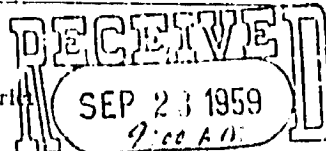


420-1

1. Considered Nov, 1959
2. Name of Applicant Anne Haig & Son
3. Post Office Address Harro
4. Amount of water claimed 3.1
5. Source of water supply Smiths Morrow River V.R. claim
on 1.3 cfs
6. Water to be used for Irrigation
- Acres to be irrigated 221
7. Water to be diverted and used in Butte County about
35 miles N of Harro
8. Proof of Publication Received ☒
Not Received ☐
9. Application Approved ☒
Subject to ☐
Not Approved ☐
Action deferred ☐

10. Remarks:

No. 420-1Water Division No. 1 Mogave River District
(Blanks to be filled by the Engineer for the W. R. C.)

APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

STATE WATER RESOURCES COM. L.
PIERRE, SOUTH DAKOTA

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

1. Name of applicant ARTHUR FLAIG & SONS, FRED, ERNEST & HOWARD, FLAIG
Postoffice address 604 W. 4th St., Pierre, S.D. County BUTTE State S.D.

- I. If a corporation X X X X
- (a) Name of same X X X X
- (b) Date and place of incorporation X X X X
- (c) Amount of capital stock X X X X
- (d) Amount paid in X X X X
- (e) Names and addresses of directors X X X X

(NOTE--A certified copy of articles of incorporation must accompany the application.)

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

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

- (b) Cash on hand, \$ X X (c) Treasury stock, \$ X X
- (d) Bonds to be issued, \$ X X (e) Other resources, \$ X X

2. Name of diversion work FLAIG IRRIGATION PROJECT

3. Amount of water claimed 5.1 cubic feet per second

4. Source of water supply South Moreau River

5. Location of point of diversion Between a point 495' S of NE Cor. Sec. 15, T.13 N., R.7 E-BHM and a point N 60° 15' W. 1421'

on Both bank Butte County.

6. Annual period or periods during which water is to be used April 1st to Nov. 30th

7. To be used for:

I. Irrigation or domestic use: Gravity, overhead sprinkling or combination system? Combination
SW-NW-37 Ac., SE-NW-36 Ac., SW-NE-30 Ac., NW-SW-14 Ac., NE-SW-31 Ac.

SE-SW-6 Ac., Sec. 14, T.13 N., R.7 E-BHM Total 144 Ac.

NW-NE-35 Ac., NE-NE-36 Ac., SE-NE-4 Ac., SW-NE-2 Ac. Total 77 Ac.

Sec. 15, T.13 N., R.7 E-BHM Total 221 Ac.

Irrigation and stockwater

II. Stockwatering, mining, milling, power, fish culture, fire protection and public recreation:

- (a) Nature of use Irrigation and stockwater
Name any of the above uses claimed
- (b) Amount of power to be generated None horse power.
Amount claimed for engine cooling None
- (c) Location of plant None
- (d) Method of developing power None
- (e) Point where water will be returned to stream X X

1 Berkeley 6-3RM trailer mounted PTO Pump 525.00
8. Estimated cost of work: Pipe and equipment 658.75
(a) Head Gates, \$----- (b) Pumping plant, \$1153.75
(c) Fluming, \$----- (d) Sprinkler system cat. Rock, \$1200.00
(e) Other structures ----- \$----- Total, \$3337.75

9. Description of diversion works:

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

Flood and sprinkler irrigation - Filling present reservoir from So. Moreau River by pump, to flood from dams No. 1 and 2.

II. Dimensions of works:
(a) Dam: Height ----- feet; length at bottom ----- feet; length at top ----- feet; thickness at bottom ----- feet; thickness at top ----- feet; slope at front water face -----; slope at back face ----- material used in construction -----
(b) Reservoir: Capacity when filled ----- acre feet. Surface area at highwater mark ----- acres.

	DEPTH AT OUTLET-Feet	SURFACE AREA AT EACH DEPTH AT OUTLET--ACRES	FEET	ACRE-Feet CAPACITY
Dam No. 1:	L. 550'	Top W. 20' H. 17'	Slopes 3:1 X 3:1	24 Ac. Ft.
	11.5m	15" X 45'		
Dam No. 2:	L. 225'	Top 16' H. 18'	Slopes 3:1 X 2:1	26 Ac. Ft.

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

Material -----

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

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER-LINE	GRADE PER MILE
At ----- Mile	----- feet	----- feet	----- feet	----- feet
At ----- Mile	----- feet	----- feet	----- feet	----- feet
At ----- Mile	----- feet	----- feet	----- feet	----- feet
At ----- Mile	----- feet	----- feet	----- feet	----- feet
At ----- Mile	----- feet	----- feet	----- feet	----- feet
At ----- Mile	----- feet	----- feet	----- feet	----- feet

(Give dimensions where reductions in size are made)

10. Time required for completion of work ----- 5 ----- years.

11. Time required for complete application of water to the proposed beneficial use ----- 4 ----- years.

12. Choice of newspaper for publication of notice of intention to appropriate -----

Valley Irrigator - Newell, South Dakota

STATE OF SOUTH DAKOTA

County of Butte

ss.

I, Anna, Fred, Ernest and Howard Flaigg, By Fred Flaigg, being first duly sworn on my oath depose and say: That my relation to the above described undertaking is that of owner, that I have read the above foregoing statement, examined the map accompanying the same, and that I know of my own personal knowledge that the matters therein stated and shown are true.

Signed

Subscribed and sworn to before me this 29th day of August 1952

Carl M. Cornell

Notary Public for the State of South Dakota
My Commission expires 4/18/67

*Each diversion must have a headgate or measuring device.

