

Considered: _____

Vested Water Right Claim

WATER PERMIT NO. 287A-1

HAP No. 257-2387

Name of Applicant David G. Rathbun

Post Office Address Box 76, Visland SD 57762-0076

Amount of Water Claimed 2.15 cfs Total Acres 150.6

Source of Water Supply Belle Fourche River

Water to be used for irrigation County Butte

About 1 1/2 miles E of Visland

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

F.F. & C.L. Adopted _____ Not Approved _____ Deferred _____

PRIORITY Date Received June 1, 1989 Fee \$15 Remarks _____

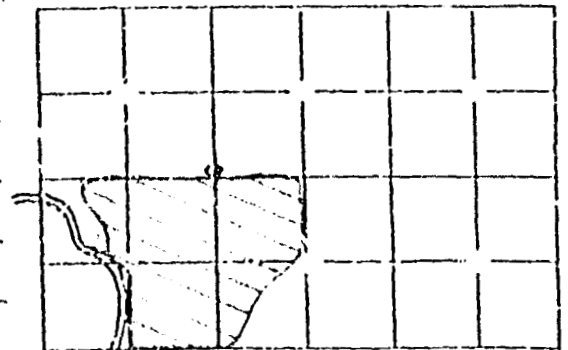
Corrected Application Received June 30, 1989 Period of Annual Use _____

WATER QUALITY APPROVAL RECEIVED N/A APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as Application YES _____ NO _____ REMARKS _____

Diversion Point Belle Fourche River: NW 1/4 SW 1/4
section 9-T8N-R5E

Land to be irrigated N 1/2 SW 1/4, SE 1/4 SW 1/4,
SW 1/4 SE 1/4 section 9-T8N-R5E



Well log: Driller N/A Licensed YES _____ NO _____

Depth of Well _____ REMARKS _____

Type of Map aerial photo PREPARED BY Amos J. Abadi Reviewed and the Number
assigned on July 7, 1989 By Amos J. Abadi

Mail to: Water Rights Div
523 E. Capitol
Pierre, SD 57501
(605) 773-3552

(See instructions)

No. 287A-1 Hydrologic Unit 10120222
Basin Belle Fourche River
Newspaper Butte Co. Valley Irrigator, Box 67 Yowell
(605) (773) (3552)

Application For Soil/Water Compatibility Permit and Permit To Appropriate Water

Type of Application: ☐ New ☒ Vested Right ☐ Amend Permit No. _____
☐ Change Acreage ☐ Change diversion point(s) ☐ Add diversion point(s)
☐ Add Acreage ☐ Increase diversion rate ☐ Other _____

1. Name of Applicant David G. Rathbun Phone No. 257-4389

Post Office Address Box 76 Nisland State SD 57762-6976
(Street, RR or Box) (City) Zip Code

2. Amount of water claimed (c.f.s.) 2.15 Total acres irrigated 150.6

3. Source of Water supply Belle Fourche River

4. Location of point of diversion 1550 feet North, 850 feet East, from the southwest corner of
Section 9-T8N-R5E. (NW1/4SW1/4)

County BUTTE

5. Counties where water will be used BUTTE

6. Annual period during which water is to be used April 1 - November 15

7. 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.
NW1/4SW1/4 Sec 9-T8N-R5E	14.1
NE1/4SW1/4 " "	40.0
SE1/4SW1/4 " "	40.0
NW1/4SE1/4 " "	40.0

Land Description	No. Acres Irr.
SW1/4SE1/4 Sec 9-T8N-R5E	16.5

Attach sheet if more space is needed

8. Type of Irrigation: Gravity: X Towline: _____ Center Pivot: _____ Gun: _____ Other: _____ (Specify) _____

9. Crops to be irrigated: Corn - Hay

10. Give a description of proposed project. (Attach sheet if more space is needed)

Pursuant to SDCL 46-5-49, this application is to file a vested right claim.

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach maps, soils information and any other technical information.

STATE OF SOUTH DAKOTA)
County of BUTTE)^{ss}

I, David G. Rathbun, the applicant, certify that I have read this application and examined the attached maps, that the water sample, if needed, has been taken by the required procedures and has not been adulterated or tampered with and is truly representative of the water to be used, and that the matters stated in this application are true and correct.

Signed David G. Rathbun

Subscribed and sworn to before me this _____ day of _____ 19____

Notary Public

Affidavit of Water Use

No. _____

(Type or Print in Ink)

Note: This Form is supplemental to Form 2 and is to be used when an affidavit pertaining to construction and water use already constructed is needed, primarily with vested right claim.

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

DAVID G. RATHBUN

Name of Applicant (Same as Form 2) _____

Post Office Address: BOX 76 NISLAND

SD

57501-0076

A. Notice of Appropriation _____

Date of Posting _____

Date of recording _____

Recording date _____

Where _____

Book _____

Page _____

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

1939

C. Date that water was first applied to beneficial use _____

1939

D. Name of owner of original water supply system _____

Grove A. Rathbun, Sr.

E. Amount of water originally applied to beneficial use _____

3.0

F. Present Use of Water - Amount of water now being used _____

Irrigation - 2.15

Date that this water was first used _____

1939

G. Chronological History of Water Use

My father, Grove A. Rathbun, Sr. in 1939 built a wooden flume 750 feet long and twelve feet high at the point of discharge, which he pumped from the Belle Fourche River. This was one of the first irrigation systems of this kind in the area. We have replaced the flume first with pipe and now have replaced the pipe with an underground 12 inch PVC pipeline. We depend greatly on this irrigation system.

Attach to this Form 2P 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

County of BUTTE

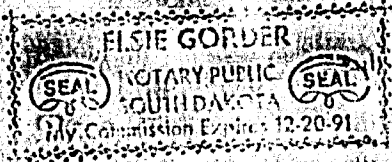
I, DAVID G. RATHBUN

the applicant, certify that I have read the foregoing

and that the matters therein stated are true.

Signed

David G. Rathbun



Subscribed and sworn to before me:

Elsie Gorder

Notary Public or other qualified officer

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 stated are true.

(Print name)

(Print name)

SOUTH DAKOTA

VESTED WATER RIGHT E.O. 287A-1 FOR IRRIGATION

Date of Receipt of Claim June 1, 1989.

Date of Validation December 6, 1989.

