

Water Right No. 1716-2

"VESTED RIGHT"
CLAIMED

1. Considered JULY 24 1980
2. Name of Applicant MELVIN PORTER
3. Post Office Address EDGEMONT, S. D.
4. Amount of Water Claimed .14
5. Source of Water Supply MOSS AGATE CREEK - STORAGE DAM
6. Water to be used for IRR.
7. Acres to be irrigated 10 maximum 10 acre feet
8. Water to be diverted and used in FALL RIVER County
about _____ miles _____ of _____
9. PROOF OF PUBLICATION Received _____
N/A Not Received _____
- APPLICATION Approved 7-24-80
Subject to _____
Not Approved _____
Action deferred _____

Priority 1943 Date Received 6-17-80 Application Complete yes ☒ no ☐ FEE 13.00

Remarks _____

Date information and/or
fee or corrected Application received _____
Period of Annual use MARCH THRU NOVEMBER

WATER
QUALITY

Received yes ☐ no ☐ APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as application yes ☐ no ☐ Remarks _____

Disapproved _____

Returned _____

Diversion Point _____

SW⁴ SE⁴ 11-8¹-1E

Lands to be irrigated _____

X W¹ SE⁴ 11-8¹-1E

WELL
LOG

Remarks _____

Driller _____ Licensed yes ☐ no ☐

Depth 20' dam

Impoundment 20 acres

Water Right No. _____

MAP

Map No. 1475-2 Map located in Water Right X Map file _____

Type of Map DRAWN Prepared by L. J. MERRAUGH

+++++

REVIEWED

This Application was reviewed within 30 days of date received, accepted as complete, Number assigned and written up for advertisement before the Board on July 24, 1980

Duty Woodard
(Signed)

+++++

PROTESTS

Letters/Petitions in File - yes _____ no _____ Remarks _____

REMARKS

F.F. & C

OF LAW,

FINAL

DECISIONS

ETC.

Date _____
Final Decision, including F.F. & C of Law were adopted _____
Date _____
Final Decision mailed to parties and/or parties notified that Final Decision was adopted _____

Remarks _____

WATER RIGHT APPLICATION APPROVAL

The Water Management Board hereby approves Water Right Application No. 1716-2

MELVIN PORTER EDGE MONT
(Applicant) (Post Office Address)
SOUTH DAKOTA 57735 With the following qualifications
(State)

"VESTED RIGHT" CLAIMED

Date of first receipt of application JUNE 17, 1980

Date of return to applicant for correction, amendments or changes required _____, 19____

Date of receipt of corrected application RECEIVED, 19____

Approved JULY 24, 1980, Recorded in Book 31 Page 207

WATER RIGHT PERMIT NO. 1716-2

The Water Management Board hereby grants and issues this Water Right Permit No. 1716-2, authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as qualified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is 1943, 19____
2. The equivalent of at least one-fifth of the work above specified is ~~to be~~ completed ~~on or before~~ _____, 19____
3. The whole of said work is ~~to be~~ completed ~~on or before~~ _____, 19____
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is COMPLETED, 19____
5. The water appropriated shall be used for the purpose of IRRIGATION _____
6. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.
7. The amount of the appropriation herein granted shall not exceed .14 cubic feet per second; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for beneficial uses served, and if for irrigation purposes said appropriation must be limited to not more than 2 acre feet per acre per year and be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for irrigation on or before THIS DATE, 19____; said water to be used during the following described annual period: MARCH THRU NOVEMBER

Witness my hand this 28th day of JULY, 1980

THE WATER MANAGEMENT BOARD

By: John Walsh
Chief Engineer, Water Rights

Certificate of Construction Issued July 27th, 1980

Water License Issued July 27th, 1980

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

D Well Information

- (1) Drill Hole, Diameter _____, Depth _____
- (2) Casing, Type _____, Diameter _____, Thickness _____
(wood, concrete, steel, etc.)
- (3) 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. (Attach a copy of test well log)

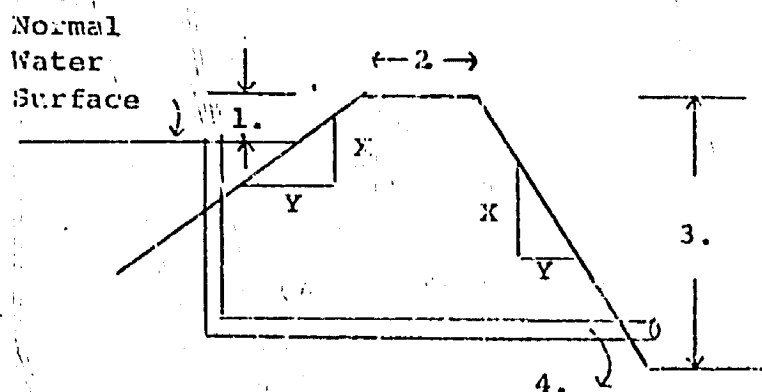
- Depth to top of water bearing material _____
- Depth to bottom of water bearing material _____
- Depth to water (ground surface to water level) _____

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

- 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, length, maximum water depth, surface area, drainage area, storage capacity, dam slope, dimensions, location and size of outlet works, of each storage dam. The location of each water storage dam should be shown on the water right map.



1. Freeboard 8'
2. Crest width 25'
3. Height of Dam 20'
4. Outlet dimensions:
Pipe diameter 12"
Spillway width 100'
X & Y slope: 3:1 slope
Upstream 2:1 slope
Downstream _____
Surface area of impoundment 20 acres
Drainage area above dam 8 sq miles

William Porter
Signature of Applicant

NOTE: This Form is supplemental to Form 2, and is to be used when an affidavit pertaining to construction and water use already completed, is needed.

**AFFIDAVIT OF CONSTRUCTION OF WATER USE
SYSTEM AND APPLICATION OF WATER TO BENEFICIAL USE**

Name of Applicant (Same as Form 2) Melvin Porter

Post Office Address Edgemont, State South Dakota 57733

If a Corporation show date and place of incorporation _____

13. Notice of Appropriation (if available) _____

Date of Posting _____ Date of Recording _____

Recording Date _____

14. Date of start of construction of water supply system 1946 approx.

*See 6/17/80
testing station*

15. Date that water was first applied to beneficial use 1943

16. Name of owner of original water supply system Harry Porter

17. Amount of water originally applied to beneficial use .14 c. f. s.

18. Present Use of Water _____

Amount of water now being used .14 c. f. s.

Date that this amount of water was first used not used

19. Chronological History of Water Use

Irrigation and Livestock water.

Attach to this Form 2B, any copies of notices, postings, filings, publications, affidavits, or other records that apply. You may also attach any written statement by you, or by others, that you deem pertinent.

STATE OF SOUTH DAKOTA)

County of Face River) ss.

Melvin Porter

_____, the applicant, certify that I have read the foregoing and that the matters therein stated are true.

Signed Melvin Porter

Subscribed and sworn to before me this 12th day of June, 1980

David D Russell
(Notary Public or other qualified Officer)

I, the undersigned, do hereby certify that I know about the water use system described above that I have read the foregoing and that the matters therein stated are true.

Melvin Porter

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 1716-2

(1) WHEREAS, On the 17th day of June, A. D. 1980
Melvin Porter

made Water Right Application No. 1716-2 for a vested right .14 cubic feet per second of the waters of Moss Agate Creek-storage dam
 County of: Fall River, State of South Dakota, for Irrigation

purposes; and
 (2) WHEREAS, On the 24th day of July, A. D. 1980
 vested right 1716-2, with a date of priority of 1943
 Permit No. 1716-2, recognizing the completion of construction of the water supply system therein described ~~XXXXXXXXXX~~ ~~XXXXX~~ ~~XXXXXX~~ and for the application to beneficial use of said water ~~XXXXXXXXXX~~ ~~XXXXX~~ ~~XXXXXX~~ ~~XXXXXXXX~~

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 .14 cubic feet per second of water for beneficial use and,

(4) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to the application of water to beneficial use of the following extent,

to irrigate the following lands all in Section 11, T8S, R1E

NW $\frac{1}{4}$ SE $\frac{1}{4}$ 5 acres

SW $\frac{1}{4}$ SE $\frac{1}{4}$ 5 acres

TOTAL 10 acres

(BY 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 Melvin Porter

of Edgemont, SD
vested right 1716-2
the holder and owner of said permit No. 1716-2 a water right, dating from 1943
to use of .14 cubic feet per second of the waters
of Miss Agate Creek-storage dam
in the County of Fall River and State of South Dakota, or so much thereof as may be necessary for the
purpose hereinbefore mentioned, to be diverted at a point 400' N and 100' E of the 1/4 corner of
 Section 11, T8S, R1E

and conducted to and upon portions of land in Section 11, T8S, R1E more fully
 described on the face of this License

for the purpose of Irrigation

This Water License No. 1716-2 is based on a Vested Right claim recorded and filed by the
Water Management Board

Subject to any limitations listed in Water Right Permit No. 1716-2 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 July A. D.
Nineteen Hundred and Eighty

WATER MANAGEMENT BOARD

 John Hatch
Chief Engineer, Executive Officer

JOHN HATCH

Permit No. 1716-2

Water Diversion No. 2 Upper Cheyenne Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That Harvin Porter

vested right the holder of
Permit No. 1716-2, issued upon Application No. 1716-2, bearing date of priority of 1943
authorizing the diversion of 1.14 cu. ft. per second of the waters of
Hoss Agate Creek-storage dam County of Fall River, State of South Dakota at
a point 100' north and 100' east of the S $\frac{1}{4}$ corner of Section 11, T8S, R1E
for Irrigation

purposes, has s 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 recognized as satisfactory
~~XXXXXX~~ for diverting and conveying to the place of intended use 1.14 cu. ft. per second of water.

Date July 28, 1980

John Hatch
JOHN HATCH, Chief Engineer
Water Rights Division

RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

No 4 7541

PIERRE,

June 17, 1930

RECEIVED OF Melvin Porter, Edgemont, SD 57735

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) _____	8.00
Fee for Inspecting Construction, and Issuing Cert. of Construction No. _____	2.50
Fee for Inspecting Beneficial Use, and Issuing Water License No. _____	2.50
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 13.00

WATER RIGHTS COMMISSION

By

(John Hatch)
Chief Engineer, Executive Officer

JOHN HATCH / (br)

SOUTH DAKOTA
Department of
Water & Natural Resources

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

September 21, 1988

NOTICE

Melvin Porter
Wyo. Rt, Box 17
Edgemont SD 57735

Dear Mr. Porter:

I am writing to notify you that pursuant to the Notice of Intent to Validate Vested Water Right Claims dated June 20, 1988 that I intend to oppose validation of your water right claim No(s) 1716-2 until a field inspection has been completed. The claim has either never been inspected or an inspection was conducted so long ago that a new inspection is needed. An inspection is needed to determine the current state of your vested water right claim.

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

Very truly yours,

for Melvin W. Brown
JOHN HATCH, Chief Engineer
Water Rights Division
605 773-3352



**Department of
Water & Natural Resources**

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

December 1, 1988

Vested Water Right
Claim No. 1716-2

Melvin Porter
Wyo. Rt, Box 17
Edgemont SD 57735

Dear Mr. Porter:

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

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

If we can answer any questions, please contact us.

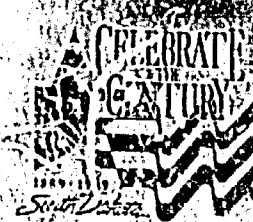
Very truly yours,

John Hatch

JOHN HATCH, Chief Engineer
Water Rights Division

605 773-3352

cc: Bruce Laymon, Bureau of Reclamation



 **Department of
Water & Natural Resources**

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

May 11, 1989

1716-2

NOTICE

TO: Melvin Porter
Wyo Rt., Box 17
Edgemont, SD 57735

FROM: JOHN HATCH, CHIEF ENGINEER
Water Rights Division
(605)773-3352

John Hatch

SUBJECT: Shut Off Order for Junior Water Rights Upstream of
Angostura Irrigation District

Effective May 19, 1989, you are ordered to cease diversions of water under Water Right No. 1716-2. The priority date for your water right is junior to the April 11, 1941 priority date for Angostura Irrigation District Water Right No. 579-2.

The Angostura Irrigation District's water supply is as follows:

May 2, 1989	24,673 acre feet available for irrigation at elevation 3173.4 ft. msl
-------------	--

The Irrigation District needs 45,000 acre feet per year for irrigation.

One fill of Angostura reservoir is authorized per year. The District has agreed to allow junior priority irrigation upstream, if the reservoir fills to elevation 3,183.7 ft. msl, 3.5 feet below full elevation (3187.2 ft msl). If the reservoir fills to 3,183.7 ft. msl, the shutoff order will be rescinded. Any releases by the District for irrigation will be included in the 3183.7 ft. msl. calculation.

If you have any questions, please contact Jim Winterton (605 773-3352).



