

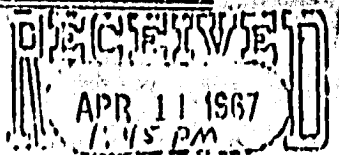
779-1

1. Considered May 17, 1967
2. Name of Applicant Howard M. Holt
3. Post Office Address Soyum
4. Amount of water claimed 5.39
5. Source of water supply Rabbit Creek
6. Water to be used for irrigation  
Acres to be irrigated 377.4
7. Water to diverted and used in Hardings County  
about 5 miles W of Soyum
8. Proof of Publication Received V/R  
Not Received \_\_\_\_\_
9. Application Approved X  
Subject to \_\_\_\_\_  
Not Approved \_\_\_\_\_  
Action deferred \_\_\_\_\_
10. Remarks:

Vested right application submitted  
in lieu of water right application 779-1

No. 779-1

Water Division No. 1 MOREAU RIVER District  
(Blanks to be Filled by the Engineer for the W. R. O.)



VESTED RIGHT  
APPLICATION FOR PERMIT

STATE WATER RESOURCES COMM.  
PIERRE SOUTH DAKOTA

To Appropriate Water within the State of South Dakota

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

1. Name of applicant HONARD MILLETT  
Postoffice address SOPRIM, County PERKINS, State S. 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—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)  
COMPLETED
  - (b) Cash on hand, \$ -----
  - (c) Treasury stock, \$ -----
  - (d) Bonds to be issued, \$ -----
  - (e) Other resources, \$ -----

V/R  
SEE MAP 655-1

2. Name of diversion work MILLETT IRRIGATION PROJECT

3. Amount of water claimed 5.39 cubic feet per second

4. Source of water supply Rabbit Creek Tributaries

5. Location of point of diversion As shown on sketch map on tributaries to Rabbit Creek between points in the NE 1/4 SW 1/4 Sec 10, and the SW 1/4 SW 1/4 Sec 12, T17N, R9E on BOTH bank PERKINS County.

6. Annual period or periods during which water is to be used when available

- 7. To be used for:
  - I. Irrigation or domestic use: Gravity, overhead sprinkling or combination system? waterspreading
    - (a) Number of acres to be irrigated 377.4 acres.
    - (b) Legal subdivisions to be irrigated See Attachment & Map # 655-1

(NOTE—A list of lands to be irrigated, giving each subdivision and fraction with acreage thereof, should be written here, or may be appended as a part of this application. Same must also be shown on accompanying map.)

(c) Statement as to domestic use (giving location, etc.) -----

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

(a) Nature of use -----  
Name any of the above uses claimed

(b) Amount of power to be generated ----- horse power.  
Amount claimed for engine cooling -----

(c) Location of plant -----

(d) Method of developing power -----

(e) Point where water will be returned to stream -----

8. Estimated cost of work:

(a) Head Gates, \$..... (b) Pumping plant, \$.....  
 (c) Fluming, \$..... (d) Canal-earth, \$..... Rock, \$.....  
 (e) Other structures ..... \$..... Total, \$.....

9. Description of diversion works:

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

2 Diversion Dams on Tributaries plus Diversed Ditches & Dykes

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	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 COMPLETED years.

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

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

NOT APPLICABLE

STATE OF SOUTH DAKOTA

County of Hughes ss.

HOWARD MILLETT

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 Millett

Subscribed and sworn to before me this 11<sup>th</sup> day of April 1917

H. E. Bowers  
 Notary Public (or other qualified officer.)

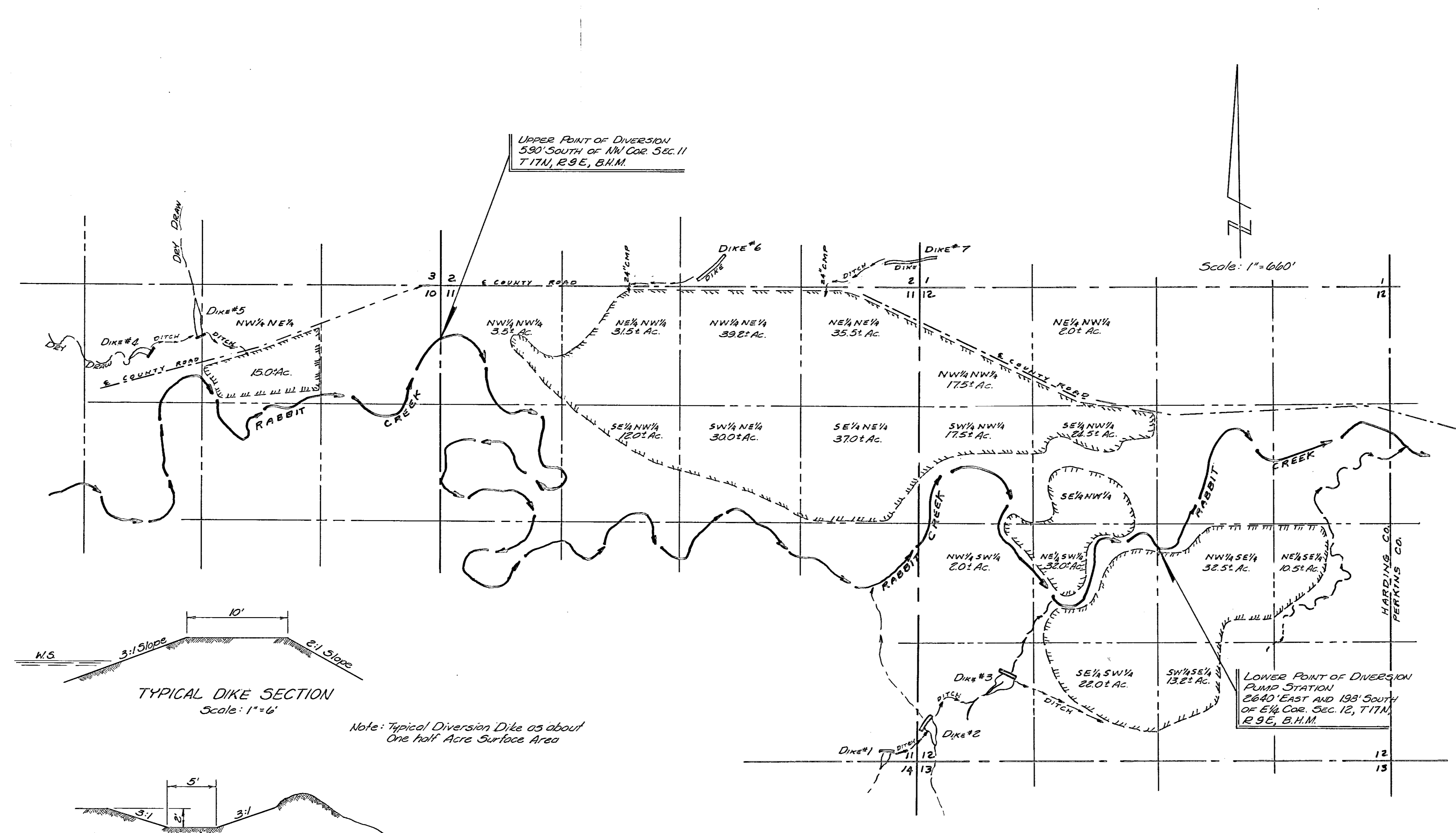
\*Each diversion must have a headgate or measuring device.

