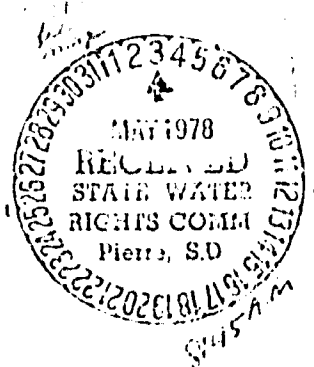


Water Right Number 1636-2

1. Considered MAY 25, 19 78
2. Name of Applicant FALL RIVER FEEDLOTS, INC.
3. Post Office Address HOT SPRINGS, S.D.
4. Amount of water claimed 1.80
5. Source of water supply INFILTRATION GALLERY ALONG CHEYENNE RIVER
6. Water to be used for COMMERCIAL FEEDLOT
Acres to be irrigated —
7. Water to be diverted and used in FALL RIVER County
about 5 EAST, 3 Miles SOUTH of HOT SPRINGS
8. Proof of Publication
Received 5-22-78
Not received _____
Approved _____
Subject to _____
Not approved _____
Action deferred _____
9. Application
10. Remarks:

No. 1636-2Map No. 1400-2 Water Division No. 2 FALL RIVER District _____
(Blanks to be filled by the Engineer for the W. R. C.)

APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

(NOTE—Draw a line through items not applicable)

1. Name of Applicant Fall River Feedlots, Inc. Box 192
 Postoffice address Hot Springs, State South Dakota
 If a corporation show date and place of incorporation August 1969 Hot Springs South Dakota
2. Method of accomplishing work (contract, employment of others, or by direct labor) contract
3. Name of diversion work Feedlot gallery #1
4. Amount of water claimed (cubic feet per second) 1.8 cfs
5. Source of water supply infiltration gallery along Cheyenne River
6. Location of point of diversion N 25° 44' 24" W a distance of 2419.9' of the southwest corner of Section 2, T8S, R6E, BHM, Fall River County, South Dakota
 County Fall River
7. Annual period or periods during which water is to be used Perpetually
8. Use to be made of water (irrigation, industrial, municipal, commercial, recreation, etc.) Commercial Feedlot
9. For irrigation use, Total number of acres to be irrigated _____

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

Land Description	No. Acres Irr.	Land Description	No. Acres Irr.

Attach sheet if more space is needed

10. Time required to complete construction of water supply system 0.25 years. Additional time required to complete application of water to the proposed beneficial use none years.
11. Choice of newspaper for Notice of Intent to Appropriate Water publication Hot Springs Star
12. Principal Features of the Proposed Water Supply System.

A. Works proposed to divert water from its natural source.

infiltration gallery with submersible turbine pump

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

8" PVC Class 160 waterpipe

C. Works proposed to apply water to beneficial use.

existing feedlot distribution systemEstimated Total Cost \$ 100,000

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

STATE OF SOUTH DAKOTA)

County of Fall River)I, C. M. Lenz, Jr., 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

C. M. Lenz, Jr., President

Subscribed and sworn to before me this

2

day of

May19 78

Notary Public (or other qualified officer)

My Commission expires March 18, 1983

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 1636-2
FALL RIVER FEEDLOTS, INC. HOT SPRINGS Box 899
 (Applicant) (Post Office Address)
SOUTH DAKOTA 57747 With the following modifications:
 (State)

Diversions of water under this permit is contingent upon water supplies being first available to the 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 3 19 76
 Date of return to applicant for correction, amendments or changes required _____ 19 ____
 Date of receipt of corrected application _____ 19 ____
 Approved MAY 25 19 78 Recorded in Book 19 Page 347

WATER RIGHT PERMIT NO. 1636-2

The Water Rights Commission hereby grants and issues this Water Right Permit No. 1636-2 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 3 19 78
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before JULY 13 19 78
3. The whole of said work is to be completed on or before AUGUST 25 19 78
4. The limit of time from onset of beneficial use of water appropriated in accordance herewith is AUGUST 25 19 78
5. The water appropriated shall be used for the purpose of COMMERCIAL FEEDLOT

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 1.8 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 ~~domestic~~ USE FOR A COMMERCIAL FEEDLOT and if for the ~~irrigation~~ USE FOR A COMMERCIAL FEEDLOT said appropriation must be limited to not more than ~~one-half~~ one-half of the amount of water which is actually and beneficially ~~applied for irrigation~~ applied for irrigation on or before AUGUST 25 19 78 said water to be used during the following described annual period: CONTINUOUSLY

Witness my hand this 30th day of MAY 19 78.

