

WATER PERMIT NO. 1024A-2

Name of Applicant: Rittberger Brothers

Address: HCR 89 Box 302A Hermosa SD 5774

Phone: 605 255 4394

Amount of Water Claimed: no add'l

Total Acres: no add'l

Source of Water Supply: Cheyenne River

Water to be used for: irrigation

County: Custer

Type of Waste Disposal System:

Location:

PRIORITY

Date Received: 12-16-02

Application/License Fee: \$100

Corrected Application Received:

Period of Annual Use: April 15 – October 1

Remarks: transfer a portion of the acreage authorized by No. 1024-2 to different acreage and change the location of the existing diversion point

Diversion Point: SW ¼ NW ¼ Sec 17-T5S-R10E

Land to be Irrigated: SE ¼ NE ¼, NE ¼ SE ¼ Sec 18 and NW ¼, NE ¼ SW ¼ Sec 17; all in T5S-R10E

Depth of Well: NA

Well Driller: : NA

Remarks:

Type of Map: topo

Prepared by: Donald E Stroup

Reviewed and the Number Assigned on: 1-2-03

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

FORM 2: Application for irrigation in South Dakota
(type or print)

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>1024A-2</u>	(office use only) Hydrologic Unit <u>10120109</u>
	Basin <u>Upper Cheyenne</u>	
	Newspaper <u>Custer Co. Chronicle, Custer</u>	

RECEIVED
DEC 16 2002
WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water For Irrigation

Type of Application: New Vested Right X Amendment/Correction to License No. 1024-2
(Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.) Change to different location

- Name of Applicant Rittberger Brothers Phone 605 255 4394
(check one) Owner Tenant/lessee
Mailing Address HCR 89 Box 302A Hermosa State SD 57744
(Street, RR, or Box and City) (Zip Code)
no add'l
- Amount of water claimed .63 *CFS or **GPM ***AF Total Acreage 43
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply Cheyenne River, Custer County, South Dakota
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) In the SW corner of Lot # Sec 17 T55R10E (SW1/4 NW1/4)
County Custer
- County or counties where water will be used Custer
- Annual period during which water is to be used April 15 - Oct 1
- List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
N 1/2 NW 1/4 Sec 17 T55R10E	43	SW 1/4 NW 1/4 Sec 17 - T55 - R 10E	14
SE 1/4 NE 1/4 Sec. 18 - T55 - R 10E	19	NE 1/4 NW 1/4 Sec 17 - T55 - R 10E	17
NE 1/4 SE 1/4 Sec. 18 - T55 - R 10E	6	SE 1/4 NW 1/4 Sec 17 - T55 - R 10E	33
NW 1/4 NW 1/4 Sec 17 - T55 - R 10E	37	NE 1/4 SW 1/4 Sec 17 - T55 - R 10E	2

- Give a description of the project. (Attach sheet if more space is needed) Total 128 AC
Change approximately 130 acres from irrigation by gravity to irrigation by a center pivot system. No increase in appropriated water or acres irrigated under Water Licenses 319-2 and 2367-2 is authorized by this application.
827+2A+1024-2

STATE OF SOUTH DAKOTA) SS
County of Custer

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Attach map and any other technical information. (see instructions)

I, Robert Rittberger, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Applicant's signature Rittberger Brothers by Robert Rittberger

Subscribed and sworn to before me this 12th day of December 2002

Diome Shoultis Exp. 07-15-08
Notary Public signature

SOUTH DAKOTA
WATER PERMIT NO. 1024A-2

Date of first receipt of application December 16, 2002.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 1024A-2 to Rittberger Brothers, HCR 89 Box 302A, Hermosa SD 57744 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 1024A-2 transfers the acres and changes the diversion point of Water Right No. 1024-2. Water Right No. 1024-2 appropriates 0.63 cubic feet of water per second (cfs) from the Cheyenne River located between points in the NW $\frac{1}{4}$ Section 33-T43N-R47W and the NE $\frac{1}{4}$ Section 4-T42N-R47W for irrigation of 44 acres located in the NE $\frac{1}{4}$ Section 4-T42N-R47W and SE $\frac{1}{4}$ Section 33-T43N-R47W. The 44 acres and the 0.63 cfs diversion authority will be co-joined with the 84.35 acres and the 1.21 cfs water diversion from Water Right No. 827A-2. The new diversion point will be located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 17-T5S- R10E. The 128.35 irrigated acres will be located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 18 and the NW $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 17-T5S-R10E using a center pivot. The diversion from the Cheyenne River for irrigation of these acres will be 1.84 cfs.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 15 – October 1.
3. The date from which applicant may claim right is May 22, 1970 for the 0.63 cfs to irrigate 44 acres as established by Water Right No. 1024-2. The 1.21 cfs and accompanied 84.35 acres have an April 9, 1964 priority date as established by Water Right No. 827-2A.
4. The date of approval of Permit No. 1024A-2 is March 10, 2003.
5. One-fifth of the construction is to be completed on or before September 10, 2005.
6. All construction is to be completed on or before March 10, 2008.
7. Water is to be put to beneficial use on or before March 10, 2012.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. 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 recognizable 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.
2. Diversion under this permit shall be in accordance with any written orders issued by the Chief Engineer.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: Garland Erbele
Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

MAR 31 2003
date



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date December 17, 2002

RECEIVED OF Kittberger Brothers LLC, HCR 83 Box 76, Custer SD 57730

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

Fee for Application for Permit No. <u>1024A2</u> 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. <u>1024A2</u>	50	00
Fee for Filing Transfer Form _____		
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	100.00