**SURVEYOR'S CERTIFICATE:**  
 I, George G. Ross, Registered Land Surveyor do hereby certify that at the direction of the owner, I have surveyed the proposed irrigation project as shown on this map. The distances and location of creeks, dry draws and dikes are as shown.

*George G. Ross*  
 Registered Land Surveyor

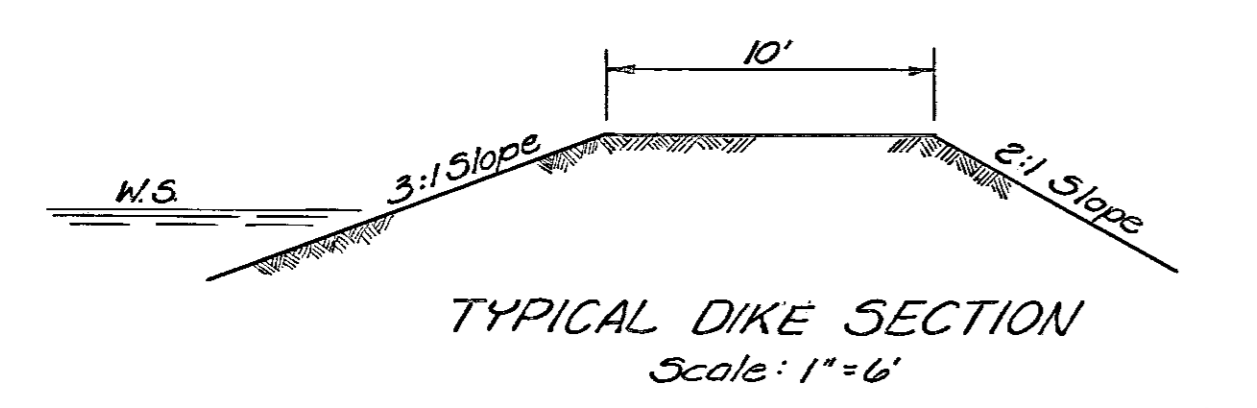
**ACKNOWLEDGMENT OF SURVEYOR:**  
 STATE OF SOUTH DAKOTA, LAWRENCE COUNTY  
 Be it remembered that on this 17th day of October, 1966 before me, the undersigned, a notary public, personally appeared George G. Ross known to me to be the person described in, and who executed the Surveyor's Certificate. My commission expires April 28, 1969.

*George G. Ross*  
 Notary Public

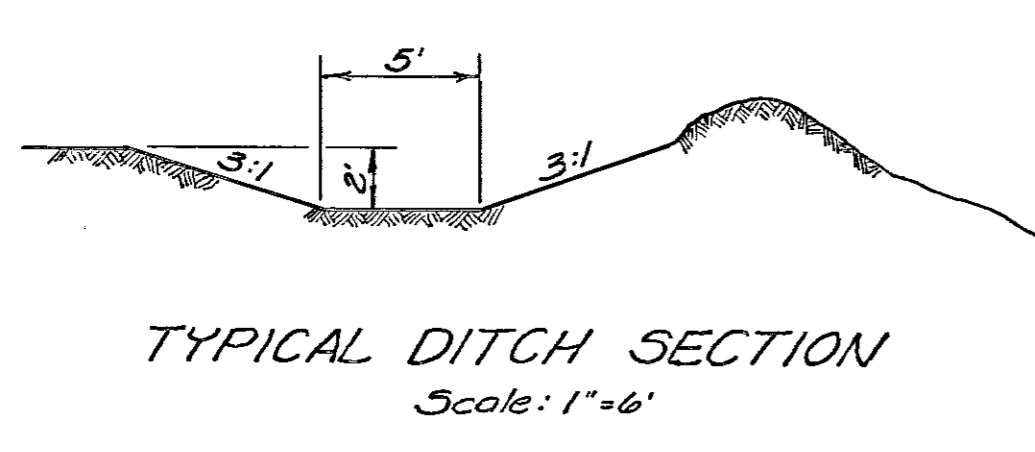


**LOCATION OF LAND TO BE IRRIGATED**

<b>SECTION 10 - TOWNSHIP 17 NORTH - RANGE 9 EAST - B.H.M.</b>	
NW 1/4 NE 1/4	15.0 IRRIGABLE ACRES
<b>SECTION 11 - TOWNSHIP 17 NORTH - RANGE 9 EAST - B.H.M.</b>	
NW 1/4 NW 1/4	3.5 IRRIGABLE ACRES
NE 1/4 NW 1/4	31.5 " "
NW 1/4 NE 1/4	39.2 " "
SE 1/4 NW 1/4	12.0 " "
SW 1/4 NE 1/4	30.0 " "
NE 1/4 SE 1/4	35.5 " "
SE 1/4 SE 1/4	37.0 " "
<b>SECTION 12 - TOWNSHIP 17 NORTH - RANGE 9 EAST - B.H.M.</b>	
NW 1/4 NW 1/4	17.5 IRRIGABLE ACRES
SW 1/4 NW 1/4	17.5 " "
NE 1/4 NW 1/4	20 " "
SE 1/4 NW 1/4	24.5 " "
NE 1/4 SW 1/4	32.0 " "
NW 1/4 SW 1/4	2.0 " "
NW 1/4 SE 1/4	32.5 " "
NE 1/4 SE 1/4	10.5 " "
SW 1/4 SE 1/4	13.2 " "
SE 1/4 SW 1/4	22.0 " "
SW 1/4 SE 1/4	13.2 " "
<b>TOTAL</b>	<b>377.4 IRRIGABLE ACRES</b>