The Water Management Board validated Vested Water Right Claim No. 287A-1 for irrigation purposes for David G. Rathbun, Box 76, Nisland, SD 57762-0076 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 287A-1 appropriates 2.15 cubic feet of water per second from the Belle Fourche River to irrigate 150.6 acres. The Belle Fourche River diversion point is located in the NW1/4 SW1/4 and the irrigated acreage is located in the N1/2 SW1/4, SE1/4 SW1/4, W1/2 SE1/4; all in Section 9 T8N-R5E. This vested right claim describes the correct location of the diversion point and irrigated acreage originally included on Vested Right Claim No. 287-1. Vested Right Claim No. 287A-1 replaces Claim No. 287-1 with no increase in water appropriation or acreage irrigated.
2. The appropriation may not exceed the amount of water needed for beneficial use for irrigation. The appropriation may not exceed 3 acre feet per irrigated acre per year. The water is to be used during the following annual period: April 1 - November 15.
3. The priority date of the Vested Water Right is January 1, 1939.
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 may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. That Vested Water Right No. 287A-1 is subject to the irrigation water use questionnaire being submitted each year.
2. That Vested Water Right No. 287A-1 is subject to by-pass of low flows as needed for downstream domestic use, including livestock watering, and prior water rights.

(continued)

Vested Water Right No. 287A-1
Page 1

That Vested Water Right Claim No. 287-1 is herewith cancelled.

WATER MANAGEMENT BOARD

By:  SEP 2 1990
Chief Engineer date

Division of Water Rights
Dept. of Water and Natural Resources



Department of Water & Natural Resources

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

287A-1

SEP 13 1990

David G. Rathbun
Box 73
Nisland, SD 57762-0076

Dear Mr. Rathbun:

Enclosed are your Validated Vested Water Right and Water License No. 287A-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 Division
(605) 773-3352

enclosures

Report on Vested Water Right Application No. 287A-1
David G. Rathbun
August 8, 1989

Background

Pursuant to SDCL 46-5-49, David G. Rathbun, filed a vested right claim to appropriate 2.15 cubic feet of water per second from Belle Fourche River to irrigate 150.6 acres. The priority date is claimed to be 1939. The diversion point is located in the NW1/4 SW1/4 Section 9, T8N-R5E, in Butte County.

Discussion

On April 19, 1989, the area irrigated under Vested Right Claim No. 287-1 was inspected. The inspection showed that location of the diversion point and the land being irrigated was wrongfully plotted on the original map. Consequently, the legal description of the land and location of the diversion point on the original permit application and the license No. 287-1 are not correct. The area and the diversion point, on the original map, are plotted one half mile to the north of the actual location of the land and the diversion point. The applicant uses a pump which has a capacity more than the application requests. The pump, however, is valved down and can be controlled to comply with the vested right claim.

Conclusions and Recommendations

1. According to the "Affidavit of Water Use" filed with Vested Water Right Claim No. 287-1 and 287A-1, water has been used for beneficial uses since 1939.
2. Validation of this application is in the public interest and constitutes beneficial use of the waters of the state.
3. It is recommended that the Vested Right Claim No. 287A-1 be validated for appropriation of 2.15 cubic feet of water per second from Belle Fourche River for irrigation of 150.6 acres with a priority date of January 1, 1939 with low flow by-pass and irrigation questionnaire qualifications.
4. It is also recommended that if Vested Right Claim No. 287A-1 is approved, that Vested Right Claim No. 287-1 be cancelled.

M. Rasool Ahadi

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

Approved by:

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

RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED WATER
RIGHT APPLICATION NO. 287A-1, David G. Rathbun

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 Validation of Vested Water Right Application No. 287A-1, David G. Rathbun, Box 76, Nisland SD.

The Chief Engineer is recommending VALIDATION of Application No. 287A-1 for 2.15 cfs and cancellation of Vested Right Claim No. 287-1 because 1) water has been appropriated as described for irrigation use with a priority date of January 1, 1939; 2) the use has been developed without unlawful impairment of existing rights; 3) the use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. Vested Water Right No. 287A-1 is subject to the irrigation water use questionnaire being submitted each year.
2. Vested Water Right No. 287A-1 is subject to by-pass of low flows as needed for downstream domestic use, including livestock watering, and prior water rights.
3. Validation of No. 287A-1 cancels Vested Right Claim No. 287-1.

See the attached report for additional information.


JOHN HATCH, Chief Engineer
August 25, 1989

STATE OF SOUTH DAKOTA
BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF THE APPLICATION	)	FINDINGS OF FACT
TO VALIDATE VESTED WATER RIGHT	)	CONCLUSIONS OF LAW
CLAIM #287A-1, AND THE	)	AND FINAL DECISION
CANCELLATION OF VESTED WATER RIGHT	)	
CLAIM #287-1, DAVID G. RATHBUN	)	

FINDINGS OF FACT

I

This is an application to validate Vested Water Right Application #287A-1.

II

The essential purpose of this Application is to correct the location of diversion point and land being irrigated both of which were incorrectly plotted on original Application #287-1.

III

Applicant presented sufficient evidence that the land specified on the amended application has been irrigated from the diversion point set out on the amended application since 1939.

IV

There has been no showing of a lapse of three years of use without legal excuse.

V

Applicant also receives water under contract from the Belle Fourche irrigation district.

CONCLUSIONS OF LAW

I

This Board has jurisdiction of this matter.

II

To succeed in validating a claim pursuant to SDCL 46-5-49, it is necessary for the proponent to show, by a preponderance of the evidence, that irrigation has occurred from the time of the claimed priority date to the present without a three-year hiatus of nonuse without legal excuse. The proponent of the vested right has carried his burden in this case.

III

There is no legal impediment to using water from more than one source. The water right holder is, like other water right holders, confined to the maximum amount of water allowed to be applied by statute.

IV

This use has been developed without unlawful impairment of existing rights.

V

The use of water for irrigation purposes is a beneficial use and is in the public interest.

VI

When Vested Water Right Application #287A-1 is validated, the application it corrects, that being Vested Water Right Application #287-1, should be canceled.

FINAL DECISION

The application for validation of Vested Water Right Application #287A-1 for 2.15 CFS is granted subject to the following qualifications:

1. That Vested Water Right Application #287A-1 is subject to the irrigation water use questionnaire being submitted each year.
2. That Vested Water Right Application #287A-1 is subject to by-pass of low flows as needed for downstream domestic use, including livestock watering, and prior water rights.
3. That Vested Water Right Application #287-1 is herewith cancelled.

Dated this 3 day of April, 1990

BY THE BOARD:

Thomas C. Anderson

c-pld2.jpg

November 23, 1987
(date)

page 1

Parties of Record before Water Management Board regarding Vested
Water Right Claim No. 287A-1, David G. Rathbun

Proponent:

David G. Rathbun
Box 176
Mistland SD 57762-0076

Opponents:

Members of Belle River
Pumpers Association
Box 188
Mistland SD 57762
Ed Kling
~~Louis Co. Badmeyer~~
R. Thornton Vallery
~~Leon Minac~~
~~Lawrence Foss~~
~~Lewis Brothers~~
~~Solomona Stank~~

South Dakota
Department of
Water & Natural Resources

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

November 1, 1989

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

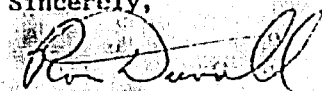
David G. Rathbun
Box 76
Nisland SD 57762-0076

Dear Mr. Rathbun:

Your Application No. 287A-1 for a vested water right claim has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of your claim has been sent to the Publisher of the Butte Co. Valley Irrigator printed at Newell SD. 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 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 to validate a vested right 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. We must receive Proof of Publication before the application can be considered by the Water Management Board.

