

WQ

1. Considered: JULY 29, 1981 Water Right No. 1781-2
2. Name of Applicant MARSH HERFORD RANCH, INC.
3. Post Office Address CAPITA 57725
4. Amount of Water Claimed 3.87 maximum acre feet 77 AC. FT.
5. Source of Water Supply ANTELOPE CREEK (STORAGE DAM)
6. Water to be used for _____ acres to be irrigated 371.07
7. County PENNINGTON about 3S 2 miles EAST of CAPITA
8. PROOF OF PUBLICATION: Received 7-27-81 Not Received 4-7-82
 APPLICATION: Approved Appvd with findings Subject to Staff Review
 Not Approved 12/2/81 Action Deferred 7-29-81 2/3/82
Findings Fact & Conclusions of Law for appeal meeting
 Bated Received 6-24-81 Application complete-yes _____ no _____ FEE 30.00
 Remarks _____

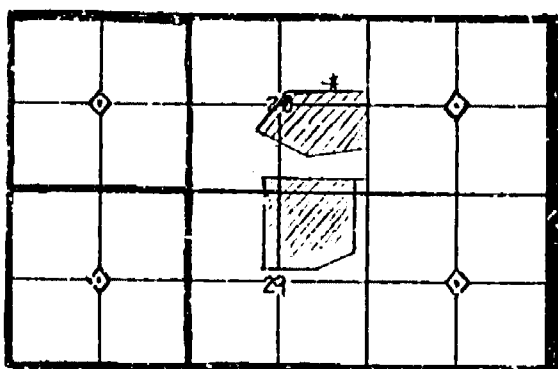
PRIORITY

Corrected Application received _____ Period of Annual Use APR 1ST - OCT. 15TH

WATER
QUALITY

Received yes 7/6/81 no _____ APPROVED/CONDITIONAL (Circle one)
 W-1 Description same as application yes _____ no _____ Remarks _____

Disapproved _____ Returned _____



Diversion Point
 * SE⁴ NE⁴ SEC 20-1S-10E

Land to be irrigated
S¹/₂ S¹/₂ NE⁴; SE⁴; E¹/₂ SW⁴ SEC
20 AND NE⁴ & E¹/₂ E¹/₂ NW⁴
SEC 29 BOTH IN T1S-10E

WELL LOG

Driller _____ Licensed -- yes _____ no _____

Depth _____

Remarks _____

Water Right No. _____

MAP Map No. 1535-2 Map located In Water Right ~~Copy~~ X Map file X (original to large for file)
Type of Map Large Aerial Prepared by Engr

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

July 6, 1981

[Signature]
(Signed)

PROTESTS Letters/Petitions In File - yes _____ no _____ Remarks _____

REMARKS Date _____
F.F. & C. Final Decision, including F.F. & C. of Law were adopted _____
OF LAW, Date _____
FINAL Final Decision mailed to parties and/or parties notified that Final Decision was
DECISIONS adopted _____
ETC. Remarks _____



No. 1781-2
 Map No. 1535-2 Water Division No. 2 UPPER CHEYENNE District
 Above for Office Use 10120110

APPLICATION FOR PERMIT To Appropriate Water within the State of South Dakota

Check one of the following:

New ☒ Vested Right _____ Future Use _____

Change in Diversion _____ Additional Diversion _____

Change in Acreage _____ Additional Acreage _____

1. Name of Applicant MARSH HERFORD RANCH INC. Phone No. 605-342-0375
 Post Office Address CAPUTA State SOUTH DAKOTA 57725
(Street, RR, or Box) (Town) (Zip Code)
 If a corporation show date and place of incorporation Jan. 29, 1959 South Dakota
 2. Method of accomplishing work (contract, employment of others, or by direct labor) Contract and Direct Labor
 3. Name of diversion work MARSH ANTELOPE CREEK
 4. Amount of water claimed (cubic feet per second) 3.87 CFS
 5. Source of water supply ANTELOPE CREEK (see supplement sheet) & Rapid Creek
 6. Location of point of diversion SE 1/4 NE 1/4 Sec. 20 1S 10E BHM

County PENNINGTON

7. Annual period or periods during which water is to be used April 1st to October 15th
 8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) IRRIGATION
 9. For irrigation use, Total number of acres to be irrigated 271.07

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

Land Description	No. Acres Irr.	Land Description	No. Acres Irr.
<u>See supplement sheet</u>			

Attach sheet if more space is needed

10. Time required to complete construction of water supply system 5 years. Additional time required to complete application of water to the proposed beneficial use 4 years.
 11. Choice of county newspaper for publication of Notice of Intent to Appropriate Water Rapid City Journal
 12. Principal Features of the Proposed Water Supply System.
 A. Works proposed to divert water from its natural source.
Storage Dam on Antelope Creek. Pumping system to sprinkler and/or gravity irrigation.
 B. Works proposed to transport water to place of use.
Portable pipe lines
 C. Works proposed to apply water to beneficial use.
Sprinkler Irrigation systems and/or gravity flow irrigation.

Estimated Total Cost \$ 40,000.00

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

STATE OF SOUTH DAKOTA)
 County of Pennington) ss.

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

Signed NE Marsh
Marshall Herford Ranch Inc
NE Marsh
 Subscribed and sworn to before me this 23 day of June, 1981
Clarence Morgan
 (Notary Public (or other qualified officer))

BOI-4CC-147

8-26-62

2.

SURVEYOR'S CERTIFICATE -

I, DUANE C. SCOTT, SOUTH DAKOTA REGISTERED LAND SURVEYOR # 2540, DO HEREBY CERTIFY THAT THE MAP SHOWN HEREON WAS MADE BY ME IN JUNE, 1961, AND THAT THE SAME IS TRUE AND CORRECT AS SHOWN.

Duane C. Scott
REGISTERED LAND SURVEYOR # 2540



FOUND BRASS CAP

FOUND BRASS CAP

OWNER:
MARSH HEREFORD RANCH INC.

ANTELOPE

HIGH WATER LINE
ELEV. 2875.2'

DIVERSION POINT

11.48 ac.
11.74 ac.
95.51 ac.
10.18 ac.
118.37 ac.

OWNER:
MARSH HEREFORD RANCH INC.

OWNER:
MARSH HEREFORD RANCH INC.

Map # 1535-2 (appl 1781-2)

WATER RIGHT APPLICATION APPROVAL

The Water Management Board hereby approves Water Right Application No. 1781-2

MARSH HEREFORD RANCH, INC. CAPUTA
(Applicant) (Post Office Address)
SOUTH DAKOTA 57725
(State) With the following qualifications.

Low flows as needed for downstream domestic use, including livestock watering, must be bypassed by Marsh.

Unappropriated water is available in Rapid Creek to reasonably satisfy this application only through contract between Rapid Valley Conservancy District and the Bureau of Reclamation covering releases from Deerfield and Pactola Reservoirs.

The permit shall allow refilling of the reservoir of not to exceed 542 acre feet per year.

This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

Date of first receipt of application June 24, 1981
Date of return to applicant for correction, amendments or changes required _____, 19____
Date of receipt of corrected application w/o July 6, 1981
Approved April 7, 1982, Recorded in Book _____ Page _____

WATER RIGHT PERMIT NO. 1781-2

The Water Management Board hereby grants and issues this Water Right Permit No. 1781-2 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 June 24, 1981
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before October 7, 1984
3. The whole of said work is to be completed on or before April 7, 1987
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is April 7, 1991
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 3.87 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 April 7, 1991; said water to be used during the following described annual period: April 1st thru October 15th

Witness my hand this 13th day of July, 1982

THE WATER MANAGEMENT BOARD

By: John H. Hark
Chief Engineer, Water Rights

Certificate of Construction Issued _____, 19____

Water License Issued _____, 19____

MARSH HEREFORD RANCH INC. CAPUTA, S. D.

5. SOURCE OF WATER SUPPLY Return flows from a portion of the Marsh-Ham Irrigation Project (Water License No. 937-2) will be impounded in the proposed dam, along with natural storm run-off. The lands to be irrigated are within the Rapid Valley Water Conservancy District and are entitled to the use of irrigation storage in Deerfield and Pactola Reservoirs. This water can be diverted from Rapid Creek to the proposed dam thru the Marsh-Ham Irrigation system.

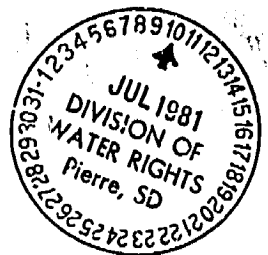
LAND DESCRIPTION	No. of Acres to be Irrigated
SW $\frac{1}{4}$ NE $\frac{1}{4}$	5.48
SE $\frac{1}{4}$ NE $\frac{1}{4}$	6.
NE $\frac{1}{4}$ SW $\frac{1}{4}$	11.74
SE $\frac{1}{4}$ SW $\frac{1}{4}$	1.96
NE $\frac{1}{4}$ SE $\frac{1}{4}$	40.
NW $\frac{1}{4}$ SE $\frac{1}{4}$	40.
SW $\frac{1}{4}$ SE $\frac{1}{4}$	15.69
SE $\frac{1}{4}$ SE $\frac{1}{4}$	16.
	136.87 acres
NE $\frac{1}{4}$ NW $\frac{1}{4}$	8.
SE $\frac{1}{4}$ NW $\frac{1}{4}$	7.83
NE $\frac{1}{4}$ NE $\frac{1}{4}$	" " " " "
NW $\frac{1}{4}$ NE $\frac{1}{4}$	" " " " "
SW $\frac{1}{4}$ NE $\frac{1}{4}$	" " " " "
SE $\frac{1}{4}$ NE $\frac{1}{4}$	" " " " "
	134.20 acres
	271.07 acres

1-181-2

Conditional

SOUTH DAKOTA DEPARTMENT OF AGRICULTURE
DIVISION OF CONSERVATION

NAME OF APPLICANT G. E. Marsh/Marsh Hereford Ranch



SOIL RESTRICTIONS:

THE SOIL(S) LISTED BELOW CANNOT BE IRRIGATED:

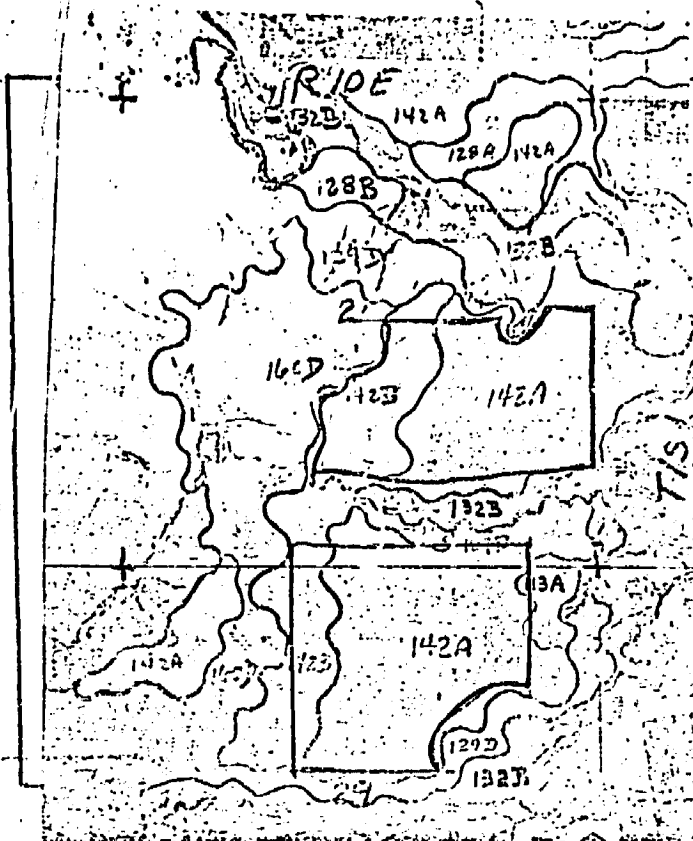
113-A - Arvada 1, m. - These are sodium bearing soils which should not be irrigated.

THE SOIL(S) LISTED BELOW CAN BE IRRIGATED WITH THE FOLLOWING RESTRICTIONS:

If problems with ponding occur, these soils should be drained or left in permanent vegetation.

RECOMMENDED MANAGEMENT

THATCH HILL RANCH -



MAP

Scale 1:24,000

AREAS ENCLOSED BY RED LINE ARE
PROJECTED FOR IRRIGATION

NARRATIVE/

- 113A Arvada loam, 0 to 4 percent slopes - This soil has a shallow clay-pan and has very slow permeability - generally not suited for irrigation.
- 128A Kyle silty clay 0 to 2 percent slopes - This soil has clay textures throughout and has very slow permeability. Special treatment is needed to improve till.
- 128B Kyle silty clay 2-6 percent slopes - Same as 128A however more sloping.
- 129D Pierre - Kyle clays 6-20 percent slopes. The Pierre soils have bedded shale around 56 inches.
- 132B Lehmiller clay loam channelled, 0 to 4 percent slopes. Highly dissected by channels.
- 142A Nunn clay loam, 0 to 2 percent slopes. Moderately slow permeability, high available water capacity.
- 142B Nunn clay loam, 2 to 6 percent. Same as 142A, however more sloping. In this case slopes do not exceed 4% - most are 3%.
- 150D Zigzag - Hill complex, 6 to 15 percent slopes. These soils are moderately to strongly sloping on the edges of terraces. They are thinly bedded with shill have many rocks and stones throughout.

Ed. C. C. Soil Scientist
SCS Field 4/22/81

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) _____

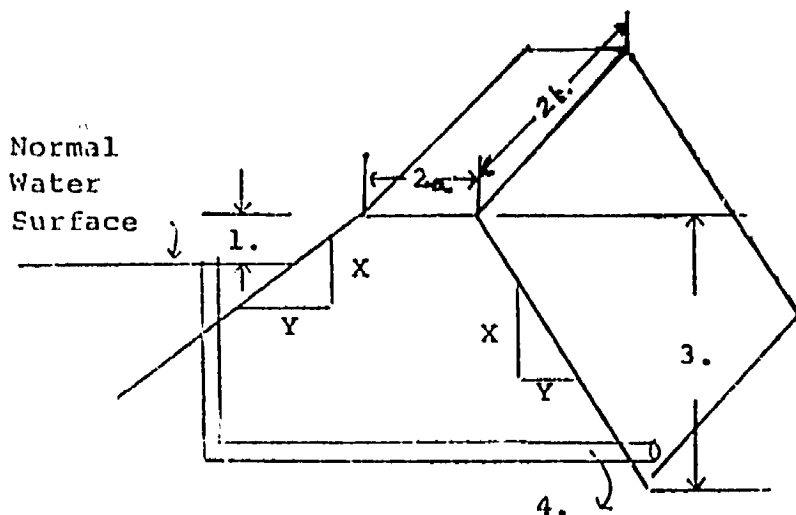
- (2) Distance to nearest existing household or livestock watering well.

On same owner's property _____ rds.

On property owned by others _____ rds.

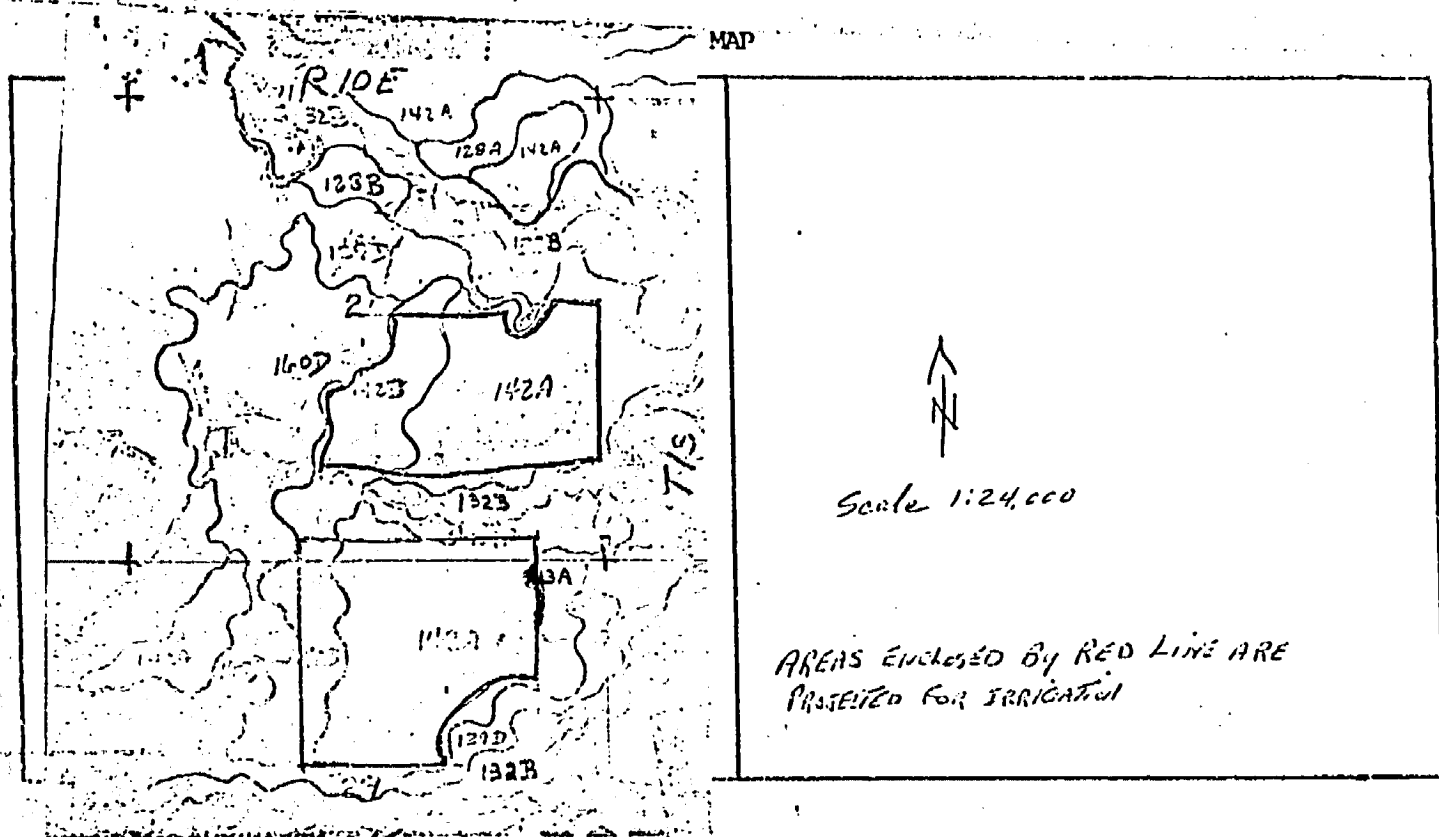
G Water Storage Dams

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 6.0 Ft.
2. Crest width 20.0 ft, length 400.0 ft
3. Height of Dam 16.0 ft
4. Outlet dimensions:
 - Pipe diameter 18 Inch
 - Spillway width 150.0 ft
- X & Y slope:
 - Upstream 3 to 1
 - Downstream 2 to 1
- Surface area of impoundment 14.88 acres
- Drainage area above dam 12,400 acres
- Capacity AC FT 77 Acre/ft

March Hensford Ranch, Inc.
J. E. Marsh
 Signature of Applicant



- 143A Aranda loam, 0 to 4 percent slopes - this soil has a shallow clay-pan and has very slow permeability - generally not suited for irrigation.
- 128A Kyle silty clay 0 to 2 percent slopes - this soil has clay textures throughout and has very slow permeability. special treatment is needed to improve tillage.
- 128B Kyle silty clay 2 to 6 percent slopes - same as 128A however more sloping.
- 129D Pierre - Kyle clays 6 to 20 percent slopes. the Pierre soils have bedded shale around 56 inches.
- 132B Lehmiller clay loam channelled, 0 to 4 percent slopes. Highly dissected by channels.
- 142A Nunn clay loam, 0 to 2 percent slopes. Moderately slow permeability, high available water capacity.
- 142B Nunn clay loam, 2 to 6 percent. Same as 142A, however more sloping. If this area slopes do not exceed 4% - most are 3%.
- 160D Equiset - Ashill complex, 6 to 15 percent slopes. These soils are moderately to strongly sloping on the edges of areas so. They are thinly bedded with Ashill have many cobbles and stones throughout.