PLAT
OF
THE FLAIGG IRRIGATION PROJECT Sec. 14 & 15, T.13 N., R.7 E-BHM
HOOVER, BUTTE COUNTY, SOUTH DAKOTA

Scale 1 inch = 660 feet.
8 inches = 1 mile

-- SURVEYOR'S CERTIFICATE --

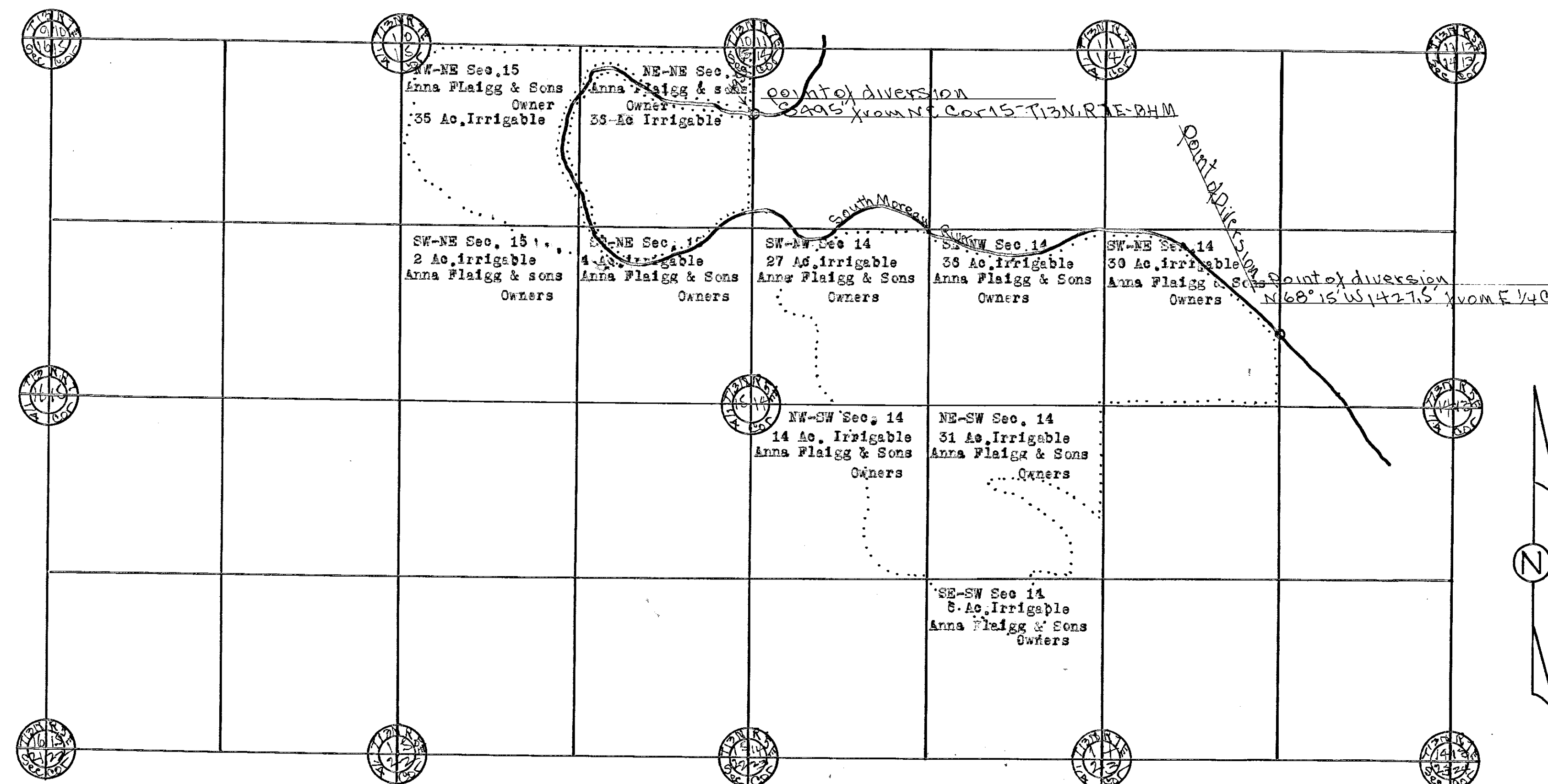
I, Carl W. Cornell, Licensed Surveyor in and for the State of South Dakota, do hereby certify that, at the request of Anna Flaigg & Sons of Hoover, Butte County, South Dakota, I have made a survey and prepared this plat of the irrigable lands shown hereon, for the purpose of making the required showing of irrigable lands as a part of their application for a permit to appropriate water from the South Missouri River for irrigation purposes. I further certify that the bearings and lengths of all lines shown and their location with reference to the several Government Land Corners shown, are correct, to the best of my knowledge and belief.

Subscribed and sworn to at Buffalo, Butte County, South Dakota this 9th day of Sept, 1959

Signed: *[Signature]*
Carl W. Cornell, Licensed Surveyor # 144
(SEAL)

Subscribed and sworn to before me at Buffalo, South Dakota this 9th day of September 1959

My Commission expires 1-4 1966.
[Signature]
Notary Public (SEAL)
FLORENCE GUNDERSON



Remarks by State Water Resources Commission:

Vested right claimed on 18 cfs, with .90 cfs bearing
priority date of 1942 and .90 bearing priority date
of 1948.

STATE OF SOUTH DAKOTA

County of

Hughes

ss.

Pierre, South Dakota,

December 9, 1959

This is to certify that the foregoing application was received by the Commission at 9:00 o'clock

A.m. upon the 23rd day of September, 1957.

State Water Resources Commission

By:

Geo. Guiney

Chief Engineer, Executive Officer

Number of permit 420-1

Date of first receipt of application

September 23

1959

Date of return to applicant for correction, amendments or changes required as follows:

October 12, 1959

Date of receipt of corrected application

October 19

1959

Date from which applicant may claim right

September 23, 1959 for 13 cfs 1942 for .90 cfs 1948 for .90 cfs

Approved

December 2

1959

Recorded in Book

5

Page

274

This is to certify that we have examined the foregoing application for a permit to appropriate water of the State of South Dakota, and we hereby grant the same as stated herein, subject, however, to the following limitations and conditions:

1st. The equivalent of at least one fifth of the work above specified is to be completed on or before

June 2, 1962

2nd. The whole of said work is to be completed on or before

December 2, 1964

3rd. The limit of time for proof of beneficial use of water appropriated in accordance herewith is

December 2, 1968

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

irrigation

5th. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.

6th. The amount of the appropriation herein granted shall not exceed 3.1 cubic feet per second; neither shall it exceed the capacity of the above described system of diversion works, nor the least amount of water that experience may hereafter indicate as necessary for the production of crops in the exercise of the best husbandry; and further, said appropriation must be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for irrigation on or before December 2, 1968; said water to be used during the following described annual period:

April to November, inclusive

Witness my hand this

9th

day of

December

1959

State Water Resources Commission

By:

Geo. Guiney

Chief Engineer, Executive Officer

Certificate of Construction Issued

SEPTEMBER 16, 1971

Water License Issued

SEPTEMBER 16, 1971

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 420-1

(1) WHEREAS, On the 23rd day of September A. D. 1959

Fred, Ernest and Howard Flaigg

made Water Right Application No. 420-1 for a permit to use 3.1 cubic feet per second of the waters of X Flaigg Draw and Moreau River

County of Butte, State of South Dakota, for Irrigation

purposes; and

(2) WHEREAS, On the 2nd day of December A. D. 1959

Permit No. 420-1, with a date of priority of 1942, 1948 and September 23, 1959

was issued to said applicant for the diversion of said water, and provided for the completion of construction of the water supply system therein described on or before the 2nd day of December A. D. 1964 and for the application to beneficial use of said water on or before the 2nd day of December A. D. 1968

and:

(3) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to completion of the construction of the water supply system and is entitled to divert 3.1 cubic feet per second of water for beneficial use and,

(4) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to the application of water to beneficial use of the following extent, All in T13N, R7E