Sincerely,



Ron Duvall
Natural Resources Engineer
605 773-3352

enclosures

SOUTH DAKOTA
Department of
Water & Natural Resources

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

November 1, 1989

Butte Co. Valley Irrigator
Box 67
Newell SD 57760

Dear Sir:

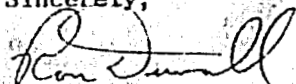
Enclosed is a Notice of Hearing to Validate Vested Right Application No. 287A-1 to be published twice. Please publish the notice on or before November 8, 1989 with the second publication 7 days later.

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 David G. Mathban, Box 76, Nisland SD 57762-0076.

A copy of BOTH publications must be SENT to the WATER RIGHTS DIVISION. 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. The permit application cannot be considered by the Water Management Board until proof of publication has been received.

Sincerely,



Ron Duvall
Natural Resources Engineer
605 773-3352

enclosures

CUT HERE

FIRST TRANSMITTAL NOTICE

TO:

ATTN: Ron Duvall
Water Rights Division
523 E Capitol
Pierre SD 57501-3181

Date

We are in receipt of your letter of _____ enclosing Notice of Hearing to Validate A Vested Right Application 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 or before November 8, 1989 with 2nd publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING To Validate
Vested Water Right Application No. 287A-1 to Appropriate Water

Notice is given that David G. Mathum, Box 76, Nisland SD 57762-0076 has filed an application to validate a vested water right claim to appropriate 2.15 cubic feet of water per second from the Belle Fourche River to irrigate 150.6 acres with a claimed priority date of 1939. The Belle Fourche River diversion point is located in the NW 1/4 SW 1/4 and the irrigated acreage is located in the N 1/2 SW 1/4, SE 1/4 SW 1/4, W 1/2 SE 1/4; all in Section 9-T8N-R5E. This vested right claim describes the correct location of the diversion point and irrigated acreage originally included on Vested Water Right Claim No. 287-1. Vested Right Claim No. 287A-1 is to replace Claim No. 287-1 with no increase in water appropriation or acreage irrigated.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Division recommends VALIDATION of Vested Water Right Application No. 287A-1 for 2.15 cfs and cancellation of Vested Right Claim No. 287-1 because 1) water has been appropriated as described for irrigation with a priority date of January 1, 1939, 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. This application will be considered by the Water Management Board in Room 216, Joe Foss Building, 523 E Capitol, Pierre SD on December 6, 1989 at 10:00 am. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve validation, 2) approve the validation with qualifications, 3) defer or 4) deny validation of the application based on the facts presented at the public hearing.

Any interested person that intends to participate in the hearing before the Board by presenting evidence or cross-examining witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and Chief Engineer by November 24, 1989. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)". 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 legal counsel if legal counsel is obtained. The applicant need not file a petition. Contact the Water Rights Division to request information on this application or to assure access to the hearing by the handicapped.

This hearing is an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer. These and other due process rights will be forfeited if 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 also be automatically delayed for at least twenty days upon written request to the Chief Engineer from the applicant or a petitioner. The request for a delay must be received by November 24, 1989.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-18; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31, 46-5-49; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15 and 74:02:01:19 thru 74:02:01:22.

REPRODUCTION OF ORIGINAL RECORDS DATE MICROFILMED

appropriated as described for irrigation with a priority date of January 1, 1939, 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. This application will be considered by the Water Management Board in Room 216, Joe Foss Building, 523 E Capitol, Pierre, SD on December 6, 1989 at 10:00 a.m. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve validation, 2) approve the validation with qualifications, 3) defer or 4) deny validation of the application based on the facts presented at the public hearing.

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This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-18; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31, 46-5-49; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15 and 74:02:01:19 thru 74:02:01:22.

Published Wed., November 8, 1989 and Wed., November 15, 1989 Butte Co. Valley Irrigator Newell, South Dakota 57760

Rathbun files vested water right claim

NOTICE OF HEARING To Validate Vested Water Right Application No. 287A-1 to Appropriate Water

Notice is given that David G. Rathbun, Box 76, Nisland, SD 57762-0076 has filed an application to validate a vested water right claim to appropriate 2.15 cubic feet of water per second from the Belle Fourche River to irrigate 150.6 acres with a claimed priority date of 1939. The Belle Fourche River diversion point is located in the NW 1/4 SW 1/4 and the irrigated acreage is located in the N 1/2 SW 1/4, SE 1/4 SW 1/4, W 1/2 SE 1/4; all in Section 9-T8N-R5E. This vested right claim describes the correct location of the diversion point and irrigated acreage originally included on the Vested Water Right Claim No. 287-1. Vested Right Claim No. 287A-1 is to replace Claim No. 287-1 with no increase in water appropriation or acreage irrigated.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Division recommends VALIDATION of Vested Water Right Application No. 287A-1 for 2.15 cfs and cancellation of Vested Right Claim No. 287-1 because 1) water has been

lison

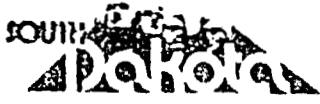
uly sworn, on oath says that he is the publisher or THE VALLEY IRRIGATOR, a weekly newspaper d COUNTY OF BUTTE, and has full and per facts herein stated; that said newspaper is a legal -wide circulation of at least two hundred copies -shed within said County for fifty-two successive -lication of the notice herein mentioned, and was - in part in an office maintained at said place of -office of Hearing to Validate Vested -ation No. 287-A-1 to Appropriate Water

iken from the paper in which the same was pub- eet, and is made a part of this Affidavit, was pub- east once in each week for TWO successive week on which said newspaper was regularly pub-

19 89	19
19 89	19
19	19
19	19
19	19

fees for the publication of the annexed notice is

fore me this 15 day of
19 89
Notary Public
County of Meade, South Dakota



Department of Water & Natural Resources

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

May 25, 1989

David G. Rathbun
Box 76,
Nisland, SD 57762

RE: Filing a Vested Right Claim

Dear Mr. Rathbun:

As you are aware, the location of the land being irrigated by you was wrongfully plotted on the original map. Consequently, the legal descriptions of the land on the original application and the License No. 237-1 are wrong. After reviewing the situation with John Hatch, Chief Engineer, and Del Brosz, Staff Hydrologist, it was decided that the best way to handle the situation is to recommend to the Water Management Board to cancel your Vested Right No. 287-1, and at the same time to validate your new vested right claim.

Enclosed you will find application forms required to file a new vested right claim. Please note that Form 2A was completed using the affidavit of water use you submitted in 1978. Please review the forms for accuracy, sign and notarize them and return them to this office with \$15.00 filing fee.

