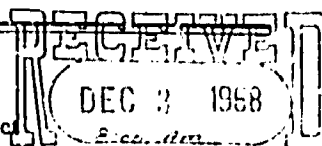


857-1

1. Considered 1-22 69
2. Name of Applicant PERSHING J. COOK
3. Post Office Address BELLE FOURNE
4. Amount of water claimed 2.80
5. Source of water supply FOUR MILE CREEK
6. Water to be used for IRRIGATION
Acres to be irrigated 195
7. Water to be diverted and used in BUTTE county
about 28N 81W miles of NEWELL
8. Proc. of Publication Received ✓
Not Received _____
9. Application Approved _____
Subject to _____
Not Approved _____
Action deferred _____

10. Remarks:

No. **85-7-1**Water Division No. **1** **MOREAU RIVER** District
(Blank 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 **Pershing-J.-Geek-Paul-Hann-** Melvin E & Roger O Delzer
-Box-18383,-East-Pike-Bldg,-Wichita- 2040 W Main, Suite 213, Kansas, **67207-**
 Postoffice address **Bella-Fourche-** County **Butte** Rapid City, SD, State **South Dakota**

- 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 contract, employment of others, or by direct labor) _____
- (b) Cash on hand, \$ _____
- (c) Treasury stock, \$ _____
- (d) Bonds to be issued, \$ _____
- (e) Other resources, \$ _____

2. Name of diversion work **Cook's Four Mile Creek Irrigation Project**
3. Amount of water claimed **2.8** cubic feet per second
4. Source of water supply **Four Mile Creek**
5. Location of point of diversion **Between a point 1485' N 61° 15' W of SE Cor. Sec. 13, T13N, R4E and a point 165' N 00° E of R1 Cor. / Sec. 18, T13N, R5E** on **both** bank **Butte** County.
6. Annual period or periods during which water is to be used **April 1st to Oct. 1st**
7. To be used for:

- I. Irrigation or domestic use: Gravity, overhead sprinkling or combination system? **Gravity Spreader and Pump**

(a) Number of acres to be irrigated **195** acres.

(b) Legal subdivisions to be irrigated _____

IRRIGABLE AREA

Sec. 18, T 13 N, R 5 E.

SW 1/4	16
SE 1/4	28
NW 1/4	13
NE 1/4	35
SW 1/4	11
SE 1/4	5
NW 1/4	28
NE 1/4	21
SW 1/4	16
SE 1/4	1
Total	174 Acres

Sec. 13, T 13 N, R 4 E.

NE 1/4	3
SE 1/4	18
Total	21 Acres

Grand Total 195 Acres

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

MAP No 715-1

8. Estimated cost of work:

(a) Head Gates, \$140

(b) Pumping plant, \$1000

(c) Fluming, \$200

(d) Canal-earth, \$

Rock, \$

(e) Other structures Spreaders, Diversion Dikes, \$300

Total, \$1650

9. Description of diversion works:

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

Pumping plant, Spreaders and diversion dikes

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 high water mark _____ acres.

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 _____ 5 _____ years.

11. Time required for complete application of water to the proposed beneficial use _____ 5 _____ years.

12. Choice of newspaper for publication of notice of intention to appropriate _____
Belle Fourche Bee, Belle Fourche, S. Dak.

STATE OF SOUTH DAKOTA

County of Harding } ss.

I, Parshing J. Cook, 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 Parshing J. Cook

Subscribed and sworn to before me this 4th day of November 1968

Florence Brengle
Notary Public (or other qualified officer.)

*Each diversion must have a headgate or measuring device.

FLORENCE BRENGLE
NOTARY PUBLIC HARDING CO., S. DAK.

PLAT OF THE COOK FOUR MILE CREEK IRRIGATION PROJECT

Located in Section 13, T 13 N, R 4 E, and Section 18, T 13 N, R 5 E, B.H.M., in Butte County, South Dakota, drawn and prepared as a part of the Application for Permit to appropriate water of Pershing J. Cook, Belle Fourche, South Dakota, to supply water for irrigation of areas as shown on this plat.

