

VESTED RIGHT

1. Considered: _____, 19____ Water Right No. 1850-2
2. Name of Applicant Igloo Water Company
3. Post Office Address St Rt Box 4, Edgemont, SD 57735
4. Amount of Water Claimed 1.78 maximum acre feet _____
5. Source of Water Supply 2 wells #1 3990' & #2 3855' deep Madison Formation
6. Water to be used for MUN acres to be irrigated _____
7. County Fall River about _____ miles just NW of Igloo
8. PROOF OF PUBLICATION: Received _____ Not Received _____
- APPLICATION: Approved 10-5-83 Subject to _____
- Not Approved _____ Action Deferred _____

PRIORITY 4/5/42 Dated Received 8/16/83 Application complete-yes x no _____ FEE 10.50

Remarks supply towns of Igloo and Provo

Corrected Application received _____ Period of Annual Use 1/1 to 12/31

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

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

not applicable

Disapproved _____ Returned _____

				3	x
					x

Diversion Point _____

Well #1, SE $\frac{1}{4}$ SE $\frac{1}{4}$ and Well #2 _____

SW $\frac{1}{4}$ NE $\frac{1}{4}$ both in Sec.3-10S-2E _____

Land to be irrigated _____

WELL LOG Driller Drilled by War Department in 1942 and 1943 for army depot

Depth 3990' and 3855' Madison Formation

Remarks No Form 2A but log, etc on the map submitted with application

MAP Map No. 1850-2 Map located in Water Right XX Map file _____
 Type of Map drawn Prepared by Army
 not signed is a Vested Right

+++++

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:

8/17/83

[Signature]
 (Signed)

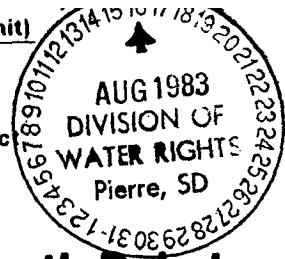
+++++

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. 1850-2
 Map No. 1850-2 Water Division No. 2 UPPER CHEYENNE District

Above 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 IGLOO WATER CO Phone No. 662-7526
 Post Office Address EDGEMONT Star Rt Box 4 State SOUTH DAKOTA 57735
 (Street, RR, or Box) (Town) (Zip Code)
 If a corporation show date and place of incorporation January 1, 1976, Edgemont S.D.

2. Method of accomplishing work (contract, employment of others, or by direct labor)

3. Name of diversion work Igloo Water Company Project

4. Amount of water claimed (cubic feet per second) See Gallons per minute - Both wells
^{1.78}

5. Source of water supply 2 Madison Formation Wells

6. Location of point of diversion See Exhibits C & D

Well #1, SE $\frac{1}{4}$ SE $\frac{1}{4}$, and Well #2, SW $\frac{1}{4}$ NE $\frac{1}{4}$, both in Section 3-T10S-R2E

BW
 8/17/83

County Fall River

7. Annual period or periods during which water is to be used 24 hours per day - Jan. thru Dec.

8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) Residential & Livestock

9. For irrigation use, Total number of acres to be irrigated 1

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

Land Description	No. Acres Irr.

Land Description	No. Acres Irr.

Attach sheet if more space is needed

10. Time required to complete construction of water supply system 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.

Completed in 1943

Estimated Total Cost \$

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 Fall River) ss.

I, E.W. Denny Denny 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 E.W. Denny Denny

Subscribed and sworn to before me this 15 day of August, 19 83

Therese Anderson

Notary Public (or other qualified officer)

Provo Well - Well No. 2

Hutton Well - Well No. 1



Vested WATER RIGHT APPLICATION APPROVAL

The Water Management Board hereby ~~approves~~ ^{recognizes Vested} Water Right Application No. 1850-2

Igloo Water Co.

Star RT, Box 4 Edgemont

(Applicant)

(Post Office Address)

South Dakota 57735

(State)

With the following qualifications.

"Vested Right Claimed" 9#

Date of first receipt of application August 16, 1983

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

Date of receipt of corrected application _____, 19____

~~Recognized~~ ^{Vested} Approved October 5, 1983, Recorded in Book _____ Page _____

~~WATER RIGHT PERMIT NO.~~ 1850-2

The Water Management Board hereby ~~grants and issues this~~ ^{recognizes Vested} Water Right Permit No. 1850-2 ^{recognizing} 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~~ ^{Vested}, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is Well #1 6-21-42 Well #2 Dec 10, 1943
2. ~~The equivalent of at least one fifth of the work above specified is to be completed on or before~~ _____, 19____
3. The whole of said work is ~~to be completed on or before~~ _____, 19____
4. ~~The limit of time from proof of beneficial use of water appropriated in accordance herewith is~~ ^{completed} _____, 19____
5. The water appropriated ^{shall} be used for the purpose of municipal & rural water system

6. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.

7. The amount of the appropriation herein granted shall not exceed 1.78 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 foot 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~~ October 5, 1983, said water to be used during the following described annual period: January 1 thru December 31

Witness my hand this 28th day of October, 1983

THE WATER MANAGEMENT BOARD

By: John H. Hatt
Chief Engineer, Water Rights

Certificate of Construction Issued _____, 19____

Water License Issued October 31, 1983

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) IGLCO WATER CO.
 Post Office Address EDGEMONT, STAR RT. ^{BOX} 4, State SOUTH DAKOTA 57735
 If a Corporation show date and place of incorporation ✓

13. Notice of Appropriation (If available)

Date of Posting ✓ Date of Recording ✓

Recording Date ✓ WELL #1 WELL #2

14. Date of start of construction of water supply system APRIL 5, 1942 - OCT. 12, 194315. Date that water was first applied to beneficial use JUNE 21, 1942 - DEC. 10, 194316. Name of owner of original water supply system UNITED STATES ARMY17. Amount of water originally ~~applied~~ to beneficial use 96,256 G.F. per day c.f. 720,000 G.F. DAY.18. Present Use of Water Residential and Livestock

Amount of water now being used 10,000,000 ~~c.f.s.~~ Gallons per month

Date that this amount of water was first used 40 + years ago and more or less
To date.

19. Chronological History of Water Use

Drilled by War Dept. in 1942 + 1943. Depot closed June 30, 1967. Sold to City of Edgemont in August 1968. S.L.C. agreement issued Nov. 4, 1968. City of Edgemont sold an area containing wells to Black Hills Industrial & Report. They in turn in 1970 sold 3000 acres including water system to Black Hills Beef Palace. After their failure, Marshall Cator of San Ray, Texas wound up with the 3000 acres. The Iglco Water Company was then formed to be able to supply the Town of Provo, Iglco and the livestock operations. See Exhibit A Paragraph 3 C. Exhibit B. Exhibit C on Well #1 and Exhibit D on Well #2.

Matthew J. Brown
Aug. 11, 1983

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, E. W. Denny Henry, the applicant, certify that I have read the foregoing and that the matters therein stated are true.

Signed E. W. Denny HenrySubscribed and sworn to before me this 15 day of August, 19 83

Terle Anderson
 (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.

Matthew J. Brown, ex Mayor of
City of Edgemont, S. Dak.
John H. Zinnert - Mayor Now

State of South Dakota

Vested Water License No. 1850-2

(1) Igloo Water Company

of Star Rt, Box 4, Edgemont SD

made Vested Right Application No. 1850-2, August 16, 1983 recognition of a water right for ~~a water permit~~ to appropriate

1.78 cubic feet per second of water from groundwater (two wells),

Fall River County, South Dakota for municipal and rural water system purposes.

Vested Right
/ Permit No. 1850-2, with a priority date of Well #1-June 21, 1942 and Well #2-December 10, 1943

recognized recognizing
was ~~approved~~ October 5, 1983 and issued to applicant(s) for diversion of water ~~with~~ construction of the described

water supply system ~~to be completed on or before~~ and ~~for~~ the application to beneficial use of said

water ~~on or before~~

and

(2) It is certified that the application 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 1.78 cubic feet per second of water

for beneficial use. The location of the diversion point(s) is Well #1 - 1060.7'N and 304.7'W of

SE corner (DD) Well #2 - S36°41'W 2501.48 ft from NE corner (AC) all in Section 3,

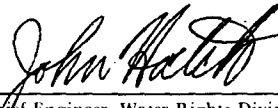
T10S, R2E

and

(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to the following extent, water is used to supply water for the towns of Igloo
and Provo, South Dakota.