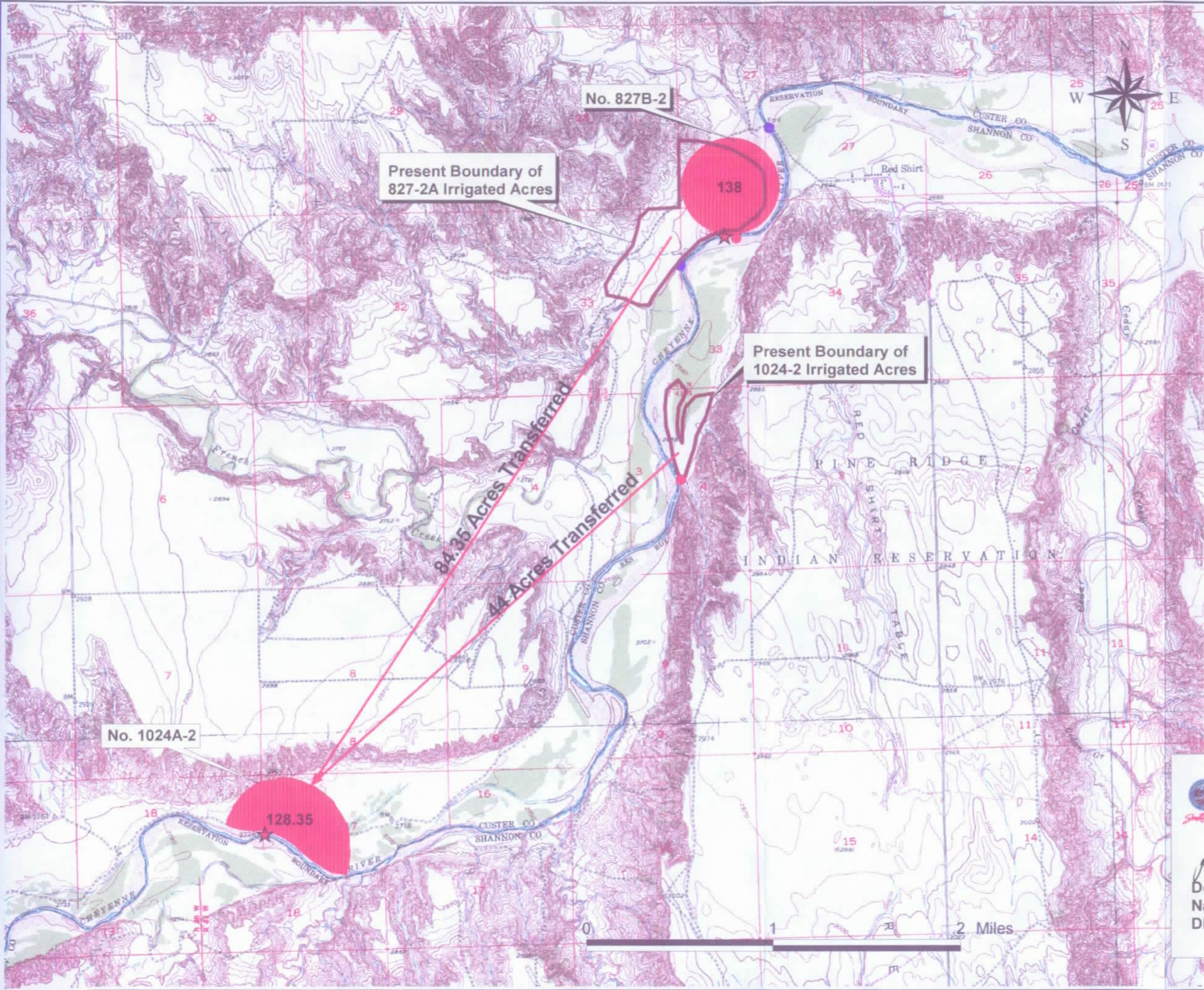
No.

003445

By

Darland Eide
Chief Engineer

Nos. 827B-2 & 1024A-2
Rittberger Brothers
c/o Robert Rittberger
HCR 89 Box 302A
Hermosa, SD 57744



- 138** Proposed Location & Number of Acres to be Irrigated
- 827-2A Diversion Points**
- 1024-2 Diversion Points**
- New Diversion Points**

South Dakota Department of
Environment and Natural Resources

Protecting South Dakota's Tomorrow... Today

Donald E. Stroup
Donald E. Stroup
Natural Resources Project Engineer
DENR Water Rights Program

We would like to transfer approximately 128 acres from Vested Water Right license # 1024-2 and 827-2A.

The acreage on 1024-2 is located in Shannon County where access is a problem and the soil is not as desirable. The instability of land in the Pine Ridge reservation also is a concern. The acreage we will transfer on license 827-2A is on soils that are not as desirable for irrigation. The soils at the new location are sandy loams and will produce better with irrigation from river water.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 1024A-2, Rittberger Brothers**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 1024A-2, Rittberger Brothers, c/o Robert Rittberger, HCR 89 Box 302A, Hermosa SD 57744.

The Chief Engineer is recommending APPROVAL of Application No. 1024A-2 because 1) the proposed diversion can be developed without unlawful impairment of existing rights, 2) the proposed use is a beneficial use and 3) it is in the public interest with the following qualifications:

1. 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 recognizable 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.
2. Diversion under this permit shall be in accordance with any written orders issued by the Chief Engineer.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Garland Erbele, Chief Engineer
February 7, 2003

NOTE: If this application is approved and the project developed, the Water Rights Program intends to conduct a on-site visit for the purpose of licensing the water permit. At that time, Water Permit Nos. 1024A-2, 872B-2 and Water Right No. 827-2A may be incorporated into one water right to reflect the irrigation system.

WATER PERMIT APPLICATION No. 1024A-2

**Rittberger Brothers
c/o Robert Rittberger
HCR 89 Box 302A
Hermosa, SD 57744
(605)255 4394**

Water Permit Application No. 1024A-2, Rittberger Brothers, proposes to amend Water Right No. 1024-2 by separating and transferring all of the land authorized for irrigation and the corresponding water diversion to other land. No increase in the number of acres irrigated or diversion rate is requested by this application.

Water Right No. 1024-2 presently authorizes the diversion of 0.63 cubic feet per second (cfs) of Cheyenne River water for gravity irrigation of 44-acres in portions of Section 4 T42N R47W and Section 33 T43N R47W. The present diversion is from points between the SW¼ NE¼ Section 4 T42N R47W and the NE¼ NE¼ Section 33 T43N R47W. (Attachment 1)

The applicant proposes to transfer Water Right No. 1024-2 land to portions of Sections 17 and 18 T5S R10E. The new diversion point will be in the SW¼ NW¼ Section 17 T5S R10E. The 44-acres and 0.63-cfs water diversion will be co-joined with the 84.35-acres and 1.21-cfs water diversion transferred from Water Permit Application No. 827B-2 (Attachment 1). The combined 128.35 acres will be center pivot irrigated at the combined diversion rate of 1.83-cfs. The applicant proposes this change for the following reasons:

- Center pivot irrigation is more efficient,
- Soil at the present location is not as suitable for irrigation as the proposed location,
- Soil at the proposed location is sandy loam and will produce crops with river water irrigation,
- Present land is located in Shannon County on the East side of the Cheyenne River causing access problems,
- Present land is located within the boundary of the Pine Ridge Indian Reservation.