SURVEYOR'S CERTIFICATE

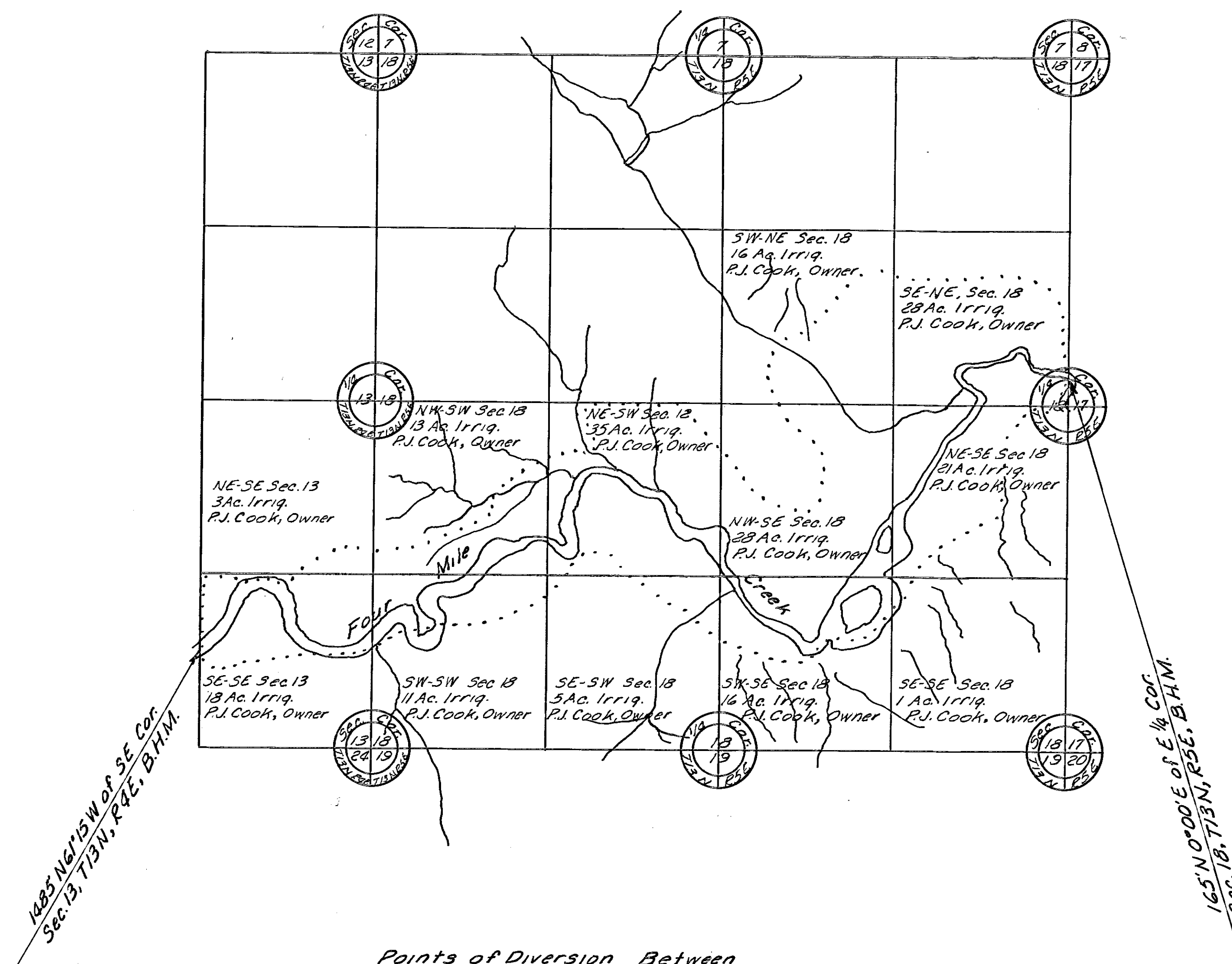
I, William C. Brungle, Registered Land Surveyor in and for the State of South Dakota, do hereby certify that at the request of Pershing J. Cook, I have made a survey and have prepared this plat as a part of his application for a Permit to appropriate water for irrigation. I further certify that the bearings and lengths of all lines shown and their location with reference to the Government Land Corners shown, are correct to the best of my knowledge and belief.

William C. Brungle (SEAL)
William C. Brungle
Registered Land Surveyor
License No. 1517

Subscribed and sworn to before me this 22nd day of November, 1968.

Florence Brungle (SEAL)
Florence Brungle
Notary Public

FLORENCE BRUNGLE
NOTARY PUBLIC HARDING CO., S. DAK.
My Commission Expires Aug. 1, 1978



Scale: 1" = 660'

Remarks by State Water Resources Commission.

LOW FLOWS AS NEEDED FOR DOWNSTREAM DOMESTIC
USE, INCLUDING LIVESTOCK WATERING, MUST BE
BY-PASSED

STATE OF SOUTH DAKOTA
County of HUGHES ss.

