

Water Right Number 1024-2

1. Considered July 22, 19
2. Name of Applicant Dorothy M. Beyce
3. Post Office Address R.R.#4, Box 567, Rapid City, S.D.
4. Amount of water claimed 2.52
5. Source of water supply Cheyenne River
6. Water to be used for Irrigation  
Acres to be irrigated 175.54
7. Water to be diverted and used in Shannon County  
about 2 South 16 Miles EAST of FAIRBURN
8. Proof of Publication Received x July 1, 1970  
Not received
9. Application Approved                       
Subject to                       
Not approved                       
Action deferred

10. Remarks:



**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 30, 2006

**NOTICE OF SHUTOFF ORDER**

**TO:** RITTBERGER BROTHERS  
HC 89 BOX 302A  
HERMOSA SD 57744

**FROM:** GARLAND ERBELE, Chief Engineer  
Water Rights Program

**SUBJECT:** Cheyenne River Shutoff Order for Junior Priority Date Water Rights

**Shutoff Order for Water Right Nos. 1024-2/1024A-2**

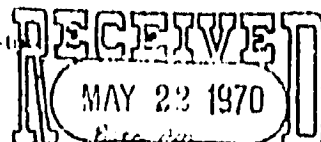
To protect the senior priority water rights, the department is issuing shutoff orders to junior water right holders with priority dates after January 1, 1970 from Angostura Dam to Belle Fourche River confluence. Effective immediately, no diversions of water from the Cheyenne River and tributaries will be allowed for those permits with a priority date after January 1, 1970.

Flow in the Cheyenne River has dropped to the point where domestic use of water, which includes livestock watering from the river, has become a concern. This order will be rescinded as soon as conditions improve. If conditions do not improve, this order will remain in effect until the end of the calendar year.

I am asking for your cooperation in complying with this shutoff order. The ongoing drought is creating hardship for all the water right holders along the river. If you have any questions, please contact Mark Rath or Lynn Beck with the Water Rights Program at (605) 773-3352. Thank you.

No. 1024-2Map No. 888-2Water Division No. 2 EAST CHEYENNE RIVER

(Blanks to be Filled by the Engineer for the W. H. C.)



## 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 Dorothy M. Boyce 4350 Cliff Dr.Post-office address 1017 N. Borghy Rapid City State South Dakota

If a corporation, show date and place of incorporation \_\_\_\_\_

2. Method of accomplishing work (contract, employment of others, or by direct labor) Direct labor3. Name of diversion work Boyce Water Right of Shannon County4. Amount of water claimed (cubic feet per second) 2.525. Source of water supply Cheyenne River

6. Location of point of diversion Pumping to be done from various locations on the East bank of the Cheyenne River between a point 2050 ft more or less, west of the East Quarter corner of Sec 4 T42N, R47W, 12 E.M. and a point downstream 4050 ft, more or less, North County Shannon, of the SE corner of Sec 33, T43N, R47W, 6 E.M.

7. Annual period or periods during which water is to be used April through October8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) Irrigation9. For irrigation use, Total number of acres to be irrigated 175,540

List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

| R47W 6PM Land Description | No. Acres Irr. |
|---------------------------|----------------|
| T43N Sec 33 Gov't Lot 1   | 66.917         |
| T43N Sec 33 Gov't Lot 2   | 1.084          |
| T43N Sec 33 Gov't Lot 3   | 22.584         |
| T43N Sec 33 SE 1/4 SE 1/4 | 24.834         |

| R47W 6PM Land Description | No. Acres Irr. |
|---------------------------|----------------|
| T42N Sec 4 Gov't Lot 1    | 6.115          |
| T42N Sec 4 Gov't Lot 2    | 35.254         |
| T42N Sec 4 Gov't Lot 3    | 16.846         |
| T42N Sec 4 SE 1/4 NE 1/4  | 1.320          |

Attach sheet if more space is needed

10. Time required to complete construction of water supply system five years. Additional time required to complete application of water to the proposed beneficial use 0 years.11. Choice of newspaper for Notice of Intent to Appropriate Water publication Rapid City Journal

12. Principal Features of the Proposed Water Supply System.

A. Works proposed to divert water from its natural source. An Interceptor ditch, in excess of 7124 ft long will be constructed along the base of the shale breaks bordering the East bank of the Cheyenne River (Shannon County) to prevent rain or snow water from flooding, silting, or eroding the proposed irrigation site.

B. Works proposed to transport water to place of use.

Plastic and/or Aluminum pipe 6" or 8" .Appropriate pumps (electric, diesel or gas)

C. Works proposed to apply water to beneficial use

Self propelled sprinkler, gated pipe, and tractor pulled sprinkler pipeEstimated Total Cost \$30,000.00

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map.  
(See instructions concerning preparation.)

STATE OF SOUTH DAKOTA

County of Pennington

I, Dorothy M. Boyce the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.

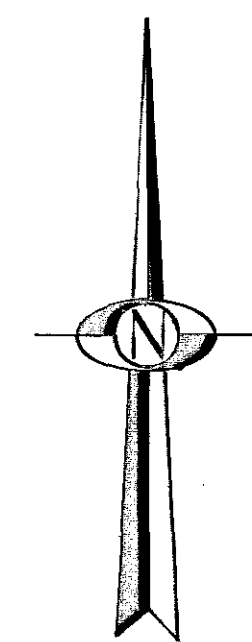
Signed Dorothy M. BoyceSubscribed and sworn to before me this 21st day of May 1970

Ellen O. Hanson  
Public (or other qualified officer)

## BOYCE WATER RIGHT

GOVERNMENT LOTS 1, 2 & 3 AND THE SE  $\frac{1}{4}$  OF THE SE  $\frac{1}{4}$  OF SECTION 33,  
T43N, R47W, OF THE <sup>1st</sup> 6 P.M. SHANNON COUNTY, SOUTH DAKOTA.

GOVERNMENT LOTS 1, 2 & 3 OF THE NE  $\frac{1}{4}$ , THE SE  $\frac{1}{4}$  OF THE NE  $\frac{1}{4}$ , GOVERNMENT LOTS 4 & 5 OF THE SE  $\frac{1}{4}$  AND THE E  $\frac{1}{2}$  OF THE SE  $\frac{1}{4}$ , OF SECTION 4, T42N, R47W, OF THE 6<sup>TH</sup> P.M. SHANNON COUNTY, SOUTH DAKOTA.