Note: Typical Diversion Dike is about One half Acre Surface Area



**LEGEND**  
 --- Limits of irrigable acreage  
 --- Section Line  
 --- 1/4 Line  
 --- 1/2 Line

**HOWARD MILLETT IRRIGATION PROJECT**  
 SORUM, PERKINS COUNTY, S. DAK.

IN THE N 1/2 SEC. 10, N 1/2 SEC. 11 AND PART OF SEC. 12 - T17N - R9E - BHM

Brady Engineering Consulting Engineers Spearfish, South Dakota	Acct. No. WBS-41 Drawn By: G.G.R. Checked By:	Scale: AS SHOWN Date: Oct. 1966 Sheet 1 of 1
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Map # 655-1 Appl # 779-1

Remarks by State Water Resources Commission:

"VESTED RIGHT" CLAIMED

STATE OF SOUTH DAKOTA }  
County of HUGHES }

Pierre, South Dakota, JUNE 8, 1967

This is to certify that the foregoing application was received by the Commission at 1:45 o'clock P.m. upon the 11<sup>th</sup> day of APRIL, 1967

State Water Resources Commission  
By: *Burton Jones*  
Chief Engineer, Executive Officer

Number of permit 779-1

Date of first receipt of application APRIL 11, 1967

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 JUNE, 1955

Approved MAY 17, 1967, Recorded in Book 9 Page 292

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 \_\_\_\_\_
- 2nd. The whole of said work is ~~to be~~ completed on or before \_\_\_\_\_, 19\_\_
- 3rd. The limit of time for proof of beneficial use of water appropriated in accordance herewith is COMPLETED
- 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 5.39 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 WAS

and beneficially applied for irrigation on or before JUNE 30, 55, 19\_\_; said water to be used during the following described annual period:

WHEN AVAILABLE

Witness my hand this 8<sup>TH</sup> day of JUNE, 1967.

State Water Resources Commission  
By: *Deora Grimes*  
Chief Engineer, Executive Officer

Certificate of Construction Issued JUNE 8, 1967

Water License Issued JUNE 8, 1967

LANDS TO BE IRRIGATED:

ALL IN T17N, R9E

SECTION 10	NW <sup>4</sup> NE <sup>4</sup>	15.0 ACRES
SECTION 11	NW <sup>4</sup> NW <sup>4</sup>	3.5 "
	NE <sup>4</sup> NW <sup>4</sup>	31.5 "
	NW <sup>4</sup> NE <sup>4</sup>	39.2 "
	SE <sup>4</sup> NW <sup>4</sup>	12.0 "
	SW <sup>4</sup> NE <sup>4</sup>	30.0 "
	NE <sup>4</sup> NE <sup>4</sup>	35.5 "
	SE <sup>4</sup> NE <sup>4</sup>	37.0 "
SECTION 12	NW <sup>4</sup> NW <sup>4</sup>	17.5 "
	SW <sup>4</sup> NW <sup>4</sup>	17.5 "
	NE <sup>4</sup> NW <sup>4</sup>	2.0 "
	SE <sup>4</sup> NW <sup>4</sup>	24.5 "
	NE <sup>4</sup> SW <sup>4</sup>	32.0 "
	NW <sup>4</sup> SW <sup>4</sup>	2.0 "
	NW <sup>4</sup> SE <sup>4</sup>	32.5 "
	NE <sup>4</sup> SE <sup>4</sup>	10.5 "
	SW <sup>4</sup> SE <sup>4</sup>	13.2 "
	SE <sup>4</sup> SW <sup>4</sup>	22.0 "
	TOTAL	377.4 ACRES

STATE OF SOUTH DAKOTA

WATER LICENSE No. 779-1

WHEREAS, On the 11th day of April A. D. 1967

Howard Millett

of Sorum County of Perkins and State of

Vested Right

South Dakota duly made application (No. 779-1) to us for a permit to use 5.39

cubic feet per second of the waters of tributaries of Rabbit Creek

County of Perkins, State of South Dakota, for irrigation

purposes; and

WHEREAS, On the 8th day of June A. D. 1967

vested Right

recognizing

/ Permit No. 779-1 was issued to said applicant for the diversion of said water, and providing for the

completion of the works of diversion therein described ~~on or before the~~ ~~xxxxxx~~

~~xxxxxx~~ and for the application to beneficial use of said

water on or before the 30th day of June A. D. 1955

and,

WHEREAS, On the 11th day of April A. D. 1967

the holder of said permit duly made proof of the completion of adequate works for the diversion of 5.39

cubic feet per second of said waters, as evidenced by our Certificate No. 779-1

dated June 8, 1967 confirming the completion of works of sufficient capacity for

diverting and conveying to the place of intended use 5.39 cubic feet per second of water, with date of

priority of June 1955 and,

WHEREAS, On the 11th day of April A. D. 1967

proof was duly made of the application to beneficial use of 5.39 cubic feet per second of said water;

for irrigation of 377.4 acres in portions of Sections 10, 11 and 12, T17N, R9E.