CONSERVATION COMMISSION
WI#1 FORM
3/80

SOIL/WATER COMPATIBILITY PERMIT APPLICATION FORM
STATE CONSERVATION COMMISSION
SOUTH DAKOTA DEPARTMENT OF AGRICULTURE

Office Use Only

OWNERS NAME: MARSH HERE ORD RANCH OWNERS ADDRESS: CATTIE, SD 57725

COUNTY LAND LOCATED IN: Penningson PHONE: 605-343-0375

TENANT'S NAME AND ADDRESS: (If Other Than Owner) 2930-PE

In accordance with State Law SDCL 46-5-6.5, If a water permit is granted with a conditional Soil/Water Compatibility permit, a copy of such conditional soil/water compatibility permit must be filed with the County Register of Deeds. This action must be taken by the holder of a water permit within 6 months of receipt of such water permit.

LEGAL DESCRIPTION: (Show Legal Description to Nearest 10 Acres)

1. WELL LOCATION OR DIVERSION POINT: SW 1/4 SE 1/4 NE 1/4 SEC 20 15-10E BHM
2. SURFACE WATER SOURCE: ANTELOPE CREEK AND IRRIGATION RUN-OFF
3. LOCATION OF AREA TO BE IRRIGATED. NOTE: SOILS INFORMATION FOR THIS AREA MUST ACCOMPANY THE APPLICATION. (See Instruction sheet)

Legal Description	Acres	Legal Description	Acres
<u>S 1/2 Sec. 20-15-10E + S 1/2 SE 1/4 NE 1/4</u>	<u>136.81</u>		
<u>N 1/2 Sec. 20-15-10E</u>	<u>134.20</u>		
<u>Total</u>	<u>271.01</u>		

4. TYPE OF IRRIGATION: GRAVITY: X TOWLINE: _____ CENTER PIVOT: _____ GUN: _____ OTHER: _____ (Specify) side roll
5. CROPS TO BE IRRIGATED: Alfalfa-Grass
6. SHOW ANY PORTION OF LAND THAT PRESENTLY HOLDS AN IRRIGATION PERMIT: YEAR OBTAINED: _____
LEGAL DESCRIPTION: _____
IN WHAT NAME: _____

WATER QUALITY: (TO BE COMPLETED BY SPSU WATER QUALITY LABORATORY)

7. WATER SAMPLE NUMBER: 81-620
8. SALINITY (EC X 10⁶): 1250
9. SODIUM (SAR): 1.36
10. ADJUSTED (SAR): 3.45 (2.42)

RECEIVED

JUN 26 1981

South Dakota
Division of Conservation

I hereby certify that I personally obtained or that I personally observed the taking of a sample of the water to be used in irrigating the above-described land. I also hereby certify that the required procedures for the taking of the sample (see Instruction sheet) were followed, and that the sample was taken at 11:00 a.m., on JUNE 9, 1981, at the following location: SW 1/4 SE 1/4 NE 1/4 SEC 20 15-10E BHM by _____ (Individual who took sample if other than applicant). I also hereby certify that the water sample taken has NOT been adulterated or tampered with in any manner, and is TRULY REPRESENTATIVE of the water which will be used in irrigating the above-described land.

I understand that the Division of Conservation or agents thereof may obtain another water sample for the purpose of validating the water sample analysis taken at the time of application (SDCL 46-5-6.4).

SUBSCRIBED AND SWORN BEFORE ME THIS

22 DAY OF June, 1981.

Thomas H. Hargrave
(NOTARY PUBLIC)

Marsh Hereford Ranch
SE Marsh
X
APPLICANT'S SIGNATURE

Tom H. Hargrave
Director, Division of Conservation

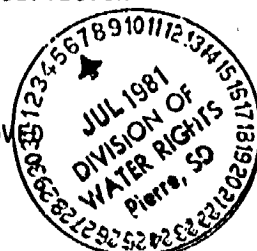
IMPORTANT

Action by the Department of Agriculture or the State Conservation Commission is not the final action on any application. In all cases a WATER PERMIT must be obtained from the Board of Water Management.

APPROVED

DISAPPROVED

X CONDITIONALLY APPROVED



AGREEMENT

WHEREAS Marsh Hereford Ranch, Inc., a Corporation, and Ham Ranch, Inc., a Corporation, were granted a water right by the State of South Dakota on October 12, 1967, at 8:00 A.M., which is identified as Permit No. 337-2, Water Division No. 2, Rapid Creek District, South Dakota.

WHEREAS, the point of diversion of this water right is situated on real estate owned by the Marsh Hereford Ranch, Inc.,

WHEREAS, water utilized by Ham Ranch, Inc., a corporation, from said point of diversion will need to be conveyed across real estate owned by Marsh Hereford Ranch, Inc.,

WHEREAS, the parties are interested in entering into an agreement whereby they can share the costs involved in connection with the operation and maintenance of said water right,

WHEREAS, Marsh Hereford Ranch, Inc. is willing to grant an easement to Ham Ranch, Inc. for conveyance of water from point of diversion to property of Ham Ranch, Inc.,

NOW THEREFORE, Marsh Hereford Ranch, Inc., a corporation, hereinafter referred to as "Marsh" and Ham Ranch, Inc., a corporation, hereinafter referred to as "Ham", in consideration of the mutual and reciprocal covenants flowing between the parties and in consideration of the payments to be made hereunder and the rights granted hereunder and in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is hereby agreed by the parties as follows:

1. It is understood and agreed by the parties that certain pumps and other diversion facilities will be maintained at the point indicated as pumping station on Exhibit "A", attached hereto and incorporated herein by reference as fully as if set forth at length herein.

2. Marsh hereby grants to Ham an easement for purpose of construction and maintenance of a pipeline for purpose of conveying water from point of diversion on Exhibit "A" to property owned by Ham, said easement to extend twenty (20) feet on each side of the center of the pipeline running across the following described real estate owned by Marsh:

The Southeast Quarter of the Southeast Quarter (SE 1/4 SE 1/4), Section Seventeen (17), Township One (1) South, Range Ten (10) East of the Black Hills Meridian, Pennington County, South Dakota,

which easement shall be for the benefit of the following described real estate which is owned by Ham:

Section Twenty-One (21) of Township One (1) South, Range Ten (10) East of the Black Hills Meridian, Pennington County, South Dakota.

The course of the easement granted will follow the general course shown on attached Exhibit "A", from the pumping station to the point near the Northwest corner of Section Twenty-One (21) where the pipeline enters Ham's property.

3. The parties hereby agree to share all costs of construction and operational costs in connection with the water right and all maintenance of pumping, ditch and diversion facilities in the following proportions:

(a) Initially, each party hereto will bear said costs in direct proportion to the number of acres irrigated by said party, which means that at the outset Marsh will bear fifty-seven per cent (57%) of all of said costs and Ham will bear forty-three per cent (43%) of all of said costs. In the event either party desires to irrigate additional acreage from the system described herein, the initial investment costs and maintenance and repair costs shall be reapportioned to include the added acres, according to the following formula:

(1) The value of permanent pipeline and fixtures (approximately \$ 1200⁰⁰) is to be calculated at one hundred per cent (100%) of initial cost to the parties.

(2) The value of pumps, motors and other similar equipment which originally cost \$ 4000⁰⁰ and which is subject to periodic maintenance or replacement is to be calculated at remaining value, based on said pumps, motors and similar equipment having a usable life of 10 years.

(3) The party bringing additional acres under the system shall reimburse the other party a portion of his original investment cost as set forth in the above formula.

(4) It is understood that the total acreage to be irrigated by all parties hereto by this system shall not exceed four hundred (400) acres.

(b) The annual minimum charge for electricity for this entire system shall be calculated annually and an average cost per kilowatt hour computed. The parties both agree to assist in maintaining accurate records of their usage of electricity and their usage of water, and to make the same available to the other party.

Each party hereto shall be obligated for that portion of the annual minimum electricity charge for the entire system in proportion to the number of acres he has under irrigation during a particular year. In the event that either or both parties fail to use, in any season, his proportionate share of the power included in the annual electric minimum, he shall still be obligated for his portion of the minimum electrical charges, except, if the other party uses more electricity than his portion of the annual electrical minimum, then he shall reimburse the other party for that amount of electricity used in excess of his portion of minimum at a rate per kilowatt hour equal to the lowest power rate in effect. The cost of any electricity used in excess of annual electrical minimum shall be shared proportionately according to usage by each party.

It is understood by the parties that the easement granted hereunder will cease when the water system is no longer in operation or when Ham or successor has failed to use said system for a three (3) year period.

Marsh hereby grants to Ham the right to ingress and egress to the pumps along an established trail or road across Marsh's property, which is located along the north edge of the area proposed to be irrigated by Marsh, or such other reasonably convenient route as may be designated by Marsh from time to time.

It is understood and agreed that Ham will be irrigating approximately but not limited to, 113.9 acres in Section Twenty-One (21) or adjoining lands, of Township One (1) South, Range Ten (10) East of the Black Hills Meridian, Pennington County, South Dakota, and that Marsh will be irrigating approximately but not limited to, 156.5 acres in Section Seventeen (17) and Section Twenty (20), or adjoining lands, of Township One (1) South, Range Ten (10) East of the Black Hills Meridian, Pennington County, South Dakota.

Each party shall promptly pay his share of any costs incurred in connection with the system when due.

In the event either party hereto does any maintenance or pays any operational costs or maintenance costs which are in part or in whole the proper responsibility of the other party, then the party doing the work or incurring the cost shall be entitled to be reimbursed by the responsible party.