SCALE 1" = 400'

PROPOSED AREA TO BE IRRIGATED:

| LOCATION |                                          |       | AREA          |
|----------|------------------------------------------|-------|---------------|
| SEC. 33  | GOVERNMENT                               | LOT 1 | 66.917        |
|          | GOVERNMENT                               | LOT 2 | 1.084         |
|          | GOVERNMENT                               | LOT 3 | 22.589        |
|          | SE $\frac{1}{4}$ OF SE $\frac{1}{4}$     |       | 24.334        |
|          |                                          |       | <hr/> 114.925 |
|          |                                          |       | 114.925       |
| SEC. 4   | GOVERNMENT                               | LOT 1 | 8.145         |
|          | GOVERNMENT                               | LOT 2 | 35.354        |
|          | GOVERNMENT                               | LOT 3 | 16.886        |
|          | SE $\frac{1}{4}$ OF THE NE $\frac{1}{4}$ |       | .220          |
|          |                                          |       | <hr/> 60.615  |
|          |                                          |       | 175.54        |
|          |                                          |       | <hr/> 175.54  |

SECTION LINE  
1/4 LINE  
1/16 LINE  
LIMITS OF IRRIGATION  
INTERCEPTOR DITCH

1. DIVERSION POINT: PUMPING TO BE DONE FROM VARIOUS LOCATIONS ON THE BANK OF THE CHEYENNE RIVER BETWEEN A POINT 2050 FT, MORE OR LESS, WEST OF THE EAST QUARTER CORNER OF SECTION 4, T42N, R47W, 6<sup>23</sup>P.M. AND A POINT DOWN-STREAM 4050 FT, MORE OR LESS, NORTH OF THE SE CORNER OF SECTION 33, T43N, R47W, 6<sup>23</sup>P.M.
2. ALL LAND TO BE IRRIGATED IS OWNED BY DOROTHY M. BOYCE.
3. BOUNDARY DATA OBTAINED FROM STATE AND COUNTY RECORDS.

BEARINGS WERE COMPUTED BY BALANCING THE DEFLECTION ANGLES WITHIN EACH LOT AREAS WERE MEASURED BY PLANIMETER.

STATE OF SOUTH DAKOTA  
COUNTY OF PENNINGTON

I, RAYMOND J. HENGEL, REGISTERED PROFESSIONAL ENGINEER NO. 889 OF THE STATE OF SOUTH DAKOTA, DO HEREBY CERTIFY THAT BEING SO AUTHORIZED, I OBTAINED THE NECESSARY INFORMATION, PERFORMED THE CALCULATIONS AND PREPARED THE MAP OF THE LAND SHOWN AND DESCRIBED HEREON.

STATE OF SOUTH DAKOTA  
COUNTY OF PENNINGTON

BEFORE ME, JOSEPH M. CONNELLY, NOTARY PUBLIC, PERSONALLY  
APPEARED RAYMOND J. HENGEL, REGISTERED PROFESSIONAL  
ENGINEER WHO CERTIFIES THAT HE SIGNED THE ABOVE  
DOCUMENT AS THE REGISTERED PROFESSIONAL ENGINEER.  
DATED MAY 12, 1970.



MAP № 333-2 (App. № 1024-2)

## WATER RIGHT APPLICATION APPROVAL

The Water Resources Commission hereby approves Water Right Application No. 1024.2  
DOROTHY M. BOYCE R.R.#4 Box 967, RAPID CITY  
 (Applicant) 9350 Ct. 86, S.D. (Post Office Address)  
SOUTH DAKOTA With the following modifications:  
 (State)

DIVERSIONS OF WATER UNDER THIS PERMIT ARE CONTINGENT UPON WATER SUPPLIES BEING FIRST AVAILABLE TO PRIOR WATER RIGHTS DOWNSTREAM ON THE CHEYENNE RIVER. FLOW RECORDS SHOW THAT THERE ARE OCCASIONAL YEARS WHEN THE FLOWS OF THE CHEYENNE RIVER ARE DEFINITELY AND RECOGNIZABLY LOWER THAN USUAL DURING THE MONTHS OF JULY, AUGUST AND SEPTEMBER. DIVERSIONS OF WATER ARE NOT TO BE MADE UNDER THIS PERMIT DURING SUCH LOW FLOW PERIODS.

Date of first receipt of application MAY 22 19 70  
 Date of return to applicant for correction, amendments or changes required — 19 —  
 Date of receipt of corrected application — 19 —  
 Approved JULY 22 19 70 Recorded in Book 11 Page 159

WATER RIGHT PERMIT NO. 1024.2

The Water Resources Commission hereby grants and issues this Water Right Permit No. 1024.2 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as modified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is MAY 22 19 70
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before JANUARY 22 19 73
3. The whole of said work is to be completed on or before JULY 22 19 75
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is JULY 22 19 75
5. The water appropriated shall be used for the purpose of IRRIGATION
6. 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.
7. The amount of the appropriation herein granted shall not exceed 2.57 cubic feet per second; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for beneficial uses served, and if for the irrigation purposes said appropriation must be limited to not more than 3 acre feet per acre per year and 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 JULY 22 19 70; said water to be used during the following described annual period: APRIL THRU OCTOBER

Witness my hand this 28TH day of JULY 19 70

WATER RESOURCES COMMISSION

By:

[Signature]  
 Chief Engineer, Executive Officer

Certificate of Construction Issued DECEMBER 23 19 80

Water License Issued DECEMBER 23 19 80

## STATE OF SOUTH DAKOTA

## WATER LICENSE NO. 1024-2

(1) WHEREAS, On the 22nd day of May A. D. 19 70  
Dorothy M Boyce

made Water Right Application No. 1024-2 for a permit to use 2.52 cubic feet per second of the waters  
of the Cheyenne River

County of Shannon, State of South Dakota, for irrigation

purposes; and  
(2) WHEREAS, On the 22nd day of July A. D. 19 70

Permit No. 1024-2, with a date of priority of May 22, 1970

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 July A. D. 19 75 and for the  
application to beneficial use of said water on or before the 22nd day of July A. D. 19 79

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 .63 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,  
to irrigate the following lands,

in Section 4, T42N, R47W

Gov't Lot 1 2 acres

Gov't Lot 2 25 "

Gov't Lot 3 15 "

in Section 33, T43N, R47W

Gov't Lot 3 2 acres

TOTAL 43 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 Dorothy M. Boyce

\_\_\_\_\_ of Rapid City, SD

the holder \_\_\_\_\_ and owner \_\_\_\_\_ of said permit No. 1024-2 a water right, dating from May 22, 1970

\_\_\_\_\_ to use of .63 cubic feet per second of the waters

of the Cheyenne River

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

purposes hereinbelow mentioned, to be diverted at between point A, 2050 feet west of E $\frac{1}{2}$  corner Sec. 4,

T42N, R47W and Point B, 4150 feet north of SE corner, Section 33, T43N, R47W

and conducted to and upon portions of land in Section 4, T42N, R47W and Section 33,

T43N, R47W more fully described on the face of this License

for the purpose of irrigation

Subject to any limitations listed in Water Right Permit No. 1024-2 and subject to the laws of the State of South Dakota.