(4) Pursuant to §46-5-30.1 the Igloo Water Company
of Star Rt, Box 4, Edgemont, South Dakota
the holder(s) and/or owner(s) of ^{Vested Right} ~~Water Permit~~ No. 1850-2 is issued a license to appropriate water, the right to use
1.78 cubic feet per second of water from groundwater (two wells) with a priority date
of June 21, 1942 (Well #1) & Dec 10, 1943 (Well #2) from the location specified in (2) of this license. The water ^{is} ~~to be~~
conducted to through the Igloo Water Company distribution system
~~and upon lands specified in (3) of this license for the purpose of~~ municipal and rural water
system use

This license is subject to any limitations or qualifications listed in ^{Vested Right} ~~Water Permit~~ No. 1850-2 and subject
to South Dakota State Law.



Chief Engineer, Water Rights Division
Department of Water and Natural Resources

October 31, 1983

This Water License No. 1850-2 is based on Vested Right Claim filed with the Water Management Board

United States of
America

TO
City of Edgemont

STATE OF SOUTH DAKOTA }
COUNTY OF FALL RIVER } SS

FILED FOR RECORD

10th DAY OF April 19 69

AT 1:00 P.M. M. AND RECORDED IN

BOOK 61 PAGE 134

REGISTER OF DEEDS

7⁷⁰ City of Edgemont

When Recorded Return

RECORDED ☒

COMPARED ☒

INDEXED ☒

EXHIBIT A

A portion of the Black Hill Army Depot in Fall River County, South Dakota, as follows:

Beginning at the NE corner of Section 1, Township 10 South, Range 1 East of the Black Hills Meridian; thence West, to the NW corner of Section 2; thence South, to the SW corner of Section 15; thence East, to the SE corner of Section 36, Township 10 South, Range 1 East of the Black Hills Meridian.

That land included in Township 10 South, Range 2 East of the Black Hills Meridian; thence continuing East, to the NE corner of Section 31; thence North, to the E $\frac{1}{4}$ corner of Section 30; thence East, to the E $\frac{1}{4}$ corner of Section 27; thence North, to the NE corner of Section 22; thence East, to the SE corner of Section 14; thence North, to the intersection of the north-westerly right-of-way line of the C&N Railroad and the East line of Section 11; thence northwesterly along said right-of-way line to the East line of Lot 2, Section 3; thence North, to the NE corner of said Lot 2; thence West, to the point of beginning.

Excepting and reserving therefrom:

All that property located between the BHAD security fence and the BHAD boundary line, located in Sections 1, 2, 11, 14, 23, 26, 35 and 36, Township 10 South, Range 1 East, BHM, and Sections 6, 5, 31, 30, 29, 28, 27 and 4, Township 10 South, Range 2 East, BHM, except the E $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 4.

A tract of land comprising the W $\frac{1}{2}$ of Section 3 except the SW $\frac{1}{4}$ SW $\frac{1}{4}$ and that portion of the E $\frac{1}{2}$ of NE $\frac{1}{4}$ of Section 3 lying inside of the C&N Railroad right of way, Township 10 South, Range 2 East BHM.

Including appurtenances thereunto belonging or in anywise appertaining, thereto.

The exact legal description of the property is subject to such modifications as may be necessary to conform to a survey of the property to be obtained by and at the expense of the Purchaser.

PURCHASE AGREEMENT

THIS AGREEMENT, made and entered into as of the 4th day of November, 1968, by and between the UNITED STATES OF AMERICA, acting by and through the Administrator of General Services, under and pursuant to the powers and authorities contained in the provisions of the Federal Property and Administrative Services Act of 1949, (63 Stat. 377), as amended, and regulations and orders promulgated thereunder, hereinafter referred to as the "Seller", and the CITY OF EDGE MONT, a municipal corporation in the State of South Dakota, acting under and pursuant to the powers and authorities of Chapter 148 of the 1964 Session Law's of the South Dakota Statutes, hereinafter referred to as the "Purchaser".

WITNESSETH:

1. That if the Purchaser shall make the payments and perform its obligations in accordance with its offer to purchase dated July 24, 1968, Seller's acceptance in letter dated October 4, 1968, and the terms and conditions of the right of entry granted by the Seller to the Purchaser dated July 30, 1968, and all of the terms and conditions as hereinafter provided, the Seller hereby agrees to convey by quitclaim deed to the Purchaser certain property located in Fall River County, South Dakota, commonly identified as a portion of the Black Hills Army Depot, consisting of approximately 15,356 acres more or less, as described in Exhibit A, attached hereto and made a part hereof, including all related personal property physically located on said property as of the date of this Agreement, except as hereinafter provided.

2. This Agreement does not include and Seller specifically excepts and reserves from any conveyance of property pursuant to this Agreement 145 temporary frame buildings located on said property, title to which has been transferred to the Bureau of Indian Affairs, together with the right of ingress to the property to accomplish the aforesaid removal of the buildings. Purchaser acknowledged that said buildings were located

5. The Purchaser covenants and agrees to pay the Seller for the
aforedescribed property the principal sum of SIX HUNDRED EIGHTY-NINE
THOUSAND THREE HUNDRED AND NO/100 (\$689,300.00) DOLLARS, together with
interest at the rate of five and one-fourth (5 $\frac{1}{4}$ %) percent per annum on
the unpaid balance, to be paid as follows: A down payment of SIXTY-
EIGHT THOUSAND NINE HUNDRED THIRTY AND NO/100 (\$68,930.00) DOLLARS,
receipt of which is hereby acknowledged by the Seller, annual interest
payments of THIRTY-TWO THOUSAND FIVE HUNDRED SIXTY-NINE AND 43/100
(\$32,569.43) DOLLARS on the remaining unpaid balance of SIX HUNDRED
TWENTY THOUSAND THREE HUNDRED SEVENTY AND NO/100 (\$620,370.00) DOLLARS
for a period of five (5) years, said interest payments to be made on
November 1 each year commencing November 1, 1969, and ending on
November 1, 1973, and fifteen (15) annual principal installments of
FORTY-ONE THOUSAND THREE HUNDRED FIFTY-EIGHT AND NO/100 (\$41,353.00)
DOLLARS, together with accrued annual interest on the unpaid balance
of the purchase price. The first annual principal payment with accrued
interest will be due on November 1, 1974, and additional annual principal
payments with accrued interest will be due the first day of November
each year thereafter until the entire sum of the principal and accrued
interest has been paid in full. Purchaser shall have the right to make pre-
payments of the principal sum remaining unpaid or any portion thereof
at any time prior to maturity without premium or penalty; such pre-
payments will be applied against the unpaid principal in the inverse
order and shall not defer the due date or reduce the amount of any
installment payments as herein provided.

6. The payments herein provided shall be made by the Purchaser to
the Seller: C/O General Services Administration, or its successor in
function, Collections and Securities Officer, 1500 East Bannister Road,
Kansas City, Missouri 64131.

7. Purchaser is familiar with the premises and acknowledges that
the property is sold "as is and where is" without representations, warranty
or guaranty as to quantity, quality, character, condition, size or kind,

or that the same is in condition or fit to be used for any purpose intended by the Purchaser and no claim for any allowance or deduction upon such grounds shall be a basis for any reduction in the sale price. Purchaser specifically acknowledges that portions of the property are contaminated or may be contaminated from residual explosives and are restricted, fenced and placarded, "Contaminated Area, surface use only, no digging". The Purchaser for itself and assigns expressly acknowledges that these areas have been identified to it and that any use thereof will be consistent with the restrictions imposed by the United States Army and that the use of these areas will be at its own risk. The Purchaser agrees that any successors in interest shall be required to save harmless and indemnify the United States of and from any claims or demands for damages of any type whatsoever arising out of the use of the contaminated areas. This indemnity shall extend to all costs, counsel fees, expenses and liabilities incurred in connection with the defense of any such claim, action or proceeding brought against the United States arising from, directly or indirectly, and in any manner incident to use of the contaminated area.

8. Purchaser agrees to maintain insurance in force on the improvements on the said property against loss or damage by fire or other hazards customarily included in the term "extended coverage" during the term of this Agreement in the amount of \$ 81,450.00. Such insurance shall be carried with a company or companies acceptable to the Seller and shall name the United States as an additional insured and shall provide that Seller shall receive thirty (30) days prior notice of any termination or cancellation thereof. The Seller acknowledges receipt from the Purchaser of a certificate of insurance in force in the amount of \$81,450.00 with the American National Fire Insurance Company of New York, New York, and general liability insurance of \$400,000.00 with the Western Fire Insurance Company of Fort Scott, Kansas, which are acceptable to the Seller.

9. Purchaser assumes all risk and responsibility for any accident, injury, or damage to persons or property as to itself or third parties in

or about the aforescribed property and agrees to the extent of its legal authority to protect the Seller from all claims and demands in connection therewith.

10. The Seller does not agree to provide Purchaser with abstracts of title or any other title evidence pertaining to the aforescribed property. The Seller does agree to attempt to locate for the Purchaser any abstracts or other title evidence that may be in the possession of the United States pertaining to the property and deliver such title evidence as may be found to the Purchaser. Any expense in connection with the Purchaser obtaining abstracts for the property, continuation of abstracts that may be located, and survey expenses shall be the sole responsibility of the Purchaser.

