

1. Considered: JUNE 9, 1982

VESTED RIGHT
Water Right No. 1814-2

2. Name of Applicant ROBERT AND MARK TUBBS

3. Post Office Address Box 563, EDMONT, S.D.

4. Amount of Water Claimed 13.9 maximum acre feet

5. Source of Water Supply DRY DRAWS

6. Water to be used for IRR acres to be irrigated 972

7. County FALL RIVER about _____ miles _____ of _____

8. PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Recognized 6/9/82 Subject to _____

Not Approved _____ Action Deferred _____

PRIORITY Dated Received 2-5-82 Application complete-yes _____ no _____ FEE _____

4.0 - 12/12/1907 Remarks Waterlaw/Minnesota Law
9.9 - 2/29/1908

Corrected Application received _____ Period of Annual Use _____

WATER Received yes N/A no _____ APPROVED/CONDITIONAL (Circle one)

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

Disapproved _____ Returned _____

Diversion Point DRY DRAWS IN SE⁴SE⁴,
SEC. 34; NW⁴SW⁴, SEC. 28; NE⁴SW⁴,
SEC. 29; SW⁴SW⁴ SEC 27 & NW⁴NW⁴

SEC. 27 all in T8S, R2E

Land to be irrigated SE⁴NW⁴, NE⁴SW⁴ &
S¹/₂ NE⁴, SEC. 29; N¹/₂ NW⁴; S¹/₂ NW⁴, N¹/₂ SW⁴
& SE⁴, SEC. 28; SW⁴ SEC. 21; W¹/₂ SW⁴ SEC. 22;
E¹/₂ SE⁴SE⁴, SEC. 20; NW⁴; SW⁴NE⁴; SW⁴,
SEC. 27; NE⁴NE⁴ SEC. 33; W¹/₂ NW⁴;
SE⁴NW⁴; SW⁴NE⁴; NW⁴SE⁴; SE⁴SE⁴,
SEC. 34; all in T8S-R2E

WELL LOG Driller _____ Licensed - yes _____ no _____

Depth _____

Remarks _____

MAP Map No. 1568-2 Map located in Water Right ☒ Map file _____
Type of Map Drawn Prepared by Therbaugh

+++++

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:
4-21-82
[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. 1814-2Map No. 1568-2 Water Division No. 2 UPPER CHEYENNE DistrictAbove for Office Use 10120106

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

Check one of the following:

New Vested Right X Future Use Change in Diversion Additional Diversion Change in Acreage Additional Acreage

1. Name of Applicant Robert Tubbs & Mark Tubbs Phone No.
 Post Office Address Box 563 Edgemont SD 57735
 (Street, RR, or Box) (Town) State (Zip Code)
 If a corporation show date and place of incorporation

2. Method of accomplishing work (contract, employment of others, or by direct labor) completed3. Name of diversion work ROBERT & MARK TUBBS PROJECT4. Amount of water claimed (cubic feet per second) 13.95. Source of water supply dry draws6. Location of point of diversion see attached sheet County Fall River7. Annual period or periods during which water is to be used March to November8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) irrigation9. For irrigation use, Total number of acres to be irrigated 972

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.
see attached sheet	

Land Description	No. Acres Irr.

Attach sheet if more space is needed

10. Time required to complete construction of water supply system completed years. Additional time required to complete application of water to the proposed beneficial use years.11. Choice of county newspaper for publication of Notice of Intent to Appropriate Water N/A

12. Principal Features of the Proposed Water Supply System.

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

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

C. Works proposed to apply water to beneficial use.

Estimated Total Cost \$ 100,000.00



WATER RIGHT APPLICATION APPROVAL

The Water Management Board hereby approves Water Right Application No. 1814-2

ROBERT E MARK TUBBS
(Applicant)

Box 563, EDMONT
(Post Office Address)

SOUTH DAKOTA
(State) 57735

With the following qualifications.

"VESTED RIGHT" CLAIMED

Date of first receipt of application February 5, 1982

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

Date of receipt of corrected application _____, 19____

Approved June 9, 1982, Recorded in Book _____ Page _____

WATER RIGHT PERMIT NO. 1814-2

The Water Management Board hereby grants and issues this Water Right Permit No. 1814-2 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 4.0 cfs from December 12, 1907, and
9.90 cfs from February 29, 1908
2. The equivalent of at least one-fifth of the work above specified is ~~to be completed on or before~~
Completed, 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 13.9 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

THIS DATE _____, 19____; said water to be used during the following described annual period: March to November

Robert & Mark Tubbs

SE¹/₄SE¹/₄ Points of Diversions: Point No. 1 - 550'N and 700'W of SE corner of Section 34
 NW¹/₄SW¹/₄ Point No. 2 - 2100'N and 700'E of the SW corner of Section 28 (twenty eight)
 NE¹/₄SW¹/₄ Point No. 3 - 1700'E and 100'S of the W¹/₄ corner of Section 29
 SW¹/₄SW¹/₄ Point No. 4 - 1300'N of the SW corner of Section 27
 NW¹/₄NW¹/₄ Point No. 5 - 1320'S of the NW corner of Section 27 All in T8S, R2E