If you have any questions, please do not hesitate to contact this office.

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

June 29, 1989

David G Rathbun
Box 76
Nisland SD 57762-0076

Dear Mr. Rathbun:

This letter is in response to your vested right claim received on June 1, 1989. The following information is on file or has been submitted regarding the pumping rate to irrigate your acreage:

- 1) Vested Right No. 287-1 appropriates 2.20 cubic feet of water per second (cfs) which is 990 gallons per minute (gpm) to irrigate 154 acres. This information was later documented by submission of an Affidavit of Water Use (copy enclosed) indicating the historical use was 3.0 cfs (1350 gpm) with a present use of 2.20 cfs (990 gpm).
- 2) The present capacity of your Berkeley pump is 4.45 cfs (2,000 gpm). The Affidavit of Water Use (copy enclosed) submitted with your vested right claim indicates the historical pumping rate was 3.0 cfs (1350 gpm) and the present use is 2.15 cfs (965 gpm).

The Affidavits both indicate the pumping capacity in 1929 was 3.0 cfs (1350 gpm). The present pumping capacity of 4.45 cfs (2,000 gpm) exceeds the 3.0 cfs rate specified as the historical use. I need to determine if the historical pumping rate was actually greater than 3.0 cfs or if the pumping rate was increased from 3.0 cfs to 4.45 cfs at a later date. If the pumping rate was increased at a later date, please indicate the date.

In order to proceed with this vested right claim, the appropriate pumping rate for this claim needs to be identified. Please respond to the above request with any additional information you may have available.

Sincerely,

Ron Duvall
Natural Resources Engineer
605 773-3352

enc.



Water Rights Division - DWR
Conversation or File Documentation

File No. _____

NAME OF PERSON OR FILE: David Rathbun

ADDRESS: Box 76 COUNTY Butte

DATE: June 30, 1989 TELEPHONE _____

RE: pumping capacity - see file letter dated June 29, 1989

COMMENTS:

David Rathbun called regarding my letter dated June 29, 1989. Mr. Rathbun indicated the existing pump has been valved to approximately 220 gpm. The pump was valved by request of the water master several years ago to comply with the requirements of Vested Right No. 287-1

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.



November 11, 1989

TO: John Hatch, Chief Engineer
Water Rights Division
Joe Foss Bldg. 523 E. Capital
Pierre, S. D. 57501-3181

FROM: Belle River Pumpers Association
Box 188
Wisland, S. D. 57762

SUBJECT: To protest amended water right 287-A-1 of David Rathbun

Dear Sir:

We the undersigned members of the Belle River Pumpers Association, an organization formed and founded to purchase storage area in Keyhole Reservoir for the purpose of water to be let down the Belle Fourche River to points below the Diversion Dam, for irrigation, do hereby protest the water right 287-A-1 of David Rathbun. Irrigation water to the same acres are supplied by the Belle Fourche Irrigation District in quantity and quality as to all other irrigators under the government project. This could create more water use upon this particular acreage than needed to grow a normal crop. In the past, district water has been transferred off and then water pumped from the river.

Signed by members of the Belle River Pumpers Association:

Ed Kling

Louis Budmeyer

R. Thorne

Leon Mene

cc: David Rathbun

Lawrence Dove

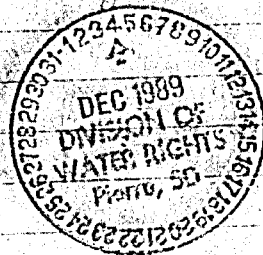
Lewis Brothers

Simon Hatch

Dear Sir,

We wish to withdraw our
protest of the water rights of
Jim Jeffrys (282-F, 1470-1) Froidale,
Dick Keder and Dave Rathbun,
Hiland, which are coming up
for review on Wednesday Dec. 6.

Sincerely,
Lewis Brothers



Lawrence Jones
HCR 76 Box 120
Mistland, S.D. 57762

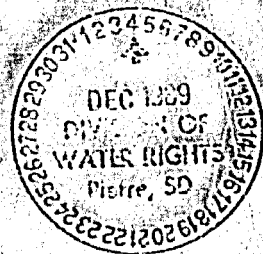
Water Rights Division
Joe Foss Bldg.
Pierre, S.D.

Dear sir,

Recently I signed protests presented
by "Pointon Valley" of Mistland, S.D.

I wish to retract my signature from
protests on subjects 287-1-1, 282-1-1
and 1470-1-1.

Yours truly,
Lawrence Jones



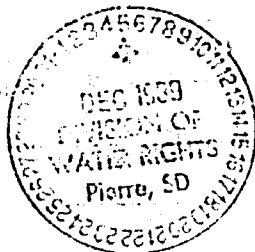
Department of Water & Natural Resources
Water Rights Division
Pierre, South Dakota

Dear Sirs:

I, Leon Minor, would like to
withdraw my protest against 2 water
rights that are coming before the water
management board on Dec 6th

I want to withdraw my protest against
David Rathbun, water right no. 2874, &
also withdraw my protest against
James Jeffrey.

Leon Minor
HCR 76 Box 200
Nielsen, S. Dak. 57762

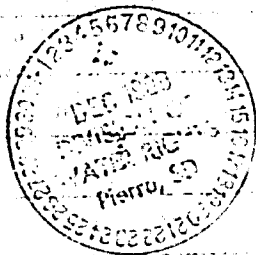


Department of Water and Natural Resources
Water Rights Division

Mr. Sir,

I Solomon Stark would like to
withdraw my Protest Against James Jeffries
& (David Rathbun, No. 287 A.), that
is to be heard before Water Management
board on Dec. 6th 1989.

Signed
Solomon Stark
Nihoa Island San Die.





Department of Water & Natural Resources

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

June 29, 1989

David G Rathbun
Box 76
Nisland SD 57762-0076

Dear Mr. Rathbun:

This letter is in response to your vested right claim received on June 1, 1989. The following information is on file or has been submitted regarding the pumping rate to irrigate your acreage:

- 1) Vested Right No. 287-1 appropriates 2.20 cubic feet of water per second (cfs) which is 990 gallons per minute (gpm) to irrigate 154 acres. This information was later documented by submission of an Affidavit of Water Use (copy enclosed) indicating the historical use was 3.0 cfs (1350 gpm) with a present use of 2.20 cfs (990 gpm).
- 2) The present capacity of your Berkeley pump is 4.45 cfs (2,000 gpm). The Affidavit of Water Use (copy enclosed) submitted with your vested right claim indicates the historical pumping rate was 3.0 cfs (1350 gpm) and the present use is 2.15 cfs (965 gpm).