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

this 23rd day of December A. D.

Nineteen Hundred and Eighty

WATER MANAGEMENT BOARD

By:

John Hatch  
Chief Engineer, Executive Officer JOHN HATCH

Permit No. 1024-2

Water Diversion No. 2 ~~East Cheyenne River~~ Water District

### CERTIFICATE OF CONSTRUCTION

This is to Certify, That Lorothy U. Boyce

\_\_\_\_\_ the holder \_\_\_\_\_ of  
Permit No. 1024-2, issued upon Application No. 1024-2, bearing date of priority of \_\_\_\_\_  
May 22, 1970 authorizing the diversion of 2.52 cu. ft. per second of the waters of \_\_\_\_\_  
the Cheyenne River County of Shannon, State of South Dakota at \_\_\_\_\_  
between point A, 2050 feet west of E<sup>1</sup> corner Section 4, T42N, R47W and Point  
B, 4150 feet north of SE corner Section 33, T43N, R47W  
\_\_\_\_\_, 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 3.33 cu. ft. per second of water.

Date December 23, 1980

John Hatch  
JOHN HATCH, Chief Engineer  
Water Rights Division

Form 6 - Notice of Intent to Appropriate Water

1024-2

Publish first publication, on or before June 25, 1970

NOTICE  
INTENT TO APPROPRIATE WATER

Pierre, South Dakota 57501

May 26, 1970 1970

Notice is hereby given that Dorothy H. Boyce

whose post office address is Rapid City, South Dakota, has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 2.52

Boyce Shannon County cubic feet of water per second of time from the Cheyenne River through the Water Right

the point of diversion of which is to be located between points in Lot 3, Section 4, T42N, R47W and in lot 1,

of Section 33, Twp. 43N, Range 47W. Said water to be used for the purpose of providing irrigation on the following described land:

portions of  
lots 1, 2 and 3, and SE 1/4 SE 1/4, Section 33, T43N, R47W; and lots 1, 2 and 3, and SE 1/4 NE 1/4, Section 4, T42N, R47W

This application No. 1024-2 164222 will be considered by the Water Resources Commission at their office at Pierre upon the 22nd day of July, 1970, at 2:00 P. M. All interested persons may appear and be heard.

WATER RESOURCES COMMISSION

cc:

Mrs. Dorothy H. Boyce  
R.R. #4, Box 967  
Rapid City, SD. 57701

By:

BURTON F. JONES, Water Rights Specialist

# Affidavit of Publication

STATE OF SOUTH DAKOTA

County of Pennington

ss.

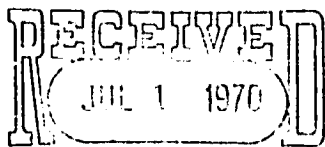
Jerry J. Shomer, being first duly sworn, upon his oath says: That he is now and was at all times hereinafter mentioned, an employee of the RAPID CITY JOURNAL COMPANY, a corporation, of Rapid City, South Dakota, the owner and publisher of the RAPID CITY JOURNAL, a legal and daily newspaper printed and published in Rapid City, in said County of Pennington, and has full and personal knowledge of all the facts herein stated as follows: that said newspaper is and at all of the times herein mentioned has been a legal and daily newspaper with a bonafide paid circulation of at least Two Hundred copies daily, and has been printed and published in the English language, at and within an office maintained by the owner and publisher thereof, at Rapid City, in said Pennington County, and has been admitted to the United States mail under the second class mailing privilege for at least one year prior to the publication herein mentioned; that the advertisement, a printed copy of which, taken from said RAPID CITY JOURNAL, the paper in which the same was published, is attached to this sheet and made a part of this affidavit, was published in said newspaper once each week

for three successive weeks, the first publication thereof being on the 29th day of May, 1970, that the fees charged for the publication thereof are Twenty-three Dollars and 60 cents.

Subscribed and sworn to before me this 19th

June, 1970.

Notary Public.



STATE WATER RESOURCES COMMISSION  
PIERRE, SOUTH DAKOTA

## APPLICATION FOR EXTENSION OF TIME

TO: **WATER RIGHTS COMMISSION**  
 State Office Building No. 2  
 Pierre, South Dakota 57501

Date \_\_\_\_\_

Dear Sirs:

In Water Right Permit No. 1024-2 it is specified that the water diversion system is to be completed by  
July 22, 1975 and that the water is to be put to the limit of beneficial use by  
July 22, 1975.

I hereby request that the date for completing the diversion system be extended to no change,  
 19\_\_\_\_ and that the date for putting the water to the limit of beneficial use be extended to  
July 22, 1979.

The extension of time for the completion of these works is requested for the following reasons: \_\_\_\_\_  
 not enough time requested in the original application

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Enclosed herewith is a fee of \$1.00 to pay the cost of filing this request for extension of time.

Harold M. Boyce  
 (Signed)  
 Holder of Permit No. 1024-2

APPROVED:

**WATER RIGHTS COMMISSION**

By:

# RECEIPT

## WATER RIGHTS COMMISSION

State of South Dakota

No 4 7837

PIERRE, December 19, 1930

RECEIVED OF Dorothy M. Boyce, RR 4, Box 967, 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. .... 1024-2                                 | 50        | 00        |
| Fee for inspecting Beneficial Use, and Issuing Water License No. .... 1024-2                                       |           |           |
| Fee for issuing Location Certificate-Dry Draw, No. ....                                                            |           |           |
| Fee for filing .....                                                                                               |           |           |
| Fee for certified copy of .....                                                                                    |           |           |
| Fee for Print copy of map .....                                                                                    |           |           |
| Fee for Certifying .....                                                                                           |           |           |
| Fee for .....                                                                                                      |           |           |
| (any other work as provided by law)                                                                                |           |           |
| <b>TOTAL</b>                                                                                                       | <b>50</b> | <b>00</b> |

WATER RIGHTS COMMISSION

By *(John Hatch)*  
Chief Engineer, Executive Officer  
JOHN HATCH / *(initials)*

Permit No. 1024-2Water Division 2 East Cheyenne River Water District

**REPORT OF EXAMINATION OF WORKS  
AND/OR APPLICATION OF WATER TO BENEFICIAL USE**

TO: WATER RIGHTS, WATER MANAGEMENT BOARD / POSS BLDG., PIERRE, SOUTH DAKOTA 57501

I have this day made a thorough examination of the water use system constructed by Donny M. Boyce of R.H. Box 767, Rapid City, S.Dak. holder of Permit No. 1024-2, bearing date of priority of May 22, 1970 authorizing the diversion of 2.52 cu. ft. per second of the waters of Cheyenne River for Irrigation purposes, in Shannon 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:

Engine = Jaeger F226-319 104743 6cyl. Gasoline Flat Six.Pump = Jaeger Model 6P, size 6, Ser# P171250 90M 1500 gpm.