Land Description:

	acres
SE ¹ / ₄ NW ¹ / ₄ - 29, T8S, R2E	10
SW ¹ / ₄ NE ¹ / ₄ - 29 } S ¹ / ₂ NE ¹ / ₄	15
SE ¹ / ₄ NE ¹ / ₄ - 29 }	16
NE ¹ / ₄ SW ¹ / ₄ - 29	2
N ¹ / ₂ NW ¹ / ₄ - 28	80
SW ¹ / ₄ NW ¹ / ₄ - 28 } S ¹ / ₂ NW ¹ / ₄	15
SE ¹ / ₄ NW ¹ / ₄ - 28 }	15
NW ¹ / ₄ SW ¹ / ₄ - 28 } N ¹ / ₂ SW ¹ / ₄	6
NE ¹ / ₄ SW ¹ / ₄ - 28 }	33
NW ¹ / ₄ SE ¹ / ₄ - 28 }	40
NE ¹ / ₄ SE ¹ / ₄ - 28 } SE ¹ / ₄	17
SW ¹ / ₄ SE ¹ / ₄ - 28 }	20
SE ¹ / ₄ SE ¹ / ₄ - 28 }	40
SW ¹ / ₄ - 21	160
NW ¹ / ₄ SW ¹ / ₄ - 22 } W ¹ / ₂ SW ¹ / ₄	4
SW ¹ / ₄ SW ¹ / ₄ - 22 }	31
E ¹ / ₂ SE ¹ / ₄ SE ¹ / ₄ - 20	10
NW ¹ / ₄ NW ¹ / ₄ - 27 }	32
NE ¹ / ₄ NW ¹ / ₄ - 27 }	15
SW ¹ / ₄ NW ¹ / ₄ - 27 }	31
SE ¹ / ₄ NW ¹ / ₄ - 27 }	33
SW ¹ / ₄ NE ¹ / ₄ - 27 } SW ¹ / ₄ NE ¹ / ₄	28
NW ¹ / ₄ SW ¹ / ₄ - 27 }	40
NE ¹ / ₄ SW ¹ / ₄ - 27 }	40
SW ¹ / ₄ SW ¹ / ₄ - 27 }	38
SE ¹ / ₄ SW ¹ / ₄ - 27 }	40
NE ¹ / ₄ NE ¹ / ₄ - 33 } NE ¹ / ₄ NE ¹ / ₄	23
NW ¹ / ₄ NW ¹ / ₄ - 34 }	40
SW ¹ / ₄ NW ¹ / ₄ - 34 }	12
SE ¹ / ₄ NW ¹ / ₄ - 34 }	22
SW ¹ / ₄ NE ¹ / ₄ - 34 } SW ¹ / ₄ NE ¹ / ₄	36
NW ¹ / ₄ SE ¹ / ₄ - 34 -	19
SE ¹ / ₄ SE ¹ / ₄ - 34 -	9

TOTAL 972 acres

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 1814-2

(1) WHEREAS, On the 5th day of February A. D. 1982Robert & Mark Tubbsmade Water Right Application No. 1814-3 Vested Right for a permit to use 1814-2 cubic feet per second of the waters of dry drawsCounty of Fall River, State of South Dakota, for irrigation

purposes; and

(2) WHEREAS, On the 9th day of June A. D. 1982
Vested Right 1814-2 Permit No. 1814-2, with a date of priority of December 12, 1907 & February 29, 1908was issued to said applicant recognized for the diversion of said water, and ~~provided for~~ the completion of construction of the water supply system therein described on or before the day of A. D. 19 and for the application to beneficial use of said water on or before the day of A. D. 19

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 13.90 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,

SE $\frac{1}{4}$ NW $\frac{1}{4}$ 29, T8S, R2E-10A	NE $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ 20, T8S, R2E- 10A
SW $\frac{1}{4}$ NE $\frac{1}{4}$ " 15A	NW $\frac{1}{4}$ NW $\frac{1}{4}$ 27, T8S, R2E 32A
SE $\frac{1}{4}$ NE $\frac{1}{4}$ " 16A	NE $\frac{1}{4}$ NW $\frac{1}{4}$ " 15A
NE $\frac{1}{4}$ SW $\frac{1}{4}$ " 2A	SW $\frac{1}{4}$ NW $\frac{1}{4}$ " 31A
✓ N $\frac{1}{2}$ NW $\frac{1}{4}$ 28, T8S, R2E-80A	SE $\frac{1}{4}$ NW $\frac{1}{4}$ " 33A
SW $\frac{1}{4}$ NW $\frac{1}{4}$ " 15A	SW $\frac{1}{4}$ NE $\frac{1}{4}$ " 28A
SE $\frac{1}{4}$ NW $\frac{1}{4}$ " 15A	NW $\frac{1}{4}$ SW $\frac{1}{4}$ " 40A
NW $\frac{1}{4}$ SW $\frac{1}{4}$ " 6A	NE $\frac{1}{4}$ SW $\frac{1}{4}$ " 40A
NE $\frac{1}{4}$ SW $\frac{1}{4}$ " 33A	SW $\frac{1}{4}$ SW $\frac{1}{4}$ " 38A
NW $\frac{1}{4}$ SE $\frac{1}{4}$ " 40A	SE $\frac{1}{4}$ SW $\frac{1}{4}$ " 40A
NE $\frac{1}{4}$ SE $\frac{1}{4}$ " 17A	NE $\frac{1}{4}$ NE $\frac{1}{4}$ 33, T8S, R2E 23A
SW $\frac{1}{4}$ SE $\frac{1}{4}$ " 20A	NW $\frac{1}{4}$ NW $\frac{1}{4}$ 34, T8S, R2E 40A
SE $\frac{1}{4}$ SE $\frac{1}{4}$ " 40A	SW $\frac{1}{4}$ NW $\frac{1}{4}$ " 12A
✓ SW $\frac{1}{4}$ 21, T8S, R2E-160A	SE $\frac{1}{4}$ NW $\frac{1}{4}$ " 22A
NW $\frac{1}{4}$ SW $\frac{1}{4}$ 22, T8S, R2E- 4A	SW $\frac{1}{4}$ NE $\frac{1}{4}$ " 36A
SW $\frac{1}{4}$ SW $\frac{1}{4}$ " 31A	NW $\frac{1}{4}$ SE $\frac{1}{4}$ " 19A
	SE $\frac{1}{4}$ SE $\frac{1}{4}$ " 9A

