

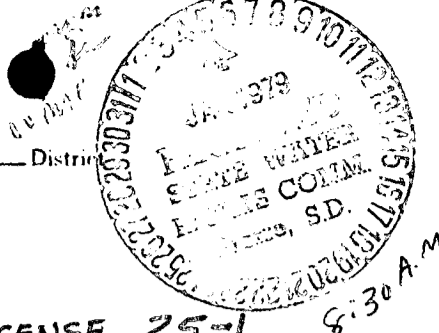
Water Right Number 25-1A

1. Considered MAY 24, 19 79
2. Name of Applicant ELMER BIERS
3. Post Office Address STURGIS, SD 25-4N-6E
4. Amount of water claimed .25
5. Source of water supply MORRIS CREEK
6. Water to be used for IRRIGATION
- Acres to be irrigated 19.3
7. Water to be diverted and used in MEADE County
about 3 1/2 N 1/2 E of PIEDMONT
8. Proof of Publication Received 5-2-79
Not received _____
9. Application Approved _____
Subject to _____
Not approved _____
Action deferred _____

10. Remarks:

*Change Pt of Diversion
V/R Priority 12-31-07*

No. 25-1A



Map No. 998-1
Map in File 25-1

Water Division No. 1

Elk Creek

District

(Blanks to be Filled by the Engineer for the W. R. C.)

10120111

APPLICATION FOR PERMIT

FOR A CHANGE IN POINT OF DIVERSION - WATER LICENSE 25-1

To Appropriate Water within the State of South Dakota

(NOTE--Draw a line through items not applicable)

- 1. Name of Applicant Elmer Biers
- Postoffice address RR - Sturgis, State SD
- If a corporation show date and place of incorporation _____
- 2. Method of accomplishing work (contract, employment of others, or by direct labor) direct labor
- 3. Name of diversion work Biers #1
- 4. Amount of water claimed (cubic feet per second) 0.25 cfs
- 5. Source of water supply Morris Creek
- 6. Location of point of diversion SW 1/4 NE 1/4 of Sec. 25, T4N, R6E

County Meade

- 7. Annual period or periods during which water is to be used April through October
- 8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) Irrigation
- 9. For irrigation use, Total number of acres to be irrigated 19.3 acres

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

Land Description	No. Acres Irr.	Land Description	No. Acres Irr.
NW 1/4 NE 1/4	0.5		
SE 1/4 NE 1/4	13.2		
SW 1/4 NE 1/4	5.6		
ALL IN SEC. 25-T4N-R6E			

Attach sheet if more space is needed

- 10. Time required to complete construction of water supply system completed years. Additional time required to complete application of water to the proposed beneficial use _____ years.
- 11. Choice of newspaper for Notice of Intent to Appropriate Water publication RUSHMORE ADS NEWS-STURGIS, S.D.
- 12. Principal Features of the Proposed Water Supply System.

- A. Works proposed to divert water from its natural source.
pump and engine with 3" intake pipe
- B. Works proposed to transport water to place of use.
3" pipeline
- C. Works proposed to apply water to beneficial use.
sprinklers - hand move

Estimated Total Cost \$ _____

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

STATE OF SOUTH DAKOTA)
) ss.
County of Meade)

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

Signed Elmer Biers

Subscribed and sworn to before me this 19 day of December 19 78

Frank Mullen
Notary Public (or other qualified officer)

My Commission Expires: Oct. 3, 1984

25
24

NOT TO SCALE

05+8

Elmer Biers

Sturgis, S.D.

"Vested Right"
0.25 cfs
19.3 acres

~~10~~
~~10~~

0548
24 in
Abandoned

92 L 25
2.72 cfs

24 - subject to
cancellation
0.78 cfs

LANDS IRRIGATED

pt. of diversion
2020 ft

763 ft
750 ft
24.9

25
163

106

98

4-6

92 L

Inspected by:

James Winterton
Water Resource Engineer
Division of Water Rights

MAP No. 998-1 APPL. # 25-1A

HC 75 Box 358
Sturgis So Dakota
57785

So Dak Dept of Water & Natural Resources.

Joe Foss Bldg,
523 East Capitol
Pierre So Dakota;
28 July 1989



Re Plan & Specs for Water Diversion such
as off channel structure.
Dear Sirs

The enclosed specs were provided
by the Meade County, US Dept of
Agriculture Soil Conservation Service.

This project is complete and available
for your inspection.

If any additional work is required
please advise

Thank you for your cooperation

Sincerely
Elmer J. Burns
(605)347-5128

November 29, 1978

Mr. Elmer Biers
RR
Sturgis, SD 57785

Dear Mr. Biers:

You will find enclosed the application forms for applying for a change in the point of diversion from the point as stated on Water License No.25-1 to the point of diversion located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 25, T4N, R6E. Form 20 is enclosed to transfer the permit to your name. In order to update the records and insure the integrity of your water right, these forms must be signed by you, notarized, and returned to this office.

The cost of the transfer is \$2.50 and the cost of the application for the change in the point of diversion is \$150.00. These amounts should be submitted to this office along with the forms.

If there are any questions, do not hesitate to contact this office.

Very truly yours,

James Winterton
Water Resources Engineer

JW/bt
Enclosures

Newford Rd
Stuyvesant Hill
57755

Dec 20, 1978

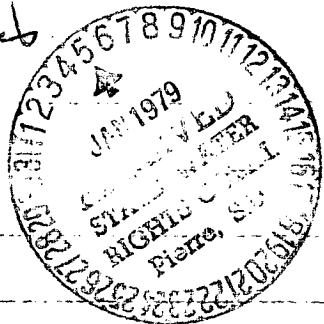
Water Rights Commission

Dear Sirs,

I am returning the application forms
with cost of transfer and application
for the change in the point of
diversion as requested in your
letter of Nov 29, 1978.

If further information is required
please advise.

Very truly yours
E. Louis J. Brees



RECEIPT

WATER RIGHTS COMMISSION

No 4 6682

State of South Dakota

January 7

79

PIERRE, _____, 19

RECEIVED OF Elmer J. Biers, RR, Sturgis SD 57785

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

Fee for Application for Permit to Appropriate Water No. <u>251A</u> (examination, processing, recording and filing) _____	150	00
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 _____ (any other work as provided by law)		
TOTAL	150	00

WATER RIGHTS COMMISSION

By John Hatch
Chief Engineer, Executive Officer
JOHN HATBE kjw

CHEYENNE RIVER BASIN

06425100 ELK CREEK NEAR RAPID CITY, SD

LOCATION.--Lat 44°14'25", long 103°09'03", in NE¼NE¼ sec.9, T.3 N., R.8 E., Meade County, Hydrologic Unit 10120110, on section line near right upstream corner of county road bridge, 1.7 mi (2.7 km) downstream from Morris Creek tributary and 10 mi (16.1 km) north of Exit 61 and I-90 northeast of Rapid City.

DRAINAGE AREA.--190 mi² (492 km²).

PERIOD OF RECORD.--November 1978 to current year.

GAGE.--Water-stage recorder. Altitude of gage is 2,950 ft (900 m), from topographic map.

REMARKS.--Records fair. Some flow is pumped from stream for irrigation. Several observations of water temperature and specific conductance were made during the year.

EXTREMES FOR PERIOD OF RECORD.--Maximum discharge, 379 ft³/s (10.7 m³/s) June 14, 1980, gage height, 7.12 ft (2.170 m); maximum gage height, 7.28 ft (2.219 m) Aug. 8, 1979; no flow for many days each year.

EXTREMES FOR CURRENT YEAR.--Maximum discharge, 65 ft³/s (1.84 m³/s) at 0615 hours, July 2, gage height, 5.85 ft (1.783 m); no flow for many days.

DISCHARGE, IN CUBIC FEET PER SECOND, WATER YEAR OCTOBER 1980 TO SEPTEMBER 1981
MEAN VALUES

DAY	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
1	.00	.00	.00	.00	.00	.00	.00	.00	.00	.70	.00	.00
2	.00	.00	.00	.00	.00	.00	.00	.00	.00	16	.00	.00
3	.00	.00	.00	.00	.00	.00	.00	.00	.00	.82	.00	.00
4	.00	.00	.00	.00	.00	.00	.00	.00	.00	.08	.00	.00
5	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00
6	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00
7	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00
8	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00
9	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00
10	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00
11	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00
12	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00
13	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00
14	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00
15	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00
16	.00	.00	.00	.00	.00	.00	.00	.00	.00	2.5	.00	.00
17	.00	.00	.00	.00	.00	.00	.00	.00	.00	.59	.00	.00
18	.00	.00	.00	.00	.00	.00	.00	.00	.00	.17	.00	.00
19	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00
20	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00
21	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00
22	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00
23	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00
24	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00
25	.00	.00	.00	.00	.00	.00	.00	.00	.00	.46	.00	.00
26	.00	.00	.00	.00	.00	.00	.00	.00	.00	14	.00	.00
27	.00	.00	.00	.00	.00	.00	.00	.00	.00	1.2	.00	.00
28	.00	.00	.00	.00	.00	.00	.00	.00	.00	.31	.00	.00
29	.00	.00	.00	.00	.00	.00	.00	.00	.00	.10	.00	.00
30	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00
31	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00
TOTAL	.00	.00	.00	.00	.00	.00	.00	.00	.00	36.93	.00	.00
MEAN	.000	.000	.000	.000	.000	.000	.000	.000	.000	1.19	.000	.000
MAX	.00	.00	.00	.00	.00	.00	.00	.00	.00	16	.00	.00
MIN	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00
AC-FT	.00	.00	.00	.00	.00	.00	.00	.00	.00	73	.00	.00

CAL YR 1980 TOTAL 363.08 MEAN .99 MAX 38 MIN .00 AC-FT 720
WTR YR 1981 TOTAL 36.93 MEAN .10 MAX 16 MIN .00 AC-FT 73

CHEYENNE RIVER BASIN

81

06425100 ELK CREEK NEAR RAPID CITY, SD

LOCATION.--Lat 44°14'25", long 103°09'03", in NE¼NE¼ sec.9, T.3 N., R.8 E., Meade County, Hydrologic Unit 10120110, on section line near right upstream corner of county road bridge, 1.7 mi (2.7 km) downstream from Morris Creek tributary and 10 mi (16.1 km) north of Exit 61 and I-90 northeast of Rapid City.

DRAINAGE AREA.--190 mi² (492 km²).

PERIOD OF RECORD.--November 1978 to current year.

GAGE.--Water-stage recorder. Altitude of gage is 2,950 ft (900 m), from topographic map.

REMARKS.--Records fair. Some flow is pumped from stream for irrigation. Several observations of water temperature and specific conductance were made during the year.

EXTREMES FOR PERIOD OF RECORD.--Maximum discharge, 1,560 ft³/s (44.2 m³/s) May 20, 1982, gage height, 10.79 ft (3.289 m); no flow for many days each year.