Pierre, South Dakota, FEBRUARY 3, 1969

This is to certify that the foregoing application was received by the Commission at 8:00 o'clock
am upon the 3RD day of FEBRUARY DECEMBER, 1968

State Water Resources Commission

By:

Aurton Jones
for Chief Engineer, Executive Officer

Number of permit 857-1

Date of first receipt of application DECEMBER 3, 1968

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

Date of receipt of corrected application _____, 19____

Date from which applicant may claim right DECEMBER 3, 1968

Approved JANUARY 22, 1969, Recorded in Book 10 Page 310

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 _____

JULY 22, 1971

2nd. The whole of said work is to be completed on or before JANUARY 22, 1974

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

JANUARY 22, 1974

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 hereby granted shall not exceed 2.8 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 JANUARY 22, 1974; said water to be used during the following described annual period:

APRIL 1 TO OCTOBER 1

Witness my hand this 3RD day of FEBRUARY, 1969

State Water Resources Commission

By:

John Jones
Chief Engineer, Executive Officer

Certificate of Construction Issued OCTOBER 4, 1971

Water License Issued OCTOBER 4, 1971

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 857-1

(1) WHEREAS, On the 3rd day of December A. D. 19 68

Pershing J. Cook

made Water Right Application No. 857-1 for a permit to use 2.8 cubic feet per second of the waters of Four Mile Creek

County of Butte, State of South Dakota, for irrigation

purpose; and
(2) WHEREAS, On the 3rd day of February A. D. 19 69

Permit No. 857-1, with a date of priority of December 3, 1968

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 22nd day of January A. D. 19 74 and for the application to beneficial use of said water on or before the 22nd day of January A. D. 19 74

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 2.8 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 lands:

Section 18, T13N, R5E		Acres
	NW $\frac{1}{4}$ SW $\frac{1}{4}$	13
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	35
	SW $\frac{1}{4}$ SW $\frac{1}{4}$	11
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	5
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	16
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	18
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	28
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	21
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	16
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	1
Section 13, T13N, R4E	NE $\frac{1}{4}$ SE $\frac{1}{4}$	3
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	18
Total		193 Acres

(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 Pershing J. Cook

_____ of Belle Fourche, S.D.

the holder _____ and owner _____ of said permit No. 857-1 a water right, dating from December 3, 1968

_____ to use of 2.8 cubic feet per second of the waters of Four Mile Creek

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 ⁰ between a point 1485' North 61 15' West of the SE Corner, Section 13, T13N, R4E. and a point 165 feet North 0° East of the E½ Corner, Section 18, T15N, R5E

and conduct to and upon portions of Section 18, T13N, R5E and Section 13, T13N, R4E described more fully on the face of this License

for the purpose of irrigation

857-1

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

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

this 4th day of October A. D.

Nineteen Hundred and Seventy-one

WATER RESOURCES COMMISSION

By:

Chief Engineer, Executive Officer, J.W. GRIMES

Form 15.

Permit No. 857-1

Water Diversion No. 1 **MOREAU RIVER** Water District

CERTIFICATE OF CONSTRUCTION

Pershing J. Cook

This is to Certify, That _____

_____ the holder _____ of
Permit No. 857-1, issued upon Application No. 857-1, bearing date of priority of December 3,
1958 authorizing the diversion of 2.8 cu. ft. per second of the waters of _____
Four Mile Creek _____ County of **Butte** _____, State of South Dakota ~~XX~~
between a point 1485' North 61° 15' West of the SE Corner, Section 13, T13N, R4E,
and a point 165 feet North 0° East of the E4 Corner, Sec. 18, T13N, R5E
_____ for **Irrigation**

_____ purposes, has _____ complied with the provisions of the laws of the State of South Dakota relating to proof of
completion of the works of diversion set out and described in said Permit; that said works are found in satisfactory
condition for diverting and conveying to the place of intended use **up to 20** cu. ft. per second of water.

Date **October 4, 1971**

WATER RESOURCES COMMISSION

By:

J.W. GRIMES; Executive Officer

Permit No. 857-1Water Division 1 MOREAU RIVER Water DistrictREPORT OF EXAMINATION OF WORKS
AND/OR APPLICATION OF WATER TO BENEFICIAL USE

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

I have this day made a thorough examination of the water use system constructed by PERSHING J. COOK of BELLE FOURCHE holder of Permit No. 857-1, bearing date of priority of DECEMBER 3, 1968 authorizing the diversion of 2.8 cu. ft. per second of the waters of FOUR MILE CREEK for IRRIGATION purposes, in BUTTE County.