TOTAL 972 acres

(5) NOW, THEREFORE, By the virtue of the authority vested in us by the laws of the State of South Dakota, We hereby grant and confirm to Robert & Mark Tubbs

_____ of Edgemont, South Dakota
the holder S and owner S Vested Right permit No. 1814-2 a water right, dating from 4.0 cfs from Dec 12, 190
& 9.90 cfs from Feb 29, 1908 to use of 13.90 cubic feet per second of the waters
of dry draws

in the County of Fall River and State of South Dakota, or so much thereof as may be necessary for the
purposes hereinbelow mentioned, to be diverted at #1-550'N & 700'W of SE corner Sec 34; #2-2100'
N & 700'E of SW corner Sec 28; #3-1700'E & 100'S of W $\frac{1}{2}$ corner Sec 29; #4-
1300'N of SW corner Sec 27; #5 1320'S of NW corner Sec 27 all in T8S,
R2E.

and conducted to and upon portions of lands located in Section 20, 21, 22,
27, 28, 29, 33 and 34, T8S, R2E

for the purpose of irrigation

This Water License No. 1814-2 is based on a Vested Rights claim recorded
and filed by the Water Managment Board.

Subject to any limitations listed in Vested Water Right Permit No. 1814-2 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 June A. D.
Nineteen Hundred and Eighty-two

WATER MANAGEMENT BOARD

By:

John Hatch
Chief Engineer, Executive Officer
JOHN HATCH

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) Robert & Mark Tubbs

Post Office Address Edgemont, State SD

If a Corporation show date and place of incorporation _____

13. Notice of Appropriation (If available)

Date of Posting December 29, 1906 Date of Recording December 31, 1906

Recording Data Recorded in Book 4, Misc. Record on Page 128, Register of Deeds,
Fall River County SD

14. Date of start of construction of water supply system _____

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

16. Name of owner of original water supply system _____

17. Amount of water originally applied to beneficial use 6.0 c. f. s. (see back of sheet)

18. Present Use of Water

Amount of water now being used 13.9 c. f. s.

Date that this amount of water was first used _____

19. Chronological History of Water Use

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 Fall River) ss.

I, Robert D. Tubbs & Mark Tubbs, the applicant, certify that I have read the foregoing and that the matters therein stated are true.

Signed Robert D. Tubbs

Subscribed and sworn to before me this 26 day of January, 1982

Mark R. Tubbs
(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.

(over)

The following Water Rights apply to this Vested Right Application

Name of the original supply system: N.S. and D.D. Tubbs (Permit No. ~~0560-2~~ ⁰⁵⁶⁶⁻² p2)
Dry Creek

Date of Filing for Water Right: December 12, 1907

Date of Filing for Record: May 5, 1908

Recording Data: Recorded in Book 4, Miscellaneous Record, on page 300,
Register of Deeds, Fall River County SD

Amount of water originally applied to beneficial use: 4.0 cfs

Name of the original supply system: J.C. Birdsell and Goe. T. Paine (See
O.R. Heldman Permit No. 0634-2)

Date of Filing: February 29, 1908

Recording Data: Recorded in Book 4, Miscellaneous Record Page 264, Register
of Deeds, Fall River County SD

Amount of water originally applied to beneficial use: 10,000 inches (200 cfs)

Name of the original supply system: Russell A. McClain (Location Notice 84)

Date of Posting: July 8, 1912

Date of Filing: July 19, 1912

Recording Data: Recorded in Book 5, Miscellaneous Record on page 298

Amount of water originally applied to beneficial use: 2.0 cfs

Location Notice 357, Div No. 2 Lelia & Minne Tubbs Date 5-25-11

Diversion point: SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec 29, T8S, R2E

To irrigate 12 cfs

Location Notice 543, Div No. 2 Lelia & Minnie Tubbs Date: 11-30-14

Permit No. 1814-2

Water Diversion No. 2 Upper Cheyenne Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That Robert & Mark Tubbs

Vested
Right

_____ the holder S of
Permit No. 1814-2, issued upon Application No. 1814-2, bearing date of priority of Dec 12, 1907
& Feb 29, 1908 authorizing the diversion of 13.90 cu. ft. per second of the waters of _____
dry draws County of Fall River, State of South Dakota at _____
#1-550'N & 700'W of SE corner of Sec 24; #2-2100'N & 700'E of SW
corner Sec 28; #3-1700'E & 100'S of W 1/4 corner Sec 29; #4-1300'N
of SW corner of Sec 27; #5-1320'S of NW corner Sec 27 all in T8S,
_____ for _____
R2E for irrigation

purposes, ha ve complied with the provisions of the laws of the State of South Dakota relating to proof of
completion of the works of diversion set out and described in said Permit; that said works are recognized
~~condition~~ for diverting and conveying to the place of intended use 13.90 cu. ft. per second of water.

