

482-1

1. Considered 12-21, 1960
2. Name of Applicant Howard & Anna Schmelzer
3. Post Office Address Newell, S.D.
4. Amount of water claimed 11.0
5. Source of water supply INDIAN, BIDDY & O'LEARY CR.
6. Water to be used for irrigation
 Acres to be irrigated 780
7. Water to be diverted and used in Butte County about
6 miles N of NEBLAND
8. Proof of Publication Received ☒
 Not Received ☐
9. Application Approved ☐ Subject to Minor Rights
 Not approved ☐
 Action deferred ☐ *List prior requests*

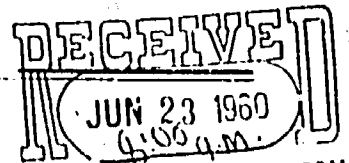
10. Remarks:

3.0 CFS FROM INDIAN CR.

V.R. FOR 1.7 CFS. FROM BIDDY CR.

SEE PROTEST LTR FROM CLARK

No. 482-1

Water Division No. 1 Belle Fourche River District
(Blanks to be filled by the Engineer for the W. R. C.)STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

APPLICATION FOR PERMIT To Appropriate Water within the State of South Dakota

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

1. Name of applicant ARL A. SCHWELE AND HOWARD W. SCHWELE (Father & Son)Postoffice address Harrell, County Butte, State So. Dak.

I. If a corporation

(a) Name of same

(b) Date and place of incorporation

(c) Amount of capital stock

(d) Amount paid in

(e) Names and addresses of directors

(NOTE—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, \$

(c) Treasury stock, \$

(d) Bonds to be listed, \$

(e) Other resources, \$

2. Name of diversion work

3. Indian Creek and its tributaries (Cleary Creek and Biddy Creek)

4. Source of water supply

Between a point 0' 0" 383' from the NW Cor. Sec. 1, T. 9 N., R. 4 E-BHM and a point 8 640 30' E 1482' from the NW Cor. Sec. 18, T. 9 N., R. 5 E-BHM on both banks of Indian Creek, also a point of diversion from the left bank of Biddy Creek at a point which lies 8 0' E 264' from the NW Cor. Sec. 7, T. 9 N., R. 5 E-BHM which storage and irrigation reservoir is claimed under vested right, by reason of its having been constructed in 1940 and used continuously by the operators of this ranch since that time, for stockwater and irrigation.

(a) Number of acres to be irrigated

NW-SW-6 Ac., NE-SW-20 Ac., SW-SW-20 Ac., SE-SW-40 Ac., SW-SE-6 Ac. Total 92 Ac.
Sec. 1, T. 9 N., R. 4 E-BHM

NW-NW-35 Ac., NE-NW-32 Ac., SW-NW-34 Ac., SE-NW-34 Ac., NW-NE-27 Ac.,
NE-NE-5 Ac., SW-NE-34 Ac., SE-NE-33 Ac., NE-SE-25 Ac. Sec. 18, T. 9 N., R. 4 260 Ac.

NW-NW-13 Ac., NE-NW-8 Ac., SW-NW-33 Ac., SE-NW-30 Ac., NW-NE-20 Ac.,
SW-NE-30 Ac., SE-NE-30 Ac., NW-SW-30 Ac., NE-SW-20 Ac., NE-SE-33 Ac., SE-SE-25 Ac.
Sec. 7, T. 9 N., R. 5 E-BHM 278 Ac.

SE-SW-10 Ac., Sec. 8, T. 9 N., R. 5 E-BHM Total 10 Ac.

NE-NW-20 Ac., SW-NE-33 Ac., SE-NE-35 Ac., NW-SE-7 Ac., NE-SE-33 Ac.,
Sec. 17, T. 9 N., R. 5 E-BHM Total 118 Ac.

NW-SW-23 Ac. Sec. 26, T. 9 N., R. 5 E-BHM Total 23 Ac.
Grand Total 780 Ac.

MAP No 419-1

8. Estimated cost of work:

(a) Head Gates, \$ 75.00 Probably two 6" pumps
 (c) Fluming, \$ 180.00 (d) Canal-earth, \$ 3000.00
 (e) Other structures XXXXXXXX \$ _____

(b) Pumping plant, \$ 3500.00
 Rock, \$ _____
 Total, \$ 5755.00

9. Description of diversion works:

I. Nature of works: (Reservoir, dam, ditch, flume, pumping plant, etc.)
Spreader dikes and ditches to be constructed, to increase use of water from reservoir claimed to be reached right. Water to be pumped from Indian Creek into system.

(a) Dam: Height 14 feet; length at bottom 935 feet; length at top 925 feet; thickness at bottom 88 feet; thickness at top 12 feet; slope at front water face Eroded (under repair) slope at back face 14:1
 Material used in construction Earth - Slope being reinforced with old ear bodies.

(b) Reservoir: Capacity when filled 155 acre feet. Surface area at highwater mark 62 acres. Flume 12 X 80' C.M.P. with headgate

DEPTH AT OUTLET-Feet	SURFACE AREA AT EACH DEPTH AT OUTLET-ACRES	FEET	ACRE-Feet CAPACITY

(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 4 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, So. Dak.

STATE OF SOUTH DAKOTA

County of Butte

ss.

Yo Anna A. Schuele and Howard W. Schuele

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

Howard W. Schuele
Anna A. Schuele

Subscribed and sworn to before me this

6th

day of

June

19

80

Carl M. Cornell,

Notary Public (or other qualified officer.)

*Each diversion must have a headgate or measuring device

My Commission Expires 4/10/67

PLAT
OF
THE SCHMELE IRRIGATION PROJECT
SECTIONS 1 & 12, T.9 N., R.1 E-BEM, Sec. 7, 8, 16 & 17, T.9 N., R.5 E-BEM
BUTTE COUNTY, SOUTH DAKOTA.

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

- SURVEYOR'S CERTIFICATE -

I, Carl M. Cornell, Licensed Surveyor, in and for the State of South Dakota, do hereby certify that, at the request of Anna A. Schmele and Howard W. Schmele, owners of the lands described herein, I have made a survey of the said tracts for the purpose of computing the irrigable areas on the several tracts described herein and for the additional purpose of furnishing the required plat of said tracts as a part of the applicant's "Application for a Permit to Appropriate Water for Irrigation Purposes" which is submitted herewith.