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

6" Aluminum Mainlines. 1/2 mile long

## C. Works used to apply water to beneficial use.

6" Gated Pipe. 360 ft.The system is in the following condition: GoodThe point of diversion is located Between point "A", 2050' W of E 1/2 Cor Sec 4,T42N R47W and Pt B, 4150' N of SE Cor Sec 33, T43N R47WThe works are capable of diverting and conveying to the place of use 3.33cu. 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: The following in Sec. 4T42N R47W. Gov't Lot 1 - 2 Ac. Gov't Lot 2 - 25 Ac.Gov't Lot 3 - 15 Ac. The following in Sec. 33, T43N R47WGov't Lot 3 - 2 Ac.comprising a total of 44 acres of land.44 ÷ 70 = .63 cfs.License for .63 cfsDate June 23, 1980Lesley J. Wernau

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

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

October 19, 1987

827-2A  
1024-2  
1221-2

Bryce Nelson Real Estate  
PO Box 2211  
4820 Riva Ridge Rd  
Rapid City, SD 57709

Dear Mr. Nelson:

This letter will acknowledge receipt of the warranty deeds you forwarded to our office concerning land purchased by Clarence Werner. Portions of the legal descriptions specified in the deeds are covered under Water Right Nos. 827-2A, 1024-2 and 1221-2.

In order for these water rights to be transferred from Raymond and Dorothy Boyce to Clarence Werner, a "Notice of Transfer" will need to be filed for each one. Enclosed are partially completed transfer forms. These should be signed by the new owner in the presence of a Notary Public. A \$2.50 filing fee is required for filing a "Notice of Transfer". Please return the completed transfer forms and a total of \$7.50 in filing fees to our office.

Part of the legal descriptions listed in the warranty deeds were for property owned by the Boyce's in Shannon County. One of the enclosed transfer forms is for this water right as I assumed it should be transferred also.

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 concerning the transfers, please contact me.

Sincerely,

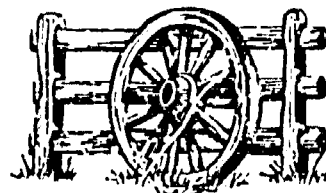
*Genny McMATH*

GENNY MCMATH  
Natural Resources Analyst

encl

P.O. Box 2211  
4820 Riva Ridge Rd.  
Rapid City, South Dakota 57709  
(605)343-9697 / (605)343-9192

1024-2  
**BRYCE D. NELSON**  
**REAL ESTATE**



October 8, 1987

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

Attention Water Rights Division  
Timothy G. Schaal

Dear Mr. Schaal;

Raymond and Dorothy Boyce have sold their ranch property in Custer County to  
Clarence L. Werner.

I have enclosed a copy of the deed for your files.

If there is something else that you need to transfer the water Rights associated  
with this property, please let me know.

Sincerely,

*Bryce D. Nelson*

Bryce D. Nelson  
BDN/bf

Raymond A. Boyce and Dorothy M. Boyce, husband and wife

grantor S, of Pennington County,

State of South Dakota for and in consideration of One Dollar

and other good and valuable consideration DOLLARS

GRANT'S, CONVEY, AND WARRANT'S, TO Clarence L. Werner, a married person

grantee, of Route 4, Box 158, Hermosa, SD 57744 P. O. the following described

real estate in the County of Custer in the State of South Dakota:

Government Lots One (1), Two (2), Three (3), Four (4) and Five (5) and the Southeast Quarter of the Northeast Quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$ ) and the East Half of the Southeast Quarter (E $\frac{1}{2}$ SE $\frac{1}{4}$ ) of Section Four (4); all in Township Forty-Two (42) North, Range Forty-Seven (47) West of the Sixth Principal Meridian, Shannon County, South Dakota; and

Government Lots One (1), Two (2) and Three (3) and the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$ ) of Section Thirty-Three (33); all in Township Forty-Three (43) North, Range Forty-Seven (47) West of the Sixth Principal Meridian, Shannon County, South Dakota;

Dated this 1<sup>st</sup> day of October, 1987

Raymond A. Boyce

Dorothy M. Boyce

STATE OF SOUTH DAKOTA, }  
County of \_\_\_\_\_ } ss.

Filed for record this \_\_\_\_\_ day of

\_\_\_\_\_, 19\_\_\_\_ at

\_\_\_\_ o'clock \_\_\_\_ M., and recorded in

Book \_\_\_\_\_, Page \_\_\_\_\_

Register of Deeds.

By \_\_\_\_\_ Deputy.

Fees, \$ \_\_\_\_\_

STATE OF SOUTH DAKOTA, }  
County of Pennington } ss.

On this the 1<sup>st</sup> day of October, 1987, before me, Scott D. Nelson the undersigned officer, personally appeared Raymond A. Boyce and Dorothy M. Boyce, husband and wife

known to me or satisfactorily proven to be the persons whose name S subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Scott D. Nelson

Notary Public

My commission expires February 6, 1992.



1024-2

# NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Rights  
Foss Building  
Pierre, SD 57501

Date: October 26, 1987

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

Gov't Lots 1, 2 & 3, Section 4, T42N, R47W

Gov't Lot 3, Section 33, T43N, R47W

formerly owned by Raymond and Dorothy Boyce

has been transferred to Clarence L. Werner, Rt. 4 Box 15B, Hermosa, SD 57744

(please include complete mailing address)

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

Water Right Permit No. 1024-2 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 Div. of Water Rights, Water Management Board 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.

STATE OF SOUTH DAKOTA )  
 ) ss.  
County of Pennington )

I, Clarence L. Werner 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.

Clarence L. Werner  
(Signed)

Subscribed and sworn to before me this 26th Day of October, 1987.