Date June 28, 1982



JOHN HATCH, Chief Engineer
Water Rights Division

RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

No 4 8814

PIERRE, April 23, 1982

RECEIVED OF Robert D. Tubbs, Box 563, 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. 1814-2 (examination, processing, recording and filing)	8	00
Fee for inspecting Construction, and issuing Cert. of Construction No. 1814-2	2	50
Fee for inspecting Beneficial Use, and issuing Water License No. 1814-2	2	50
1 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 (ms)

If Mr. Tubbs is allowed to proceed with his ditch it will take the flood waters entirely away from the Edgemont people. The proposed ditch from Moss Agate would have to cross the main ditch of the Edgemont Company. There is no other way of handling the water except by flume. The ditch of the Tubbs people, which is parallel to the ditch of the Edgemont Company and 12 feet higher, would have material effect on the other ditch in flood water times. Mr. Birdsell stated that last fall they made arrangements to clean out the ditch but Mr. Tubbs told them that he collected the water and therefore they could not clean the ditch out.

Mr. Tubbs stated that with the new ditch he would be able to irrigate land that had never been under irrigation; that there would be two laterals that would have to cross the old ditch, but that these would not injure the old ditch at all. Above the ditch there is no great amount of land to be irrigated but still there is quite an amount which has never been touched by irrigation. Mr. Tubbs stated that while they planned for a headgate they did not intend to turn all of the water into the ditch and thus injure the parties below. At old Lake Nettleton if the new proposition will conflict with the old ditch they could easily put it in a different position, as Mr. Tubbs stated they did not wish to conflict with the old ditch.

Mr. Martin then set forth his opinion as to the legal status of the case. He stated that he believed that Mr. Tubbs was entitled to no appropriation on a dry draw as the law protected the prior appropriator from those appropriating later as the prior appropriation was entitled to the amount of water for which there were provided works to do so. He further stated that in such case the Tubbs people would have no right to the water above them as it would deprive the Edgemont company who are located further down the stream. At present Mr. Birdsell and his associates irrigate about 2,000 acres of land, and now Mr. Tubbs wishes to put in a dam which would irrigate about 80 acres of land above the dam and thus deprive that land farther down the valley of the water supply. There is no question of abandonment in this case. The Edgemont Company claim the water by virtue of the first legal appropriation. Mr. Martin stated that their position is first: That the appropriation of flood waters is not under the jurisdiction of the State Engineer's Office and this case is on the question of flood waters.

At the conclusion of the hearing the State Engineer announces that he would reserve his decision until a personal inspection of the grounds in question had been made by him.

At a hearing held in this office on March 16, 1908, in the matter of the application of D.D. Tubbs for a permit to appropriate for beneficial use, water from Moss Agate and Dry Creeks, through the Tubbs Diversion Works, there were present the following persons: Eben W. Martin and J.C. Birdsell, representing the Edgemont Company and N.S. Tubbs.

Mr. Martin brought to the attention of the State Engineer the locations that have been made by the Edgemont Company, the purchases of right of ways, the general run of said company's ditch, and the transfers that have been made. Mr. Martin claims that the old water right of Mr. Birdsell and Mr. Paine of said company has been kept alive. He further stated that on the 12th day of January, 1907, a decree was given in favor of the plaintiff in a suit brought against Mr. Tubbs by the above mentioned company. This, however, was appealed, and the case is still pending in the Supreme Court and Mr. Tubbs has put a stop to the said company continuing the work on their irrigation system. The application of Mr. Tubbs is for the flood water which will be stored in the old lake bed of Lake Nettleton. Mr. Birdsell and Mr. Paine claim this flood water by virtue of two propositions: First, that by this irrigation system, which has been in force since 1902, in its necessary operation collects these flood waters and have done so for years. Second, Under the new law they have made an appropriation of this flood water by a notice posted near Moss Agate Creek. This notice was filed on the 9th day of February, 1908. They also at the same time made an appropriation under the statutes for the flood water that comes down direct from Lake Nettleton.

Mr. Martin then asked some questions of Mr. Birdsell bearing on the case. In his replies Mr. Birdsell stated that he had been familiar with the Edgemont Canal and Water Right for about 15 years. There are about 2,000 acres now under the ditch. Last year the headgates and ditch were cleaned out at a cost of about \$700.00. The cost of the canal of the Edgemont Company was approximately \$88,000, but the same could not be built for that amount at the present time. On February 29th 1908 a notice was posted on the land by the Edgemont Company and about two hours of work was done, this point of location notice is where the diversion works are to be located. Part of the old dam of the company was washed out previous to this time and will have to be rebuilt at an approximate cost of \$300.00. Some work was done on this dam last year, as Mr. Tubbs would allow the same. They expect to enlarge the dam so as to carry water into Edgemont for the town. They will also construct a new dam. The lake bed of Lake Nettleton has been filled up quite a little but there is a chance for a great deal of storage there yet. They estimate that the old lake bed will hold enough water for their engines for six months, using the water at a rate of 500,000 gallons per day. The new dam will increase the storage so that it will hold enough to last about 2-1/2 years. During flood times the water flow from Cheyenne River is backed up into this storage reservoir. The company expects to put in two bulkheads about two feet wide and 800 feet long for turning the water from the North side of the river to the South side, and work on these have been started. Lands were irrigated from the ditch last summer. Mr. Tubbs also irrigates from the same system. These bulkheads are most necessary when the flood waters are coming down the Cheyenne River. The flood waters stored in Lake Nettleton makes a storage of good water for which the water from the Cheyenne River would not be suitable for the purposes to which this stored water is put. These flood waters have been used for years for beneficial purposes.

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
IN AND FOR FALL RIVER COUNTY, SOUTH DAKOTA.

vs.