WATER RIGHTS COMMISSION

John F. Felt
 Chief Engineer, Executive Officer

Certificate of Construction Issued JANUARY 28 19 80

Water License Issued JANUARY 28 19 80

12. Principal Features of the Proposed Water Supply System (continued.)

D. Well Information or Estimates

(1) Drill Hole, Diameter _____, Depth _____

(2) Casing, Type _____ Diameter _____ Thickness _____
(wood, concrete, steel, etc)

(3) Perforated Screen.

Type _____, Diameter _____, Length _____

(4) Gravel Pack, thickness _____, Length of gravel pack _____

E. Dugout Information or Estimates.

(1) Surface dimensions _____, Depth _____

F. Fill out for Either a Well or a Dugout.

(1) Water Bearing Materials. (Please attach a copy to test well log if available.)

Character of Water bearing materials _____

Depth to top of water bearing material _____

Depth to bottom of water bearing material _____

Thickness of water bearing material _____

Depth to water (ground surface to water level) _____

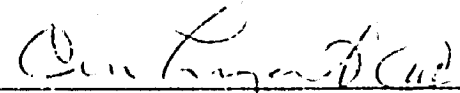
(2) Distance to nearest existing household or livestock watering wells.

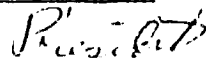
On same owner's property _____ rds. On property owned by others _____ rds.

G. Water Storage Dams.

If the proposed water use system contains one or more water storage dams, please show in the space below, the height, maximum water depth, surface area and storage capacity of each storage dam. The location of each water storage dam should be shown on the water right map.

The water supply system is an infiltration gallery constructed about 25' south of the Cheyenne River north of the Hot Springs Municipal Airport. The gallery will consist of 100' $\pm$ of perforated PVC pipe laid horizontally about 13' below the ground surface. There will be a 2" CSP inspection manhole at one end and a 48" CSP pump well at the other end. The existing material in the area at the depth proposed is sand and gravel. Two gravel packs will be installed around the perforated pipe to prevent sand from entering the gallery.


Signature of Applicant



STATE OF SOUTH DAKOTA

WATER LICENSE NO. 1636-2

(1) WHEREAS, On the 3rd day of May A. D. 1978

Fall River Feedlots, Inc.

made Water Right Application No. 1636-2 for a permit to use 1.8 cubic feet per second of the waters of the Cheyenne River

County of Fall River State of South Dakota, for a commercial feedlot

purposes; and

(2) WHEREAS, On the 25th day of May A. D. 1978

Permit No. 1636-2 with a date of priority of May 3, 1978

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 25th day of August A. D. 1978 and for the application to beneficial use of said water on or before the 25th day of August A. D. 1978

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 1.17 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,

water to be used for a commercial feedlot

(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 Fall River Feedlots, Inc.

of Hot Springs, South Dakota

the holder S and owner S and permit No. 1636-2 a water right, dating from May 3, 1978

to use of 1.17 cubic feet per second of the waters

of the Cheyenne River

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

purposes hereinbelow mentioned, to be diverted at a point North 34° 0' East,

2450 ft. from SW Corner, Section 2, T5S, R6E

and conduct ^{gd} ~~to xxxxxxx~~ through the feedlot distribution system

for the purpose of a feedlot

Subject to any limitations listed in Water Right Permit No. 1636-2 and subject to the laws of the State of South Dakota.

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

this 28th day of January A. D.

Nineteen Hundred and Eighty

Board of Water Management

By:

John Hatch
Chief Engineer

JOHN HATCH

Permit No. 1636-2

Water Diversion No. 2 Fall River Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That Fall River Feedlots, Inc.

_____ the holder _____ of
Permit No. 1636-2, issued upon Application No. 1636-2, bearing date of priority of May 3, 1978
_____ authorizing the diversion of 1.8 cu. ft. per second of the waters of the
Cheyenne River County of Fall River, State of South Dakota at a
point North 34° 0' East, 2450' from SW Corner Section 2, T8S - R6E
_____, for a commercial feedlot

purposes, have ve 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 1.17 cu. ft. per second of water.

Date January 28, 1980

John Hatch
JOHN HATCH, Chief Engineer
Water Rights, WND

Form 6 - Notice of Intent to Appropriate Water
SURFACE WATER

No. 1636-2

Publish first publication, on or before May 12, 1978

NOTICE OF HEARING ON
APPLICATION TO APPROPRIATE WATER

Pierre, South Dakota 57501

May 3, 1978

Notice is hereby given that Fall River Feedlots, Inc. whose post office

address is Hot Springs, South Dakota, has made an application in accordance with the provisions of SDCL 46-1-1 thru 46-1-8; 46-2-9 thru 46-2-11, 46-2-13; 46-5-1 thru 46-5-8, 46-5-10 thru 46-5-22, 46-5-41, and Commission Rules ARSD 52:01:01 thru 52:01:01:13, for a permit to appropriate for beneficial use 1.0 cubic feet of water