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

The Water Use System consists of,

A. Works used to divert the water:

FOUR MAIN PLUGS APPROX. 8' HIGH
15" OPEN TUBES

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

DIKES W 15" TUBES

C. Works used to apply water to beneficial use.

SPREADER DIKES ON FLATSThe system is in the following condition: FAIR

The point of diversion is located BETWEEN A POINT 1485 FEET, N 61° 15' W OF THESE CORNER,
SECTION 13, T13N, R4E
AND A POINT 165 FEET N 0° E OF THE E 1/4 CORNER, SECTION 18, T13N, R5E

The works are capable of diverting and conveying to the place of use UP TO 20cu. 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 18, T13N, R5E				SECTION 13, T13N, R4E	
NW 1/4 SW 1/4	13 AC.	SW 1/4 NE 1/4	16 AC.	SW 1/4 SE 1/4	16 AC.
NE 1/4 SW 1/4	35 "	SE 1/4 NE 1/4	18 "	SE 1/4 SE 1/4	1 AC.
SW 1/4 SW 1/4	11 "	NW 1/4 SE 1/4	28 "	NE 1/4 SE 1/4	3 AC.
SE 1/4 SW 1/4	5 "	NE 1/4 SE 1/4	21 "	SE 1/4 SE 1/4	18 "

comprising a total of 195 acres of land.Date SEPTEMBER 19, 1971Dwight Jones
(Signature)WATER RIGHT SPECIALIST
WATER RESOURCES COMMISSION

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA }
County Butte } ss.Lawrence Mayles being duly sworn, deposes and says the annexed printed copy of Notice

of Intention to Appropriate Water was taken from the _____

Butte Fourche Bee a newspaper which during the whole time of publication of said notice herein after stated, has been and is printed and published in thecity of Butte Fourche County ofButte and State of South Dakota;

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

Dec. 20, 1968Dec. 27, 1968Jan. 3 - 1969Jan. 10 - 1969

in each and every issue of the full number thereof, the first

publication being made on the 20 day of December19 68 and the last publication on the 10 day ofJanuary 19 69, upon which days or times

of publication aforesaid the newspaper was regularly published, and that during the whole time of said publication he

was _____ the printer and publisher of the said newspaper.

Subscribed and sworn to before me this 10 day of January A. D. 19 69Notary Public Butte County, S. D.

APPROPRIATION OF WATER

No. 857-1

Office of State Water Resources Commission,

Pierre, S. Dak., December 11, 1968

Notice is hereby given that Pershing J. Cook whose postoffice address is Belle Fourche, 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 2.8 cubic feet of water per second, of time from Four Mile

Creek through the Cook Four Mile Creek Project, the point of diversion of which is to be located on

either bank of said stream between points in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 13, T13N, R4E and in the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 18, Twp. 13N Range 5E. Said

water to be used for the purpose of providing irrigation on portions of the following described land:

S $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$, SE $\frac{1}{4}$, Section 18, T13N, R5E; E $\frac{1}{4}$ SE $\frac{1}{4}$, Section 13, T13N, R4E.

This application will be taken up by the State Water Resources Commission at their office at

Pierre for consideration upon the 22nd day of January, 1969, at 2:00 P.M. All interested persons may

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

State Water Resources Commission cc: Pershing J. Cook, Belle Fourche, S.D.

Barton F. Jones
Water Rights Specialist

41 12/ 20-27-1/3-9

on or before
(First Publication December 26, 1968.)

APPROPRIATION OF WATER

Office of State Water Resources Commission.

Pierre, S. Dak., December 11, 1968

Notice is hereby given that Pershing J. Cook whose postoffice address is Belle Fourche 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 2.0 cubic feet of water per second of time from Four Mile Creek through the Cook Four Mile Creek Project the point of diversion of which is to be located on the either between points in the SE 1/4, Section 13, T13N, R4E and bank of said stream in the SE 1/4 of the NE 1/4 of Section 10 Twp. 13N Range 5E portions of said water to be used for the purpose of providing irrigation on the following described land:

SW 1/4 NE 1/4, SW 1/4, SE 1/4, Section 18, T13N, R5E; E 1/4 SE 1/4, Section 13, T13N, R4E.

XXXX

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 22nd day of January 69 at 2:00 P. M. All interested persons may appear and be heard.

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

State Water Resources Commission

cc: Pershing J. Cook, Belle Fourche, S.D.

By:

~~CHAS. E. JONES, CHAS. E. JONES~~
Burton F. Jones
Water Rights Specialist

**OVERSIZE
DOCUMENT IS
SUPPLEMENTARY
TO MICROFILM FILE**

RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

No 4 7261

PIERRE,

January

19 80

RECEIVED OF Mrs. Paul Mann, Box 18383, East Pike Bldg., Wichita, 67207

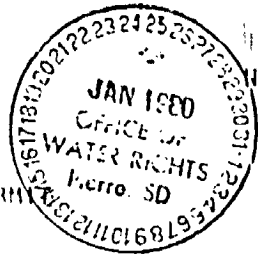
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit to Appropriate Water No. (examination, processing, recording and filing)		
Fee for Inspecting Construction, and Issuing Cert. of Construction No.		
Fee for Inspecting Beneficial Use, and Issuing Water License No.		
Fee for Issuing Location Certificate-Dry Draw, No.		
Fee for filing transfer of water right No. 857-1		2 50
Fee for certified copy of		
Fee for Print copy of map		
Fee for Certifying		
Fee for		
(any other work as provided by law)		
TOTAL		2 50