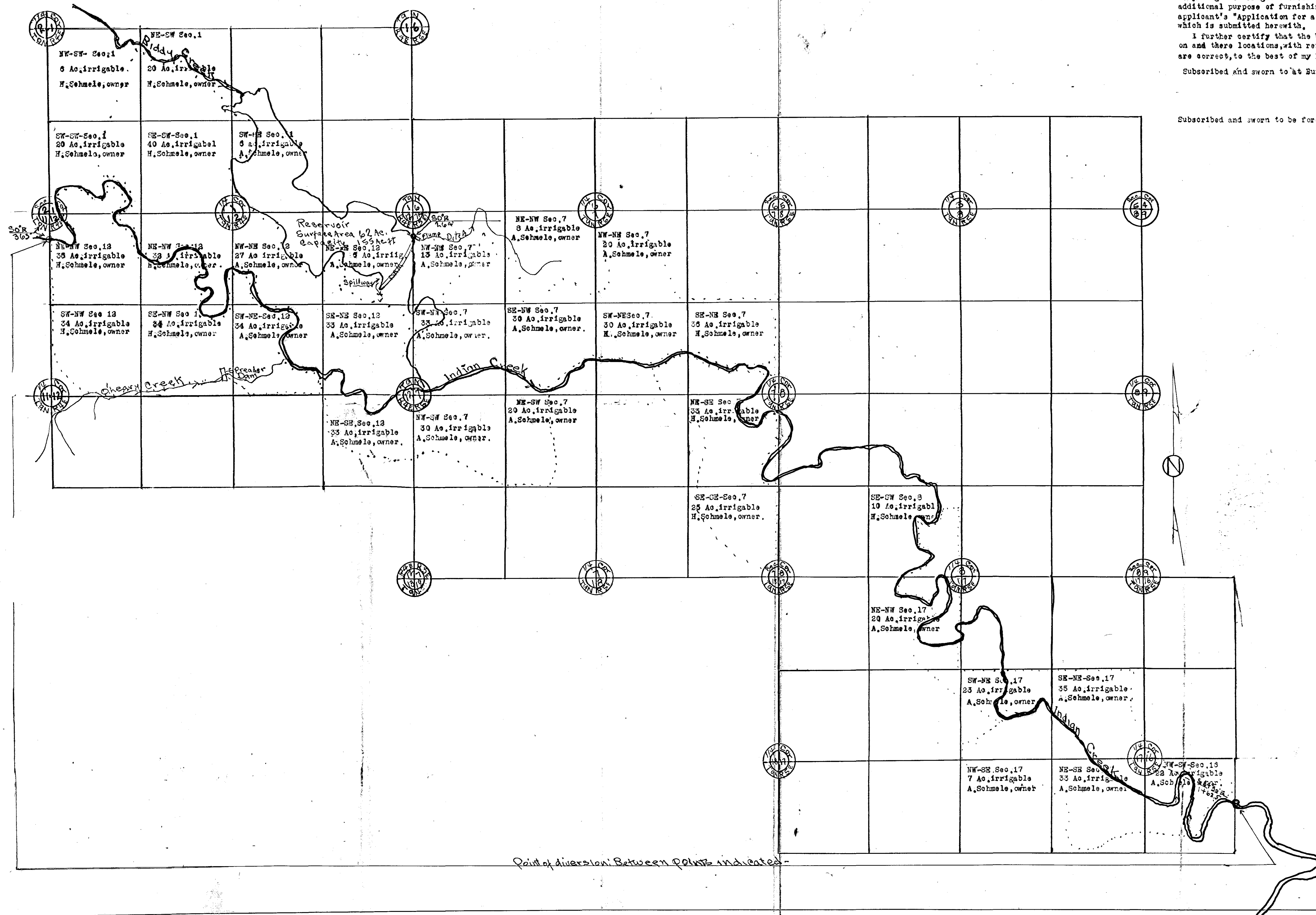
I further certify that the bearings and lengths of the several lines shown hereon and there locations, with reference to the several Government Land Corners shown are correct, to the best of my knowledge and belief.

Subscribed and sworn to at Buffalo, South Dakota this 8th day of June 1960.

SIGNED Carl M. Cornell
Licensed Surveyor, # 144 (REAL)

Subscribed and sworn to be fore me at Buffalo, South Dakota this 8th day of June 1960.

M. R. Ham
Notary Public, (REAL)



Remarks by State Water Resources Commission:

"Partial vested right claimed"

Irrigation withdrawals from Indian Creek under this permit are limited to 3.0 cubic feet per second.

The use of water under this permit is contingent upon water supplies being available to prior water rights.

STATE OF SOUTH DAKOTA
County of Hughes } ss.

Pierre, South Dakota, December 29, 1960

This is to certify that the foregoing application was received by the Commission at 8:00 o'clock

a.m. upon the 23rd day of June, 1960

State Water Resources Commission

By:

Paulton Jones
Chief Engineer, Executive Officer

Number of permit 482-1

Date of first receipt of application June 23, 1960

Date of return to applicant for correction, amendments or changes required as follows: _____, 19____

Date of receipt of corrected application _____, 19____

Date from which applicant may claim right 1.7 cfs from 1944
9.3 cfs from June 23, 1960

Approved December 21, 1960, Recorded in Book 6 Page 161

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

December 21, 1962

2nd. The whole of said work is to be completed on or before December 21, 1964

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

December 21, 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 11.0 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 21, 1968; said water to be used during the following described annual period:

April to October 15, inclusive

Witness my hand this 29th day of December, 1960

State Water Resources Commission

By:

Paul Jones
Chief Engineer, Executive Officer

Certificate of Construction Issued OCTOBER 11, 1972

Water License Issued OCTOBER 11, 1972

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 482-1

10/20/02

(1) WHEREAS, On the 23rd day of June A. D. 19 60
Howard Schuele

made Water Right Application No. 482-1 for a permit to use 11.0 cubic feet per second of the water of Big, O'Leary and Horse Creeks

County of Butte State of South Dakota, for irrigation

purposes; and

(2) WHEREAS, On the 29th day of December A. D. 19 60

Permit No. 482-1 with a date of priority of 1949 and June 23, 1960

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 21st day of December A. D. 19 64 and for the application to beneficial use of said water on or before the 21st day of December A. D. 19 68

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 11.0 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. For irrigating the following described Land:

19N, R5E	Acres	19N, R4E	Acres
Section 7 NW $\frac{1}{4}$ NW $\frac{1}{4}$	13	Section 1 NW $\frac{1}{4}$ SW $\frac{1}{4}$	6
NE $\frac{1}{4}$ NW $\frac{1}{4}$	8	NE $\frac{1}{4}$ SW $\frac{1}{4}$	20
SW $\frac{1}{4}$ NW $\frac{1}{4}$	23	SW $\frac{1}{4}$ SW $\frac{1}{4}$	20
SE $\frac{1}{4}$ NW $\frac{1}{4}$	30	SE $\frac{1}{4}$ SW $\frac{1}{4}$	40
NW $\frac{1}{4}$ NE $\frac{1}{4}$	20	SW $\frac{1}{4}$ SE $\frac{1}{4}$	6
SW $\frac{1}{4}$ NE $\frac{1}{4}$	30		
SE $\frac{1}{4}$ NE $\frac{1}{4}$	35		
NW $\frac{1}{4}$ SW $\frac{1}{4}$	30	Section 12 NW $\frac{1}{4}$ NW $\frac{1}{4}$	35
NE $\frac{1}{4}$ SW $\frac{1}{4}$	20	NE $\frac{1}{4}$ NW $\frac{1}{4}$	32
NE $\frac{1}{4}$ SE $\frac{1}{4}$	33	SW $\frac{1}{4}$ NW $\frac{1}{4}$	34
SE $\frac{1}{4}$ SE $\frac{1}{4}$	25	SE $\frac{1}{4}$ NW $\frac{1}{4}$	54
Section 8 SE $\frac{1}{4}$ SW $\frac{1}{4}$	10	NW $\frac{1}{4}$ NE $\frac{1}{4}$	27
Section 17 NE $\frac{1}{4}$ NW $\frac{1}{4}$	20	NE $\frac{1}{4}$ NE $\frac{1}{4}$	6
SW $\frac{1}{4}$ NW $\frac{1}{4}$	33	SW $\frac{1}{4}$ NE $\frac{1}{4}$	34
SE $\frac{1}{4}$ NW $\frac{1}{4}$	35	SE $\frac{1}{4}$ NE $\frac{1}{4}$	33
NW $\frac{1}{4}$ SE $\frac{1}{4}$	7	NE $\frac{1}{4}$ SE $\frac{1}{4}$	25
NE $\frac{1}{4}$ SE $\frac{1}{4}$	32		
Section 16 NW $\frac{1}{4}$ NW $\frac{1}{4}$	22		

TOTAL ACRES

780

(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 Howard Schmele

_____ of Newell, S.D.

the holder _____ and owner _____ of said permit No. 482-1 a water right, dating from 1949 and June 23, 1960

_____ to use of 11.0 cubic feet per second of the waters

of Biddy, O'Leary and Horse Creeks

in the County of Butte and State of South Dakota, or so much thereof as may be necessary for the

purposes hereinbelow mentioned, to be diverted ~~at~~ from Biddy Creek-50° East, 264 ft. from NW Corner, Sec. 7,

T9N, R5E. From O'Leary Creek-South 47° East, 3430 ft. from NW Cor. Section 12, T9N, R4E,

from Indian Creek-Between points 50° East, 363 feet from NW Cor., Sec. 12, T9N, R4E and

South 64° 30' East, 1462.5 feet from Ek Corner, Section 16, T9N, R5E

and conduct to and upon portions of Sections 1 and 12, T9N, R4E, and Sections 7, 8, 16 and 17,

T9N, R5E, described more fully on the face of this License.

for the purpose of irrigation

Subject to any limitations listed in Water Right Permit No. 482-1 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota

this 11th day of October A. D.