Water Rights Division - DWNR
Conversation or File Documentation

File No. 1716-2

NAME OF PERSON OR FILE: Melvin Porter

ADDRESS: Wyo. Rt. Box 17, Edgemont, SD 57735 COUNTY Fall River

DATE: June 8, 1989 TELEPHONE _____

RE: Validation of Vested Right Claim No. 1716-3

COMMENTS:

I discussed this claim with Mr. Porter on May 31, 1989. He stated that the system was being used as outlined in the claim application filed in 1980. The map for the claim was drawn by Leroy Mernough, Division of Water Rights Engineer. I viewed the project from the road (raining conditions). A culvert does extend the delivery ditch north of the road. I informed Mr. Porter that he only had the right to irrigate the 10 acres described on the claim. He stated that he understood and agreed.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

4/82

NAME: Melvin H. Brose, P.E.
Hydrologist

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

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

March 19, 1990

1716-2

NOTICE

TO: Melvin Porter
Wyo Rt., Box 17
Edgemont, SD 57735

FROM: JOHN HATCH, CHIEF ENGINEER
Water Rights Division
(605)773-3352

John Hatch

SUBJECT: Shut Off Order for Junior Water Rights Upstream of
Angostura Irrigation District

This is a follow-up notice to the May 10, 1990 notice that you received ordering you to cease diversion of water under Water Right No. 1716-2. You are reminded that the order is still in effect and will remain in effect until Angostura Reservoir has filled. The May 10, 1989 order stated that the order was effective until the reservoir had reached an elevation of 3183.7 feet above mean sea level (msl). This has been changed and the order will remain in effect until the reservoir has reached the full elevation of 3187.2 msl. On March 6, 1990 the reservoir elevation was 3171.1 msl.

All water rights above Angostura Reservoir will be monitored until the reservoir has filled. I am asking for your cooperation in complying with this order. The Water Management Board can suspend any water right that does not comply. The option also exists in that a water use control area can be established to enforce compliance.

If you have any questions, please contact Del Brosz (605 773-3352).



Department of Water & Natural Resources

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

March 14, 1991

1716-2

NOTICE

TO: Melvin Porter
Wyo Rt., Box 17
Edgemont, SD 57735

FROM: *for* JOHN HATCH, CHIEF ENGINEER
Water Rights Division
(605) 773-3352

SUBJECT: Reminder of Shut Off Order for Junior Water
Rights Upstream of Angostura Reservoir

This is a reminder that the March 19, 1990 notice you received ordering you to cease diversion under your water right is still in effect and will remain in effect until Angostura Reservoir has filled. The elevation of Angostura Reservoir when full is 3187.2 feet above mean sea level (msl). On February 27, 1991 the reservoir elevation was 3170.25 msl.

All water rights above Angostura Reservoir will be monitored until the reservoir has filled. I am again asking for your cooperation in complying with this order.

If you have any questions, please contact Mark Rath or Del Brosz (605) 773-3352.

South Dakota



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

May 20, 1991

1716-2

Mark Tubbs
Box 563
Edgemont, SD 57735

Dear Mr. Tubbs:

I am writing in answer to your telephone inquiry of this morning. Mr. Melvin Porter has Vested Water Right Claim No. 1716-2 to divert 0.14 cubic feet of water per second (cfs) from Moss Agate Creek to irrigate 10 acres. The priority date for this claim is 1943.

Your Vested Water Right Claim No. 1813-2 is for 4.40 cfs from Moss Agate Creek to irrigate 308 acres with a priority date of 1908.

If you have any other questions, please contact me.

Sincerely,

Delvin D. Brosz, PE
Natural Resources Engineer
Division of Water Rights
(605) 773-3352

cc: Melvin Porter



GREAT FACES. GREAT PLACES.

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

May 20, 1991

1716-2

RESCISSION OF SHUTOFF ORDER

TO: Melvin Porter
Wyo Rt., Box 17
Edgemont, SD 57735

FROM: *for* JOHN HATCH, CHIEF ENGINEER
Water Rights Division
(605) 773-3352

SUBJECT: Rescission of Shut Off Order for Junior Water
Rights Upstream of Angostura Reservoir for 1991
Irrigation Season.

The recent rains in the Upper Cheyenne River Basin have provided large inflows for Angostura Reservoir. Now that Angostura Reservoir has filled, the shutoff order for all junior water rights upstream of the reservoir is rescinded for the 1991 irrigation season.

If you have any questions, please contact Mark Rath or Del Brosz (605) 773-3352.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

March 25, 1992

1716-2

NOTICE

TO: MELVIN PORTER
WYO RT BOX 17
EDGEMONT, SD 57735

FROM: JOHN HATCH, CHIEF ENGINEER
Water Rights Division
(605) 773-3352

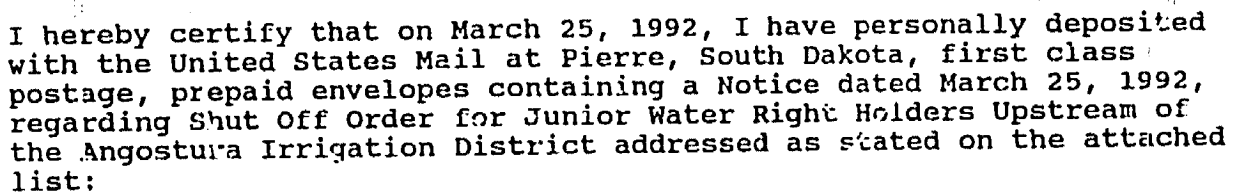
SUBJECT: Shut Off Order for Junior Water Right Holders Upstream
of the Angostura Irrigation District.

Please be advised that effective immediately no diversions of water will be allowed under your Water Right No. 1716-2 which is junior in priority to Water Right No. US579-2 held by the US Bureau of Reclamation for the Angostura Irrigation District.

On March 20, 1992 the water elevation in Angostura Reservoir was 4.4 feet and 19,164 acre feet below full. Reservoir storage levels will be closely monitored. If inflows increase such that the reservoir will fill, this shut off order will be rescinded at that time.

All water rights above Angostura Reservoir will be monitored until the reservoir has filled. I am asking for your cooperation in complying with this order.

If you have any questions, please contact Del Brosz or Mark Rath, Division of Water Rights, 523 E Capitol Ave, Pierre, SD 57501. Phone (605) 773-3352.





1716-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 12, 1993

1716-2

NOTICE

TO: MELVIN PORTER
WYO RT BOX 17
EDGEMONT, SD 57735

FROM: *for* JOHN HATCH, CHIEF ENGINEER
Water Rights Division
(605) 773-3352

Delvin D. Brosz

SUBJECT: Shutoff Order for Junior Water Right Holders Upstream
of the Angostura Irrigation District.

Effective immediately no diversions of water under your Water Right No. 1716-2 are authorized. Your water right is junior in priority to the US Bureau of Reclamation Water Right No. 579-2 (April 11, 1941 priority date). The Bureau of Reclamation water right for the Angostura Irrigation District allows one annual fill of the reservoir.

The amount of water required for one annual fill of Angostura Reservoir as of January 1, 1993 was 45,402 acre feet. On March 9, 1993 the water elevation in Angostura Reservoir was 10.2 feet and 41,305 acre feet below full. Reservoir storage levels will be closely monitored. If inflows increase and the reservoir will fill, this shutoff order will be rescinded. Any 1993 irrigation releases from the reservoir will be included in the inflow calculations.

All water rights above Angostura Reservoir will be monitored until the reservoir has filled. I am asking for your cooperation in complying with this order.

If you have any questions, please contact Del Brosz or Mark Rath, Division of Water Rights, 523 E Capitol Ave, Pierre, SD 57501. Phone (605) 773-3352.

cc: US Bureau of Reclamation
Angostura Irrigation District



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

April 14, 1993

1716-2

RESCISSION OF SHUTOFF ORDER

TO: MELVIN PORTER
WYO RT BOX 17
EDGEMONT, SD 57735

FROM: JOHN HATCH, CHIEF ENGINEER
Water Rights Division
(605) 773-3352

SUBJECT: Rescission of the Shutoff Order for Junior Water Right
Holders Upstream of the Angostura Irrigation District
for the 1993 Irrigation Season.

Recent wet conditions in the Upper Cheyenne River Basin have provided large inflows and the Angostura Reservoir is expected to fill shortly. The shutoff order for all junior water rights upstream of the reservoir is rescinded for the 1993 irrigation season.

If you have any questions, please contact Del Brosz or Mark Rath, Division of Water Rights, 523 E Capitol Ave, Pierre, SD 57501. Phone (605) 773-3352.

cc: US Bureau of Reclamation
Angostura Irrigation District



IN REPLY
REFER TO

WTR 4 10
BF-430

United States Department of the Interior

BUREAU OF RECLAMATION

Great Plains Region

Belle Fourche Projects Office

P.O. Box 226

Newell, South Dakota 57760-0226

AUG 18 1993



Mr. John Hatch, Chief Engineer
Water Rights Division
South Dakota Department of Water and Natural Resources
523 E. Capitol
Pierre SD 57501-3181

Subject: Vested Water Right Claims in Western South Dakota (Your Letter
Dated April 20, 1993) (Water Rights)

Dear Mr. Hatch,

We have reviewed the vested water right claims located in Perkins, Pennington, Fall River, and Butte Counties as listed in your letter dated April 20, 1993. We have also discussed these rights with contract water users. We appreciate the assistance of your staff in providing documentation of inspections and validation proceedings for specific claims as we requested.

We are satisfied with all of the actions taken by the board. Our intent in opposing validation of the water rights was to assure that all of the rights were reviewed prior to validation. That review has been completed by your staff. Thank you for notifying us of the board's actions and extending the opportunity to reconsider the actions if it would have been deemed necessary. We understand that future notification will be made in advance of board actions.

If we can be of further assistance, please contact Craig Kjar or me at (605) 456-2695.

Sincerely,

Bruce M. Laymon
Bruce M. Laymon
Project Manager

cc: Mr. Joe Kramer, Manager
Angostura Irrigation District
PO Box 346
Oral SD 57766

Mr. James E. Winterton, Project Manager
Belle Fourche Irrigation District
PO Box 225
Newell SD 57760



1716-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

October 14, 1993

NOTICE

Melvin Porter
307 5th Street
Edgemont, SD 57735

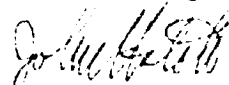
Dear Mr. Porter:

On September 13, 1993, I received a letter from Robert and Mark Tubbs. The letter advised that you had irrigated the 10 acres, authorized by Water Right No. 1716-2, before the Tubbs' Water Right No. 1813-2 had received adequate water. The priority date for the Tubbs water right is January 1, 1908 which is senior to your water right with a priority of January 1, 1943. You are not authorized to irrigate until the Tubbs' water right is satisfied. Water must be bypassed to the Tubbs' storage dam as required.

The Tubbs also claimed that you had irrigated land in addition to the authorized 10 acres. An inspection by Rassool Ahadi, Division of Water Rights, showed that this was not the case. However, you need to plug the irrigation ditch beyond the diversion point to irrigate the 10 acres. This would remove any doubt as to irrigation of any unauthorized acres.

I suggest you work with the Tubbs to determine when you can irrigate the 10 acres. If you have any questions, please contact Rassool Ahadi, Division of Water Rights, 523 East Capitol, Pierre, SD 57501. Telephone, (605) 773-3352.

Very truly yours,


John Hatch, Chief Engineer
Water Rights Division

c: Robert and Mark Tubbs
Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on October 14, 1993, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated October 14, 1993, regarding plugging of an irrigation ditch beyond the diversion point to irrigate 10 acres addressed as stated below:

Melvin Porter, 307 5th Street, Edgemont, SD 57735.

Robert and Mark Tubbs, P.O. Box 563, Edgemont. SD 57735.

Copy Sent Inter-office to:

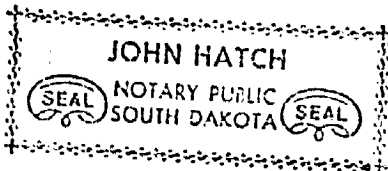
Diane Best, Assistant Attorney General, Capitol Building.

Cheryl F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
COUNTY OF HUGHES) SS

Sworn to, before me, this 15th day of October, 1993.



John Hatch
Notary Public
JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001

1716-2

File No. 1716-2

Water Rights Division -DENR
Conversation or File Documentation

NAME OF PERSON OR FILE: Melvin Porter

ADDRESS: Edgemont

COUNTY: Fall River

DATE: March 10, 1994

TELEPHONE: 662-7054

RE: Flooding

COMMENTS: Mr. Everette Porter called yesterday to inform me that Tubbs' dam was flooding his property. I suggested that Mr. Porter talk with Tubbs first, if they did not respond favorably, then I will talk with Tubbs.

Mr. Everette Porter called today to inform me that Tubbs did not say what they will do other than they will look into it. I told Everette that he should take pictures of the flooding and if Tubbs did not do anything to remedy the situation, he should file a complaint. He said he will do that.

Contacted Tubbs and talked to Robert Tubbs. He did not deny flooding Porter's land but he said it was a sudden snow melt. I told him that he can not flood anybody's property without an easement. Also talked to Mark Tubbs and told him the same thing. I also told him if they (Tubbs and Porters) would reach some agreement (easement) so that the Porters let the Tubbs flood their land and in exchange, the Tubbs would let, for example, Porters to irrigate for two weeks or so in July or August!!

I contacted Everette Porter again and told him that he should contact Tubbs and try to work it out with them. He said he will try it.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.


M. RASSOOL AHADI
Natural Resources Engineer III
DENR, Water Rights Division



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 15, 1995

1716-2

NOTICE

TO: MELVIN PORTER
WYO RT BOX 17
EDGEMONT, SD 57735

FROM: John Hatch, Chief Engineer
Water Rights Division
(605) 773-3352

SUBJECT: Shutoff Order for Junior Water Right Holders
Upstream of the Angostura Irrigation District.

Effective immediately no diversions of water under your Water Right No. 1716-2 are authorized. Your water right is junior in priority to the US Bureau of Reclamation Water Right No. US579-2 (April 11, 1941 priority date). Water Right No. US579-2 allows one annual fill of the reservoir.

On March 14, 1995, the water elevation in Angostura Reservoir was 7 feet and 30,000 acre feet below full. The Division of Water Rights, in cooperation with the Bureau of Reclamation, will closely monitor the reservoir storage level. If inflows increase and the reservoir will fill, this shutoff order will be rescinded. Any 1994 irrigation releases from the reservoir will be included in the inflow calculations.