11. Purchaser will not sublet, lease, sell or assign the property or any part thereof without first advising any prospective successor in interest to the Purchaser of all of the terms and conditions of this Agreement and first obtaining their written consent to be bound by all of the terms and conditions of this Agreement. It is further understood and agreed that any rights created by the Purchaser in third parties shall be subordinated to all of the rights of the Seller in the property, except such rights as may be created from outright sale and conveyance after first obtaining the written consent of and partial release from the Seller.

12. Purchaser shall have the right and option to obtain partial releases for portions of the property purchased under this Agreement and each partial release shall be granted by a formal written instrument from the Seller conditioned upon the payment to the Seller exclusive of the regular scheduled payments in retirement of the principal an amount for the property to be released consistent with the appraised fair market value thereof as determined by the Seller, and appropriate terms and conditions and provided any subsequent transfer by the Purchaser to any third party of the property released to insure the same.

development of the property under the control and direction of the Purchaser.

13. If any default be made in the payment of the principal sum or interest thereon on the day wherein the same is due and payable, and such default shall continue for a period of sixty (60) days after receipt of written notice from the Seller, the Seller may elect, upon notice to the Purchaser, that the whole of the unpaid principal sum shall be immediately payable under this Agreement, and initiate appropriate proceedings to collect the same by foreclosure or otherwise; provided, however, that the monetary liability of the Purchaser shall be limited to a maximum of FOUR HUNDRED FIFTY THOUSAND AND NO/100 (\$450,000.00) DOLLARS. In the event of a foreclosure by the Seller involving any deficiency judgment, the Seller shall resell all or any part of the property obtained from the Purchaser to defray the purchase price provided herein with the express understanding that any deficiency payable by the Purchaser in the event that less than the full purchase price, SIX HUNDRED EIGHTY-NINE THOUSAND THREE HUNDRED AND NO/100 (\$689,300.00) DOLLARS, is realized from the resale, the Purchaser's liability shall not exceed FOUR HUNDRED FIFTY THOUSAND AND NO/100 (\$450,000.00) DOLLARS, crediting all monies previously remitted to the Seller as down payment or as principal payments under this Agreement and excluding therefrom all interest payments made by the Purchaser.

14. Purchaser hereby agrees that any waiver by the Seller, express or implied, of any of the provisions, conditions or covenants of this Agreement shall not be effective as a defense by the Purchaser against the Seller in any proceeding by the Seller to enforce compliance unless such waiver is made by the Seller in writing by a duly authorized representative.

15. The Purchaser warrants that it has not employed or retained any person or agency to solicit or secure this Agreement upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the Seller the right to annul this Agreement without liability or in its discretion recover from the Purchaser the amount of any commission, percentage, brokerage, or contingent fee.

contingent fee, in addition to the consideration herewith set forth.

This warranty shall not apply to commissions payable by the Purchaser upon the contract secured or made through bona fide established commercial agencies maintained by the Purchaser for the purpose of doing business. "Bona fide established commercial agencies" has been construed to include licensed real estate brokers engaged in the business generally.

16. No member of or delegate to the Congress, or resident commissioner, shall be admitted to any share or part of the contract of sale or to any benefit that may arise therefrom, but this provision shall not be construed to extend to the contract of sale if made with a corporation for its general benefit.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

UNITED STATES OF AMERICA,
Acting by and through the
Administrator of General Services

WITNESSES:

Lloyd J. Maynard

Emily J. Rudolph

BY

J. Wayne Harrop
Chief, Real Property Division
Property Management and Disposal Service
General Services Administration
Region 6
Kansas City, Missouri

CITY OF EDGEWATER,
STATE OF SOUTH DAKOTA

BY

R. L. Vande Bossche
acting Mayor

WITNESSES:

W. W. Wasserman
City Clerk



"B"

AGREEMENT

THIS AGREEMENT made and entered into this 5th day of August, 1968, by and between the City of Edgemont, South Dakota, hereinafter referred to as "City"; a partnership known as "Thompson, Feurhelm and Hutton"; consisting of the following general partners: Hayden Thompson of Towner, North Dakota, Jerry Feurhelm of Willow City, North Dakota, and Burton Hutton of Towner, North Dakota; said partnership's principal place of business being Towner, North Dakota, and hereinafter referred to as "Thompson"; and a partnership known as the "Black Hills Industrial Freeport", consisting of the following general partners: Marks O. Morrison of Lyman, Nebraska, Rexford Mitchell of Rockyford, Colorado, Cecil Evans of Salt Lake City, Utah, Ed Harbertson of Salt Lake City, Utah, James Grimsley of Rockyford, Colorado, and Victor Schaaf of Morrill, Nebraska; said partnership's principal place of business being Lyman, Nebraska, and hereinafter referred to as "Morrison",

WITNESSETH:

WHEREAS the City has heretofore entered into negotiations with the United States of America, hereinafter referred to as the "Government", for the acquisition of real property and improvements known as the Black Hills Army Depot located approximately seven miles south of said City and hereinafter referred to as BHAD; and

WHEREAS the said City has requested and received from Morrison over a long period of time, assistance in said negotiations and firm commitments and guarantees by Morrison for the fulfillment of any obligations which the City shall incur by reason of said acquisition and further has by resolution and agreement obligated itself to transfer to Morrison all of the said real property and improvements thereon that shall be made the subject matter of a contract of sale between the City and the Government, said transfer being in consideration of the assistance, commitments, guarantees and assumption of obligations by Morrison, and

WHEREAS Thompson has petitioned the City for participation in the assignment of certain portions of the real property and improvements to Thompson to the exclusion of Morrison and has indicated a willingness to pay certain sums therefor and further obligate themselves to the said City in consideration thereof, and

WHEREAS Thompson recognizes that Morrison has expended a great deal of time, effort and money in assisting the City in its negotiations and arranging terms of financing suitable to the City and at all times committing themselves to the obligations incurred by reason thereof, and

WHEREAS the City has requested of Morrison, and Morrison has agreed to the participation of Thompson in the assignment of certain portions of the real property and improvements to be acquired from the Government upon the conditions and terms specifically set forth hereinafter, and

WHEREAS the parties agree that the assignment of property described hereinafter and the assumption of obligations are wholly contingent upon the successful completion of negotiations between the City and the Government, and

WHEREAS Morrison agrees to continue its support and Thompson agrees to begin supporting the City in said negotiations with the Government;

NOW, THEREFORE, BE IT AGREED AS FOLLOWS:

I

That for and in consideration of the payment of the sum of ONE (\$1.00) DOLLAR AND OTHER GOOD AND VALUABLE CONSIDERATIONS to Morrison by Thompson, Payment to be made upon the execution of this agreement, Morrison will release the City from any commitment of sale or assignment to Morrison of the following described real property and improvements located at BHAD, which the City, by resolution and agreement, had heretofore agreed to grant Morrison, the same being more particularly described as follows:

(A) All real property and improvements included in the area bounded north, west and south by a chain link security fence and on the east by a line extending from north to south on the center line of Sections 9, 16 and 21 to an intersection with a line drawn along the center line of Sections 21 and 22 from east to west.

EXCEPT: A part of the igloo area of Block "H", more particularly described as follows: All real property and improvements in the area bounded on the east by the East Loop Road; on the north by the Loop Road "H"; on the west by Hoosier Road; and on the south by the boundary road connecting Hoosier Road with East Loop Road.

(B) Access for purposes of ingress and egress to the Block "H" igloo area retained by Morrison may be made at any time along Rushmore Road.

(C) The above described area released shall include a release of all power lines, road, roadways, water lines and railroads located within the confines of said area with the exception of the rail classification yard which shall remain subject to assignment to Morrison to be used in such manner as Morrison may deem necessary and ingress and egress thereto is reserved to Morrison.

(D) The above described area may be fully or completely isolated by the assignees, such as Thompson, for the industrial protection with the exception that Morrison shall have the ingress and egress rights of way to the igloo area Block "H" and the railroad classification yard and the ingress and egress described in (E) hereinafter.

(E) It is specifically understood that the water storage areas and water storage tanks located upon the above-described property shall not be released herein and the City shall remain obligated to assign these areas and the ground upon which the same are situated along with reasonable ground for ingress and egress to Morrison with easements necessary for access to the storage areas and water lines thereto.

(F) Morrison shall have no power, right or claim of any kind to the power lines, road, roadways, water lines, railroads or other facilities in the area.