Nineteen Hundred and Seventy-two

WATER RESOURCES COMMISSION

By:

Chief Engineer, Executive Officer J.W. GRIMES

Permit No. 482-1Water Diversion No. 1 BELLE FOURCHE RIVER Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That Howard Schmele

the holder _____ of

Permit No. 482-1, issued upon Application No. 482-1, bearing date of priority of 1949 and
June 23, 1960 authorizing the diversion of 11.0 cu. ft. per second of the waters of BiddyO'Leary and Indian Creeks County of Butte, State of South Dakota, from
Biddy Creek-50° E., 264' from NW Cor. Sec. 7, T9N, R5E. From O'Leary Creek-S 47° E., 3430'
from NW Cor. Sec. 12, T9N, R4E. From Indian Creek-Between points 500' East, 363 feet
from NW Cor. Sec. 12, T9N, R4E. and South 64° 30' East, 1462.5 feet from E. Corner
Sec. 16, T9N, R5E, for irrigationpurposes, 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 3.0 (pump) and up to 20 gravity cu. ft. per second of water.Date October 11, 1972

WATER RESOURCES COMMISSION

By:

J.W. GRIMES, Executive Officer

OVERSIZE

DOCUMENT IS

SUPPLEMENTARY

TO MICROFILM FILE

Permit No. 482-1Water Division 1 BELLE FOURCHE 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 HOWARD SCHEMELE of NEWELL holder of Permit No. 482-1, bearing date of priority of 1.7 CFS FROM 1949 9.3 CFS FROM JUNE 23, 1960 INDIAN CREEK & TRIBUTARIES authorizing the diversion of 11.0 cu. ft. per second of the waters of OLEARY & BIDDY CREEKS for IRRIGATION purposes, in BUTTE County.

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

The Water Use System consists of, ON OLEARY CREEK - SPREADER DAM APPROX 10' HIGH KICKS WATER TO INDIAN CR. FLATS.

A. Works used to divert the water: ON BIDDY CREEK - STORAGE DAM OF APPROX 60 SURFACE ACRES & STORAGE OF 155 AC. FT. BERKLEY 8" INLET - 8" OUTLET PUMP, POWERED BY EITHER JOHN DEERE 1020 OR OLIVER DIESEL TRACTORS

B. Works used to transport water to place of use, APPROX. 2 MILES OF MAIN DITCH & 1 MILE OF SMALLER DITCHES.

2 12" CMP THRU DAM WITH HEADGATES

C. Works used to apply water to beneficial use.

1100' OF 8" MAINLINE PIPE & 800' OF 8" GATED PIPE
APPROX. 4 1/2 MILES OF SPREADER DIKES

The system is in the following condition:

FAIR

The point of diversion is located FROM BIDDY CREEK - 500', 264' FROM NW COR. SEC 7, T. 4N, R. 5E
FROM OLEARY CREEK - 847' E, 8430' FROM NW COR. SEC 12, T. 4N, R. 6E
FROM INDIAN CREEK - BETWEEN POINTS 500', 363' FROM NW COR. SEC 12, T. 4N, R. 6E,
AND 564° 30' E, 1462.5 FEET FROM E 1/4 CORNER, SEC. 12, T. 4N, R. 5E
PUMP - 8.0 CFS.

The works are capable of diverting and conveying to the place of use OTHER UP TO 220

cu. ft. per second of water which is to be used for IRRIGATION

Water has been put to beneficial use to the maximum extent as follows:

SEE ATTACHMENT

comprising a total of _____ acres of land.

Date OCTOBER 4, 1972

Purton Jones
(Signature)

WATER RIGHT SPECIALIST
WATER RESOURCES COMMISSION

LANDS IRRIGATED UNDER WIR 4-B2-1

T9N, R5E

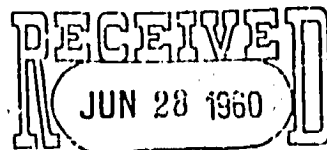
SECTION 7	NW ¹ NW ¹	13 AC.
	NE ¹ NW ¹	8 AC.
	SW ¹ NW ¹	33 AC.
	SE ¹ NW ¹	20 AC.
	NW ¹ NE ¹	20 AC.
	SW ¹ NE ¹	30 AC.
	SE ¹ NE ¹	36 AC.
	NW ¹ SW ¹	30 AC.
	NE ¹ SW ¹	20 AC.
	NE ¹ SE ¹	33 AC.
	SE ¹ SE ¹	25 AC.
SECTION 8	SE ¹ SW ¹	10 AC.
SECTION 17	NE ¹ NW ¹	20 AC.
	SW ¹ NE ¹	33 AC.
	SE ¹ NE ¹	35 AC.
	NW ¹ SE ¹	7 AC.
	NE ¹ SE ¹	33 AC.
SECTION 16	NW ¹ SW ¹	22 AC.

T9N, R4E

SECTION 1	NW ¹ SW ¹	6 AC.
	NE ¹ SW ¹	20 AC.
	SW ¹ SW ¹	20 AC.
	SE ¹ SW ¹	40 AC.
	SW ¹ SE ¹	6 AC.
SECTION 12	NW ¹ NW ¹	35 AC.
	NE ¹ NW ¹	32 AC.
	SW ¹ NW ¹	34 AC.
	SE ¹ NW ¹	34 AC.
	NW ¹ NE ¹	27 AC.
	NE ¹ NE ¹	6 AC.
	SW ¹ NE ¹	34 AC.
	SE ¹ NE ¹	33 AC.
	NE ¹ SE ¹	25 AC.
TOTAL		780 AC.

Location No. _____

Water Division No. _____ Water District _____

STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA**Proof of Application of Water to Beneficial Use****PETITION OF HOLDER**

Ques. 1. State your name, residence, occupation and post office address.

Ans. ANNA A. SCHEELE AND HOWARD W. SCHEELE, NEWELL, S.D. STORMEN, NEWELL, S.D.

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. X X X X

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

Ans. NO RECORD OF POSTING DATE.

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

Ans. BIDGE CREEK. POINT OF DIVERSION S. ONE 264' from the NW Cor. Sec. 7, T.9 N., R.5 E. NW on the Left (North.) BANK.

Ques. 5. Describe your works of diversion giving length and height of each dam and state amount of water they are capable of conveying from point of diversion to place of use, and give name of canal or ditch or other works by which water is conducted to such place of use, and date of completion of same.

Ans. Height 14', Length at bottom 935', Length at top 925', Thickness at bottom 96', thickness at top 12', Slope in front Eroded and being reinforced with car bodies endearth, back-slope 1 1/2 to 1. Material; clay fill. Water from flume on left bank and spillway on right bank has been used to irrigate most of the irrigable area indicated since the dam construction in 1948. By recording 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 water.)

NW-NW-13 Ac., NE-NW-8 Ac., SW-NW-20 Ac., SE-NW-25 Ac., NW-NE-20 Ac.,	
SW-NE-20 Ac., SE-NE-15 Ac., Sec. 7, T.9 N., R.5 E-EHM	Total 121 Ac

Ans. _____

Ques. 7. If for other than irrigation purpose, state how applied, amount of horse power generated, etc.

Ans. STOCKWATER ONLY

Ques. 8. What is the minimum amount of water required for the use specified above?

It is the plan to use water stored in this reservoir to supplement the flow of Indian Creek as a supply from which to pump into a proposed set of ditches in order to make efficient use of the water supply available.

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. By inheritance from husband and father of applicants.

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

Water from above described dam has been used annually, since its
Ans. construction in 1949, to flood creek bottoms thru the flume and
ditch and by control of water from spillway to divert it onto bottoms
by dikes and ditches which will be extended under the project which
is proposed by the accompanying "Application for Permit to appropriate
water for irrigation purposes."