per second of time from the Cheyenne River through the

Feedlot Gallery #1, the point of diversion of which is to be located in the

1/4 Sec 2

of Section 2, Twp. 8S Range 6E. Said water to be used for the purpose of providing ~~irrigation for the following described land:~~

water for a Commercial Feedlot

This Application No. 1636-2 will be considered by the Water Rights Commission at

Pierre, SD

upon the 25th day of May, 1978

at 10A-M. The Commission is authorized to make a determination on this application at the hearing. All interested persons may appear and be heard. Any person who may be affected by a Commission decision who desires to present evidence or cross-examine witnesses according to SDCL 1-2, notify the Commission in writing prior to the hearing or orally at the hearing.

NOTE: Final Proof of Publication must be received by the hearing date for the Commission to take action.

WATER RIGHTS COMMISSION

BETTY WESTLUND
Water Rights Specialist 1

cc: Fall River Feedlots, Inc., Hot Springs, SD (Box 892)

No. 1636-2

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) ss.
County Fall River)

I, Charles Najacht hereby
certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Hot Springs Star

A newspaper which during the whole time of publication of said notice herein after stated, has been and is printed and published in the _____

City of Hot Springs

County of Fall River and State of South Dakota;
that the said notice was published in said newspaper on the following
dates:

May 10, 1978

May 17, 1978

Charles Rogers
(Signature) ✓

Publisher
(Title)

May 17, 1978
(Date Signed)

165
NOTICE
OF HEARING ON APPLICATION
TO APPROPRIATE WATER
Pierre, South Dakota 57501
May 3, 1974

Notice is hereby given that Fall River Feedlots, Inc. whose post office address is Hot Springs, South Dakota, has made an application in accordance with the provisions of SDCL 46-1-1 thru 46-1-8; 46-2-9 thru 46-2-11, 46-2-13; 46-5-1 thru 46-5-8, 46-5-10 thru 46-5-22, 46-5-41, and Commission Rules ARSD 52:01:01:01 thru 52:01:03:13, for a permit to appropriate for beneficial use 1.6 cubic feet of water per second of time from the Cheyenne River through the Feedlot Gallery #1, the point of diversion of which is to be located in the NW¼SW¼ of Section 2, Twp. 6S Range 6E. Said water to be used for the purpose of providing water for a Commercial Feedlot.

This Application No. 1636-2 will be considered by the Water Rights Commission at Pierre, SD upon the 25th day of May, 1978 at 10 A.M. The Commission is authorized to make a determination on this application at the hearing. All interested persons may appear and be heard. Any person who may be affected by a Commission decision who desires to present evidence or cross-examine witnesses according to SDCL 1-26 may notify the Commission in writing prior to the hearing or orally at the hearing.

WATER RIGHTS
COMMISSION
BETTY WESTLUND
Water Rights Specialist
May 10, 1977



RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

No 4 7244

PIERRE, January 23, 1980

RECEIVED OF Fall River Feedlots, Inc., Box 892, Hot Springs, SD 57747

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. 1636-2	5	00
Fee for inspecting Beneficial Use, and Issuing Water License No. 1636-2		
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)		
TOTAL	5	00

WATER RIGHTS COMMISSION

By *[Signature]*
Chief Engineer, Executive Officer
JOHN HATCH (gy)

Permit No. 1636-2Water Division 2 Fall River Water District

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

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

I have this day made a thorough examination of the water use system constructed by Fall River Feedlots, Inc. of Box 892, Hot Springs, South Dakota 57747 holder of Permit No. 1636-2, hearing date of priority of May 3, 1978 authorizing the diversion of 1.8 cu. ft. per second of the waters of Cheyenne River for Commercial Feedlot purposes, in Fall River 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:
15 HP. Starlite Pump pumping 175 gpm
30 HP Starlite Pump " 350 gpm

B. Works used to transport water to place of use,
10,200 ft. of 10" PVC pipe

C. Works used to apply water to beneficial use.
40,000 gallon Storage Tank + Feedlot distribution system

The system is in the following condition: Good

The point of diversion is located N 34° 0' E 2450 ft from SW cor Sec-2, T8S, R6E

The works are capable of diverting and conveying to the place of use 1.17 cu. ft. per second of water which is to be used for Commercial Feedlot.

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

comprising a total of _____ acres of land.

Pumps are in the sands / gravel next to the Cheyenne River

license for 1.17 cfsDate May 27, 1979

Leroy J. Mennigh
 (Signature)



Department of Water & Natural Resources

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

March 14, 1991

1636-2

Clayton Lambeth
Fall River Feedlots, Inc
Box 892
Hot Springs, SD 57747

Dear Mr. Lambeth:

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 Fath or Del Brosz (605-773-3352).