WATER RIGHTS COMMISSION

By *John Hatch*
Chief Engineer, Executive Officer
JOHN HATCH

FORM 20



NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Rights
Foss Building
Pierre, SD 57501

Date: January 21, 1980

This is to notify you that the title to the lands described as follows:

SW $\frac{1}{4}$, SE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ Section 18, T13N, R4E and NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 13, T13N, R4E

for a total of 195 acres.

formerly owned by Pershing J. Cook, Belle Fourche, SD 57717

has been transferred to Paul Mann, Box 18383, East Pike Bldg., Wichita, KS 67207
Phone: 733-2255

together with any rights to the beneficial use of water thereon as evidenced by

Water Right Permit No. 857-1 as provided for in SDCL 46-5-32 and 46-5-33.

You are therefore hereby requested to file this "Notice of Transfer of Water Permit" in its appropriate file at the Office of the Board of Water Management as evidence of the change of ownership.

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

KANSAS
STATE OF ~~XXXXXXXXXX~~)
County of Sedgwick) ss.

I, Paul Mann 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 I know of my own personal knowledge that the information herein stated is true.

Paul Mann
(Signed)

Subscribed and sworn to before me this 21st Day of January, 1980.

Emory E. Hunt
(Notary Public)



RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

No 4 7977

February 10, 1981

PIERRE, _____

RECEIVED OF Helvin E. Delzer, c/o Allen Scovel, P.O. Box 290, Rapid City, SD 57701
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit to Appropriate Water No. _____ (examination, processing, recording and filing) _____	
Fee for Inspecting Construction, and Issuing Cert. of Construction No. _____	
Fee for Inspecting Beneficial Use, and Issuing Water License No. _____	
Fee for Issuing Location Certificate-Dry Draw, No. _____	
Fee for filing <u>transfer of WR# 85711</u>	2.50
Fee for certified copy of _____	
Fee for Print copy of map _____	
Fee for Certifying _____	
Fee for _____ (any other work as provided by law)	
TOTAL	2.50

WATER RIGHTS COMMISSION

By (Signature)
Chief Engineer, Executive Officer
JULY 14/81

NOTICE OF TRANSFER OF WATER

Date: _____

SW $\frac{1}{4}$, SE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ Section 18, T13N, R5E and NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$

formerly owned by Paul Mann, Box 18383, East Pike Bldg., Wichita, KS 67207

Water Right Permit No. 857-1 as provided for in SDCL 46-5-32 and 46-5-33.

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

Melvin E. Delzer and

of my own personal knowledge

Page 0.04

Signed

Calla M. Carlson

(Notary Public)

(SEAL)

J. H. COSTELLO
WILLIAM O. PORTER
DENNIS H. HILL
JAMES S. NELSON
K. L. HEISTERKAMP
GENE R. BUSHNELL
ALLEN L. SGOVEL
RICHARD O. SHARPE
EDWARD C. CARPENTER
THOMAS H. BARNES
DONALD A. PORTER

COSTELLO, PORTER, HILL, NELSON, HEISTERKAMP & BUSHNELL
ATTORNEYS AT LAW
200 SECURITY BUILDING
704 ST. JOSEPH STREET
MAILING ADDRESS R. O. BOX 290
RAPID CITY, SOUTH DAKOTA 57709



TELEPHONE 343-2410
AREA CODE 605

November 9, 1981

South Dakota Water
Resources Commission
State Office Building
Pierre, SD 57501

Re: P. J. Cook
Water License #857-1

Gentlemen:

We represent M. E. Delzer, who has purchased the real property from Mr. P. J. Cook to which the above water license is appurtenant.

I would appreciate it if you would furnish me the necessary form to complete the transfer of the water license to Mr. Delzer.

With best regards, I am

Very truly yours,

William G. Porter
William G. Porter

WGP:cil



Department of Water & Natural Resources

Joe Foss Building Water Rights Division (605) 773-3352
Pierre, South Dakota 57501

November 10, 1981

William G Porter
COSTELLO, PORTER, HILL, NELSON
HEISTERKAMP & BUSHNELL
Attorneys at Law
P.O. Box 290
Rapid City, SD 57709

Dear Mr. Porter:

This letter is in reference to your letter of November 9, 1981 in which you requested forms for transferring Water Right No. 857-1.

Water Right No. 857-1 was transferred to Marvin and Roger Delzer on February 11, 1981.