In the event of the failure of Ham or its successor to perform any of the covenants herein to be performed by Ham, then Marsh, at its option, may give notice of its intention to declare all easements hereunder forfeited and all interest of Ham in the water system forfeited, and if said deficiencies are not rectified and corrected within thirty (30) days written notice of the aforesaid declaration to Ham, then in that event all easements in favor of Ham and all interest in the water system shall be forfeited.

In the event of the failure of Marsh or its successor to perform any of the covenants herein to be performed by Marsh, then Ham, at its option, may give notice of its intention to declare the interest of Marsh in the water system

It is understood that the easement granted herein is for the purpose of maintaining the pumping station and a pipeline from the point of diversion in Section Seventeen (17) to the boundary of Ham's property at a point in the Southeast corner of the Southeast Quarter (SE 1/4) of Section Seventeen (17), Township One (1) South, Range Ten (10) East of the Black Hills Meridian, Pennington County, South Dakota.

By: G. Earl Ham
President

- 5 -

STATE OF SOUTH DAKOTA)
) SS,
COUNTY OF PENNINGTON)

On this the 5th day of September, 1908, before me,
the undersigned officer, personally appeared A. C. L. Linn,
who acknowledged himself to be the President of Ham Ranch, Inc., a corporation,
and that he, as such President, being authorized so to do, executed the fore-
going instrument for the purposes therein contained, by signing the name of
the corporation by himself as President.

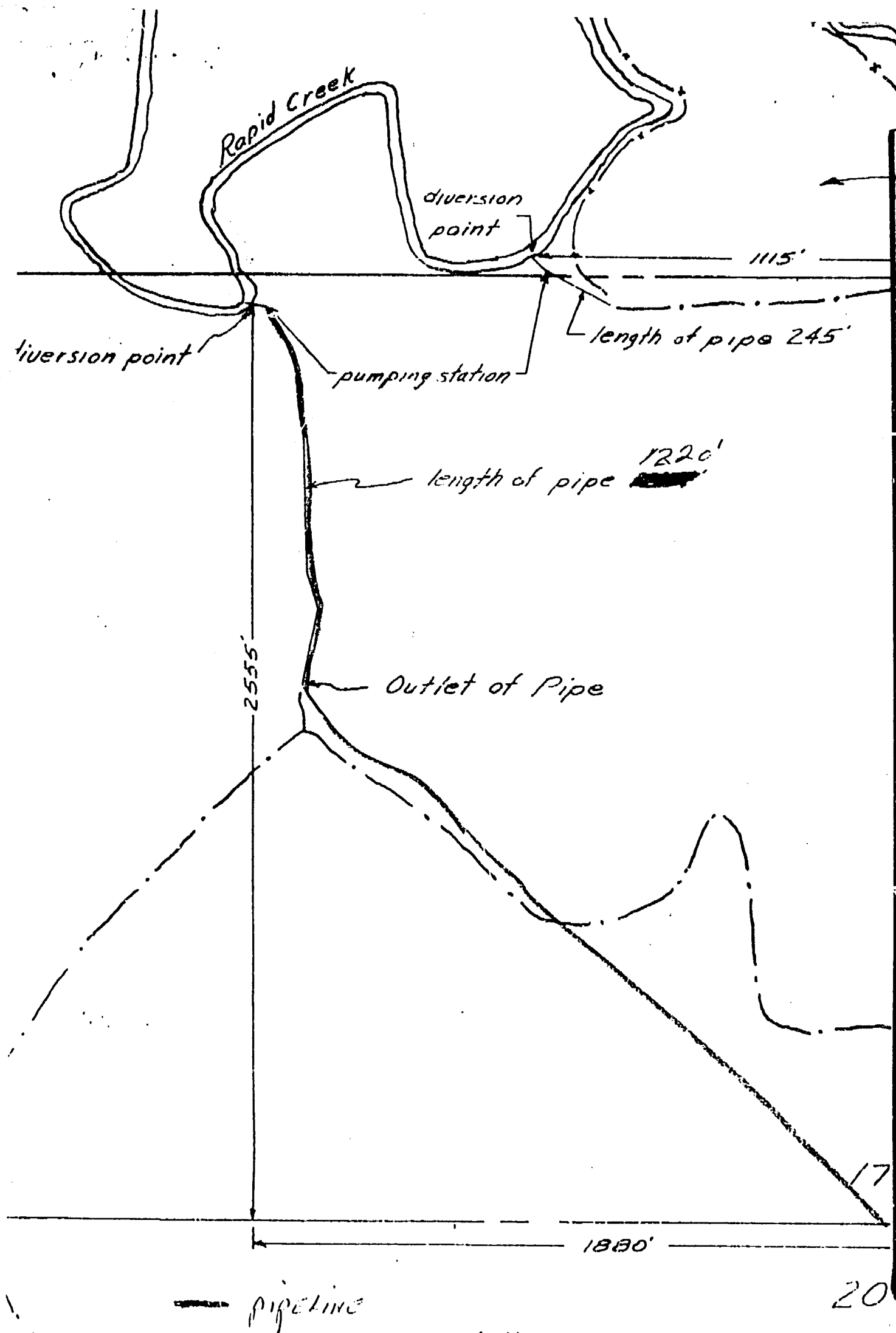
In witness whereof, I hereunto set my hand and official seal.

[Signature]
Notary Public, South Dakota

My Commission Expires:

April 26, 1911

(SEAL)



— pipeline

Exhibit "A"

S²SE⁴ Sec. 17 & N²NE⁴ Sec. 20
T15, R10E BHM, containing
for irrigation 1565 A. more or less

No. 1781-2

Publish first publication, on or before July 17, 1981

NOTICE OF HEARING ON
APPLICATION TO APPROPRIATE WATER

Pierre, South Dakota 57501

July 7, 1981

Notice is hereby given Marsh Hereford Ranch Inc.

whose post office

address is Caputa, South Dakota, has made an application in accordance with the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-14; 46-2-9 thru 46-2-11, 46-2-13; 46-5-1 thru 46-5-8, 46-5-10 thru 46-5-22, 46-5-41, and Board Rules ARSD 52:01:01 thru 52:01:01:13, for a permit to appropriate for beneficial use 3.87 cubic feet of

water per second of time from xxx Antelope Creek (storage dam) through the

Marsh Antelope Creek Project, the point xxx of diversion of which is (xxx) to be located in the SE 1/4 NE 1/4

of Section 20, Twp. 1S, Range 10E. Said water to be used for the purpose of providing irrigation on portions of the following described land:

S 1/4 S 1/4 NE 1/4; SE 1/4; E 1/4 SW 1/4; Section 20; NE 1/4; E 1/4 E 1/4 NW 1/4, Section 29; both in T1S, R10E

This Application No. 1781-2 will be considered by the Water Management Board at the Civil Defense Room State Capitol Building, Pierre, SD upon the 29th day of July, 1981

at 10 A.M. The Board is authorized to make a determination on this application at the hearing. All interested persons may appear and be heard. Any person who may be affected by a Board decision who desires to present evidence or cross-examine witnesses according to SDCL 1-26 may notify the Board in writing prior to the hearing or orally at the hearing.

This hearing is an adversary proceeding. Any person has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing. Decisions of the Board may be appealed to the Courts as provided by law.

Any handicapped person wishing to attend this hearing can contact the Water Rights Division, DWR, Joe Foss Building, Pierre SD, prior to the hearing date for assistance to assure access to the hearing.

WATER MANAGEMENT BOARD

cc. Marsh Hereford Ranch Inc.
% G.E. Marsh, Caputa, SD 57725

BETTY WESTLUND
Water Rights Specialist

WNR-8063-7/79 Notice of Intent to Appropriate Water
SURFACE WATER

Affidavit of Publication

STATE OF SOUTH DAKOTA

County of Pennington

55.

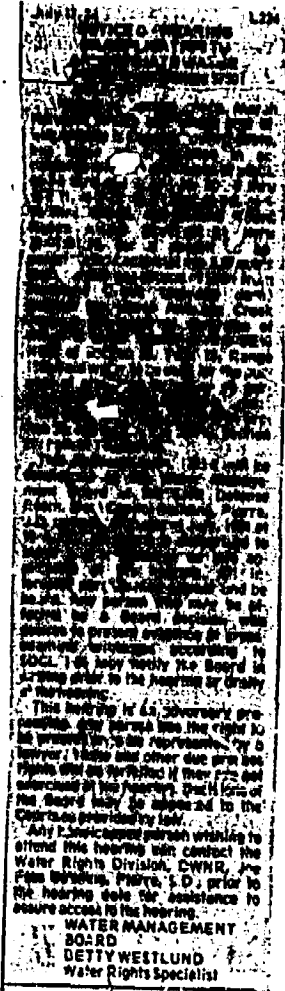
J. Jerry J. Shoener, being first duly sworn, upon his oath says: That he is now and was at all times hereinafter mentioned, an employee of the **RAPID CITY JOURNAL COMPANY**, a corporation, of Rapid City, South Dakota, the owner and publisher of the **RAPID CITY JOURNAL**, a legal and daily newspaper printed and published in Rapid City, in said County of Pennington, and has full and personal knowledge of all the facts herein stated as follows: that said newspaper is and at all of the times herein mentioned has been a legal and daily newspaper with a bonafide paid circulation of at least Two Hundred copies daily, and has been printed and published in the English language, at and within an office maintained by the owner and publisher thereof, at Rapid City, in said Pennington County, and has been admitted to the United States mail under the second class mailing privilege for at least one year prior to the publication herein mentioned; that the advertisement, a printed copy of which, taken from said **RAPID CITY JOURNAL**, the paper in which the same was published, is attached to this sheet and made a part of this affidavit, was published in said newspaper once each _____ week for _____ two _____ successive _____ weeks, the first publication thereof being on the _____ seventeenth _____ day of _____ July _____, 19____81____, that the fees charged for the publication thereof are _____ thirty- six _____ Dollars and _____ sixty-four _____ cents.

Harry J. Shover

Subscribed and sworn to before me this.....24th day of

July 19 81

Notary Public.



RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

No 4 8330

PIERRE, June 24 1921

RECEIVED OF G.E. Marsh, Marsh Hereford Ranch Inc., Caputa, SD 57725

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

Fee for Application for Permit to Appropriate Water No. 1731-2 (examination, processing, recording and filing)	300	00
Fee for Inspecting Construction, and Issuing Cert. of Construction No.		
Fee for Inspecting Beneficial Use, and Issuing Water License No.		
Fee for Issuing Location Certificate-Dry Draw, No.		
Fee for filing		
Fee for certified copy of		
Fee for Print copy of map		
Fee for Certifying		
Fee for (any other work as provided by law)		
TOTAL	300	00

WATER RIGHTS COMMISSION

By (J. H. Hatch)
Chief Engineer, Executive Officer
JOHN HATCH / J. H.

178

Water Rights Division
(60) 773-3352

August 27, 1981

Jerry Marsh
Marsh Hereford Ranch
Caputa, SD 57725

Dear Mr. Marsh:

As requested by you on August 26, 1981, I have enclosed a copy of the tape of that portion of the hearing held on July 29, 1981 which deals with your application for a water permit. The minutes will be sent to you upon completion.

Please advise this office of any further questions. Also please notify this office if you wish the reconsideration of the application delayed. I feel that it would be advisable that you attend the meeting when it is reconsidered.

Very truly yours,

JAMES E WINTERTON
Water Resources Engineer

JEM/gy

encl

REPORT OF INVESTIGATION ON
APPLICATION NO. 1781-2 FOR MARSH HEREFORD RANCH
SEPTEMBER 4, 1981

At the July, 1981 meeting of the Water Management Board, Application No. 1781-2 for Marsh Hereford Ranch was deferred pending staff investigation.

DISCUSSION

The application requests the appropriation of water to be stored in a dam to be constructed on Antelope Creek. The dam will be capable of storing 77 acre feet of water. Waters to be stored will include runoff from the drainage area, return flows from irrigation projects located above the dam, and diversion via Rapid Creek of the stored waters in Pactola and Deerfield Reservoirs.

The use of the stored waters will be to irrigate 271.07 acres in Sections 20 and 29 in Township 1 South, Range 10 East BHM. The dam is proposed to be located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 20, Township 1 South, Range 10 East. See the attached location map.

According to a Soil Conservation Service data sheet, the drainage area above the proposed dam is 12,400 acres. The two year frequency 24 hour storm will produce a yield of 465 acre feet of water.

Persons contacted during the investigation included the following individuals:

- Carl Ham - owner of land below the proposed dam
- Jerry Marsh - the applicant
- Jerry Hammerquist - owner of land below the proposed dam
- Amos Sandridge - owner of land above the proposed dam

The main concern of the individuals located below the proposed dam is for flows to remain available for downstream watering of livestock. In addition, Mr. Hammerquist was also concerned about certain subirrigated areas which he owns below the proposed structure. From the investigation, it was found that water is available from other small drainages and a spring area which will continue providing water for livestock downstream. If for some reason, the spring would cease to flow, and water was not available for livestock, then Marsh Hereford Ranch would be required to release that portion of the inflows necessary to satisfy the downstream domestic needs. The subirrigated ground of Mr. Hammerquist may or may not be affected but this can not be protected.

Questions on water availability in the storage of Pactola and Deerfield reservoirs are being looked into and the data is in the process of being updated. It is hopeful that the updated information will be available by the December hearing of the Water Management Board.

CONCLUSIONS AND RECOMMENDATIONS

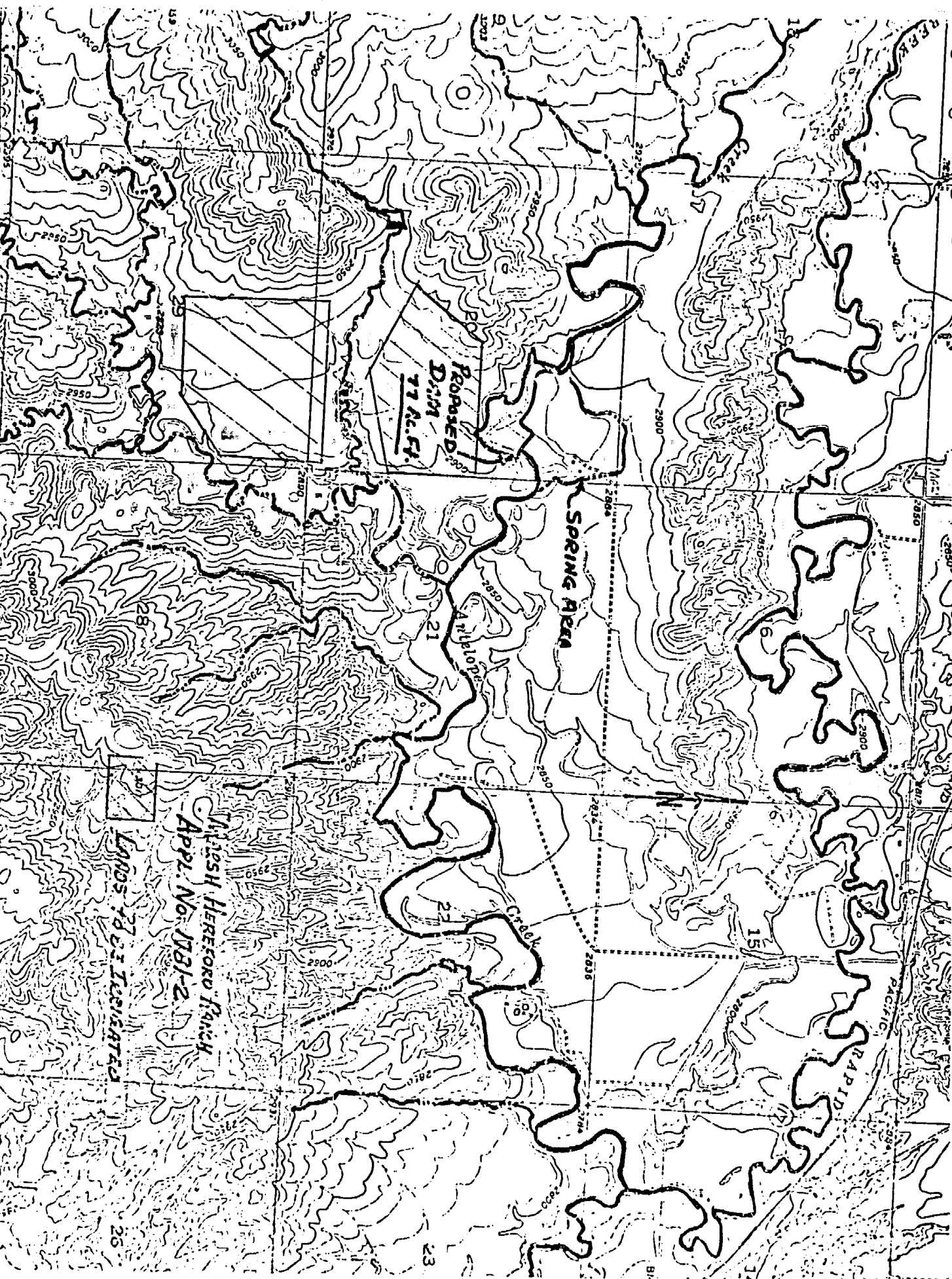
Runoff waters can be conserved and utilized by the construction of the dam as well as providing a means for the use of irrigation return flows. Through contract, waters can also be obtained from the stored waters of Pactola and Deerfield Reservoirs. The staff believes there is water available for this application, therefore it is

recommended that Application No. 1781-2 be approved for storing annually not to exceed 542 acre feet of the runoff waters of Antelope Creek, the irrigation return flows and the waters of Deerfield and Pactola Reservoirs. This will allow a total storage for the season of 2 acre feet for each acre to be irrigated, the limit set by law. Diversions from the dam are not to exceed 1 cfs for each 70 acres or 3.87 cfs. Diversions into the dam may exceed 1 cfs for each 70 acres during times when flows are in excess of downstream requirements. In order to store a total of 542 acre feet, the dam would be refilled during the irrigation season.

The qualifications which should be made part of the permit are as follows:

- (1) Low Flows as needed for downstream domestic use, including livestock watering must be by-passed.
- (2) Unappropriated water is available in Rapid Creek to reasonably satisfy this application only through contract between the Rapid Valley Conservancy District and Bureau of Reclamation covering releases from Deerfield and Pactola Reservoirs.
- (3) This Permit allows refilling of the reservoir of not to exceed 542 acre feet per year.

JAMES WINTERTON
Water Resources Engineer



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

Joe Foss Building
Pierre, South Dakota 57501

Water Rights Division
605 773-3352

November 16, 1981

TO: Persons Interested in Water Permit Application No. 1781-2, Marsh Hereford Ranch, Caputa, South Dakota

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

SUBJECT: Reconsideration of Deferred Application No. 1781-2

The Water Management Board will reconsider deferred water permit application No. 1781-2, Marsh Hereford Ranch, Caputa SD at 1:15 pm, December 2, 1981 at the Howard Johnson Motel, 3300 W Russell, Sioux Falls SD.

This reconsideration hearing will be conducted in accordance with the provisions of SDCL 46-1-1 thru 46-1-9; 46-1-14; 46-2-9 thru 46-2-11; 46-2-13; 46-5-1 thru 46-5-8; 46-5-10 thru 46-5-22; 46-5-41; and Board Rules ARSD 52:01:01:01 thru 52:01:01:13.

This application was deferred by the Board pending staff investigation. A report on the deferred application has been prepared by the Water Rights Staff and is enclosed.

After reconsideration of the deferred application the Board can approve, conditionally approve, defer, or deny all or part of the Application.

This hearing is an adversary proceeding. Any person has the right to present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing. Decisions of the Board may be appealed to the Courts as provided by law.

Any handicapped person wishing to attend this hearing can contact the Water Rights Division, DWNHR, Joe Foss Building, Pierre SD, prior to the hearing date for assistance to assure access to the hearing.