The Affidavits both indicate the pumping capacity in 1939 was 3.0 cfs (1350 gpm). The present pumping capacity of 4.45 cfs (2,000 gpm) exceeds the 3.0 cfs rate specified as the historical use. I need to determine if the historical pumping rate was actually greater than 3.0 cfs or if the pumping rate was increased from 3.0 cfs to 4.45 cfs at a later date. If the pumping rate was increased at a later date, please indicate the date.

In order to proceed with this vested right claim, the appropriate pumping rate for this claim needs to be identified. Please respond to the above request with any additional information you may have available.

Sincerely,

Ron Duvall
Natural Resources Engineer
605 773-3352

enc.



287A-1

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

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

December 13, 1989

NOTICE

TO: David G Rathbun
Box 176
Nisland SD 57762-0076

McLe River Pioneers Association
Box 188
Nisland SD 57762

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

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 cancellation of Vested Right Claim No. 287-1 and validation of Vested Right Claim No. 287A-1. The Board will consider the proposed Findings, Conclusions and Final Decision at 1:00 pm, March 7, 1990, Howard Johnson, Roosevelt-Jefferson Room, 2211 LaCrosse Street, Rapid City 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 (listed above) by February 15, 1990. 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 by February 26, 1990.

The public hearing was completed December 6, 1989. No additional testimony will be received on March 7, 1990.

cc: John Guhin, Assistant Attorney General

CERTIFICATION

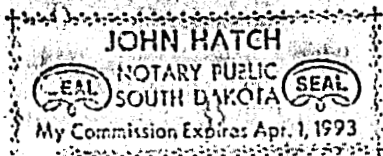
I hereby certify that on December 13, 1989 I have personally deposited with the U.S. Mail postage prepaid envelopes containing a Notice to Prepare Findings of Fact, Conclusions of Law and a Final Decision for Vested Right Claim Nos. 287-1 and 287A-1 addressed as stated on the notice.

Karen Schlaak
KAREN SCHLAACK
Senior Secretary

STATE OF SOUTH DAKOTA)
COUNTY OF HUGHES) SS.

Sworn to, before me, this 14th day of December, 1989.

John Hatch
Notary Public



SOUTH DAKOTA
Department of
Water & Natural Resources
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

April 9, 1990

NOTICE

TO: David G Rathbun
Box 176
Nisland SD 57762-0076

Belle River Pumpers Association
Box 188
Nisland SD 57762

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 on cancellation of Vested Right Claim No. 287-1 and validation of Vested Right Claim No. 287A-1 which were considered at the December 6, 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.

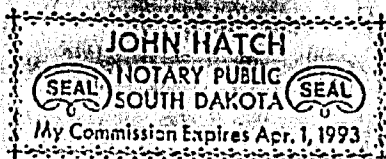
CERTIFICATION

I hereby certify that on April 9, 1990 I have personally deposited with the U.S. Mail postage prepaid envelopes containing a Notice on Adoption of Findings of Fact, Conclusions of Law and Final Decision on Vested Right Claims No. 287-1 and 287A-1 addressed as stated on the notice.

Karen Schlaak
KAREN SCHLAACK
Senior Secretary

STATE OF SOUTH DAKOTA)
COUNTY OF HUGHES) SS

Sworn to, before me, this 10th day of April, 1990.



John Hatch
Notary Public

Vested Right ~~XXXX~~ No. 237-1 / 287A-1

Water District

Report Of Examination Of Works And/Or Application Of Water To Beneficial Use

TO: Chief Engineer, Division of Water Rights, DWR, Foss Bldg., Pierre, SD 57501

I have this day made a thorough examination of the water use system constructed by Grove Rathbun (X-owner)David G. Rathbun-present owner of Box 76, Nisland SD 57762 holder ofPermit No. 287-1, bearing the priority of 1939 19____ authorizingthe diversion of 2.20 cu. ft. per second of the waters of Belle Fourche Riverfor irrigation purposes, in Butte County.

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

A. Works used to divert the water:

A pump: Berkeley, 2000 gallons per minute capacity.

A motor: Grocker Wheeler Company, 25 horse power.

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

10-12 inch Aluminum and Polyvinyl Chloride (PVC) pipes, 1700 feet long.

3600 feet of irrigation ditches, 3 feet wide, 2 feet deep.

C. Works used to apply water to beneficial use:

Gravity system of irrigation, using irrigation ditches and gated pipes.

The system is in the following condition very goodThe point of diversion is located approximately 1550 feet north, 850 feet east from the Southwest corner of Section 9, T8N-R5E (NW 1/4 SW 1/4)The works are capable of diverting and conveying to the place of use 4.4cu. ft. per second of water which is to be used for irrigationWater has been put to beneficial use to the maximum extent as follows: All in Section 9, T8N-R5ENW 1/4 SW 1/4 14.1 ac. NW 1/4 SE 1/4 40.0 ac.NE 1/4 SW 1/4 40.0 ac. SW 1/4 SE 1/4 16.5 ac.SE 1/4 SW 1/4 40.0 ac.comprising a total of 150.6 acres of land and the license should be issued for 2.15 cfsApplicable permit qualifications have been complied with X Yes NoExceptions to compliance are: Date 4/19/89MR Hadi

(signature)

LICENSE FOR PERMIT NUMBER 287-1

1. Legal location of wells: NA

~~XXXX~~ structures: NW 1 SW 1 Section 9, T8N-R5E

2. Well Information: Well Drilling Firm NA

No. of wells _____ Depth _____

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

Pump a) make Berkeley Motor a) make Grocker Wheeler Company
b) model 8 GR b) model no. 515955
c) size 10 inches c) horsepower rating 25
d) capacity 2000 GPM d) motor efficiency rating _____
e) turbine pump
no. of stages _____

3. Distribution lines:

a) size of lines 10 inches-12 inches
b) type Polyvinyl Chloride(PVC)- Aluminum
c) length 1700 feet

Irrigation ditch: 3 feet wide on the top, 2 feet wide on the bottom, 2 feet deep, 3600 feet long.

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:

i) Outlet tubes:

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

5. System Type: a) sizeroll:

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 _____
- 4) capacity (GPM) _____
- 5) PSI _____
- 6) hose size _____
- 7) hose length _____

d) Gate Pipe

- 1) length 5000 feet
- 2) diameter 10 inches
- 3) spacing of gates 38 inches

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. |
| <u>X</u> | _____ | _____ | 2. Special Qualifications to permit being abided by. |
| <u>X</u> | _____ | _____ | 3. All Structures, wells and lands on map. |

REMARKS: Inspection showed that the location of the land on the original map is different from the location of the land. The actual location of the land is 1/2 miles south of the location plotted on the original map.

Application forms will be sent to Mr. Rathbun to correct the mistake made on the original map.

STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 287A-1 FOR IRRIGATION

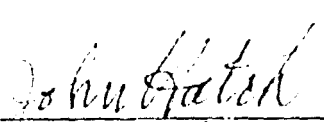
(1) David G. Rathbun of Box 76, Nisland SD 57762 made Application No. 287A-1 , June 1, 1989 for validation of a vested right claim to appropriate 2.15 cubic feet of water per second from the Belle Fourche River, Butte County, South Dakota for irrigation purposes. Vested Water Right No. 287A-1 was validated December 6, 1989 with a priority date of January 1, 1939. 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.

(2) The applicant is entitled to divert 2.15 cubic feet of water per second for beneficial use. The location of the diversion point is 1550 feet North and 850 feet East of the SW corner of Section 9, T8N, R5E (NW1/4 SW1/4).

The location of the irrigated acreage is:

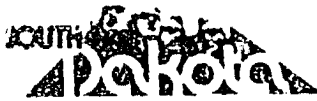
T8N, R5E Section 9	NW1/4 SW1/4	14.1	acres
	NE1/4 SW1/4	40.0	"
	SE1/4 SW1/4	40.0	"
	NW1/4 SE1/4	40.0	"
	SW1/4 SE1/4	16.5	"
	Total	150.6	acres

(3) Pursuant to Section 46-5-30.1 David G. Rathbun of Box 76, Nisland SD 57762-0076 the holder(s) and/or owner(s) of Vested Water Right No. 287A-1 is issued a license to appropriate 2.15 cubic feet of water per second from the Belle Fourche River with a priority date of January 1, 1939 from the location specified in (2) of this license. The water is to be used for the purpose of irrigation. This license is subject to any limitations, conditions or qualifications listed in Vested Water Right No. 287A-1 and subject to South Dakota State Law.



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

MAR 27 1991



Department of Water & Natural Resources

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

MAR 27 1991

David G. Rathbun
Box 76
Nisland SD 57762-0076

Dear Mr. Rathbun:

Enclosed is Vested Right Water License No. 287A-1. This is the final water right document completing your process of obtaining a water right.

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

Very truly yours,

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

enclosures

RECEIPT
Division of Water Rights
South Dakota Department of Water and Natural Resources

Pierre, June 1, 1989

RECEIVED OF Rathbun Farms c/o David Rathbun, Box 176, Nisland, SD 57762-0176

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

Fee for Application for Permit No. 287R21 to Appropriate Water, to construct works 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 Certified Copy of _____

Fee for Print Copy of Map _____

Fee for Certifying _____

Fee for _____

(Any Other Work Provided by Law)

Total

15 00

By John Rathbun
Chief Engineer

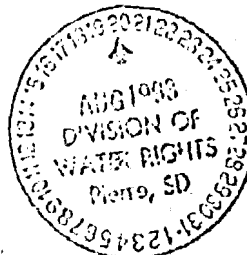
2000-2001

WTR 4.10
BF-430

United States Department of the Interior

BUREAU OF RECLAMATION
Great Plains Region
Belle Fourche Projects Office
P.O. Box 226
Newell, South Dakota 57760-0226

AUG 18 1993



Mr. John Hatch, Chief Engineer
Water Rights Division
South Dakota Department of Water and Natural Resources
523 E. Capitol
Pierre SD 57501-3181

Subject: Vested Water Right Claims in Western South Dakota (Your Letter
Dated April 20, 1993) (Water Rights)

Dear Mr. Hatch,

We have reviewed the vested water right claims located in Perkins, Pennington, Fall River, and Butte Counties as listed in your letter dated April 20, 1993. We have also discussed these rights with contract water users. We appreciate the assistance of your staff in providing documentation of inspections and validation proceedings for specific claims as we requested.

We are satisfied with all of the actions taken by the board. Our intent in opposing validation of the water rights was to assure that all of the rights were reviewed prior to validation. That review has been completed by your staff. Thank you for notifying us of the board's actions and extending the opportunity to reconsider the actions if it would have been deemed necessary. We understand that future notification will be made in advance of board actions.

If we can be of further assistance, please contact Craig Kjar or me at (605) 456-2695.

Sincerely,

Bruce M. Laymon
Project Manager

cc: Mr. Joe Kramer, Manager
Angostura Irrigation District
PO Box 346
Oral SD 57766

Mr. James E. Winterton, Project Manager
Belle Fourche Irrigation District
PO Box 225
Newell, SD 57459

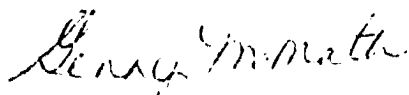
**WATER RIGHTS PROGRAM
FILE DOCUMENTATION****NAME OF PERSON OR FILE:** David G Rathbun**ADDRESS:** Box 176, Nisland, SD 57762**COUNTY:** Butte**DATE:** November 20, 1995**TELEPHONE:** 257-2389**RE:** irrigation questionnaire reporting**COMMENTS:**

Mr. Rathbun reported on his 1995 irrigation questionnaire that due to excessive amount of rain in the spring, he put in a power takeoff pump and pumped on a portion of the land to keep his water right active.

I called him and explained that he did not have to irrigate in a year when there was ample rainfall just to satisfy his water right. The Water Management Board considers "too much water" a legal excuse for not irrigating.

He was afraid of losing his water right by not irrigating for three years. I explained that legal excuse, defined by Board rule, would suspend the three year period of nonuse described in Statute. He would still need to return his irrigation questionnaire, however he should make a notation on the form the reason for not irrigating.

He stated he gets most of his water from Orman Dam and that in dryer years, he supplements with Belle Fourche River water as authorized under No. 287A-1.



Genny McMath
Environmental Scientist



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

September 30, 1999

No. 287A-1

David Rathbun
Box 176
Nisland SD 57762

Dear Mr. Rathbun:

I am writing in response to your phone conversation with Cheryl Frost on September 29, 1999, regarding legal excuse for not using water for irrigation.

Following is South Dakota Codified Law (SDCL) 46-5-37 which outlines how appropriated water may be forfeited due to nonuse:

"When any person entitled to the use of appropriated water fails to use beneficially all or any part of such water for the purpose for which it was appropriated, for a period of three years, such unused water shall revert to the public and shall be regarded as unappropriated public water."

However, certain legal excuses exist for NOT using water. If any of the following excuses exist for a given irrigation season, then that year does not count as a year of nonuse:

SDCL 46-5-37.2 -- The provisions of § 46-5-37 notwithstanding, no water right or permit may be forfeited for nonuse if land authorized for irrigation by a permit or right is placed under an acreage reserve or production quota program or otherwise withdrawn from use as required for participation in any federal program, if the water source is not fully appropriated, if the withdrawal from use does not prevent approval of new permits from the same source, and if the appropriated water has been applied to beneficial irrigation use prior to participation in a federal program.

74:02:01:37.01 -- Legal excuse for nonuse of water suspends the period of nonuse specified in SDCL 46-5-37. Legal excuses for nonuse of water include but are not limited to the following:

- (1) Unavailability of water to satisfy a permit, right, or vested right;
- (2) Legal proceedings which prevent the use of water;
- (3) Water use under existing climatic conditions would result in a waste of water.