The Division of Water Rights will monitor all water rights above Angostura Reservoir until the reservoir has filled. I am asking for your cooperation in complying with this order.

If you have any questions, please contact Del Brosz or Rassool Ahadi, Division of Water Rights, 523 E. Capitol Ave, Pierre, SD 57501. Phone (605) 773-3352.

cc: US Bureau of Reclamation
Angostura Irrigation District



1716-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 26, 1995

1716-2

RESCISSION OF SHUTOFF ORDER

TO: MELVIN PORTER
WYO RT BOX 17
EDGEMONT, SD 57735

FROM: *for* John Hatch, Chief Engineer
Water Rights Division
(605) 773-3352

SUBJECT: Rescission of the Shutoff Order for Junior Water Right Holders Upstream of the Angostura Reservoir for 1995 Irrigation Season.

Recent wet conditions in the Upper Cheyenne River Basin have provided large inflows and the Angostura Reservoir is expected to fill shortly. The shutoff order for all junior water rights upstream of the reservoir is rescinded for the 1995 irrigation season.

If you have any questions, please contact Del Brosz or Rassool Ahadi, Division of Water Rights, 523 E. Capitol Ave., Pierre, SD 57501.

cc: US Bureau of Reclamation
Angostura Irrigation District

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REISSUED STATE OF SOUTH DAKOTA
VESTED RIGHT WATER LICENSE NO. 1716-2 FOR IRRIGATION

(1) Melvin Porter, Wyo Rt. Box 17, Edgemont SD 57735 was issued Vested Water Right No. 1716-2, July 28, 1980 for a right to appropriate 0.14 cubic feet of water per second from Moss Agate Creek, Fall River County, South Dakota, for irrigation purposes. Vested Water Right No. 1716-2 with a priority date of January 1, 1943 was issued for diversion of water with construction of the described water supply system completed and application of water to beneficial use completed.

On July 10, 1996, Vested Right No. 1716-2 was transferred to Everett Porter.

On July 10, 1996, the Water Management Board validated Vested Right No. 1716-2. Vested Right No. 1716-2 is being reissued to correct errors in the legal descriptions of the irrigated land and the diversion point.

(2) The vested right owner is entitled to divert 0.14 cubic feet of water per second for beneficial use. The location of the diversion point is: SW 1/4 NE 1/4 Section 11-T8S-R1E.

The location of the irrigated acreage is:

Section 11-T8S-R1E	NW 1/4 NE 1/4	5 acres
	SW 1/4 NE 1/4	5 acres
	Total	10 acres

(3) Pursuant to Section 46-5-30.1 Everett Porter, HC 68 Box 17, Edgemont SD 57735 the holder and/or owner of Vested Water Right No. 1716-2 is issued a license to appropriate 0.14 cubic feet of water per second from Moss Agate Creek with a priority date of January 1, 1943 from the location specified in (2) of this license. The water is to be used for the purpose of irrigation. This license is subject to any limitations, conditions or qualifications listed in Vested Water Right No. 1716-2 and subject to South Dakota State Law.

John Hatch
JOHN HATCH, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

OCT 17 1996

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 6, 1996

Hot Springs Star
Box 1000
Hot Springs SD 57747-1000

ATTENTION: Legal Department

Enclosed is a Readvertisement of Notice of Intent to Validate Vested Water Right Claim. Please publish the first notice on June 11, 1996 with the second publication 7 days later.

Please BILL the Water Rights Program for the cost of publication.

A copy of BOTH publications must be SENT to the WATER RIGHTS PROGRAM. IMMEDIATELY return the FIRST publication with the FIRST Transmittal form on the bottom of this page. The first copy is needed to check the publication for errors so any corrections can be made in the second publication. Publication errors can invalidate the public notice and cause costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. No action may be taken on the validations until proof of publication has been received.

Sincerely,

Eric Gronlund
Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

FIRST TRANSMITTAL NOTICE

No. 1716-2

Date _____

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

TO: Eric Gronlund
Water Rights Program
523 E Capitol
Pierre SD 57501-3181

We are in receipt of your letter of June 6, 1996 enclosing Readvertisement of Notice of Hearing to Validate Vested Water Right Claim which was first published in our issue _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper

READVERTISEMENT OF NOTICE OF INTENT TO VALIDATE VESTED WATER RIGHT CLAIM

Notice is given that the following vested water right claim in Fall River County is eligible for validation by the Water Management Board. Readvertisement of the notice of intent to validate this claim, as published on September 1 and 8, 1992 in the Hot Springs Star is necessary to correct errors in the legal description.

Vested Water Right No. 1716-2, Melvin Porter, Wyo Rt, Box 17, Edgemont SD 57735 appropriates 0.14 cubic feet of water per second (cfs) from Moss Agate Creek (storage dam) located in the SW 1/4 NE 1/4 Section 11 to irrigate 10 acres located in the W 1/2 NE 1/4 Section 11; all in T8S-R1E. The priority date is January 1, 1943.

Any person who wishes to oppose validation of the readvertised vested right claim shall file a petition of intent to oppose the validation by June 28, 1996 with the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources, Joe Foss Building, 523 East Capitol, Pierre, SD 57501-3181 (605 773-3352) and with the vested water right holder at the listed address. The petition may be informal, but it must include a statement describing the petitioner's interest in the vested water right claim, the reasons for the petitioner's opposition to the claim, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. Existing parties of record need not file another petition.

The Water Management Board will consider this vested water right claim at 9:30 am, July 10, 1996, Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) validate the claim as recommended for 10 acres and 0.14 cfs, 2) validate the claim as licensed prior to the on-site inspection, 3) validate the claim based on evidence presented at the public hearing, or 4) defer validation of the claim. The July 10, 1996 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by June 28, 1996.

This validation is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-14; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-16 thru 46-2A-18, 46-2A-22; 46-5-1 thru 46-5-6.1, 46-5-8.2, 46-5-13 thru 46-5-15, 46-5-30.2 thru 46-5-37.1, 46-5-46, 46-5-49; 46-6-1 thru 46-6-3, 46-6-6, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-7-1 thru 46-7-5.3, 46-7-12, 46-7-14, 46-7-15 and Board Rules ARSD 74:02:01:01 thru 74:02:01:05.03 and 74:02:01:20 thru 74:02:01:22.

Contact Eric Gronlund by June 28, 1996, at the above Water Rights Program address to: 1) request copies of information pertaining to a vested right claim or a copy of the vested water right claim list for another county; 2) obtain a summary of South Dakota Water Law and Water Rights Information; 3) to assure access to the hearing by the handicapped; or 4) obtain an interpreter for the hearing impaired. Nettie H. Myers, Secretary, Department of Environment and Natural Resources

**READVERTISEMENT OF NOTICE
OF INTENT TO VALIDATE VESTED
WATER RIGHT CLAIM**

Notice is given that the following vested water right claim in Fall River County is eligible for validation by the Water Management Board. Read-justment of the notice of Intent to validate this claim, as published on September 1 and 8, 1992 in the Hot Springs Star is necessary to correct errors in the legal description.

• Vested Water Right No. 1716-2, Melvin Porter, Wyo Rt. Box 17, Edgemont, SD 57735 appropriates 0.14 cubic feet of water per second (cfs) from Moss Lake Creek (storage dam) located in the SW 1/4 NE 1/4 Section 11 to irrigate 10 acres located in the W 1/2 NE 1/4 Section 11; all in T8S-R1E. The priority date is January 1, 1943.

Any person who wishes to oppose validation of the readvertised vested right claim shall file a petition of intent to oppose the validation by June 28, 1995 with the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources, Joe Foss Building, 523 East Capitol, Pierre, SD 57501-3181 (605 773-3352) and with the vested water right holder at the listed address. The petition may be informal, but it must include a statement describing the petitioner's interest in the vested water right claim, the reasons for the petitioner's opposition to the claim, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. Existing parties of record need not file another petition.

The Water Management Board will consider this vested water right claim at 8:30 am, July 10, 1996, Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) validate the claim as recommended for 10 acres and 0.14 cfs, 2) validate the claim as licensed prior to the on-site inspection, 3) validate the claim based on evidence presented at the public hearing, or 4) defer validation of the claim. The July 10, 1996 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by June 28, 1996.

This validation is made pursuant to the provisions of SDCI 46-1-1 thru 46-1-9, 46-1-14; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-16 thru 46-2A-18, 46-2A-22; 46-5-1 thru 46-5-6.1, 46-5-8.2, 46-5-13 thru 46-5-15, 46-5-30.2 thru 46-5-37.1, 46-5-46, 46-5-49; 46-6-1 thru 46-6-3, 46-6-6, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-17, 46-7-1 thru 46-7-5.3, 46-7-12, 46-7-14, 46-7-15 and Board Rules ARSD 74:02:01.01 thru 74:02:01.05.03 and 74:02:01.20 thru 74:02:01.22.

Contact Eric Gronlund by June 28, 1996, at the above Water Rights Program address to: 1) request copies of information pertaining to a vested right claim or a copy of the vested water right claim list for another county; 2) obtain a summary of South Dakota Water Law and Water Rights Information; 3) to assure access to the hearing by the handicapped; or 4) obtain an interpreter for the hearing impaired. Nettie H. Myers, Secretary, Department of

STATE OF SOUTH DAKOTA)
County of Fall River) ss

1. Gregory Corr

certify that the attached printed Notice was
taken from the Hot Springs Star

printed and published in Hot Springs

County of Fall River and State of

South Dakota. The notice was published in the newspaper on the following two dates:

June 11, 1996

June 18, 1996

Cost of Printing: \$45.86

Thy. A. L.

(Signature)

Publisher

(Title)

June 18, 1996

(Date Signed)

Form 8 - Proof of Publication

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County Fall River) ss.

I, James R. Shanks

certify that the attached printed Notice 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 Hot Springs Star

City Hot Springs of Hot Springs

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

September 1, 1992

September 8, 1992

(Signature)

Publisher

(Title)

September 8, 1992
(Date Signed)

Cost of Printing: \$74.47

1716-2
Dillon, Las Vegas NV 89103, appropriates 25.3 cfs from Coal Creek located in the NE 1/4 NE 1/4 Section 23-T10S-R2E to irrigate 1,772 acres. The irrigated lands are located in the SW 1/4 Section 14; S 1/2 NW 1/4, SW 1/4 S 1/2 NE 1/4, SE 1/4 Section 15; NW 1/4, SW 1/4, S 1/2 NE 1/4, SE 1/4 Section 16; SW 1/4 NW 1/4, SE 1/4 SW 1/4, SE 1/4 Section 17; NW 1/4, S 1/2 NE 1/4, NE 1/4 SE 1/4 Section 18; NE 1/4 NE 1/4, NE 1/4 SE 1/4 Section 19; NW 1/4 SW 1/4, NE 1/4 SE 1/4 Section 20; NW 1/4 NW 1/4, NE 1/4 SE 1/4 Section 21; NW 1/4, NE 1/4 SW 1/4, NE 1/4 SE 1/4 Section 22; SW 1/4, NW 1/4 Section 23. NW 1/4 NW 1/4 Section 24; all in T10S-R2E. The priority date is 10/4/1945.

Vested Water Right No. 1716-2, Melvin Porter, Wyo. Rl., Box 17, Edgemont SD 57735 appropriates 0.14 cfs from Moss Agate Creek (storage dam) located in the SW 1/4 SE 1/4 Section 11 to irrigate 10 acres located in the W 1/2 SE 1/4 Section 11; all in T8S-R1E. The priority date is 1/1/1943.

Vested Water Right No. 1813-2, Robert A. Meek Tubbs, Box 583, Edgemont SD 57735, appropriates 4.4 cfs from Moss Agate Creek and dry draw between in the NW 1/4 NW 1/4 Section 1-T8S-R1E to SE 1/4 SW 1/4 Section 8-T8S-R2E to irrigate 308 acres located in the NE 1/4 NW 1/4, NE 1/4, NE 1/4 SE 1/4 Section 1-T8S-R1E and the NW 1/4, SW 1/4 Section 6-T8S-R2E. The priority date is 1/1/1908.

Any person who wishes to oppose validation of any of the registered vested water rights shall file a petition of intent to oppose the validation by September 18, 1992 with the Chief Engineer, Water Rights Division, Department of Environment and Natural Resources, Joe Foss Building, 523 East Capitol, Pierre, SD 57501-3161 (605-772-3552) and with the vested water right holder at the listed address. The petition may be informal, but it must include a statement describing the petitioner's interest in the vested water right claim, the reasons for the petitioner's opposition to the claim, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. If a petition of intent to oppose the validation of a recognized vested water right claim is filed, the Water Management Board will conduct a hearing on the proposed claim at 10:00 am, September 30, 1992, Floyd Matthews Training Center, Joe Foss Building, 523 E Capitol, Pierre SD. The September 30, 1992, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by September 18, 1992.

If no person opposes validation of a recognized vested water right claim pursuant to SDCL 46-2A-16, the Water Management Board will issue an order pursuant to SDCL 46-2A-17, validating the vested water right claim.

These validations are made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-14, 46-2-3, 46-2-9, 46-2-11, 46-2-17, 46-2A-16 thru 46-2A-18, 46-2A-22, 46-5-1 thru 46-5-6, 46-5-8, 46-5-13 thru 46-5-15, 46-5-30, 46-5-37, 46-5-46, 46-5-49, 46-6-1 thru 46-6-3, 46-6-5, 46-6-6, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-7-1 thru 46-7-5, 46-7-12, 46-7-14, 46-7-15 and Board Rules ARS(1) 74-02:01-01 thru 74-02:01-05.03 and 74-02:01-20 thru 74-02:01-22.