Howard W. Schmale
(Sign) *Howard W. Schmale*

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 Newell, County of Butte

State of South Dakota, on this 6th day of June A. D. 1960
Elmer Hilberg
A. J. Hader } Witnesses. *Carl M. Cornell* Notary Public. (SEAL)

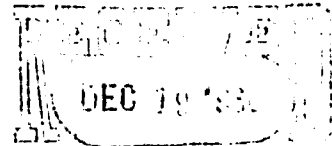
I, the undersigned, do hereby certify that I am a duly qualified elector residing in the immediate vicinity of the diversion works designated in the foregoing testimony, that I have no interest in the works, water or land above described, that I have read the foregoing testimony and that I know of my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

Orvin Lyndell

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 _____
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PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA }
County Battle } ss.



STATE WATER RESOURCES COMMISSION
PIERRE, SOUTH DAKOTA

F. Lyn Gladstone 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 Howell, ----- County of Battle ----- and State of South Dakota; that the said notice was published in said newspaper on the following dates:

November 24, 1960

December 1, 1960

December 8, 1960

December 23, 1960

in each and every issue of the full number thereof, the first publication being made on the 24 day of November

19 60 and the last publication on the 15 day of

December 19 60, 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 proprietor and publisher of the said newspaper.

F. Lyn Gladstone

Subscribed and sworn to before me this 15 day of November A. D. 19 60

Notary Public Battle County, S. D.

APPROPRIATION OF WATER
Office of State Water Resources
Commission, Pierre, S. Dak.,
November 19, 1960.

Notice is hereby given that Anna A. & Howard Schmele, whose post-office address is Howell, E. 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 11.0 cubic feet of water per second of time from Indian Creek and its tributaries, with not more than 2.0 cubic feet per second from Indian Creek through the Schmele Irrigation Project the point of diversion of which is to be located on both banks of said streams between a point in the NW 1/4 NW 1/4, Sec. 18, T. 10N, R. 4E, and a point in the NW 1/4 of the NW 1/4 of Section 7, Twp 9N, Range 5E. Said water to be used for the purpose of providing irrigation on portions of the following described land: SW 1/4 & SW 1/4 SE 1/4, Sec. 18, NW 1/4, NE 1/4, and NW 1/4 SE 1/4, Sec. 18, T. 9N, R. 4E; NW 1/4 NE 1/4, NW 1/4 SW 1/4 and NW 1/4 SE 1/4, Sec. 1, T. 9N, R. 4E; and for stockwatering purposes.

This application will be taken up by the State Water Resources Commission at their office in Pierre for consideration upon the first day of December 1960 at 2 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 F. Jones, Water
Rights Specialist (Sot)

(First Publication on or before November 24, 1960)

APPROPRIATION OF WATER

Office of State Water Resources Comm.
Pierre, S.Dak. November 19 1960

Notice is hereby given that Anna A. & Howard Schmele whose postoffice address is Newell 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 11.0 cubic feet of water per second of time from Indian Creek and its tributaries, with not more than 3.0 cubic feet per second from Indian Creek through the Schmele Irrigation Project, the point of diversion of which is to be located on both banks of said streams between a point in the NW $\frac{1}{4}$ NW $\frac{1}{2}$ Sec 12, T 9N R 4E, and a point in the NW $\frac{1}{4}$ of the NW $\frac{1}{2}$ of Section 2 Twp 9N Range 5E. Said water to be used for the purpose of providing irrigation on portions of the following described land:

SW $\frac{1}{4}$ & SW $\frac{1}{2}$ SE $\frac{1}{4}$, Sec 11; NW $\frac{1}{4}$, NE $\frac{1}{4}$, and NE $\frac{1}{2}$ SE $\frac{1}{4}$ Sec 12, T 9N R 4E;

NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{2}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$, Sec 7 T 9N R 5E

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 21st day of December 1960 at 2 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.

cc: F. Lyn Gladstone--Publisher
Valley Irrigator
Newell, South Dakota

State Water Resources Comm.

Burton F. Jones
Burton F. Jones
Water Right Specialist

 **Department of
Water & Natural Resources**

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

March 31, 1985

Notice

Howard & Anna Schmele
RR 1, Box 129
Newell, SD 57760

Re: Violation of Requirement to Submit 1985 Irrigation Questionnaire

Our records indicate that the 1985 Irrigation Questionnaire has not been submitted for Water Permit No(s). 482-1. The request for the Questionnaire was dated November 13, 1985. The Water Management Board has directed that owners of water permits who have not submitted 1985 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.

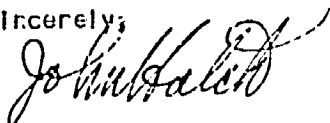
The hearings will be held at 2:00 p.m., May 14, 1986 in Room 216, Joe Foss Building, Pierre, South Dakota.

The hearing(s) 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). 482-1 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.

Sincerely,



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

Note: If the questionnaire(s) is received in this office before the May 14 hearing date, your name will be deleted from the agenda for the hearings.

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

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

May 20, 1986

NOTICE OF AMENDMENT TO WATER PERMIT(s)

To: Howard & Arna Schmele
RR 1 Box 29
Newell ST 57760

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



SUBJECT: Amendment to Water Permit No(s). 482-1

Pursuant to the provisions of the notice dated March 31, 1986, and following the Hearing May 14, 1986, the Water Management Board has amended Water Permit No(s). 482-1 to add the following qualification:

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

The addition of this qualification to your Permit means that failure to submit the required irrigation questionnaire in the future could result in suspension of the water permit and no use of water for up to one year for the first violation. Please include the enclosed attachment with your permit.

Equal Opportunity Employer



Department of Water & Natural Resources

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

Attachment to Water Permit No. 482-1

Pursuant to the provisions of the notice dated May 20, 1986, and following the Hearing May 14, 1986, the Water Management Board has amended Water Permit No. 482-1 to add the following qualification:

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

Equal Opportunity Employer



Department of Water & Natural Resources

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

March 23, 1987

HOWARD & ANNA SCHMELE
RR #1, BOX 129
NEWELL, SD 57760

NOTICE

Re: Violation of Water Permit No(s). 482-1

Our records indicate that the 1986 Irrigation Questionnaire has not been received for Permit No(s). 482-1. The request for the Questionnaire was dated November 3, 1986. The Water Management Board has directed that owners of water permits who have not submitted 1986 Irrigation Questionnaires be given notice of permit violation and of hearing(s) before the Board. The hearing(s) will be held to determine action to be taken by the Board for violation of Water Permit No(s). 482-1 qualification:

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

The hearing(s) will be at 2:00 pm, May 6, 1987, Room 216, Joe Foss Building, 523 E Capitol, Pierre SD.

The hearing(s) 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. Suspend Permit No(s). 482-1 until either the 1986 Questionnaire is submitted or for a period of up to one 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 hearing date, you will no longer be in violation of your permit(s) and your name will be deleted from the agenda pertaining to these hearings.



Department of Water & Natural Resources

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

May 14, 1987

NOTICE OF ONE YEAR SUSPENSION OF WATER PERMIT

TO: HOWARD & ANNA SCHMELE
RR #1, BOX 129
NEWELL, SD 57760

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

SUBJECT: One Year Suspension Of Water Permit No(s). 482-1 If
The 1986 Irrigation Questionnaire Is Not Received By
June 1, 1987

Pursuant to the provisions of the Notice dated March 23, 1987,
and following the Hearing May 6, 1987, the Water Management Board
ordered:

That Water Permit No(s). 482-1 be SUSPENDED until December 31,
1987 unless the required 1986 Irrigation Water Use Questionnaire
is received by June 1, 1987.

Suspension of a permit means water may not be pumped during the
1987 Irrigation Season. Decisions of the Board may be appealed
to the Circuit Court and the Supreme Court as provided by law.

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees, the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☒ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery.

