Montana PM

or for other beneficial purposes or uses, to-wit: Stock Water Dam

The point of diversion for the water hereby claimed is SE 1/4, Section 34

Twp. 4S Rge. 62E Montana PM

and a copy of this Notice of Appropriation was on the 13 day of March, 1950 posted in a conspicuous place at said point of diversion.

Said water is to be diverted by means of a Dam

and conveyed to the point of intended use by Dikes ~~and ditch~~ of approximately the following dimensions: Bottom width 15 feet; top width 3 feet; depth 3 feet; and built on a grade of 0 foot per 100 feet.

Date of Appropriation March 13, 1950

B. A. Lolum
Name of Appropriator.

STATE OF MONTANA } ss.
County of Carter

B. A. Melum

being first duly sworn, each for himself, says: That he is
the appropriator and claimant named in the foregoing Notice of Appropriation; that he
has read the said Notice of Appropriation, and knows the contents thereof and that
all the matters and statements contained therein are true.

B. A. Melum

Subscribed and sworn to before me this 22 day of March, 1950



R. A. Hickerson
Notary Public for the State of Montana

Residing at Exalaka, Montana

My Commission Expires July 13, 1951

81664

WATER RIGHT LOCATION

B. A. Melum

The Public

STATE OF MONTANA } ss.
County of Carter

I hereby certify that the within instrument was filed for record in this office on the 22 day of March

A.D. 1950, at 4:30 o'clock P. M., and recorded on Page 4 in Book One of Water Rights Records of

Carter County, Montana

Attest my hand and Seal of said County

R. A. Hickerson
County Recorder

Deputy Recorder

B. A. Melum, Capitol, Mont.
Fee: \$2.00

WARRANTY DEED RECORD NO. 30
HARDING COUNTY, SOUTH DAKOTA

38201

MITCHELL PUB. CO. MITCHELL, S. DAK.

Oliver Oleson (a married man) and Aino M. Oleson (his wife)

Grantors.....

of Harding County, State of South Dakota for and in
consideration of One dollar and other valuable considerations DOLLARS,

GRANTS, CONVEYS AND WARRANTS TO The County of Harding (a public corporation of the
State of South Dakota)

Grantee....., of Buffalo, South Dakota P. O., the following described
real estate in the County of Harding, in the State of South Dakota:

A strip of land 66 feet wide, situated in the S $\frac{1}{2}$ SE $\frac{1}{4}$ of Sec. 17, T. 17 N., R. 1 E.
of B.H.M., and having the following described center-line Traverse: Beginning at
a point on the north and south quarter-line of the said Sec. 17 which said point lies
1138.3 feet north of the south quarter-corner of the said Sec. 17 and running; Thence
S. 27°16' E. for a distance of 3635.6 feet to a point on the east line of the said Sec.
17 which said point lies 1012.6 feet north of the southeast corner of the said Sec. 17,
T. 17 N., R. 1 E. B.H.M.

The above described tract, containing 4.0 acres, more or less, to be used as a
public highway.

Dated this..... 2 day of January 19..... 51

Oliver Oleson

Aino M. Oleson

STATE OF South Dakota } ss.
County of Harding

the

On this 2 day of Jan., 1951, before me, James A. Maney, the undersigned officer,
personally appeared Oliver Oleson and Aino M. Oleson (husband and wife), known to
me or satisfactorily proven to be the persons whose names are subscribed to the with-
in instrument and acknowledged that they executed the same for the purposes therein
contained.

In witness whereof I hereunto set my hand and official seal.

SEAL

James A. Maney

Notary Public

Title of Officer

STATE OF SOUTH DAKOTA, County of Harding, ss.