Defendants.

$$\begin{array}{c} \vdots \\ \vdots Q \end{array}$$

DECREE

1

That the plaintiff, John C. Birdsell is the owner in possession

and entitled to the possession of the water rights, the water ditches and canals more particularly described as follows: That certain water right, water ditch, and canal, containing twenty thousand miner's inches of water more or less, beginning at a point on the Cheyenne River in section twenty-seven (27) Township seven south (7), Range one (1), East B.H.M. and extending in a southeasterly direction, a distance of about fourteen miles thru sections twenty seven (27), twenty six (26), thirty five (35) and thirty six (36), in Township seven (7), south, Range one (1) east thru section thirty one (31), township seven (7) south, Range two (2) East, thru sections six (6), seven (7), eighteen (18), seventeen (17), twenty (20), twenty one (21), twenty eight (28), twenty seven (27), thirty four (34), and thirty five (35) in Township eight (8) South, Range two (2) East and thru sections two (2), and one (1) in Township nine (9) South, Range two (2) East all in Fall River County, South Dakota, together with all water flowing from the Cheyenne River and its tributaries into the said ditch and canal and also all storm waters and flood water, flowing and draining from the water shed and water sheds lying to the South and West of the said canal and ditch thru its entire course and distance. The said water right having been located by F. M. Vroman, on November 5, 1892, location certificate filed November 16, 1892 and recorded in book 2 of miscellaneous records, page 414, in the office of the Register of Deeds of Fall River County, South Dakota December 7, 1893, and further located by Francis C. Grable, location certificate thereof being recorded on December 15, 1893 in book 2 miscellaneous records, page 498, in the office of the Register of Deeds of the said County, and a further additional and amended location certificate of the said water right having been made by the plaintiff, John C. Birdsell et al on October 12, 1907 certificate thereof, recorded October 12, 1907 in book 4, miscellaneous records, page 228 in the

Office of the Register of Deeds of said County. Also that certain water right, containing ten thousand miner's inches of water more or less, of the storm water, flood waters, seepage and drainage waters of all those certain draws, channels, creeks, streams and water sheds of the divide lying immediately to the south of the Cheyenne River and to the Easterly of the east fork of Moss Agate Creek in Fall River County, South Dakota, and being tributary to and emptying into the ditch, and canal hereinbefore described, and being at a point near the center of section one (1) township eight (8) South, Range one (1) East B.H.M., the said water shed and flood waters crossing portions of Townships eight (8) South Range one (1) East, eight (8) South, two (2) East and nine (9) South, two (2) East and being more particularly described in the location certificate and notice thereof dated February 29, 1908 and recorded upon the same day in book four miscellaneous records page 264 in the office of the Register of Deeds of Fall River County, South Dakota. Also that certain water right, located by the plaintiff, John C. Birdsell et al, on February 29, 1908, embracing ten thousand inches more or less of the storm waters, flood waters, seepage and drainage waters of what is known as Dry Creek and both branches thereof and their tributaries and lying to the South and West of the main ditch and canal of the plaintiff hereinbefore described and being tributary thereto and being more particularly described in the location certificate and notice thereof, recorded February 29, 1908, in book 4 miscellaneous records, page 266 in the office of the Register of Deeds of Fall River County, South Dakota.

11

That the plaintiff is the owner and has been for many years past of large areas of agriculture lands embracing several hundred acres thereof, lying in the Cheyenne River Valley and under and tributary to the said water rights, ditches, flumes and canals and habitually irrigated therefrom. That for many years the plaintiff has had under cultivation and growth upon his said lands under said irrigating ditches, several hundred acres of alfalfa and

other farm products. That the said lands are in what is known as the semi-arid portion of the country and under climatic conditions making the irrigating of said lands annually necessary for the purpose of raising growing and maturing successfully good agriculture crops. That the said lands and crops of the plaintiff have been irrigated each year from the said water rights, ditches and canals.

III

That the defendants are the owners in possession and entitled to the possession of that certain water right located prior to May 4, 1908 claiming twenty-four cubic feet of water per second of the water of Moss Agate Creek in Fall River County, South Dakota and its tributaries in Township eight (8) south, Range one (1) East B.H.M. The said water being diverted from Moss Agate Creek in sections one (1) and two (2) in said Township and Range, being conveyed by ditches and flumes to various lands in said section and also to lands in section six (6), eight (8), seventeen (17), twenty-two (22) twenty-seven (27), twenty-eight (28), and other lands all in Township eight (8), South Range two (2) E, the water from said Moss Agate Creek having been used by the defendants for purposes of irrigation from time to time under and by reason of the said water right; location of the said water right in the names of N.S. Tubbs and Delos D. Tubbs having been filed and recorded in office of the Register of Deeds on May 8, 1908.

one-half of the water flowing from time to time and at any time in the Moss Agate ditch of the defendants the said water to be divided equally one-half to the plaintiff, his heirs or assigns and one-half to the defendants, their heirs or assigns at the said point of division near the East line of the said Section one (1). The said water to be so divided equally one-half to each at said point by means of a proper device making equal division thereof from time to time. The one-half of said waters so to be used by the plaintiff to be diverted from the said point of division of said ditch and to be conducted by means of a ditch or ditches to the lands of the plaintiff or to such points as the plaintiff may select, and the one-half of said water to be used by the defendants to continue in the defendants' ditch from the said point of division. In case of dispute or disagreement as to the manner of dividing the water at the said point of division the said water shall be divided at said point one-half to each by a device to be recommended by the state engineer of State of South Dakota. IT IS FURTHER ORDERED ADJUDGED and DECREED that the plaintiff, John C. Birdsell is entitled to a right of way across all or any lands owned by any of the defendants or owned by Carl Tubbs or any other members of the family of Tubbs or under their control or the control of either of them or their heirs or assigns for the purpose of maintaining and using proper ditch or ditches to conduct the said water belonging to and to be used by the plaintiff from the said Moss Agate water right ditch.