September 30, 1999
David Rathbun
Page 2 of 2

Your 1999 irrigation questionnaire will be mailed out October 7, 1999. When returning the questionnaire be sure to write down any legal excuse that may exist for not irrigating. This provides documentation for future reference.

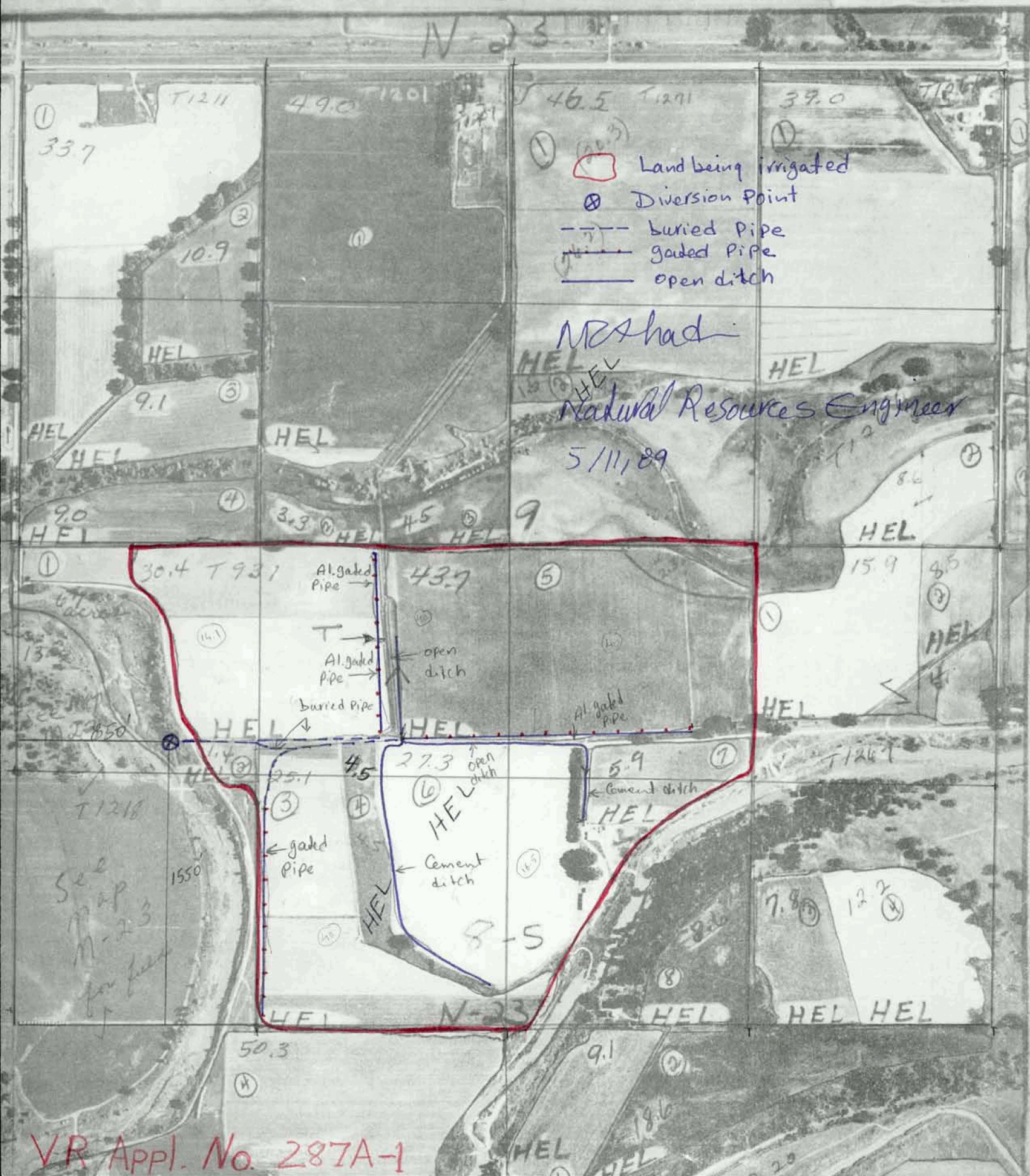
If you have any questions concerning legal excuse, please give me a call at 605 773-3352. I will do my best to clear up any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Duvall", with a stylized, cursive script.

Ron Duvall
Natural Resources Engineer
Water Rights Program

NOT TO SCALE



VR Appl. No. 287A-1



287A-1
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 20, 2017

NOTICE

TO: DAVID G RATHBUN, PO BOX 176, NISLAND, SD 57762 0176
FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2016 Irrigation Questionnaire(s)

Our records indicate your 2016 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 287A-1. The request for the Questionnaire was dated October 21, 2016. The Water Management Board has directed that owners of water permits who have not submitted the 2016 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) 287A-1 qualification:

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

The hearing will be held at **Wednesday, March 1, 2017 at 11:00 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, 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) 287A-1 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 before the **March 1, 2017** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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.



287A-1
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

February 14, 2017

287A-1

David G Rathbun
PO Box 176
Nisland SD 57762 0176

Dear Mr. Rathbun:

I am writing to acknowledge receipt of your 2016 irrigation questionnaire.

You may disregard the January 20, 2017, "Notice" concerning reporting requirements for Water Right No. 287A-1. 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
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us



287A-1
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 23, 2020

NOTICE

TO: DAVID G RATHBUN, PO BOX 176, NISLAND, SD 57762 0176
FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2019 Irrigation Questionnaire(s)

Our records indicate your 2019 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 287A-1. The request for the Questionnaire was dated October 18, 2019. The Water Management Board has directed that owners of water permits who have not submitted the 2019 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) 287A-1 qualification:

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

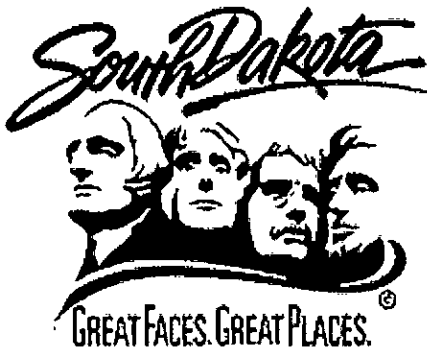
The hearing will be held at **Wednesday, February 26, 2020 at 8:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant 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) 287A-1 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 before the **February 26, 2020** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://denr.sd.gov/iq> using this password: SREUHD**

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.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 11, 2020

287A-1

Jeffrey D Rathbun
PO Box 176
Nisland SD 57762-0176

Dear Mr. Rathbun:

Thank you for sending in the 2019 irrigation questionnaire. You can disregard the "Notice" you received concerning reporting requirements. I had already removed it from the list for the Board meeting since we did not properly mail the first notice.