Filed for record this..... 8th day of January 19..... 51, at..... 1 o'clock and 30
minutes..... P..... M., and recorded in Book 30 of Deeds on Page 292

Alma J. Mort



TEMPORARY PRELIMINARY DECREE
LITTLE MISSOURI RIVER ABOVE LITTLE BEAVER CREEK
ABSTRACT OF WATER RIGHT

FOR OWNER: MELUM B JUNIOR
CAPITOL MONTANA RT
CAMP CROOK SD 57724

WATER RIGHT NUMBER 32F -W-038359-00

OWNERS: MELUM B JUNIOR
CAPITOL MONTANA RT
CAMP CROOK SD 57724

MELUM SHIRLEY A
CAPITOL MONTANA RT
CAMP CROOK SD 57724

PRIORITY DATE: MAR 13, 1950

FLOW RATE:

VOLUME: 190.00 ACRE FEET PER YEAR

STANDARDS ON VOLUMES FOUND IN THE FINDINGS OF FACT ARE ONLY GUIDELINES. THE VOLUME CALCULATED USING THESE STANDARDS MAY BE MODIFIED BY THE COURT ON INDIVIDUAL OBJECTION.

CLIMATIC AREA: 2

SOURCE: UNNAMED TRIBUTARY OF LITTLE MISSOURI RIVER

MAXIMUM ACRES: 190.00

PURPOSE (USE): IRRIGATION

PERIOD OF USE: JAN 1 TO DEC 31

POINTS OF DIVERSION AND MEANS OF DIVERSION:

LOT BLK QTR SEC SEC TWP RGE COUNTY

NESESE 34 04S 62E CARTER

DAM

RESERVOIR AT NESESE 34 04S 62E

PLACE OF USE FOR IRRIGATION

	ACRES		LOT	BLK	QTR	SEC	SEC	TWP	RGE	COUNTY
001	76.00						SE	34	04S	62E CARTER
002	30.00	(GOVT)	2				W2	35	04S	62E CARTER
003	18.00						S2S2NE	34	04S	62E CARTER
004	48.00						E2SW	34	04S	62E CARTER
005	8.00						S2SENW	34	04S	62E CARTER
006	10.00	(GOVT)	003				W2	35	04S	62E CARTER
TOTAL	190.00									

REMARKS: THIS CLAIM PRESENTS ISSUES OF FACT AND LAW THAT MAY BE ADDRESSED AT THE OBJECTION STAGE. IT APPEARS THAT 162 ACRES ARE ACTUALLY IRRIGATED AND PROBLEMS COULD EXIST WITH FLOW RATE AND VOLUME.

SEE GENERAL FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR FURTHER DELINEATION OF THIS RIGHT.



TEMPORARY PRELIMINARY DECREE
LITTLE MISSOURI RIVER ABOVE LITTLE BEAVER CREEK
ABSTRACT OF WATER RIGHT

FOR OWNER: MELUM B JUNIOR
CAPITOL MONTANA RT
CAMP CROOK SD 57724

WATER RIGHT NUMBER 39E -W-038330-00

OWNERS: MELUM SHIRLEY A
CAPITOL MONTANA RT
CAMP CROOK SD 57724

MELUM B JUNIOR
CAPITOL MONTANA RT
CAMP CROOK SD 57724

PRIORITY DATE: MAR 13, 1950

FLOW RATE:

RUNOFF

VOLUME: 30 GALLONS PER DAY PER ANIMAL UNIT

THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCKWATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORIC USE OF THE AREA SERVICED BY THIS WATER SOURCE.

SOURCE: UNNAMED TRIBUTARY OF LITTLE MISSOURI RIVER

PURPOSE (USE): STOCK

PERIOD OF USE: JAN 1 TO DEC 31

POINTS OF DIVERSION AND MEANS OF DIVERSION:

LOT BLK QTR SEC SEC TWP RGE COUNTY

NESESE 34 04S 62E CARTER

DAM

RESERVOIR AT NESESE 34 04S 62E

PLACE OF USE FOR STOCK

ACRES LOT BLK QTR SEC SEC TWP RGE COUNTY

001

NESESE 34 04S 62E CARTER

REMARKS: THIS RIGHT IS ALSO USED FOR WILDLIFE.

SEE GENERAL FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR FURTHER DELINEATION OF THIS RIGHT.



1
My Grandfather came here to
the very same place in 1884 and
settled.



He and my Great grandfather built
a dam above where he lived or we
do now. It was built by team
and slip it had a wooden flume
in bottom that irrigated the fields
on the bottom west of dam. and
when the dam was overflowing it
went to a high spot on the field
and spread. My Dad kept this up
for years.