EXTREMES FOR CURRENT YEAR.--Maximum discharge, 1,560 ft³/s (44.2 m³/s) at 1215 hours, May 20, gage height, 10.79 ft (3.289 m); no flow for many days.

DISCHARGE, IN CUBIC FEET PER SECOND, WATER YEAR OCTOBER 1981 TO SEPTEMBER 1982
MEAN VALUES

DAY	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
1	.00	.00	.00	.00	.00	.00	.00	.00	11	1.0	4.0	.00
2	.00	.00	.00	.00	.00	.00	1.2	.00	8.4	.88	3.0	.00
3	.00	.00	.00	.00	.00	.00	.17	.00	7.4	.87	1.0	.00
4	.00	.00	.00	.00	.00	.00	.05	.00	7.4	.71	2.3	.00
5	.00	.00	.00	.00	.00	.00	.00	.00	7.1	.69	2.6	.00
6	.00	.00	.00	.00	.00	.00	.00	.00	5.9	.87	2.7	.00
7	.00	.00	.00	.00	.00	.00	.00	.00	4.2	.57	2.8	.00
8	.00	.00	.00	.00	.00	.00	.00	.00	3.6	1.2	3.0	.00
9	.00	.00	.00	.00	.00	.00	.00	.00	3.1	1.1	3.4	.00
10	.00	.00	.00	.00	.00	.00	.00	.00	2.8	.72	1.4	.00
11	.00	.00	.00	.00	.00	.00	.00	.00	2.8	.54	.50	.00
12	.00	.00	.00	.00	.00	.00	.00	.00	2.7	.39	.10	.00
13	.00	.00	.00	.00	.00	.00	.00	.00	3.2	.30	.02	.00
14	.00	.00	.00	.00	.00	.00	.00	4.0	3.1	.21	.00	.00
15	.00	.00	.00	.00	.00	.00	.00	306	13	.16	.00	.00
16	.00	.00	.00	.00	.00	.00	.00	163	14	.11	.00	.00
17	.00	.00	.00	.00	.00	.00	.00	98	16	.09	.00	.00
18	.00	.00	.00	.00	.00	.00	.00	166	16	.07	.00	.00
19	.00	.00	.00	.00	.00	.00	.00	51	7.9	.03	.00	.00
20	.00	.00	.00	.00	.00	.00	.00	1060	4.5	.00	.00	.00
21	.00	.00	.00	.00	.00	.00	.00	428	3.2	.00	.00	.00
22	.00	.00	.00	.00	.00	.00	.00	108	2.4	.00	.00	.00
23	.00	.00	.00	.00	.00	.00	.00	60	1.9	.12	.00	.00
24	.00	.00	.00	.00	.00	.00	.00	62	1.6	.26	.00	.00
25	.00	.00	.00	.00	.00	.00	.00	54	1.4	30	.00	.00
26	.00	.00	.00	.00	.00	.00	.00	37	1.4	20	.00	.00
27	.00	.00	.00	.00	.00	.00	.00	23	1.5	15	.00	.00
28	.00	.00	.00	.00	.00	.00	.00	26	1.4	10	.00	.00
29	.00	.00	.00	.00	.00	.00	.00	101	1.2	9.0	.00	.00
30	.00	.00	.00	.00	.00	.00	.00	39	1.1	7.0	.00	.00
31	.00	.00	.00	.00	.00	.00	.00	18	.00	5.0	.00	.00
TOTAL	.00	.00	.00	.00	.00	.00	1.42	2804.00	161.2	106.89	26.82	.00
MFAN	.000	.000	.000	.000	.000	.000	.007	90.5	5.37	3.45	.87	.000
MAX	.00	.00	.00	.00	.00	.00	1.2	1060	16	30	4.0	.00
MIN	.00	.00	.00	.00	.00	.00	.00	.00	1.1	.00	.00	.00
AC-FT	.00	.00	.00	.00	.00	.00	2.4	5560	320	212	53	.00
CAL YR 1981	TOTAL	36.93	MEAN	.10	MAX	16	MIN	.00	AC-FT	73		
WTR YR 1982	TOTAL	3100.33	MEAN	8.49	MAX	1060	MIN	.00	AC-FT	6150		

CHEYENNE RIVER BASIN

73

06425100 ELK CREEK NEAR RAPID CITY, SD

LOCATION.--Lat 44°14'25", long 103°09'03", in NEXNE% sec.9, T.3 N., R.8 E., Meade County, Hydrologic Unit 10120110, on section line near right upstream corner of county road bridge, 1.7 mi downstream from Morris Creek tributary and 10 mi north of Exit 61 and I-90 northeast of Rapid City.

DRAINAGE AREA.--190 mi².

PERIOD OF RECORD.--November 1978 to current year.

GAGE.--Water-stage recorder. Altitude of gage is 2,950 ft, from topographic map.

REMARKS.--Records good except those for Dec. 7-19 and period of no gage-height record, May 24 to June 24, which are poor. Some flow is pumped from stream for irrigation. Several observations of water temperature and specific conductance were made during the year.

EXTREMES FOR PERIOD OF RECORD.--Maximum discharge, 1,560 ft³/s May 20, 1982 (gage height, 10.79 ft); no flow for many days each year.

EXTREMES FOR CURRENT YEAR.--Peak discharges above base of 100 ft³/s and maximum (*):

Date	Time	Discharge (ft ³ /s)	Gage height (ft)	Date	Time	Discharge (ft ³ /s)	Gage height (ft)
Oct. 10	1415	*1000	9.89	May 7	2345	163	7.13
Apr. 17	1415	104	6.63	May 13	1145	213	7.48

No flow Oct. 1-8.

CORRECTIONS.--The peak discharges listed below are additions to the annual maximum listed in WRD SD-82-1.

Date	Time	Discharge (ft ³ /s)	Gage height (ft)	Date	Time	Discharge (ft ³ /s)	Gage height (ft)
May 15	2100	729	9.29	May 29	0545	157	6.99

DISCHARGE, IN CUBIC FEET PER SECOND, WATER YEAR OCTOBER 1982 TO SEPTEMBER 1983
MEAN VALUES

DAY	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
1	.00	.45	3.0	6.9	2.5	4.3	8.4	5.4	8.0	12	2.4	.66
2	.00	.74	3.2	7.0	2.9	3.8	5.9	16	7.4	11	1.9	.59
3	.00	.91	3.0	7.2	2.3	3.1	5.0	25	6.6	8.9	1.6	.53
4	.00	.85	3.1	7.5	2.4	2.5	4.5	12	4.5	7.8	1.5	.48
5	.00	1.0	3.4	8.1	2.3	3.7	4.3	7.6	4.0	7.1	1.4	.48
6	.00	1.4	3.3	9.6	2.1	4.8	4.8	6.3	4.3	6.6	1.3	.50
7	.00	1.6	2.5	11	2.0	4.0	5.4	49	4.8	5.8	1.3	.60
8	.00	1.6	1.6	11	2.0	4.0	5.7	109	4.5	5.1	1.2	.63
9	.89	1.7	1.8	10	2.1	2.7	5.5	81	4.2	4.5	1.0	.52
10	675	1.9	2.0	12	2.3	2.8	5.2	78	4.5	4.1	.80	.43
11	172	2.1	1.9	14	2.4	3.5	5.3	76	4.8	3.4	.70	.41
12	32	2.2	2.1	16	2.7	4.5	6.5	78	5.2	3.3	.63	.44
13	9.0	2.0	2.2	18	3.1	5.5	4.5	148	6.0	3.4	.67	.57
14	4.5	1.9	2.3	17	3.4	5.7	8.6	98	5.6	3.1	.69	.73
15	2.2	1.9	2.3	6.8	3.8	4.3	9.1	70	6.4	2.8	1.4	.89
16	1.2	1.8	2.5	4.6	3.4	3.1	24	59	7.0	2.6	1.1	.86
17	.76	2.4	3.0	3.5	3.0	2.7	80	51	7.8	2.8	.94	.87
18	.52	2.7	3.3	3.0	3.1	3.0	53	46	9.0	2.9	.94	.75
19	.46	2.9	3.5	3.0	3.2	3.0	33	42	8.4	2.5	1.1	.71
20	.28	3.0	3.6	2.8	2.0	3.0	20	41	7.7	2.4	1.2	.71
21	.20	2.5	3.6	2.7	1.7	3.0	12	42	7.2	2.0	1.4	.89
22	.22	2.2	5.8	2.6	4.1	3.0	7.4	37	7.0	1.8	1.6	1.4
23	.28	2.0	8.1	2.6	4.6	2.7	5.7	34	6.6	1.9	1.7	1.6
24	.31	1.8	9.4	2.5	4.3	2.8	5.0	20	6.2	2.3	1.7	1.8
25	.24	1.9	6.7	2.7	4.1	3.0	4.5	12	5.9	3.1	1.6	1.8
26	.25	1.9	6.2	2.7	4.1	3.5	4.0	11	7.1	3.0	1.3	1.7
27	.35	2.1	6.7	2.7	4.1	3.7	3.4	9.7	7.4	2.6	1.1	1.6
28	.33	2.4	6.0	3.1	4.3	4.3	3.1	9.0	7.5	2.4	1.0	1.4
29	.27	2.6	5.8	3.4	---	5.5	3.2	8.8	7.8	2.0	.97	1.3
30	.32	2.9	5.9	3.0	---	8.8	3.4	8.4	8.3	2.0	.88	1.4
31	.37	---	6.4	3.1	---	20	---	8.2	---	2.2	.76	---
TOTAL	990.06	57.35	124.2	210.1	84.3	134.3	350.4	1298.4	191.7	127.4	37.78	27.25
MEAN	31.9	1.91	4.01	6.78	3.01	4.33	11.7	41.9	6.39	4.11	1.22	.91
MAX	675	3.0	9.4	18	4.6	20	80	148	9.0	12	2.4	1.8
MIN	.00	.45	1.6	2.5	1.7	2.5	3.1	5.4	4.0	1.8	.63	.41
AC-FT	1960	114	246	417	167	266	695	2580	380	253	75	54

CAL YR 1982	TOTAL	4271.94	MEAN	11.7	MAX	1060	MIN	.00	AC-FT	8470
WTR YR 1983	TOTAL	3633.24	MEAN	9.95	MAX	675	MIN	.00	AC-FT	7210

CHEYENNE RIVER BASIN

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06425100 ELK CREEK NEAR RAPID CITY, SD

LOCATION.--Lat 44°14'25", long 103°09'03", in NE¼NE¼ sec.9, T.3 N., R.8 E., Meade County, Hydrologic Unit 10120110, on section line near right upstream corner of county road bridge, 1.7 mi downstream from Morris Creek tributary and 10 mi north of Exit 61 and I-90 northeast of Rapid City.

DRAINAGE AREA.--190 mi².

PERIOD OF RECORD.--November 1978 to current year.

GAGE.--Water-stage recorder. Altitude of gage is 2,950 ft, from topographic map.

REMARKS.--Records good except those for winter period, Nov. 8 to Jan. 3, which are poor. Some flow is pumped from stream for irrigation. Several observations of water temperature and specific conductance were made during the year.