Contact Eric Gronlund by September 18, 1992, at the above Water Rights Division address to: 1) request copies of information pertaining to a vested right claim or a copy of the vested water right claim list for another county; 2) obtain a summary of South Dakota Water and Water Rights information; 3) to assure access to the hearing by the handicapped; or 4) obtain an interpreter for the hearing impaired.

Robert E. Roberts, Secretary, Department of Environment and Natural Resources

270
READVERTISEMENT OF NOTICE
OF INTENT TO VALIDATE VESTED
WATER RIGHT CLAIMS

Notice is given that the following vested water right claims in Fall River County are eligible for validation by the Water Management Board pursuant to SDCL 46-2A-17 without a hearing unless a petition to oppose the validation is filed pursuant to SDCL 46-2A-22. Readvertisment of these original notice of intent to validate these claims, as published on June 7 and 14, 1988 in the Hot Springs Star, is necessary to correct errors in the previously published notice.

Vested Water Right No. 481-2, L.O. and Joel Rickenbach, Box 97, Oakrich SD 57763 appropriates 4.06 cubic feet of water per second (cfs) from dry draws located in the SE 1/4 SE 1/4 Section 35; S 1/2 SW 1/4 Section 36; all in T8S-R8E; NW 1/4 NW 1/4, NW 1/4 NE 1/4, S 1/2 NE 1/4 Section 1; SW 1/4 NW 1/4, NE 1/4 SE 1/4, S 1/2 NE 1/4, NE 1/4 SW 1/4 Section 10; all in T10S-R8E. The location of the 285 acres irrigated is the N 1/2 SE 1/4, SE 1/4 SE 1/4 Section 35; S 1/2 SW 1/4 Section 36; all in T8S-R8E; Lots 1, 2, 3 & 4, S 1/2 NW 1/4, S 1/2 NE 1/4, N 1/2 SE 1/4 Section 1; SW 1/4 NW 1/4, NW 1/4 SW 1/4, SE 1/4, S 1/2 NE 1/4, NE 1/4 SW 1/4 Section 10; all in T10S-R8E. The priority dates are as follows: 0.01 cfs - 1/1/1937, 0.73 - 1/1/1942, 0.12 - 1/1/1943, 0.79 - 1/1/1946, 0.24 cfs - 1/1/1948, 0.23 cfs - 1/1/1949, 0.45 cfs - 1/1/1952, 0.43 cfs 1/1/1953, 1.06 cfs - 1/1/1954.

Vested Water Right No. 1872-2, Melvin Schumacher, Box 25, Oakrich SD 57763, appropriates 0.94 cfs from Duck Creek into a 30 acre-foot storage dam located in the NE 1/4 NW 1/4 Section 2 to irrigate 65.8 acres located in the NE 1/4 NW 1/4, SE 1/4 NW 1/4, S 1/2 NE 1/4, NE 1/4 SE 1/4 Section 2 and the SW 1/4 NW 1/4, NW 1/4 SW 1/4 Section 1; all in T12S-R6E. The priority date is 1/2/1908.

Vested Water Right No. 1873-2, William R. Fitzer, Rt 1, Box 78, Oral SD 57766, appropriates 0.8 cfs from Hay Canyon located in the NE 1/4 NW 1/4, SW 1/4 NW 1/4, SW 1/4 NE 1/4 Section 1 to irrigate 56 acres located in the NW 1/4, W 1/2 NE 1/4 Section 1; all in T8S-R8E. The priority date is 1/1/1909.

Vested Water Right No. 1879-2, Dora R. Henderson, Apt #265, 514 Indian River

PAYMENT REQUEST FORM

PAYEE: Hot Springs Star
P.O. Box 1000
Hot Springs, SD 57747

FROM: Water Rights Program
523 E. Capitol
Pierre, SD 57501-3181

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Publication of Readvertisement of Notice of Intent to Validate
Vested Water Right claim No. 1716-2 published on June 11 & 18, 1996.

AMOUNT: \$45.06

FUNDING SOURCE:

GENERAL: X

FEDERAL:

COMMENTS:

AUTHORIZATION:

[Signature]

6-24-96

I declare and affirm under the penalties of perjury that this claim is in all things, true and correct. I further agree to comply with the provisions of the Civil Rights Act of 1964 and regulations issued thereunder relating to nondiscrimination in federal assisted programs.

South Dakota

GREAT FACES. GREAT PLACES.

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 20, 1992

Melvin Porter
Wyo. Rt., Box 17
Edgemont SD 57735

Dear Mr. Porter:

The original Notice of Intent to Validate Vested Water Right Claims was published with an error. The location of the diversion point and the irrigated lands were incorrectly listed in the wrong quarter-quarter of Section 11-T8S-R1E. Therefore, the notice needs to be readvertised to correct the error. The Readvertisement of the Notice of Intent to Validate Vested Water Right Claims has been sent to the Publisher of the Hot Springs Star printed at Hot Springs SD. For your information, a copy of the notice is enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Eric Gronlund

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

READVERTISEMENT OF NOTICE OF INTENT TO VALIDATE VESTED WATER RIGHT CLAIMS

Notice is given that the following vested water right claims in Fall River County are eligible for validation by the Water Management Board pursuant to SDCL 46-2A-17 without a hearing unless a petition to oppose the validation is filed pursuant to SDCL 46-2A-22. Readvertisement of the original notice of intent to validate these claims, as published on June 7 and 14, 1988 in the Hot Springs Star, is necessary to correct errors in the previously published notice.

Vested Water Right No. 481-2, L.O. and Joel Rickenbach, Box 97, Oelrichs SD 57763 appropriates 4.06 cubic feet of water per second (cfs) from dry draws located in the SE 1/4 SE 1/4 Section 35; S 1/2 SW 1/4 Section 36; all in T9S-R8E: NW 1/4 NW 1/4, NW 1/4 NE 1/4, S 1/2 NE 1/4 Section 1; SW 1/4 NW 1/4, N 1/2 SE 1/4, SE 1/4 SE 1/4 Section 10; all in T10S-R8E. The location of the 285 acres irrigated is the N 1/2 SE 1/4, SE 1/4 SE 1/4 Section 35; S 1/2 SW 1/4 Section 36; all in T9S-R8E: Lots 1, 2, 3 & 4, S 1/2 NW 1/4, S 1/2 NE 1/4, N 1/2 SE 1/4 Section 1; SW 1/4 NE 1/4, NW 1/4 SW 1/4, SE 1/4, S 1/2 NW 1/4, NE 1/4 SW 1/4 Section 10; all in T10S-R8E. The priority dates are as follows: 0.01 cfs - 1/1/1937, 0.73 - 1/1/1942, 0.12 - 1/1/1943, 0.79 - 1/1/1946, 0.24 cfs - 1/1/1948, 0.23 cfs - 1/1/1949, 0.45 cfs - 1/1/1952, 0.43 cfs 1/1/1953, 1.06 cfs - 1/1/1954.

Vested Water Right No. 1210-2, John V. Miller, St Rt, Box 24, Oelrichs SD 57763 appropriates 2.55 cfs from Duck Creek located in the SW 1/4 SW 1/4 Section 21, and from Hat Creek between the NW 1/4 SE 1/4 Section 16 to SW 1/4 NE 1/4 Section 21; all in T11S-R4E. The 180 acres irrigated are located in the SW 1/4 SE 1/4, SE 1/4 SW 1/4 Section 16, N 1/2 NW 1/4, SE 1/4 NW 1/4, W 1/2 NE 1/4, NW 1/4 SE 1/4, Section 21; all in T11S-R4E. The priority date is 9/27/1907.

Vested Water Right No. 1872-2, Melvin Schumacher, Box 25, Oelrichs SD 57763, appropriates 0.94 cfs from Duck Creek into a 30 acre-foot storage dam located in the NE 1/4 NW 1/4 Section 2 to irrigate 65.8 acres located in the NE 1/4 NW 1/4, SE 1/4 NW 1/4, S 1/2 NE 1/4, NE 1/4 SE 1/4 Section 2 and the SW 1/4 NW 1/4, NW 1/4 SW 1/4 Section 1; all in T12S-R6E. The priority date is 1/2/1906.

Vested Water Right No. 1873-2, William R. Fitzner, Rt 1, Box 78, Oral SD 57766, appropriates 0.8 cfs from Hay Canyon located in the NE 1/4 NW 1/4, SW 1/4 NW 1/4, SW 1/4 NE 1/4 Section 1 to irrigate 56 acres located in the NW 1/4, W 1/2 NE 1/4 Section 1; all in T8S-R8E. The priority date is 1/1/1909.

Vested Water Right No. 1879-2, Dora R. Henderson, Apt #265, 5141 Indian River Drive, Las Vegas NV 89103, appropriates 25.3 cfs from Coal Creek located in the NE 1/4 NE 1/4 Section 23-T10S-R2E to irrigate 1,772 acres. The irrigated lands are located in the SW 1/4 Section 14; S 1/2 NW 1/4, SW 1/4, S 1/2 NE 1/4, SE 1/4 Section 15; NW 1/4, SW 1/4, S 1/2 NE 1/4, SE 1/4 Section 16; SW 1/4 NW 1/4, SE 1/4 SW 1/4, SE 1/4 Section 17; NW 1/4, S 1/2 NE 1/4, NE 1/4 SE 1/4 Section 18; NE 1/4 NE 1/4 Section 21; NW 1/4, NE 1/4 SW 1/4, NE 1/4, SE 1/4 Section 22; SW 1/4, NW 1/4 Section 23; NW 1/4 NW 1/4 Section 26; all in T10S-R3E. The priority date is 10/4/1945.

Vested Water Right No. 1716-2, Melvin Porter, Wyo. Rt., Box 17, Edgemont SD 57735 appropriates 0.14 cfs from Moss Agate Creek (storage dam) located in the SW 1/4 SE 1/4 Section 11 to irrigate 10 acres located in the W 1/2 SE 1/4 Section 11; all in T8S-R1E. The priority date is 1/1/1943.

(continued)

Vested Water Right No. 1813-2, Robert & Mark Tubbs, Box 563, Edgemont SD 57735, appropriates 4.4 cfs from Moss Agate Creek and dry draw between in the NW 1/4 NW 1/4 Section 1-T8S-R1E to SE 1/4 SW 1/4 Section 6-T8S-R2E to irrigate 308 acres located in the NE 1/4 NW 1/4, NE 1/4, NE 1/4 SE 1/4 Section 1-T8S-R1E and the NW 1/4, SW 1/4 Section 6-T8S-R2E. The priority date is 1/1/1908.

Any person who wishes to oppose validation of any of the readvertised vested right claims shall file a petition of intent to oppose the validation by September 18, 1992 with the Chief Engineer, Water Rights Division, Department of Environment and Natural Resources, Joe Foss Building, 523 East Capitol, Pierre, SD 57501-3181 (605 773-3352) and with the vested water right holder at the listed address. The petition may be informal, but it must include a statement describing the petitioner's interest in the vested water right claim, the reasons for the petitioner's opposition to the claim, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained.

If a petition of intent to oppose the validation of a recognized vested water right claim is filed, the Water Management Board will conduct a hearing on the opposed claim at 10:00 am, September 30, 1992, Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre SD. The September 30, 1992, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by September 18, 1992.

If no person opposes validation of a recognized vested water right claim pursuant to SDCL 46-2A-16, the Water Management Board will issue an order pursuant to SDCL 46-2A-17, validating the vested water right claim.

These validations are made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-14; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-16 thru 46-2A-18, 46-2A-22; 46-5-1 thru 46-5-6.1, 46-5-8.2, 46-5-13 thru 46-5-15, 46-5-30.2 thru 46-5-37.1, 46-5-46, 46-5-49; 46-6-1 thru 46-6-3, 46-6-6, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-7-1 thru 46-7-5.3, 46-7-12, 46-7-14, 46-7-15 and Board Rules ARSD 74:02:01:01 thru 74:02:01:05.03 and 74:02:01:20 thru 74:02:01:22.

Contact Eric Gronlund by September 18, 1992, at the above Water Rights Division address to: 1) request copies of information pertaining to a vested right claim or a copy of the vested water right claim list for another county; 2) obtain a summary of South Dakota Water Law and Water Rights Information; 3) to assure access to the hearing by the handicapped; or 4) obtain an interpreter for the hearing impaired. Robert E. Roberts, Secretary, Department of Environment and Natural Resources



1716-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 1, 1992

Melvin Porter
Wyo. Rt., Box 17
Edgemont, SD 57735

Dear Mr. Porter:

I received a letter from Robert and Mark Tubbs on September 25, 1992 advising that you were irrigating more than the 10 acres authorized by Vested Right No. 1716-2. They also stated that your dam was no longer used to store water for livestock use.

The priority date for your Vested Water Right No. 1716-2 is junior to that of Vested Water Right No. 1813-2, Robert and Mark Tubbs. You are not authorized to irrigate or store water for irrigation until their water right has been satisfied. You can irrigate with stored water, if the water was stored after the Tubbs' right was satisfied.

If the dam is no longer used to store water for livestock use, all inflows must be bypassed until the Tubbs' water right has been satisfied.

If the irrigation canal extends beyond a point needed to irrigate the 10 acres, the irrigation canal needs to be plugged at that point. Allowing water to flow in the canal beyond this point is not authorized by your vested right.

If you have any questions, please contact Del Brosz, Division of Water Rights, 523 E. Capitol, Pierre, SD 57501. Telephone (605) 773-3352.