Then he built a dam with 4 boxes
and freezes in 1930^s by big
hill that is the same draw and
this spillway went north to
to fields & flooded them. As
time went on he built more dikes

He filed for a water right in
1950 Raymond Sheldon Attorney
Eureka Montana.

In 1950 or so Harding County
S.D. changed the road. It had been
going around this state land.
They changed it so it came straight
from Montana road going east to
S. D. road. When they did this
it changed the flow of our drainage
& remember the Highway representative
from S. D. coming and talking
to Dad. Dad told him he had
a water right. He said no question
but we will make it flow your
way as before. So they put in
culverts & plugs to make it
flow north as before. It worked
fine. In 1951 or so as we
were coming from Belle
Fourche one evening there was
a dirt worker machine there
in middle of state land.

The next day They were at work. Dad and I went out to see what was going on.

The owner of land was there

Dad said you arent building a dike on my water rights are you? No he said just a grade. OK. we went home. Next day grade dike was built also a dike below.

A few days later Dad talked to owner again and said he would cut out lower dike That was all right with him.

Dad had the dirt worker that put it in cut it out the next year when he came back with his patrol to build a road for us. and its been the same ever since.

#

Then a year ago I was talking to the neighbor who owns it now. I said very little water gets to the north end of our field and was wondering if it would be all right if we put in another pipe.

He said it would be O.K.

So this fall Emile went to Gerald Olsons to tell him what we were doing. He didn't say any thing but it was O.K.

Then when we had the pipe about in George Olson came all mad about it. So to keep piece we took it out.

Junior Melum
Sep 13-1996



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 2, 1996

B. Jr. And Ernie Melum
HC 62, Box 5
Camp Crook SD 57724

Gentlemen:

I am writing in response to my investigation of your vested right claim on September 20, 1996. Thank you for taking some time to show me your water spreading irrigation project.

As we discussed, I have drafted and enclosed a vested right claim for your review. I have also enclosed a copy of the map outlining the irrigated areas in Montana and the location of the diversion points in South Dakota. Please carefully review the map and vested right claim to ensure that both are correct. Extra attention should be paid to the Lots (3 and 4) referenced in section 35. I did not have access to a Montana plat map and referenced the lot numbers using standard surveying practices.

As part of the application, I have enclosed a partially-completed "Affidavit of Water Use" which is used to establish a priority date for your claim. On October 1, 1996, I discussed the priority date situation with Gerald Oleson. Mr. Oleson was agreeable with you and the Oleson's claiming the same priority date. Based on the date of the document transferring the right-of-way to the county for the east/west road, the Oleson's are claiming a priority date of June 1951. I have placed this date on the partially-completed Affidavit. Please complete question 1G to the extent possible and attach a copy of any information supporting the claimed priority date. I would also appreciate receiving a copy of the irrigation water right issued to you by the state of Montana.

After reviewing the claim, affidavit, and map, please make any needed changes and sign both the claim and affidavit in the presence of a notary public. The claim/affidavit/map then need to be returned to the Water Rights Program with the \$15.00 filing fee. Upon receiving your completed claim, we will begin the process of scheduling your claim for a Water Management Board hearing.

If you have any questions, please contact me at (605) 773-3352. I will try to assist you in any way possible.

Sincerely,

Ron Duvall
Natural Resources Engineer
Water Rights Program

enclosures

10/11/96

Ron Durall

Hope everything you
need is here. Thanks for
your help with everything.

Sincerely

Ernie Melum





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 25, 1996

Montana Dept of Natural Resources & Conservation
Billings Regional Office
1537 Avenue D, Suite 121
Billings, MT 59102

Dear Sir:

Please find enclosed a copy of the report, recommendation and notice of hearing for Vested Water Right Application No. 1645-1. The notice of hearing is scheduled to be published in the Nation's Center News in Buffalo, South Dakota on November 6 and 13, 1996. This notice is being sent to the Montana DNRC because the irrigated acres are located in Carter County, Montana. The diversion point is located in South Dakota.