AVERAGE DISCHARGE.--5 years, 7.19 ft³/s (5,210 acre-ft/yr).

EXTREMES FOR PERIOD OF RECORD.--Maximum discharge, 1,560 ft³/s May 20, 1982 (gage height, 10.79 ft); no flow for many days each year.

EXTREMES FOR CURRENT YEAR.--Peak discharges above base of 100 ft³/s and maximum (*):

Date	Time	Discharge (ft ³ /s)	Gage height (ft)	Date	Time	Discharge (ft ³ /s)	Gage height (ft)
May 4	1130	570	9.52	June 15	1730	271	8.40
June 10	1400	*905	*10.31	June 17	1000	261	8.34

Minimum daily discharge, 0.26 ft³/s Dec. 25.

DISCHARGE, IN CUBIC FEET PER SECOND, WATER YEAR OCTOBER 1983 TO SEPTEMBER 1984
MEAN VALUES

DAY	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
1	1.7	3.5	2.7	1.8	6.9	3.6	3.9	1.9	7.6	27	9.5	5.0
2	2.0	3.5	2.8	2.1	6.7	3.9	4.4	3.2	7.0	27	9.5	5.2
3	2.4	3.5	2.9	2.4	7.3	5.1	5.7	65	6.8	26	9.9	5.3
4	2.7	3.5	3.3	2.7	6.4	5.3	6.0	350	8.0	25	11	5.2
5	2.9	3.5	2.6	3.4	5.8	9.0	5.9	274	12	24	9.9	5.1
6	2.9	3.5	2.8	3.4	5.4	5.9	9.5	114	11	22	12	5.3
7	2.8	3.7	2.6	3.2	5.5	4.9	8.9	110	9.4	20	15	4.9
8	2.8	3.1	2.4	2.9	5.2	5.1	7.4	85	8.4	21	11	4.8
9	2.8	2.8	2.8	2.5	5.0	3.9	6.4	70	11	22	9.4	4.8
10	2.9	2.6	3.0	2.0	4.7	3.9	5.4	57	515	21	8.8	5.1
11	2.6	2.8	3.3	1.8	4.1	3.8	5.3	43	351	20	8.4	5.4
12	2.5	2.9	2.6	1.6	4.3	4.0	4.9	33	215	20	8.0	6.0
13	2.6	2.9	2.0	1.4	4.5	4.3	4.2	27	86	20	7.5	5.9
14	2.8	2.8	1.3	1.3	4.6	5.1	3.9	22	61	18	7.2	6.3
15	3.3	2.9	.98	1.4	4.9	4.9	3.7	18	135	17	6.8	6.7
16	3.3	3.3	.90	1.3	4.5	4.4	3.6	15	218	17	6.5	6.9
17	3.4	3.7	.52	1.5	4.3	4.5	3.7	13	211	17	7.1	6.6
18	3.4	4.1	.46	1.8	4.1	4.3	3.4	11	150	15	9.3	6.4
19	3.5	4.2	.38	2.4	3.9	4.4	3.4	9.9	106	15	11	5.6
20	3.6	4.1	.34	3.5	3.9	4.9	3.4	9.0	83	15	11	4.9
21	3.7	3.8	.31	4.2	3.9	4.8	3.3	9.3	73	14	11	4.7
22	3.7	3.4	.29	4.7	4.2	4.4	3.2	8.9	64	13	11	4.6
23	3.7	3.7	.31	5.3	3.9	4.4	3.3	8.4	55	13	10	4.6
24	3.6	3.8	.29	5.6	3.9	4.6	2.9	7.9	48	13	8.5	5.8
25	3.3	3.8	.26	6.2	3.7	4.7	4.1	7.9	45	13	7.5	7.0
26	3.2	4.0	.33	6.3	3.5	4.2	11	7.9	42	13	7.0	7.4
27	3.4	3.8	.62	6.6	3.9	4.2	20	8.9	38	12	6.3	7.4
28	3.3	3.6	.88	7.1	3.5	4.1	45	9.4	36	11	5.8	7.6
29	3.2	3.3	.88	6.9	3.3	4.0	41	9.6	33	10	5.2	7.9
30	3.4	3.1	1.0	7.0	---	3.9	3.3	9.0	29	9.9	5.1	8.0
31	3.5	---	1.5	6.8	---	3.8	---	8.4	---	9.7	5.0	---
TOTAL	94.9	103.2	47.35	111.1	135.8	142.3	240.1	1426.6	2675.2	540.6	271.2	176.4
MEAN	3.06	3.44	1.53	3.58	4.68	4.59	8.00	46.0	89.2	17.4	8.75	5.88
MAX	3.7	4.2	3.3	7.1	7.3	9.0	45	350	515	27	15	8.0
MIN	1.7	2.6	.26	1.3	3.3	3.6	2.9	1.9	6.8	9.7	5.0	4.6
AC-FT	18	205	94	220	269	282	476	2830	5310	1070	538	350
CAL YR 1983	TOTAL	2707.08		MEAN	7.42	MAX	148	MIN	.26	AC-FT	5370	
WTR YR 1984	TOTAL	5964.75		MEAN	16.3	MAX	515	MIN	.26	AC-FT	11830	

CHEYENNE RIVER BASIN

06425100 ELK CREEK NEAR RAPID CITY, SD

LOCATION.--Lat 44°14'25", long 103°09'03", in NE¼NE¼ sec.9, T.3 N., R.8 E., Meade County, Hydrologic Unit 10120110, on section line near right upstream corner of county road bridge, 1.7 mi downstream from Morris Creek tributary, and 10 mi north of Exit 61 and I-90 northeast of Rapid City.

DRAINAGE AREA.--190 mi².

PERIOD OF RECORD.--November 1978 to current year.

GAGE.--Water-stage recorder. Elevation of gage is 2,950 ft above National Geodetic Vertical Datum of 1929, from topographic map.

REMARKS.--Records good except those for winter period and/or no gage-height record, Dec. 14 to Feb. 21, which are poor. Some flow is pumped from stream for irrigation. Several observations of water temperature and specific conductance were made during the year.

AVERAGE DISCHARGE.--6 years, 6.77 ft³/s (4,900 acre-ft/yr).

EXTREMES FOR PERIOD OF RECORD.--Maximum discharge, 1,560 ft³/s May 20, 1982 (gage height, 10.79 ft); no flow for many days each year.

EXTREMES FOR CURRENT YEAR.--Peak discharges greater than base discharge of 100 ft³/s and maximum (*):

Date	Time	Discharge (ft ³ /s)	Gage height (ft)	Date	Time	Discharge (ft ³ /s)	Gage height (ft)
Mar. 17	1900	*113	*6.83	No other peak greater than base discharge.			
No flow for many days.							

DISCHARGE, IN CUBIC FEET PER SECOND, WATER YEAR OCTOBER 1984 TO SEPTEMBER 1985
MEAN VALUES

DAY	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
1	8.1	6.5	7.7	4.2	3.3	7.0	8.7	3.8	1.9	.82	.00	.00
2	8.0	7.0	8.7	4.6	3.3	7.0	9.2	3.8	1.8	.67	.00	.00
3	7.6	7.5	6.2	5.2	3.5	6.0	8.6	3.6	2.1	.59	.00	.00
4	7.6	7.5	6.2	6.0	3.6	5.2	8.3	3.4	2.5	.42	.00	.00
5	7.8	7.5	6.0	6.4	3.7	5.0	7.9	2.8	2.8	.31	.00	.00
6	8.2	7.4	5.5	6.4	3.8	6.0	7.6	2.7	2.8	.23	.00	.00
7	7.8	7.5	5.5	6.4	3.9	7.0	7.3	2.6	2.6	.13	.00	.00
8	7.5	7.3	6.0	6.0	4.0	8.0	6.9	2.6	2.0	.01	.00	.00
9	7.4	7.0	7.0	5.1	3.9	10	6.7	2.5	1.5	.00	.00	.00
10	7.5	7.0	7.5	4.8	3.6	12	6.7	2.4	1.5	.00	.00	.00
11	7.5	8.1	8.4	4.5	3.8	15	6.6	2.5	1.7	.00	.00	.00
12	7.3	8.8	7.6	4.5	3.9	19	6.4	2.5	2.2	.00	.00	.00
13	7.0	8.3	7.0	5.0	4.2	17	6.1	2.5	2.3	.00	.00	.00
14	6.9	8.6	6.7	5.6	5.2	14	5.9	2.6	1.9	.00	.00	.00
15	6.6	8.2	6.4	5.8	7.2	13	5.6	2.6	1.7	.00	.00	.00
16	6.7	7.1	5.8	6.0	8.2	12	5.4	2.4	1.4	.00	.00	.00
17	6.8	7.8	5.4	6.2	7.7	33	5.4	2.6	1.2	.00	.00	.00
18	7.3	7.1	5.2	5.6	7.4	59	5.3	2.5	.92	.00	.00	.00
19	7.4	6.6	5.2	5.1	7.2	34	5.0	2.4	.79	.00	.00	.00
20	7.4	6.9	5.4	4.7	7.1	26	4.7	2.2	.77	.00	.00	.00
21	7.5	7.2	5.4	4.7	7.1	21	4.8	1.9	.75	.00	.00	.00
22	7.5	7.1	4.8	5.2	7.2	18	5.0	1.8	.65	.00	.00	.00
23	7.4	7.4	4.1	5.4	6.5	18	5.0	1.8	.68	.00	.00	.00
24	7.7	7.4	3.6	5.4	7.6	18	4.7	1.7	.51	.00	.00	.00
25	7.7	7.4	3.8	5.4	6.9	13	4.2	1.6	.47	.00	.00	.00
26	7.9	7.0	4.2	5.2	7.0	11	4.0	2.0	.54	.00	.00	.00
27	7.8	7.0	5.2	5.0	7.0	9.3	4.1	2.7	.59	.00	.00	.00
28	7.4	6.6	4.6	4.5	7.0	9.0	4.1	3.3	.51	.00	.00	.00
29	7.6	8.7	4.2	4.0	---	8.4	3.9	3.0	.70	.00	.00	.00
30	7.4	8.4	4.0	3.5	---	7.2	3.5	2.7	1.0	.00	.00	.00
31	7.4	---	4.0	3.2	---	7.8	---	2.3	---	.00	.00	---
TOTAL	231.7	223.9	177.3	159.6	154.8	455.9	177.6	79.8	42.78	3.18	.00	.00
MEAN	7.47	7.46	5.72	5.15	5.53	14.7	5.92	2.57	1.43	.10	.00	.00
MAX	8.2	8.8	8.7	6.4	8.2	59	9.2	3.8	2.8	.82	.00	.00
MIN	6.6	6.5	3.6	3.2	3.3	5.0	3.5	1.6	.47	.00	.00	.00
AC-FT	46	444	352	317	307	904	352	158	85	6.3	.00	.00
CAL YR 1984	TOTAL	6352.2	MEAN	17.4	MAX	515	MIN	1.3	AC-FT	12600		
WTR YR 1985	TOTAL	1706.56	MEAN	4.68	MAX	59	MIN	.00	AC-FT	3380		

CHEYENNE RIVER BASIN

06425100 ELK CREEK NEAR RAPID CITY, SD

LOCATION.--Lat 44°14'25", long 103°09'03", in NE¼NE¼ sec.9, T.3 N., R.8 E., Meade County, Hydrologic Unit 10120110, on section line near right upstream corner of county road bridge, 1.7 mi downstream from Morris Creek tributary, and 10 mi north of Exit 61 and I-90 northeast of Rapid City.