Review of Water Source

The water source for this proposed project is the Cheyenne River approximately six (6) river miles upstream of Red Shirt, SD in Custer County (Attachment 1). Rising in the high plains of Wyoming in the Thunder Basin National Grasslands, the Cheyenne River meanders around the southern end of the Black Hills entering South Dakota about 14 miles northwest of the town of Edgemont, SD. The river then passes through narrows south of Hot Springs, SD, the location of Angostura Dam. Construction of Angostura Dam, part of the Angostura Unit irrigation system, was completed in 1949. The Bureau of Reclamation (BOR) holds South Dakota Water Right No. US5792 for an annual one-time fill of 138,761 acre-feet of water stored in Angostura Reservoir for irrigation of 12,218 acres, and for fish, wildlife, recreation, and other purposes. Since October 1949 the flow in the Cheyenne River downstream of Angostura Dam has been regulated primarily to serve the irrigation needs of the Angostura Irrigation District. Water is diverted directly from Angostura Reservoir and delivered through a main canal to the Irrigation

District. Average releases to Irrigation District lands are about 40,000 acre-feet per year providing an average on-site delivery of 2.5 acre-feet/acre.

Perennial Cheyenne River flows, above and below Angostura Reservoir, are normally low with occasional high flows occurring during spring snowmelt and periodic rainstorms. Average precipitation in the area is about 16-inches per year, most of which occurs from April through September. During a severe drought in the Upper Cheyenne River Basin, Water Rights along this reach of the Cheyenne River could be subject to Shutoff Orders by the Chief Engineer.

During the normal irrigation season, stream flow in the Cheyenne River below Angostura Dam to the Fall and Cheyenne Rivers' confluence is quite low. In the summer of 2002 the BOR, operator of the Angostura Unit, completed repairs and upgrades on Angostura Dam. These repairs lowered leakage from the radial gates, but BOR doesn't believe the overall rate of leakage from the dam was significantly lessened. Before repairs and upgrades, leakage was about 3.3-cubic feet per second (cfs) and the total return water flows to the Cheyenne River from the Irrigation District were estimated to be 54-percent of the amount released to the main canal or about 30-cfs downstream of the dam to east of Buffalo Gap, SD.

Fall River's confluence with the Cheyenne River is approximately two (2) river miles below Angostura Dam. Fed by thermal springs and wells, Fall River's baseflow normally does not vary far from the median rate throughout the year (Table 1). Historically, the steady flow from Fall River, return water flows from the Irrigation District, and flow from other tributaries has fulfilled State water rights and domestic water use downstream of the Fall and Cheyenne Rivers' confluence.

Table 1. Fall River Median Flow Percentiles (cfs)

Percentile	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
10	20	20	20	19	20	20	21	21	21	21	21	21
25	22	22	22	21	21	22	22	22	22	22	22	22
50	23	24	24	22	22	24	24	24	24	23	24	24
75	26	26	26	26	26	26	26	26	26	26	26	26
90	29	29	30	29	29	29	29	29	29	30	29	29

An Environmental Impact Statement (EIS), in compliance with the National Environmental Policy Act, was prepared in 2002 by BOR in conjunction with renewal of the Angostura Irrigation District contract. This EIS analyzed the impacts of four (4) water management alternatives; 1) No Action, 2) Re-establishment of Natural Flows below Angostura Dam, 3) Improved Efficiencies in the Irrigation District's System, and 4) Reservoir Recreation and Fisheries. Improved Efficiencies was selected as the preferred alternative for the management of Angostura Dam and the Irrigation District.

The Improved Efficiencies Alternative within the Irrigation District includes measures such as lining canals and laterals, putting laterals into pipes, improving water measuring devices, leveling fields, irrigating by gated pipe or sprinkler, etc., with estimated water saving increases of 5-percent for the delivery system and 10-percent for on-farm efficiency. Saved water could be used for recreation, fisheries, downstream flows, or other purposes. Although return flows from the Irrigation District will lessen, a 10-percent on-farm efficiency improvement would not be

expected to significantly change the Cheyenne River's flow rates during the normal irrigation season.

Consultations between BOR, the State of South Dakota, and the Irrigation District on implementation of the Improved Efficiencies Alternative and other measures pertinent to water management practices within Angostura Unit are presently in progress.

From 1968 to 1980 USGS maintained a stream flow gaging station east of Buffalo Gap, SD immediately downstream of the northern boundary of this proposed project. The limited historical data from this gage for the June through August interval, when Cheyenne River flows are mainly regulated by output to the Irrigation District from Angostura Dam, indicate there is a 50-percent probability the median flow rate at the proposed project site will range from 45 to 58-cfs or greater during this interval of any given year. There is a 75-percent probability the median flow rate will range from 34 to 47-cfs or greater for the same interval at this location. (Table 2).

Table 2. Buffalo Gap Monthly Median Flow (cfs)

Percentile	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
10	41	57	55	46	43	36	39	39	56	62	60	41
25	48	60	60	52	49	41	34	47	62	64	65	54
50	58	65	66	60	59	52	45	58	66	70	71	64
75	66	72	89	90	74	84	58	67	78	74	74	71
90	70	91	158	154	235	159	82	80	88	81	80	76

Since 1998 USGS has maintained a stream flow gaging station at Red Shirt, SD approximately 12 river miles downstream of the last Irrigation District wasteway at the mouth of Cottonwood Creek. Data through 2001 from this gaging station are high flow rate biased since these years experienced above normal precipitation in the Upper Cheyenne River Basin. Limited data from this gaging station for the June through August interval, when Cheyenne River flows are mainly regulated by output to the Irrigation District from Angostura Dam, indicate there is a 50-percent probability the median flow rate will range from 78 to 97-cfs or greater downstream of the proposed project during this interval of any given year. There is a 75-percent probability the median flow rate will range from 69 to 91-cfs or greater for the same interval at this location. (Table 3)

Table 3. Red Shirt Monthly Median Flow (cfs)

Percentile	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
10	67	61	112	112	120	87	63	64	81	98	86	66
25	70	65	141	123	190	91	69	72	85	104	98	80
50	71	72	198	151	309	97	78	87	89	115	113	104
75	99	98	214	466	363	441	139	114	113	150	506	99
90	111	113	233	670	390	627	165	129	123	171	736	140

USGS Wasta, SD stream flow gaging station data from 1950 through 2001 indicate there is a 50-percent probability the median flow rate in the Cheyenne River at this location will range from 104 to 272-cfs or greater during the June through August interval of any given year. There is a

75-percent probability the median flow rate will range from 66 to 93-cfs or greater for the same interval at this location. (Table 4)

Table 4. Wasta Monthly Median Flow (cfs)

Percentile	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
10	30	50	102	78	60	53	47	47	51	62	70	45
25	48	78	146	117	95	93	72	66	73	84	93	73
50	80	110	240	214	237	272	142	104	100	112	119	100
75	135	179	471	383	623	925	353	176	152	168	160	130
90	220	349	867	839	1560	2130	725	425	282	279	292	230

The presumption can be made that the stream flow rates recorded at the cited gaging stations are post withdrawal of the majority of those Water Right allocations upstream of the gage's location during the normal irrigation season.