Very truly yours,

for Delvin D. Brosz
JOHN HATCH, Chief Engineer
Water Rights Division
605-773-3352

1636-2

Bangs, McCullen, Butler, Foye & Simmons

Lawyers

818 St. Joe Street

Mailing Address P. O. Box 2670

Rapid City, South Dakota 57709

605-343-1040

Telecopier 605-343-1503

August 20, 1991

George A. Bangs
W. A. McCullen (1943-1987)
Joseph M. Butler
Thomas H. Foye
Thomas E. Simmons
Ronald E. Clabaugh
Charles L. Riter
Allen G. Nelson
James P. Hurley

Michael M. Hickey
Mark F. Marshall
Terry L. Hofer
Rebecca A. McMahon
Patrick K. Duffy
Rodney W. Schlauger
Matthew V. Ressegieu



Recycled Paper 

Chief Engineer
Water Rights Division, DWNR
523 East Capitol
Pierre, SD 57501-3181

Re: Continental Grain Company - Fall
River Feedlots, Inc.

Dear Sir or Madame:

I am enclosing five Notices of Transfer of Ownership regarding the following Water Permits:

1. No. 1636-2;
2. No. 2178-2;
3. No. 2179-2;
4. No. 2180-2; and
5. No. 2181-2.

I am also enclosing our check in the sum of \$12.50 by way of the filing fee for the Notices of Transfer of Ownership.

I understand that there is an objection to the application for transfer of ownership regarding No. 2179-2 and that this transfer is, of course, subject to that objection.

Please file these and send an acknowledgment to us of the transfers.

If you have any questions, please contact me.

Chief Engineer
Water Rights Division, DWR
Page Two
August 20, 1991

Thank you.

Very truly yours,

BANGS, McCULLEN, BUTLER, FOYE & SIMMONS

A handwritten signature in cursive script, appearing to read "Charles L. Riter".

Charles L. Riter

CLR/map

Enclosures

cc: Gerard J Schulte

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

412803

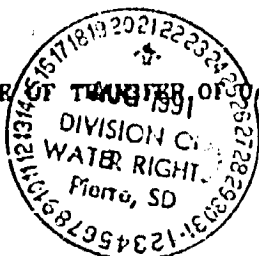
Pierre, August 22, 1991

RECEIVED OF Bangs, McCullen, Butler Foye & Simmons, Box 2570, Rapid City, SD 57709
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. <u>1</u> to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>Water Permit No. 1636-2</u>	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 John Hatch, Jr.
Chief Engineer

NOTICE OF TRANSFER OF OWNERSHIP



No. _____

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

Date: August 19, 1991

I, We request that Water Permit/Right No. 1636-2

formerly owned by: Fall River Feedlots, Inc.

be transferred to: (name & address) Continental Grain Company, ATTN: Cattle Feed Division,
10 South Riverside Plaza, Chicago, Illinois 60606 (telephone No.) (312) 466-6570

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

Commercial feedlot and distribution system located in SW 1/4 of the NW 1/4 Section 14

Township 8 South Range 6 East of the Black Hills Meridian, Fall River County, South Dakota

I/We understand that the validity of Water Permit/Right No. 1636-2 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 Pennington)

I/We Clayton Lambeth being first duly sworn on my oath depose and say that my relation to the above described undertaking is that of President, that I have read the above foregoing statement, and that I know of my own personal knowledge that the information herein stated is true.

Fall River Feedlots, Inc.

BY

ITS

Subscribed and sworn to before me this 19th day of August, 1991.

Margaret Paul
(Notary Public)
6-19-95

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.

South Dakota

GREAT FACES. GREAT PLACES.

August 27, 1991

1636-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

No. 1636-2
2178-2
2180-2
2181-2

Charles L. Riter
Bangs, McCullen, Butler, Foye & Simmons
P.O. Box 2670
Rapid City, SD 57709

Dear Mr. Riter:

Enclosed are receipts in the amount of \$2.50 each which you paid for the transfer of Water Right No. 1636-2, Water Permit No. 2178-2, Water Permit No. 2180-2, and Water Permit No. 2181-2.

Our records now show Continental Grain Company, ATTN: Cattle Feed Division, 10 South Riverside Plaza, Chicago, IL 60606 as the owner of Water Right No. 1636-2, Water Permit No. 2178-2, Water Permit No. 2180-2, and Water Permit No. 2181-2.

Sincerely,

Cheryl F. Frost

Cheryl F. Frost
Secretary
Water Rights Division
605 773-3352

enclosure

cc: Continental Grain Company

1636-2

LAW OFFICES

Lynn, Jackson, Shultz & Lebrun, P.C.