If I have inadvertently sent this notice to the wrong regional office, please forward to the proper office. If you have any questions, please feel free to contact Ron Duvall at (605) 773-3352.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352

enclosure

**RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED WATER
RIGHT APPLICATION NO. 1645-1, B. Jr. and Ernie Melum**

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 Validation of Vested Water Right Application No. 1645-1, B. Jr. and Ernie Melum, HC 62, Box 5, Camp Crook, SD 57724.

The Chief Engineer is recommending VALIDATION of Application No. 1645-1 for 2.18 cfs because 1) water has been appropriated as described for irrigation and stockwatering use with a priority date of June 1, 1951, 2) the use has been developed without unlawful impairment of existing rights, 3) the use is a beneficial use and 4) in the public interest.

See report on application for additional information.

A handwritten signature in black ink, appearing to read "John Hatch", written in a cursive style.

JOHN HATCH, Chief Engineer
October 23, 1996

Report on Vested Water Right Claim No. 1645-1

B. Jr. and Ernie Melum

October 15, 1996

Vested Water Right Claim No. 1645-1, filed by B. Jr. and Ernie Melum, claims 2.18 cubic feet of water per second from dry draws to irrigate 153 acres and for stock watering with a June 1, 1951 priority date. The dry draw diversion points are culverts located in Lot 4 section 18; SW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ section 17; all in T17N-R1E (Harding county) with the irrigated acreage located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$, section 34; Lots 3 & 4, section 35; all in T4S-R62E, Carter county, Montana. The Oleson dry draw dam (22 acre-feet storage capacity) located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ section 20-T17N-R1E serves to divert water to the culvert in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ section 17-T17N-R1E which then diverts a portion of the flow toward the irrigated acreage. Two of the three culverts acting as diversion points have small embankments in place to direct flows into the culverts.

Background

On September 4, 1996, Charles and Gerald Oleson called concerning a dispute over placement of an additional culvert (NE $\frac{1}{4}$ SW $\frac{1}{4}$ section 17-T17N-R1E) in the access road to the Oleson's ranch. The access road crosses land owned by School and Public Lands in the S $\frac{1}{2}$ section 17 and leased by Oliver Leroy Oleson. According to Charles and Gerald Oleson, a second larger culvert was placed in the access road for purposes of allowing more water to flow to the west to irrigate property owned by B. Jr. and Ernie Melum. The Oleson's were concerned that the additional culvert would reduce the amount of water available for irrigation of the 30 acres described on Claim No. 1643-1, George and Gerald Oleson.

Later on September 4, 1996, Ernie Melum called concerning the existence of a water right for irrigation of the Melum property described on Claim No. 1645-1. Mr. Melum indicated that a Montana water right existed for the irrigation and that permission had been granted by Oliver Leroy Oleson, the lessee, to install the additional culvert. I informed both Mr. Melum and the Oleson's that I could not locate a South Dakota water right for either party to irrigate the areas now described on their respective claims. The additional culvert was removed the same day that it was installed.

Investigation

On September 20, 1996, I completed an onsite investigation of the irrigation systems described on Claim Nos. 1645-1 and 1643-1. The irrigated area and diversion point locations all exist as described on No. 1645-1. Small impoundments are located in Montana for stock watering. Part of the investigation involved determining what priority date should be claimed. According to Gerald and Charles Oleson, the diversion of water from the dam described on Claim No. 1643-1 began when the east/west road on the boundary between section 17 and 20 was moved north about one quarter mile. A document was located by Gerald Oleson in the Harding County courthouse transferring the right-of-way for the road to the county in January 1951. Based upon this date, Claim No. 1643-1 was filed with a claimed priority date of June 1951 when it was believed that the road was moved and the dam modified to bring water north.

Two of the three diversion points on Claim No. 1645-1 are culverts (18 inch) through the east/west road which was moved to the north and the third culvert (12 inch) is located in the access road (School and Public Lands property) to the Oleson ranch. It is believed that the access road to the ranch was modified at the same time as the east/west road including placement of the 12 inch culvert

in the access road. Consequently, the Melum's claimed the same June 1951 priority date for irrigation of the area described on Claim No. 1645-1.

Water Source

The source of water is dry draws which are tributaries to the Little Missouri River with the diversion points located approximately one mile to one and one half miles from the river. Over 900 acres of drainage are located above the diversion points.