Very truly yours,

John Hatch, Chief Engineer
Division of Water Rights

c: Robert and Mark Tubbs



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 1, 1992

Robert and Mark Tubbs
Box 563
Edgemont, SD 57735

Dear Mr. Tubbs:

I am writing in answer to your letter that was received on September 25, 1992 regarding Vested Water Right No. 1716-2, Melvin Porter. Vested Water Right No. 1716-2 is for the irrigation of 10 acres and for storage of water in a dam for irrigation and livestock use. The priority date is January 1, 1943.

Mr. Porter has told Division of Water Rights staff that he only irrigates the 10 acres authorized by the water right. If he irrigates additional acres and you have documentation, such as photographs, please provide that documentation.

If Mr. Porter no longer uses the dam for storage of livestock water, he is required to bypass all inflows until your Water Right No. 1813-2 is satisfied. Since Mr. Porter's water right is junior to your water right, he is not authorized to irrigate until your water right has been satisfied.

I am enclosing a copy of the letter that was sent to Mr. Porter. Thank you for writing on this matter.

Very truly yours,

John Hatch, Chief Engineer
Division of Water Rights
(605) 773-3352

enclosure

c: Melvin Porter

Water Rights Program -- File Documentation

NAME: Melvin Porter

ADDRESS: Wyoming Rt, Box 17, Edgemont SD

DATE: April 22, 1996 **COUNTY:** Fall River

RE: Incorrect Readvertisement of Claim

COMMENTS:

Vested Water Right Claim No. 1716-2 was published for validation with all other vested right claims in Fall River county on June 7 and 14, 1988, in the Hot Springs Star. The Chief Engineer contested the validation for purposes of completing an investigation to ensure that the irrigated area corresponded with the claim. In addition, the Bureau of Reclamation also contested the claim. On June 8, 1989, Del Brosz completed an investigation and found same area being irrigated and the same diversion point as identified on the corrected map.

During drafting of the validation document to issue to Mr. Porter a supposed error was found in the published legal description of the irrigated land and diversion point. It was believed that an error in the published legal description had occurred based on a different legal description being on the original claim and water license. As a result of believing an error had been made, the validation was readvertised to correct the error. The readvertisement was completed on September 1 and 8, 1992. However, it was later discovered that the original publication was accurate and the readvertisement was in error. Del Brosz had discovered the error on the claim and license and published the correct legal descriptions in the original notice of intent to validate. Del Brosz had made the legal description correction to a map prepared by Leroy Mernaugh, but this map was not consulted prior to doing the readvertisement.

Based on the erroneous readvertisement, a hearing was scheduled on September 30, 1992, for the Water Management Board to validate the claim. In response to the readvertisement, a petition was received from Robert and Mart Tubbs concerning the number of acres irrigated. It was not until after the September 30, 1992, Board action, that the readvertisement was found to contain errors. I also could not find any file documentation noting whether the Bureau of Reclamation was provided the readvertisement notice.

RECOMMENDED ACTION:

In order to ensure that the claim is properly validated, the claim should again be readvertised but with the correct legal descriptions as originally published. A copy of the notice needs to be supplied to the Bureau of Reclamation and to Robert and Mark Tubbs with an explanatory cover letter. Provided the Board validates the claim, the validation document can be issued to Mr. Porter following the hearing.



Ron Duvall, Natural Resources Engineer
Water Rights Program



Melvin Porter
Wyoming Rt, Box 17
Edgemont SD 57735

June 6, 1996

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Dear Mr. Porter:

I am writing concerning Vested Water Right Claim No. 1716-2 for irrigation of 10 acres from Moss Agate Creek. The irrigated acreage and storage dam are both located in the W $\frac{1}{2}$ NE $\frac{1}{4}$ section 11-T8S-R1E.

As you may recall, legislation was passed requiring all vested water rights in South Dakota to be validated. In response to this law, a notice of intent to validate was published in the Hot Springs Star in June of 1988. Your claim, along with all others in Fall River county, was included in the publication. Following publication of the notice, it was believed that an error had been made in the publication concerning the legal description of your irrigated acreage and storage dam. Based on the belief that an error occurred, your claim was readvertised in 1992. We have now found that the original publication in 1988 was accurate and the readvertisement was in error. The readvertisement was based on the legal description stated on your claim application and water license -- these legal descriptions are not correct, but the map was correct. Unfortunately, the map was not consulted for purposes of doing the readvertisement. I apologize for this error. It is now necessary to correct the situation.

The Water Management Board took action to validate your claim in response to the 1992 readvertisement. Since the readvertisement did not accurately describe your irrigation system, we will need to advertise again to list the correct legal descriptions. This readvertisement is necessary to ensure that all legal requirements are met concerning accurate and sufficient public notice. We will pay the expense for the publication. A copy of the enclosed notice is also being provided to the Bureau of Reclamation and to Robert and Mark Tubbs. The Bureau filed a petition in response to the original publication and Robert and Mark Tubbs filed a petition in response to the readvertisement completed in 1992. Both are considered to be parties to the validation hearing based on their petitions. If you want a copy of the petitions, we will forward copies to you. Enclosed is a copy of the readvertisement notice.

Again, I apologize for the error. We try to be thorough and missed the mark this time. If you have any questions, please contact me at (605) 773-3352.

Sincerely,

Ron Duvall
Natural Resources Engineer
Water Rights Program

enclosure

c: Robert and Mark Tubbs
Craig Kjar, Bureau of Reclamation



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 10, 1996

Everett Porter
Wyo Rt., Box 17
Edgemont, SD 57735

Dear Mr. Porter:

Please find enclosed a copy of the petition Mark and Bob Tubbs submitted to validation of Recognized Vested Water Right Claim No. 1716-2. You requested a copy of their petition. I apologize for the poor quality of the copy.

I have also enclosed a copy of South Dakota water rights law. If you have any questions, please contact me.

Sincerely,

Eric Gronlund
Eric Gronlund
Water Rights Program
(605) 773-3352

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 28, 1996

Everett Porter
Wyo Rt., Box 17
Edgemont, SD 57735

Dear Mr. Porter:

Please find enclosed a copy of a petition filed Mark and Robert Tubbs regarding validation of Recognized Vested Water Right Claim No. 1716-2. You requested a copy of any petition filed in response to readvertisement of the notice of intent to validate the vested water right claim.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads 'Eric Gronlund'.

Eric Gronlund
Water Rights Program
(605) 773-3352

enclosure



June 26, 1996

Mark & Bob Tubbs
Box 563
Edgemont, S.Dak.

Dear Eric Granlund;

Due to the fact that Tubbs's water right claim of 1908 has the prior date, Mr. Porter should not have the option to store water in his dam.

We have agreed that Mr. Porter can irrigated his 10 acres as the water come by. This is to compensate for our dam backing water on approx. 1 acre of his land when our dam is completely full.

Mr. Porter should not control the water and store it in his dam. His dam

(2)

should only be a diversion to irrigate his 10 acres and all other water should ~~not~~ go by for our needs.

His dam is larger than state law allows for domestic use, and is in violation of our 1908 water right, by keeping the water away from us.

His dam backs water on U.S. Forest Service land, which is only used a short period of the year. The land the dam is on is watered by a pipeline.

Possibly Porter's are in violation of backing water onto Govt. land.

(3)

Last year Mr. Porter irrigated his ten acres. He stored the water till he could get his hay up, which took a month. His dam evaporated and soaked away about 15 acre feet of our water. We were able to only irrigate 30 acres ^{out of} 300. This has went on forever, and it should be your responsibility to bring this problem to a conclusion.

In closing Mr. Porter should irrigated his ten acres when the water is flowing and let all other water by.

PS. We have not received any water to irrigate with as of this date. 1996

Sincerely,
Mark Tubbs
Robert D. Tubbs



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 2, 1996

Nos. 1716-2 and 1813-2

Everett Porter
Wyoming Rt, Box 17
Edgemont SD 57735

Robert and Mark Tubbs
PO Box 563
Edgemont SD 57735

Gentlemen:

I am writing in regard to the pending validation of Vested Water Right Claim No. 1716-2, Everett Porter at the July 10, 1996, Water Management Board meeting. To answer the concerns in the petition filed by Robert and Mark Tubbs (No. 1813-2), I am suggesting that the following qualification be added to No. 1716-2:

No impoundment of water for irrigation use as authorized by Vested Water Right No. 1716-2 may occur until the downstream storage dam authorized by Vested Water Right No. 1813-2 has received its annual fill. In addition, other inflows received during the irrigation season must be by-passed, as needed, to satisfy downstream prior water rights and domestic uses. Subject to any agreement between the holders of Vested Right No. 1716-2 and Vested Right No. 1813-2, water may be diverted under No. 1716-2 prior to filling of the downstream dam or under other water use conditions agreed to by the vested right holders.

If you have any comments or suggestions on this proposed qualification, please contact Eric Gronlund or Ron Duvall at (605) 773-3352 prior to the July 10, 1996 hearing. We welcome any comments or suggestions you may want to offer concerning this matter.

Very truly yours,

John Hatch, Chief Engineer
Water Rights Program

Report on Validation of Recognized Vested Water Right Claim No. 1716-2, Melvin Porter

July 5, 1996

BACKGROUND

In 1986 legislation was enacted requiring all recognized vested water right claims to be validated. This validation process involved publishing a list of vested right claims in each county. In response to the 1988 publication of Claim No. 1716-2, the chief engineer opposed validation of the claim until an investigation could be completed to determine if the claim was in use. In addition, the US Bureau of Reclamation also opposed validation of the claim until the claim could be investigated. An investigation of the project was completed and the claim was scheduled for validation.

It was later believed that an error had been made in the published legal description for No. 1716-2 which led to readvertisement of the claim in 1992. In response to the publication, Robert and Mark Tubbs contested the claim concerning the number of irrigated acres. Following validation of the claim by the Water Management Board, it was discovered that the publication notice contained an error resulting in another publication for this July 10, 1996 hearing. Robert and Mark Tubbs again filed a petition on June 26, 1996, contesting the claim. The petition filed by Robert and Mark Tubbs does not dispute the validity of the claim filed by Mr. Porter, but rather concerns a water use dispute between the parties.

DISCUSSION

Vested Water Right Claim No. 1716-2, Melvin Porter

Claim No. 1716-2 appropriates 0.14 cubic feet of water per second (cfs) from Moss Agate Creek (storage dam) located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ section 11 to irrigate 10 acres in the W $\frac{1}{2}$ NE $\frac{1}{4}$ section 11; all in T8S-R1E. The priority date claimed for this water use is January 1, 1943.

Vested Water Right No. 1813-2, Robert and Mark Tubbs

Vested Right No. 1813-2 appropriates 4.40 cfs from Moss Agate Creek and a dry draw between the NW $\frac{1}{4}$ NW $\frac{1}{4}$ section 1-T8S-R1E and the SE $\frac{1}{4}$ SW $\frac{1}{4}$ section 6-T8S-R2E to irrigate 308 acres in portions of section 1-T8S-R1E and section 6-T8S-R2E. The priority date of this vested right is January 1, 1908.

The vested right held by Robert and Mark Tubbs has an earlier priority date and is located downstream from Claim No. 1716-2. As a result, water use under Claim No. 1716-2 is subject to the water use authorized by Vested Right No. 1813-2. As necessary, water must be bypassed to satisfy downstream senior water rights as well as any domestic uses.

Water Rights Program -- File Documentation

NAME: Everett Porter

ADDRESS: Wyoming Rt, Box 17, Edgemont SD 57735

DATE: July 8, 1996 **COUNTY:** Fall River

RE: Pending Hearing on Validation of Vested Water Right Claim No. 1716-2

COMMENTS:

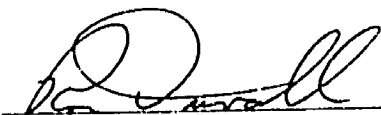
July 5, 1996

Everett Porter called concerning the June 26, 1996, petition filed by Robert and Mark Tubbs. Mr. Porter indicated that he was planning on discussing a possible solution with Mark Tubbs. According to Mr. Porter, water is available for his cattle from another water supply but he also liked to have water in the dam as a back-up water source. Mr. Porter planned on discussing the possibility of releasing as much water as possible in each June after the cattle are removed. Most of the water can be released according to Mr. Porter, except for maybe six inches covering an acre or two. I informed Mr. Porter that state law does not require him to release water stored for domestic use. Mr. Porter replied that no cattle are present the remainder of the year and the dam dries up by the end of the summer anyway. According to Mr. Porter, the water is only waist deep even when the dam is full -- considerable silting in of the dam has occurred.

I informed Mr. Porter of the proposed qualification mentioned in the letter mailed on July 2, 1996. Mr. Porter had not yet received the letter, but after reading the qualification over the phone, Mr. Porter understood that the qualification corresponded with state law.

July 8, 1996

Mark Tubbs called concerning the July 2, 1996 letter and expressed support for including the qualification on the vested right claim.



Ron Duvall, Natural Resources Engineer
Water Rights Program

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 1716-2

Date: _____

I/We request that Water Right No. 1716-2

formerly owned by: Melvin Porter

be transferred to: (name & address) Everett Porter, HC 68 Box 17, Edgemont, SD 57735

Telephone No. (605) 662-7051

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

10 acres - W½ SE¼ Section 11, T8S, R1E

I/We understand that the validity of Water Right No. 1716-2 has not been determined by this transfer action. If I/We have any question on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

STATE OF SOUTH DAKOTA)

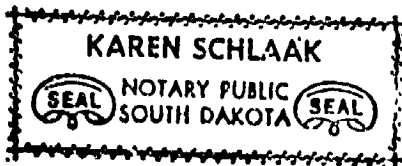
County of Hughes)

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

Everett Porter

(Signed)

Subscribed and sworn to before me this 10th day of July, 19 76.