Rapid City Office

Donald R. Shultz
Gene N. Lebrun
Thomas O. Fritz
Haven L. Stuck
Jay C. Shultz
Jane Wipf Pfeifle
Kurt E. Solay
Leah Jeffries
Craig A. Pfeifle
Steven J. Ober
Mary A. Gubbrud
Steven J. Morgan

First National Bank Building
8th Floor • 909 St. Joseph St.
P.O. Box 8250 • Rapid City, SD 57709-8250
605-342-2592
Fax 605-342-5185
E-Mail ljlaw@iway1.iw.net

First Bank Building
6th Floor • 141 N. Main Avenue
P.O. Box 1920 • Sioux Falls, SD 57101-3020
605-332-5999
Fax 605-332-4249
E-Mail ljlaw@ideesign.com

Sioux Falls Office

William F. Day, Jr.
Lee A. Magnuson
Jon C. Sogn
R. Allen Peterson
David L. Nakolski
Daniel R. Fritz*
Amy Heinrich Arndt

*Also Admitted in Minnesota

Member of Law Monda
A Global Association of 125 Independent Law Firms

REPLY TO: Rapid City 605-342-2592

May 1, 1997



Kelton S. Lynn
(1946-1974)
Horace R. Jackson
(1961-1987)

Ms. Genny McMath
Department of Environment and
Natural Resources
Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

Re: Fall River Feedlot/Lambeth - Transfer of Water Rights
Our File No.: 97-029-1

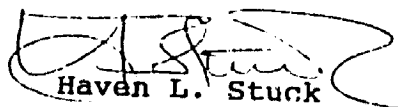
Greetings:

Enclosed please find five Notices of Transfer of Ownership with regard to water rights to be transferred from Fall River Feedlot and Clayton Lambeth to Fall River Feedyard, L.L.C. Also enclosed is our check in the sum of \$15.00 to cover the fee in this regard.

If you should have any questions, please contact me.

Sincerely,

LYNN, JACKSON, SHULTZ & LEBRUN, P.C.


Haven L. Stuck

HLS/dlm

Enclosures

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



Date: April 30, 1997

Telephone No. (605) 745-4109

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.

LAW OFFICES

Lynn, Jackson, Shultz & Lebrun, P.C.

Rapid City Office

Dorald K. Shultz
Gene N. Lebrun
Thomas G. Fritz
Haven L. Stuck
Jay C. Shultz
Jane Wipf Pfeifle
Kurt E. Solay
Leah Jeffries
Craig A. Pfeifle
Steven J. Oberg
Mary A. Gubrud
Steven J. Morgan

First National Bank Building
8th Floor • 909 St. Joseph St.
P.O. Box 8250 • Rapid City, SD 57709-8250
605-342-2592
Fax 605-342-5185
E-Mail ljlaw@rapidcitylaw.net

First Bank Building
6th Floor • 141 N. Main Avenue
P.O. Box 1920 • Sioux Falls, SD 57101-0920
605-332-5999
Fax 605-332-4249
E-Mail ljlaw@ideesign.com

Member of Law Month
A Global Association of 125 Independent Law Firms

REPLY TO: Rapid City 605-342-2592

Sioux Falls Office

William F. Day, Jr.
Lee A. Magnuson
Jon C. Sogn
R. Alan Peterson
David L. Nadolski
Daniel R. Fritz
Amy Heinrich Amdt

*Also Admitted in Minnesota

May 5, 1997

Kelton S. Lynn
(1946-1974)
Horace R. Jackson
(1961-1987)

Department of Environment and
Natural Resources
Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

Re: Fall River Feedlot/Lambeth - Transfer of Water Rights
Our File No.: 97-029-1

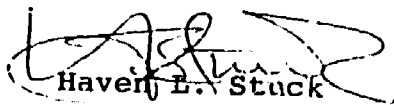
Greetings:

I have enclosed this firm's check in the amount of \$12.50 to cover the fee for the transfer of the water rights in the above-referenced. This check replaces the \$15 check sent to you with the Notices on May 1, 1997.

If you should have any questions, please contact me.

Sincerely,

LYNN, JACKSON, SHULTZ & LEBRUN, P.C.


Haven L. Stuck

HLS/mjk

Enclosure

RECEIPT

415341

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____ May 7, 19 97

RECEIVED OF Lynn, Jackson, Shultz & Lebrun, P.C., P.O. Box 8250, Rapid City, SD 57709
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct
and to put water to beneficial use _____

Fee for Application for Permit No. _____ to Appropriate Water, for Future
Use _____

Fee to retain Future Use Permit No. _____ after period of seven years.

Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water
License No. _____

Fee for Filing Transfer Form Water Right No. 1636-2

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

2 50

By

Chief Engineer

John Hatch



7656 2
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 21, 1997

Nos. 1636-2,
2178-2
2180-2
2182-2
2183-2

Haven L. Stuck
Lynn, Jackson, Shultz & Lebrun, P.C.
P.O. Box 8250
Rapid City, SD 57709-8250

Dear Mr. Stuck:

Enclosed are receipts in the amount of \$2.50 each which you paid for the transfer of Water Right Nos. 1636-2, 2178-2 and 2180-2, and Water Permit Nos. 2182-2 and 2183-2.

Our records now show Fall River Feedyard, L.L.C. as the owner of Water Right Nos. 1636-2, 2178-2 and 2180-2, and Water Permit Nos. 2182-2 and 2183-2.

Sincerely,

Cheryl F. Frost
Secretary
Water Rights Program
(605) 773-3352

enclosure

c: Joe Spitz, General Manager, Fall River Feedyard, L.L.C., South Highway 385, Hot Springs, SD 57747



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

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

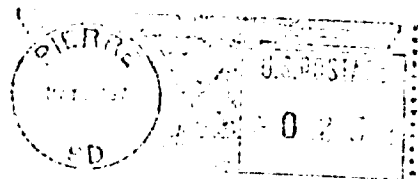
ADDRESS CORRECTION REQUESTED

P.O. Box 812

NOT DELIVERABLE
UNABLE TO FORWARD

NOT DELIVERABLE
UNABLE TO FORWARD

Joe Smith
Ft
Sc
Hc





1636-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 28, 1997

Joe Spitz, General Manager
Fall River Feedyard LLC
PO Box 892
Hot Springs, SD 57747-0892

RE: Water Right Nos. 1636-2 2178-2, 2180-2 & Water Permit Nos. 2182-2 and 2183-2

Dear Mr. Spitz:

Enclosed is your copy of a letter confirming the transfer of the above Water Rights and Permits into the name of Fall River Feedyard LLC. The copy was originally mailed to "South Highway 85, Hot Springs, SD." The post office notified us that your address is "PO Box 892" in Hot Springs. I will update our records accordingly.

If you have any questions, please contact me.

Sincerely,

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

enclosure

Map # 1400-2
APP. # 1636-2

3
2
10 11
34°
N 34° 0' E
2450'

Pump Site

10" PVC Pipe

Canal

Hydrant

Feed lot

R 6 E

N

Deposite 7

T 8 S

10 11
15 14

14

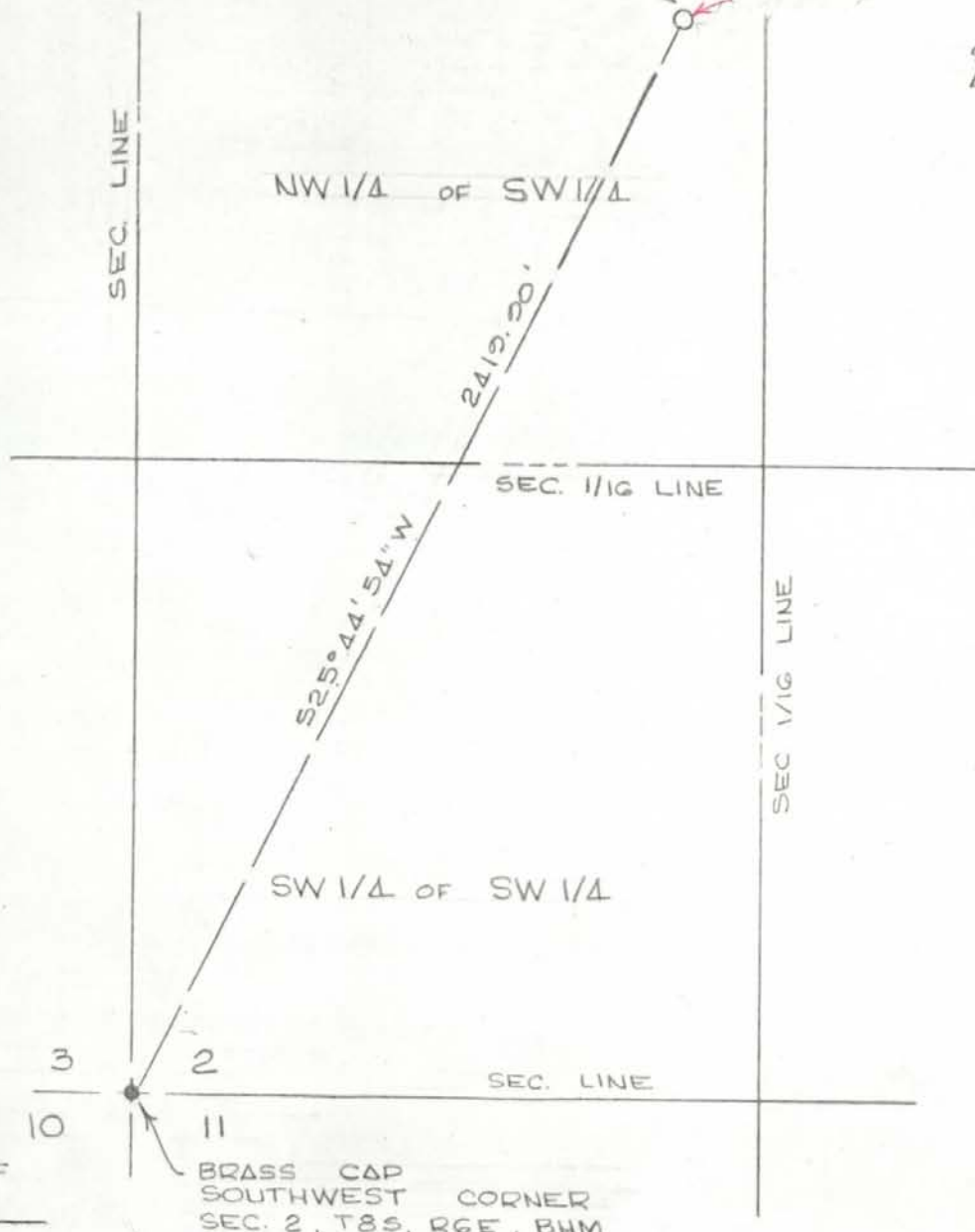
WATER RIGHT MAP FOR
INFILTRATION GALLERY
LOCATED IN