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 Millett** **Vested Right**  
of **Sorum** the holder and owner of said Permit No. **779-1**  
a water right, dating from **June, 1955** to the use of **5.39**  
cubic feet per second of the waters of **tributaries of Rabbit Creek**  
in the County of **Parkins** and State of South Dakota, or so much thereof as may be  
necessray for the purposes hereinafter mentioned, to be diverted ~~xx~~ **between points in the NE1/4 NW1/4,**  
**Section 10, and the SW1/4 SW1/4, Section 12, T17N, R9E**  
and conducted to and upon **portions of Sections 10, 11, and 12, T17N, R9E, more specifically**  
**described in the Certificate of Completion of Works**

for the purpose of **irrigation**

subject, however, to the laws of the State of South Dakota applicable to a license for the use of the waters of the State, and subject, also to the local or community customs, rules and regulations which have been or may be adopted from time to time by a majority of the users from a common source of supply, canal or lateral from which such water may be taken, when such rules and regulations have for their object the economical use of such water.

WITNESS, My hand and seal of our office at Pierre, South Dakota,  
this **8th** day of **June** A. D. Nineteen  
Hundred and **Sixty-Seven**

State Water Resources Commission

By:

**J. W. GRIMES**  
Chief Engineer, Executive Officer

STATE OF SOUTH DAKOTA

Water License No. \_\_\_\_\_

To \_\_\_\_\_

Source of Supply \_\_\_\_\_

County \_\_\_\_\_

Am't \_\_\_\_\_ c. f. s.

Point of Diversion \_\_\_\_\_

Place of Use \_\_\_\_\_

Purpose \_\_\_\_\_

Date of Priority \_\_\_\_\_

Recorded \_\_\_\_\_

In Book \_\_\_\_\_ of \_\_\_\_\_ Page \_\_\_\_\_

Permit No. 779-1

Water Division No. 1 Moreau River Water District

## Certificate of Completion of Works

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That Howard Millet

of Sorum, County of Perkins, and State of South Dakota, the holder of Vested Right c/Permit No. 779-1, issued upon Application No. 779-1, bearing date of priority of June, 1955, authorizing the diversion of 5.39 cu. ft. per second of the waters of tributaries of Rabbit Creek County of Perkins, State of South Dakota, ~~at~~ between points in the NE $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 10, and in the SW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 12, T17N, R9E for irrigation

purposes, has fully complied with the provisions of the laws of the State of South Dakota relating to proof of recognized as completion of the works of diversion set out and described in said Permit; that said works are ~~complete~~ satisfactory ~~thereof~~ for diverting and conveying to the place of intended use 5.39 cu. ft. per second of water; and that the lands proposed to be irrigated by the use of said water are described as follows:

to-wit: All in T17N, R9E

<u>Section 10</u>	<u>NW<math>\frac{1}{4}</math> NE<math>\frac{1}{4}</math></u>	<u>15.0 acres</u>
<u>Section 11</u>	<u>NW<math>\frac{1}{4}</math> NE<math>\frac{1}{4}</math></u>	<u>3.5 "</u>
	<u>NE<math>\frac{1}{4}</math> NW<math>\frac{1}{4}</math></u>	<u>31.5 "</u>
	<u>NW<math>\frac{1}{4}</math> NE<math>\frac{1}{4}</math></u>	<u>39.2 "</u>
	<u>SE<math>\frac{1}{4}</math> NW<math>\frac{1}{4}</math></u>	<u>12.0 "</u>
	<u>SW<math>\frac{1}{4}</math> NE<math>\frac{1}{4}</math></u>	<u>30.0 "</u>
	<u>NE<math>\frac{1}{4}</math> NE<math>\frac{1}{4}</math></u>	<u>35.5 "</u>
	<u>SE<math>\frac{1}{4}</math> NE<math>\frac{1}{4}</math></u>	<u>37.0 "</u>
<u>Section 12</u>	<u>NW<math>\frac{1}{4}</math> NW<math>\frac{1}{4}</math></u>	<u>17.5 "</u>
	<u>SW<math>\frac{1}{4}</math> NW<math>\frac{1}{4}</math></u>	<u>17.5 "</u>
	<u>NE<math>\frac{1}{4}</math> NW<math>\frac{1}{4}</math></u>	<u>2.0 "</u>
	<u>SE<math>\frac{1}{4}</math> NW<math>\frac{1}{4}</math></u>	<u>24.5 "</u>
	<u>NE<math>\frac{1}{4}</math> SW<math>\frac{1}{4}</math></u>	<u>32.0 "</u>
	<u>NW<math>\frac{1}{4}</math> SW<math>\frac{1}{4}</math></u>	<u>2.0 "</u>
	<u>NW<math>\frac{1}{4}</math> SE<math>\frac{1}{4}</math></u>	<u>32.5 "</u>
	<u>NE<math>\frac{1}{4}</math> SE<math>\frac{1}{4}</math></u>	<u>10.5 "</u>
	<u>SW<math>\frac{1}{4}</math> SE<math>\frac{1}{4}</math></u>	<u>13.2 "</u>
	<u>SE<math>\frac{1}{4}</math> SE<math>\frac{1}{4}</math></u>	<u>22.0 "</u>
		<u>377.4 "</u>

Witness my hand this 8th day of June A. D. 19 67

State Water Resources Commission

By: J. W. GRIMES  
Chief Engineer, Executive Officer

Location No. ....

Water Division No. .... Water District

# Proof of Application of Water to Beneficial Use

## PETITION OF HOLDER

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

Ans. HOWARD MILLETT, SORUM, SOUTH DAKOTA - RANCHER

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. ....

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

Ans. ....

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

Ans. RUNOFF - NO DIVERSION POINTS Rabbit Creek Tributaries  
As shown on sketch map

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. AS SHOWN IN APPLICATION AND EXHIBIT A ATTACHED

Completed in June 1955

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 water.)

Ans. IRRIGATION, STOCKWATERING - SEE EXHIBIT "B"

see water right map No 655-1

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

Ans. ....

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

Ans. 5.39 CUBIC FT./SEC.

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. ....

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

Ans. DURING RUNOFF. Construction started in 1949 and was completed in June 1955. Water has been available every year since when available. See dry law filing on records in water resource office, Pierre

(Sign) *Howard D. Little*

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 SPEARFISH, County of LAWRENCE

State of South Dakota, on this 6<sup>th</sup> day of JANUARY A. D. 1967

Witnesses, *George E. Diasted*  
GEORGE E. DIASTED  
NOTARY PUBLIC, LAWRENCE COUNTY, S. DAK.  
MY COMMISSION EXPIRES APRIL 20, 1969

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.