Enclosed is a partially completed "Notice of Transfer of Ownership" form for use in filing an ownership change. Please review and complete as needed. Upon completion, please sign and return the form to our office with a required filing fee of \$50. The check or money order for the fee can be made payable to the Water Rights Program.

Thank you in advance for updating the water right.

Sincerely,

A handwritten signature in black ink, appearing to read "Genny McMath". The signature is fluid and cursive, with the first name "Genny" being more prominent than the last name "McMath".

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

enclosures

NOTICE OF TRANSFER OF OWNERSHIP
RECEIVED

PAID

APR 14 2020

Ck# 3975

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

APR 14 2020

No.

287A-1

WATER RIGHTS
PROGRAM

Date: _____

I/We request that Vested Water Right No. 287A-1

formerly owned by: David G Rathbun

be transferred to: (name & address)

Jeffrey David Rathbun
P.O. Box 176
12663 Grass Section LN Nisland SD Telephone No. 605 892 5140
57762 605 257-2389

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

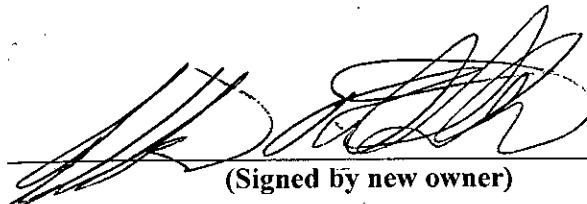
150.6 acres - N ½ SW ¼, SE ¼ SW ¼ and W ½ SE ¼ Section 9, T8N, R5E

I/We understand that the validity of Vested Water Right No. 287A-1 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

I/We Jeffrey D Rathbun, the new owner, certify that the above information is true and correct.


(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.

287A-1

RECEIPT**WATER RIGHTS PROGRAM**

South Dakota Department of Environment and Natural Resources

Date April 14, 2020RECEIVED OF Bennett Main & Gubbrud PC 618 State St Belle Fourche SD 57117

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

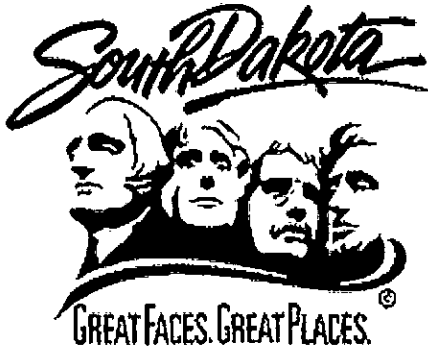
Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	\$
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$
Fee to retain Future Use Permit No. _____ after period of seven years.	\$
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	\$
Fee for Filing Transfer Form <u>287A-1</u>	\$50.00
Fee for _____	\$
Fee for Issuing New Well Driller's License No. _____	\$
Fee for Renewal of Well Driller's License No. _____	\$
Fee for Issuing Well Pump Installer's License No. _____	\$
Fee for Renewal of Well Pump Installer's License No. _____	\$
(Any Other Work Provided by Law) TOTAL	\$50.00

By

Eric Gronlund

Chief Engineer

vm



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

May 18, 2020

287A-1

Jeffrey D Rathbun
PO Box 176
Nisland SD 57762-0176

Dear Mr. Rathbun:

I am contacting you in regard to the transfer form and filing fee submitted for changing ownership on Vested Water Right No. 287A-1.

The ownership change has been completed. Vested Water Right No. 287A-1, formerly held by David G Rathbun, is now listed under Jeffrey David Rathbun.

The receipt for the filing fee is being sent with a copy of this letter to Bennett, Main & Gubbrud, PC, in Belle Fourche SD.

If I can answer any questions, please let me know.

Sincerely,

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

cc: Bennett, Main & Gubbrud, PC, 618 State St, Belle Fourche SD 57717



DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 20, 2022

NOTICE

TO: JEFFREY DAVID RATHBUN, PO BOX 176, NISLAND, SD 57762 0176

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

SUBJECT: Reporting Requirement for 2021 Irrigation Questionnaire(s)

Our records indicate your 2021 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 287A-1. The request for the Questionnaire was dated October 22, 2021. The Water Management Board has directed that owners of water permits who have not submitted the 2021 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) 287A-1 qualification:

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

The hearing will be held at **Wednesday, March 2, 2022 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, 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) 287A-1 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 before the **March 2, 2022** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: PMDWJR**

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.

287A-1



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

February 28, 2022

287A-1

Jeffrey David Rathbun
PO Box 176
Nisland SD 57762-0176

Dear Mr. Rathbun:

I am writing to acknowledge receipt of your 2021 irrigation questionnaire.

You may disregard the January 20, 2022, "Notice" concerning reporting requirements for Water Right No. 287A-1. 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
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us

287A-1



DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 20, 2023

NOTICE

TO: JEFFREY DAVID RATHBUN, PO BOX 176, NISLAND, SD 57762 0176

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

SUBJECT: Reporting Requirement for 2022 Irrigation Questionnaire(s)

Our records indicate your 2022 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 287A-1. The request for the Questionnaire was dated October 21, 2022. The Water Management Board has directed owners of water permits who have not submitted the 2022 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) 287A-1 qualification:

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

The hearing will be held at **Wednesday, March 8, 2023 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, 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) 287A-1 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 before the **March 8, 2023** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: TWVURD**

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.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

February 6, 2023

287A-1

Jeffrey D Rathbun
PO Box 176
Nisland Sd 57762-0176

Dear Mr. Rathbun:

I am writing to acknowledge receipt of your 2022 irrigation questionnaire.

You may disregard the January 20, 2023, "Notice" concerning reporting requirements for Water Right No. 287A-1. 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
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us



DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 14, 2025

NOTICE

TO: JEFFREY DAVID RATHBUN, PO BOX 176, NISLAND, SD 57762 0176

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

SUBJECT: Reporting Requirement for 2024 Irrigation Questionnaire(s)

Our records indicate your 2024 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 287A-1. The request for the Questionnaire was dated October 23, 2024. The Water Management Board has directed owners of water permits who have not submitted the 2024 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) 287A-1 qualification:

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

The hearing will be held on **Wednesday, March 5, 2025, at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, 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) 287A-1 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 before the **March 5, 2025**, hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: OBPNEV**

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.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 24, 2025

287A-1

Jeffrey David Rathbun
PO Box 176
Nisland SD 57762

Dear Mr. Rathbun:

I am writing to acknowledge the receipt of your 2024 irrigation questionnaire(s).

You may disregard the January 14, 2025, "Notice" concerning the reporting requirements for Water Permit No(s). 287A-1. The information was received prior to the March 5, 2025, Water Management Board meeting and the above listed permit number(s) have been removed from the agenda.

If you have any questions or concerns, please contact me.

Sincerely,

Amanda Dewell
Permitting Administrator
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us