NW 1/4 OF SW 1/4 OF SECTION 2, T8S, R6E, BHM, FALL RIVER COUNTY, SOUTH DAKOTA

COLLECTION
GALLERY

Pump Site

SCALE 1" = 400'
APRIL 26, 1978



CERTIFICATE OF
SURVEYOR

State of South Dakota
County of Pennington

S.S.

I, James P. Heald, Registered Land Surveyor No. 2199 of the State of South Dakota, do hereby certify that being so authorized, the survey and within map of the land shown and described hereon were made under my responsible direction and supervision and that to the best of my knowledge and belief the within map is a representation of said survey.

Date:

By:



FRANCIS-MEADOR-GELLHAUS, INC.
RAPID CITY

PROJECT: FALL RIVER FEEDLOTS, INC.

SW 2-8S-GE

BY CES
4-26-78

SHEET
1 OF 1

JOB NO.
3796

MAP No 1400-2 APPL. 1636-2

WATER RIGHT MAP FOR
INFILTRATION GALLERY

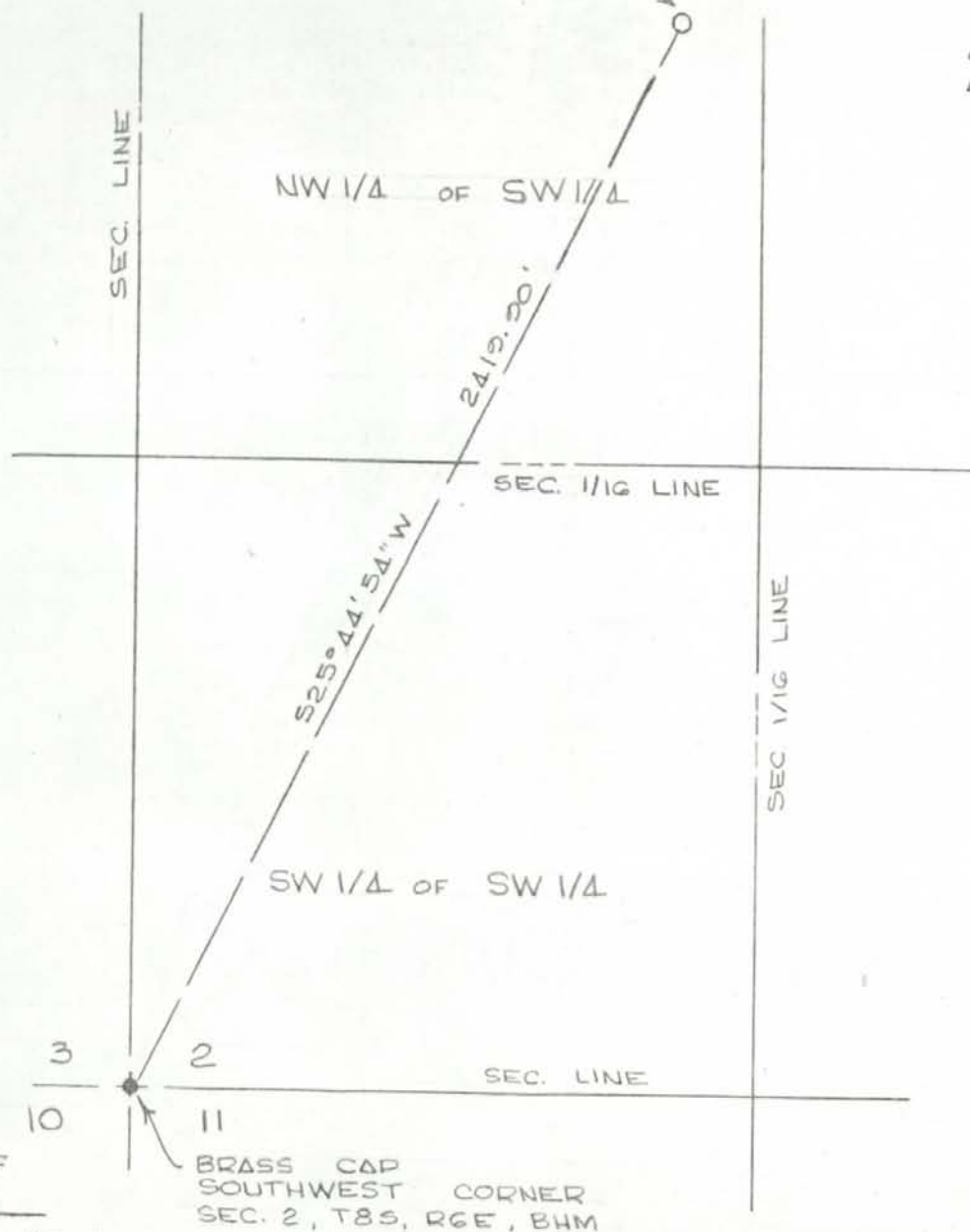
LOCATED IN

NW $\frac{1}{4}$ OF SW $\frac{1}{4}$ OF SECTION 2, T8S, R6E, BHM, FALL RIVER COUNTY, SOUTH DAKOTA

COLLECTION
GALLERY



SCALE 1"=400'
APRIL 26, 1978



CERTIFICATE OF
SURVEYOR

State of South Dakota
County of Pennington

S.S.

I, James P. Heald, Registered Land Surveyor No. 2199 of the State of South Dakota, do hereby certify that being so authorized, the survey and within map of the land shown and described hereon were made under my responsible direction and supervision and that to the best of my knowledge and belief the within map is a representation of said survey.

Date:

By:



FRANCIS-MEADOR-GELLHAUS, INC.
RAPID CITY

PROJECT: FALL RIVER FEEDLOTS, INC

SW 2-85-GE

BY CES
4-26-78

SHEET
1 OF 1

JOB NO.
3796

~~MAP No 1400-2~~ APPL. # 1636-2



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 30, 2006

NOTICE OF SHUTOFF ORDER

TO: FALL RIVER FEED YARD LLC
LONNIE DUNN, MGR
PO BOX 892
HOT SPRINGS SD 57747

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. 1636-2 2575-2

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

2575-2 1636-2

FALL RIVER FEED YARD - LONNIE DUNN, MGR
PO BOX 892
HOT SPRINGS SD 57747