Morrison of all other real property and improvements not specifically released as stated hereinabove and Morrison does agree to pay to the City therefor the pro rata cost of acquisition by the City of the entire BHAD complex, said pro rata cost basis to be computed solely upon an acreage basis and upon a purchase price of \$700,000.00. It is recognized that the area to be assigned to Morrison contains approximately 3,928 acres and the area released by Morrison contains approximately 11,362 acres. These figures shall tentatively be used for purposes of computing the price to be paid by Morrison and other assignees such as Thompson for the property to be assigned by the City. It is recognized that such figures may be subject to final accuracy but the pro rata ratio with regard to costs shall be computed in the identical manner. It is also recognized that there may be additional acreage of approximately 150 acres which would be added to the property which Morrison would receive and this of course will affect the pro rata calculations.

III

Further, Morrison does agree to furnish the following services to the City or its assignees to the areas on the BHAD site on the following terms and conditions:

- (A) Electricity - to be furnished by Morrison to all users at competitive rates unless the facilities are sold at the option of Morrison to a power company in which event the acquiring company will assume such responsibility.
- (B) Water - to be furnished by Morrison to the property line of the released area and to the property line of other users at reasonable competitive rates.
- (C) Rail Service - all rail service including switching service which is furnished by Morrison shall be charged to the user at a reasonable rate.
- (D) Other services - such other services such as fire and security protection which may be desired, if provided by Morrison, shall be at a negotiated price.

IV

The City agrees to assist either Morrison or Thompson with fire protection in the event of emergency and Morrison and Thompson each agree to assist the City with fire protection in the event of emergency within the City.

V

Morrison does agree that they will provide available housing to personnel of other assignees, such as Thompson, at a reasonable rental; however, Morrison recognizes that the City has several unoccupied residences within the confines of the City of Edgermont and Morrison will make every effort to require occupancy of those residences within the confines of the City of Edgermont prior to any large scale rentals on the BHAD property.

VIII

Morrison and Thompson further agree to be responsible for the maintenance of all power lines, roads, roadways, water lines, railroads or other utilities within the area which shall be assigned to them and Morrison and Thompson further agree that the same shall be kept intact during the term of the lease purchase agreement and under no circumstances removed without the prior consent of the City.

IX

Morrison does further agree that Thompson shall have the right of ingress and egress to the area to be assigned to Thompson.

X

That for and in consideration of the mutual promises recited in this agreement, the City does agree to the assignment to Thompson of all of the released real property and improvements specifically described in paragraph "I" above with all of the exceptions appended thereto (A-F) and Thompson agrees to pay to the City therefor the pro rata cost of acquisition by the City of the entire BHAD complex, said pro rata cost basis to be computed solely upon an acreage basis and exactly in conformance with the procedures set forth in paragraph "II" above.

XI

It is the understanding of all parties to this agreement that the City is acquiring the total BHAD complex from the Government on a lease purchase basis wherein the basic terms require 10% of the basic cost as a down payment, payment of annual interest only for the first following five years, and the balance of the basic cost to be paid over fifteen years along with the annual accrued interest. It is further understood that prepayment of the full basic cost may be made at anytime after the expiration of three years after which the assignee may be the sole owner of the property.

XII

The City further, therefore, agrees to extend in its assignment to Morrison and Thompson, the same terms of payment and likewise Morrison and Thompson agree to be obligated to the same terms of said lease purchase agreement as shall the City and they each do therefore agree to indemnify the City in all respects for that portion of the lease purchase price which shall be attributable to the assigned property pursuant to this agreement and shall each execute personal indemnification to the City therefor.

XIII

In addition, both Morrison and Thompson agree to provide at this time the proportionate share of their down payment based upon a \$700,000 purchase price so that the City may have the funds in their possession in which to complete the transaction with the government.

XIV

The City further agrees that in the event that Thompson shall fail or refuse to execute this agreement and make the payments that are initially set forth herein that this agreement shall be null and void between the City and Thompson and that the City will then assign the entire BHAD complex to the government without the

release by Morrison of any of the property and Morrison does agree that in the event of such default by Thompson in the initial payments set forth herein that they will pay the entire down payment, and assume all of the obligations of the City in consideration for such full and complete assignment.

XV

It is understood by and between all the parties hereto that after the assignment of the various properties have been made, that Morrison does not undertake any of the obligations of the City with regard to the property assigned to Thompson and Thompson likewise does not assume any of the obligations of the City with regard to property assigned to Morrison.

XVI

It is further understood by and between the parties hereto that this agreement constitutes the entire understanding by and between the parties hereto and that no other representations, either oral or written, have been made or shall be effective against one party to the other, without further agreement in writing hereto executed by all the parties hereto.

XVII

It is further understood that the rights of either Morrison or Thompson under this agreement shall not be assignable without the consent of all parties hereto; but this provision shall not be construed so as to prevent either Morrison or Thompson from leasing, selling, assigning or otherwise transferring any interest said groups may obtain from the City under the terms of the contemplated lease purchase agreement between the City and Morrison or Thompson.

XVIII

It is further understood by the parties hereto that this is a preliminary contract, being exact only as to the spirit of the undertaking of all parties and that this agreement does not establish or attempt to establish any terms or conditions of the ultimate assignment of the lease purchase agreement such as performance bonds or reversionary rights, between the City and either Morrison or Thompson; but shall be a commitment only as to the ultimate division of the property within BHAD between the parties hereto, the basis of determining each party's acquisition cost and such other commitments as are set forth in the foregoing agreement.

XIX

It is further understood by the parties hereto that if the City shall fail in its negotiations with the Government for the acquisition of BHAD; or if a Court of Law of the State of South Dakota shall decide that the City has no authority under the Constitution of South Dakota, the statutes of the State of South Dakota or the Ordinances of the City of Edgemont, to enter into these negotiations, this agreement or the contemplated subsequent assignment of BHAD in a lease purchase agreement with the parties hereto, that neither Thompson or Morrison will hold the City liable for any damages they may have sustained.

IN WITNESS WHEREOF the parties have hereunto set their hands and seals the day and year first above written.

By Matthew J. Brown
Mayor

D. H. W. Maschke
City Clerk

By General Partner,

By Frank M. ...
General Partner

STATE OF COLORADO)
COUNTY OF OTERO) SS
FALL RIVER

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

MY COMMISSION EXPIRES 7-9-76

STATE OF NORTH DAKOTA)
COUNTY OF McHENRY) SS

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

MY COMMISSION EXPIRES July 19, 1973

[illegible]

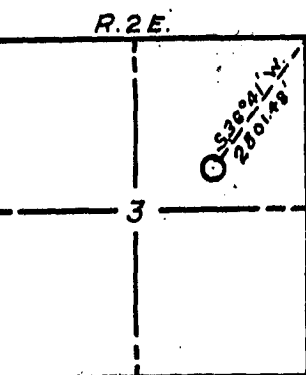
PROVO WATER WELL #2

BLACK HILLS ORDNANCE DEPOT

SECTION 3, TOWNSHIP 10 SOUTH, RANGE 2 EAST, B.H.M.

FALL RIVER COUNTY, SOUTH DAKOTA

SW 1/4, NE 1/4 - SEC 3 - T 10 S - R 2 E



COMPANY - U.S. War Dept.

CONTRACTOR - Manning & Brown

LOCATION - S. 36° 41' W. 2501.48 ft.
from NE. Cor. SectionELEVATION - Kelly Bushings - 3664.0
Ground Surface - 3655.0

Drilling Commenced Oct. 12, 1943

Drilling Completed Nov. 26, 1943

Tested for Production Dec. 10, 1943

Total Depth 3855 from Kelly Bushings

CASING RECORD

394.54 feet of 16", OD 55# Casing

Top 4.68' and bottom 399.22'

below floor. Cemented to
top with 325 Sacks cement.

3199.34 feet of 8 7/8", 32# Casing

Top 379.51' and bottom 3578.85'

below floor. Cemented in

3 stages with 1252 Sack Cement.

FORMATION LEGEND

Sand



Coarse Sand



Conglomerate.



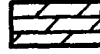
Marine Shale



Non-Marine Shale



Limestone



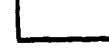
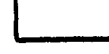
Dolomite



Bentonite



Anhydrite

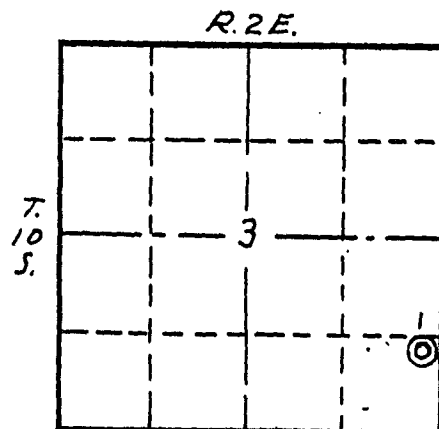


Well #1
"C"

BLACK HILLS ORDNANCE DEPOT
SECTION 3, TOWNSHIP 10 SOUTH, RANGE 2 EAST, B.H.M.
FALL RIVER COUNTY, SOUTH DAKOTA

1850-2

SE 1/4 SE 1/4 SEC. 3, T10S R2E



Company - United States War Dept.