V

And whereas the defendants Delos D. Tubbs and Carl Tubbs have certain lands under the said Moss Agate ditch lying above and to the northly of the point herein before designated as the point of division of the water of the said ditch IT IS ORDERED, ADJUDGED AND DECREED THAT they may have the privilege of using their one-half interest of the water from the said Moss Agate water right at a point above and toward the diverting dam from

the point of division herein specified, in which case an appropriate device shall be established in said main ditch by the defendants to equally divide the water thereof one-half to be taken by defendants from the said point to irrigate the said lands of Delos D. Tubbs and Carl Tubbs and the other one-half of the said water of said ditch to continue in said ditch from said point of division therein specified to be diverted entirely to the plaintiff and to his ditches from the first division point herein mentioned for appropriate use as he may see fit. If the parties shall not agree as to the proper device for dividing the water of the said main ditch at the said point of division the same shall be divided by an appropriate device to be recommended by the state engineer of the State of South Dakota. IT IS FURTHER ADJUDGED AND DECREED THAT if the defendants shall divert water from the main ditch to irrigate the lands of Delos D. Tubbs and Carl Tubbs as herein provided that the defendants shall not be entitled ^{to} at the same time/anypor- tion of the water of the of the said Moss Agate ditch elsewhere it being considered that the said defendants shall at such times be using their full portion of the water of the said water right for purposes of irrigating the lands of the said Delos D. Tubbs and Carl Tubbs.

VI

IT IS FURTHER ORDERED, CONSIDERED, ADJUDGED AND DECREED THAT the plaintiff, John C. Birsell is the owner and entitled to the possession of the flood waters, storm waters, seepage and drainage water of all the draws, channels, creeks and water sheds of the divide lying immediately to the South of the Cheyenne River and to the Easterly of the East Fork of Moss Agate Creek. For the purpose of insuring to the plaintiff his proper use of the said water without interference or unnecessary obstructions from the ditch, flume and canal of the defendants, IT IS FURTHER ADJUDGED AND DECREED THAT the defendants shall put in and maintain in their main ditch four sluice boxes three feet wide by two and one-half feet deep, the bottom of the said sluice boxes to be on a level with the bottom of the

the state engineer of the State of South Dakota. IT IS FURTHER ADJUDGED AND DECREED THAT the defendants shall have the privilege of irrigating from said main ditch lands owned by them under the Dry Creek dam and Birdsell ditch and above the point of division herein specified. When the defendants are irrigating such lands they shall not at the same time be diverting water at the point of division opposite the Delos Tubbs house. An appropriate measuring device shall be placed by the defendants at the points of division in the same manner as hereinbefore specified to make certain that the defendants shall not use at any time more than one-half of the said water supply. IT IS FURTHER ADJUDGED AND DECREED THAT ANY obstructions heretofore existing either in Dry Creek or the Moss Agate water right ditch shall be removed and no further obstructions to the flow in either of the said ditches shall be hereafter maintained or allowed therein except the necessary devices at the points of division in said ditches as herein provided.

VIII

IT IS FURTHER ORDERED, CONSIDERED, ADJUDGED AND DECREED THAT the plaintiff, his heirs and assigns are under obligations to maintain a proper dam upon Dry Creek for the purpose of diverting the water therefrom into the Birdsell's ditch and that the defendants their heirs and assigns are under obligations to maintain a proper dam on Moss Agate Creek. If the plaintiff, his heirs and assigns shall at any time neglect to maintain a proper dam beyond a reasonable time for repair or reconstruction he and they shall from that time forward not be entitled to draw any water from Moss Agate Creek water right until proper repair or reconstruction of the Dry Creek dam, and if the defendants, their heirs or assigns shall fail at any time to maintain a proper dam on Moss Agate Creek beyond a reasonable period for repair or reconstruction the defendants, their heirs and assigns shall not be entitled to use any water from the Dry Creek water supply

until the proper repair or reconstruction of the Moss Agate dam; the Dry Creek water supply or supplies including flood water in connection with either tributary of Dry Creek or the water shed thereof.

IX

IT IS ORDERED, CONSIDERED, ADJUDGED AND DECREED THAT the defendants are and will remain the owners of the Moss Agate dam and what is known as the Tubbs' ditch and their title thereto is not impaired by this decree; the right and interest of the plaintiff his heirs and assigns being a permanent use of one-half of the water of the Moss Agate water right to be taken from the point of division as herein specified and to the exclusive use of flood water outside of the Moss Agate water shed as hereinbefore set forth. IT IS FURTHER ADJUDGED AND DECREED THAT the plaintiff, his heirs or assigns shall continue to be the owners of the Dry Creek dam and water right including the dam at Lake Nettelon and the plaintiff's right and ownership is not in any way impaired by reason of this decree, the right of the defendants being to use an undivided one-half of the water from the said ditch at points of division thereof as hereinbefore specified.

X

IT IS FURTHER ORDERED, CONSIDERED, ADJUDGED AND DECREED THAT the defendants above named and each of them and all persons claiming under them are hereby enjoined and restrained from in any manner interfering with the full use and enjoyment by the plaintiff of his said water rights and property as defined herein. IT IS ALSO ORDERED, CONSIDERED, ADJUDGED AND DECREED THAT the plaintiff and all persons claiming under him are hereby enjoined and restrained from in any manner interfering with the water right, ditches, dams canals and property of the defendants as hereinbefore defined or in any manner interfering with the use and enjoyment thereof.

XI

IT IS FURTHER ORDERED, CONSIDERED, ADJUDGED AND DECREED THAT the parties plaintiff and defendants hereinshall each pay their own cost.