Review of Existing Water Rights

From the Fall and Cheyenne Rivers' confluence to Red Shirt, SD there are nineteen (19) Water Rights with diversions totaling 53.21-cfs. The Water Rights to be amended by this application and Application No. 827B-2 are included in these nineteen withdrawals.

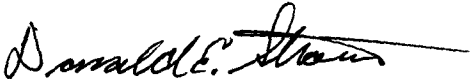
From Red Shirt to Wasta, SD there are eight (8) Water Rights with diversions totaling 22.35-cfs.

This proposed amendment to Water Right No. 1024-2 does not increase the present diversion rate and should not be expected to adversely impact any of the present Water Rights or domestic water use on the Cheyenne River.

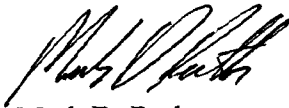
Conclusions

1. Water Permit Application No. 1024A-2, Rittberger Brothers, proposes to amend Water Right No. 1024-2 by separating and transferring all of the land and corresponding water diversion from the Cheyenne River authorized for irrigation by Water Right No. 1024-2 to other land.
2. If for any reason it should become impracticable to use all or any part of the water beneficially or economically for irrigation of any land to which the right of its use is appurtenant, South Dakota Codified Law (SDCL) 46-5-34 allows that all or any part of the right may be severed from the land and simultaneously transferred and become appurtenant to other land without losing priority of right previously established, subject to existing rights, upon approval of an application for an amended permit. No increase in total acres irrigated may be allowed.
3. The applicant proposes this change for the following reasons:
 - Center pivot irrigation is more efficient,
 - Soil at the present location is not as suitable for irrigation as the proposed location,
 - Soil at the proposed location is sandy loam and will produce crops with river water irrigation,

- Present land located in Shannon County on the East side of the Cheyenne River causing access problems,
 - Present location is within the boundary of the Pine Ridge Reservation.
4. If approved, Water Permit Application No. 1024A-2 should retain the priority date of 05/22/1970 for irrigation of 44-acres at the diversion rate of 0.63-cfs.
 5. This proposed amendment to Water Right No. 1024-2 does not increase the present diversion rate and should not be expected to adversely impact any of the present Water Rights or domestic water use on the Cheyenne River. No increase in the number of acres irrigated is requested by this application.


Donald E. Stroup
Natural Resources Project Engineer
DENR Water Rights Program

Reviewed by:


Mark D. Rath
Natural Resources Engineering Specialist
DENR Water Rights Program

References:

South Dakota Department of Environment and Natural Resources, Water Rights Program Records

Bureau of Reclamation, Angostura Unit Contract Negotiation and Water Management Environmental Impact Statement

U.S. Geological Survey, NWISWeb National Water Information System, Historical Stream Flow Data for South Dakota

Affidavit of Publication

State of South Dakota)

)ss.

County of Custer

Charles W. Najacht of said county, being duly sworn, on oath says that he is publisher of the Custer County Chronicle, a weekly newspaper printed and published in Custer City, said County of Custer and has full and personal knowledge of all the facts herein stated; that said newspaper is a legal newspaper and has a bona-fide circulation of at least two hundred copies weekly, and has been published within said County for fifty-two successive weeks next prior to the publication of the notice herein, mentioned, and was and is printed wholly or in part in an office maintained at said place of publication: that the

Rittberger Bros.

Native Application

a printed copy of which, taken from the paper in which the same was published, is attached to this sheet, and is made a part of this Affidavit, was published in said newspaper at least once each week for 2 successive week(s), on which said newspaper was regularly published, to wit:

Feb. 19, 2003; Feb. 26, 2003;

_____;

_____;

_____;

the full amount of the fees for the publication of the annexed notice is \$ 65.83.

Charles W. Najacht

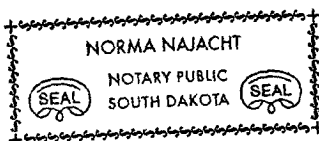
Subscribed and sworn to me before this 26

of February, 2003;

Norma Najacht

NOTARY PUBLIC

MY COMMISSION EXPIRES: May 5, 2006



NOTICE OF APPLICATION

NOS. 827B-2 AND 1024A-2
TO AMEND WATER RIGHT
NOS. 827-2A AND 1024-2

Notice is given that Rittberger Brothers, c/o Robert Rittberger, HCR. 89, Box 302A, Hermosa SD 57744 have filed applications for water permits to amend Water Right Nos. 827-2A and 1024-2 by transferring a portion of the irrigated acreage and points of diversion from the Cheyenne River to other land. No increase in the diversion rates or number of acres irrigated are authorized by these applications.

Water Right No. 827-2A appropriates 3.2 cubic feet of water per second (cfs) from the Cheyenne River located in the NW 1/4 NW 1/4 Section 34 for irrigation of 222.35 acres located in SW 1/4 Section 27, NE 1/4 Section 33, N1/2 NW 1/4 Section 34; all in T4S-R10E. The applicant proposes to continue irrigating 138 acres using a center pivot at the present location in the SW 1/4, SW 1/4 SE 1/4 Section 27 and N 1/2 NW 1/4 Section 34, T4S, R10E. The remaining 84.35 acres along with the corresponding diversion rate of 1.21 cfs will be transferred and cojoined with Water Permit Application No. 1024A-2 as described below. The diversion rate from the Cheyenne River for Application No. 827B-2 will be 1.97 cfs.

Water Right No. 1024-2 appropriates 0.63 cfs from the Cheyenne River located between points in the NW 1/4 Section 33-T43N-R47W and the NE 1/4 Section 4-T42N-R47W for irrigation of 44 acres located in the NE 1/4 Section 4-T42N-R47W and SE 1/4 Section 33-T43N-R47W. The 44 acres and the 0.63 cfs diversion authority will be cojoined with the 84.35 acres and the 1.21 cfs water diversion from Water Right No. 827A-2 (see above). The new diversion point will be located in the SW 1/4 NW 1/4 Section 17, T5S, R10E. The 128.35 irrigated acres will be located in the SE 1/4 NE 1/4, NE 1/4 SE 1/4 Section 18 and the NW 1/4 and NE 1/4 SW 1/4 Section 17, T5S, R10E using a center pivot. The diversion from the Cheyenne River will be 1.84 cfs.