Karen Schlaak

(Notary Public)

KAREN SCHLAACK, Notary Public
My Commission Expires
April 1, 2001

NOTE: Water permits may be cancelled for nonconstruction within the five year construction period. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 15, 1996

Everett Porter
Wyoming Tr, Box 17
Edgemont, SD 57735

Robert and Mark Tubbs
PO Box 563
Edgemont, SD 57735

Dear Gentleman:

On July 10, 1996, the Water Management Board validated Vested Water Right No. 1716-2, for Melvin Porter. The validation included the qualification stated in my letter, dated July 2, 1996. The qualification states:

No impoundment of water for irrigation use as authorized by Vested Water Right No. 1716-2 may occur until the downstream storage dam authorized by Vested Water Right No. 1813-2 has received its annual fill. In addition, other inflows received during the irrigation season must be by-passed, as needed, to satisfy downstream prior water rights and domestic uses. Subject to any agreement between the holders of Vested Right No. 1716-2 and Vested Right No. 1813-2, water may be diverted under No. 1716-2 prior to filling of the downstream dam or under other water use conditions agreed to by the vested right holders.

No provision of this qualification allows flooding of Mr. Porter's property by the downstream dam. However, the vested right holders may reach a private agreement addressing water diversions and the flooding of property by the downstream dam. Impoundment of a reasonable amount of water for stockwatering in the Porter dam is allowed prior to the downstream dam being filled.

If you have questions on the Board's action, please contact Ron Duvall at (605) 773-3352.

Very truly yours,

John Hatch, Chief Engineer
Water Rights Program
(605) 773-3352



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

OCT 17 1996

Everett Porter
HC 68, Box 17
Edgemont SD 57735

Dear Mr. Porter:

The Water Management Board has validated the enclosed Vested Water Right No. 1716-2. This validation gives legal status to the claim and is the final document for your vested right. Enclosed is the reissued water license which reflects the acreage and diversion rate as validated by the Board.

As long as you use the water beneficially, as stated in the validation. State Water Laws provide that you have a continuing right to use the water.

Very truly yours,

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

enclosure

SOUTH DAKOTA

VESTED WATER RIGHT NO. 1716-2 FOR IRRIGATION

Date of Receipt of Claim June 17, 1980.

Date of Validation July 10, 1996.

The Water Management Board validated Vested Water Right Claim No. 1716-2 for irrigation purposes for Everett Porter, HC 68 Box 17, Edgemont SD 57735 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 1716-2 appropriates 0.14 cubic feet of water per second from Moss Agate Creek (storage dam) located in the SW 1/4 NE 1/4 Section 11 to irrigate 10 acres located in the W 1/2 NE 1/4 Section 11; all in T8S-R1E.
2. The appropriation may not exceed the amount of water needed for beneficial use for irrigation. The appropriation may not exceed 3 acre feet per irrigated acre per year. The water is to be used during the following annual period: March 1 - November 30.
3. The priority date of the Vested Water Right is January 1, 1943.
4. The water use system has been constructed and water has been applied to beneficial use.
5. Water Rights obtained in compliance with the laws of the State of South Dakota must not be unlawfully impaired by this appropriation.

Qualification

No impoundment of water for irrigation use as authorized by Vested Water Right No. 1716-2 may occur until the downstream storage dam authorized by Vested Water Right No. 1813-2 has received its annual fill. In addition, other inflows received during the irrigation season must be by-passed, as needed, to satisfy downstream prior water rights and domestic uses. Subject to any agreement between the holders of Vested Right No. 1716-2 and Vested Right No. 1813-2, water may be diverted under No. 1716-2 prior to filling of the downstream dam or under other water use conditions agreed to by the vested right holders.

WATER MANAGEMENT BOARD

By: _____

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

OCT 17 1996

date



RECEIPT

Division of Water Rights

South Dakota Department of Environment and Natural Resources

1716-2
415001

Pierre, _____ July 10, 19 96

RECEIVED OF Everett Porter, HC 68 1/2 Box 17, Edgemont, SD 57735

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>Water Right No. 1716-2</u>	2	50
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	2 50

By John Hatch (Signature)
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 10, 1997

Nos. 1716-2 and 1813-2

Robert and Mark Tubbs
PO Box 563
Edgemont SD 57735

Everett and Deb Porter
HC 68 Box 17
Edgemont SD 57735

Dear Messrs. Tubbs and Mr. and Mrs. Porter:

I am writing in response to phone conversations on January 6, 1997 between Mark Tubbs, Deb Porter, and Ron Duvall, staff engineer, concerning water diverted by the Porter dam located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ section 11-TT8S-R1E.

Mr. Tubbs stated that runoff into the Porter dam should be released to help fill the downstream Tubbs dam which has an earlier priority date for irrigation. Mr. Duvall contacted Deb Porter and was informed that the headgate on the Porter dam had been opened during the afternoon on January 4, 1997 to release water. According to Mrs. Porter, there was no intention to irrigate and the Porters are concerned that the build up of ice downstream may kill their alfalfa. Mrs. Porter further mentioned that water was released to improve relations with Mr. Tubbs and also because the Porters believe there will be sufficient runoff in the spring to impound water for stock water. g. Currently, there are no cattle in the pasture where the Porter dam is located.

A qualification attached to Vested Water Right No. 1716-2, Everett Porter specifies that the Porter property may not be irrigated until the Tubbs vested water right has been satisfied as well as any other downstream senior water rights or domestic uses. The qualification also includes a provision that the Porter's and Tubbs' may reach a private agreement to allow diversion of water under other conditions agreed to by both parties. Mr. Tubbs indicated during his conversation with Mr. Duvall that there was a verbal agreement between the parties that Porter's can irrigate the 10 acres covered by No. 1716-2 provided the headgate on the Porter dam remains open.

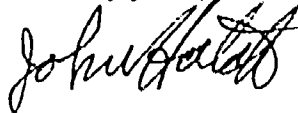
I suggest you reach an agreement and then put the agreement in writing. A written agreement will help ensure that important details are not overlooked and that everyone is aware of their responsibilities. Any agreement reached will only pertain to your water use and not to other water users. For example, a shutoff order may still be issued to Mr. Porter to protect the Angostura Project water right even though your agreement may specify that the 10 acres can be irrigated if the headgate is left open.

January 10, 1997
Robert and Mark Tubbs
Everett and Deb Porter
Page 2 of 2

In lieu of an agreement, we will continue to take the position that water may be impounded in the Porter dam only for livestock water until downstream senior water rights and domestic uses are satisfied. In addition, no property may be flooded by a dam other than property owned by the dam owner or for which a flood easement has been obtained.

Please contact Ron Duvall at (605) 773-3352 if you have questions or need further direction concerning this matter.

Very truly yours,

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

John Hatch, Chief Engineer
Water Rights Program

Water Rights Program -- File Documentation

NAME: Deb Porter (Everett's wife)

ADDRESS: Edgemont

DATE: January 6, 1997 COUNTY: Fall River TELEPHONE: 662-7051

RE: Runoff into Porter storage dam authorized by Vested Water Right No. 1716-2

COMMENTS:

Joel Rickenbach called regarding a conversation with Mark Tubbs about water being stored in the Porter dam. Mr. Tubbs believes the water should be released from the dam to go downstream to the Tubbs dam authorized by Vested Right No. 1813-2.

INVESTIGATION RESULTS:

I contacted Deb Porter concerning the water use dispute. Mrs. Porter indicated that the area had recently received a large amount of runoff due to rainfall last Friday and some very warm temperatures melting snow. According to Mrs. Porter, the road downstream from Porter's dam was (and still may be) under water due to all of the runoff. Water was exiting the Porter dam through the spillway. Mark Tubbs stopped by on Saturday and wanted to know when Everett was going to release the water that was being impounded. Mr. Porter later in the day opened the low level headgate to release water impounded in the dam.

Water released from the low level outlet is difficult to control due to ice build up downstream. Mrs. Porter indicated that they are concerned that the ice will kill the alfalfa in one of the areas described on No. 1716-2. According to Mrs. Porter, Everett released the water to keep the peace even though Mr. Porter knew that he could impound the water for stock watering. Mrs. Porter indicated that they believe they will get more runoff and can impound the water closer to the time that livestock will be placed in the pasture. However, Mrs. Porter also mentioned that Everett may shut the headgate to help alleviate the flooding problem on the road.

I contacted Mark Tubbs to advise him of the information provided by Deb Porter. Mr. Tubbs indicated that no water was coming down the draw and that is why he spoke to Everett Porter about releasing water. I informed Mr. Tubbs that Deb Porter mentioned that the low level headgate had been opened after Mr. Tubbs had spoken to Mr. Porter. Mr. Tubbs indicated that he and Mr. Porter had reached a verbal agreement concerning operation of the Porter dam. According to Mr. Tubbs, the Porter's can irrigate the 10 acres on the vested right provided that the headgate on the dam is kept open until the Tubbs dam is filled. Mr. Tubbs indicated that this

would still provided sufficient water in the dam for stock watering since the headgate inlet can not drain the dam dry. Mr. Tubbs insisted that they are entitled to the water first and any water stored in the dam is wasted since it seeps away anyway. I told Mr. Tubbs that they are entitled to the water first for irrigation purposes, but Mr. Porter could store water for domestic use before the Tubbs dam is filled. Mr. Tubbs understood this but said Porter's dam impounded more than 25 acre-feet of water which was more water than the law allowed and Mr. Porter had access to pipeline water and did not need to store water in the dam. I informed Mr. Porter that dams could be larger than 25 acre-feet for domestic purposes since the dam qualified for vested status under Chapter 46-4.

RECOMMENDED ACTION:

Mr. Tubbs investigated to see if water was bypassing the Porter dam and then called me back. According to Mr. Tubbs, water was going through the culvert on the county road located downstream from the dam. Mr. Tubbs was glad water was flowing downstream but indicated that it looked like some of the water was being spread on acreage downstream from the road. I asked Mr. Tubbs if it was possible that ice was forcing the water to be spread out and he indicated he didn't know the cause. For the present, Mr. Tubbs was satisfied that water was being released but he would keep me apprised of the situation.

I suggested to Mr. Tubbs that he and Mr. Porter enter into a written agreement concerning the issues surrounding this water use. This may help make sure all of the details are covered and that everyone is aware of their responsibilities. Mr. Tubbs thought having something in writing would be beneficial.



Ron Duvall, Natural Resources Engineer
Water Rights Program

Report on Validation of Recognized Vested Water Right Claim No. 1716-2, Melvin Porter

July 5, 1996

BACKGROUND

In 1986 legislation was enacted requiring all recognized vested water right claims to be validated. This validation process involved publishing a list of vested right claims in each county. In response to the 1988 publication of Claim No. 1716-2, the chief engineer opposed validation of the claim until an investigation could be completed to determine if the claim was in use. In addition, the US Bureau of Reclamation also opposed validation of the claim until the claim could be investigated. An investigation of the project was completed and the claim was scheduled for validation.

It was later believed that an error had been made in the published legal description for No. 1716-2 which led to readvertisement of the claim in 1992. In response to the publication, Robert and Mark Tubbs contested the claim concerning the number of irrigated acres. Following validation of the claim by the Water Management Board, it was discovered that the publication notice contained an error resulting in another publication for this July 10, 1996 hearing. Robert and Mark Tubbs again filed a petition on June 26, 1996, contesting the claim. The petition filed by Robert and Mark Tubbs does not dispute the validity of the claim filed by Mr. Porter, but rather concerns a water use dispute between the parties.

DISCUSSION

Vested Water Right Claim No. 1716-2, Melvin Porter

Claim No. 1716-2 appropriates 0.14 cubic feet of water per second (cfs) from Moss Agate Creek (storage dam) located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ section 11 to irrigate 10 acres in the W $\frac{1}{2}$ NE $\frac{1}{4}$ section 11; all in T8S-R1E. The priority date claimed for this water use is January 1, 1943.

Vested Water Right No. 1813-2, Robert and Mark Tubbs

Vested Right No. 1813-2 appropriates 4.40 cfs from Moss Agate Creek and a dry draw between the NW $\frac{1}{4}$ NW $\frac{1}{4}$ section 1-T8S-R1E and the SE $\frac{1}{4}$ SW $\frac{1}{4}$ section 6-T8S-R2E to irrigate 308 acres in portions of section 1-T8S-R1E and section 6 T8S-R2E. The priority date of this vested right is January 1, 1908.

The vested right held by Robert and Mark Tubbs has an earlier priority date and is located downstream from Claim No. 1716-2. As a result, water use under Claim No. 1716-2 is subject to the water use authorized by Vested Right No. 1813-2. As necessary, water must be bypassed to satisfy downstream senior water rights as well as any domestic uses.

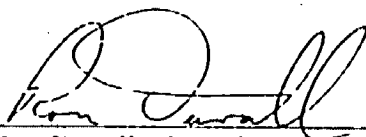
RECOMMENDATION

- 1) No dispute exists concerning the amount of water claimed under No. 1716-2, the number of irrigated acres, or the January 1, 1943, priority date.
- 2) To address concerns raised in the petition filed by Robert and Mark Tubbs, it is recommended that Claim No. 1716-2 be validated with the following qualification:

No impoundment of water for irrigation use as authorized by Vested Water Right No. 1716-2 may occur until the downstream storage dam authorized by Vested Water Right No. 1813-2 has received its annual fill. In addition, other inflows received during the irrigation season must be by-passed, as needed, to satisfy downstream prior water rights and domestic uses. Subject to any agreement between the holders of Vested Right No. 1716-2 and Vested Right No. 1813-2, water may be diverted under No. 1716-2 prior to filling of the downstream dam or under other water use conditions agreed to by the vested right holders.