JH:ks

J. L. ...
...

SOUTH DAKOTA
Department of
Water & Natural Resources

Joe Foss Building
Pierre, South Dakota 57501

Water Rights Division
605 773-3352

December 7, 1981

TO: Persons Interested in Water Application No. 1781-2, Marsh Hereford Ranch

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

The Water Management Board requested that proposed Findings of Fact, Conclusions of Law and Final Decision be prepared regarding denial of Application No. 1781-2, Marsh Hereford Ranch. The Water Management Board will meet February 3, 1982, Kneip Building, Pierre SD. We have placed consideration of the proposed Findings of Fact, Conclusions of Law and Final Decision on the agenda for 1:00 pm, February 3, 1982.

The Attorney General's Office will prepare proposed Findings, Conclusions and Decision for consideration by the Board. This notice is provided to you in the event you wish to prepare or have prepared your own proposed, Findings, Conclusions and Decision for consideration by the Board.

Please have any proposed Findings, Conclusions and Decision in this office by January 23, 1982. We will be mailing information concerning the Board meeting to the Board members January 27, 1982.

The public hearing on Application No. 1781-2 was completed at the meeting December 2, 1981. No additional testimony on this application will be received February 3, 1982. The only discussion February 3 will be on the proposed Findings of Fact, Conclusions of Law and Final Decision.

ks

SOUTH DAKOTA
Department of
Water & Natural Resources
Joe Foss Building
Pierre, South Dakota 57501
Water Rights Division
605 773-3352

January 20, 1982

TO: Persons Interested in Water Application No. 1781-2, Marsh Hereford Ranch

FROM: John Hatch, Chief Engineer, Water Rights Division

John Hatch

Enclosed please find a copy of the Findings of Fact, Conclusions of Law and Final Decision regarding Application No. 1781-2, Marsh Hereford Ranch. The Findings of Fact, Conclusions of Law and Final Decision have been prepared by the Attorney Generals Office.

The Water Management Board will consider proposed Findings, Conclusions and Decisions for Application No. 1781-2 at 1:00 pm, February 3, 1982, Meeting Room #1, Knap Building, Church & Illinois, Pierre SD.

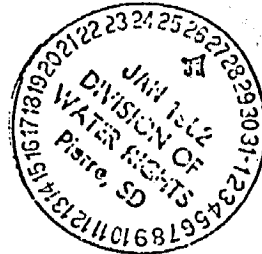
ks

enclosure

P.O. Box 2670
Rapid City, SD 57709

January 27, 1982

The South Dakota Department of
Water and Natural Resources
Foss Building
Pierre, SD 57501



Attn: John Hatch and Jim Winterton

Gentlemen: Re: Water Application #1781-2,
Marsh Hereford Ranch

I have received the proposed Findings of Fact and Conclusions of Law which have been submitted by the attorney representing the State of South Dakota Water Management Board. I would like to point out the errors in the proposed Findings as follows:

(1) Findings of Fact 13, 14 and 15 are all unsupported by the evidence. There is no evidence that the increased use will cause increased wear on the system; but, even if it does, the contract between Hereford Ranch and Mr. Ham requires that the system be properly maintained. There is a contractual obligation on each party to properly maintain the system. This is to assure the Board that Marsh Hereford Ranch, Inc., will fully perform all of its obligations under the contract between it and Mr. Ham as to the maintenance requirements. Therefore, if properly maintained, it should not in any way impair its efficiency, nor in any way affect the water permit which is not held by Mr. Ham as indicated in Findings of Fact 16, but is jointly held by Mr. Ham and Marsh Hereford Ranch, Inc., the applicant herein.

(2) We would like to propose to the Commission that there is no question that there is water available as indicated by proposed Finding of Fact 12 and that that is the only Finding necessary in a hearing on an application for a water permit.

(3) The issue relative to the use of diversion works (if, in fact, there is any such issue), is one which is not within the jurisdiction of this Board and should properly be resolved in a court of law. We, therefore, would like to point out that it seems the basic reason for the denial of the application is the testimony of Mr. Ham, that he feels the

The South Dakota Department of
Water and Natural Resources
Page 2
January 27, 1982

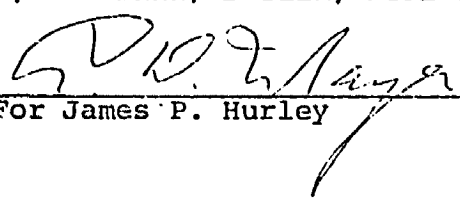
diversion works would not be sufficient to handle both the water to be obtained under this permit and the water under the permit held jointly by the Hereford Ranch and Mr. Ham (Water Permit #937-2). The contract between the parties contemplates expanded acreage under the diversion works operated jointly by the parties. If the parties, as a result of the increased use, actually have a dispute under their joint contract for the operation and maintenance of the diversion works, then this dispute should be settled in a court of law and not by the Water Management Board. It certainly furnishes no basis for the denial of the application in view of the specific finding that water is available; and a denial of the application for this reason presumes that one of the parties, or both, will not fulfill the contractual obligation regarding the contract relating to the diversion system.

(4) Moreover, Findings of Fact 16 which states that "the approval of this application will cause substantial impairment of the joint water right held by Ham" is unsupported by the evidence. The amount of water available to fulfill this right will not be impaired; and apparently, this finding is based upon an assumption that the parties will not fully perform their obligation under the contract relating to the diversion works.

Sincerely,

BANGS, McCULLEN, BUTLER, FOYE & SIMMONS

By:


For James P. Hurley

JPH-dc

Water Rights Division (805) 773-3352

February 10, 1982

Marsh Hereford Ranch, Inc.
Caputa, South Dakota 57725

Gentlemen:

The Water Management Board deferred action February 3, 1982 on proposed Findings of Fact, Conclusions of Law and a Final Decision on Application No. 1781-2 until the April 7 and 8, 1982 Board meeting. The deferral was granted at the request of the applicant and opposition to allow time for the parties to try and reach an agreement on this application.

Proposed Findings, Conclusions and Final Decision will be considered by the Board at 1:00 p.m., April 7, 1982, Conference Room #1, Knapp Building, Church & Illinois, Pierre, South Dakota 57501. If you have any questions please contact this office.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division

JH:ms
cc: Carl Ham
Craig Kennedy
Joe Butler



Joe Foss Building
Pierre, South Dakota 57501

Water Rights Division
605 773-3352

April 9, 1982

NOTICE

TO: Persons Interested in Application 1781-2, Marsh Hereford Ranch, Inc.

FROM: John Hatch, Chief Engineer, Water Rights Division

A handwritten signature in dark ink, appearing to read "John Hatch". The signature is written in a cursive, flowing style.

This is to notify you that a final Decision including Findings of Fact and Conclusions of Law were adopted by the Water Management Board for Application No. 1781-2, Marsh Hereford Ranch, Inc. as prepared by Joe Butler, attorney. These were considered at the April 7 meeting.

The Final Decision, Findings and Conclusions are on file in this office and signed copies will be furnished upon request. South Dakota Statutes provide that the decisions of the Board may be appealed to the Courts.

ks

CERTIFICATION FOR MAILING NOTICES

I hereby certify that on April 9, 1982, I have personally deposited with the U.S. Mail, postage prepaid envelopes containing the attached notice of ~~hearing for reconsideration~~ of Application No. 1781-2 addressed to the persons listed below.

Karen Schiaak
Karen Schiaak, Administrative Sec.

STATE OF SOUTH DAKOTA ;
COUNTY OF HUGHES) SS

Sworn to, before me, this 9th day of April, 1982.

Lois L. Ries
Notary Public

LOIS L. RIES, Notary Public
My Commission Expires
February 3, 1983

Carl Ham
Caputa SD 57725

Marsh Hereford Ranch
Caputa SD 57725

STATE OF SOUTH DAKOTA
WATER MANAGEMENT BOARD

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 1781-2 BY MARSH)
HEREFORD RANCH, INC.)

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
FINAL DECISION

Having heard and considered all the evidence presented before the Water Management Board at the hearings held on July 27 and 28, 1981 in the Civil Defense Room, State Capitol, Pierre, South Dakota, and on December 2 and 3, 1981 at the Sioux Falls Howard Johnsons, and the Board having continued the hearing on proposed Findings of Fact and Conclusions of Law and Final Decision to April 7, 1982, now makes the following:

FINDINGS OF FACT

1. On June 24, 1981 an application for a permit to appropriate water was submitted to the Water Management Board (Board) by Marsh Hereford Ranch, Inc. (Marsh). This application was assigned No. 1781-2.
2. The application identified 271.07 acres to be irrigated from an impoundment located on Antelope Creek at the Southeast 1/4 of the Northeast 1/4 of Section 20, Township 1 South, Range 10 East, Black Hills Meridian.
3. The application was advertised in the Rapid City Journal on July 17 and 24, 1981.
4. The storage dam will impound waters from three sources: return flows from irrigation, natural run-off, and water pumped from Rapid Creek.

5. Ham Ranch, Inc. (Ham) operated by Carl Ham is located adjacent to Marsh downstream on Antelope Creek.

6. Ham and Marsh jointly hold Water Permit No. 937-2. This permit is for irrigation of lands in Sections 17, 20, and 21, Township 1 South, Range 10 East, Black Hills Meridian.

7. Ham had previously opposed the granting of this permit but now has formally appeared before the Board and withdrawn any opposition to the granting of this application.

8. Staff investigation has determined that sufficient water would be available for downstream water rights with a higher or earlier priority and in view of the withdrawal of the opposition by Ham the Board determines that it would be in the public interest for the Board to issue the above permit.

9. The staff report has recommended that the permit should be qualified as follows:

1. Low flows as needed for downstream domestic use, including livestock watering, must be bypassed by Marsh.

2. Unappropriated water is available in Rapid Creek to reasonably satisfy this application only through contract between Rapid Valley Conservancy District and the Bureau of Reclamation covering releases from Deerfield and Pactola Reservoirs.

3. The permit shall allow refilling of the reservoir of not to exceed 542 acre feet per year.

CONCLUSIONS OF LAW

1. The Water Management Board has jurisdiction to consider the approval or denial of Water Permit Application No. 1781-2.