State Law (SDCL 46-5-34) allows an irrigation water right to be severed from one parcel of land and simultaneously transferred to another parcel if it becomes impracticable to use all or any part of the water beneficially or economically for irrigation of the current land. Mr. Rittberger indicates his justification for the change is due to access problems, soil suitability and changing to a more efficient center pivot method of irrigation.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 827B-2 and 1024A-2 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the applications, as recommended, unless a petition is filed opposing the applications or the applicant files a petition contesting the Chief Engineer's recommendations. If a petition opposing the applications or contesting the recommendations is filed, then a hearing will be scheduled and the Water Management Board will consider the applications. Notice of the hearing will be given by the Chief Engineer.

Any person who wishes to oppose or suppress these applications or recommendations must file a written petition with both the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendations. The Chief Engineer's address is: Water Rights Program, Ross Building 222, Capitol Pierre, SD 57501-605, 773-3352 and the applicant's mailing address is given at the top of the application. A petition filed by either an interested person or the applicant must be filed by March 10,



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 10, 2003

Custer Co. Chronicle
PO Box 551
Custer SD 57730-0551

ATTENTION: Legal Public Notice

Enclosed is a Notice of Hearing on Application Nos. 827B-2 and 1024A-2 to Appropriate Water to be published twice. Please publish the first notice on February 19, 2003 with the second publication 7 days later.

The applicant must verify to you that the notice is to be published, before you make the first publication. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Rittberger Brothers, % Robert Rittberger, HCR 89, Box 302A, Hermosa SD 57744 (Ph # 605-255-4394).

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

Nos. 827B-2 & 1024A-2

TO: Eric Gronlund
Water Rights Program
Joe Foss Building
Pierre SD 57501-3181

Date _____

We are in receipt of your letter of February 10, 2003 enclosing Notice of Hearing to Appropriate Water by Application Nos. 827B-2 & 1024A-2 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper

Instruction to Newspaper - Publish first Notice on February 19, 2003 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NOS. 827B-2 and 1024A-2
to Amend Water Right Nos. 827-2A and 1024-2

Notice is given that Rittberger Brothers, c/o Robert Rittberger, HCR 89, Box 302A, Hermosa SD 57744 have filed applications for water permits to amend Water Right Nos. 827-2A and 1024-2 by transferring a portion of the irrigated acreage and points of diversion from the Cheyenne River to other land. No increase in the diversion rates or number of acres irrigated are authorized by these applications.

Water Right No. 827-2A appropriates 3.2 cubic feet of water per second (cfs) from the Cheyenne River located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 34 for irrigation of 222.35 acres located in SW $\frac{1}{4}$ Section 27, NE $\frac{1}{4}$ Section 33, N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 34; all in T4S-R10E. The applicant proposes to continue irrigating 138 acres using a center pivot at the present location in the SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 27 and N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 34, T4S, R10E. The remaining 84.35 acres along with the corresponding diversion rate of 1.21 cfs will be transferred and co-joined with Water Permit Application No. 1024A-2 as described below. The diversion rate from the Cheyenne River for Application No. 827B-2 will be 1.97 cfs.

Water Right No. 1024-2 appropriates 0.63 cfs from the Cheyenne River located between points in the NW $\frac{1}{4}$ Section 33-T43N-R47W and the NE $\frac{1}{4}$ Section 4-T42N-R47W for irrigation of 44 acres located in the NE $\frac{1}{4}$ Section 4-T42N-R47W and SE $\frac{1}{4}$ Section 33-T43N-R47W. The 44 acres and the 0.63 cfs diversion authority will be co-joined with the 84.35 acres and the 1.21 cfs water diversion from Water Right No. 827A-2 (see above). The new diversion point will be located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 17, T5S, R10E. The 128.35 irrigated acres will be located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 18 and the NW $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 17, T5S, R10E using a center pivot. The diversion from the Cheyenne River will be 1.84 cfs.

State Law (SDCL 46-5-34) allows an irrigation water right to be severed from one parcel of land and simultaneously transferred to another parcel if it becomes impracticable to use all or any part of the water beneficially or economically for irrigation of the current land. Mr. Ritterberger indicates his justification for the change is due to access problems, soil suitability and changing to a more efficient center pivot method of irrigation.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 827B-2 and 1024A-2 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the applications, as recommended, unless a petition is filed opposing the applications or the applicant files a petition contesting the Chief Engineer's recommendations. If a petition opposing the applications or contesting the recommendations is filed, then a hearing will be scheduled and the Water Management Board will consider the applications. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting these applications or recommendations must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendations. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by March 10, 2003.

The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to these applications. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPER RIGHT AWAY.

February 10, 2003

Rittberger Brothers
% Robert Rittberger
HCR 89 Box 302A
Hermosa SD 57744

Dear Mr. Rittberger:

Water Permit Application Nos. 827B-2 & 1024A-2 for irrigation use have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Custer Co. Chronicle printed at Custer, SD (Ph # 605-673-2217). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice of Hearing and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization, the publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendations, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 10, 2002

Mick Jenniges
Angostura Irrigation District
PO Box 346
Oral SD 57766

Dear Mr. Jenniges :

I am writing regarding Water Permit Application Nos. 827B and 1024-2 filed by Rittberger Brothers. These applications propose to transfer irrigated acres to accommodate center pivot irrigation in Custer County. The water source is the Cheyenne River.

Enclosed is a copy of the recommendation, report and notice of hearing on this application. The notice is to be published in the Custer Co. Chronicle on February 19 and 26, 2003. If the District wishes to participate in a hearing before the Water Management Board, a petition to intervene must be submitted by March 10, 2003.

This information is being sent to keep the District informed of water right permitting issues on the Cheyenne River.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 10, 2003

Curt Anderson
US Bureau of Reclamation
515 9th Street Room 101
Rapid City SD 57701

Dear Mr. Anderson:

I am writing regarding Water Permit Application Nos. 827B and 1024-2 filed by Rittberger Brothers. These applications propose to transfer irrigated acres to accommodate center pivot irrigation in Custer County. The water source is the Cheyenne River.

Enclosed is a copy of the recommendation, report and notice of hearing on this application. The notice is to be published in the Custer Co. Chronicle on February 19 and 26, 2003. If the Bureau wishes to participate in a hearing before the Water Management Board, a petition to intervene must be submitted by March 10, 2003.

This information is being sent to keep the Bureau informed of water right permitting issues on the Cheyenne River.

Sincerely,


Eric Gronlund
Water Rights Program
(605) 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 10, 2003

Leslie Petersen
SD Dept. of Game, Fish and Parks
523 E. Capitol Avenue
Pierre SD 57501

Dear Leslie:

I am writing regarding Water Permit Application Nos. 827B and 1024-2 filed by Rittberger Brothers. These applications propose to transfer irrigated acres to accommodate center pivot irrigation in Custer County. The water source is the Cheyenne River.