DRAINAGE AREA.--190 mi².

PERIOD OF RECORD.--November 1978 to current year.

GAGE.--Water-stage recorder. Elevation of gage is 2,950 ft above National Geodetic Vertical Datum of 1929, from topographic map.

REMARKS.--No estimated daily discharges during water year. Records good. Some flow is pumped from stream for irrigation. Several observations of water temperature and specific conductance were made during the year.

AVERAGE DISCHARGE.--7 years, 7.26 ft³/s, 5,300 acre-ft/yr.

EXTREMES FOR PERIOD OF RECORD.--Maximum discharge, 1,560 ft³/s, May 20, 1982, gage height, 10.79 ft; maximum gage height, 11.80 ft, Feb. 26, 1986, backwater from ice; no flow for many days each year.

EXTREMES FOR CURRENT YEAR.--Peak discharges greater than base discharge of 100 ft³/s and maximum (*):

Date	Time	Discharge (ft ³ /s)	Gage height (ft)	Date	Time	Discharge (ft ³ /s)	Gage height (ft)
Feb. 26	unknown	*1,390	a*11.80	May 9	1900	260	8.28
Apr. 18	1730	606	9.57				

a Backwater from ice.
No flow for many days.

CORRECTIONS.--Published acre-feet for October of 1984 and 1985 water years is in error. Correct figures are as follows: October 1983, 188; October 1984, 460.

DISCHARGE, IN CUBIC FEET PER SECOND, WATER YEAR OCTOBER 1985 TO SEPTEMBER 1986
MEAN VALUES

DAY	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
1	.00	.00	.00	.00	.00	50	4.6	12	3.7	36	2.4	.69
2	.00	.00	.00	.00	.00	45	4.7	10	3.4	23	2.0	.88
3	.00	.00	.00	.00	.00	30	5.5	9.6	3.2	13	1.7	1.4
4	.00	.00	.00	.00	.00	29	8.2	9.0	3.2	7.3	1.6	1.6
5	.00	.00	.00	.00	.00	21	13	8.3	3.4	4.7	1.5	1.8
6	.00	.00	.00	.00	.00	17	21	7.6	8.0	3.1	1.4	2.6
7	.00	.00	.00	.00	.00	19	31	7.6	11	2.6	1.3	2.6
8	.00	.00	.00	.00	.00	14	27	8.6	5.1	2.8	1.1	3.1
9	.00	.00	.00	.00	.00	13	22	92	6.1	2.4	.98	3.1
10	.00	.00	.00	.00	.00	12	25	73	28	3.2	.91	3.1
11	.00	.00	.00	.00	.00	11	12	22	24	3.7	.84	3.4
12	.00	.00	.00	.00	.00	10	9.1	30	18	4.2	.98	3.4
13	.00	.00	.00	.00	.00	9.1	9.0	17	9.9	4.1	1.1	2.9
14	.00	.00	.00	.00	.00	8.3	3.8	11	7.9	3.4	1.0	2.5
15	.00	.00	.00	.00	.00	7.7	5.1	9.8	13	2.5	1.0	2.4
16	.00	.00	.00	.00	.00	7.3	11	8.8	17	2.1	1.1	2.5
17	.00	.00	.00	.00	.00	7.4	18	8.3	10	2.0	.82	2.8
18	.00	.00	.00	.00	.00	8.4	275	7.8	7.2	1.9	.63	3.0
19	.00	.00	.00	.00	.00	7.5	131	7.1	5.3	2.3	.54	3.7
20	.00	.00	.00	.00	.00	7.2	43	7.5	4.1	2.2	.47	3.7
21	.00	.00	.00	.00	.00	8.2	25	7.5	3.5	2.5	.40	4.1
22	.00	.00	.00	.00	.01	13	18	6.5	3.1	2.2	.43	4.0
23	.00	.00	.00	.00	.20	14	15	5.9	2.8	2.1	.39	3.8
24	.00	.00	.00	.00	100	12	12	5.3	2.6	1.7	.35	3.6
25	.00	.00	.00	.00	700	9.7	13	5.4	2.5	1.3	.31	4.0
26	.00	.00	.00	.00	450	7.5	21	4.9	2.2	1.7	.31	3.3
27	.00	.00	.00	.00	140	6.9	64	4.9	1.9	2.5	.43	2.6
28	.00	.00	.00	.00	60	6.4	53	4.6	1.7	8.7	.37	2.7
29	.00	.00	.00	.00	---	6.1	25	4.5	1.9	6.6	.27	2.4
30	.00	.00	.00	.00	---	5.9	16	4.2	6.2	4.7	.27	2.2
31	.00	---	.00	.00	---	5.4	---	4.0	---	3.1	.40	---
TOTAL	.00	.00	.00	.00	1450.21	429.0	941.0	424.7	219.9	163.6	27.30	83.87
MEAN	.00	.00	.00	.00	51.8	13.8	31.4	13.7	7.33	5.28	.88	2.80
MAX	.00	.00	.00	.00	700	50	275	92	28	36	2.4	4.1
MIN	.00	.00	.00	.00	.00	5.4	3.8	4.0	1.7	1.3	.27	.69
AC-FT	.00	.00	.00	.00	2880	851	1870	842	436	325	54	166
CAL YR 1985	TOTAL	1073.66		MEAN	2.94	MAX	59	MIN	.00	AC-FT	2130	
WTR YR 1986	TOTAL	3739.58		MEAN	10.2	MAX	700	MIN	.00	AC-FT	7420	

CHEYENNE RIVER BASIN

06425100 ELK CREEK NEAR RAPID CITY, SD

LOCATION.--Lat 44°14'25", long 103°09'03", in NE¼NE¼ sec.9, T.3 N., R.8 E., Meade County, Hydrologic Unit 10120110, on section line near right upstream corner of county road bridge, 1.7 mi downstream from Morri Creek tributary, and 10 mi north of Exit 61 and I-90 northeast of Rapid City.

DRAINAGE AREA.--190 mi².

PERIOD OF RECORD.--November 1978 to current year.

GAGE.--Water-stage recorder. Elevation of gage is 2,950 ft above National Geodetic Vertical Datum of 1929, from topographic map.

REMARKS.--Records good except for periods of estimated record, which are poor. Estimated daily discharges during water year: Nov. 7-8, Dec. 1-3, 9, 18-19, Dec. 31 to Jan. 1, Jan. 6-10, 14-19, Feb. 4-7, 9, 11, Feb. 26 to Mar. 4, and Mar. 9-11, 27-31. Some flow is pumped from stream for irrigation. Several observations of water temperature and specific conductance were made during the year.

AVERAGE DISCHARGE.--8 years, 7.18 ft³/s, 5,200 acre-ft/yr.

EXTREMES FOR PERIOD OF RECORD.--Maximum discharge, 1,560 ft³/s, May 20, 1982, gage height, 10.79 ft; maximum gage height, 11.80 ft, Feb. 26, 1986, backwater from ice; no flow for many days each year.

EXTREMES FOR CURRENT YEAR.--Peak discharges greater than base discharge of 100 ft³/s and maximum (*):

Date	Time	Discharge (ft ³ /s)	Gage height (ft)	Date	Time	Discharge (ft ³ /s)	Gage height (ft)
May 24	0800	*792	*9.95				

No other peak greater than base discharge.

No flow for many days.

DISCHARGE, IN CUBIC FEET PER SECOND, WATER YEAR OCTOBER 1986 TO SEPTEMBER 1987
MEAN VALUES

DAY	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
1	2.2	3.9	7.0	2.0	8.6	4.0	24	4.1	21	.76	.00	.00
2	3.1	3.8	5.0	2.0	4.7	5.0	35	4.3	13	.66	.00	.00
3	6.2	4.0	4.5	3.5	5.7	6.0	24	5.4	9.1	.74	.00	.00
4	14	4.1	5.3	2.4	4.0	8.0	23	6.1	7.9	.72	.00	.00
5	18	4.3	5.1	2.1	4.0	12	24	6.2	6.8	.88	.00	.00
6	8.7	4.5	5.4	2.0	5.0	27	23	5.5	6.0	.75	.00	.00
7	5.6	4.5	5.5	2.0	6.0	66	17	4.8	5.2	.68	.00	.00
8	4.5	4.0	5.7	2.0	5.6	27	14	4.1	4.5	.68	.00	.00
9	4.1	4.0	4.5	1.5	4.5	10	12	3.9	4.3	.74	.00	.00
10	3.9	4.5	3.5	1.5	6.0	7.0	9.9	3.9	5.7	.74	.00	.00
11	4.0	3.8	4.0	1.5	6.0	7.0	9.2	3.7	24	.82	.00	.00
12	3.8	3.0	4.3	1.7	6.2	7.9	8.3	3.4	19	.92	.00	.00
13	3.9	2.8	3.5	1.9	6.1	7.7	8.0	3.6	14	1.1	.00	.00
14	4.0	2.7	3.6	2.0	5.8	7.7	7.6	3.5	8.4	1.2	.00	.00
15	4.0	2.8	3.5	2.0	5.9	7.6	7.3	2.8	5.6	1.0	.00	.00
16	4.0	3.1	3.4	1.5	5.9	7.7	7.1	2.9	4.3	1.1	.00	.00
17	4.0	3.7	3.3	.50	6.2	8.2	6.8	2.9	3.5	.93	.00	.00
18	4.0	4.4	3.0	1.0	6.0	8.5	6.7	2.9	3.2	1.2	.00	.00
19	4.0	4.2	2.5	1.5	6.2	9.6	6.7	3.8	3.7	1.1	.00	.00
20	3.9	4.6	2.4	2.0	6.0	13	6.0	5.2	3.3	.77	.00	.00
21	3.9	5.1	2.3	3.3	6.7	3.4	5.4	6.4	3.0	.76	.00	.00
22	4.0	6.0	2.3	3.5	6.3	2.6	5.2	7.0	2.6	.71	.00	.00
23	4.0	6.4	2.4	3.7	6.1	12	5.3	6.4	2.2	.56	.00	.00
24	4.0	8.3	2.5	3.8	5.8	21	5.2	346	2.1	.56	.00	.00
25	4.0	11	3.2	3.7	5.8	8.7	4.9	113	1.5	.53	.00	.00
26	3.9	15	3.9	4.0	5.0	9.9	4.8	84	1.5	.43	.00	.00
27	3.9	11	2.2	4.4	5.0	10	4.6	58	1.3	.35	.00	.00
28	3.8	9.9	3.8	4.6	4.5	9.0	4.5	37	1.2	.29	.00	.00
29	3.7	8.9	4.3	5.1	---	8.0	4.4	22	1.0	.15	.00	.00
30	3.8	8.0	2.3	11	---	8.0	4.0	30	.93	.00	.00	.00
31	4.0	---	2.0	5.2	---	13	---	44	---	.00	.00	---
TOTAL	152.9	166.3	116.2	88.90	159.6	362.5	327.9	836.8	189.83	21.83	.00	.00
MEAN	4.93	5.54	3.75	2.87	5.70	11.7	10.9	27.0	6.33	.70	.00	.00
MAX	18	15	7.0	11	8.6	66	35	346	24	1.2	.00	.00
MIN	2.2	2.7	2.0	.50	4.0	2.6	4.0	2.8	.93	.00	.00	.00
AC-FT	303	330	230	176	317	719	650	1660	377	43	.00	.00
CAL YR 1986	TOTAL	4174.98	MEAN	11.4	MAX	700	MIN	.00	AC-FT	8280		
WTR YR 1987	TOTAL	2422.76	MEAN	6.64	MAX	346	MIN	.00	AC-FT	4810		

May 24, 1949

Mr. Wagner MOVED, SECONDED by Mr. Varilek that Application No. 1089-1 be APPROVED for 25 acre feet of storage. MOTION CARRIED.