Section 15	Acres	Section 14	Acres
NW $\frac{1}{4}$ NE $\frac{1}{4}$	35	SW $\frac{1}{4}$ NW $\frac{1}{4}$	27
NE $\frac{1}{4}$ NE $\frac{1}{4}$	36	SE $\frac{1}{4}$ NW $\frac{1}{4}$	36
SE $\frac{1}{4}$ NE $\frac{1}{4}$	4	SW $\frac{1}{4}$ NE $\frac{1}{4}$	30
SW $\frac{1}{4}$ NE $\frac{1}{4}$	2	NW $\frac{1}{4}$ SW $\frac{1}{4}$	14
		NE $\frac{1}{4}$ SW $\frac{1}{4}$	31
		SE $\frac{1}{4}$ SW $\frac{1}{4}$	6
		Total Acres	221

(5) NOW, THEREFORE, By the virtue of the authority vested in us by the laws of the State of South Dakota, We hereby grant and confirm to Fred, Ernest and Howard Flaigg

_____ of Hoover, South Dakota
the holder S and owner S of said permit No. 420-1 a water right, dating from 1942, 1948 and
September 23, 1959 ^{date} of 3.1 cubic feet per second of the waters
of Flaigg Draw and Moreau River

in the County of White and State of South Dakota, or so much thereof as may be necessary for the
purposes hereinbelow mentioned, to be diverted at From Moreau River between points 495' S. of the NE
Corner, Sec. 15, T15N, R3E and a point N. 68° 15' W., 1421' from Flaigg Draw, Dam #1
S. 43° 15' E., 1208' and Dam #2, N. 6° 30' E., 864' both from the W 1/2 Corner,
Section 14, T13N, R7E.

and conduct to and upon lands to be irrigated in Sections 14 and 15, T13N, R7E,
described on the face of this License.

for the purpose of irrigation

Subject to any limitations listed in Water Right Permit No. 420-1 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this 15th day of September A. D.
Nineteen Hundred and Seventy-one

WATER RESOURCES COMMISSION

By:

Chief Engineer, Executive Officer, J.W. GRIMES

Permit No. 420-1

Water Diversion No. 1 MOREAU RIVER Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That Fred, Ernest and Howard Flaigg;

the holder _____ of
Permit No. 420-1, issued upon Application No. 420-1, bearing date of priority of September 23,
1959, 1942 & 1948 authorizing the diversion of 3.1 cu. ft. per second of the waters of _____
Flaigg Draw & Moreau River County of Butte, State of South Dakota at _____
From Moreau River between points 495' S. of the NE Corner, Sec. 15, T15N, R3E and a
point N. 68° 15' W., 1421' from Flaigg Draw, Dam #1, S. 43° 15' E., 1208' and Dam #2, N. 6° 30' E.,
864' both from W 1/4 Corner, Sec. 14, T13N, R7E for Irrigation

_____ has _____ complied with the provisions of the laws of the State of South Dakota relating to proof of
completion of the works of diversion set out and described in said Permit; that said works are found in satisfactory
condition for diverting and conveying to the place of intended use up to 15 cu. ft. per second of water.

Date September 17, 1971

WATER RESOURCES COMMISSION

By:

J.N. GRIMES, Executive Officer

**OVERSIZE
DOCUMENT IS
SUPPLEMENTARY
TO MICROFILM FILE**

Permit No. 420-1Water Division 1 MOREAU RIVER Water DistrictREPORT OF EXAMINATION OF WORKS
AND/OR APPLICATION OF WATER TO BENEFICIAL USE

TO: Water Resources Commission, State Office Building No. 2, Pierre, South Dakota 57501

I have this day made a thorough examination of the water use system constructed by FRED ERNEST & HOWARD FLAIGG or HOOVER holder of Permit No. 420-1, bearing date of priority of 1942, 1948 & SEPTEMBER 23, 1959 authorizing the diversion of 3.1 cu. ft. per second of the waters of FLAIGG DRAIN & MOREAU RIVER for IRRIGATION purposes, in BUTTE County.

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

The Water Use System consists of,

A. Works used to divert the water: TWO SMALL STORAGE DAMS WITH A STORAGE CAPACITY OF APPROX. 60 ACRE FEET OF WATER. DAM #1 HAS 15" HEADGATE TO DITCH. DAM #2 IS USED WITH PUMP. BERKELEY 8" PUMP POWERED BY SMALL WDG USED TO PUMP WATER TO DAMS BY MEANS OF 150' OF 10" PIPE AND DITCH. BERKELEY 6" PUMP USED TO PUMP FROM DAM INTO DITCH.
B. Works used to transport water to place of use,

AND ALSO DIRECTLY TO FIELDS. DEMPSTER 6" PUMP USED TO PUMP FROM RIVER ONTO NORTH FIELDS.
1/4 MILE 6" MAINLINE & APPROX 3/4 MILE OF MAIN DITCH

C. Works used to apply water to beneficial use.

1/4 MILE 4" TOWLINE W/ RAINBIRD & 40 SPRINKLER HEADS
DIKED & LEVEELED FIELDS FOR GRAVITY IRRIGATION

The system is in the following condition:

GOOD
FROM MOREAU RIVER, BETWEEN POINTS 495' S OF THE NE CORNER, SECTION 15, T15N, R3E, AND POINT N 68° 15' W, 1421' FROM FLAIGG DRAIN - DAM #1 S 43° 15' E, 1208 FEET, AND DAM #2 - N 6° 30' E, 864 FEET BOTH FROM THE W 1/4 CORNER, SECTION 14, T15N, R7E

The works are capable of diverting and conveying to the place of use UP TO 15 CFS.cu. 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 T15N, R7E
SECTION 14

SECTION 15		SECTION 14	
NW ¹ NE ¹	35 ACRES	SW ¹ NW ¹	27 ACRES
NE ¹ NE ¹	36 "	SE ¹ NW ¹	36 "
SE ¹ NE ¹	4 "	SW ¹ NE ¹	30 "
SW ¹ NE ¹	2 "	NW ¹ SW ¹	14 "
		NE ¹ SW ¹	31 "
		SE ¹ SW ¹	6 "

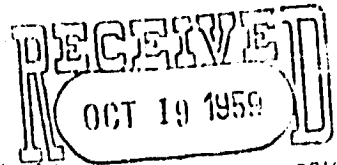
comprising a total of 221 acres of land.Date AUGUST 26, 1971

[Signature]
(Signature)

WATER RIGHT SPECIALIST
WATER RESOURCES COMMISSION

Location No. 470.1Water Division No. 1

Water District

STATE WATER RESOURCES COMM.
BENTON, SOUTH

Proof of Application of Water to Beneficial Use

PETITION OF HOLDER

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

Ans. Fred Flieg, Hoover, S.D., Hoover, No. D.K.

Ques. 2. If acting in behalf of a corporation, state its name, principal place of business (if a foreign corporation, give name and postoffice of statutory agent,) your position with reference to same, and your authority for appearing in its behalf.

Ans. Business Manager for Anna Flieg, Fred Flieg, Ernest Flieg, and Howard Flieg - joint owners of the lands described herein.

Ques. 3. State date of posting and date of recording notice of appropriation.

Ans. Dam No. 1 Constructed in 1942 - No notice of record.