James D. Nelson  
(Notary Public)

My commission expires Feb. 6, 1992

WNR-820-9/83

Notice of Transfer of Water Permit

# RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

Pierre, November 12, 1957, 19

RECEIVED OF Bryce Nelson Reed Estate, 4820 Nova Ridge Rd., Rapid City, SD 57702  
the following amount in fees for services rendered as provided for by law: (for Clarence Warner)

|                                                                                                                            |       |      |
|----------------------------------------------------------------------------------------------------------------------------|-------|------|
| 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 1024-2 _____                                                                                  | 2     | 50   |
| 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 \_\_\_\_\_  
Chief Engineer JOHN HATCH MS



# Department of Water & Natural Resources

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

January 29, 1988

DOROTHY BOYCE  
4350 CLIFF DR  
RAPID CITY, SD 57701

## NOTICE

Re: Violation of Requirement To Submit 1987 Irrigation  
Questionnaire

Our records indicate that the 1987 Irrigation Questionnaire has not been submitted for Permit No(s). (1024-2). The request for the Questionnaire was dated October 8, 1987. The Water Management Board has directed that owners of water permits who have not submitted 1987 Irrigation Questionnaires be given notice of hearing(s) to be held by the Board to determine if any action is to be taken concerning the violation.

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

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

1. Amend Permit No(s). 1024-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action;
3. Take no action.

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

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

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



# Department of Water & Natural Resources

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

February 5, 1988

827-2A  
1024-2  
1221-2

Raymond & Dorothy Boyce  
4350 Cliff Dr.  
Rapid City SD 57701

Dear Mr. & Mrs. Boyce:

I am writing to acknowledge receipt of your 1987 Irrigation Questionnaire(s). A notice was sent to you January 29, 1988 regarding the the requirement to submit the Irrigation Questionnaire(s) for Water Permit Nos. 827-2A, 1024-2, 1221-2 and the hearing date before the Water Management Board.

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

Very truly yours,

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

NOTE: Clarence Werner has been contacted about transfer of these water permits.



# Department of Water & Natural Resources

Joe Foss Building

523 East Capitol

Pierre, South Dakota 57501-3181

WATER RIGHTS DIVISION

(605) 773-3352

February 24, 1988

Clarence Werner  
RR 4, Box 15B  
Hermosa, South Dakota 57744

Dear Mr. Werner:

I am contacting you in regard to the ownership status of Water Right Nos. 827-2A, 1024-2 and 1221-2. The completed transfer forms and filing fees were received in our office November 12, 1987. The water rights were then transferred to your name.

By copy of this letter, I am sending Receipts for the filing fees to Bryce Nelson Real Estate. I apologize for not notifying you sooner that the transfers were completed.

If you have any questions, please contact me.

Sincerely,

Genny McMath  
Natural Resources Analyst

GM:ms

cc: Bryce Nelson Real Estate

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

July 12, 1989

**NOTICE**

TO: Cheyenne River Irrigators

FROM: *for* John Hatch, Chief Engineer  
Division of Water Rights *James Winterton*

SUBJECT: Shutoff Order for water rights in the Cheyenne River reach from the Angostura Dam to Rapid Creek with priority dates after 1965.

Due to the present low flow conditions in the Cheyenne River, the following water rights must cease withdrawals of water from the Cheyenne River for the remainder of this irrigation season. This order is effective July 14, 1989. Additional shutoffs may be necessary if conditions show the need.

| PERMIT NO. | NAME                                 | PRIORITY DATE |
|------------|--------------------------------------|---------------|
| 1241-2     | Donald R. Thorsen, Scenic            | 02/06/75      |
| 1923-2     | Rittburger Beef & Dairy, Buffalo Gap | 03/15/85      |
| 1613-2     | Rittberger Beef & Dairy, Buffalo Gap | 10/28/77      |
| 1408-2     | RIBOB-ELJIM-KADEN, Sioux Falls       | 06/06/77      |
| 1754-2     | Earl Stombaugh, Buffalo Gap          | 01/27/81      |
| 1109-2     | Lloyd Neugebauer, Oral               | 04/21/72      |
| 1882-2     | Roland/Donna March, Hot Springs      | 05/29/84      |
| 1024-2     | Clarence Werner, Hermosa             | 05/22/70      |

If you have any questions, please contact Jim Winterton, Division of Water Rights, Joe Foss Building, Pierre, SD 57501. Phone (605) 773-3352.

cc: Water Right Holders on the Cheyenne River in the Reach from Angostura Dam to the Rapid Creek Confluence





# Department of Water & Natural Resources

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

July 19, 1989

## NOTICE

TO: Cheyenne River Irrigators

FROM: *for* John Hatch, Chief Engineer  
Division of Water Rights *James E. Winterton*

SUBJECT: Rescission of Shutoff Order for the following water rights in the Cheyenne River reach from the Angostura Dam to Rapid Creek with priority dates after 1965.

| PERMIT NO. | NAME                                 | PRIORITY DATE |
|------------|--------------------------------------|---------------|
| 1241-2     | Donald R. Thorson, Scenic            | 02/06/75      |
| 1923-2     | Rittburger Beef & Dairy, Buffalo Gap | 03/15/85      |
| 1613-2     | Rittberger Beef & Dairy, Buffalo Gap | 10/28/77      |
| 1408-2     | RIBOB-ELJIM-KADEN, Rapid City        | 06/06/77      |
| 1754-2     | Earl Stombaugh, Buffalo Gap          | 01/27/81      |
| 1109-2     | Lloyd Neugebauer, Oral               | 04/21/72      |
| 1882-2     | Roland/Donna March, Hot Springs      | 05/29/84      |
| 1024-2     | Clarence Werner, Hermosa             | 05/22/70      |

In followup to my telephone discussion with many of you on July 19, 1989, the shutoff order is rescinded. The present flow conditions in the Cheyenne River appears to be of a sufficient quantity to allow continued irrigation at least for the time being. This notice is effective July 19, 1989. Controls may still be necessary if the downstream flows again are reduced to a point where adverse impacts are caused prior water rights and domestic uses. If this occurs, I am open to any suggestions on how we could manage and regulate the use to assure continued flows.

If you have any questions, please contact Jim Winterton, Division of Water Rights, Joe Foss Building, Pierre, SD 57501. Phone (605)773-3352.

cc: Water Right Holders on the Cheyenne River in the Reach from Angostura Dam to the Rapid Creek Confluence





# Department of Water & Natural Resources

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

1024-2

July 19, 1990

## NOTICE

TO: Cheyenne River Irrigators

FROM: John Hatch, Chief Engineer *John Hatch*  
Division of Water Rights

SUBJECT: Shutoff Order for water rights in the Cheyenne River reach from the Angostura Dam to Rapid Creek with priority dates after 1965.