If you have any questions, please contact this office.

Sincerely,

GEMMY YOUNG
Staff Assistant

gy



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 24, 2001

857-1

1231-1

1276-1

Gloria Delzer
PO Box 1045
Spearfish, SD 57783-7045

Dear Ms. Delzer:

Thank you for the prompt return of the "2001" irrigation questionnaires for Water Right Nos. 857-1, 1014-1, 1231-1 and 1276-1.

As we discussed on the telephone, I am sending you partially completed "Notice of Transfer of Ownership" forms for use in filing ownership changes with Water Right Nos. 857-1, 1231-1 and 1276-1. Please review the forms for accuracy and make any necessary corrections. Upon completion, please sign the forms in the presence of a notary public and return them to our office with a required filing fee of \$2.50 each (total of \$7.50). The check or money order for the fees can be made payable to the Water Rights Program.

I have forwarded a transfer form to Ross and Barbara Delzer for Water Right No. 1014-1. Thank you following up on the ownership changes. If I can answer any questions for you, please get in touch with me.

Sincerely,

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

enclosures

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

NO 416952

Pierre, November 1

20 01

RECEIVED OF Gloria & Roger Delzer, PO Box 1045, Spearfish, SD 57783
the following amount in fees for services rendered as provided for by law: (Melvin & Roger O Delzer)

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 857-1 _____

Fee for Filing Extension Request _____

Fee for _____

Total

2 50

2 50

(Any Other Work Provided by Law)

By Darland L. Erbe
Chief Engineer

No. 857-1

Date: 10-30-01

formerly owned by: Melvin E. and Roger O. Delzer

be transferred to: (name & address) **Gloria and Roger O. Deizer, PO Box 1045, Spearfish, SD 57783-7045**

Telephone No. (605) 642-5172

195 acres – SW ¼, S ½ NE ¼, SE ¼ Section 18, T13N, R5E and the E ½ SE ¼ Section 13, T13N, R4E

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

A fee of Two Dollars and Fifty Cents (\$2.50) is required to cover the filing fees as required under SDCL 45-2-13. This form must be signed by the new owner.

County of Durham

I/We Robert Delzer 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.

Gloria Meyer
(Signature of new owner)

Subscribed and sworn to before me this 30 day of October, 2001.

Elmer M. Poyler
(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 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.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

November 27, 2001

857-1
1231-1
1276-1

Gloria Delzer
PO Box 1045
Spearfish, SD 57783-7045

Dear Ms. Delzer:

Thank you for following up on the ownership changes for Water Right Nos. 857-1, 1231-1 and 1276-1. The transfers have been completed. Water Right Nos. 1231-1 and 1276-1 are now listed in your name. Water Right No. 857-1 is listed as being owned by Gloria and Roger O. Delzer.

Enclosed are your Receipt Nos. 416951, 416952 and 416953 in the amounts of \$2.50 each. You may keep these for your records.

Upon doing the transfers for Nos. 857-1, 1231-1 and 1276-1, I found an additional water permit listed in the name of Melvin Delzer. Water Permit No. 1650-1 authorizes use of ground water for a livestock confinement operation. Enclosed is a copy of the permit for your review.

I am assuming that Permit No. 1650-1 should also be transferred to your name. Enclosed is a partially completed "Notice of Transfer of Ownership" form for use in filing the ownership change. Please review the form and complete as needed. Upon completion, please sign the form in the presence of a notary public and return it to our office with a required filing fee of \$2.50. The check or money order for the fee can be made payable to the Water Rights Program.

Thank you in advance for your help. I apologize for not including the transfer form with the forms for transferring the rest of the water rights.

Sincerely,

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

enclosures

2004 Water Management Board Irrigation Questionnaire

Please fill out and return before **December 3, 2004**

REMEMBER! Return of this questionnaire is required whether or not you irrigated this year.

Return the completed form(s) to the Water Rights Program at 523 E Capitol, Pierre, SD 57501-3181 (605) 773-3352
or send your form(s) electronically over the internet at <https://www.state.sd.us/eforms/secure/eforms/E0455V3-IQ.pdf>

No. 857-1

GLORIA & ROGER O DELZER
PO BOX 1045
SPEARFISH SD 57783 7045

Any address/ownership corrections?

*PROPERTY WAS SOLD FOR MORE
INFO. CALL ROGER DELZER*

605-642-3195
Telephone No. 642-3195

1. Is the system constructed? *yes ☐ no ☐

*Type of system used (check all that apply):

center pivots ☐ towlines ☐ big gun ☐

flood ☐ sprinklers ☐ other ☐

2. Did you irrigate in 2004? *yes ☐ **no ☐

*If yes, number of acres irrigated

**If no, list reason(s) in comment box and answer No. 3:

3. Is the land enrolled in CRP? *yes ☐ no ☐

*If yes, through what year?