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

Ans. Dam No. 2 - Constructed in 1948 - No notice of record.
Point of Diversion; Dam # 1; S 48° 18' E 1200' from the W 1/4 Cor. Sec. 14, T.13 N., R.7 E-BRM.

Point of Diversion; Dam # 2; N 6° 30' E 864' from the W 1/4 Cor. Sec. 14, T.13 N., R.7 E-BRM

Ans. No. 1 - L. 550', H. 17', T. 20', SA 6 Ac., C. P. 26 Ac. Ft., Flume 13" X 45', 2000 GPM in flood stage. Completed 1942.

No. 2 - L. 225', H. 24', T. 16', Slopes - 3:1 X 2:1, SA 6 Ac., C. P. 24 Ac. Ft., 500 GPM or more in flood stage. Completed 1948.

Ques. 6. State for what purpose water is used and describe place of use. (If for irrigation, name each subdivision in which used, and number of acres in each subdivision that have ACTUALLY been irrigated, with said

Irrigation.

Dam # 1 - NW-SW-14 Ac., NE-SW-31 Ac., SE-SW-6 Ac., SW-NE-15 Ac., - 66 Ac.

Dam # 2 - SW-NW-37 Ac., SE-NW-36 Ac., Sec. 14 T.13 N., R.7 E-BRM - 129 Ac.

Water run-off has been insufficient to furnish irrigation for the above tracts, except during unusually wet periods, and for that reason application is being made for a permit to pump from the South Moreau River to supplement the natural run-off and to irrigate other areas which do not come under the above described water shed.

Ans. 1.8 Sec. Ft.

Ques. 9. If you are not the person or representative of the corporation to whom above mentioned permit was originally issued, please state how ownership was acquired by present holder.

Ans. This property is the estate of Emil Flieg, who constructed these dams, prior to his death in 1943.

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

Ans. These dams have been used continuously to the full extent of the flood-water available since their construction.

(Sign) *[Signature]*

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Hoover County of Butte

State of South Dakota, on this 1st day of September A. D. 1909

Witnesses.

[Signature] Public
My Commission expires 7/18/07

I, the undersigned, do hereby certify that I am a duly qualified elector residing in the immediate vicinity of the diversion works designated in the foregoing testimony, that I have no interest in the works, water or land above described, that I have read the foregoing testimony and that I know of my own personal knowledge that the matters therein stated are true.

[Signature]
[Signature]

Location No. _____

PROOF OF APPLICATION OF
WATER TO BENEFICIAL USE

PETITION OF HOLDER

Amount of Water _____ c. f. s.

Source _____

County _____

Purpose _____

Place of Use _____

Date of recording _____

Received and filed _____

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA

County

Butte

SS.

John G. Heston being duly sworn, deposes and says the annexed printed copy of Notice

of Intention to Appropriate Water was taken from the

Valley Irrigator a newspaper which during the whole time of publication of said notice herein after stated, has been and is printed and published in the

City of Merrill,

County of

Butte

and State of South Dakota;

that the said notice was published in said newspaper on the following dates:

October 29, 1959

October November 5, 1959

November 12, 1959

November 19, 1959

in each and every issue of the full number thereof, the first publication being made on the 29th day of October

1959 and the last publication on the 5th day of

November 1959, upon which days or times of publication aforesaid the newspaper was regularly published, and that during the whole time of said publication he

was Editor the printer and publisher of the said newspaper.

John G. Heston

Subscribed and sworn to before me this 29th day of November A. D. 1959

Mitchell E. Heston
Notary Public Butte County, S. D.

APPROPRIATION OF WATER

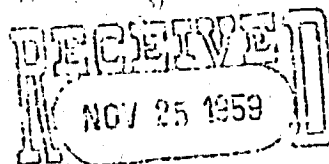
Office of State Water Resources Commission, Pierre, S. Dak.,
October 20, 1959.

Notice is hereby given that Anna Flaigg & Sons, whose postoffice address is Hoover, S. Dak., has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 3.1 cubic feet of water per second of time from the South Moreau River through the Flaigg Irrigation Project, the point of diversion of which is to be located on the bank of said stream between a point in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 15 and a point in the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 14, Twp. 13N., Range 7E. Said water to be used for the purpose of providing irrigation on portions of the following described land: SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 14, and the NE $\frac{1}{4}$ Sec. 15, T. 13N., R. 7E., and for stockwatering purposes.

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 2nd day of December, 1959, at 2:00 P. M. All interested persons may appear and be heard.

Appropriate action will be taken by the Water Resources Commission after suitable time has elapsed for the consideration of any or all information presented.

State Water Resources Commission
By: Burton E. Jones,
(S-5) Water Rights Specialist



STATE WATER RESOURCES COM.
PIERRE, SOUTH DAKOTA

(First Publication before October 28, 1959)**APPROPRIATION OF WATER**

Office of State Water Resources Commission,

Pierre, S. Dak., October 20, 1959

Notice is hereby given that Anna Flaigg & Sons whose postoffice address is Hoover S. Dak., has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 3.1 cubic feet of water per second of time from the South Moreau River through the Flaigg Irrigation Project the point of diversion of which is to be located on the bank of said stream in the SW 1/4 of the NE 1/4 of Section 14 between a point in the NE 1/4 Sec. 15 and a point in the NE 1/4 of Section 14 Twp. 13 N Range 7E Said water to be used for the purpose of providing irrigation on portions of the following described land:

S 1/4 NW 1/4; SW 1/4 NE 1/4; N 1/4 SW 1/4; SE 1/4 SW 1/4 Sec. 14; and the NE 1/4 Sec. 15, T 13 N,

R 7 E

and for stock watering purposes.

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 2nd day of December, 1959 at 2:00 P M. All interested persons may appear and be heard.

Appropriate action will be taken by the Water Resources Commission after suitable time has elapsed for the consideration of any or all information presented.

State Water Resources Commission

By:

~~XXXXXXXXXXXXXXXXXXXX~~
Chief Engineer, Executive Officer

Burton F. Jones, Water Rights Specialist

cc F. Lyn Gladstone, Publisher
Valley Irrigator
Haskell, South Dakota

420-K

BU MK

To Department of Water & Natural Resources

Dear Sirs

I am enclosing this extra information in regards to our water right. We did not irrigate in the years 1978 & 79 as we got sufficient rain in fall both seasons, raised a crop in Oct 1979. Have quite a weed problem, will have to get that taken care of this season, also had flood damage to the system which will have to be ~~taken~~ taken care of.

Yours Truly
Fred Flaigg

FRED FLAIGG
NEWELL
SODAK,
Star Route 2-Box 9

OVERSIZE

DOCUMENT IS

SUPPLEMENTARY

TO MICROFILM FILE



Department of Water & Natural Resources

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

420-1

January 29, 1988

FRED/ERNEST/HOWARD FLAIGG
SR 3, BOX 64
NEWELL, SD 57760

NOTICE

Re: Violation of Requirement To Submit 1987 Irrigation
Questionnaire

Our records indicate that the 1987 Irrigation Questionnaire has not been submitted for Permit No(s). 420-1. The request for the Questionnaire was dated October 8, 1987. The Water Management Board has directed that owners of water permits who have not submitted 1987 Irrigation Questionnaires be given notice of hearing(s) to be held by the Board to determine if any action is to be taken concerning the violation.