Due to the present low flow conditions in the Cheyenne River, the following water rights must cease withdrawals of water from the Cheyenne River for the remainder of this irrigation season. This order is effective July 21, 1990. Additional shutoffs may be necessary if conditions show the need.

| PERMIT NO. | NAME                                 | PRIORITY DATE |
|------------|--------------------------------------|---------------|
| 1241A-2    | Chauncey D. Taylor, Hermosa          | 02/06/75      |
| 1241B-2    | Donald R. Thorson, Scenic            | 02/06/75      |
| 2061-2     | Rittberger Beef & Dairy, Buffalo Gap | 08/22/88      |
| 1923-2     | Rittberger Beef & Dairy, Buffalo Gap | 03/15/85      |
| 1613-2     | Rittberger Beef & Dairy, Buffalo Gap | 10/28/77      |
| 2059-2     | Fred Weibert, Hermosa                | 06/27/88      |
| 1408-2     | RIBOB-ELJIM-KADEN, Rapid City        | 06/06/77      |
| 1754-2     | Earl Stombaugh, Buffalo Gap          | 01/27/81      |
| 1109-2     | Lloyd Neugebauer, Oral               | 04/21/72      |
| 1882-2     | Roland/Donna March, Hot Springs      | 05/29/84      |
| 1024-2     | Clarence Werner, Hermosa             | 05/22/70      |

If you have any questions, please contact Del Brosz, Division of Water Rights, Joe Foss Building, Pierre, SD 57501.  
Phone (605) 773-3352.

cc: Water Right Holders on the Cheyenne River in the Reach from Angostura Dam to Rapid Creek Confluence

 **Department of  
Water & Natural Resources**

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

July 30, 1990

827-2A

1024-2

1221-2

Fred Rittberger  
Rittberger Beef & Dairy Inc  
HCR 83 Box 13  
Hermosa, SD 57744

Dear Mr. Rittberger:

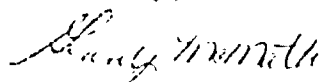
Enclosed, as you requested, are partially completed "Notice of Transfer of Ownership" forms. The forms are for use in filing ownership changes on Vested Water Right Claim No. 1221-2 and Water Right Nos. 827-2A and 1024-2. These are currently listed in the name of Clarence Werner.

Please complete the forms and then sign them in the presence of a notary public. Upon completion, return the forms to our office with a required filing fee of \$2.50 each (total of \$7.50).

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,



Genny McMath  
Natural Resources Analyst  
(605) 773-3352

enclosure

NOTICE OF TRANSFER OF OWNERSHIP



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

No. 1024-2

Date: Dec 10, 1990

I/We request that Water Permit/Right No. 1024-2

formerly owned by: Clarence Werner

be transferred to: (name & address) R. L. Berger Brothers, LLC, Box 17,  
Buffale Gap, SD 57223 (telephone No.) 605-333-6825

Title to the following described land(s)/property has been transferred as described above:  
Lots 1, 2 & 3 Section 4, T42N, R47W and Lot 3, Section 33, T43N, R47W

I/We understand that the validity of Water Permit/Right No. 1024-2 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 Custer )

I/We R. L. Berger Brothers 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.

R. L. Berger Brothers  
By: Robert Berger  
(Signed)

Subscribed and sworn to before me this 20 day of December, 1990.

Elbert Malvin  
(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.

NOTICE OF TRANSFER OF OWNERSHIP



No. 1024-2

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

Date: Dec 19 1990

I/We request that Water Permit/Right No. 1024-2

formerly owned by: Clarence Werner

be transferred to: (name & address) Rattberger Brothers, HC 56, Box 17  
Buffalo Gap, SD 57228 (telephone No.) 605-533-6525

Title to the following described land(s)/property has been transferred as described above:  
Lots 1, 2 & 3 Section 4, T42N, R47W and Lot 3, Section 33, T43N, R47W

I/We understand that the validity of Water Permit/Right No. 1024-2 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 Custer )

I/We Robert Rattberger 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.

*Rattberger Brothers*  
*By Robert Rattberger*  
(Signed)

Subscribed and sworn to before me this 20 day of December, 1990.

*Robert Melvin*  
(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, \_\_\_\_\_, 19\_\_

RECEIVED OF \_\_\_\_\_

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. 1024-7                                                                        | 2     | 50   |
| 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 \_\_\_\_\_  
Chief Engineer



DEPARTMENT OF WATER & NATURAL RESOURCES

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

January 8, 1991

No. 1221-2  
1024-2  
827-2A

Rittberger Brothers  
HC 56 Box 19  
Buffalo Gap SD 57722

Dear Mr. Rittberger:

Enclosed is are three receipts in the amount of \$2.50 each which you paid for the transfer of Vested Water Right No. 1221-2, Water Right No. 1024-2, and Water Right No. 827-2A.

Our records now show you as the owner of Vested Water Right No. 1221-2, Water Right No. 1024-2, and Water Right No. 827-2A.

Sincerely,

JACI KONOP  
Senior Secretary  
Water Rights Division  
605 773-3352

enclosure



# Department of Water & Natural Resources

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

March 14, 1991

1024-2  
827-2A

Rittberger Brothers  
HC 56 Box 19  
Buffalo Gap, SD 57722

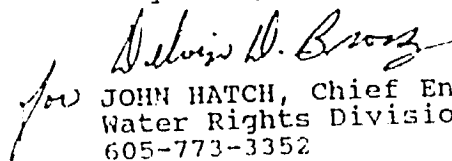
Dear Sir:

I am contacting irrigators and water users below Angostura Reservoir to advise of the low water level conditions in Angostura Reservoir and of potential water use restrictions from the Cheyenne River. Due to the continuing drought, Angostura Reservoir is receiving below normal inflows. As of February 27, 1991 the water level in the reservoir was at elevation 3170.25 feet above mean sea level (msl). Full elevation of the reservoir is 3187.2 msl.

Flow conditions in the Cheyenne River will be monitored during the coming irrigation season. Low flows may require that shut off orders be issued to junior water right holders to protect senior water rights. Low water levels in Angostura and the potential for low flows in the Cheyenne should be considered when planning for the coming water use and irrigation season.

Junior Water Rights above Angostura were shut off during 1989 and will remain shut off until Angostura fills again. If you have any questions, please contact Mark Rath or Del Brosz (605-773-3352).