Enclosed is a copy of the recommendation, report and notice of hearing on this application. The notice is to be published in the Custer Co. Chronicle on February 19 and 26, 2003. If GF&P wishes to participate in a hearing before the Water Management Board, a petition to intervene must be submitted by March 10, 2003.

This information is being sent to keep you informed of water right permitting issues on the Cheyenne River.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352

enclosures



MAR 31 2003

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Rittberger Brothers
% Robert Rittberger
HCR 89 Box 302A
Hermosa SD 57744

Dear Mr. Rittberger:

Enclosed are Water Permit Nos. 827B-2 & 1024A-2 authorizing construction of your water diversion systems and beneficial use of the water, not exceeding the limits as specified in the Water Permits.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

An informational sheet *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 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

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



1024A-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

January 26, 2007

NOTICE

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.

1024A-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

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



1024A-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

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 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

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.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

NOTICE OF SHUTOFF ORDER

July 10, 2007

TO: RITTBERGER BROTHERS
ROBERT RITTBERGER
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. 827B-2 (1024A-2) 827-2A

To protect the senior priority water rights, the department is issuing shutoff orders to junior water right holders with priority dates between January 1, 1955 and December 31, 1969 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 dates after January 1, 1955.

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



1024A-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

January 21, 2011

NOTICE

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 2010 Irrigation Questionnaires

Our records indicate that the 2010 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 15, 2010. The Water Management Board has directed that owners of water permits who have not submitted the 2010 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 **10:00 am, March 9, 2011** 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 on/or before **March 4, 2011**, you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 9, 2011

Robert Rittberger
Rittberger Brothers
15633 SD Hwy 40
Hermosa SD 57744

RE: Water Right or Permit Nos. 827B-2, 1024A-2, 827-2A and 1221-2

Dear Mr. Rittberger:

I am writing to acknowledge receipt of your 2010 irrigation questionnaires.

You may disregard the January 21, 2011, "Notice" concerning reporting requirements for the above listed permits and rights. 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 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

Licensing of Acreage Outside of Permitted Area

NAME: Rittberger Brothers

ADDRESS: 15663 SD HWY 40, Hermosa, SD 57744

DATE: June 1, 2016 **COUNTY:** Custer **TELEPHONE:** (605)255-4394

AUTHORITY

Pursuant to SDCL 46-5-30.5, acreage developed for irrigation outside of the area described on the permit may be licensed provided the following conditions are met:

NO INCREASE IN PERMITTED ACREAGE OR WATER APPROPRIATED:

The acreage developed for irrigation is 114 acres as compared to 128 acres authorized by the permit. Licensing of the permit will result in no increase in the amount of water appropriated.

UNPERMITTED ACREAGE:

- **Contiguous to Permitted Acreage**

2.4 acres located in the SW¼ NE¼ Section 17 and 6.2 acres located in the NE¼ NE¼ Section 18; all in T5S-R10E. These acres are contiguous to the permitted acres.

- **Owned by Same Property Owner**

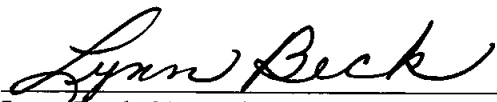
yes

- **Developed Prior to Expiration of Construction Period**

yes

RECOMMENDED ACTION

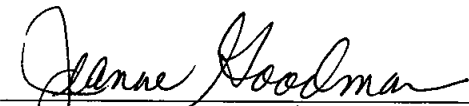
Based on the above criteria, it is recommended that the 8.6 acre area be included in the water license.



Lynn Beck, Natural Resources Engineer III
Water Rights Program

The Chief Engineer makes a finding pursuant to SDCL 46-5-30.5 that:

This acreage change does not impair existing water rights and the overall project, as developed, is consistent with the original application. Licensing of the unpermitted acreage may occur without application or publication pursuant to SDCL 46-2A-4.



Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

McMath, Genny

From: Quissell, Steve
Sent: Wednesday, June 01, 2016 7:20 AM
To: McMath, Genny
Cc: Beck, Lynn
Subject: Rittberger Bros. #1024A-2
Attachments: Rittberger_Bros_1024A-2_EOW.docm; Bob_Rittberger_1024A-2_fortys_rev2.pdf

Genny

Attached is the EOW and Arc.pdf for Rittberger Bros. #1024A-2. Would send a copy of the license to both Bob and John Rittberger. Thanks

Steven Quissell

Water Right Inspector

SD Department of Environment and Natural Resources

Water Rights Program

Phone: (605) 394-6763

Fax: (605) 394-5317

Report of Examination of Works and/or Application of Water to Beneficial Use For Permits No. 1024A-2

I have this day, May 19, 2016 made a thorough examination of the water use system constructed by Rittberger Brothers of Permit No. 1024A-2, bearing priorities of 4/9/1964 and 5/22/1970 authorizing the diversion of 1.84 cu. ft. per second of water of the Cheyenne River for irrigation purposes in Custer County.

Inspection contact & relationship to permit holder :

John Rittberger, owner
25999 Bison Lane, Fairburn, SD 57738
605-255- 5339

A. Works used to divert the water:

Pump 1:

- 1) Make Franklin Electric
- 2) Model HC 6413
- 3) Size 13"
- 4) Capacity 900 gpm

Power:

- 1) Source Electric
- 2) Horsepower rating 50 hp

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

- 1) Type PVC pipe
- 2) Size 8 inches
- 3) Length 910 feet

C. Works used to apply water to beneficial use:

Center Pivot

- 1) Make Valley
- 2) Overall length 1,658 feet
- 3) Number of towers 9 End Gun Yes
- 4) Capacity 900 gpm @42 psi
- 5) Acres 114 (196° arc))

D. Chemigation Equipment:

- | | |
|---|--|
| 1) Does chemigate <u>yes</u> | 6) Interlock type <u>electrical</u> |
| 2) Mainline check valve <u>yes</u> | 7) injection pump type <u>piston</u> |
| 3) Inspection port/air-vac <u>no</u> | 8) injection check valve <u>yes</u> |
| 4) Low pressure drain <u>no</u> | 9) positive displacement pump <u>yes</u> |
| 5) Discharge 20' from source <u>n/a</u> | |

Comments: **A chemigation valve which includes an inspection port, air/vac and low pressure drain will be installed at the pivot.**

E. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Yes
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Yes
- 3) List any extended period of nonuse: none
- 4) Exceptions to compliance are: none

F. Condition and Location:

1. The system is in good condition with the point of diversion located as follows:
1,698' S and 208' E of the NW corner Section 17 T5S R10E (43.617176, - 102.965351).
2. The works are capable of diverting and conveying to the place of use 2.0 cu. ft. per second of water (900 gpm) which is to be used for sprinkler irrigation. Water has been put to beneficial use to the maximum extent as follows:

Section 17 T5S R10E:

NW ¼ NW ¼ **32.6 acres**
NE ¼ NW ¼ **25.7 acres**
SW ¼ NW ¼ **13.7 acres**
SE ¼ NW ¼ **30.6 acres**
SW ¼ NE ¼ **2.5 acres**

Section 18 T5S R10E:

NE ¼ NE ¼ **6.2 acres**
SE ¼ NE ¼ **2.7 acres**

comprising a total of 114 acres of land and the license should be issued for 1.63 cfs.