Everett Porter and Robert and Mark Tubbs were notified by letter dated July 2, 1996 that the Water Management Board would consider including this qualification as part of validating Claim No. 1716-2.

In response to the July 2, 1996 letter, Mark Tubbs called on July 8 and indicated that he supported placing the qualification on Claim No. 1716-2. During a phone conversation with Everett Porter on July 5, 1996, Mr. Porter indicated that he planned to contact Mark Tubbs to discuss the possibility of releasing water from the storage dam each June after livestock are moved out of the pasture. Mr. Porter had not yet received the July 2, 1996 letter, but the qualification was read to Mr. Porter over the phone. Mr. Porter indicated that he understood that Robert and Mark Tubbs held a senior water right and had first preference to any available water.



Ron Duvall, Natural Resources Engineer
Water Rights Program

July 5, 1996

BM 349E Marietta

Vested Right Claim No. 1716-2,
Melvin Porter

 Irrigated acreage

Storage dam

1 inch = 1,850 feet



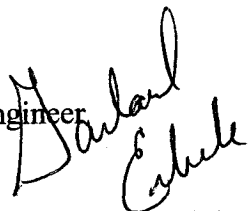
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 30, 2004

NOTICE OF SHUTOFF ORDER

TO: EVERETT PORTER
HC 68 BOX 17
EDGEMONT SD 57735

FROM: GARLAND ERBELE, Chief Engineer
Water Rights Program 

SUBJECT: Shutoff Order for Junior Priority Date Water Rights Upstream of
Angostura Dam

Shutoff Order for Water Right Nos. 1716-2

To protect the US Bureau of Reclamation's Water Right No. US579-2 for Angostura Reservoir with a senior priority date of April 11, 1941, the Bureau of Reclamation has asked that we issue shutoff orders for junior water right holders. Effective immediately no diversions of water from the Cheyenne River and tributaries by holders of junior water rights upstream of Angostura Dam will be allowed. On April 30, 2004, the water elevation in Angostura Reservoir was 3179.1 feet, a little over 8 feet below the full elevation of 3187.2 feet. Current storage is at 96,912 acre-feet, about 33,850 acre-feet below full and inflows are only about 38 acre-feet per day.

The Angostura Reservoir storage level will be closely monitored and if the Cheyenne River flows upstream of dam increase such that the reservoir will fill, this shutoff order will be rescinded at that time. If conditions do not improve, this order will remain in effect until December 31, 2004.

I am asking for your cooperation in complying with this shutoff order. If you have any questions, please contact Mark Rath or Don Stroup with the Water Rights Program at (605) 773-3352. Thank you.



1716-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 15, 2005

NOTICE OF SHUTOFF ORDER

TO: EVERETT PORTER
HC 68 BOX 17
EDGEMONT SD 57735

FROM: GARLAND ERBELE, Chief Engineer
Water Rights Program

SUBJECT: Shutoff Order for Junior Priority Date Water Rights Upstream of
Angostura Dam

Shutoff Order for Water Right Nos. 1716-2

To protect the US Bureau of Reclamation's Water Right No. US579-2 for Angostura Reservoir with a senior priority date of April 11, 1941, the Bureau of Reclamation has asked that we issue shutoff orders for junior water right holders. Effective immediately no diversions of water from the Cheyenne River and tributaries by holders of junior water rights upstream of Angostura Dam will be allowed. On March 8, 2005, the water elevation in Angostura Reservoir was 3169.5 feet, almost 18-feet below the full elevation of 3187.2 feet. Storage is at 65,521 acre-feet, about 73,240 acre-feet below full and inflows are 14.9 acre-feet per day.

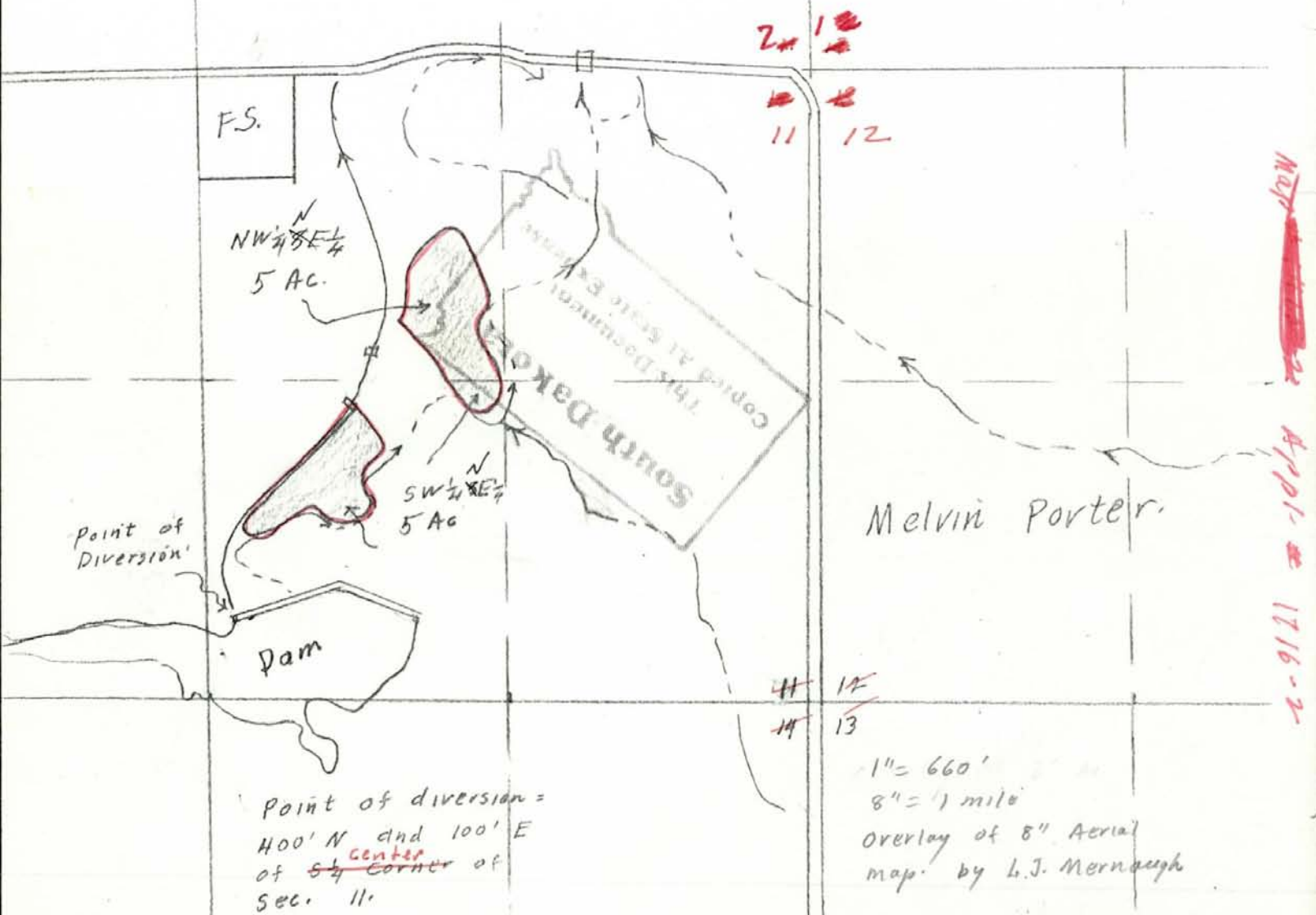
The Angostura Reservoir storage level will be closely monitored and if the Cheyenne River flows upstream of the dam increase such that the reservoir will fill, this shutoff order will be rescinded at that time. If conditions do not improve, this order will remain in effect until the end of the calendar year.

I am asking for your cooperation in complying with this shutoff order. If you have any questions, please contact Mark Rath or Don Stroup with the Water Rights Program at (605) 773-3352. Thank you.

1716-2

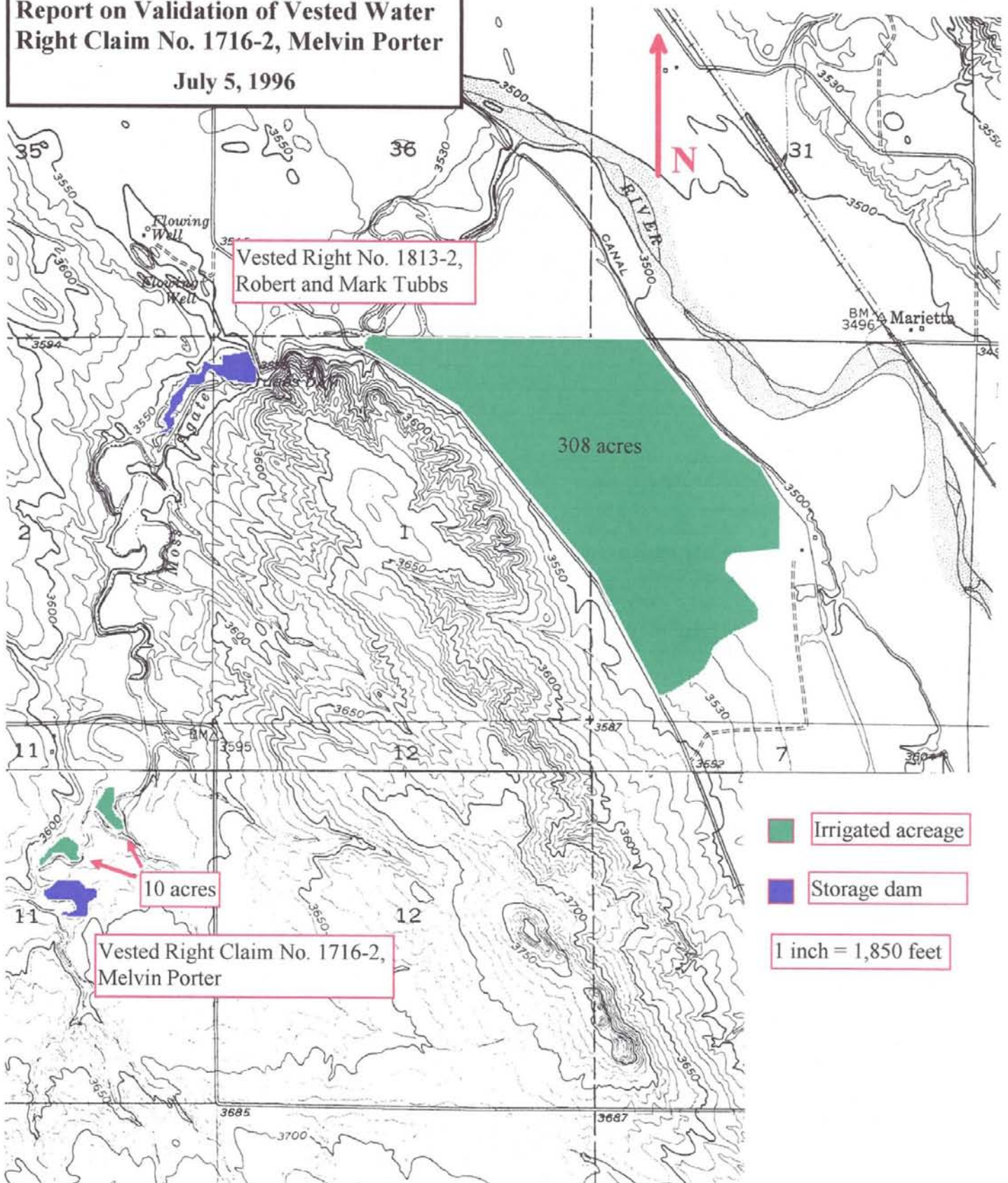
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8
S.



**Report on Validation of Vested Water
Right Claim No. 1716-2, Melvin Porter**

July 5, 1996





IN REPLY REFER TO:

DK-700
PRJ 13.00

1716-2
United States Department of the Interior

BUREAU OF RECLAMATION
Dakotas Area Office
Rapid City Field Office
515 9th St., Room 101
Rapid City, South Dakota 57701

FEB 24 2006



RECEIVED
FEB 27 2006
WATER RIGHTS
PROGRAM

Mr. Garland Erbele
Chief Engineer
Water Rights Division
South Dakota Department of Environment and Natural Resources
523 E. Capitol
Pierre, South Dakota 57501-3181

Subject: Request for Junior Water Rights Shut Off Order - Angostura Reservoir, South Dakota

Dear Mr. Erbele:

We request that the State of South Dakota's Department of Environment and Natural Resources Water Rights Division issue shut off orders to junior water right holders on the Cheyenne River above Angostura Reservoir.

Angostura Reservoir is presently at elevation 3169.90, which is a little over 17 feet down from full (top of conservation or full is at elevation 3187.2). On February 24, 2005, the storage in Angostura Reservoir is about 60,000 acre-feet, which is 63,000 acre-feet from full. If the spring weather continues to be dry, the water right at Angostura will not be satisfied.

If you have questions, please contact Curt Anderson or me at 605-394-9757.

Sincerely,

For Jeffrey L. Nettleton
Rapid City Field Office Manager

cc: Ms. Sue Lowry
Administrator
Interstate Streams Division
Wyoming State Engineer's Office
Herschler Building 4E
Cheyenne, WY 82002

Mr. Mick Jenniges
Manager
Angostura Irrigation District
P.O. Box 346
Oral, SD 57766



**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 10, 2006

NOTICE OF SHUTOFF ORDER

TO: EVERETT PORTER
HC 68 BOX 17
EDGEMONT SD 57735

FROM: GARLAND ERBELE, Chief Engineer
Water Rights Program

SUBJECT: Shutoff Order for Junior Priority Date Water Rights Upstream of
Angostura Dam

Shutoff Order for Water Right Nos. 1716-2

To protect the US Bureau of Reclamation's Water Right No. US579-2 for Angostura Reservoir with a senior priority date of April 11, 1941, the Bureau of Reclamation has asked that we issue shutoff orders for junior water right holders. Effective immediately no diversions of water from the Cheyenne River and tributaries by holders of junior water rights upstream of Angostura Dam will be allowed. On March 7, 2006, the water elevation in Angostura Reservoir was 3170.3-feet, almost 17-feet below the full elevation of 3187.2-feet. Storage is at 64,524 acre-feet, about 74,237 acre-feet below full. Angostura Reservoir is not expected to fill with the current low inflows.