Location No.	<b>PROOF OF APPLICATION OF WATER TO BENEFICIAL USE</b>	<b>PETITION OF HOLDER</b>	Amount of Water _____ c. f. s.	Source _____	County _____	Purpose _____	Place of Use _____	Date of recording _____	Received and filed _____
--------------	--	---------------------------	--------------------------------	--------------	--------------	---------------	--------------------	-------------------------	--------------------------

776-1  
778-1  
779-1

SUMMARY OF WATER USE AND WATER YIELD  
FROM RABBIT CREEK DRAINAGE ABOVE SORUM DAM

Records of the Water Resources Commission show the following records of water rights by categories with annual water use estimated where necessary;

Stockwater reservoirs (Location Notices)	989 ac.ft.
Irrigation diversions from storage @ 1 ac.ft./ac.	283 " "
Spreader irrigation systems @ .5 ac.ft./ac.	575 " "
Storage at Sorum Dam	400 " "
(225 ac.ft. under water right; by pass (seepage) in satisfaction of downstream "domestic use")	
	<u>2647</u> " "

Average annual runoff without diversions for use from this portion of the Rabbit Creek drainage area has been estimated by the U.S. Soil Conservation Service and the U.S. Geological Survey in amounts between 1/4 inch and 1/2 inch. This drainage area is about 120 square miles. At the 1/2 inch runoff rate, water yield above Sorum Dam is approximately 3200 acre feet annually. At the 1/4 inch runoff rate, the water yield is approximately 1650 acre feet.

It is evident, therefore, that present water use in this drainage area is about the limits of practical development within the total water supply.

Prior testimony before the Commission by interested people concerning frequency and amount of water spilling over Sorum Dam, while widely inconsistent as between individuals, confirms generally the same evaluation with respect to the total available water supply versus the amount of water presently used.

It is concluded, therefore, that unappropriated water is not available during an average water supply year to satisfy other than present water use and is not available to satisfy application 776-1 in amounts of water beyond the existing supplement to water rights 307-1 and 324-1

(SCS drainage charts and graphs are filed in Folder 776-1)

**OVERSIZE**

**DOCUMENT IS**

**SUPPLEMENTARY**

**TO MICROFILM FILE**

 **Department of  
Water & Natural Resources**

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

September 21, 1988

**NOTICE**

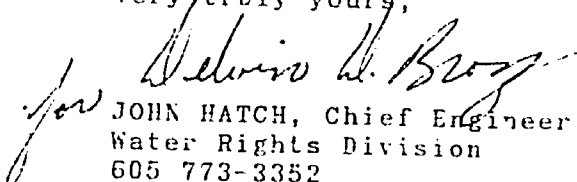
Howard Millett  
RR, Box 33  
Sorum SD 57654

Dear Mr. Millett:

I am writing to notify you that pursuant to the Notice of Intent to Validate Vested Water Right Claims dated June 20, 1988 that I intend to oppose validation of your water right claim No(s). 779-1 until a field inspection has been completed. The claim has either never been inspected or an inspection was conducted so long ago that a new inspection is needed. An inspection is needed to determine the current state of your vested water right claim.

A staff member from the Division of Water Rights will be contacting you and scheduling an inspection of your water project. If we can answer any questions, please contact us.

Very truly yours,

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



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

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

December 1, 1988

Vested Water Right  
Claim No. 773-1

Howard Millett  
RR, Box 33  
Sorum SD 57654

Dear Mr. Millett:

Enclosed is a copy of a letter received from the U.S. Department of Interior, Bureau of Reclamation. The Bureau of Reclamation is opposing those vested water right claims in Pennington, Perkins, Butte and Fall River counties which have never been investigated by the Division of Water Rights. Earlier, you received a letter stating that I was opposing your claim until an investigation can be completed.

After the investigation has been completed, you and the Bureau of Reclamation will be notified as to the date, place and time of the hearing on your vested water right claim. At that time all parties of record will have an opportunity to testify on the validation.

If we can answer any questions, please contact us.

Very truly yours,



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

cc: Bruce Laymon, Bureau of Reclamation



**Vested Water Right Claim No. 779-1**  
**Moreau River - Water District**

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

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

I have this day made a thorough examination of the water use system constructed by Howard Millett of Sorum, SD holder of Vested Water Right Claim No. 779-1, bearing the priority of June 1, 1955 authorizing the diversion of 5.39 cu. ft. per second of the waters of surface water for irrigation purposes, in Harding County.

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

- A. Works used to divert the water:  
Series of dikes on dry draws.
- B. Works used to transport water to place of use:  
Several ditches.
- C. Works used to apply water to beneficial use:  
Spreader dikes.

The system is in the following condition fair. The point of diversion is located N1/2 of Section 10, Section 11 and S1/2 of Section 12 all in T17N-R9E and S1/4 of Section 2 T18N-R9E. The works are capable of diverting and conveying to the place of use 5.39 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:

Section 10 T17N-R9E  
NW1/4 NE1/4 - 15 ac

Section 11 T17N-R9E

NW1/4 NW1/4 - 3.5 ac    NE1/4 NW1/4 - 31.5 ac    E1/4 NE1/4 - 39.2 ac  
SE1/4 NW1/4 - 12.0 ac    SW1/4 NE1/4 - 30.0 ac    NE1/4 SE1/4 - 35.5 ac  
SE1/4 NE1/4 - 37.0 ac


Section 12 T17N-R9E

NW1/4 NW1/4 - 17.5 ac    SW1/4 NW1/4 - 17.5 ac    NE1/4 NW1/4 - 2.0 ac  
SE1/4 NW1/4 - 24.5 ac    NE1/4 SW1/4 - 32.0 ac    NW1/4 SE1/4 - 2.0 ac  
NW1/4 SE1/4 - 32.5 ac    NE1/4 SE1/4 - 10.5 ac    SW1/4 SE1/4 - 13.2 ac  
SE1/4 SW1/4 - 22.0 ac

comprising a total of 377.4 acres of land and the license should be issued for 5.39 cfs.