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

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

1. Amend Permit No(s). 420-1 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action;
3. Take no action.

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

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

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



Department of Water & Natural Resources

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

February 29, 1988

420-1

Fred, Ernest, Howard Flaigg
SR 3, Box 64
Newell SD 57760

Dear Sirs:

I am writing to acknowledge receipt of your 1987 Irrigation Questionnaire(s). A notice was sent to you January 29, 1988 regarding the requirement to submit the Irrigation Questionnaire(s) for Water Permit No. 420-1 and the hearing date before the Water Management Board.

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

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division
605 772-3252

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

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

May 26, 1988

Fred/Ernest/Howard Flaigg
SR 3, Box 64
Newell, SD 57760

Dear Mr. Flaigg:

I am writing in regard of our review of irrigation questionnaire records. No irrigation has been reported for the last five irrigation seasons under Permit No(s). 420-1.

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

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

Very truly yours,



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



To South Dakota Department of water
and Natural Resources

Dear Sirs

Am writing this letter to you
regarding the water right no 420-1
Yes we do want to keep this water
right, we have not been able to
pump water for the reason we have
built this check dam to raise the water
level, this deal alone will cost a
lot of money, we had some run off
that brought some water earlier this
year, the river is not running at
all now, this check dam I mentioned
earlier will have to be built out of
concrete & steel, & it ~~at~~ cannot be
used at flood stages we intend to
get this done this season.



Yours Sincerely
Fred H. Hagg

SOUTH DAKOTA

VALIDATION OF (PARTIAL) VESTED WATER RIGHT CLAIM NO. 420-1
FOR IRRIGATION

Date Claim Accepted For Filing September 23, 1959.

Date of Validation September 27, 1999.

Pursuant to SDCL 46-2A-17 the Water Management Board validated Vested Water Right Claim Permit No. 420-1 for irrigation purposes for Fred, Ernest & Howard Flaigg, Star Route 3, Box 64, Newell, South Dakota 57760 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 420-1 appropriates 1.8 cubic feet of water per second (cfs) from Flaigg Draw to irrigate 129 acres. "The diversion points are located in the NW 1/4 SW 1/4 and SW 1/4 NW 1/4 and the irrigated acres are located in the SW 1/4, S 1/2 NW 1/4, and SW 1/4 NE 1/4; all in Section 14, T13N, R7E."
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 year for each acre of irrigated land. The water is to be used during the following annual period: April 1 - November 30.
3. The priority dates of the Vested Water Right are January 1, 1942 - 0.9 cfs - 66 acres and January 1, 1948 - 0.9 cfs - 63 acres.
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.

WATER MANAGEMENT BOARD

By: J. Schubert

Chief Engineer

Division of Water Rights

Dept. of Water and Natural Resources

MAR 28 1991

date

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

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

March 28, 1991

Fred, Ernest & Howard Flaigg
SR 3, Box 64
Newell SD 57760

Dear Mr. Flaigg:

The Water Management Board has validated the enclosed Vested Water Right No. 420-1. This validation gives legal status to the claim and is the final document for your vested right.

As long as you use the water beneficially, as stated in the validation, 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

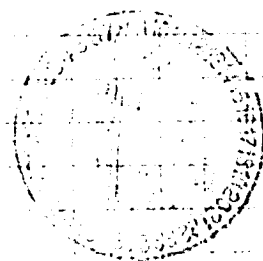
enclosure

420-1

to the water Department

We'll add this information to the water report
the only way we can make this system work is
to put in underground pipe from the source of water
to the irrigated land, it would take ~~one~~ one thousand
feet of 10 inch pipe underground. ~~to the source of water~~ & ditch
for the rest. How it got no figures one like could get.
We didn't have run at all the summer months.
our storage was about half of normal. really wasn't
a very good growing season. had some rain in Sept
October about 3 inches

Yours Truly
Jesse H. Clegg





January 30, 1996

420-1

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

NOTICE

TO: FRED/ERNEST/HOWARD FLAGG, HCR 66 BOX 64, NEWELL, SD 57760

FROM: Ron Duvall, Natural Resources Engineer
for John Hatch, Chief Engineer
Water Rights Program

SUBJECT: Violation of Requirement to Submit 1995 Irrigation Questionnaire

Our records indicate that the 1995 Irrigation Questionnaire has not been submitted for Permit No(s) 420-1. Request for the Questionnaire was dated October 20, 1995. The Water Management Board has directed owners of water permits who have not submitted the 1995 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning the violation.

The hearing will be held at 9:45 am, March 6, 1996, 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, 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 420-1 to require the Irrigation Water Use Questionnaire to be submitted each year.
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 1, 1996 your name will be deleted from the Board agenda. If you have any questions or need assistance with 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 meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

your RETURN? Additional information is printed on the reverse side.

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

FRED/ERNEST/HOWARD FLAIGG
HCR 66 BOX 64
NEWELL SD 57760

4a. Article Number

2348 318 847

4b. Service Type

- ☐ Registered
- ☐ Express Mail
- ☐ Return Receipt for Merchandise
- ☒ Certified
- ☐ Insured
- ☐ COD

7. Date of Delivery

5. Received By: (Print Name)

6. Signature: (Addressee or Agent)

Ernest Flaigg

8. Addressee's Address (Only if requested and fee is paid)

Domestic Return Receipt

Thank you for using Return Receipt Service.



420-1

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 26, 1996

420-1

Fred Flaigg
HCR 66 Box 64
Newell, SD 57760

Dear Mr. Flaigg:

I am writing to acknowledge receipt of your 1995 irrigation questionnaire for Water Right No. 420-1, listed in the names of Fred, Ernest and Howard Flaigg. You may disregard the January 30, 1996, Notice of Violation of the Requirement to Submit the 1995 Irrigation Questionnaire.

I completed a questionnaire for you based on our February 23, 1996 telephone conversation. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

Thank you for calling and if you have any questions, please contact me.

Sincerely,

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

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

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

420-1

FRED/ERNEST/HOWARD FLAIGG
HCR 66 BOX 64
NEWELL SD 57760

4a. Article Number

P378 081 341

4b. Service Type

- ☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

2/16/97

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)



Thank you for using Return Receipt Service.



February 4, 1997

NOTICE

420-1
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

TO: FRED/ERNEST/HOWARD FLAIGG, HCR 66 BOX 64, NEWELL, SD 57760

FROM: Ron Duvall, Natural Resources Engineer
for John Hatch, Chief Engineer
Water Rights Program

SUBJECT: Violation of Requirement to Submit 1996 Irrigation Questionnaire

Our records indicate that the 1996 Irrigation Questionnaire has not been submitted for Permit No(s) 420-1. The request for the Questionnaire was dated October 24, 1996. The Water Management Board has directed that owners of water permits who have not submitted the 1996 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning the violation.