3. Article Addressed to: HOWARD & ANNA SCHMELE RR #1, BOX 125 NEWELL, SD 57760	4. Article Number P 321 925 636 5. Type of Service: ☐ Registered ☐ Insured ☒ Certified ☐ COD ☐ Express Mail Always obtain signature of addressee or agent and DATE DELIVERED.
5. Signature — Addressee X <i>[Signature]</i>	8. Addressee's Address (ONLY if requested and fee paid)
6. Signature — Agent X <i>[Signature]</i>	
7. Date of Delivery MAY 19 1997	

PS Form 3811, Feb. 1986

DOMESTIC RETURN RECEIPT

SOUTH DAKOTA
Department of
Water & Natural Resources

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

June 9, 1987

Bill Schmele, Administrator
Howard Schmele Estate
Box 110B
Newell, SD 57760

Dear Mr. Schmele:

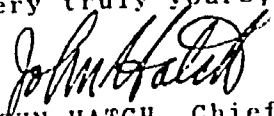
This letter will confirm your telephone conversations with Del Brosz and Genny McMath of this office concerning the 1986 Irrigation Questionnaire for Water Right No. 482-1 listed in the name of Howard Schmele. You indicated that Howard Schmele had passed away in September, 1986 and that you as Administrator of the Estate had not received the irrigation questionnaire or any of the notices until the last notice was mailed.

Since the irrigation questionnaire and all notices were mailed to Howard Schmele rather than to the Estate or to you, this would constitute improper notice. Water Right No. 482-1 will not be suspended for the 1987 irrigation season.

The water right will be listed under the Estate name with future correspondence sent in-care-of you. The 1987 Irrigation Questionnaire will be mailed in either October or November of this year. Please notify us, when there is a new owner of the irrigation land.

If you have any questions, please contact us.

Very truly yours,


JOHN HATCH, Chief Engineer
Water Rights Division

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

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

January 29, 1988

BILL SCHEMELE, ADMINISTRATOR
BOX 116B
NEWELL, SD 57760

NOTICE

Re: Violation of Water Permit No(s). 482-1

Our records indicate that the 1987 Irrigation Questionnaire has not been received for Permit No(s). 482-1. 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 permit violation and of hearing(s) before the Board. The hearings(s) will be held to determine action to be taken by the Board for violation of Water Permit No(s). 482-1 qualification:

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

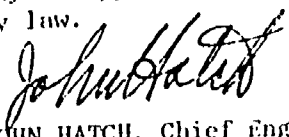
The hearing(s) will be at 9:00 am, March 2, 1988, Room 216, Joe Foss Building, 523 E Capitol, Pierre SD.

The hearing(s) 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. Suspend Permit No(s). 482-1 until either the 1987 Questionnaire is submitted or for a period of up to one 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, you will no longer be in violation of your permit(s) and your name will be deleted from the agenda pertaining to these hearings.



Department of Water & Natural Resources

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

March 14, 1988

NOTICE OF ONE YEAR SUSPENSION OF WATER PERMIT

TO: BILL SCHMELE, ADMINISTRATOR
BOX 110B
NEWELL, SD 57760

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

SUBJECT: One Year Suspension Of Water Permit No(s). 482-1

Pursuant to the provisions of the notice dated January 29, 1988, and following the hearing of March 2, 1988, the Water Management Board has ordered.

That Water Permit No(s). 482-1 be **SUSPENDED** until December 31, 1988.

Suspension of a permit means water may not be pumped during the 1988 irrigation season. Decisions of the Board may be appealed to the Circuit Court and the Supreme Court as provided by law.

SENDER: Complete Items 1 and 2 when additional services are desired, and complete Items 3 and 4.
Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☒ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery (Extra charge!!)

4. Article Number
P 501 739 009

Type of Service:
☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Always obtain signature of addressee or agent and **DATE DELIVERED.**

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

BILL SCHMELE, ADMINISTRATOR
BOX 110B
NEWELL, SD 57760

6. Signature -- Agent
[Signature]

7. Date of Delivery
3-15-87

 **Department of
Water & Natural Resources**

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

February 9, 1990

HOWARD SCHEMELE ESTATE
BILL SCHEMELE, ADMINISTRATOR
BOX 110B
NEWELL, SD 57760

NOTICE

RE: Violation of Water Permit No(s). 482-1

Our records indicate that the 1989 Irrigation Questionnaire has not been submitted for Permit No(s). 482-1. The request for the Questionnaire was dated October 13, 1989. The Water Management Board had directed that owners of water permits who have not submitted the 1988 Irrigation Questionnaire be given notice of permit violation and a hearing to be held by the Board. The hearing will be held to determine action to be taken by the Board for violation of Water Permit No(s). 482-1 qualification:

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

The hearing will be held at 8:30 am, March 7, 1990 at the Howard Johnson's, Roosevelt-Jefferson Room, I-90 at LaCrosse, Rapid City 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, the Water Management Board can:

1. Suspend Permit No(s). 482-1 until the 1989 Irrigation Water Use Questionnaire is submitted or for a period of up to one year;
2. Postpone any action;
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 before the March 7th hearing date, you will no longer be in violation of your permit and your name will be deleted from the agenda for the hearing.

Very truly yours,



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

SENDER: Complete Items 1 and 2 when additional services are desired, and complete Items 3 and 4.

Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☒ How to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery
1/Extra charge/1

3. Article Addressed to: HOWARD SCHMELE ESTATE BILL SCHMELE, ADMINISTRATOR BOX 1108 NEWELL, SD 57760	4. Article Number P176878274 Type of Service: ☐ Registered ☐ Insured ☒ Certified ☐ COD ☐ Express Mail Always obtain signature of addressee or agent and DATE DELIVERED.
5. Signature — Addressee X	8. Addressee's Address (ONLY if requested and fee paid)
6. Signature — Agent X <i>Barret Schmele</i>	
7. Date of Delivery FEB 12 1990	

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

March 14, 1990

NOTICE OF ONE YEAR SUSPENSION OF WATER PERMIT

TO: HOWARD SCHMELE ESTATE
BILL SCHMELE, ADMINISTRATOR
BOX 110B
NEWELL, SD 57760

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



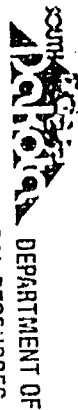
SUBJECT: One Year Suspension of Water Permit No(s). 482-1

Pursuant to the provisions of the notice dated February 9, 1990, and following the hearing of March 7, 1990, the Water Management Board has ordered:

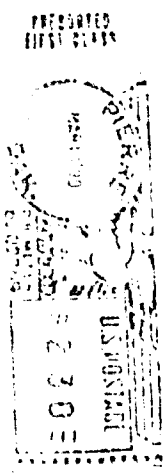
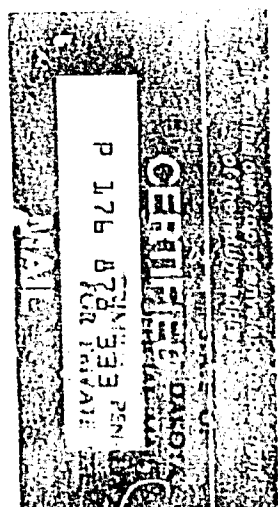
That Water Permit No(s). 482-1 be SUSPENDED until December 31, 1990.

Suspension of a permit means water may not be pumped during the 1990 irrigation season. Decisions of the Board may be appealed to the Circuit Court and the Supreme Court as provided by law.

Please contact Genny McMath (605 773-3352), if you have any questions.

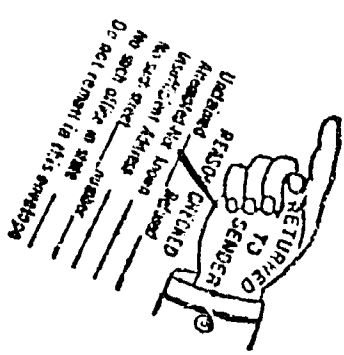


DEPARTMENT OF
WATER & NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-2101



NOTE
1st Notice 3-15
2nd Notice MAR 20
Call 3-32

HUWARD SCHMELE ESTATE
BILL SCHMELE, ADMINISTRATOR
BOX 1106
MEHLEN, SD 57501



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

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

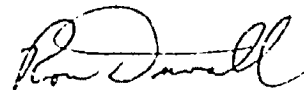
April 2, 1990

482-1

NOTICE

TO: Howard Schmele Estate
Bill Schmele, Administrator
Box 110B
Newell, SD 57760

FROM: Ron Duvall
Natural Resources Engineer
for JOHN HATCH, Chief Engineer
Water Rights Division



SUBJECT: One Year Suspension of Partial Vested Water Right Claim
No. 482-1

The attached notice was sent certified mail, return-receipt requested. The post office has returned the certified mail return-receipt requested envelope to our office marked "unclaimed". The envelope indicated the post office notified you March 15 and 20, 1990 to pick up and sign for the certified mail.