1090-1, Merne Judson, Denver CO

Application is for .63 cfs of water from Lassards Draw to irrigate 44 acres. Affidavit of publication received.

Mr. Varilek MOVED, SECONDED by Mr. Mickelson that Application No. 1090-1 be APPROVED. MOTION CARRIED.

25-1A, Elmer Biers, Sturgis SD

Application is for .25 cfs of water from Morris Creek to irrigate 19.3 acres. Affidavit of publication received.

Mr. Winterton stated the application was advertised for a change in the point of diversion. The application is prior to 1955. Mr. Biers does have a vested right.

Chairman Jensen administered the oath to Gregor McFarland.

Mr. McFarland stated he lives down the Creek from Mr. Biers. He has irrigation rights which he uses possibly seven days a year to flood irrigate. If Mr. Biers starts pumping water out of the creek they are all going to be dry. Mr. Biers did pump some water out for trees, but he and a neighbor did run out of water for their cattle. If Mr. Biers puts in a sprinkler system they will run out of water for sure. Mr. McFarland stated he felt there should be a 12 inch by-pass all the way down the stream.

Chairman Jensen administered the oath to Elmer Biers.

Mr. Biers stated he requested the point of diversion to be changed because before he purchased the place, there was a washout where the dam was. If he would put a dam in there to flood irrigate, he would have no control at all. He is putting in a pump to irrigate approximately 25 acres. The land is not level enough to flood.

Chairman Jensen administered the oath to Richard Soelzer.

Mr. Soelzer stated he owns about $\frac{1}{2}$ mile of the creek between Elmer Biers and Gregor McFarland. Mr. Soelzer stated the creek is a live creek, but at the present time he did not think the creek could fill a 4 inch pipe. He would not be opposed to the water right, if it were for a flood type system. Mr. Soelzer stated he did object to pump irrigation for Morris Creek.

Mr. McFarland stated he would not object to using a spreader type system. Mr. McFarland has flowing springs on Morris Creek. When there are dry years and the people above and below him are out of water he still has water in the creek because of the springs.

Mr. Winterton stated they need to establish this as a vested right. His diversion structure has been gone a while and he has just been using a different pump in a different location.

Mr. Decker MOVED, SECONDED by Mr. Garrett that the Commission recognize Water Right No. 25-1A as a vested right for 19.3 acres. MOTION CARRIED.

Mr. Biers stated if the permit is for flood waters he would like the full 25 acres instead of the 19.3 acres.

Mr. Winterton stated a vested right can only be recognized for the actual amount being irrigated. Mr. Winterton stated he questioned the recent use of the system.

Mr. Wagner MOVED, SECONDED by Mr. Decker to RESCIND the previous motion and that more information be gathered on the application. MOTION CARRIED.

Meeting recessed at 6:48 p.m.

Meeting reconvened at 8:30 a.m., May 25, 1979.

MULTIPLE WELL PRIORITIES

Mr. Jones gave a brief summary of a report prepared on the Multiple Well Priorities (copy on file). The policy basically says that if additional wells are needed to obtain the amount of water granted in the original permit, an amended application may be approved authorizing such amendment retaining the priority of the original permit.

Mr. Smith stated that the Attorney General's office agrees with the policy. The policy must be implemented by law.

In answer to a question from Mr. Varilek, Mr Jones stated the spacing could be regulated when the Commission approves an additional well. Mr. Jones further stated that a lot of the problems are now solved because the applicant must have a signed well drillers log which several of the older permits did not have to have. The location of the wells are checked when the amended application is received. The amended applications were advertised.

Mr. Varilek MOVED, SECONDED by Mr. Garrett to APPROVE the list of amended applications as submitted by the staff (copy on file) and adopt the multiple well priority policy. MOTION CARRIED.

4416-3, Duane L. Thompson, Arlington SD

Application is for 2.1 cfs of water from two 55 foot deep wells to irrigate 156 acres. Affidavit of publication received.

Mr. Wagner MOVED, SECONDED by Mr. Varilek that Application No. 4416-3 be APPROVED with the qualification that the irrigation wells approved under this Permit will be located near domestic wells and other irrigation wells which may obtain water from the same aquifer. The irrigation well owner, under this Permit, shall control his irrigation withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in irrigation wells having prior water rights. MOTION CARRIED.

Meeting recessed at 8:50 a.m.

Meeting reconvened at 9:30 a.m.

GREGORY COUNTY

Gale Selken gave a brief summary of the report prepared on Gregory County (copy on file).

Mr. Selken stated the staff is recommending approval of the permits, but it

LICENSE FOR PERMIT NUMBER 25-1A

1. Legal location of wells: NA

dams & structures: Diversion point: SW1/4 NE1/4 Section 25, T4N-R6E

2. Well Information: Well Drilling Firm _____

No. of wells _____ Depth _____

Casing a) diameter _____ b) length _____ c) type _____ Screen a) type _____ b) length _____ Static Water Level _____

Pump a) make Teel b) model _____ c) size _____ d) capacity 300 GPM e) turbine pump no. of stages _____ Motor a) make Briggs-Stratton b) model no. _____ c) horsepower rating 3 d) motor efficiency rating _____

3. Distribution lines: a) size of lines 2 inches* b) type Rubber c) length 1000 feet

* will be attached to 3 inch irrigation pipe.

4. Dam information: a) height to crest _____ b) height to spillway _____ c) crest width _____ d) crest length _____ e) spillway length _____ f) spillway width _____ g) approx. storage _____ h) Distribution lines or canals: 1) size _____ 2) type _____ 3) length _____

i) Outlet tubes: 1) diameter _____ 2) type _____ 3) valued (Y/N) _____ 4) valve type _____ 5) location on structure _____

5. System Type: a) sideroll: 1) length _____ feet 2) diameter of pipe _____ 3) make, model & number of sprinklers _____ 4) spacing of sprinklers _____ 5) nozzle size _____ b) towline: 1) length _____ feet 2) make, model & number of sprinklers _____ 3) spacing of sprinklers _____ 4) nozzle size _____

5. System Type: c) center pivot

- 1) make _____
- 2) number of towers _____
- 3) distance between towers _____
- 4) overall length _____
- 5) End gun (Y/N) _____
- 6) high or low pressure _____
- 7) make & size of nozzles _____
- 8) PSI reading while system is running _____
- 9) GPM _____

g) Gun *

- 1) make _____
- 2) serial number _____
- 3) nozzle size 3/16 _____
- 4) capacity (GPM) _____
- 5) PSI _____
- 6) hose size 3 inches _____
- 7) hose length 1500 feet _____

d) Gate Pipe

- 1) length _____
- 2) diameter _____
- 3) spacing of gates _____

e) Siphons

- 1) number _____
- 2) size _____

f) Portable boom

- 1) make _____
- 2) serial number _____
- 3) nozzle size _____
- 4) capacity (GPM) _____
- 5) PSI _____

h) Hydromatic

- 1) make _____
- 2) model _____
- 3) serial number _____
- 4) length _____
- 5) nozzle size _____
- 6) spacing _____
- 7) PSI _____
- 8) capacity (GPM) _____

YES

NO

Check Items

___ NA ___

1. Soil and water permit lands agree with lands being irrigated and lands listed on permit.

X ___

2. Special Qualifications to permit being abided by.

X ___

3. All Structures, wells and lands on map.

REMARKS: * Irrigation is conducted by using 3 inch, 30 foot long Aluminum pipes.

8 nozzles are installed on every pipe section.

Reconsideration of Deferral
Report on Application No. 25-1A
Elmer Biers
November 18, 1988

Background

The Water Rights Commission, at the meeting of May 24, 1979, deferred action on Water Application No. 25-1A for further investigation. At that meeting, downstream water users objected to the approval of the application arguing that using a pump would take a lot of water at one time out of the creek and they would go dry.

Application No. 25-1A proposes to change the location of the diversion point from the NE1/4 NW1/4 (authorized under Water Right No. 25-1) to the SW1/4 NE1/4 Section 25, T4N-R6E, in Meade County. Application No. 25-1A will continue to irrigate 19.3 acres at a diversion rate 0.25 cubic feet per second (cfs) from Morris Creek using a 3 inch pump and portable sprinkler system. Water Right No. 25-1 was originally authorized to divert 2.72 cubic feet per second (cfs) from Morris Creek with a priority date of December 31, 1907, to irrigate 190.4 acres.

Discussion

On September 13, 1988, the writer inspected Mr. Biers' irrigation project. At the time of inspection, Morris Creek was not flowing. Mr. Biers stated that the last time he irrigated was 1986, when the creek was flowing. The only acreage he irrigates is the 19.3 acres in the NE1/4 of section 25, T4N-R6E. Mr. Biers stated that he diverts water whenever it is available. There are two irrigation projects and a number of domestic water users downstream from the diversion point:

- 1) Water Right No. 872-1 issued to Gregor McFarland with a priority date of October 21, 1896, for 1.1 cfs and June 6, 1969, for 1.3 cfs from Morris Creek to irrigate 185 acres.
- 2) Water Right No. 746-1 issued to Frank Soelzer to divert 1.61 cfs from Morris Creek with a priority date of 1910 to irrigate 112.4 acres.

Conclusions and Recommendations

1. The change in the point of diversion will cause no impairment to existing water rights.
2. Water has been used whenever it was available on 19.3 acres of the original authorized 190.4 acres.