All structures, wells and lands on map: **Yes**

G. Comments or other permits associated with the project:

Permit 1024A-2 amended 1024-2 by transferring the acres and changing the diversion point. The 44 acres and 0.63 cfs diversion authority was co-joined with 84.35 acres and 1.21 cfs transferred from water right 827A-2. Permit 1024A-2 was authorized for 128.35 acres and 1.84 cfs. The works are capable diverting 2.0 cfs which is above the licensed statutory limit of 1.63 cfs, equivalent to 1 cfs per 70 acres. A priority date of April 9, 1964 applies to the 1.21 cfs authorized by license 827A-2 and a priority date of May 22, 1970 applies to the 0.63 cfs authorized by permit 1024-2.



Steven Quissell
Water Rights Inspector
DENR, Water Rights Program

Date report completed: 5/23/2016

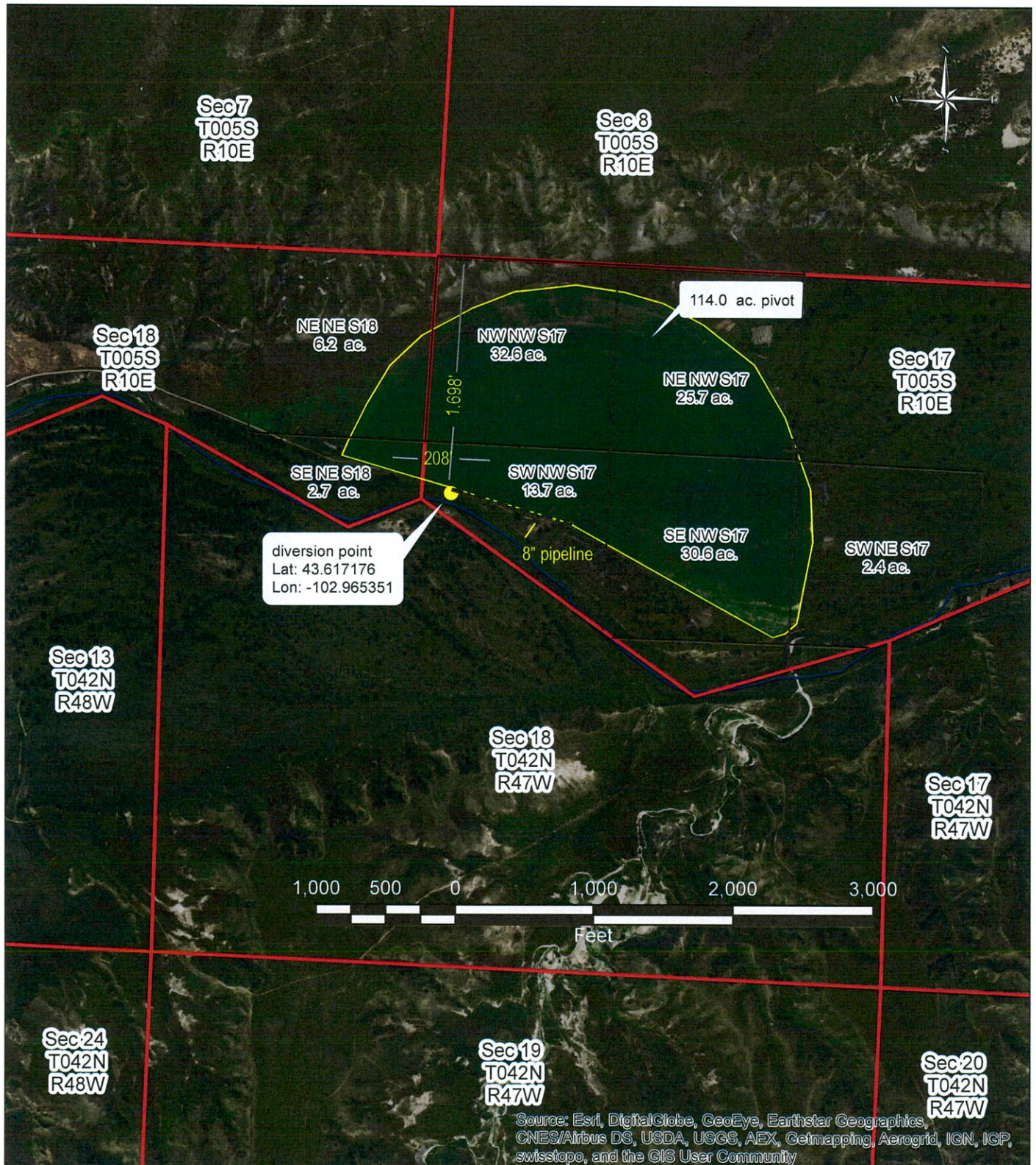


Cheyenne diversion and pump



196° pivot

Water Right #1024A-2
Rittberger Brothers
5/19/2016



Steven Quissell

Steven Quissell
Water Rights Inspector
DENR Water Rights Program



STATE OF SOUTH DAKOTA
WATER LICENSE NO. 1024A-2

(1) Rittberger Brothers, 15663 SD Hwy 40, Hermosa SD 57744 made Application No. 1024A-2, December 16, 2002 for a water permit to divert 1.84 cubic feet of water per second (cfs) from the Cheyenne River, Custer County, South Dakota for irrigation purposes. Permit No. 1024A-2, with priority dates of April 9, 1964 and May 22, 1970 was approved March 10, 2003 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before March 10, 2008 and for the application to beneficial use of water on or before March 10, 2012.

An investigation conducted for licensing purposes found acreage developed for irrigation outside of the area described on the permit. Pursuant to SDCL 46-5-30.5, the Chief Engineer makes a finding that existing water rights will not be impaired and the overall project, as developed, is consistent with the original application.

(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, the holder and/or owner of Water Right No. 1024A-2 is issued a license, bearing priority dates of April 9, 1964 (1.21 cfs) and May 22, 1970 (0.42 cfs) to appropriate 1.63 cubic feet of water per second from the Cheyenne River to irrigate 114 acres.