Very truly yours,

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



1024-2  
**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3181  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

January 14, 2000

**NOTICE**

**TO:** RITTBERGER BEEF & DAIRY INC, ROBERT RITTBERGER, HC 89 BOX 302A,  
HERMOSA, SD 57744

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

**SUBJECT:** Reporting Requirement for 1999 Irrigation Questionnaire(s)

Our records indicate that the 1999 Irrigation Questionnaire has not been submitted for Permit No(s) 827-2A, 1024-2, 1221-2 & 1613-2. The request for the Questionnaire was dated October 7, 1999. The Water Management Board has directed that owners of water permits who have not submitted the 1999 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

The hearing will be held at 1:30 pm, March 1, 2000, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 827-2A, 1024-2, 1221-2 & 1613-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is(are) received in this office on/or before February 28, 2000, your name will be deleted from the Board agenda. If you have any questions or need assistance with completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

**Note:** Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FUSE BUILDING  
523 EAST CAPITOL  
PIEHRE, SOUTH DAKOTA 57501-3181  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

January 25, 2000

Robert Rittberger  
Rittberger Beef & Dairy, Inc  
HC 89 Box 302A  
Hermosa, SD 57744

RE: Water Permit/Right Nos. 827-2A, 1024-2, 1221-2 and 1613-2

Dear Mr. Rittberger:

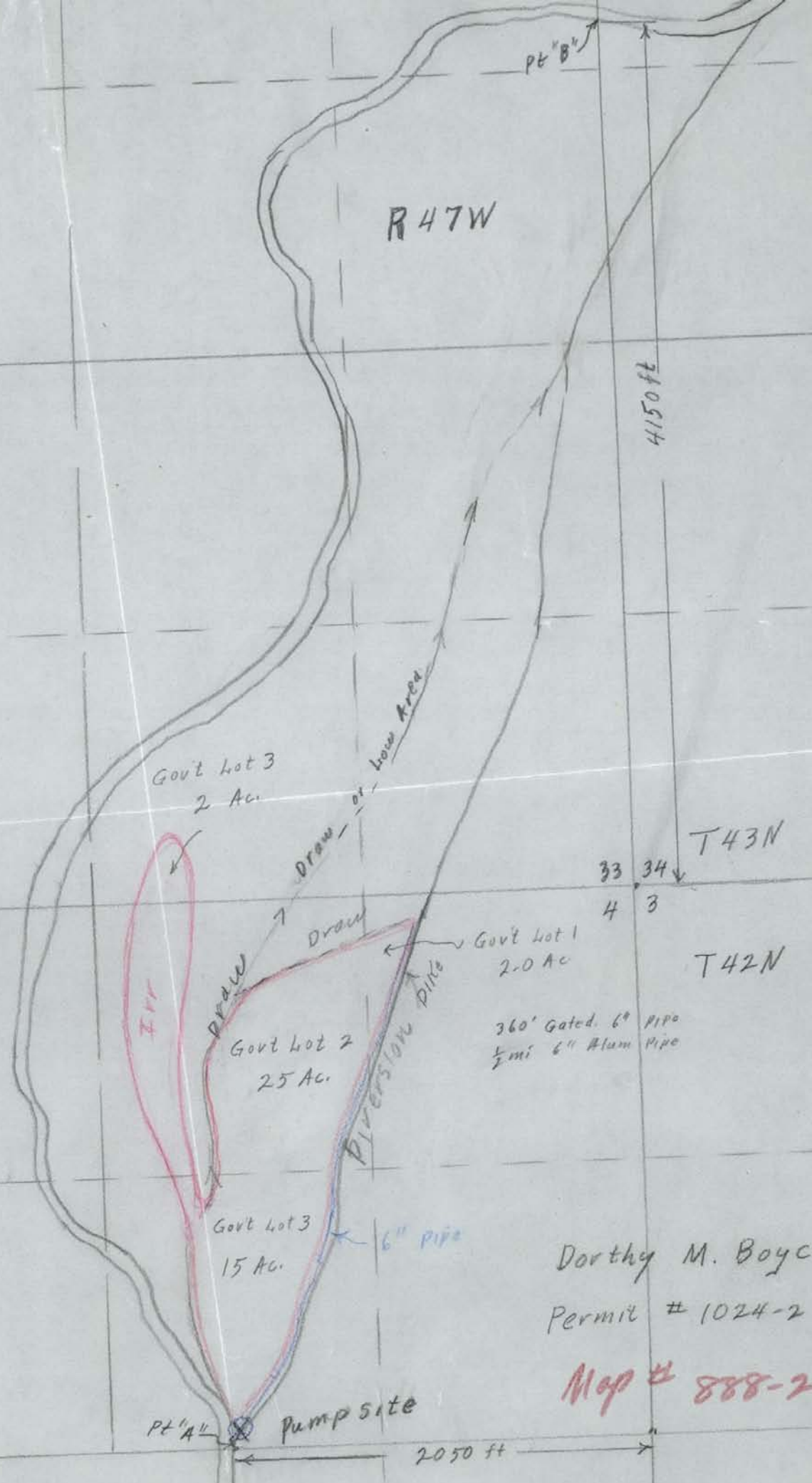
I am writing to acknowledge receipt of your 1999 irrigation questionnaires. You may disregard the January 14, 2000, "Notice" concerning reporting requirements for Water Permit/Right Nos. 827-2A, 1024-2, 1221-2 and 1613-2.

The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



R 47W

Pt "B"

4150 ft

Govt Lot 3  
2 Ac.

Draw or Low Area

T 43N

|    |    |
|----|----|
| 33 | 34 |
| 4  | 3  |

Govt Lot 1  
2.0 Ac

T 42N

Govt Lot 2  
25 Ac.

360' Gated 6" Pipe  
1/2 mi 6" Alum Pipe

Diverston Dike

Govt Lot 3  
15 Ac.

6" Pipe

Dorthy M. Boyce

Permit # 1024-2

Map # 888-2

Pt "A"

Pump site

2050 ft



**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 30, 2006

**NOTICE OF SHUTOFF ORDER**

**TO:** RITTBERGER BROTHERS  
HC 89 BOX 302A  
HERMOSA SD 57744

**FROM:** GARLAND ERBELE, Chief Engineer  
Water Rights Program

**SUBJECT:** Cheyenne River Shutoff Order for Junior Priority Date Water Rights

**Shutoff Order for Water Right Nos. 1024-2/1024A-2**

To protect the senior priority water rights, the department is issuing shutoff orders to junior water right holders with priority dates after January 1, 1970 from Angostura Dam to Belle Fourche River confluence. Effective immediately, no diversions of water from the Cheyenne River and tributaries will be allowed for those permits with a priority date after January 1, 1970.

Flow in the Cheyenne River has dropped to the point where domestic use of water, which includes livestock watering from the river, has become a concern. This order will be rescinded as soon as conditions improve. If conditions do not improve, this order will remain in effect until the end of the calendar year.

I am asking for your cooperation in complying with this shutoff order. The ongoing drought is creating hardship for all the water right holders along the river. If you have any questions, please contact Mark Rath or Lynn Beck with the Water Rights Program at (605) 773-3352. Thank you.