3. Water should be bypassed for the downstream irrigator with senior priority and also for downstream domestic water users. The senior priority right is Gregor McFarland's Water Right No. 872-1 which authorizes 1.1 cfs dating from October 21, 1896.
4. It is recommended that Application No. 25-1A be approved to change the point of diversion on Morris Creek with the low flow qualification and the irrigation questionnaire qualification.
5. It is also recommended that if Application No. 25-1A is approved, the applicable portions of Water Right No. 25-1 be incorporated in Application No. 25-1A, and the abandoned portions of Water Right No. 25-1 be cancelled.

M. Ahadi

M. Rassool Ahadi
Natural Resources Engineer
(605)773-3352


RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 25-1A, Elmer Biers

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Water Permit Application No. 25-1A, Elmer Biers, Hereford Route, Sturgis SD.

The Chief Engineer is recommending APPROVAL of Application No. 25-1A because 1) the proposed diversion can be developed without unlawful impairment of existing rights, 2) the proposed use is a beneficial use and 3) in the public interest with the following qualifications:

1. This permit is approved subject to the irrigation water use questionnaire being submitted each year.
2. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.
3. Approval of Permit No. 25-1A incorporates the applicable portions of Water Right No. 25-1 into No. 25-1A and cancels the abandoned portions of No. 25-1.

See the attached report for additional information.


JOHN HATCH, Chief Engineer
February 6, 1989



Department of Natural Resource Development

WATER RIGHTS COMMISSION

April 17, 1979

Joe Foss Building, Pierre, South Dakota 57501
Phone 605/773-3151

Elmer Biers
R. R.
Sturgis, SD 57785

Dear Mr. Biers:

You are hereby notified that your change of diversion point on an existing permit

Application No. 25-1A for a permit to appropriate water from _____

Morris Creek

through the Biers #1

has been examined and found to comply with the water laws of South Dakota and the regulations thereunder. A notice of your intent to appropriate water has

been sent to the Publisher of the Rushmore Ads News printed at

Sturgis, South Dakota for your information, a copy of this notice is enclosed.

The Publisher of the Rushmore Ads News has been instructed that he is to publish the notice of your proposed appropriation of water once a week, for two consecutive weeks after you have verified that the notice is to be published. The Publisher has also been informed that you are to pay the cost of publication and that you should make the necessary arrangements with him to pay these costs.

You should know that the Publisher is to furnish proof of publication to the Water Rights Commission within 60 days of the date of this letter, otherwise South Dakota statute requires that your application lose its priority until proof of publication is received in proper form.

You are also notified that SDCL 1-26 provides you the opportunity to meet informally with Commission Staff to discuss proposed recommendations by the staff to the Commission prior to the scheduled hearing. If we do not hear from you, we will assume that the opportunity for an informal meeting is being waived and you wish to proceed directly to the hearing on your application before the Commission.

Respectfully,
WATER RIGHTS COMMISSION

BY:

Betty Westlund,
Water Rights Specialist

enclosure: cc forms 6 and 7

Receipt # 4 6682

Publish first publication, on or before May 4, 1979NOTICE OF HEARING ON
APPLICATION TO APPROPRIATE WATER

Pierre, South Dakota 57501

April 17, 1979Notice is hereby given Elmer Biers whose post officeaddress is Sturgis, South Dakota, has made an application in accordance with the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-14; 46-2-9 thru 46-2-11, 46-2-13; 46-5-1 thru 46-5-8, 46-5-10 thru 46-5-22, 46-5-41, and Commission Rules ARSD 52:01:01:01 thru 52:01:01:13, for a permit to appropriate for beneficial use .25 cubic feet ofwater per second of time from the Morris Creek through the Biers #1, for a change in, the point (X) of diversion on an existing permit of which is (XXX) to be located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 25, Twp. 4N, Range 6E. Said water to be used for the purpose of providing irrigation on portions of the following described land:NE $\frac{1}{4}$, Section 25-T4N-R6E.This Application No. 25-1A will be considered by the Water Rights Commission at the Howard Johnson's Motel
2211 Lacrosse, Rapid City, SD 57701 upon the 24th day of May - 1979at 10 A.M. The Commission is authorized to make a determination on this application at the hearing. All interested persons may appear and be heard. Any person who may be affected by a Commission decision who desires to present evidence or cross-examine witnesses according to SDCL 1-26 may notify the Commission in writing prior to the hearing or orally at the hearing.

This hearing is an adversary proceeding. Any person 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 at the hearing. Decisions of the Commission may be appealed to the Courts as provided by law.

WATER RIGHTS COMMISSION

Betty Westlund,
Water Rights Specialistcc: **Elmer Biers, R.R., Sturgis, SD 57785**

SOUTH DAKOTA
Department of
Water & Natural Resources

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

February 14, 1989

NOTICE

TO: Elmer Biers
Hereford Route
Sturgis, SD 57785

FROM: John Hatch, Chief Engineer
Water Rights Division
(605)773-3352



SUBJECT: Reconsideration of Deferred Water Permit Application
No. 25-1A

The Water Management Board will reconsider Water Permit No. 25-1A at 8:00 am, March 2, 1989 at the Howard Johnson, Roosevelt Room, 1-90 & LaCrosse, Rapid City, SD. The time is an estimate and may be later than the time specified due to prior agenda items. Application No. 25-1A was deferred May 24, 1979 because the Water Rights Commission wanted investigations conducted on past use of the system.

Enclosed is a copy of the Revised Recommendation of the Chief Engineer to Approve Application No. 25-1A. The applicable portions of the notice published April 25 and May 2, 1979 will still apply at this hearing.

cc: Richard Soelzer
Gregor McFarland





Department of Water & Natural Resources

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

March 7, 1989

NOTICE

TO: Elmer Biers
Hereford Route
Sturgis, SD 57785

FROM: John Hatch, Chief Engineer
Water Rights Division
(605)773-3352

A handwritten signature in black ink, appearing to read "John Hatch".

SUBJECT: Preparation of Findings of Fact, Conclusions of Law and
Final Decision

The Water Management Board has directed John Guhin, the Board's attorney to prepare proposed Findings of Fact, Conclusions of Law and a Final Decision on approval of Water Permit Application No. 25-1A. The Board will consider the proposed Findings, Conclusions and Final Decision at 1:00 pm, May 10, 1989, Room 216, Joe Foss Building, 523 E Capitol, Pierre SD. The agenda time is an estimate. The actual time of consideration may be delayed due to prior agenda items.

The Board has requested that a copy of the proposed Findings, Conclusions and Final Decision be mailed to each Board member and all Parties of Record and their attorneys (copy enclosed) by April 20, 1989. Any comments pertaining to the proposed Findings, Conclusions and Decision are to be mailed to each Board member, the Board attorney and all Parties of Record and their attorneys by April 28, 1989.

The public hearing on Water Permit Application No. 25-1A was completed March 1, 1989. No additional testimony on this application will be received on May 10, 1989.

cc: Richard Soelzer
Gregor McFarland

SOUTH Dakota Department of
Water & Natural Resources

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

April 28, 1989

Gregor McFarland
HC 75, Box 324
Sturgis SD 57785

Dear Mr. McFarland:

As requested, enclosed is a copy of the tape from the March 2, 1989, Water Management Board meeting concerning Water Permit Application No. 25-1A, Elmer Biers.

Sincerely,

Karen Schlaak

KAREN SCHLAAK
Senior Secretary
605 773-3352

enclosure



STATE OF SOUTH DAKOTA
BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF THE)
APPLICATION FOR WATER PERMIT)
NO. 25-1A, ELMER BIERS)

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
FINAL DECISION

FINDINGS OF FACT

1. This is an application for Permit No. 25-1A to amend Water Right No. 25-1. The applicant seeks to change the point of diversion on Water Right No. 25-1 in Meade County to a point nearer the land to be irrigated.

2. Water Right No. 25-1 has a priority date of December 31, 1907, to irrigate 190.4 acres.

3. There is no dispute that the applicant has failed to irrigate 171.1 acres of the original 190.4 acres for three consecutive years without legal excuse.

4. The issue raised at hearing was whether the remaining 19.1 acres had been consecutively irrigated.

5. While the evidence on the continuity of use is in conflict, the Board finds that there is insufficient evidence in the record to compel a finding that there has been a three year period of nonuse without legal excuse. The evidence that neighbors have failed to observe irrigation is not dispositive because the flow of the creek is so low that irrigation by way of pipe and motor on the creek is infrequent by any user. No testimony was received that there had been any irrigation by way of a pipe since 1986 due to the low flow of the water.

6. It is desirable to change the point of diversion on this permit to a point near the land to be irrigated to minimize the water lost in the transporting process.

7. There is a substantial use of the creek for watering cattle. This use occurs principally during the winter months because of the grazing patterns of cattle owned by the surrounding landowners.

8. No party has satisfactorily established the reason the creek flows relatively well during the winter but because of the disposition of this case, the question need not be addressed.

9. The change in the point of diversion will not, in and of itself, cause harm to any other irrigator or user in the area.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter.

2. The proposed diversion, as properly qualified, can be developed without unlawful impairment of existing rights.

3. The proposed use for irrigation is a beneficial use.

4. The proposed use as properly qualified, is in the public interest because the change in point of diversion will allow the applicant to more effectively use the water.

5. Approval of Permit No. 25-1A incorporates the applicable portions of Water Right No. 25-1 into 25-1A and operates as cancellation of the abandoned portions of 25-1A.

FINAL DECISION

The application or Water Permit No. 25-1A is granted with the following qualifications:

1. The applicant shall, within 90 days of the final approval of this permit, supply in writing to the chief engineer that he desires either (1) to construct off-channel storage for flood flows, or (2) to provide an in-channel structure that would measure and bypass minimum flows to satisfy prior downstream users and domestic rights. The plans and specifications for both (1) and (2) are subject to review of the chief engineer who shall, if proper, certify that the proposed structure will provide for protection of prior rights and downstream domestic use, including livestock water. No pumping may be done under the authority of this permit until such certification is made.

2. This permit is approved subject to the irrigation water use questionnaire being submitted each year.

3. Approval of this permit, i.e., Permit No. 25-1A, incorporates the applicable provisions of Water Right No. 25-1 into No. 25-1A and cancels the abandoned portions of No. 25-1, i.e., that portion of the water right to irrigate the 171.4 acres which have been abandoned.

BY THE BOARD

Alvin B. Gunderson
May 10, 1939

SOUTH DAKOTA
Department of
Water & Natural Resources

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

May 11, 1989

NOTICE

TO: Elzer Biers
Hereford Route
Sturgis SD 57785

FROM: John Hatch, Chief Engineer
Water Rights Division
605 773-3352



SUBJECT: Adoption of Findings of Fact, Conclusions of Law and
Final Decision

This is to notify you that a Final Decision, including Findings of Fact, Conclusions of Law were adopted by the Water Management Board for approval of Application No. 25-1A which was considered at the May 10, 1989 meeting.