Applicable permit qualifications have been complied with: Yes  No

Exceptions to compliance are: NONE      Date: 6/23/93

  
 Mark D. Rath  
 Natural Resources Engineer  
 DENR, Water Rights Division

**NAME:** Howard Millett

**ADDRESS:** Sorum SD

**DATE:** 4/17/96      **COUNTY:** Harding

**RE:** Readvertisement of Notice to Validate Vested Water Right Claim No. 779-1

**COMMENTS:**

Vested Water Right Claim No. 779-1 was incorrectly published for validation as being located in Perkins County. The irrigation project is actually located in Harding County. The claim was contested by the Chief Engineer for purposes of completing an inspection prior to validating the claim. In addition, the claim was contested by the Bureau of Reclamation.

**INVESTIGATION RESULTS:**

An inspection was completed by Mark Rath in 1993. The inspection found that the acreage and diversion points described on the claim were accurate.

**RECOMMENDED ACTION:**

A readvertisement notice needs to be prepared in accordance with SDCL 46-2A-22 and published in Harding County. Following the readvertisement, a hearing will need to be scheduled before the Water Management Board since the claim was originally contested. Notice will need to be given to the claim holder as well as the Bureau of Reclamation.



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Ron Duvall, Natural Resources Engineer  
Water Rights Program



August 21, 1996

Howard Millett  
Sorum SD 57654

Dear Mr. Millett:

A Notice of Intent to validate Claim No. 779-1 was published on June 20 and 27, 1988 in the Lemmon Leader. The Water Rights Program and the Bureau of Reclamation opposed validation of No. 779-1 for purposes of completing an on-site investigation of the claim. The investigation of Claim No. 779-1 was completed on June 23, 1993, by Mark Rath, staff engineer, with the Water Rights Program. The investigation found no change in the number of acres being irrigated and amount of water claimed.

The Notice of Intent to Validate your Vested Water Right Claim No. 779-1 was published in an official paper for Perkins County instead the Harding County. Therefore, the notice needs to be readvertised in the correct county. The Readvertisement of the Notice of Intent to Validate Vested Water Right Claims has been sent to the Publisher of the Nation's Center News printed at Buffalo SD. For your information, a copy of the notice is enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

The cost of publication of this notice will be paid by the Water Rights Program. Please contact us if you have any questions.

Sincerely,

Eric Gronlund  
Natural Resources Engineer  
605 773-3352

enclosures

c: Craig Kjar, Bureau of Reclamation

DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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



AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA )  
 ) SS.  
 COUNTY OF HARDING )

Linda Stephens of said County and State, being duly sworn, on his oath, says: That the NATION'S CENTER NEWS is a weekly newspaper of general circulation, printed and published in the Town of Buffalo, in said County and State by Linda Stephens, Owner and has been such newspaper during the time hereinafter mentioned and that I, Linda Stephens, the undersigned, am OWNER of said newspaper, in charge of the advertising department thereof, and have personal knowledge of all the facts stated in this affidavit; and the advertisement headed Readvertisement-Water Right Claims 166 lines

a printed copy of which is hereunto attached, was printed and published in the regular and entire issue of said newspaper and not in any supplement, once a week for 2 successive weeks.

The first publication being made on the 28 day of August, 19 96

The second publication being made on the 4 day of September, 19 96

The third publication being made on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

The fourth publication being made on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

The last publication being made on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

That said newspaper is a legal newspaper, and has a bona fide circulation of more than two hundred copies weekly, and has been published within the County of Harding for more than fifty-two successive weeks next prior to the first publication of said notice, and is printed in English in an office maintained in Buffalo, South Dakota, the place of publication of said newspaper. That the full amount of the fees for the publication of the annexed notice is \$ 72.01 and inures solely to the benefit of said publishers; that no agreement or understanding for a division thereof has been made with any person and that no part thereof has been agreed to be paid to any person whomsoever.

Linda Stephens

Subscribed and sworn to before me this 5 day of September, 19 96

Walter Stephens

My commission expires June 15, 2003

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES  
 Joe Foss Building  
 523 East Capitol  
 Pierre, SD 57501-3181

READVERTISEMENT OF NOTICE OF INTENT TO VALIDATE VESTED WATER RIGHT CLAIMS

Notice is given that the following vested water right claims in Harding County are eligible for validation by the Water Management Board. Readvertisement of the notice of intent to validate these claims, as published on June 1 and 8, 1988 in the Nation's Center News is necessary to correct errors in the previously published notice.

Vested Water Right No. 329-1 Howard Jensen, Box 43, Sorum SD 57654 appropriates 4.00 cubic feet of water per second (cfs) from draws located in the SW 1/4 Section 15, NE 1/4 Section 22, SE 1/4 NW 1/4 Section 23 to irrigate 288 acres located in the E1/2NE 1/4 SE 1/4 Section 22, SW 1/4 NW 1/4, W1/2SW 1/4 Section 23, W1/2NE 1/4, SE 1/4NW 1/4 Section 27, all in T16N-R8E. The priority dates are January 1, 1948 (1.38 cfs) and November 1, 1966 (3.22 cfs).

Vested Water Right No. 779-1 Howard Millett, Sorum SD 57654 appropriates 5.39 cfs from Rabbit Creek and dry draws locate in the N1/2 of Section 10, Section 11, T16N-R8E.

all in T17N-R9E to irrigate 377.4 acres. The irrigation is located in the NW1/4NE1/4 Section 10, N1/2NW1/4, SE1/4NW1/4, NE1/4 Section 11 and NW1/4, N1/2SW1/4, N1/2SE1/4, SW1/4, SE1/4, SE1/4SW1/4 Section 12; all in T17N-R9E. The priority date is June 1, 1965.

Vested Water Right No. 706-1, Wammen Ranch, St. Rt. Box 35, Sorum SD 57654 appropriates 5.12 cfs from Rabbit Creek and dry draws located in the SW1/4SW1/4 Section 20 to the SW1/4SW1/4 Section 10; all in T17N-R9E to irrigate 359 acres. The irrigated acres are located in the S1/2SW1/4 Section 10, NW1/4, SW1/4SW1/4 Section 15; E1/2SE1/4, SW1/4SE1/4, SW1/4SW1/4, SE1/4SW1/4 Section 16; E1/2SE1/4 Section 19; SE1/4NW1/4, E1/2NE1/4, SW1/4, NW1/4, NW1/4SE1/4 Section 20, N1/2NW1/4, SW1/4 NW1/4, W1/2NE1/4, SE1/4 NE1/4 Section 21 and NW1/4NW1/4 Section 22; all in T17N-R9E. The priority date is December 31, 1953.