Contractor - Manning & Martin

Location - 1060.7' NSL, 304.7' WEL.

SE 1/4 Sec. 3 - T. 10 S., R. 2 E.

Elevation

Top of Kelley Bushings 3664.5

Top of Rotary Table 3663.6

Concrete Base - Ground 3655.1

Drilling Commenced Apr. 5, 1942

Drilling Completed June 17, 1942

Put on Production June 21, 1942

Total Depth 3990' from ground.

CASING RECORD

16" O.D. Casing (518.24 feet) set at 521.56' below ground, Top 2' above bottom of 5.32' cellar; cemented with 328 sacks cement from bottom at 521.56' to bottom of cellar at 5.32'

8 5/8" O.D. 32# and 36# Casing (3111.07') Bottom of 3628.07'. Top of 517' or 12.84' up inside 16" casing cemented in 3 stages from bottom to top using Temperature Survey & Gunperforator. Total of 860 Sacks Cement and 1300# aquajel used.

ACIDIZATION RECORD

Porous Lime and Dolomite between 3628' and 3790' treated with 5000 gallons 15% treated well acid on June 19, 1942. Well took acid with little or no backpressure. 2 of 2 APPL & MAP # 1850-2

WATER SANDS

Name of Sand	Depth to Top	Thickness	Result of Test	Character of Water
Newcastle	870	20	No Test	Unknown
Dakota	1088	122	Water Level at 415'	Potable
Lakota	1275	175	Water Level of 610'	Potable
Red Sundance	1725	75	Water Level at 475'	Brackish
Basal Sundance	1955	82	Artesian Flow	Brackish
Converse	2560	115	Small Volume	Brackish
Leo	3030	30	Show Oil & Gas	None
Basal Leo	3230	80	No Test	Unknown
Madison			Artesian	Hard but
Pahasapa	3600	370	Flow	Potable
Deadwood	3890	15	No Test	Unknown

FORMATION LEGEND

Sand	Coarse Sand	Conglomerate
Marine Shale	Non Marine Shale	
Limestone	Dolomite	
Bentonite	Anhydrite	Granite

RECEIPT

WATER RIGHTS COMMISSION

No 4 9314

State of South Dakota

(E.W. Derryberry) PIERRE,

August 16

1983

Igloo Water Co., Star Route, Box 4, Edgemont, South Dakota 57735

RECEIVED OF

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

Fee for Application for Permit to Appropriate Water No. _____ (examination, processing, recording and filing) _____	8	00
Fee for inspecting Construction, and issuing Cert. of Construction No. _____	2	50
Fee for inspecting Beneficial Use, and issuing Water License No. _____		
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	10	50

WATER RIGHTS COMMISSION

By John Hatch
Chief Engineer, Executive Officer

JOHN HATCH/ms

SOUTH DAKOTA Department of
Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

WATER RIGHTS DIVISION
(605) 773-3352

October 31, 1983

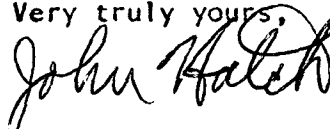
E.W. Derryberry
Igloo Water Co.
Star Rt, Box 4
Edgemont SD 57735

Dear Mr. Derryberry:

Enclosed herewith are your Vested Right Permit, Water License No. 1850-2.
This Water License is the final water right document completing your
process of obtaining a vested water right.

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

Very truly yours,



JOHN HATCH, Chief Engineer
Water Rights Division

JH: ks

enclosures



Department of Water & Natural Resources

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

June 24, 1987

Deb Rogers
Technical Information Project
PO Box 682
Pierre, SD 57501

Dear Ms. Rogers:

I am contacting you in regard to Vested Right No. 1850-2 held by Igloo Water Company, Edgemont, South Dakota. You recently inquired as to whether or not our office had received any correspondence relating to this Vested Right, specifically whether or not it had been transferred.

As of the date of this letter, we have not received a "Notice of Transfer" or other correspondence concerning Igloo Water Company. The last correspondence in the file is dated October 31, 1983. I contacted Consolidated Management June 24, and inquired whether or not they would be transferring the vested right to their name. They stated that Consolidated Management "is" Igloo Water Company and no transfer would be necessary.

If you have any questions, please contact us.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

Genny McMath
Natural Resources Analyst

Conversation or File Documentation

NAME OF PERSON OR FILE: Earl EllwangerADDRESS: _____ COUNTY Fall RiverDATE: 3-10-89 TELEPHONE Home 662-6450
Work 662-7208RE: CMC ~~Uncontrolled~~ WellCOMMENTS: Consolidated Management Corporation

I called Mr. Ellwanger concerning the well located in the SE 1/4 of 3-105-2E. He stated that the well is on CMC land and that the well is currently flowing into Coal Creek. He stated that the well is used at times, but allowed to flow freely otherwise. I also called Mr. Richard Howe of the Igloo Water Users District (662-7443, phone # at Black Hills Storage). Mr. Howe stated that the Water Users District has taken over the water system for CMC. I arranged to meet both men on the afternoon of 3-13-89 to investigate the situation.

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 L. Wendt



Department of Water & Natural Resources

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

April 6, 1989

NOTICE OF ORDER To Control Flowing Wells

James R. Brown, President
Consolidated Management Corporation
39 St. Lawrence Ave.
Reno, NV 89509

Dear Mr. Brown:

On March 13, 1989, Jim Wendte, Staff Engineer, investigated two flowing wells located on land owned by Consolidated Management Corporation. These wells are in the E1/2 of Section 3, T10S, R2E and currently supply water to homes at Igloo and Provo, SD. The wells flow an estimated 100 gallons per minute each with a large amount of the water flowing to waste since the wells discharge much more water than is actually used by the residents.

Your wells, in their present condition, are in violation of State Law. SDCL 46-6-10, 46-6-14 and 46-6-21 require that 1) wells be constructed and finished to prevent waste of water or underground leakage into other reservoirs, and 2) flowing wells be controlled to prevent waste. Your wells must be controlled and the flow reduced to the amount actually needed.

Pursuant to SDCL 46-2-18, you are ordered to control your wells within 90 days. Please advise us regarding your intentions to comply with this order. If you have any questions or require technical assistance, please contact us.

Very truly yours,

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



CERTIFICATION

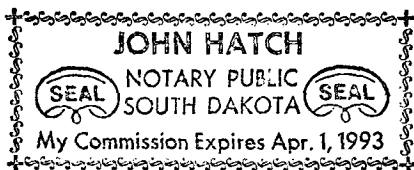
I hereby certify that on April 6, 1989 I have personally deposited with the U.S. Mail a postage prepaid envelope containing a Notice of Order to Control Flowing Wells addressed as follows:

James R. Brown, President
Consolidated Management Corporation
39 St. Lawrence Ave
Reno NV 89509

Karen Schlaak
KAREN SCHLAACK
Senior Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 12th day of April, 1989.



John Hatch
Notary Public

Conversation or File Documentation

NAME OF PERSON OR FILE: Rhett Albers (CMC)
ADDRESS: Reno, NV COUNTY Fall River (Wells)
DATE: 5-31-89 TELEPHONE 702-323-7885
RE: Flowing Wells at Igloo

COMMENTS:

Mr. Albers called on 5-30-89. I returned his call on 5-31-89 and we discussed the Flowing wells in Igloo. Mr. Albers works for Consolidated Management Corp. He had questions concerning the Notice to control the wells.

Mr. Albers stated that CMC is now making plans to once again open their operation at Igloo. They will need as much water as possible and were wondering if the notice would still apply. I told him that regardless of whether or not they are using the water; the wells must be controlled. Mr. Albers stated that he would be meeting with other CMC people in a week and they would discuss the wells. I also asked that they submit some sort of plan concerning their intentions to control the wells. I also gave him Gale's name for a future contact.

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 L. Wendt

TELEPHONE (605) 341-7600
FAX (605) 343-4131

September 20, 1991



Mr. John Hatch, Chief Engineer
Water Rights Division
Department of Environment and
Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

Re: Validation of Igloo Water Company Vested Water Right
Claim, License No. 1850-2

Dear Mr. Hatch:

Enclosed for filing please find Igloo Water Company's Motion for Order Validating Vested Water Right Claim. This is a claim which has not received opposition pursuant to your Notice and publication in 1988 and we would request this matter be placed upon the Water Management Board agenda for the October meeting if possible, or in the alternative in December. Eric Gronlund requested that we confirm compliance with your April 6, 1989, Notice of Order to Control Flowing Wells, a copy of which is enclosed herein for your reference, and William R. Mitchell, Fall River Properties, will do so under separate cover.