DONE IN OPEN COURT DECEMBER 21st. A. D. 1921.

BY THE COURT

WALTER S. MISER,
JUDGE

ATTEST: MRS. S. RICKER.

CLERK

O.K. as to form
W. G. Rice

O.K.
E. W. Martin

Incorpor.

~ R & M Tubbs

5/3/84

used on 1842-2

Joe Tubbs
Investigative work
for R & M

1717-2 - Ed Runkle
priority date
M. Tubbs
R. Tubbs

WATER RIGHT

This is to certify that we, L.B. Tubbs and D.D. Tubbs,
whose postoffice address is Edgemont, Fall River County,
So. Dak., have this 12th day of December, 1907, filed a water
right on what is known as Dry Creek and its tributaries which
is located in Sec. 28 and 29 in T. 8 S., R. 2 E., N.D.H.M. for the
amount of four cubic feet of water per second of time. The
location of the dam and reservoir which is as follows from
the quarter Sec. Cor. between Sec. 28 and 29 bearing east
1915 feet to the initial point of the dam, thence the dam
runs 5 degrees W. 200 feet, thence from the initial point of
the dam N. 5 degrees W. 975 feet. The area of said reservoir
is 7 3/4 acres, and the capacity of said reservoir when
full, is 600 acre feet. The diversion point of which is
located as follows: bearing east from the quarter Sec. Cor.
between Sec. 28 and 29 1915 feet and north 360 feet. The
head gate of which shall be 2 feet square. The said water to
be used for the irrigation of the N.E. 1/4 of the S.E. 1/4 of Sec. 28
and the S.W. 1/4 and the W. 1/2 of the N.W. 1/4 and the S.E. 1/4 of the
N.W. 1/4 and the S.W. 1/4 of the N.E. 1/4 of Sec. 27 and the W. 1/2 of

Conversation or File Documentation

NAME OF ~~PERSON OR~~ FILE: N.S. & D.D. TubbsADDRESS: _____ COUNTY Fall RiverDATE: June 26, 1984 TELEPHONE _____RE: Water Right Filing 0566-2

COMMENTS:

This water right filing was ^{used} for priority dates
on vested rights: 1717-2 - Ed Benton
1818-2 - Robert & Mark Tubbs

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.

NAME: _____

Delwin V. Bury, P.E.
Hydrologist

Conversation or File Documentation

NAME OF PERSON OR FILE: Mark TubbsADDRESS: _____ COUNTY Fall RiverDATE: 7/26/88 TELEPHONE _____RE: Omission of Diversion Pt which should be added to 1814-2

COMMENTS:

Mark Tubbs called in reference to vested right No. 1814-2.This water right is from dry draws and Dry Creek.Dry Creek should be listed as a source which corresponds to the listed diversion points. Also the diversion point from Lake Nettleton was omitted and should be added to the vested right to clarify the right to divert through their existing ditch system from the draws, Dry Creek, and Lake Nettleton.A diversion pt. no 6 should be added and stated to read as follows: Point #6 - 2125 ft S & 1875 ft. W of the NE Corner of Sec 28, T8S, R2E. (SW 1/4 NE 1/4).I wrote to Mark Tubbs on this date to petition the Board to add this point of diversion ^{and the name (Dry Creek)} to the water right. They have ~~at~~ as long as they can remember diverted from this point for this vested right. This may need readvertizing for the added point of diversion.I am personally aware of the diversion and was ~~with~~ ^{with} LeRoy Mermaugh when the inspection was made. I concur that the point of diversion should be included in the water right.

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.

NAME: James E. Montilton



Department of Water & Natural Resources

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

July 26, 1988

Mark Tubbs
Box 563
Edgemont, SD 57735

Dear Mr. Tubbs:

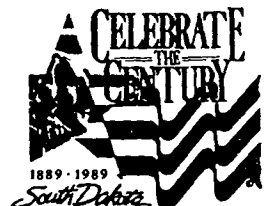
I am writing in response to your telephone call on July 26, 1988. You stated that a diversion point was missing from your vested right no. 1814-2. The diversion point should be made part of the record and our files. The description that you gave me was the SW1/4NE1/4 of Section 28, T8N, R2E. The point that the ditch takes water from Nettleton Lake. I looked this over on a USGS topographic map and would more specifically describe the diversion point as being located 2,225 ft. south and 1875 ft. west of the NE corner of section 28, T8N, R2E.

I discussed the matter with John Hatch. Because this vested right is now going through the validation process, we must ask that you send a letter petitioning the Water Management Board to make this change to the vested right no. 1814-2 and any other corrections that you believe is necessary to properly validate the water right. Please address the letter as shown above on the letterhead.

Also, please verify the legal description as I have described it above for correctness. Please let us know if you have any further questions.

Very truly yours,

James Winterton
Natural Resources Engineer
605 773-3352



Aug 9, 1988

South Dakota Department of
Water and Natural Resources.
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181
Attn: Water Management Board



Dear Board Members;

I was told by Jim Winterton that
I needed to petition the board for inclusion
of a point of diversion, on vested right
no. 1814-2. The point was missed on
the original paper work.

The point of diversion is located
2,225 ft. south and 1875 ft west of the
NE corner of section 28, T8S, R2E.

DDP

This point of diversion ~~is~~ takes
water from Lake Nettleton, which
is water, that comes out of Dry Creek.

The dam and lake on Dry Creek
were built in 1892 as part of the Edgemat
Canal. The point of diversion and ditch
irrigating our property have been in
continuous use since that time.

This point of diversion needs to
be included in Vested right no 1814-2.