If you have any questions, please contact Genny McMath, (605) 773-3352.

enclosure

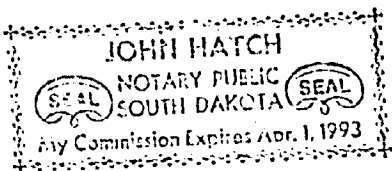
CERTIFICATION

I hereby certify that on April 2, 1990 I have personally deposited with the U.S. Mail a postage prepaid envelope containing a Notice on a One Year Suspension of Partial Vested Water Right Claim No. 482-1 addressed as stated on the Notice.

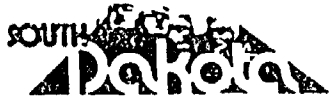
Karen Schlaak
KAREN SCHLAAK
Senior Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 4th day of April, 1990.



John Hatch
Notary Public



Department of Water & Natural Resources

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

June 14, 1990

NOTICE

TO: Howard Schmele Estate, Bill Schmele, Administrator
Box 110B, Newell, SD 57760

FROM: Ron Duvall, Natural Resources Engineer
for JOHN HATCH, Chief Engineer
Water Rights Division
(605) 773-3352

SUBJECT: Notice of Hearing to Consider Request for
Reconsideration of Suspended Water Right No. 482-1

The hearing on your June 5, 1990, request to the Water Management Board to reconsider suspension of Water Right No. 482-1 has been scheduled for 9:15 am, July 25, 1990 in Room 216, Joe Foss Building, 523 E Capitol, Pierre, SD.

As stated in the notice to you dated February 9, 1990, 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.

After all evidence is taken at the hearing, the Board may issue a decision to rescind the suspension of your water right, defer action or take no action. The hearing is an adversary proceeding and any party has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing. Any decision rendered by the Board may be appealed to the Circuit Court or to the State Supreme Court as provided by law.

cc: John Haak, Assistant Attorney General

CERTIFICATION

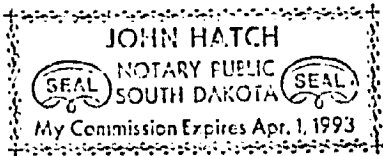
I hereby certify that on June 14, 1990 I have personally deposited with the U.S. Mail a postage prepaid envelope containing a Notice of Hearing to Consider Request for Reconsideration of Suspended Water Right No. 482-1 addressed as stated on the Notice.

Kuon Schlaack

KAREN SCHLAAK
Senic. Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 13th day of June, 1990.



John H. Tate
Notary Public

PLEASE FILL OUT AND RETURN
BEFORE DECEMBER 15, 1989

1989 WATER MANAGEMENT BOARD IRRIGATION QUESTIONNAIRE

October, 1989

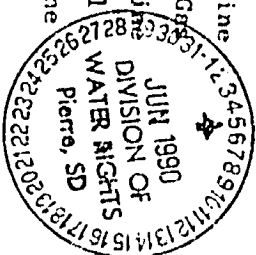
482-1 Howard Schnele

1/6 Bill Schnele, Adm.

Newell SD 57760

Telephone No. _____

SURFACE WATER _____ GROUNDWATER _____
Did you irrigate during 1989? Yes _____ No X
Number of acres irrigated in 1989 _____
Has your system been constructed? Yes _____ No _____
Do you apply fertilizer, insecticide or herbicide through your irrigation system? Yes _____ No _____
Season Static Water Level: beginning _____ ft. and _____ ft. (groundwater)



- Type of Power _____ No. of acres Irrigated _____
1. Electric _____
 2. Gravity _____
 3. Gasoline _____
 4. Nat. Gas _____
 5. Diesel _____
 6. Propane _____
 7. Other _____
- Type of System _____
1. Hand moved sprinklers _____
 2. Portable booms _____
 3. Center pivots (# of) _____
 4. Gated pipes _____
 5. Sidewheels _____
 6. Towlines _____
 7. Big gun _____
 8. Siphons _____
 9. Flood _____
 0. Other _____
- Owner or address change, if any: _____

Month	# days pumped	Average # hours per day	Average pump rate (gpm)	Acres of Crop Irrigated & Estimate Water Use					
				Crop	Acres	Water Used	Crop	Acres	Water Used
April									
May									
June									
July									
August									
Sept.									
Oct.									
Other									
Months									

COMMENTS:

Delegated from Belle Fourche Irrigation Project
during 1989 - signed and returned

Complete & return to:

Water Rights Division
Joe Foss Building
523 E Capitol
Pierre SD 57501-3181

SUSPENDED WATER PERMIT/WATER RIGHTS REPORT
JULY, 18, 1990

GENERAL

On March 7 and May 25, 1990, the Water Management Board took action to suspend 28 water permits and/or water rights for the 1990 irrigation season. This action was taken due to nonreturn of the 1989 irrigation questionnaires. Field inspections of the suspended permits/rights were conducted in July, 1990 with no violations noted. The inspections found eight permits and/or rights could be scheduled for cancellation consideration.

BOARD CONSIDERATION

The staff recommends that suspension of the following permits and/or rights be rescinded due to improper notice:

- 1) Permit No. 1402-2 - Dale Heese, Millboro, SD (Tripp County)

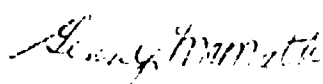
The irrigation questionnaire and all notices were mailed to the previous land owner, Charles Kappelman. The permit was transferred to Dale Heese in June, 1989. Mr. Heese reported irrigation under this permit on the irrigation questionnaire for Permit No. 1076-2.

2. Water Right No. 1398-3 - M & M Farms, Mohrbridge, SD (Walworth County)
Water Right No. 1577-3 - " " "
Water Right No. 3689-3 - " " "

The irrigation questionnaires and all notices were mailed to Blue Blanket Ranch who lost ownership of the land in July, 1989. The permits were transferred to M & M Farms in June, 1990. No irrigation took place under these permits in 1989.

The following permit holders have requested the Water Management Board to reconsider suspension of their water permits:

1. Water Right No. 482-1 - Howard Schmele Estate Bill Schmele, Administrator, Newell, SD (See attached report)
2. Water Permit No. 4032-3 - Leo Laferriere, Elk Point, SD request is from Wayne Howley, Burbank, SD - renter (See attached report)


Genny McMath
Natural Resources Analyst

Howard Schmele Estate
Bill Schmele Administrator
Water Right No. 482-1

GENERAL

Application submitted by: Howard & Anna Schmele
Newell, SD 57760

Permit Approved: December 21, 1960
Priority Dates: 1949 and June 23, 1960
Permit Licensed: October 11, 1972

Water License issued for irrigation of 780 acres with a diversion rate of 11.0 cfs from Biddy Creek, O'Leary Creek, Horse Creek and Indian Creek, Butte County.

Water Right No. 482-1 was amended by Board on May 14, 1986, to include the irrigation questionnaire qualification for violation of the requirement to submit the 1985 questionnaire.

SIX YEAR HISTORY OF IRRIGATION QUESTIONNAIRE RETURNS

Year	<u>Date Questionnaire Mailed</u>	<u>Date Irrigation Questionnaire Returned</u>	<u>Date of Any Board Action</u>
1984	October, 1984	May 4, 1985	none
1985	November, 1985	none	May 14, 1986 AMENDED
1986	November, 1986	none	May 6, 1987 *SUSPENDED
1987	October, 1987	none	March 2, 1988 SUSPENDED
1988	No questionnaire mailed - under suspension for 1988 season		
1989	October, 1989	June 5, 1990	March 7, 1990 SUSPENDED

*Water Right reinstated because the 1986 irrigation questionnaire and notices were mailed to Howard & Anna Schmele instead of the "Estate" in care of Bill Schmele, Administrator

June 5, 1990, Mr. Schmele submitted a letter requesting the Board to reconsider suspension of his water right (copy attached).