The hearing will be held at 2:30 pm, March 5, 1997, 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. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 420-1 to require the Irrigation Water Use Questionnaire to be submitted each year;
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 February 28, 1997, your name will be deleted from the Board agenda. If you have any questions or need assistance with 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.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 20, 1997

420-1

Fred Flaigg
HCR 66 Box 64
Newell, SD 57760

Dear Mr. Flaigg:

I am writing to acknowledge receipt of your 1996 irrigation questionnaire. You may disregard the February 4, 1997, Notice of Violation of the Requirement to Submit the 1996 Irrigation Questionnaire.

I completed a questionnaire for you based on our February 20th telephone conversation. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

Thank you for calling and if you have any questions, please contact me.

Sincerely,

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



420-1
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 20, 2005

NOTICE

TO: FRED/ERNEST/HOWARD FLAIGG, HCR 66 BOX 64, NEWELL, SD 57760

FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2004 Irrigation Questionnaire

Our records indicate that the 2004 Irrigation Questionnaire has not been submitted for Permit No. 420-1. The request for the Questionnaire was dated October 22, 2004. The Water Management Board has directed that owners of water permits who have not submitted the 2004 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

The hearing will be held at 8:30 am, March 2, 2005, 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. Following the hearing, the Water Management Board can:

1. Amend Permit No. 420-1 to require the Irrigation Water Use Questionnaire to be submitted each year;
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 is received in this office on/or before February 25, 2005, your name will be deleted from the Board agenda. If you have any questions or need assistance with completion of the irrigation questionnaire, 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.



420-1

Track & Confirm

Current Status

You entered 2301 3460 0000 8516 1398

Your item was delivered at 10:26 am on January 21, 2005 in NEWELL, SD 57760. The item was signed for by F FLAIGG.

[Shipment Details >](#)

Notification Options

▶ Track & Confirm by email

[What is this?](#)

[Go >](#)

▶ Request Proof of Delivery

[What is this?](#)

[Go >](#)



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Track & Confirm

Enter label number:

[Track & Confirm FAQs](#)

U.S. Postal Service Signature Confirmation Receipt

SIGNATURE CONFIRMATION NUMBER:
2301 3460 0000 8516 1398

FRED/ERNEST/HOWARD FLAIGG
HCR 66 BOX 64
NEWELL SD 57760

Waiver of Signature ☐ YES ☐ NO

Postmark
Here

POSTAL CUSTOMER:

Keep this receipt. For Inquiries:
Access internet web site at
www.usps.com
or call 1-800-222-1811

CHECK ONE (POSTAL USE ONLY)

- ☐ Priority Mail®
☐ Package Services

(See Reverse)

PS Form 158, July 2001



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 27, 2005

420-1

Fred, Ernest & Howard Flaigg
Flaigg Ranch
HCR 66 Box 64
Newell SD 57760

Dear Sirs:

I am writing to acknowledge receipt of the information for your 2004 irrigation questionnaire. Based on our January 27th telephone conversation, I completed a form for you that indicates you did not irrigate in 2004.

You may disregard the January 20, 2005, "Notice" concerning reporting requirements for Water Right No. 420-1. 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
Environmental Scientist
Water Rights Program
(605) 773-3352



420-1

BUCKMASTER LAW OFFICES, PC

Wesley W. Buckmaster
Attorney at Law

Staff:

Cheryl Brewer
Paralegal

Janelle K. Smith
Legal Secretary

1501 5th Avenue
P.O. Box 726
Belle Fourche, SD 57717

Phone: (605) 892-2623

Fax: (605) 892-6337

E-Mail: buckmaster@rushmore.com

May 30, 2006

Dept. of Environment and Natural Resources
PMB 2020
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

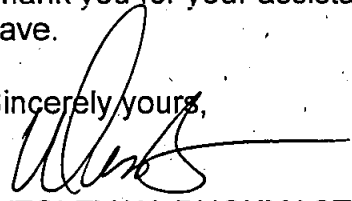
Re: Fred, Ernest & Howard Flaigg

Dear Genny:

Your letter addressed to the Flaigg Ranch dated January 27th, 2005 is enclosed for your easy reference. The Flaigg Brothers apparently own a Water Right No. 420-1. I am the attorney for the Flaigg Brothers Trust. The Flaigg Brothers Ranch is going to be the subject of an auction on June 26th. Please provide me with a copy of the Water Right so that we may properly represent Water Rights appurtenant to the Flaigg Ranch. I also need to verify whether the Water Right is owned in joint tenancy among Fred, Ernest and Howard Flaigg. They are all presently deceased and Ralph Barnard, Morgan Strohschein and Rose Sundstrom are the successor Co-Trustees.

Thank you for your assistance and please call with any questions you may have.

Sincerely yours,


WESLEY W. BUCKMASTER
WWB/jks-encl.
cc: Co-Trustees

RECEIVED
MAY 31 2006
WATER RIGHTS
PROGRAM



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 31, 2006

420-1

Wesley W Buckmaster
Buckmaster Law Offices PC
PO Box 726
Belle Fourche SD 57717

Dear Mr. Buckmaster:

Thank you for your letter of May 30th regarding the water right listed in the name of Fred, Ernest and Howard Flaigg. Enclosed is a copy for your review.

The water right is actually partially vested meaning a portion of it has priority dates prior to 1955. I made notes on a copy of the license so you could see the breakdown of acreages and diversion rates and what priority dates they retain.

I note from going through the file that it's been at least 25 years since the land was irrigated. Since 1994, they have reported they do not have an irrigation system constructed. South Dakota Water Laws specify that water must be placed to beneficial use for the purpose it was appropriated at least once every three years unless legal excuse exists for the period of non-use. I am enclosing excerpts of the water laws and Water Management Board Rules dealing with issues of abandonment and/or forfeiture. The excerpts include information on legal excuse.

If legal excuse does not exist for the years of non-use, the irrigation portion of No. 420-1 may have been abandoned or forfeited. The Water Management Board is the entity who determines if water rights or permits have legal standing. Simply transferring a water right and beginning to irrigate does not cure past years of non-use. I would caution the new owner(s) of the land from making a capitol investment in irrigation equipment prior to seeking a declaratory ruling from the Board on the status of the partial vested right.

Please review the enclosed information and get in touch with me if you have any questions.

Sincerely,

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

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 22, 2006

420-1

Buckmaster Law Offices PC
PO Box 726
Belle Fourche SD 57717

Dear Janelle:

I am writing in response to your inquiry on the status of Water Right No. 420-1 currently held in the name of Fred, Ernest and Howard Flaigg. The water right appropriates 3.1 cubic feet of water per second from Flaigg Draw and the Moreau River to irrigate 221 acres in portions of the NE $\frac{1}{4}$ of Section 15 and the S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 14, T13N, R7E.