4. Did you apply chemicals or fertilizer through the
system in 2004? yes ☐ no ☐

5. If permitted for more than one water source, circle
each source used. A. FOUR MILE CREEK

B.

C.

Comment Box



BB	BA	AB	AA
B			A
BC	BD	AC	AD
CB	CA	DB	DA
C			D
CC	CD	DC	DD

1 square mile

Office use only

RECEIVED

DEC - 1 2004

**WATER RIGHTS
PROGRAM**

Acreage permitted for irrigation under No. 857-1

(see above section map for help reading legal descriptions)

sec 18-T013N-R05E, CB -- 13.00 acres
sec 18-T013N-R05E, CA -- 35.00 acres
sec 18-T013N-R05E, CC -- 11.00 acres
sec 18-T013N-R05E, CD -- 5.00 acres
sec 18-T013N-R05E, AC -- 16.00 acres
sec 18-T013N-R05E, AD -- 18.00 acres
sec 18-T013N-R05E, DB -- 28.00 acres
sec 18-T013N-R05E, DA -- 21.00 acres
sec 18-T013N-R05E, DC -- 16.00 acres
sec 18-T013N-R05E, DD -- 1.00 acres
sec 13-T013N-R04E, DA -- 3.00 acres
sec 13-T013N-R04E, DD -- 18.00 acres

Please provide your 2004 water use to irrigate the above acreage on the REVERSE side of this form.

For an updated example questionnaire, please refer to the reverse side of your cover letter.



April 5, 2005

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

857-1

Roger Delzer
10854 Valley Ranch Ln
Spearfish SD 57783

Dear Mr. Delzer:

Enclosed as we discussed is a copy of Water Right No. 857-1 listed in you and your mother's names. We are attempting to update the water right by finding out if it is still used and if we have the correct owners on file.

One thing I noticed when reviewing the files was that the land has not been irrigated since 1983. If no diversion is being made from Four Mile Creek and the land is no longer irrigated, the water right may no longer be valid. Under South Dakota Water law, water must be placed to beneficial use for the purpose it was appropriated at least once every three years unless legal excuse exists for the years of nonuse. I am including excerpts of the water laws and Water Management Board Rules dealing with these issues.

Please get in touch with us after you have had a chance to review the enclosed materials. Thank you in advance for your help.

Sincerely,

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

enclosures



August 11, 2005

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

857-1

Roger Delzer
10854 Valley Ranch Ln
Spearfish SD 57783

Dear Mr. Delzer:

On April 5th, I wrote to you concerning Water Right No. 857-1 listed in you and your mother's names. We were attempting to update the water right by finding out if it is still used and if we have the correct owners on file. Unless I have overlooked it, I don't believe I received a response from you regarding the water right.

The water right authorizes diversion of water from Four Mile Creek for irrigation purposes. Our records show the land was last irrigated in 1983. On last year's irrigation questionnaire, a notation was made that the property sold. We need to find out whether or not all of the land described in the water right was sold and if any part of the land is still being irrigated.

If no diversion is being made from Four Mile Creek and the land is no longer irrigated, the water right may no longer be valid. The Water Management Board is the entity who determines if a water right has legal standing.

Please get in touch with us concerning the water right. Thank you in advance for your help.

Sincerely,

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

enclosures

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Roger Delzer

DATE: August 18, 2005

TELEPHONE: 605 642-3195

RE: ownership of Water Right No. 857-1

COMMENTS:

In response to a letter I had written to Roger Delzer concerning land ownership and use of water as described in No. 857-1, Mr. Delzer called and indicated all of the land was sold to Johnny Johnson.

We talked awhile on whether or not the land was still being irrigated because the irrigation questionnaires reflect no irrigation since 1983. Mr. Delzer indicated that the system is strictly a spreader system. The only time it works is when Four Mile Creek floods. The creek is basically dry most of the time or if there is water in it, there isn't enough flow for the system to work.

In 1971, an inspection of the system was conducted. I read to him what the inspection report cited as what was in place at the time (four main plugs with 15" tubes and spreader dikes). He indicated he wasn't aware that a water right for this existed but since he received my letter, he made a trip out to the site. He said the plugs are still there and if water were available, the land would be irrigated via the spreader dikes.

From his description of the system and a review of the inspection report, it appears that a yearly irrigation questionnaire for this water right should not be required. The original water permit described a pumping system but the actual inspection report indicates the system is a spreader system only. Water Right No. 857-1 will be removed from the questionnaire mailing list.

Contact Mr. Johnson concerning transfer of the water right to his name.