Newell SD
June 5, 1990

To Dept of Water Resources -
Water Management

I would like to request reinstatement
of water right 482-11 water
right issued to Howard Schuele, Newell, SD.
This right was cancelled in
the past winter due to my not
getting the required questionaire.

The mail did reach me, but
because of a heavy work load I
did not get it back to you.

I did receive notice of
the meeting in Rapid City in early
March and was unable to stop
into that - - - for day in and out
- and make it home.

I will appreciate your
consideration in this matter.

Sincerely, Carlton (Dick) Schuele
Newell, SD



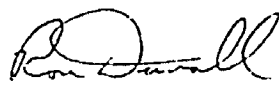
 **Department of
Water & Natural Resources**

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

July 27, 1990

NOTICE

TO: Howard Schmele Estate, Bill Schmele, Administrator
Box 110B, Newell, SD 57760

FROM: Ron Duvall, Natural Resources Engineer 
for JOHN HATCH, Chief Engineer
Water Rights Division

SUBJECT: Water Management Board Action taken on Suspended Water
Right No. 482-1

The Water Management Board denied your June 5, 1990 request for reinstatement of suspended Water Right No. 482-1, at the hearing held on July 25, 1990. This action means the water right remains suspended and no irrigation is allowed during the 1990 irrigation season. The suspension will expire December 31, 1990. No irrigation questionnaire will be mailed to you this fall since your permit is suspended.

Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. If you have any questions concerning the Board action, contact Genry McMath at (605) 773-3352.

CERTIFICATION

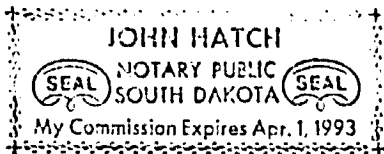
I hereby certify that on July 27, 1990 I have personally deposited with the U.S. Mail a postage prepaid envelope containing a Notice on Water Management Board Action Taken on Suspended Water Right No. 482-1 addressed as stated on the notice.

Karen Schlaak
KAREN SCHLAACK
Senior Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 30th day of July, 1990.

John Hatch
Notary Public



482-1

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

March 20, 1991

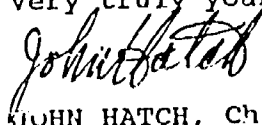
Howard Schmele Estate
c/o Bill Schmele
Box 110B
Newell SD 57760

Dear Mr. Schmele:

The Water Management Board has validated the enclosed Vested Water Right No. 482-1. 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

SOUTH DAKOTA

VALIDATION OF (PARTIAL) VESTED WATER RIGHT CLAIM NO. 482-1
FOR IRRIGATION

Date Claim Accepted For Filing June 23, 1960.

Date of Validation September 27, 1989.

Pursuant to SDCL 46-2A-17 the Water Management Board validated Vested Water Right Claim Permit No. 482-1 for irrigation purposes for Howard Schmele Estate, & Bill Schmele, Box 110B, Newell, South Dakota 57760 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 482-1 appropriates 1.7 cubic feet of water per second from Biddy Creek to irrigate 121 acres. The diversion point is located in the NW 1/4 NW 1/4 and the irrigated acres are located in the NW 1/4, W 1/2 NE 1/4, and SE 1/4 NE 1/4; all in Section 7, T9N, R5E.
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 - October 15.
3. The priority date of the Vested Water Right is January 1, 1949.
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: _____

John Hatch
Chief Engineer

Division of Water Rights
Dept. of Water and Natural Resources

MAR 28 1991

date



GREAT FACES. GREAT PLACES.

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

July 2, 1991

482-1

Gardner Lazy E Ranch
Edwin Gardner
1107 8th Ave
Belle Fourche SD 57717

Dear Mr. Gardner:

Enclosed is a partially completed "Notice of Transfer" form for use in filing an ownership change on Water Right No. 482-1. The water right is currently listed in the name of Howard Schmele Estate.

The transfer form should be checked over for accuracy and signed by the new owner in the presence of a notary public. Upon completion, return the form to our office with a required filing fee of \$2.50.

South Dakota Water Law 46-5-30.3 requires Notice of any sale, grant, lease, conveyance or other transfer of a water permit or water right to appropriate water to be filed with this office within ninety days.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak
Natural Resources Analyst
(605) 773-3352

enclosure

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

Pierre, _____, July 11, 1941

RECEIVED OF Edwin C. Frank, Farmer, Ardmore, Lincoln County, S.D.

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

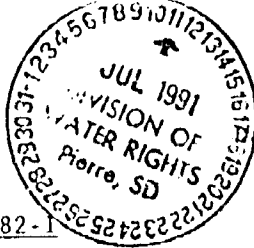
Fee for Application for Permit No. _____ to Appropriate Water, to construct works and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____ Water Right No. 1-2-1		
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		4.50

By _____
Chief Engineer

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 482-1



Date: 7/91

I/We request that Water Right No. 482-1

formerly owned by: Howard Schmele Estate

be transferred to: (name & address) Gardner Lazy E Ranch, 1107 8th Ave, Belle Fourche SD
(Telephone No.) 892-4782

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

NW 1/4, W 1/2 NE 1/4 Section 12; SW 1/4 SW 1/4 Section 1; all in T9N-R4E

I/We understand that the validity of Water Right No. 482-1 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 at the Division of Water Rights, as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is attached to cover the filing fees as required under SDCL 46-2-13.

STATE OF SOUTH DAKOTA)
County of Butte)

I/We Edwin D Gardner 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, and that I know of my own personal knowledge that the information herein stated is true.

Edwin D Gardner
(Signed)

Subscribed and sworn to before me this 10th day of July, 1991.

Lance Keil
(Notary Public)

My Commission Expires
October 11, 1993

NOTE: Water permits may be cancelled for nonconstruction within the five year construction period. 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.

South Dakota

GREAT FACES. GREAT PLACES.

DEPARTMENT OF WATER & NATURAL RESOURCES

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

482-1

March 5, 1991



Edwin Gardner
Gardner Lazy E Ranch
1107 8th Ave.
Belle Fourche, SD 57717

Dear Mr. Gardner:

I am writing as a follow-up to our phone conversation regarding your water permit application (copy enclosed) received on March 4, 1991. In investigating the acres listed on your application, it came to our attention that a majority of the lands listed are covered by Water Right No. 482-1.

I have enclosed a copy of Water Right No. 482-1 and highlighted the acres where duplication occurs. As we discussed, if the portion of Water Right No. 482-1 you now own is not subject to cancellation under state statutes for nonuse of water then those parcels of land can be transferred to your name. A copy of a transfer of ownership is also enclosed. On the transfer of ownership form be sure to specifically state which lands are to be transferred.

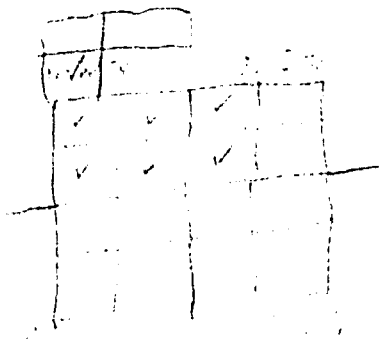
I would remind you that if Water Right No. 482-1 is subject to cancellation for nonuse of water without legal excuse, that sometime in the future the permit may be cancelled. This would effectively nullify your right to use water for irrigation until you obtained a new water permit.

Your current water permit application, which was submitted without the necessary \$250 application filing fee, will be put on hold until I hear back from you on how to proceed.

If you have any questions, please feel free to contact me.