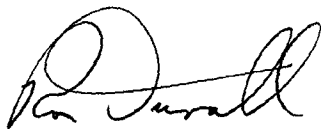
A majority of the water diverted at the culvert diversion point in the access road (NE $\frac{1}{4}$ SW $\frac{1}{4}$ section 17) is available due to diversions by the Oleson dam located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ section 20-T17N-R1E. A small embankment upstream of the culvert serves to assist with diverting a portion of available flows through the culvert. According to Gerald Oleson, the culvert also serves to minimize erosion along the access road by reducing the amount of water flowing north along the road.

Review of Existing Water Rights

There are 16 irrigation water rights and one irrigation water permit located on the Little Missouri River downstream from the claimed diversion point. The total acreage and water appropriated by the 17 water permit/rights is 3,192 acres and 37.03 cubic feet of water per second (cfs), respectively. Of these totals, irrigation of 704 acres with an appropriation of 10.03 cfs predate the June 1951 priority dated claimed on No. 1645-1.

Conclusions

- Vested Water Right Claim No. 1645-1 claims an appropriation of 2.18 cfs from dry draws to irrigate 153 acres and for stock watering. An on-site investigation of the claim found the irrigation system and stock watering developed as specified on the claim.
- Based on the Affidavit of Water Use and other supporting information concerning construction of the irrigation system, a priority date of June 1, 1951 should be assigned to the claim.
- No record exists of water use complaints concerning the claimed water use other than the aforementioned dispute leading to the filing of Claim Nos. 1645-1 and 1643-1.
- Pursuant to SDCL 46-1-13, a water right may be issued for uses outside of South Dakota on the same basis and subject to the same terms and conditions as water rights issued for uses in South Dakota.
- The acreage described on Claim No. 1645-1 is located in Carter county, Montana. Inclusion of the acreage is only for purposes of determining the amount of water claimed pursuant to SDCL 46-5-6. If validated, this claim for diversion of water in South Dakota does not replace or void any water right that may be needed from the state of Montana to irrigate the acreage or for stock watering.



Ron Duvall
Natural Resources Engineer
Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

October 24, 1996

B. Jr. and Ernie Melum
HC 62, Box 5
Camp Crook, SD 57724

Dear Sirs:

Vested Water Right Application No. 1645-1 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Nation's Center News printed at Buffalo, SD (Ph # (605) 375-3228). 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 of Hearing and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. The newspaper has 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**

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

October 24, 1996

Nation's Center News
Box 107
Buffalo, SD 57720-0107

ATTENTION: Legal Department

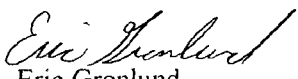
Enclosed is a Notice of Hearing on Application No. 1645-1 to be published twice. Please publish the first notice on November 6, 1996, with the second publication 7 days later.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is B. Jr. and Ernie Melum, HC 62, Box 5, Camp Crook, SD 57724 (Ph # (406) 972-4545).

A copy of BOTH publications must be SENT to the WATER RIGHTS PROGRAM. IMMEDIATELY return the FIRST publication with the FIRST Transmittal form on the bottom of this page. The first copy is needed to check the publication for errors so any corrections can be made in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. No action may be taken on the permit application until proof of publication has been received.

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

FIRST TRANSMITTAL NOTICE

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

No. _____

Date _____

We are in receipt of your letter of _____ enclosing Notice of Hearing to Appropriate Water by Application No. _____ which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper

Instruction to Newspaper - Publish first Notice on November 6, 1996, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING To Validate
Vested Water Right Application No. 1645-1 to Appropriate Water