Please call me with any questions in these regards. Thank you for your kind attention to this matter.

Yours very truly,

Leslie J. England

LJE/kmr

Enclosures: As Stated

cc: William R. Mitchell

STATE OF SOUTH DAKOTA
WATER MANAGEMENT BOARD



IN THE MATTER OF VALIDATION	)	
OF VESTED WATER RIGHT	)	MOTION FOR ORDER VALIDATING
CLAIM NO. 1850-2, IGLOO	)	VESTED WATER RIGHT
WATER COMPANY	)	CLAIM

COMES NOW the Igloo Water Company by and through undersigned counsel and respectfully requests this Board issue an order validating the Vested Water Right Claim No. 1850-2 of Igloo Water Company, pursuant to SDCL 46-2A-17 based upon the following grounds and reasons:

I.

Igloo Water Company, Star Route, Box 4, Edgemont, South Dakota made Vested Right Application No. 1850-2 on August 16, 1983 for recognition of a water right to appropriate 1.78 cubic feet per second of water from ground water using two Madison Aquifer wells in Fall River County, South Dakota for municipal and rural water system purposes with priority dates of June 21, 1942 (Well No. 1) and December 10, 1943 (Well No. 2), which vested right claim was recognized October 5, 1983 and Water License No. 1850-2 was issued by the Chief Engineer, Water Rights Division, Department of Water and Natural Resources on October 31, 1983. The location of the diversion point for Well No. 1 is 1060.7'N and 304.7'W of SE corner (DD), and the location of the diversion point for Well No. 2 is S36° 41'W 2501.48 feet from NE corner (AC), all in Section 3, T10S R2E. (See attached copy of Vested Water License No. 1850-2 issued by Chief Engineer, Water Rights Division, Department of Water and Natural Resources, October 31, 1983.)

II.

In connection with the Igloo Water Company's above described Vested Water Right Claim, SDCL 46-2A-16 requires validation of such a claim for groundwater if the claim was accepted for filing by the Chief Engineer or Board of Water Management prior to July 1, 1986. As indicated above, Water License No. 1850-2 specifically acknowledges that the Chief Engineer recognized the claim on October 5, 1983.

Publication required by SDCL 46-2A-16 was duly made by the Chief Engineer, Water Rights Division, Department of Water and Natural Resources in 1988, and the attached copy of such Notice of Intent to Validate Vested Water Right Claims as published in the appropriate Fall River County newspaper was provided to Igloo Water Company as required by said statute by first-class mail on June 20, 1988. The referenced notice as prepared and given by the Chief Engineer, Water Rights Division, included Igloo Water Company's Vested Water Right Claim 1850-2 along with detailed information in compliance with SDCL 46-2A-16.

III.

No petition of intent to oppose the validation of Igloo Water Company's Vested Water Right Claim No. 1850-2 was ever made or received by the Department of Water and Natural Resources. Accordingly, SDCL 46-2A-17 requires:

If no petition opposing validation of the recognized water right claim is filed pursuant to §46-2A-16, the Board shall issue an order validating the vested water right claim.

WHEREFORE, Igloo Water Company respectfully requests the Board issue an order at the next meeting of the Board, validating its vested water right claim in accordance with SDCL 46-2A-17.

Dated this 19 day of September, 1991



Leslie J. England
Attorney for Igloo Water
Company
Western Mutual Building
Suite 102
731 St. Joseph Street
Rapid City, SD 57701
(605) 341-7600

CERTIFICATE OF SERVICE

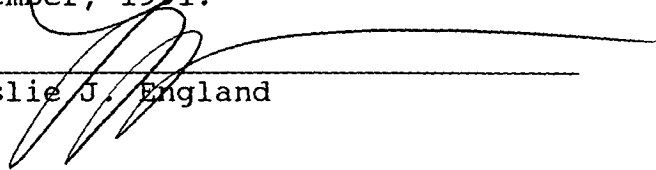
The undersigned hereby certifies that he served a copy of the foregoing Motion for Order Validating Vested Water Right Claim upon the persons herein next designated, on the date shown below, by depositing the same in the United States Mail at Rapid City, South Dakota, first class postage prepaid, in an envelope addressed to said addressee, to-wit:

Ms. Diane Best
Assistant Attorney General
500 East Capitol
Pierre, SD 57501

Mr. John Hatch
Chief Engineer
Department of Environment
and Natural Resources
523 East Capitol
Pierre, SD 57501

which addresses are the last addresses of the addressees known to the subscriber.

Dated this 19 day of September, 1991.



Leslie J. England

 **Department of
Water & Natural Resources**

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

June 20, 1988

NOTICE

✓
TO: 1850-2
★ IGLOO WATER CO
ST RT BOX 4
EDGEMONT SD 57735

FROM: John Hatch, Chief Engineer
Water Rights Division



SUBJECT: Validation of Vested Water Right Claims

South Dakota Codified Laws 46-2A-16 and 46-2A-17 provide a procedure for validation of recognized vested water right claims. Any vested water right claim that was recognized by the Chief Engineer or the Water Management Board prior to July 1, 1986 is eligible for validation.

Enclosed is a copy of the notice published in a newspaper in your county. The notice includes a list of recognized vested water right claims which are eligible for validation in your county. Please review this list. If you believe there is an error in the list and/or a vested water right claim is not a valid claim, the Chief Engineer, Water Rights Division must be notified prior to October 1, 1988.

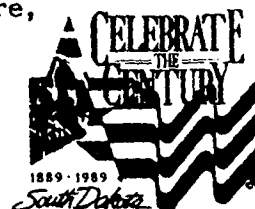
If you are the holder of a vested water right claim, please review the information concerning your vested right claim. In order for a vested water right claim to be eligible for validation water use must have been continuous. South Dakota Water Law states:

"When any person entitled to the use of appropriated water fails to use beneficially all or any part of such water for the purpose for which it was appropriated, for a period of three years, such unused water shall revert to the public and shall be regarded as unappropriated public water."

and

"If the owner of the land to which water has become appurtenant abandons the use of such water upon such land, such water shall become public water, subject to general appropriation."

If you have questions, need more information, or want a summary of South Dakota Water Law and Water Rights Information, please contact the Water Rights Division, Department of Water and Natural Resources, Joe Foss Building, 523 East Capitol, Pierre, SD 57501-3181, (605 773-3352).



NOTICE OF INTENT TO VALIDATE VESTED WATER RIGHT CLAIMS

Notice is given that the following vested water right claims in FALL RIVER county are eligible for validation by the Water Management Board pursuant to SDCL 46-2A-17 without a hearing unless a petition to oppose the validation is filed pursuant to SDCL 46-2A-16:

(insert attached table(s))

Any person who wishes to oppose validation of any vested right claim shall, prior to October 1, 1988, file a petition of intent to oppose the validation with the Chief Engineer, Water Rights Division, Department of Water and Natural Resources, Joe Foss Building, 523 East Capitol, Pierre, SD 57501-3181 and with the vested water right holder at the listed address. The petition may be informal, but it must include a statement describing the petitioner's interest in the vested water right claim, the reasons for the petitioner's opposition to the claim, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained.

If a petition of intent to oppose the validation of a recognized vested water right claim is filed, the Chief Engineer will schedule a hearing before the Water Management Board. The parties will be notified of the time and place of the hearing. If no person opposes validation of a recognized vested water right claim pursuant to SDCL 46-2A-16, the Water Management Board will issue an order pursuant to SDCL 46-2A-17, validating the vested water right claim.

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

Any person wishing further information, a copy of the vested water right claim list for another county or a summary of South Dakota Water Law and Water Rights Information can contact the Chief Engineer, Water Rights Division, Joe Foss Building, 523 East Capitol, Pierre, SD 57501-3181, (605 773-3352).