Send to:

Johnny Johnson
19610 US Hwy 85
Belle Fourche SD 57717



Genny McMath
Environmental Scientist



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 19, 2005

857-1

Johnny Johnson
19610 US Hwy 85
Belle Fourche SD 57717

Dear Mr. Johnson:

I am contacting you in regard to ownership of land described in Water Right No. 857-1. The water right, listed in the name of Gloria & Roger O Delzer authorizes diversion of water from Four Mile Creek for irrigation purposes. Enclosed is a copy of the water right for your review.

Mr. Delzer contacted our office and indicated that you now own the land described in the water right. Enclosed is a partially completed Notice of Transfer of Ownership form for filing an ownership change. Please review the form and make any necessary corrections. Upon completion, please sign the form and return it to our office with a required filing fee of \$2.50. The check or money order for the fee can be made payable to the Water Rights Program.

If you have any questions about the water right or completion of the transfer form, please contact me.

Sincerely,

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

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

April 2, 2009

857-1

Johnny Johnson
19610 US Hwy 85
Belle Fourche SD 57717

Dear Mr. Johnson:

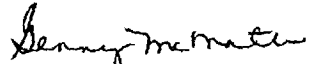
This letter is in regard to ownership of land described in Water Right No. 857-1 currently listed in the name of Gloria and Roger Delzer (copy enclosed). A partially completed "Notice of Transfer of Ownership" form was forwarded to you August 19, 2005. In a review of the file I noticed we never did receive the form and filing fee back from you.

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

Please be advised that the Legislature passed a bill this year raising the filing fees on applications, licenses and ownership changes. The fee increases will become effective July 1, 2009. The fee increase for an ownership change will be raised from \$2.50 to \$50.00. We will be required to assess the increased fee of \$50.00 for any ownership change filed after July 1st.

To avoid having to pay the higher fee, please submit the enclosed transfer form and remit the \$2.50 filing fee as soon as possible. **If you no longer own the land or do not wish to maintain the water right, please contact me.**

Sincerely,


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

enclosure

RECEIVED

JUL - 9 2009

WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 857-1

Date: _____

I/We request that Water Right No. 857-1

formerly owned by: Gloria and Roger Delzer

be transferred to: (name & address) Gene E. Johnson

19610 Hwy 85
Belle Fourche, SD 57717 Telephone No. 605-641-4314

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

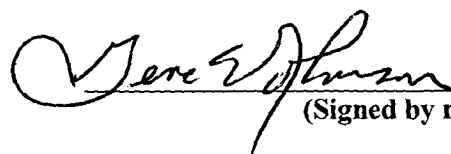
SW ¼, S ½ NE ¼, SE ¼ Section 18, T13N, R5E; E ½ SE ¼ Section 13, T13N, R4E

I/We understand that the validity of Water Right No. 857-1 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

A fee of Two Dollars and Fifty Cents (\$2.50) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

I/We Gene E. Johnson, 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.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 9, 2009

857-1

Gene E Johnson
19610 US Hwy 85
Belle Fourche SD 57717

Dear Mr. Johnson:

Today we received the "Notice of Transfer of Ownership" form and \$2.50 filing fee from you for transferring Water Right No. 857-1.

I am returning the form to you for completion. Please complete the portion titled "to be transferred to: (name and address)". Also enclosed is your check in the amount of \$2.50. The fee for filing an ownership changed has increased to \$50.00. The increase became effective on July 1st.

Please return the completed form and a check or money order for \$50.00 as soon as possible.

Sincerely,

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

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

enclosure

RECEIPT
WATER RIGHTS PROGRAM
South Dakota Department of Environment and Natural Resources

Date 7/20, 20 09

RECEIVED OF Gene E Johnson 19610 US Hwy 85 Spearfish SD 57783

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	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>857-1</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No. **04180**

By *Michael Erbele*
Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

July 20, 2009

857-1

Gene E Johnson
19610 US Hwy 85
Belle Fourche SD 57717

Dear Mr. Johnson:

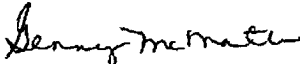
The transfer of ownership for Water Right No. 857-1 has been completed. The water right formerly held by Gloria and Roger Delzer is now listed in your name.

Enclosed is your Receipt No. 04180 in the amount of \$50.00 which you paid for filing the ownership change. You may keep this for your records.

Our records show the water use system used for irrigation purposes under this water right is a water spreading system. Irrigators are not required to report annual water use for these types of systems. Therefore, we will not be sending you an annual irrigation questionnaire for this water right. You will still receive a reporting form for Water Right No. 876-1 which authorizes irrigation from ground water.

If you have any questions, please contact me.

Sincerely,


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

enclosure