Notice is given that B. Jr. and Ernie Melum, HC 62, Box 5, Camp Crook, SD 57724 has filed an application to validate a vested water right claim to appropriate 2.18 cubic feet of water per second from dry draw runoff at points located in the SW 1/4 SW 1/4, NE 1/4 SW 1/4 Section 17 and Lot 4 Section 18; all in T17N, R1E to irrigate 153 acres via waterspreading. The Oleson dry draw dam (22 acre-feet storage capacity) located in the NE 1/4 NW 1/4 Section 20-T17N-R1E serves to divert water to the culvert in the NE 1/4 SW 1/4 Section 17-T17N-R1E which then diverts a portion of the flow toward the irrigated acreage. The irrigated acres are located in Carter County, Montana in the SE 1/4 NW 1/4, E 1/2 SW 1/4, SW 1/4 NE 1/4 and SE 1/4 Section 34 and Lot 3 and Lot 4 Section 35; all in T4S, R62E. This acreage is described solely for determining the amount of water that may be claimed pursuant to SDCL 46-5-6. Any water right needed from the State of Montana for irrigation of the described acreage or for stock watering is not voided or replaced by this claim. The water use has a claimed priority date of June 1, 1951. Water is also used for stock watering.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 1645-1 because 1) water has been appropriated as described for irrigation with a claimed priority date of June 1, 1951, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) 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 November 25, 1996.

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. Nettie H. Myers, Secretary, Department of Environment and Natural Resources.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Harding) SS

L. Laverne E. Helms

certify that the attached printed Notice was
taken from the Nation's Center News

printed and published in Buffalo

County of Harding and S

South Dakota. The notice was published
the newspaper on the following two dates

November 6, 1996

November 13, 1996

Cost of Printing \$46.85

L. Laverne E. Helms
(Signature)

Business Manager
(Title)

11-14-96

(Date Signed)



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 November 25, 1996.

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. Nettie H. Myers, Secretary Department of Environment and Natural Resources.

11-6, 13

**NOTICE OF HEARING
To Validate Vested Water
Right**

**Application No. 1645-1 to
Appropriate Water**

Notice is given that B. Jr. and Ernie Melum, HC 62, Box 5, Camp Crook, SD 57724 has filed an application to validate a vested water right claim to appropriate 2.18 cubic feet of water per second from dry draw runoff at points located in SW1/4SW1/4, NE1/4SW1/4 Section 17 and Lot 4 Section 18; all in T17N, R1E to irrigate 153 acres via waterspreading. The Oleson dry draw dam (22 acre-foot storage capacity) located in the NE1/4NW1/4 Section 20-T17N-R1E serves to divert water to the culvert in the NE1/4SW1/4 Section 17-T17N-R1E which then diverts a portion of the flow toward the irrigated acreage. The irrigated acres are located in Carter County, Montana in the SE1/4NW1/4, E1/2SW1/4, SW1/4NE1/4 and SE1/4 Section 34 and Lot 3 and Lot 4 Section 35, all in T4S, R62E. This acreage is described solely for determining the amount of water that may be claimed pursuant to SDCL 46-5-6. Any water right needed from the State of Montana for irrigation of the described acreage or for stock watering is not voided or replaced by this claim. The water use has a claimed priority date of June 1, 1951. Water is also used for stock watering.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 1645-1 because 1) water has been appropriated as described for irrigation with a claimed priority date of June 1, 1951, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) 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

FIELD INVESTIGATION REPORT FOR PERMIT NO. 1645-1

DATE OF INVESTIGATION:	September 20, 1996
NAME & ADDRESS OF INVESTIGATION CONTACT/ RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE	
NAME & ADDRESS OF PERMIT HOLDER	B. Jr. and Ernie Melum HC 62, Box 5 Camp Crook SD 57724
DIVERSION POINT LEGAL LOCATION	<u>18 inch culvert</u> : 1,300 feet N from the SW corner section 18; <u>18 inch culvert</u> : 1,250 feet N and 550 feet E from the SW corner of section 17; <u>12 inch culvert</u> : 2,350 feet N and 1,900 feet E from the SW corner section 17; <u>Oleson dry draw dam</u> : 600 feet S and 2,400 feet E from the NW corner of section 20; all in T17N-R1E

Other permit(s) associated with the project: No. 81664, (state of Montana)

DISTRIBUTION LINES OR CANALS:

1) Type culverts (3) 2) Size 2 (18) and 1(12) inches 3) Length 30 to 40 feet

OLESON DAM INFORMATION:

- | | |
|---|--|
| 1) Crest height <u>15 (10 feet upstream due to silt)</u> feet | 5) Spillway length <u>serves as delivery ditch</u> |
| 2) Height to primary spillway <u>7</u> feet | 6) Approx. storage <u>22</u> ac-ft |
| 3) Crest width <u>10</u> feet | 7) Approx. storage to crest <u>32</u> ac-ft |
| 4) Crest length <u>300</u> feet | 8) Date constructed: <u>prior to 1952</u> |

SYSTEM TYPE:

All of the diversion points are located in South Dakota and divert dry draw runoff. The acreage is located in Montana and is irrigated via a water spreading system including ditches and dikes to spread water. Inclusion of the acreage on the vested right is only for purposes of identifying the type of beneficial use and how much water could be claimed. Small impoundments in Montana are also used for stock watering.