2. All legal requirements for completing and advertising the application and conducting a contested case hearing have been met.

3. The applicant and all interested parties have been given a full opportunity to be heard on this matter.

4. There is water available for the issuance of this permit and it is in the best interests of the people of the State of South Dakota to issue such permit as qualified in the Findings.

FINAL DECISION

Water Permit Application No. 1781-2 is hereby granted subject to the following qualifications:

1. Low flows as needed for downstream domestic use, including livestock watering, must be bypassed by Marsh.

2. Unappropriated water is available in Rapid Creek to reasonably satisfy this application only through contract between Rapid Valley Conservancy District and the Bureau of Reclamation covering releases from Deerfield and Pactola Reservoirs.

3. The permit shall allow refilling of the reservoir

of not to exceed 542 acre feet per year.

Dated this 8th day of April, 1982.

CHAIRMAN

Robert G. Brown

SECRETARY

Robert F. Harris

1781-2



January 29, 1993

NOTICE

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

TO: MARSH HEREFORD RANCH
HCR 36 BOX 35
CAPOTA SD 57725

FROM: Ron Duvall, Natural Resources Engineer IV
for JOHN HATCH, Chief Engineer
Water Rights Division

RE: Violation of Water Permit No(s) 937-2, 1781-2 and 1992 Irrigation Questionnaire Requirements

Our records indicate that the 1992 Irrigation Questionnaire has not been submitted for Permit No(s) 937-2, 1781-2. The request for the Questionnaires was dated October 16, 1992. The Water Management Board has directed that owners of water permits who have not submitted the 1992 Irrigation Questionnaire be given notice of permit violation and a hearing to be held by the Board. The hearing held by the Board will be to determine if Permit No(s) 937-2 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 1781-2 qualification:

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

The hearing will be held at 9:30 am, March 3, 1993, at the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to SDCL 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 1781-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 937-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law. Prior to February 22, 1993, contact the Water Rights Division, 523 E Capitol, Pierre SD 57501-3181 (605 773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

NOTE: If the questionnaires are received in this office before the March 3rd hearing date, you will no longer be in violation of your permit and your name will be deleted from the Board agenda.

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

1781-2

MARSH HEREFORD RANCH
HCR 36 BOX 35
CAPUTA SD 57725

4a. Article Number

9406-560 095

4b. Service Type

- | | |
|---|---|
| ☐ Registered | ☐ Insured |
| ☒ Certified | ☐ COD |
| ☐ Express Mail | ☐ Return Receipt for Merchandise |

7. Date of Delivery

5. Signature (Addressee)

[Signature]

6. Signature (Agent)

8. Addressee's Address (Only if requested and fee is paid)

Thank you for using Return Receipt Service.



1781-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 9, 1993

937-2
1781-2

Jerry Marsh
Marsh Hereford Ranch
HCR 36 Box 35
Caputa, SD 57725

Dear Mr. Marsh:

I am writing to acknowledge receipt of your 1992 irrigation questionnaires for Water Right No. 937-2 and Water Permit No. 1781-2. You may disregard the Notice for Violation of Water Permit and 1992 Irrigation Questionnaire Requirements.

The questionnaires were received in the office prior to the Water Management Board meeting and your name was deleted from the agenda. If you have any questions, please contact me at (605) 773-3352.

Sincerely,

Genny McMath
Natural Resources Analyst
(605) 773-3352



No. 1781-2

NOTICE OF COMPLETION OF WORKS AND/OR
APPLICATION OF WATER TO BENEFICIAL USE

Post Office Capote, SD 57725

Date 8/20/93

TO: Water Rights
Joe Foss Building
Pierre, South Dakota 57501

Dear Sirs:

This is to inform you that I have completed the construction of the water diversion system and/or that I have put the water to beneficial use to maximum extent it is going to be used, not exceeding the amounts as specified in Water Right No. 1781-2.

Water Right Permit No. 1781-2 states that the diversion system is to be constructed by 4/7/87, and that the water is put to beneficial use by 4/7/91.

The diversion system was completed on 1983. Applying the water to beneficial use was completed on 1991.

You may schedule an inspection so that the Certificate of Construction and/or the Water License may be issued, thus completing my acquisition of a water right.

Marsh Herford Ranch Inc.

J E Marsh

(Signature)

Permit No. 1781-2
Upper Cheyenne River - Water District

Report Of Examination Of Works And/Or Application of Water To Beneficial Use

TO: Chief Engineer, Division of Water Rights, DENR, Foss Bldg., Pierre, SD 57501

I have this day made a thorough examination of the water use system constructed by Marsh Hereford Ranch Inc. of HCR 36 Box 35, Caputa SD holder of Permit No. 1781-2, bearing the priority of June 24, 1981 authorizing the diversion of 3.87 cu. ft. per second and the storage of 77 acre-feet and an annual volume limitation of 542 ac-ft of the waters of surface water for irrigation purposes, in Pennington County.

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

- A. Works used to divert the water:
An 18 foot high dam with a storage capacity of 77 ac-ft and a Pacific Pump with a 1000 gpm capacity.
- B. Works used to transport water to place of use:
2250 feet of 8 inch and 6 inch aluminum and PVC pipe.
- C. Works used to apply water to beneficial use:
Four sideroll sprinkler irrigation systems with a combined length of 5300 feet.

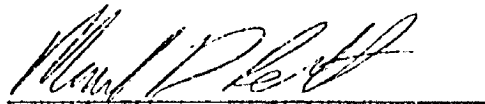
The system is in the following condition good. The point of diversion is located SE1/4 NE1/4 of Section 20 T1S-R10E. The works are capable of diverting and conveying to the place of use 2.23 cu. ft. per second of water and storing 77 acre-feet of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:
All land located in section 20 T1S-R10E:

<u>SE1/4 NE1/4 - 5 ac</u>	<u>SW1/4 NE1/4 - 6 ac</u>	<u>NW1/4 SE1/4 - 40 ac</u>
<u>NE1/4 SE1/4 - 40 ac</u>	<u>SE1/4 SE1/4 - 10 ac</u>	<u>SW1/4 SE1/4 - 10 ac</u>

comprising a total of 111 acres of land and the license should be issued for 1.59 cfs and 77 acre-feet of storage with a the total volume not to exceed 222 ac-ft per year.

Applicable permit qualifications have been complied with: Yes ☒ No

Exceptions to compliance are: none Date: 9/27/1993



Mark D. Rath
 Natural Resources Engineer
 DENR, Water Rights Division

REPORT ON INSPECTION OF PERMIT NO. 1781-2

DATE: 9/27/1993

DIVERSION POINT LEGAL LOCATION: SE1/4 NE1/4 Section 20 T1S-R10E

Pump:

- 1) Make Pacific Pump, PACO
- 2) Model C1SP1552
- 3) Size 4"
- 4) Capacity 1000 GPM

Motor:

- 1) Make Deutz, Air Diesel
- 2) Model No. BF6L913
- 3) Horsepower rating 120 hp

DISTRIBUTION LINES OR CANALS:

- 1) Type Aluminum, PVC
- 2) Size 8 & 6 inches
- 3) Length 450 & 1800 feet

SYSTEM TYPE:

Sideroll: Two Alumax each 1700 feet, a 950 foot Scott and a 950 foot Pierce

- 1) Length 5300 feet total length
- 2) Diameter of pipe 6 inches
- 3) Sprinkler spacing 40 feet

DAM INFORMATION:

- 1) Height to crest 18 feet
- 2) Height to primary spillway 12 feet
- 3) Height to secondary spillway ft
- 4) Crest width 15 feet
- 5) Crest length 370 feet
- 6) Spillway length feet
- 7) Spillway width 100 feet
- 8) Approx. storage 77 ac-ft
- 10) Date constructed: 1903
- 11) Outlet tubes:
 - a) diameter 36 inches
 - b) type CMP
 - c) valved Y
 - d) valve type Drop
 - e) location on structure center
- 12) Category of Dam III

CHEMIGATION EQUIPMENT: 1) Does chemigate N

PERMIT QUALIFICATIONS AND REGULATIONS:

- 1) Soil/water permit lands agree with lands being irrigated and lands listed on permit Y
- 2) Special qualifications to permit being abided by Y
- 3) All structures, wells and lands on map Y
- 4) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Y



1781-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 5, 1993

1781-2

Jerry Marsh
Marsh Hereford Ranch, Inc.
HCR 36, Box 35
Caputa, SD 5775

Dear Mr. Marsh:

The inspection of your water use system and the inspection of the extent of application of water to beneficial use, as developed under Water Permit No. 1781-2, has been completed. Your final water right document, the Water License, can now be issued.

Statutes require that we charge a \$50.00 fee for the inspection and issuance of the Water License. Upon receipt of the \$50.00 fee from you, we will begin processing your Water License.

South Dakota Water Law 46-5-30.1 requires that a permit holder may not divert water until the \$50.00 license fee has been paid. Please contact us if you have any questions.

Sincerely,

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

NOTE: On check or money order, please specify your permit number. This will insure proper handling of the fee.

RECEIPT

Division of Water Rights

South Dakota Department of Environment and Natural Resources

1781-2
413911

Pierre, _____ October 8, 19 93

RECEIVED OF Marsh Hereford Ranch, Inc., HCR 36 Box 35, Caputa, SD 57725
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. <u>1781-2</u>	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	50 00

By Charles Hatch
Chief Engineer

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 1781-2

(1) Marsh Hereford Ranch, Inc. of HCR 36 Box 35, Caputa, SD 57725 made Application No. 1781-2, June 24, 1981 for a water permit to appropriate 3.87 cubic feet of water per second from a storage dam on Antelope Creek (with an annual volume limitation of 542 acre feet per year), Pennington County, South Dakota for irrigation purposes. Permit No. 1781-2, with a priority date of June 24, 1981 was approved April 7, 1982 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before April 7, 1987 and for the application to beneficial use of said water on or before April 7, 1991.