Any person who wishes to oppose validation of the readvertised Vested right claim shall file a petition of intent to oppose the validation by September 29, 1996 with the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources, 523 East Capitol Pierre, SD 57501 3181 (605-773-3352) and with the vested water right holder at the listed address. The petition may be handwritten and must include a statement describing the petitioner's interest in the vested water right claim, the reasons for the petitioner's opposition to the claim, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained.

The Water Management Board will consider these vested water right claims at 10:00 am, October 2, 1996, Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) validate the claim as recommended, 2) validate the claim

investigation, 3) validate the claim based on evidence presented at the public hearing, or 4) defer validation of the claim. The October 2, 1996 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by September 20, 1996.

These validations are made pursuant to the provisions of SDCI 46-1-1, thru 46-1-9, 46-1-14, 46-2-3.1, 46-2-9, 46-2-11, 46-2-17, 46-2A-16 thru 46-2A-18, 46-2A-22, 46-5-1 thru 46-5-8.1, 46-5-8.2, 46-5-13 thru 46-5-15, 46-5-30.2 thru 46-5-37.1, 46-5-46, 46-5-49, 46-6-1 thru 46-6-3, 46-6-6, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-7-1 thru 46-7-5.3, 46-7-12, 46-7-14, 46-7-15 and Board Rules ARSD 74:02:01:01 thru 74:02:01:05 03 and 74:02:01:20 thru 74:02:01:22.

Contact Eric Gronlund by September 20, 1996 at the above Water Rights Program address to: 1) request copies of information pertaining to a vested right claim or a copy of the vested water right claim for another county; 2) obtain a summary of vested water rights information; 3) to assure access to the hearing by the hearing operator for the hearing. Meters Secretary, Department of Environment and Natural Resources

8-26, 9-4



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

DEC 26 1996

Howard Millett  
Sorum SD 57654

Dear Mr. Millett:

The Water Management Board has validated the enclosed Vested Water Right No. 779-1. 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,

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

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

enclosure

# SOUTH DAKOTA

## VESTED WATER RIGHT NO. 779-1 FOR IRRIGATION

Date of Receipt of Claim April 11, 1967.

Date of Validation October 2, 1996.

The Water Management Board validated Vested Water Right Claim No. 779-1 for irrigation purposes for Howard Millett, Sorum SD 57654 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 779-1 appropriates 5.39 cubic feet of water per second from Rabbit Creek and dry draws located in the N 1/2 of Section 10, Section 11, S 1/2 Section 2 and the S 1/2 Section 12; all in T17N-R9E to irrigate 377.4 acres. The irrigation is located in the NW 1/4 NE 1/4 Section 10, NW 1/4 NE 1/4 Section 10, N 1/2 NW 1/4, SE 1/4 NW 1/4, NE 1/4 Section 11 and NW 1/4, N 1/2 SW 1/4, N 1/2 SE 1/4, SW 1/4 SE 1/4, SE 1/4 SW 1/4 Section 12; all in T17N-R9E.
2. The appropriation may not exceed the amount of water needed for beneficial use for irrigation. The appropriation may not exceed 3 acre feet per irrigated acre per year. The water is to be used during the following annual period: January 1-December 31.
3. The priority date of the Vested Water Right is June 1, 1955.
4. The water use system has been constructed and water has been applied to beneficial use.
5. Water Rights obtained in compliance with the laws of the State of South Dakota must not be unlawfully impaired by this appropriation.