Sincerely,

Eric Gronlund
Eric Gronlund
Water Rights Division
605 773-3352



NOTICE OF TRANSFER OF OWNERSHIP

No. 462-1

TO: Chief Engineer
Water Rights Division, DWNH
523 East Capitol
Pierre, SD 57501-3181

Date: 3/8/91



I/We request that Water Permit/Right No. 482-1

formerly owned by: EDWARD SCHNELE

be transferred to: (name & address) GARDNER'S LAZY E RANCH
1107 4th AVE BELLE FOURCHE S.D. 57717 (telephone No.) 872-4782

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

S2, Sec 1 TWP 9 RANGE 4 ; N2 Sec 12 TWP 9 RANGE 4 ; This covers
lands described in enclosed application for Permit.

I/We understand that the validity of Water Permit/Right No. 482-1 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 at the Division of Water Rights, as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is attached to cover the filing fees as required under SDCL 46-2-13.

STATE OF SOUTH DAKOTA)

County of Belle Fourche)

I/We Edward D. Gardner 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, and that I know of my own personal knowledge that the information herein stated is true.

Edward D. Gardner
(Signed)

Subscribed and sworn to before me this 8th day of March, 1991.

ANNETTE L. NELSON, Notary Public
My Commission Expires Mar. 24, 1993

Annette L. Nelson
(Notary Public)

NOTE: Water permits may be cancelled for nonconstruction within the five year construction period. Once a water permit is developed and the water used, the permit becomes a water 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

Division of Water Rights

South Dakota Department of Water and Natural Resources

Pierre, March 1, 1911

RECEIVED OF Edwin Gardner, 1107 8th Ave, Belle Fourche, SD 57717

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct works 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. _____		2 50
Fee for Filing Transfer Form <u>Water Right No. 482-1</u>		
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	2 50

By John H. Hatcher
Chief Engineer

SOUTH DAKOTA

VALIDATION OF (PARTIAL) VESTED WATER RIGHT CLAIM NO. 482-1
FOR IRRIGATION

Date Claim Accepted For Filing June 23, 1960.

Date of Validation September 27, 1989.

Pursuant to SDCL 46-2A-17 the Water Management Board validated Vested Water Right Claim Permit No. 482-1 for irrigation purposes for Howard Schmele Estate, & Bill Schmele, Box 110B, Newell, South Dakota 57760 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 482-1 appropriates 1.7 cubic feet of water per second from Birdy Creek to irrigate 121 acres. The diversion point is located in the NW 1/4 NW 1/4 and the irrigated acres are located in the NW 1/4, W 1/2 NE 1/4, and SE 1/4 NE 1/4; all in Section 7, T9N, R5E.
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 - October 15.
3. The priority date of the Vested Water Right is January 1, 1949.
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: _____

John Hatch
Chief Engineer
Division of Water Rights
Dept. of Water and Natural Resources

MAR 28 1991

date



482-1

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

October 19, 1992

Edwin Gardner
Gardner Lazy E Ranch
1107 8th Avenue
Belle Fourche, SD 57717

Dear Mr. Gardner:

On March 12, 1991, we received a check from you in the amount of \$2.50 for the transfer of Water Right No. 482-1. On July 2, 1992, a letter was sent to you, in error, asking you to complete another "Notice of Transfer" form and return it to this office with the required filing fee of \$2.50.

Our fiscal office will be reimbursing you for the \$2.50 overcharge.

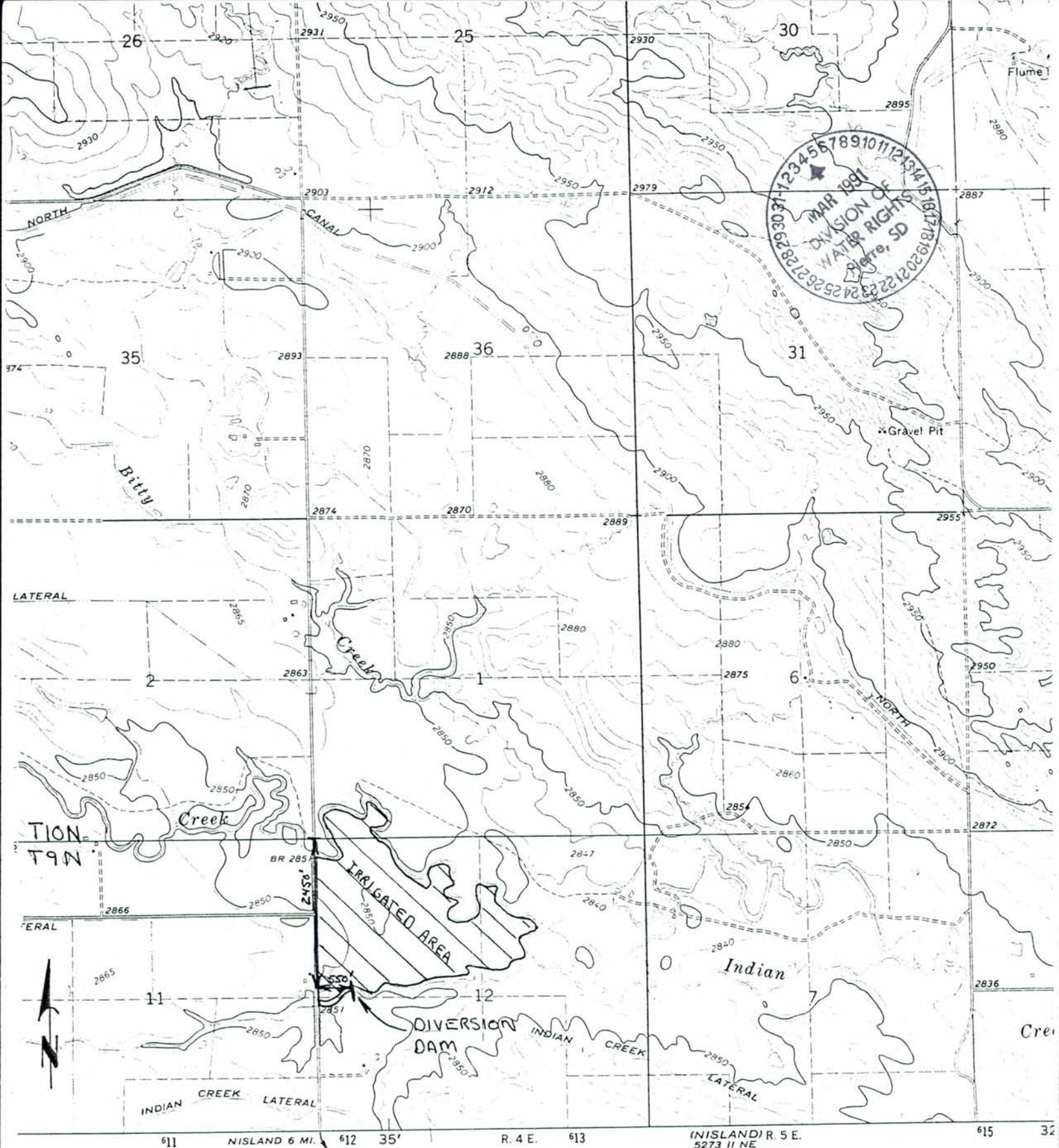
Sincerely,

Jaci R. Konop

Jaci R. Konop
Senior Secretary

/jrk

11/3/92
Tallied to Sandy V. in
fiscal. She said the
check for \$2.50 was
sent in the mail to
Mr. Gardner the week
of Oct 26, 1992. Jaci

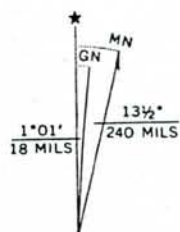


Geological Survey

1 aerial
5

datum
dinate system,

d ticks,



Map Prepared By:
Thomas D. Ver Helst
Thomas D. Ver Helst
Asst. Engineer, SCS

CONTOUR INTERVAL 10 FEET
DOTTED LINES REPRESENT 5-FOOT CONTOURS
DATUM IS MEAN SEA LEVEL

482-1

R. 4 E. | R. 5 E.

1:107,000 FEET