It is my understanding that the land is soon to be for sale at auction and you want to be able to represent whether the water right is valid. As staff of the Water Rights Program I am unable to speak to the validity of a water right because of a past court ruling. Only the Water Management Board can make a determination on the validity of a water right. What I can do is advise you of the statutes relevant to the status of a water right and provide the history of irrigation on this property to let you or any potential buyer make an informed decision.

First Water License No. 420-1 is on file with the Water Rights Program with priority dates of 1942 (0.9 cfs), 1948 (0.9 cfs) and 1959 (1.3 cfs). Enclosed is a copy of the water right and applicable statutes dealing with this subject. There is not a current cancellation proceeding being initiated against the water right. However, there are concerns based on the history of irrigation on the property.

South Dakota water law specifies that water must be placed to beneficial use for the purpose it was appropriated at least once every three years or the water right becomes subject to forfeiture for nonuse unless there is legal excuse for the non-use. Water Rights records show that irrigation has not take place for at least 25 years on this property. Furthermore the Flaigg's have reported since 1994 that an irrigation system is not in place. I have no knowledge if legal excuse exists for the nonuse of water.

In my mind there are four options for the new owner.

- 1) If they are confident legal excuse exists for the extended period of time, proceed to irrigate within the conditions set forth on the water right.
- 2) Request a declaratory ruling by the Water Management Board on the status of the water right. This will involve public notice.

- 3) Conclude the water right is subject to cancellation for nonuse and apply for a new water right. The application will be reviewed to determine if water is available and public noticed.
- 4) Determine that the water right is subject to cancellation and make a decision to purchase the property without irrigation.

I caution anyone inquiring about the status of a water right with history similar to Water Right No. 420-1 not to purchase the land for the water rights. I further caution them about making a large capital investment in new irrigation equipment without first determining that the water right is valid. South Dakota is not a "resurrection state" meaning that beginning to irrigate again does not cure past periods of nonuse and the potential for cancellation of the water right.

When there is a new owner of the property, a notice of transfer of ownership is required pursuant to SDCL 46-5- 30.3.

Sincerely,



Eric Gronlund
Water Rights Program, DENR
(605) 773-3352

enclosure

Statutes:

46-5-36. Abandonment of use of water appurtenant to land - Public water subject to general appropriation. If the owner of the land to which water has become appurtenant abandons the use of such water upon such land, such water shall become public water, subject to general appropriation.

46-5-37. Failure to use beneficially appropriated water - Forfeiture for nonuse - Reversion to public. 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.

46-5-37.1. Abandonment or forfeiture of permits or rights - Recommendation of chief engineer for cancellation. Upon the initiative of the chief engineer or upon petition by any interested person and after reasonable notice to the holder of the right or permit, if he can be located, the chief engineer may investigate whether or not a water permit or right has been abandoned or forfeited. After the investigation, the chief engineer may recommend cancellation of the permit or right for reason of abandonment or forfeiture. The recommendation, notice and hearing shall be conducted pursuant to the procedure contained in chapter 46-2A.

46-5-37.2. Exceptions to forfeiture for nonuse. 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.

Rules:

74:02:01:36. Board authorized to cancel invalid water permits, rights, or vested rights. The board may cancel a water permit, right, or vested right which has become invalid and file a record of the cancellation in the water permit, right, or vested right record.

74:02:01:37. Invalid water permit, right, or vested right defined. A water permit, right, or vested right is invalid if it meets one or more of the following conditions:

- (1) The necessary works were not constructed or the water put to beneficial use within the time limits as provided by statute;
- (2) Use of water has been abandoned as specified in SDCL 46-5-36;
- (3) Use of water has been forfeited for nonuse as specified in SDCL 46-5-37.

74:02:01:37.01. Legal excuse for nonuse of water. 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.

420-1



BUCKMASTER LAW OFFICES, PC

Wesley W. Buckmaster
Attorney at Law

Staff:

Cheryl Brewer
Paralegal

Janelle K. Smith
Legal Secretary

1501 5th Avenue
P.O. Box 726
Belle Fourche, SD 57717

Phone: (605) 892-2623

Fax: (605) 892-6337

E-Mail: buckmaster@rushmore.com

RECEIVED

JUN - 1 2007

WATER RIGHTS
PROGRAM

May 31, 2007

Dept. of Environment and Natural Resources
PMB 2020
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

Re: Flaigg Ranch to Oehler Family Trust

Dear Genny:

The purpose of this letter is to provide you with the information of the buyers of the Flaigg Ranch. The new owners' names and addresses are as follows:

Daniel J. Oehler & Maxine M. Oehler, Co-Trustees
Oehler Family Trust, Dated February 18, 2007
2001 Hwy. 95, Suite 15
Bullhead City, AZ 86442
(928) 758-3988 Phone
(928) 763-3227 Fax

Be advised that the buyers were given the application for the water rights at the time of closing. If you need anything further from this office, kindly advise.

Thank you.

Sincerely yours,

WESLEY W. BUCKMASTER
WWB/jks



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 14, 2007

420-1

Daniel Oehler
2001 Hwy 95 Suite 15
Bullhead AZ 86442

RE: Flaigg Ranch to Oehler Family Trust

Dear Mr. Oehler:

I am writing in follow-up to our phone conversation of June 13th regarding ownership of land described in Partial Vested Water Right No. 420-1.

Enclosed, as we discussed, is a partially completed Notice of Transfer of Ownership form for filing an ownership change. Please review the form and make any necessary corrections. Upon completion, please sign the form and return it to our office with a required filing fee of \$2.50. The check or money order for the fee can be made payable to the Water Rights Program.

I am also enclosing recent correspondence contained in the file pertaining to legal standing of the water right. I didn't know if you were made aware of issues pertaining to the water right when you purchased the property.

If you have any questions, please contact me.

Sincerely,


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

enclosures

NOTICE OF TRANSFER OF OWNERSHIP

RECEIVED

JUN 26 2007

WATER RIGHTS
PROGRAM

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

No. 420-1

Date: July 28, 2006

I/We request that Water Right No. 420-1

formerly owned by: Fred, Ernest & Howard Flaigg, dba Flaigg Ranch

be transferred to: (name & address) Daniel J. Oehler and Maxine M. Oehler Family Trust
(Dated 02/15/2006) 2001 Highway 95, Ste 15, Bullhead City, AZ 86442
Telephone No. (928) 758-3988

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

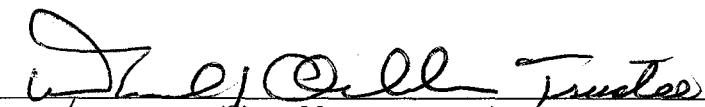
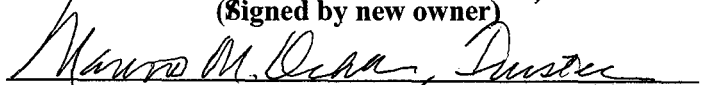
NE 1/4 Section 15, S 1/2 NW 1/4, SW 1/4 NE 1/4, N 1/2 SW 1/4 and SE 1/4 SW 1/4 Section 14, all in T13N, R7E

I/We understand that the validity of Water Right No. 420-1 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 Two Dollars and Fifty Cents (\$2.50) 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 Daniel J. Oehler and Maxine M. Oehler, 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.