COUNTY: FALL RIVER

PERMIT NUMBER	NAME	ADDRESS	LOCATION	TOWNSHIP			LOCATION	TOWNSHIP			ACRES	WATER USED	PRIORITY DATE	SOURCE
				SEC.	RANGE			SEC.	RANGE					
267-2	ROE DITCH	1/2 EVERETT HILL 1246 S 8TH ST HOT SPRINGS, SD 57747	NE1/4SE1/4	30	8 S	5 E	NE1/4, N1/2SE1/4 E1/2SW1/4 W1/2SE1/4 SW1/4NW1/4 NW1/4SW1/4	36 21 21 31 31	8 S 8 S 8 S 8 S 8 S	4 E	149	2.07 CFS	7/22/1881	CASCADE CREEK
290-2	LLOYD PUTNAM	HCR 59, BOX 22 EDGEMONT, SD 57735	NW1/4NE1/4	5	7 S	1 E	NE1/4 SW1/4NW1/4 NW1/4SW1/4	5 4 4	7 S 7 S 7 S	1 E	76.5	1.09 CFS	6/1/1904	BEAVER CREEK
291-2	LLOYD PUTNAM	HCR 59, BOX 22 EDGEMONT, SD 57735	SW1/4NW1/4	5	7 S	1 E	S1/2NE1/2 E1/2SE1/4	5 5	7 S 7 S	1 E	34	0.49 CFS	6/1/1904	BEAVER CREEK
292-2	LLOYD PUTNAM	HCR 59, BOX 22 EDGEMONT, SD 57735	SE1/4SW1/4	4	7 S	1 E	W1/2SW1/4	4	7 S	1 E	38.5	0.55 CFS	6/1/1904	BEAVER CREEK
386-2	JOHN C. TEPASKE & ANDREW J. MOSIER	BOX 505, ORANGE CITY, IOWA 51041	SE1/4NE1/4	9	7 S	8 E	SE1/4SW1/4 S1/2SE1/4 N1/2NW1/4 SW1/4NW1/4 N1/2NE1/4	3 3 10 10 10	7 S 7 S 7 S 7 S 7 S	8 E	167.4	2.39 CFS	5/6/1903	CHEYENNE RIVER
481-2	L.O. AND JOEL RICHENBACH	BOX 97, OELRICHS, SD 57763	SE1/4SE1/4 SW1/4SW1/4 SE1/4SW1/4 NW1/4NW1/4 NW1/4NE1/4 SW1/4NE1/4 SE1/4NE1/4 SW1/4NW1/4 NW1/4SE1/4 NE1/4SE1/4 SE1/4SE1/4	35 36 36 1 1 1 1 1 10 10 10 10	9 S 9 S 9 S 10 S 10 S 10 S 10 S 10 S 10 S 10 S 10 S 10 S	8 E 8 E 8 E 8 E 8 E 8 E 8 E 8 E 8 E 8 E 8 E 8 E	N1/2SE1/4 SE1/4SE1/4 S1/2SW1/4 LOTS 1,2,3, & 4 S1/2NW1/4 S1/2NE1/4 N1/2SE1/4 SW1/4NE1/4 NW1/4SW1/4 SE1/4 S1/2NW1/4	35 35 36 1 1 1 1 1 10 10 10 10	9 S 9 S 9 S 10 S 10 S 10 S 10 S 10 S 10 S 10 S 10 S 10 S	8 E	285	0.01 CFS 0.73 CFS 0.12 CFS 0.79 CFS 0.24 CFS 0.23 CFS 0.45 CFS 0.43 CFS 1.06 CFS	1/1/1937 1/1/1942 1/1/1943 1/1/1946 1/1/1948 1/1/1949 1/1/1952 1/1/1953 1/1/1954	DRY DRAWS
498-2	SD STATE VETERANS HOME	2500 MINNEKAHATA AVE., HOT SPRINGS, SD 57747	SW1/4	14	7 S	5 E	SE1/4SW1/4 W1/2SW1/4	14 14	7 S 7 S	5 E	21	0.44 CFS 0.66 CFS	1/1/1889 1/1/1950	GROUNDWATER GROUNDWATER
511-2	CITY OF HOT SPRINGS	303 N RIVER HOT SPRINGS, SD 57747	SW1/4SE1/4 SE1/4NE1/4	10 14	7 S	5 E					2.22 CFS 1.55 CFS	1/1/1929 2/1/1955	GROUNDWATER GROUNDWATER	
513-2	LESTER I. BARKLEY	BOX 968, EDGEMONT, SD 57735	SW1/4NW1/4	8	12 S	2 E	NW1/4, E1/2SW1/4 W1/2SE1/4 SE1/4SE1/4 NE1/4NW1/4, NE1/4	8 8 8 17	12 S 12 S 12 S 12 S	2 E	209.2	2.98 CFS	4/1/1951	DRY DRAW

517-2	MOODY-GEISER SHEEP CO.	DELRICHS, SD 57763	NE1/4NW1/4	5	12 S 7 E	NW1/4, NW1/4NE1/4	32	11 S 7 E	348.6	4.6 CFS	1/1/1948	DRY DRAW
						S1/2NE1/4	32	11 S 7 E				
						NE1/4SE1/4	32	11 S 7 E				
						S1/2SE1/4	32	11 S 7 E				
						S1/2SW1/4	32	11 S 7 E				
						SW1/4NW1/4	33	11 S 7 E				
						W1/2SW1/4	33	11 S 7 E				
						N1/2NE1/4	5	12 S 7 E				
						N1/2NW1/4	5	12 S 7 E				
						SW1/4NW1/4	5	12 S 7 E				
519-2	A.J. LANADERS, & RALPH	ST. RT, BOX 1598, HOT SPRINGS, SD 57747	NW1/4NE1/4	36	9 S 4 E	S1/2SW1/4	13	9 S 4 E	211.4	3 CFS	2/25/1896	HAT CREEK
						SW1/4SE1/4	13	9 S 4 E				
						NW1/4, W1/2NE1/4	24	9 S 4 E				
						N1/2SW1/4	24	9 S 4 E				
						W1/2SE1/4	24	9 S 4 E				
540-2	DARRELL E. HELDMAN	BOX 402 EDGEMONT, SD 57735	NW1/4NE1/4	17	8 S 2 E	NE1/4	17	8 S 2 E	133.4	1.9 CFS	1/1/1950	CHEYENNE RIVER
545-2	JAMES M. WHITE	RT. 4, BOX 29, CHADRON, NE 69337	NW1/4NE1/4	26	10 S 9 E	N1/2NE1/4	26	10 S 9 E	302.2	4.31 CFS	1/1/1950	DRY DRAW
						SW1/4NE1/4	26	10 S 9 E				
						SE1/4SE1/4	26	10 S 9 E				
						N1/2SE1/4	26	10 S 9 E				
						NW1/4, N1/2SW1/4	25	10 S 9 E				
						SE1/4SW1/4	25	10 S 9 E				
						NE1/4NW1/4	36	10 S 9 E				
561-2	RAY SIDES	SMITHWICK, SD 57782	SW1/4NW1/4	32	8 S 9 E	NE1/4NW1/4	20	8 S 9 E	444.4	6.34 CFS	1/1/1951	DRY DRAW
						NW1/4NE1/4	20	8 S 9 E				
						S1/2NE1/4	20	8 S 9 E				
						E1/2SW1/4, SE1/4	20	8 S 9 E				
						N1/2NE1/4	29	8 S 9 E				
						SE1/4NE1/4	29	8 S 9 E				
						NE1/4SE1/4	29	8 S 9 E				
						S1/2SE1/4	29	8 S 9 E				
						SE1/4SW1/4	29	8 S 9 E				
						NE1/4NE1/4	31	8 S 9 E				
						S1/2NE1/4	31	8 S 9 E				
						NW1/4, N1/2NE1/4	32	8 S 9 E				
0618-2A	LARVIE LAKE RESORT	BOX 33 HOT SPRINGS, SD 57747	NW1/4SE1/4	11	7 S 5 E	NW1/4, SE1/4SE1/4	11	7 S 5 E	2	1.1 CFS	2/12/1894	COLD BROOK
						SW1/4SW1/4	12	7 S 5 E				
0618-2B	TOM & ELIZABETH RIPKE	HOT SPRINGS, SD 57747	NW1/4SE1/4	11	7 S 5 E	GERMOND'S COLD BROOK ADDITION-HOT SPRINGS SD			2	0.03 CFS	2/12/1894	COLD BROOK