### WATER MANAGEMENT BOARD

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

DEC 26 1996

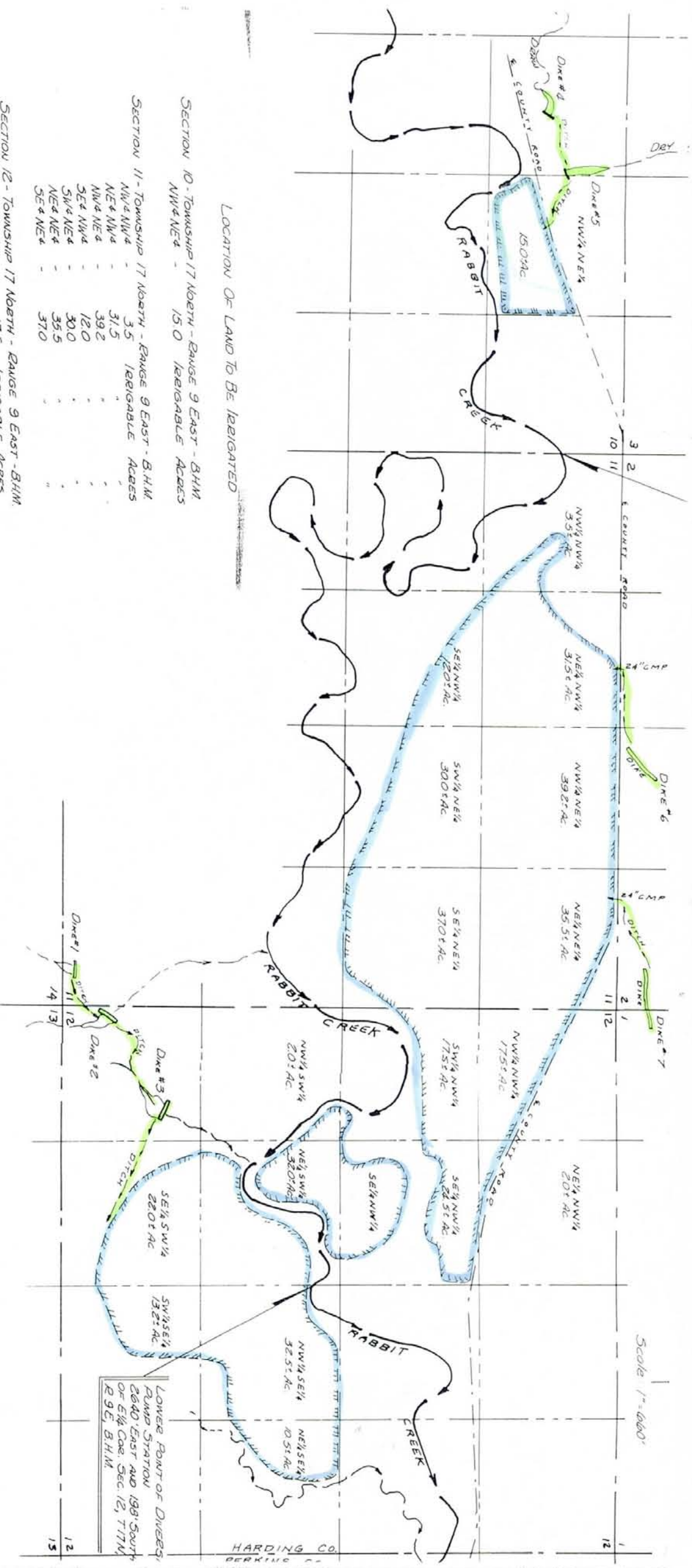
date



1-666

LOCATION OF LAND TO BE IRRIGATED

SECTION 10 - TOWNSHIP 17 NORTH - RANGE 9 EAST - B.H.M.	
NW 1/4 NE 4	15.0 IRRIGABLE ACRES
SECTION 11 - TOWNSHIP 17 NORTH - RANGE 9 EAST - B.H.M.	
NW 1/4 NW 4	3.5
NE 1/4 NW 4	31.5
NW 1/4 NE 4	39.2
SE 1/4 NW 4	12.0
SW 1/4 NE 4	30.0
NE 1/4 NE 4	35.5
SE 1/4 NE 4	37.0
SECTION 12 - TOWNSHIP 17 NORTH - RANGE 9 EAST - B.H.M.	
NW 1/4 NW 4	17.5 IRRIGABLE ACRES
SW 1/4 NW 4	17.5
NE 1/4 NW 4	2.0
SE 1/4 NW 4	24.5
NE 1/4 SW 4	32.0
NW 1/4 SW 4	2.0
NW 1/4 SE 4	32.5
NE 1/4 SE 4	10.5
SW 1/4 SE 4	13.2
SE 1/4 SW 4	22.0
TOTAL 377.4 IRRIGABLE ACRES	



  
 Mark D Rath  
 Natural Resources Engineer  
 Division of Water Rights  
 Date 7/1/93

779-1

RECEIVED

MAY 29 2007

WATER RIGHTS PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

Water Right/Permit No. 779-1

Date: 5-23-07

I/We request that Water Right/Permit No. 779-1 formerly owned by:

Howard Millett, Betty Ann Preszler, Merlin & Maxine Hackbert be transferred to:

New Owner Name: Thomas E. and Frances A. Fabris

Address: 46447 183rd St.

City, State, Zip Castlewood, SD 57223

Telephone No. (605) 793-2295

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

*See Attached Warranty Deed*

I understand that the validity of Water Right/Permit No. 779-1 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

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 included to cover the filing fee as required by SDCL 46-2-13.**

I, Thomas E. Fabris, 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.

**Prepared By:**

BENNETT, MAIN & GUBBRUD, P.C.  
618 State Street  
Belle Fourche, SD 57717  
Phone No. 605-892-2011

Recorded  
 Compared  
 Grantor  
 Grantee  
 Numerical

No. 07-229Record 3/5/07 8:30 A.M.Book 65 Deeds Page 391-394*Sue Stimpel*Register of Deeds  
Harding County

FEE: \$26.00 pd-ck

**WARRANTY DEED**

**BETTY ANN PRESZLER**, a single person, and **MERLIN HACKBART and MAXINE HACKBART**, husband and wife, grantors, of Lexington, Kentucky, for and in consideration of Two Million One Hundred Fifty-One Thousand Two Hundred Ninety-Five Dollars (\$2,151,295), **grant, convey and warrant to THOMAS E. FABRIS and FRANCES A. FABRIS**, as joint tenants with right of survivorship and not as tenants in common, grantees, of 46447 183<sup>rd</sup> Street, Castlewood, South Dakota 57223, the following described real estate:

**See Exhibit A attached hereto**

Excepting, however, from this conveyance and reserving to the grantor, grantors' heirs, successors and assigns, one-half (1/2) of the mineral interests, including future interests, if presently discernible, now held by the grantors, in all minerals of whatsoever nature, (including, but not limited to: oil, gas, natural gas, hydrocarbons, coal, uranium, plutonium, or any valuable deposit whether now or hereafter known) in, on, under or that may be produced from said real property, together with the right to prospect for, mine and/or drill for said minerals therefrom, and the right for the aforesaid purposes to enter upon said property and erect, construct, maintain and operate thereon, buildings, structures, machinery, installations, equipment, pipelines, power lines, roads and other facilities being necessary by the grantors, and to use the surface and such surface of all real property in any manner necessary by the grantors, to aid in all or any of the aforesaid operations, and for storing, processing, removing, and transporting any of said minerals, together with the right to use water produced from said operations, but this right to use produced water shall not include any water from creeks, dams, dugouts or any groundwater that is useable for





779-1

# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 5/29, 20 07

RECEIVED OF Prairie Sky Farm T Fabris 46447 183rd St Castlewood SD 57223

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>868-1 &amp; 779-1</u>	5	00
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)		
TOTAL	5	00

No. **03054**

By *Harold Erbe*  
Chief Engineer

779-1



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

June 7, 2007

779-1  
868-1

Thomas E & Frances A Fabris  
46447 183<sup>rd</sup> St  
Castlewood SD 57223

Dear Mr. & Mrs. Fabris:

I am writing to acknowledge receipt of the ownership changes and filing fees you submitted for transferring Water Right Nos. 779-1 and 868-1. The transfers have been completed. The water rights formerly listed in the name of Howard Millett are now listed in your names.

Enclosed is Receipt No. 03054 in the amount of \$5.00. If I can answer any questions for you, please contact me.

Sincerely,

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

enclosure