(2) It is certified that the applicant has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 1.59 cubic feet of water per second for beneficial use with an annual volume limitation of 222 acre feet per year. The location of the diversion point is SE¼ NE¼ Section 20, T1S, R10E (the storage dam is capable of storing 77 acre feet of water).

(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate the following land:

T1S, R10E	Section 20	SE¼ NE¼	5 acres
		SW¼ NE¼	6 acres
		NW¼ SE¼	40 acres
		NE¼ SE¼	40 acres
		SE¼ SE¼	10 acres
		SW¼ SE¼	10 acres
		Total	111 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 Marsh Hereford Ranch, Inc. of HCR 36 Box 35, Caputa, SD 57725 the holder and/or owner of Water Permit No. 1781-2 is issued a license to appropriate water, the right to use 1.59 cubic feet of water per second (with an annual volume limitation not to exceed 222 acre feet per year) from a storage dam on Antelope Creek with a priority date of June 24, 1981 from the location specified in (2) of this license. The water to be conducted to and upon lands specified in (3) of this license for the purpose of irrigation. This license is subject to any limitations or qualifications listed in Water Permit No. 1781-2 and subject to South Dakota State Law.



JOHN HATCH, Chief Engineer
Water Rights Division
Department of Environment and Natural Resources

OCT 15 1993

date



1781-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

OCT 15 1993

1781-2

Jerry Marsh
Marsh Hereford Ranch, Inc.
HCR 36, Box 35
Caputa, SD 57725

Dear Mr. Marsh:

Enclosed is Water License No. 1781-2 and Receipt No. 413911 for \$50.00 which was assessed for an inspection and issuance of the license. Water License No. 1781-2 is the final document which completes the process of obtaining a water right.

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

Very truly yours,

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

gm
enclosures

1781-2

NOT TO SCALE

S10 R14

5
599

1610 R14

Sec 20 T15-R10E

6
516



20

6ac

1.2

5ac

40ac

40ac

10ac

10ac

R14

1610 R14

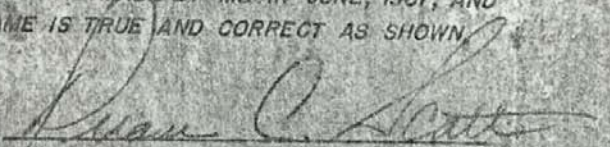
Mark D Rath
Mark D Rath
Natural Resources Engineer
Division of Water Rights
Date 10/1/1998

No. 1781-2

SURVEYOR'S CERTIFICATE -

I, DUANE C. SCOTT, SOUTH DAKOTA REGISTERED LAND
SURVEYOR # 2540, DO HEREBY CERTIFY THAT THE MAP
SHOWN HEREON WAS MADE BY ME IN JUNE, 1981, AND
THAT THE SAME IS TRUE AND CORRECT AS SHOWN.

FOUND
BRASS CAP


REGISTERED LAND SURVEYOR # 2540

INCH INC.



Map # 1535-2 Appl. 1781-2
orig map in map file

N $\frac{1}{2}$ NE $\frac{1}{4}$. 580° 0' W

NW $\frac{1}{4}$ NE $\frac{1}{4}$

NE $\frac{1}{4}$ NE $\frac{1}{4}$

NE $\frac{1}{4}$

N 10° 0' E

20°

30°

40°

50°

60°

70°

N 80° 0' E

SW $\frac{1}{4}$ NE $\frac{1}{4}$

SE $\frac{1}{4}$ NE $\frac{1}{4}$

50°

60°

70°

N 80° 0' W

30°

20°

N 10° 0' W

S $\frac{1}{2}$ NE $\frac{1}{4}$

S 80° 0' E

70°

60°

50°

40°

30°

S 10° 0' E

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

S 80° 0' W

70°

60°

50°

NE $\frac{1}{4}$ SE $\frac{1}{4}$

40°

30°

20°

S 10° 0' W

N $\frac{1}{2}$ SE $\frac{1}{4}$

SE $\frac{1}{4}$



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

October 23, 2013

937-2
1781-2

Jerry Marsh
Marsh Hereford Ranch Inc
PO Box 32
Caputa, SD 57725-0032

Dear Mr. Marsh:

Enclosed is a "Notice" dated October 18, 2013 concerning the 2013 irrigation questionnaires.

The notice was originally mailed to 15601 Hammerquist Rd, Caputa SD. The post office notified us we were using the incorrect address. I will update our records accordingly.

If you have any questions, please contact me.

Sincerely,

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

enclosures

**DEMERSSEMAN JENSEN
TELLINGHUISEN & HUFFMAN, LLP**

LAWYERS

1781-2
**RECEIVED
OCT 23 2014
WATER RIGHTS
PROGRAM**

**PO BOX 1820, RAPID CITY, SD 57709-1820
516 FIFTH STREET, RAPID CITY, SD 57701**

**MICHAEL B. DEMERSSEMAN
CURTIS S. JENSEN
MICHAEL V. WHEELER
RICHARD E. HUFFMAN
GREGORY J. SPERLICH
ROGER A. TELLINGHUISEN
ROBERT J. ROHL**

October 21, 2014

**TELEPHONE
605-342-2814**

**FAX
605-342-0732**

PMB 2020
DENR – Water Rights Program
523 E Capitol Ave
Pierre SD 57501-3182

RE: Water Right/Permit Nos. 1781-2 and 937-2

Dear Sir or Madam:

Enclosed herewith please find two Notices of Transfer of Ownership along with our \$100 check for the transfer fees.

If you need anything further, please advise.

Very truly yours,

/s/ Richard E. Huffman

Richard E. Huffman reh@demjen.com
DEMERSSEMAN JENSEN
TELLINGHUISEN & HUFFMAN, LLP

REH/bjm
Enclosures

1781-2

**DEMERSSEMAN JENSEN
TELLINGHUISEN & HUFFMAN, LLP**

LAWYERS

**RECEIVED
NOV 03 2014
WATER RIGHTS
PROGRAM**

PO BOX 1820, RAPID CITY, SD 57709-1820
516 FIFTH STREET, RAPID CITY, SD 57701

MICHAEL B. DEMERSSEMAN
CURTIS S. JENSEN
MICHAEL V. WHEELER
RICHARD E. HUFFMAN
GREGORY J. SPERLICH
ROGER A. TELLINGHUISEN
ROBERT J. ROHL

TELEPHONE
605-342-2814

FAX
605-342-0732

October 30, 2014

Genny McMath
Environmental Scientist
PMB 2020
DENR – Water Rights Program
523 E Capitol Ave
Pierre SD 57501-3182

RE: Water Right/Permit Nos. 1781-2 and 937-2

Dear Genny:

As a follow-up to our conversations, please find the separate applications with the legal descriptions of just the E1/2 of Section 17 regarding 937-2 and the 520 acres out of Section 20 regarding 1781-2. This should clean up the file.

Thanking you for your assistance, I remain

Very truly yours,

/s/ Richard E. Huffman

Richard E. Huffman reh@demjen.com
DEMERSSEMAN JENSEN
TELLINGHUISEN & HUFFMAN, LLP

REH/bjm
Enclosures

DEMERSSEMAN JENSEN
TELLINGHUISEN & HUFFMAN, LLP

LAWYERS

1781-2
RECEIVED
NOV 17 2014
WATER RIGHTS
PROGRAM

PO BOX 1820, RAPID CITY, SD 57709-1820
516 FIFTH STREET, RAPID CITY, SD 57701

MICHAEL B. DEMERSSEMAN
CURTIS S. JENSEN
MICHAEL V. WHEELER
RICHARD E. HUFFMAN
GREGORY J. SPERLICH
ROGER A. TELLINGHUISEN
ROBERT J. ROHL

TELEPHONE
605-342-2814

FAX
605-342-0732

November 14, 2014

Genny McMath
Environmental Scientist
PMB 2020
DENR – Water Rights Program
523 E Capitol Ave
Pierre SD 57501-3182

RE: Water Right/Permit Nos. 1781-2 and 937-2

Dear Genny:

As a follow-up to our conversations, enclosed herewith please find updated applications.

Thanking you for your assistance, I remain

Very truly yours,

/s/ Richard E. Huffman

Richard E. Huffman reh@demjen.com
DEMERSSEMAN JENSEN
TELLINGHUISEN & HUFFMAN, LLP

REH/bjm
Enclosures

SD EForm - 0495LD V2

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

Mail to: PMB 2020
DENR - Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182

Water Right/Permit No. 1781-2

Date: October 17, 2014

I/We request that Water Right/Permit No. 1781-2 formerly owned by:
Marsh Hereford Ranch, Inc. be transferred to:

New Owner Name: The Valley Ranch, LLC c/o William Gikling

Address: 3005 Beale Street

City, State, Zip Rapid City SD 57703 Telephone No. 605-342-5500

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

S1/2 NE 1/4 and the SE 1/4 in Section 20 all in T2S, R10 E Pennington County SD

☒ I understand that the validity of Water Right/Permit No. 1781-2 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

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 Fifty Dollars (\$50.00) is included to cover the filing fee as required by SDCL 46-2-13.

I, William C. Gikling, The Valley Ranch, LLC, the new owner, certify that the above information is true and correct.


(signed by new owner)

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

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 10/23, 20 14

RECEIVED OF De Mersseman Jensen Tellinghuisen & Huffman LLP PO Box 1820 Rapid City

SD 57709

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>1781-2</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____	50	00
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No. **06972**

By

Jeanne Goodman
Chief Engineer



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov



1781-2

November 19, 2014

937-2
1781-2

William G Gikling
The Valley Ranch LLC
3005 Beale St
Rapid City SD 57703

Dear Mr. Gikling:

I am writing in regard to the ownership changes for Water Right Nos. 937-2 and 1781-2. The transfers have been completed. The water rights formerly held by Marsh Hereford Ranch Inc., are now listed in the name of "The Valley Ranch LLC".

The receipts for the filing fees are being forwarded by copy of this letter to Richard Huffman with DeMersseman, Jensen, Tellinghuisen and Huffman in Rapid City.

If I can answer any questions for you, please let me know.

Sincerely,

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

c: Richard Huffman w/law firm