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



1636-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 14, 2006

Fall River Feed Yard, LLC
Lonnie Dunn, Mgr.
PO Box 892
Hot Springs, SD 57747-0892

Ref: Water Right Nos. 1636-2 & 2575-2

Dear Mr. Dunn:

In June 2006 dry conditions in western South Dakota required the Department of Environment and Natural Resources (DENR) to issue shutoff orders to water right holders on the Cheyenne River from Angostura Dam to the Belle Fourche River confluence with priority dates after January 1, 1970. Your water rights Nos. 1636-2 and 2575-2 were included in this round of shutoff orders. At that time you were given a waiver to use Cheyenne River water because of the short notification and the amount of cattle you had at the feed yard. You were advised to seek an alternative source of water to supply the feed yard if dry conditions persist and shut off orders are again required.

The moisture forecast for the coming year predicts dry conditions, especially for the western portion of South Dakota. Unless there is a major change in climatic conditions, shut off orders for the Cheyenne River below Angostura Dam will likely be required the summer of 2007. If the Water Rights Program is required to issue such orders in 2007, the Chief Engineer will not be able to again grant your organization a waiver to continue pumping from the Cheyenne River. Therefore, this letter is to remind you of the need to seek an alternative source of water for the operation of the feed yard.

If you have any questions please contact me at (605)773-3352.

Sincerely,

Mark D. Rath

Natural Resources Engineering Specialist
DENR Water Rights Program



1636-2

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: FALL RIVER FEED YARD LLC
LONNIE DUNN, MGR
PO BOX 892
HOT SPRINGS SD 57747

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. 1636-2 2575-2

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.

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.