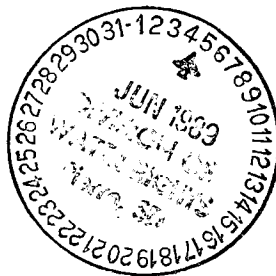
A copy of the signed final Decision, Findings and Conclusion is enclosed. South Dakota Statutes provide that the decision of the Board may be appealed to the Courts.

cc: Richard Soelzer
Gregor McFarland



June 2, 1989

Russel Ahadi
Natural Resources Engineer



Dear Sir.

I am enclosing a copy of a V-Notch Weir which I received from the Sturgis Ag office.

Please advise if this type of Weir meets the specifications of your office or if you have some other type which would be satisfactory to your office.

Sincerely

Edmund J. Beeds

HC 75 Box 358

Sturgis So Dak 57785

Phone 605-347-5128 call early mornings or late evening please

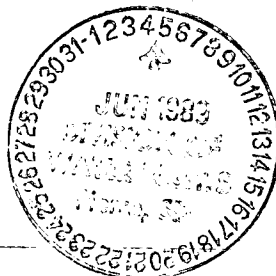
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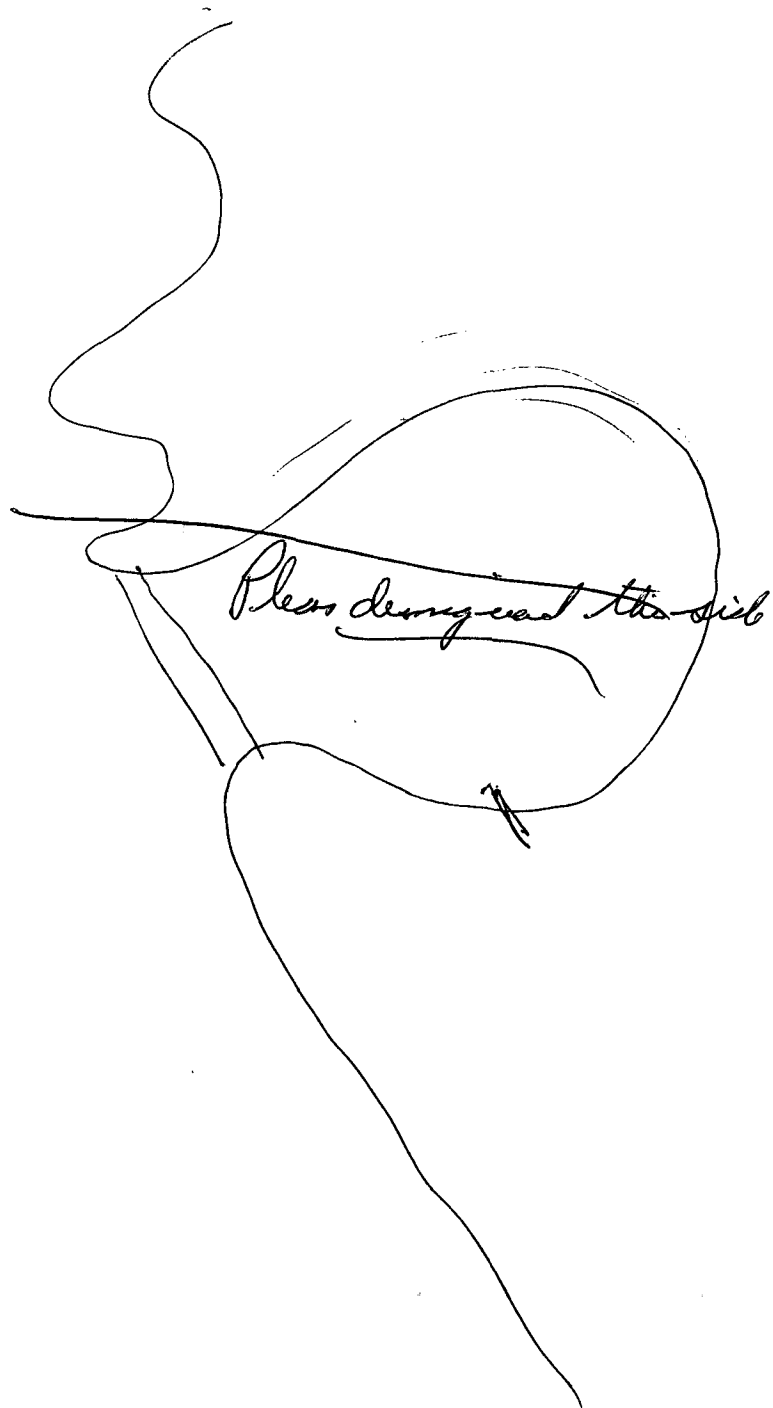
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SOUTH
Dakota Department of
Water & Natural Resources

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

June 12, 1989

Elmer Biers
HC 75, Box 358
Sturgis, SD 57785

RE: Plans and Specifications for a Measuring Device.

Dear Mr. Biers:

I have reviewed your proposed V-notch weir design you intend to install in Morris Creek. The following information must be submitted before any decision could be made regarding approval or disapproval of your measuring device:

1. Plans must show all the weir dimensions.
2. Location of the measuring device must be shown on a map of the area.
3. Plans and specifications must be signed by a professional engineer or a person who is employed by a federal or state agency and who designs or inspects measuring devices as part of his or her job.

Please note that we are not in favor of installing a weir in the creek which will cause back up waters or storage. An off-channel structure would better serve your purpose. We would suggest a structure which would capture water only when flows are in excess of 10 cubic feet per second in the stream channel.

An off-channel weir type structure could be designed so that whenever water reaches a certain stage (certain flow rate), it would spill over into a holding pond for your use.

If you have any questions, please contact me.

Sincerely,



M. RASSOOL AHADI
Natural Resources Engineer
(605)773-3352





Department of Water & Natural Resources

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

AUG 1 1989

Elmer Biers
HC 75, Box 358
Sturgis SD 57785

Dear Mr. Biers:

Enclosed is Water Permit No. 25-1A as approved by the Water Management Board authorizing you to construct your water diversion system and put the water to beneficial use, not exceeding the limits as specified in the Water Permit.

Also enclosed is Form 10, Notice of Completion of Works and Application of Water to Beneficial Use, which you are to complete and submit to the Chief Engineer when you have completed the system and/or have put the water to beneficial use. An inspection can then be scheduled so that the Water License may be issued, thus completing your acquisition of a Water Right.

Very truly yours,

A handwritten signature in cursive script that reads "John Hatch". The signature is written in dark ink and is positioned above the typed name and title.

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

enclosures

PLEASE NOTE: Certain changes can be made in your permit within the five year construction period, usually without affecting the priority date provided an application to amend your permit is made within the five year period - i.e. changes in location or number of diversion points (wells) or location of land to be irrigated. Well locations for wells into the same aquifer can be moved up to 660 feet without application.

Applications to amend a permit after the five year construction period will be assigned a new priority date. Applications to change water sources, to add lands or increase original diversion rates, if approved will usually receive the date of the new application as a priority date regardless of the five year construction period.



SOUTH Dakota Department of
Water & Natural Resources

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

August 8, 1989

Elmer Biers
HC 75, Box 358
Sturgis, SD 57785

RE: Approval of Plans and Specifications for an off Channel
Structure.

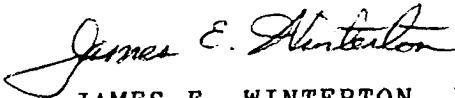
Dear Mr. Biers:

We have reviewed plans and specifications for your off channel
diversion structure. Plans and specifications are approved as
submitted.

The inspection of July 28, 1989, by Rassool Ahadi, showed that
the structure was not complete. When the structure is complete,
a follow up inspection will be conducted.

If you have any questions, please contact us.

Very truly yours,



JAMES E. WINTERTON, P.E.
Natural Resources Engineer IV
(605) 773-3352





25-1A

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 19, 2001

NOTICE

TO: ELMER BIERS, 21494 MORRIS CREEK PL, STURGIS, SD 57785
FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2000 Irrigation Questionnaire(s)

Our records indicate that the 2000 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 25-1A. The request for the Questionnaire was dated October 20, 2000. The Water Management Board has directed that owners of water permits who have not submitted the 2000 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 25-1A qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at 10:00 am, March 7, 2001 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 25-1A in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing 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.

If the questionnaire(s) is(are) received in this office on/or before March 2, 2001, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

25-1A

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none">■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits.	A. Received by (Please Print Clearly)	B. Date of Delivery 1-19-01
1. Article Addressed to: ELMER BIERS 21494 MORRIS CREEK PL STURGIS SD 57785	C. Signature X Dorothy Biers <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
2. Article Number (Copy from service label)	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
7000 0600 0026 9814 2676	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 31, 2001

25-1A

Elmer Biers
21494 Morris Creek Pl
Sturgis, SD 57785

Dear Mr. Biers:

I am writing to acknowledge receipt of your 2000 irrigation questionnaire. You may disregard the January 19, 2001, "Notice" concerning reporting requirements for Water Permit No. 25-1A.

The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352



25-1A

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 16, 2002

NOTICE

TO: ELMER BIERS, 21494 MORRIS CREEK PL, STURGIS, SD 57785
FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2001 Irrigation Questionnaire(s)

Our records indicate that the 2001 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 25-1A. The request for the Questionnaire was dated October 12, 2001. The Water Management Board has directed that owners of water permits who have not submitted the 2001 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 25-1A qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at 10:00 am, March 13, 2002 in the Visitor Center (west side of Capitol Lake), 650 E Capitol, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 25-1A in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing 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.

If the questionnaire(s) is(are) received in this office on/or before March 8, 2002, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

25-1A

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

ELMER BIERS
 21494 MORRIS CREEK PL
 STURGIS SD 57785

COMPLETE THIS SECTION ON DELIVERY

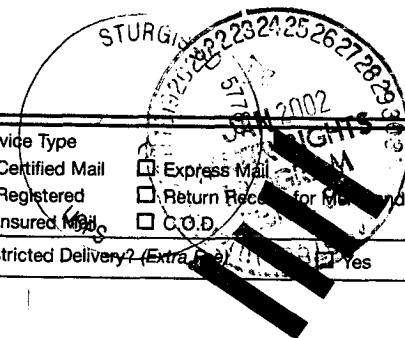
A. Received by (Please Print Clearly) B. Date of Delivery

C. Signature
 X *Dorothy Biers* Agent
 Addressee

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes



2. Article Number (Copy from sender's label)
 7001 2510 0004 4797 4562



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 11, 2002

25-1A

Elmer Biers
21494 Morris Creek Pl
Sturgis SD 57785

Dear Mr. Biers:

I am writing to acknowledge receipt of your 2001 irrigation questionnaire. You may disregard the January 16, 2002, "Notice" concerning reporting requirements for Water Permit No. 25-1A.

The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME: Elmer Biers

ADDRESS: 21494 Morris Creek Pl., Sturgis SD 57785

DATE: December 19, 2003

TELEPHONE: 347-5128

RE: Status of Water Permit No. 25-1A

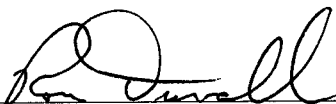
COMMENTS:

On December 19, 2003, I contacted Mr. Biers regarding a comment placed on his 2003 irrigation questionnaire. Mr. Biers had indicated the permit could be canceled because there had not been enough water due to the drought.