PERMIT QUALIFICATIONS:

- 1) Special qualifications to permit being abided by Y
- 2) All structures, wells and lands on map Y

Vested Water Right No. 1645-1**Little Missouri 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 this day, **September 20, 1996**, made a thorough examination of the water use system owned by **B. Jr. and Ernie Melum** of **HC 62, Box 5, Camp Crook SD 57724** holder of Vested Water Right No. **1645-1**, bearing the priority of **June 1, 1951** authorizing the diversion of **2.18** cu. ft. per second of the waters of **dry draw runoff** for **irrigation and stock watering** purposes, in **Carter County, Montana**.

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

A. Works used to divert the water:

- 1) Type **culverts (3)** 2) Size **2 (18) and 1(12)** inches 3) Length **30 to 40** feet

OLESON DAM INFORMATION:

- 1) Height to crest **15 (10 feet upstream due to silt)** feet 5) Spillway length **serves as delivery ditch**
 2) Height to primary spillway **7** feet 6) Approx. storage **22** ac-ft
 3) Crest width **10** feet 7) Approx. storage to crest **32** ac-ft
 4) Crest length **300** feet 8) Date constructed: **prior to 1952**

B. Works used to transport/apply water to place of use:

All of the diversion points are located in South Dakota and divert dry draw runoff. The acreage is located in Montana and is irrigated via a water spreading system including ditches and dikes to spread water. Inclusion of the acreage on the vested right is only for purposes of identifying the type of beneficial use and how much water could be claimed. Small impoundments in Montana are also used for stock watering.

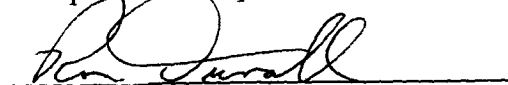
The system is in the following condition **fair**. The point of diversion is located **18 inch culvert: 1,300 feet N from the SW corner section 18; 18 inch culvert: 1,250 feet N and 550 feet E from the SW corner of section 17; 12 inch culvert: 2,350 feet N and 1,900 feet E from the SW corner section 17; Oleson dam: 600 feet S and 2,400 feet E from the NW corner of section 20; all in T17N-R1E**. The works are capable of diverting and conveying to the place of use **2.18** cu. ft. per second of water to be used for **irrigation and stock watering**. Water has been put to beneficial use to the maximum extent as follows:

Land Description	Acres	Land Description	Acres
SE¼NW¼ section 34-T4S-R62E	10	SW¼SE¼ section 34-T4S-R62E	5
NE¼SW¼ section 34-T4S-R62E	36	NE¼SE¼ section 34-T4S-R62E	20
SE¼SW¼ section 34-T4S-R62E	5	SE¼SE¼ section 34-T4S-R62E	9
SW¼NE¼ section 34-T4S-R62E	3	Lot 3 section 35-T4S-R62E	35
NW¼SE¼ section 34-T4S-R62E	21	Lot 4 section 35-T4S-R62E	9

comprising a total of **153** acres of land and the license should be issued for **2.18** cfs.

Applicable permit qualifications have been complied with: Yes **X** No

Exceptions to compliance are: **none** Date report completed: **December 6, 1996**



Ron Duvall
 Natural Resources Engineer
 DENR, Water Rights Program

The map prepared as part of the onsite investigation is also serving as the application map submitted with the vested water right claim.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

JAN 21 1997

VR 1645-1

B. Jr. and Ernie Melum
HC 62, Box 5
Camp Crook, SD 57724

Dear Sirs:

Enclosed are your Validated Vested Water Right and Water License No. 1645-1. 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 Program
(605) 773-3352

enclosures