The Angostura Reservoir storage level will be closely monitored and if the Cheyenne River flows upstream of the dam increase such that the reservoir will fill, this shutoff order will be rescinded at that time. 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. If you have any questions, please contact Mark Rath or Don Stroup 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

March 9, 2007

NOTICE OF SHUTOFF ORDER

TO: EVERETT PORTER
HC 68 BOX 17
EDGEMONT, SD 57735

FROM: GARLAND ERBELE, Chief Engineer
Water Rights Program

SUBJECT: Shutoff Order for Junior Priority Date Water Rights Upstream of
Angostura Dam

Shutoff Order for Water Right Nos. 1716-2

To protect the US Bureau of Reclamation's Water Right No. US579-2 for Angostura Reservoir with a senior priority date of April 11, 1941, the Bureau of Reclamation has asked that we issue shutoff orders for junior water right holders. Effective immediately no diversions of water from the Cheyenne River and tributaries by holders of junior water rights upstream of Angostura Dam will be allowed. On March 9, 2007, the water elevation in Angostura Reservoir was 3166.9-feet, 20.3-feet below the full elevation of 3187.2-feet. Storage is at 51652 acre-feet, about 87109 acre-feet below full. Angostura Reservoir is not expected to fill with the current low inflows.

The Angostura Reservoir storage level will be closely monitored and if the Cheyenne River flows upstream of the dam increase such that the reservoir will fill, this shutoff order will be rescinded at that time. 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. If you have any questions, please contact Mark Rath at (605) 773-3352 or Aaron Tieman at (605) 394-2229 with the Water Rights Program. 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

March 19, 2008

NOTICE OF SHUTOFF ORDER

TO: EVERETT PORTER
10413 MOSS AGATE RD
EDGEMONT SD 57735

FROM: GARLAND ERBELE, Chief Engineer
Water Rights Program

SUBJECT: Shutoff Order for Junior Priority Date Water Rights Upstream of
Angostura Dam

Shutoff Order for Water Right Nos. 1716-2

The US Bureau of Reclamation holds Water Right No. US579-2 for Angostura Reservoir with a senior priority date of April 11, 1941. To protect this right, the Bureau of Reclamation has asked that we issue shutoff orders for junior water right holders. Effective immediately no diversions of water from the Cheyenne River and tributaries by holders of water rights junior to the priority date of April 11, 1941 upstream of Angostura Dam will be allowed. On March 17, 2008, the water elevation in Angostura Reservoir was 3168.8-feet, 18.4-feet below the full elevation of 3187.2-feet. Storage is at 56785 acre-feet, about 66263 acre-feet below full. Angostura Reservoir is not expected to fill with the current low inflows.

The Angostura Reservoir storage level will be closely monitored and if the Cheyenne River flows upstream of the dam increase such that the reservoir will fill, this shutoff order will be rescinded at that time. 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. If you have any questions, please contact Mark Rath at (605) 773-3352 or Aaron Tieman at (605) 394-2229 with the Water Rights Program. 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

March 19, 2009

NOTICE OF SHUTOFF ORDER

TO:

EVERETT PORTER
10413 MOSS AGATE RD
EDGEMONT SD 57735

FROM:

GARLAND ERBELE, Chief Engineer
Water Rights Program

SUBJECT: Shutoff Order for Junior Priority Date Water Rights Upstream of
Angostura Dam

Shutoff Order for Water Right Nos. 1716-2

The US Bureau of Reclamation holds Water Right No. US579-2 for Angostura Reservoir with a senior priority date of April 11, 1941. To protect this right, the Bureau of Reclamation has asked that we issue shutoff orders for junior water right holders. Effective immediately no diversions of water from the Cheyenne River and tributaries by holders of water rights junior to the priority date of April 11, 1941 upstream of Angostura Dam will be allowed. On March 18, 2009, the water elevation in Angostura Reservoir was 3176.7-feet, 10.5-feet below the full elevation of 3187.2-feet. Storage is at 80792 acre-feet, about 42256 acre-feet below full. Angostura Reservoir is not expected to fill with the current low inflows.

The Angostura Reservoir storage level will be closely monitored and if the Cheyenne River flows upstream of the dam increase such that the reservoir will fill, this shutoff order will be rescinded at that time. 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. If you have any questions, please contact Mark Rath at (605) 773-3352 or Aaron Tieman at (605) 394-2229 with the Water Rights Program. Thank you.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

March 06, 2013

NOTICE OF SHUTOFF ORDER

TO: EVERETT PORTER
10413 MOSS AGATE RD
EDGEMONT SD 57735

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

SUBJECT: Shutoff Order for Junior Priority Date Water Rights Upstream of
Angostura Dam

**Shutoff Order for
Water Right Nos. (1716-2)**

The US Bureau of Reclamation holds Water Right No. US579-2 for Angostura Reservoir with a senior priority date of April 11, 1941. To protect this right, the Bureau of Reclamation has asked that we issue shutoff orders for junior water right holders. Effective immediately no diversions of water from the Cheyenne River and tributaries by holders of water rights junior to the priority date of April 11, 1941 upstream of Angostura Dam will be allowed. On March 05, 2013, the water elevation in Angostura Reservoir was 3176.8-feet, 10.4-feet below the full elevation of 3187.2-feet. Storage is at 81068 acre-feet, about 41980 acre-feet below full. Angostura Reservoir is not expected to fill with the current low inflows.

The Angostura Reservoir storage level will be closely monitored and if the Cheyenne River flows upstream of the dam increase such that the reservoir will fill, this shutoff order will be rescinded at that time. 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. If you have any questions, please contact Mark Rath at (605) 773-3352 or Aaron Tieman at (605) 394-2229 with the Water Rights Program. Thank you.

CERTIFICATION

I hereby certify that on March 6, 2013, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated March 6, 2013 regarding shut-off orders addressed as stated below:

LAST_NAME	FIRST_NAME	ADDRESS2	CITY	STATE	ZIP
INDIAN CREEK CATTLE LLP		32296 190TH ST	SLEEPY EYE	MN	56085
INDIAN CREEK LAND & CATTLE LLC		PO BOX 538	EDGEMONT	SD	57735
WEINREIS BROTHERS		230908 HIGHLAND RD	SCOTTSBLUFF	NE	69361
SEGER RANCH INC		RR 1 BOX 100A1	HOT SPRINGS	SD	57747
REUTTER	EDWARD/WANDA	HCR 59 BOX 90	EDGEMONT	SD	57735
WASSERBURGER	MARTIN W & E DALLAS	30131 CASCADE RD	ARDMORE	SD	57735
HALD BROTHERS INC		30195 HIGHWAY 385	OELRICHS	SD	57763
GCC DACOTAH INC		PO DRAWER 360	RAPID CITY	SD	57709
FALKENBURG	JOE/NANCY	PO BOX 69	EDGEMONT	SD	57735
ANDERSEN	DONALD J/LYNDA J	10194 ARGENTINE RD	BURDOCK	SD	57735
ANDERSEN	KEITH	27360 S FLAT TOP RD	EDGEMONT	SD	57735
ANDERSON	DALE & JEANETTE	1401 TOMPKINS ST	RAPID CITY	SD	57701
B & H RANCH INC		900 W 7TH ST	CHADRON	NE	69337
BACHAND	DOUG & LORI	HC 48 BOX 248	PROVO	SD	57774
BALL BROS		BOX 527	EDGEMONT	SD	57735
BIRDSALL	JIM OR SHERYL	28086 ANGOSTURA RD	HOT SPRINGS	SD	57747
BOGNER	NICK/EUGENE	HC 46 BOX 24	OELRICHS	SD	57763
BOGNER	NICK/MICHAEL	29599 BLACK BANKS RD	OELRICHS	SD	57763
BRAINERD INDIAN SCHOOL		PO BOX 7038	RAPID CITY	SD	57709
CHILDERS	V L	900 W 7TH ST	CHADRON	NE	69337
COPE	OSCAR	PO BOX 147	OELRICHS	SD	57763
COPE RANCH		14160 SHIRK CREEK RD	OELRICHS	SD	57763
DUNBAR	DAVID M	HC 46 BOX 48A	OELRICHS	SD	57763
HENDERSON	DORA R	11507 HWY 471	EDGEMONT	SD	57735
HINESLEY	TED AND GAIL	103 W AVE A	BISMARCK	ND	58501
HOLLENBECK	HENRY C	665 OAK ST	EDGEMONT	SD	57735
HOLLENBECK	MARK J	27772 ELBOW CANYON RD	EDGEMONT	SD	57735
HOLLENBECK	PAT OR TAMMY	665 OAK ST	EDGEMONT	SD	57735
HU RANCH INC		28469 OLD HWY18	EDGEMONT	SD	57735
HUBER	GAYLE & LINDA	28797 LENNON SCHOOL RD	OELRICHS	SD	57763
HUNTER	ROSS J	30068 HAT CREEK RD	EDGEMONT	SD	57735
KOLLER	JOHN W	PO BOX 715	EDGEMONT	SD	57735
LANDERS	A J	BOX 159B HCR 52	HOT SPRINGS	SD	57747
LANDERS LIVESTOCK CO INC		29088 ASH CREEK RD	HOT SPRINGS	SD	57747
MANKE LAND & CATTLE CO LLC		PO BOX 599	EDGEMONT	SD	57735
MARTINSON	KENNETH	BOX 361	EDGEMONT	SD	57735
NELSON	A J	503 S CENTER AVE	MILES CITY	MT	59301
PETERSON & SON INC		27389 BURDOCK LOOP	BURDOCK	SD	57735
PORTER	EVERETT	10413 MOSS AGATE RD	EDGEMONT	SD	57735
PUTNAM	DONALD	BOX 188	OELRICHS	SD	57763
PUTNAM RANCH INC	DONALD	BOX 188	OELRICHS	SD	57763
QUINTO LTD		PO BOX 69	EDGEMONT	SD	57735
ROMEY	JOHN R OR TRACY	29773 HARD SCRABBLE RD	OELRICHS	SD	57763
SCHNOSE	ROBERT A & KIMBERLY L	29037 OLD HWY 79	OELRICHS	SD	57763

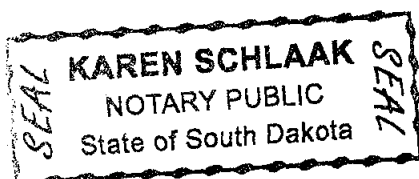
SCHNOSE	VERNON	12685 MAITLAND RD	HOT SPRINGS	SD	57747
SEABECK	DORIS SEABECK &	2533 PARK AVE	LARAMIE	WY	82070
SIMONS	THOMAS	BOX 381	EDGEMONT	SD	57735
TUBBS LAND & CATTLE LLC	BERNARD D	10891 RIVER RD	EDGEMONT	SD	57735
WALKER	FRED S & CYNTHIA K	30301 CASCADE RD	ARDMORE	SD	57735
WYOMING DAKOTA RAILROAD	WAYNE F	120 S 6TH ST - 9TH FLOOR	MINNEAPOLIS	MN	55402
PROPERTIES INC					


 Gail Jacobson
 Secretary/Water Rights

STATE OF SOUTH DAKOTA)
) SS
 COUNTY OF HUGHES)

Sworn to, before me, this 6th day of March, 2013.


 Karen Schlaak
 Notary Public
 My Commission expires April 1, 2013





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

RAPID CITY ONE-STOP
221 MALL DRIVE, SUITE 201
RAPID CITY, SD 57701
danr.sd.gov

June 05, 2026

TO: DONALD J/LYNDA J ANDERSEN
10194 ARGENTINE RD
BURDOCK, SD 57735

Adam Mathiowetz

FROM: Adam Mathiowetz, PE, Acting Chief Engineer, Water Rights Program

SUBJECT: Shutoff Order for Junior Priority Date Water Rights Upstream of Angostura Dam

Shutoff Order for Water Permit No(s). 308-2

The US Bureau of Reclamation holds Water Right No. US579-2 for Angostura Reservoir with a senior priority date of April 11, 1941. To protect this right, the Water Rights Program is issuing shutoff orders for junior water right holders. Effective immediately no diversions of water from the Cheyenne River or its tributaries, by holders of water rights junior to the priority date of April 11, 1941, upstream of Angostura Dam will be allowed. On June 03, 2026, the water elevation in Angostura Reservoir was 3173.87-feet, 13.3-feet below the fill elevation of 3187.2-feet (top of the conservation pool). Storage was at 71,519.0 acre-feet, which is approximately 51,529 acre-feet below full. At this time, Angostura Reservoir is not expected to fill with the current low inflows.

The Angostura Reservoir storage level will be closely monitored and if the flows in the Cheyenne River and its tributaries upstream of the dam increase such that the reservoir will fill, this shutoff order will be rescinded at that time. 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. If you have any questions, please contact Nakaila Steen at (605) 394-2229, or myself at (605) 773-3352 with the Water Rights Program. Thank you.

We would appreciate it if you would call Nakaila in our Rapid City office and provide an up-to-date phone number and email for faster communication on this matter. Thank you.