I asked Mr. Biers whether he intended to abandon irrigation altogether or whether he would like to continue irrigating when water is available. Mr. Biers indicated that he had pumped water in the past but most of the time there was not sufficient water available or it would be wet enough that no irrigation was needed. In addition, Mr. Biers indicated that the current diversion point location was not ideal for the land being irrigated. I told Mr. Biers that I would send him a map of his project and outline the 40 acre area in which the diversion point may be located. Also, I informed him that a new permit may be needed if he planned to move the diversion point outside of the area described on the permit.

RECOMMENDED ACTION:

The permit should not be scheduled for cancellation based on Mr. Biers' comment on the 2003 irrigation questionnaire. Legal excuse may exist for most years due to lack of water or sufficient moisture. Mr. Biers did indicate that he would like to keep the permit and irrigate when conditions warranted irrigation.



Ron Duvall
Natural Resources Engineer
Water Rights Program

25-1A



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

August 10, 2016

Dorothy Biers
21494 Morris Creek Place
Sturgis, SD 57785

RE: Status of Water Permit 25-1A

Dear Mrs. Biers,

This letter is in regard to Water Permit 25-1A which authorizes the diversion of 0.25 cubic feet of water per second (112.5 gallons per minute) to irrigate 19.3 acres located in the NE¼ Section 25-T004N-R06E. The permit is currently in the name of Elmer Biers. The irrigation questionnaires have been sent to 21494 Morris Creed Place, Sturgis SD 57785 and are regularly filled out and returned to the DENR-Water Rights Program. My inquiry is who is the contact person and a phone number in regard to Water Permit 25-1A? Please contact me with this information at the number below.

Thank you for your attention to this matter.

Lynn Beck
Natural Resources Engineer III
SD Department of Environment and Natural Resources
Water Rights Program
Phone: (605) 773-3352
Fax: (605) 773-4068
Lynn.beck@state.sd.us
<http://denr.sd.gov/>



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

November 22, 2016

25-1A

Jerry Biers
21475 Morris Creek Place
Sturgis SD 57785

Dear Mr. Biers:

Thank you for calling concerning the need for an ownership change for Water Permit No. 25-1A.

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.

In our phone conversation you inquired about keeping the permit if no irrigation had taken place in a while. Under South Dakota Water Law, water must be placed to beneficial use for the purpose it was appropriated at least once every three years in order to maintain a water permit. This three year period may be waived if legal excuse exists for the years of nonuse. Enclosed are excerpts of the water right laws and Water Management Board Rules dealing with these issues.

Thank you in advance for helping update the water right. If I can answer any questions for you, please give me a call.

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

enclosures

RECEIVED
DEC - 2 2016
WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 25-1A
Date: 11-29-16

I/We request that Water Permit No. 25-1A

formerly owned by: Elmer Biers

be transferred to: (name & address) Dorothy J Biers Rev trust
21494 Morris Creek Pl Sturgis SD 57785
Telephone No. 377-5128

Jerry - son 347-2472

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

19.3 acres - NE ¼ Section 25, T4N, R6E

I/We understand that the validity of Water Permit No. 25-1A 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 Dorothy J Biers Rev trust, the new owner, certify that the above information is true and correct.

Jerry Biers - PoA For Dorothy J Biers
(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 12/2, 20 16

RECEIVED OF Dorothy J Biere 21494 Morris Creek Pl Sturgis SD 57785

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		
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 <u>25-1A</u>	50	00
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	50 00

No. **07969**

By *James Hoodman*
Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

December 9, 2016

25-1A

Jerry Biers
21475 Morris Creek Place
Sturgis SD 57785


Dear Mr. Biers:

I am writing to acknowledge receipt of the transfer form and filing fee submitted for changing ownership on Water Permit No. 25-1A. Also received was the 2016 irrigation questionnaire.

The ownership change has been completed. The water permit formerly held by Elmer Biers is now listed in the name of "Dorothy J Biers Revocable Trust" at the address of 21494 Morris Creek Place, Sturgis SD 57785.

Enclosed is Receipt No. 07969 in the amount of \$50. If you have any questions, please contact me.

Sincerely,


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

enclosure

**Water Rights Program - DENR
Conversation File Documentation**

NAME OF PERSON OR FILE: Jerry Biers

ADDRESS: 21475 Morris Creek Place, Sturgis, SD 57785

COUNTY: Meade County

DATE: September 18, 2017 **TELEPHONE:** (605) 347-2472

RE: Licensing of Water Permit No. 25-1A

COMMENTS: I spoke with Jerry Biers this morning by phone concerning the status of permit 25-1A. His father applied for a change in diversion point for Water Right 25-1 in 1989. His father is deceased and the land is now owned by his mother under the "Dorthy J. Biers Revocable Trust". There has been no irrigation on this acreage since 1989. Jerry said there just is not water in creek like there was years ago. He said he remembers the creek flowing 3-4 feet wide and now it typically runs 12-18" wide. The equipment to irrigate is still around on the place and consists of a Wisconsin engine and 3" aluminum pipe with sprinklers. He said it would take some work to get things back in operating condition and the pump site may need a little work also. He is thinking the Permit could just as well be cancelled because it is doubtful the acreage would ever be irrigated again; however, he does not know what will happen to the land included in the trust after his 94 year old mother passes. He is reluctant to make the decision to cancel since there are seven children in the family, some of which may question a decision to cancel. He requested we send a "Transfer of Ownership" form to him and he thought the family would just proceed with a transfer to the trust. He will continue to fill out the irrigation questionnaires and at some later date the new owners will decide whether to license or cancel.

NAME: Steven Quissell, Water Rights Inspector



**Water Rights Program - DENR
Conversation File Documentation**

NAME OF PERSON OR FILE: Jerry Biers

ADDRESS: 21475 Morris Creek Place, Sturgis, SD 57785

COUNTY: Meade County

DATE: June 16, 2021 **TELEPHONE:** (605) 347-2472

RE: Licensing of Water Permit No. 25-1A

COMMENTS: I contacted Jerry Biers again to follow up on our conversation from 9/18/2017. Jerry's mother Dorthy is now deceased and the estate including the land included in the trust will most likely be settled this year. Jerry lives on the land on which Water Permit 25-1A is located and may be the eventual owner. He is reluctant to make any decision at this time as to cancellation or licensing until such time as the estate is settled. He will continue to reply to the irrigation questionnaire and again commented how low the flow has been in the creek at the diversion point.

NAME: Steven Quissell, Water Rights Inspector



25-1A

Water Rights Program - DANR
File Documentation

NAME OF PERSON OR FILE: Biers Revocable Trust, c/o Jerry Biers

ADDRESS: 21475 Morris Creek Place, Sturgis SD 57785 COUNTY: Meade

DATE: October 28, 2022 TELEPHONE:

RE: Status of Water Permit No. 25-1A

Jerry Biers called regarding water use under Water Permit No. 25-1A.

Water Permit has a priority date of 1907 to appropriate 0.25 cfs from Morris Creek in Meade County to irrigate 19.3 acres. An inspection was never conducted. Steve Quissell contacted Mr. Bier in June of 2021 to conduct the licensing investigation. At that time, Mr. Biers indicated his mother was deceased but the estate had not been settled. Therefore he was reluctant to make a decision on how to proceed.

Mr. Biers indicated he now owns the land authorized for irrigation under Permit No. 25-1A. He stated the water permit could likely be cancelled. He did say that he has a pump and pipe to set up irrigation. He went on to state that water is seldom if ever available to irrigate from Morris Creek. I explained that there may be legal excuse for the nonuse of water due to water not being available.

Mr. Biers thought about his options but ultimately concluded it is very unlikely that he would ever irrigate. Partially because water is seldom available and when it is during wet cycles irrigation is not needed but also due to the fact that it is only 19.3 acres and likely not worth the effort.

Mr. Biers asked that the water permit be cancelled. I informed him he'd received notice of cancellation but if he doesn't object to cancellation he will not need to do anything.

Finally, he received the 2022 irrigation questionnaire and stated he did not irrigate in 2022. I told him we'd complete the form for him stating water was not available.

NAME: *Eve Henderson*



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 19, 2023

NOTICE OF CANCELLATION

TO: Jerry Biers, 21475 Morris Creek Pl, Sturgis SD 57785

FROM: Ron Duvall, Water Rights Permitting Administrator
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Cancellation of Water Permit No. 25-1A

Water Permit No. 25-1A appropriates 0.25 cubic feet of water per second from Morris Creek to irrigate 19.3 acres in Meade County. On October 29, 2022, you spoke with Eric Gronlund in our program concerning the permit. It is our understanding you have a pump and pipe to irrigate with but seldom have enough water to use and when there is enough water, irrigation is not needed. Based on your request to have the permit cancelled, the Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 25-1A due to abandonment.

The Water Management Board will consider cancellation of Water Permit No. 25-1A at **9:30 am, Wednesday, March 8, 2023 (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD (*the agenda time is an estimate, and the actual time of hearing may be later*).

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Permit No. 25-1A based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water permit. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by January 30, 2023. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-8; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

January 19, 2023
Jerry Biers
Page 2

This hearing is an adversarial proceeding. Any party 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 State Supreme Court as provided by law.

The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by January 30, 2023.

Prior to January 30, 2023, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by January 30, 2023.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

RECOMMENDATION OF CHIEF ENGINEER

FOR WATER PERMIT NO. 25-1A, DOROTHY J BIERS REV. TRUST

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Agriculture and Natural Resources concerning Water Permit No. 25-1A, with land now owned by Jerry Biers.

The Chief Engineer is recommending cancellation of the above water permit due to abandonment.

On October 28, 2022, Mr. Biers called and indicated he is not irrigating. Morris Creek seldom has adequate water available to irrigate with and if it did, it would be a wet year and irrigation of the 19.3 acres would not be worth the effort. He concluded it would be very unlikely that he would ever irrigate.

Ron Duvall, Water Rights Permitting Administrator
for Eric Gronlund, Chief Engineer
January 18, 2023

Note:

Cancellation of the water permit does not prohibit a new application for this project in the future.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

March 9, 2023

25-1A

NOTICE OF ENTRY OF ORDER

Jerry Biers
21475 Morris Creek Pl
Sturgis SD 57785

Dear Mr. Biers:

This will notify you that the Water Management Board cancelled your Water Permit No. 25-1A on March 8, 2023. The permit had authorized diversion of water from Morris Creek to irrigate 19.3 acres in Meade County.

This action was taken under the conditions outlined in our notice to you dated January 19, 2023. If you have any questions concerning the Board action, please contact Genny McMath, with our program, at (605) 773-3352.

Sincerely,

A handwritten signature in cursive script that reads "Eric Gronlund".

Eric Gronlund, Chief Engineer
Water Rights Program