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)

September 5, 2006

1024A-2 1024-2 827B-2 827-2A

RITTBERGER BROTHERS - ROBERT RITTBERGER  
HC 89 BOX 302A  
HERMOSA SD 57744

Dear Sir:

This letter is to inform you that until further notice pumping **will be allowed** to continue under your junior priority water right(s) from the Cheyenne River. Due to recent rains and cooler temperatures, flow in the Cheyenne River has improved and appears to holding steady.

We will continue to monitor the daily stream flows. If flow conditions worsen and domestic use flow is again being impacted, DENR may be forced to again limit pumping.

The USGS maintains a website where you can view real-time stream flow measurements at several sites along the Cheyenne River and it's tributaries at the following web address:

<http://waterdata.usgs.gov/sd/nwis/rt>

If you have any questions, please contact Mark Rath or Lynn Beck with the Water Rights Program at (605) 773-3352. Thank you.

GARLAND ERBELE, Chief Engineer  
Water Rights Program



January 26, 2007

**NOTICE**

1024-2  
**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)

TO: RITTBERGER BROTHERS, ROBERT RITTBERGER, 15663 SD HWY 40, HERMOSA, SD 57744

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

SUBJECT: Reporting Requirement for 2006 Irrigation Questionnaires

Our records indicate that the 2006 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 20, 2006. The Water Management Board has directed that owners of water permits who have not submitted the 2006 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 827-2A, 1024-2 & 1221-2 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 827B-2 & 1024A-2 qualification:

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

The hearing will be held at 10:30 am, March 7, 2007 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 827B-2 & 1024A-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 827-2A, 1024-2 & 1221-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaire(s) is(are) received in this office on/or before **March 1, 2007**, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352. If you prefer, you can complete the questionnaire on-line at the following link:

<https://www.state.sd.us/eforms/secure/eforms/E0455V5-IQ.pdf>

**Note:** Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



1024-2

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)

February 9, 2007

Robert Rittberger  
Rittberger Brothers  
15663 SD Hwy 40  
Hermosa SD 57744

Dear Mr. Rittberger:

I am writing to acknowledge receipt of your 2006 irrigation questionnaires. You may disregard the January 26, 2007, "Notice" concerning reporting requirements for Water Permit or Right Nos. 827-2A, 827B-2, 1024-2, 1024A-2 and 1221-2.

The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



1024-2

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)

March 5, 2007

Dear Water Right Holder;

Due to the ongoing drought I am advising Cheyenne River water right holders of the possibility of shutoff orders in 2007 for the river reach from Angostura Dam to the Belle Fourche River confluence. This is **not a shutoff order**.

As a result of the continuing lack of precipitation, tributary flows throughout the Cheyenne River basin remain well below the historical average. Angostura Reservoir ended February almost 21-feet below full and the forecast for improved conditions throughout the summer months is not favorable.

This letter is only intended to give you advanced warning that your ability to divert water may be cut short this year. If shut-off orders are issued, you will receive another letter from the department. In the meantime, water right holders can help by closely monitoring water usage and trying to avoid wasting water.

South Dakota water law gives the highest priority to domestic use, which includes livestock watering. There is generally adequate water available to meet both domestic use and other needs. However, once water availability reaches critical low levels, other uses, including irrigation, will begin to interfere with domestic use. If levels become critically low, the department must issue shut-off orders to protect domestic water uses. Once these orders are issued, the department will continue to monitor water availability and should conditions improve, the shutoff orders would be rescinded.

If you are interested, the US Geological Survey has an Internet site showing river flows at 150 stream gauging stations across the state. Go to [sd.water.usgs.gov](http://sd.water.usgs.gov) and click on "[Realtime streamflow data via satellite](#)".

Thank you for your cooperation. If you have any questions, please contact Mark Rath or Mike DeFea at (605) 773-3352.

Sincerely,

Garland Erbele, Chief Engineer  
Water Rights Program



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

**NOTICE OF SHUTOFF ORDER**

June 27, 2007

**TO:** RITTBERGER BROTHERS  
15663 SD HWY 40  
HERMOSA SD 57744

**FROM:** GARLAND ERBELE, Chief Engineer  
SD DENR Water Rights Program

**SUBJECT:** Cheyenne River Shutoff Order for Junior Priority Date Water Rights

**Shutoff Order for Water Right Nos. 1024-2 1024A-2**

To protect the senior priority water rights, the department is issuing shutoff orders to junior water right holders with priority dates between January 1, 1970 and present for the river reach between the Angostura Dam to Belle Fourche River confluence. Effective immediately, diversions of water from the Cheyenne River and tributaries will not be allowed for those permits with a priority date after January 1, 1970. This shutoff order applies to Nos. 1024-2 and only to the junior priority portion of 1024A-2 for 0.63 cfs.

Flow in the Cheyenne River continues to decline to the point where domestic use of water, which includes livestock watering from the river, has become a concern. This order will be rescinded as soon as conditions improve. If conditions do not improve, this order will remain in effect until the end of the calendar year.

The USGS maintains a website where you can view real-time stream flow measurements at several sites along the river, the web address is:

**<http://waterdata.usgs.gov/sd/nwis/rt>**

I am asking for your cooperation in complying with this shutoff order. The ongoing drought is creating hardship for all the water right holders along the river.

If you have any questions concerning this order, please contact either Mark Rath at (605) 773-3352 or Aaron Tieman at (605) 394-2229. Thank you.



1024-2  
DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

January 15, 2016

NOTICE

TO: RITTBERGER BROTHERS, ROBERT RITTBERGER, 15663 SD HWY 40, HERMOSA, SD 57744

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

SUBJECT: Reporting Requirement for 2015 Irrigation Questionnaires

Our records indicate your 2015 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 23, 2015. The Water Management Board has directed that owners of water permits who have not submitted the 2015 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 827-2A & 1221-2 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 827B-2 & 1024A-2 qualification:

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

The hearing will be held at **Thursday, March 3, 2016 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 827B-2 & 1024A-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 827-2A & 1221-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 3, 2016** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at [genny.mcmath@state.sd.us](mailto:genny.mcmath@state.sd.us). If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

**Note:** Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

denr.sd.gov

February 3, 2016

827-2A  
827-2B  
1024A-2  
1221-2

Rittberger Brothers  
c/o Robert Rittberger  
1563 SD Hwy 40  
Hermosa SD 57744

Dear Mr. Rittberger:

I am writing to acknowledge receipt of your 2015 irrigation questionnaires.

You may disregard the January 15, 2016, "Notice" concerning reporting requirements for Water Permit Nos. 827-2A, 827-2B, 1024A-2 and 1221-2. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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

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