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 6/26, 20 07

RECEIVED OF BAR H RANCH PO BOX 133 REVA SD 57651

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>420-1</u>	2	50
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	2	50

No.

03079

By

Michael Erbe
Chief Engineer

sg



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 3, 2007

420-1

Daniel Oehler
2001 Hwy 95 Suite 15
Bullhead AZ 86442

RE: Flaigg Ranch to Oehler Family Trust

Dear Mr. Oehler:

I am writing to acknowledge receipt of the ownership change and filing fee you submitted for transferring Partial Vested Water Right No. 420-1. The transfer has been completed. No. 420-1 formerly held by Flaigg Ranch is now listed as "Daniel J Oehler and Maxine M Oehler Family Trust"

Enclosed is your Receipt No. 03079 in the amount of \$2.50. The receipt is for the filing fee you paid for the ownership change.

If you have any questions, please contact me.

Sincerely,

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

enclosures



420-1
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 24, 2012

NOTICE

TO: DANIEL J & MAXINE M OEHLER FAMILY TRUST, 2001 HWY 95 STE 15, BULLHEAD CITY, AZ 86442

FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2011 Irrigation Questionnaire(s)

Our records indicate that the 2011 Irrigation Questionnaire has not been submitted for Permit No(s) 420-1 as required by administrative rule 74:02:01:14.02. The request for the Questionnaire was dated October 14, 2011. The Water Management Board has directed that owners of water permits who have not submitted the 2011 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

The hearing will be held at **10:00 am, March 7, 2012**, 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. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 420-1 to require the Irrigation Water Use Questionnaire to be submitted each year;
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, 2012**, 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>

c: **BAR H RANCH, PO BOX 133, REVA SD 57651**

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
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.denr.sd.gov

January 30, 2012

420-1

Daniel & Maxine M Oehler
2001 Highway 95 Ste 15
Bullhead City AZ 86442

Dear Mr. & Mrs. Oehler:

I am writing to acknowledge receipt of your 2011 irrigation questionnaire. The questionnaire was received on-line January 27th.

You may disregard the January 24, 2012, "Notice" concerning reporting requirements for Water Right No. 420-1. The information was received in our office prior to the Water Management Board meeting and your names have been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

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

c: Bar H Ranch, PO Box 133, Reva SD 57651



420-1
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 24, 2014

NOTICE

TO: DANIEL J & MAXINE M OEHLER FAMILY TRUST, 2001 HWY 95 STE 15, BULLHEAD CITY, AZ 86442

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2013 Irrigation Questionnaire(s)

Our records indicate that the 2013 Irrigation Questionnaire has not been submitted for Permit No(s) 420-1 as required by administrative rule 74:02:01:14.02. The request for the Questionnaire was dated October 18, 2013. The Water Management Board has directed that owners of water permits who have not submitted the 2013 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

The hearing will be held at **9:00 am, March 6, 2014**, 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. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 420-1 to require the Irrigation Water Use Questionnaire to be submitted each year;
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 3, 2014**, 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>

c: BAR H RANCH, PO BOX 133, REVA SD 57651

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
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.denr.sd.gov

March 4, 2014

402-1

(email)

Daniel J & Maxine M Oehler Family Trust
2001 Hwy 95 Ste 15
Bullhead City AZ 86442

Dear Mr. & Mrs. Oehler:

I am writing to acknowledge receipt of your 2013 irrigation questionnaire. I completed a questionnaire for you based on our telephone conversation.

You may disregard the January 24, 2014 "Notice" concerning reporting requirements for Water Right No. 402-1. 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



420-1
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 25, 2019

NOTICE

TO: DANIEL J & MAXINE M OEHLER FAMILY TRUST, 2001 HWY 95 STE 15, BULLHEAD CITY, AZ 86442

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2018 Irrigation Questionnaire(s)

Our records indicate your 2018 Irrigation Questionnaire has not been submitted for Permit No(s) 420-1 as required by administrative rule 74:02:01:14.02. The request for the Questionnaire was dated October 30, 2018. The Water Management Board has directed that owners of water permits who have not submitted the 2018 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

The hearing will be held at **Wednesday, March 6, 2019 at 10:30 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. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 420-1 to require the Irrigation Water Use Questionnaire to be submitted each year;
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 6, 2019** 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>

c: BAR H RANCH, PO BOX 133, REVA SD 57651

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.

420-1

RECEIVED

FEB 04 2019

WATER RIGHTS
PROGRAM

DANIEL J. & MAXINE M. OEHLER FAMILY TRUST
BAR H RANCH
2001 Highway 95, Suite 15
Bullhead City, Arizona 86442
(928) 758-3988
(928) 763-3227 Fax
djolaw@frontiernet.net

January 29, 2019

Water Rights Program
523 E. Capitol
Pierre, SD 57501-3181

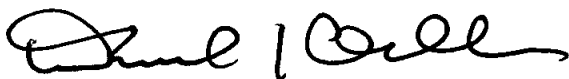
Re: Permit No. 420-1

Dear Folks:

Enclosed herewith please find the completed 2018 Water Management Board Irrigation Questionnaire with regard to Permit No. 420-1.

Thank you for your time and attention herein. If you have any questions or comments, please do not hesitate to contact the undersigned.

Very truly yours,



Daniel J. Oehler, Trustee
DJO/pe
Enclosure

420-1



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 7, 2019

420-1

Daniel J & Maxine M Oehler Family Trust
2001 Highway 95, Suite 15
Bullhead City AZ 86442

Dear Mr. & Mrs. Oehler:

I am writing to acknowledge receipt of your 2018 irrigation questionnaire.

You may disregard the January 25, 2019, "Notice" concerning reporting requirements for Water Right No. 420-1. The information was received in our office prior to the Water Management Board meeting and your names have 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

c: Box H Ranch, PO Box 133, Reva SD 57651

420-1

DANIEL J. & MAXINE M. OEHLER FAMILY TRUST
BAR H RANCH
2001 Highway 95, Suite 15
Bullhead City, Arizona 86442
(928) 758-3988
(928) 763-3227 Fax
djolaw@frontier.net

RECEIVED

NOV 14 2019

WATER RIGHTS
PROGRAM

November 6, 2019

Water Rights Program
523 E. Capitol
Pierre, SD 57501-3181

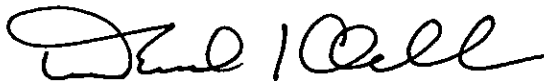
Re: Permit No. 420-1

Dear Folks:

Enclosed herewith please find the completed 2019 Water Management Board Irrigation Questionnaire with regard to Permit No. 420-1.

Thank you for your time and attention herein. If you have any questions or comments, please do not hesitate to contact the undersigned.

Very truly yours,



Daniel J. Oehler, Trustee
DJO/pe
Enclosure