Thank You

Mark K. Tubbs

Bob Tubbs

 **Department of
Water & Natural Resources**

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

September 21, 1988

NOTICE

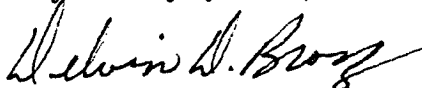
Robert & Mark Tubbs
Box 563
Edgemont SD 57763

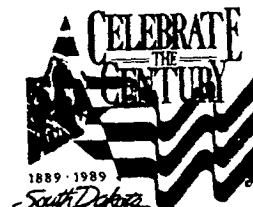
Dear Sirs:

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). 1813-2, 1814-2 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 
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. 1813-2,
1814-2

Robert & Mark Tubbs
Box 563
Edgemont SD 57763

Dear Sirs:

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, Chief Engineer
Water Rights Division
605 773-3352

cc: Bruce Laymon, Bureau of Reclamation



Conversation or File Documentation

NAME OF PERSON OR FILE: Robert and Mark TubbsADDRESS: P.O. 563, Edgemont, SD 57735 COUNTY Fall RiverDATE: June 8, 1989 TELEPHONE _____RE: Validation of Vested Right Claim No. 1814-2

COMMENTS:

I discussed this claim with Robert and Mark Tubbs on May 31, 1989. We reviewed the map that was submitted with the claim in 1982. The map was prepared by LeRoy Mernaugh, Division of Water Rights Engineer in 1982. The Tubbs stated that the project had not changed except that the diversion point at Lake Nettleton had been omitted from the claim. We field inspected this diversion point and found that it was in operating condition. I prepared the necessary application forms to add this diversion point to the claim. The forms were mailed ^{on June 3, 1989} to the Tubbs for review, signatures and ^{to} return with fee.

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.

NAME: Devin W. Brown, P.E.
Hydrologist



Department of Water & Natural Resources

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

March 23, 1990

1813-2
1814-2
1912-2

NOTICE

TO: Robert/Mark Tubbs
BOX 563
EDGEMONT, SD 57735

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

SUBJECT: Low Water Levels in Angostura Reservoir

The water level in Angostura Reservoir on March 6, 1990 was at 3171.1 feet above mean sea level (msl). This is approximately 16 feet below the full elevation of 3187.2 msl. The present estimates are that the Angostura Irrigation District will be able to deliver less than 50% of full service water to project lands during the 1990 irrigation season. We are contacting you to advise you of the actions we have taken due to the low water situation in Angostura Reservoir. Junior Water Right owners above Angostura have been ordered not to use water until Angostura fills.

Since your Water Right Nos. 1813-2, 1814-2 and 1912-2 have priority dates that are senior to the April 11, 1941 priority for Angostura Irrigation Water Right No. 579-2, your permits are not directly affected by the Junior Priority Order. However, I am requesting that all Senior Water Right holders comply with any qualifications and limitations as stated on their water right. With the existing low runoff conditions, we expect to monitor all water rights above Angostura Reservoir.

I want to thank all Water Right Holders above Angostura for the cooperation that we have received up to this time. If you have any questions, please contact Del Brosz (605 773-3352).

1814-2



United States Department of the Interior

TAKE
PRIDE IN
AMERICA

BUREAU OF RECLAMATION

Great Plains Region

Belle Fourche Projects Office

P.O. Box 226

Newell, South Dakota 57760-0226

IN REPLY
REFER TO:

WTR 4.10

BF-430

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
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

SOUTH DAKOTA

VESTED WATER RIGHT NO. 1814-2 FOR IRRIGATION

Date of Receipt of Claim February 5, 1982.

Date of Validation September 27, 1989.

The Water Management Board validated Vested Water Right Claim No. 1814-2 for irrigation purposes for Robert and Mark Tubbs, PO Box 563, Edgemont SD 57735 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 1814-2 appropriates 13.90 cubic feet of water per second (cfs) from dry draws to irrigate (waterspreading) 972 acres. The points of diversion are located in the NW 1/4 NW 1/4, SW 1/4 SW 1/4, Section 27; NE 1/4 SW 1/4, Section 29; NW 1/4 SW 1/4, Section 28; and the SE 1/4 SE 1/4, Section 34; all in T8S-R2E. The irrigated acres are located in the SE 1/4 SE 1/4 Section 20, SW 1/4 Section 21, W 1/2 SW 1/4 Section 22, W 1/2, SW 1/4 NE 1/4 Section 27, NW 1/4, N 1/2 SW 1/4, SE 1/4 Section 28, SE 1/4 NW 1/4, S 1/2 NE 1/4, NE 1/4 SW 1/4 Section 29, NE 1/4 NE 1/4 Section 33 and the W 1/2 NW 1/4, SE 1/4 NW 1/4, SW 1/4 NE 1/4, NW 1/4 SE 1/4, SE 1/4 SE 1/4 Section 34; all in T8S-R2E.
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. Water is to be used during the following annual period: March 1 - November 30.
3. The priority dates of the Vested Water Right are:

December 12, 1907 - 4.00 cfs
February 29, 1908 - 9.90 cfs
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 may not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

By: 
John Hatch, Chief Engineer
Water Rights Division
Department of Environment and
Natural Resources

SEP 20 1993

date



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

SEP 20 1993

Robert and Mark Tubbs
Box 563
Edgemont SD 57735

Dear Sirs:

The Water Management Board has validated the enclosed Vested Water Right Nos. 1814-2 and 1814A-2. Also, enclosed is Vested Right Water License No. 1814A-2. The applicable portions of Vested Water Right No. 1814-2 have been incorporated into Vested Water Right License No. 1814A-2.

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 Division
605 773-3352

enclosure