The diversion point is located: 1,698 feet south and 208 feet east of the NW corner of Section 17-T5S-R10E (SW 1/4 NW 1/4). The acres authorized for irrigation are as follows:

Section 17-T5S-R10E		Section 18-T5S-R10E	
NW 1/4 NW 1/4	32.6 ac	NE 1/4 NE 1/4	6.2 ac
NE 1/4 NW 1/4	25.7 ac	SE 1/4 NE 1/4	2.7 ac
SW 1/4 NW 1/4	13.7 ac		
SE 1/4 NW 1/4	30.6 ac		
SW 1/4 NE 1/4	2.5 ac		
		Total 114 acres	

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 1024A-2 including the following qualifications:

- 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 recognizable 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 flows periods.
- Diversion under this Permit shall be in accordance with any written orders issued by the Chief Engineer.
- This Permit is approved subject to the irrigation water use questionnaire being submitted each year.



Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JUL 01 2016

date





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

JUL 01 2016

827B-2
1024A-2

Rittberger Brothers
c/o Bob Rittberger
15663 SD HWY 40
Hermosa SD 57744

Dear Mr. Rittberger:

Enclosed are Water License Nos. 827B-2 and 1024A-2. These are the final water right documents completing the process of obtaining a Water Right. Also, included with the licenses are maps prepared by the staff engineer who conducted the investigation.

Please note the investigation of Water Right No. 1024A-2 found the irrigation system is capable of diverting 2.0 cubic feet of water per second (cfs) which is equivalent to 900 gallons per minute. The statutory limit for 114 acres is 1.63 cfs (equivalent to 735 gpm). Diversion of water under this water license is limited to 1.63 cfs.

As long as you use the water beneficially, as stated in the Water License, the State Water Laws provide that you have a continuing right to use the water. If you have any questions, please contact our office.

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

c: John Rittberger



1024A-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

January 20, 2017

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 2016 Irrigation Questionnaires

Our records indicate your 2016 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 21, 2016. The Water Management Board has directed that owners of water permits who have not submitted the 2016 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 **Wednesday, March 1, 2017 at 11:00 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 questionnaires are received in this office before the **March 1, 2017** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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.



1024A-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

February 8, 2017

Robert Rittberger
Rittberger Brothers
15663 SD Hwy 40
Hermosa SD 57744

RE: Water Right Nos. 827-2A, 827B-2, 1024A-2 and 1221-2

Dear Mr. Rittberger:

I am writing to acknowledge receipt of your 2016 irrigation questionnaires.

You may disregard the January 20, 2017, "Notice" concerning reporting requirements for Water Right Nos. 827-2A, 827B-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
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us



1024A-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

January 26, 2018

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 2017 Irrigation Questionnaires

Our records indicate your 2017 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 20, 2017. The Water Management Board has directed that owners of water permits who have not submitted the 2017 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."

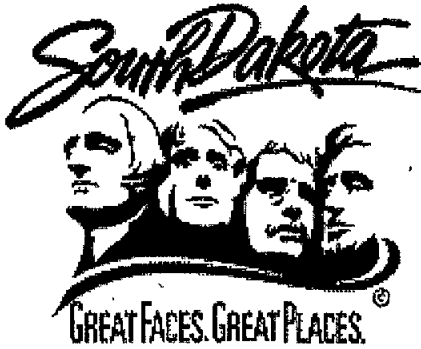
The hearing will be held at **Wednesday, March 7, 2018 at 10:00 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant 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 questionnaires are received in this office before the **March 7, 2018** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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
www.denr.sd.gov

February 16, 2018

Robert Rittberger
Rittberger Brothers
15663 SD Hwy 40
Hermosa SD 57744

RE: Water Right Nos. 827-2A, 827B-2, 1024A-2 & 1221-2

Dear Mr. Rittberger:

I am writing to acknowledge receipt of your 2017 irrigation questionnaires.

You may disregard the January 26, 2018, "Notice" concerning reporting requirements for Water Right Nos. 827-2A, 827B-2, 1024A-2 & 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
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

1024A-2



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

November 5, 2018

Robert Rittberger
13677 SD Hwy 36
Hermosa AS 57744-5426

RE: Water Right Nos. 827-2A, 827-2B, 1024A-2 & 1221-2

Dear Sir:

Enclosed is a "Notice" dated October 30, 2018 concerning the 2018 irrigation questionnaires.

The notice was originally mailed to 15663 SD Hwy 40, Hermosa SD. The post office notified us that your address has changed and I will update our records accordingly.

If you have any questions, please contact me.

Sincerely,

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

enclosures

1024A-2



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 20, 2022

NOTICE

TO: RITTBERGER BROTHERS, ROBERT RITTBERGER, 13677 SD HWY 36, HERMOSA, SD 57744 5426

FROM: Ron Duvall, Water Rights Permitting Administrator
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2021 Irrigation Questionnaires

Our records indicate your 2021 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 22, 2021. The Water Management Board has directed that owners of water permits who have not submitted the 2021 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 **Wednesday, March 2, 2022 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 questionnaires are received in this office before the **March 2, 2022** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: QJCXBW**

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.

1024A-2



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

February 2, 2022

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

Robert Rittberger
Rittberger Brothers
13677 SD Hwy 36
Hermosa SD 57744 5426

Dear Mr. Rittberger:

I am writing to acknowledge receipt of your 2021 irrigation questionnaires.

You may disregard the January 20, 2022, "Notice" concerning reporting requirements for Water Right Nos. 827-2A, 1221-2, 827B-2 & 1024A-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
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 14, 2025

NOTICE

TO: RITTBERGER BROTHERS, ROBERT RITTBERGER, 13677 SD HWY 36, HERMOSA, SD 57744 5426

FROM: Ron Duvall, Engineer III
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2024 Irrigation Questionnaires

Our records indicate your 2024 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 23, 2024. The Water Management Board has directed owners of water permits who have not submitted the 2024 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 on **Wednesday, March 5, 2025, 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 questionnaires are received in this office before the **March 5, 2025**, hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires for your use. If you have questions or need assistance, please contact Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: RKMWAN**

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 AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 21, 2025

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

Rittberger Brothers
c/o Robert Rittberger
13667 SD HWY 36
Hermosa SD 57744

Dear Mr. Rittberger:

I am writing to acknowledge the receipt of your 2024 irrigation questionnaire(s).

You may disregard the January 14, 2025, "Notice" concerning the reporting requirements for Water Permit No(s). 827-2A, 827B-2, 1024A-2 & 1221-2. The information was received prior to the March 5, 2025, Water Management Board meeting and the above listed permit number(s) have been removed from the agenda.

If you have any questions or concerns, please contact me.

Sincerely,

Amanda Dewell
Permitting Administrator
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us