654-2	OSCAR COPE	OELEDRICH, SD 57763	SW1/4NE1/4	13	11 S 7 E	E1/2SW1/4 N1/2SE1/4 SW1/4SE1/4 NW1/4,NW1/4NE1/4 S1/2NE1/4	12 12 12 13 13	11 S 7 E 11 S 7 E 11 S 7 E 11 S 7 E 11 S 7 E	204	2.91 CFS	1/1/1947	DRY DRAW
656-2	A & T CATTLE CO.	HOT SPRINGS, SD 57747	SE1/4NW1/4	8	10 S 5 E	SW1/4 NW1/4,S1/2 NE1/4 NW1/4	5 6 7 8	10 S 5 E 10 S 5 E 10 S 5 E 10 S 5 E	512.3	7 CFS	1/1/1938	ASH CREEK
657-2	A & T CATTLE CO.	HOT SPRINGS, SD 57747	NE1/4NE1/4 TO NE1/4SW1/4	6 31	11 S 5 E 10 S 5 E	SW1/4,SE1/4 NE1/4	31 6	10 S 5 E 11 S 5 E	152.7	2.18 CFS	1/1/1949	LONG HALLOW CREEK
711-2	DONALD PUTNAM	BOX 36, OELEDRICH SD 57763	SW1/4SE1/4 NE1/4NE1/4	30 31	10 S 8 E 10 S 8 E	N1/2NE1/4 S1/2SE1/4 NW1/4SE1/4	31 30 30	10 S 8 E 10 S 8 E 10 S 8 E	68.9	0.98 CFS	4/24/1951	DRY DRAW
758-2	MARCELLA SUNDING	BOX 1033, HOT SPRINGS, SD 57747	SE1/4SE1/4	24	7 S 5 E	SE1/4SE1/4	24	7 S 5 E	3.1	0.044 CFS	1/1/1953	FALL RIVER
762-2	CARL KANNOLT	BLANIE HOTEL, APT. 207, CHADRON, NE.	SW1/4NW1/4 TO NW1/4SW1/4	9 9	12 S 6 E 12 S 6 E	N1/2SW1/4 S1/2NW1/4	9 9	12 S 6 E 12 S 6 E	64	0.9 CFS	1/1/1935	HORSEHEAD CREEK
763-2	CARL KANNOLT	BLANIE HOTEL, APT. 207, CHADRON, NE.	NE1/4NW1/4 TO SE1/4SE1/4	33 34	11 S 6 E 11 S 6 E	E1/2NW1/4 S1/2NE1/4 S1/2NW1/4 N1/2SW1/4 S1/2SE1/4 NW1/4SE1/4	33 33 34 34 34 34	11 S 6 E 11 S 6 E 11 S 6 E 11 S 6 E 11 S 6 E 11 S 6 E	150	2.14 CFS	1/1/1949	DUCK CREEK
773-2	SYLVIA DUERSON	P.O. BOX 267, CUSTER, SD 57730	SW1/4SE1/4	2	10 S 4 E	SE1/4NW1/4,SW1/4 S1/2NE1/4,SE1/4 W1/2SW1/4 N1/2NE1/4	2 2 1 11	10 S 4 E 10 S 4 E 10 S 4 E 10 S 4 E	224	3.2 CFS	1/1/1936	JUNK DRAW & HAT CREEK
784-2	JOHN McLAIN	OELEDRICH, SD 57763	NW1/4SW1/4	24	11 S 7 E	NE1/4,NE1/4SW1/4 S1/2SW1/4	24 24	11 S 7 E 11 S 7 E	115.2	1.64 CFS	8/1/1940	DRY DRAW
785-3	JOHN McLAIN	OELEDRICH, SD 57763	SE1/4NE1/4	18	11 S 8 E	NW1/4SE1/4 NE1/4NW1/4,NE1/4	7 18	11 S 8 E 11 S 8 E	50.8	0.73 CFS	1/1/1945	DRY DRAW
788-2	HALD BROTHERS, INC	HCR 46, BOX 5 OELEDRICH, SD 57763	SE1/4NW1/4 NW1/4SW1/4 NE1/4SW1/4	7 7 7	11 S 8 E 11 S 8 E 11 S 8 E	S1/2NW1/4 N1/2SW1/4	7 7	11 S 8 E 11 S 8 E	132	1.88 CFS	1/1/1942	DRY DRAW
801-2	CARL KANNOLT	BLANIE HOTEL, APT. 207, CHADRON, NE	SE1/4SW1/4	4	12 S 6 E	SE1/4SW1/4 SW1/4SE1/4	4 4	12 S 6 E 12 S 6 E	40	0.57 CFS	1/1/1940	DRY DRAW

1850-2 IGLCO WATER COMPANY	STAR RT., BOX 4 EDGEMONT, SD 57735	SE1/4SE1/4 SW1/4NE1/4	3 10 S 2 E 3 10 S 2 E			1.78 CFS	6/21/1942 GROUNDWATER 12/10/1943 GROUNDWATER
1872-2 MELVIN SCHUMACHER	BOX 25, OELRICHS, SD 57763	NE1/4NW1/4	2 12 S 6 E	NE1/4SW1/4 SE1/4NW1/4 S1/2NE1/4 NE1/4SE1/4 SW1/4NW1/4 NW1/4SW1/4	2 12 S 6 E 2 12 S 6 E 2 12 S 6 E 2 12 S 6 E 1 12 S 6 E 1 12 S 6 E	65.8 0.94 CFS	1/2/1906 DUCK CREEK
1873-2 WILLIAM F. FITZNER	RT.1, BOX 78, ORAL, SD 57766	NE1/4NW1/4 SW1/4NW1/4 SW1/4NW1/4	1 8 S 8 E 1 8 S 8 E 1 8 S 8 E	NW1/4, W1/2NE1/4	1 8 S 8 E	56 0.8 CFS	1/1/1909 HAY CANYON
1879-2 HOWARD & DAVID HENDERSON	SR 1, BOX 2, PROVO SD 57774	NE1/4NE1/4	23 10 S 2 E	SW1/4 S1/2NW1/4, SW1/4 S1/2NE1/4, SE1/4 NW1/4, SW1/4 S1/2NE1/4, SE1/4 SW1/4NW1/4 SE1/4SW1/4, SE1/4 NW1/4, S1/2NE1/4 NE1/4SE1/4 NE1/4NE1/4 NW1/4, NE1/4SW1/4 NE1/4, SE1/4 SW1/4, NW1/4 NW1/4NW1/4	14 10 S 3 E 15 10 S 3 E 15 10 S 3 E 16 10 S 3 E 16 10 S 3 E 17 10 S 3 E 17 10 S 3 E 18 10 S 3 E 18 10 S 3 E 21 10 S 3 E 22 10 S 3 E 22 10 S 3 E 23 10 S 3 E 26 10 S 3 E	1772 25.3 CFS	1/1/1946 COAL CREEK
1885-2 BERGETTE FINNEY	ST. RT., BOX 16, OELRICHS, SD 57763	NW1/4NE1/4	6 12 S 7 E	NE1/4NE1/4	6 12 S 7 E	25 0.4 CFS	1/1/1911 NELSON CREEK
1886-2 BERGETTE FINNEY	ST. RT., BOX 16, OELRICHS, SD 57763	SE1/4SW1/4 NW1/4SE1/4 NW1/4SW1/4	6 12 S 7 E 6 12 S 7 E 6 12 S 7 E	SW1/4, S1/2NE1/4 N1/2SE1/4	6 12 S 7 E 6 12 S 7 E	108.4 1.3 CFS 0.3 CFS	4/5/1909 HORSEHEAD & 3/20/1911 DUCK CREEKS
1887-2 GARY FISHKO	ST. RT., BOX 16 PROVO, SD 57774	NW1/4SW1/4	6 11 S 4 E	W1/2SW1/4	6 11 S 4 E	17 0.24 CFS	3/30/1909 COW CREEK
1888-2 GARY FISHKO	ST. RT., BOX 16 PROVO, SD 57774	SW1/4SW1/4 NE1/4SW1/4 NW1/4NW1/4 NE1/4NW1/4	27 10 S 4 E 28 10 S 4 E 33 10 S 4 E 33 10 S 4 E	S1/2NW1/4, SW1/4 S1/2NE1/4, SE1/4 S1/2NW1/4 N1/2SW1/4	33 10 S 4 E 33 10 S 4 E 34 10 S 4 E 34 10 S 4 E	437 6.24 CFS	4/22/1904 HORSE CREEK
1889-2 JOE A. FALKENBURG	HC57, BOX 32, HARRISON, NE 69346	NW1/4SE1/4 SE1/4SW1/4	14 12 S 1 E 14 12 S 1 E	W1/2SE1/4	14 12 S 1 E	9 0.13 CFS	4/30/1904 SOUTH DOG CREEK

1890-2 BERGETTE FINNEY	ST. RT, BOX 16, OELRICHS, SD 57763	NW1/4NW1/4	12	12 S	6 E	N1/2NE1/4	12	12 S	6 E	31	0.44 CFS	1/1/1941	HORSEHEAD CREEK
1891-2 LOYD THOMSEN	ST. RT, BOX 19, OELRICHS, SD 57763	NE1/4SE1/4 NW1/4NW1/4	1 12	12 S 12 S	6 E 6 E	S1/2SW1/4 S1/2SE1/4	1 1	12 S 12 S	6 E 6 E	48	0.69 CFS	1/1/1941	HORSEHEAD & DUCK CREEKS
1895-2 DARRELL HUNTER	BOX D, ARDMORE, SD 57715	NE1/4NW1/4 NW1/4SE1/4	20 20	11 S 11 S	4 E 4 E	NE1/4NE1/4 S1/2NE1/4, SE1/4	20 20	11 S 11 S	4 E 4 E	206	2 CFS 0.9 CFS	12/22/1908 9/8/1913	DRY DRAW
1896-2 QUINTO, LTD.	HC 57, BOX 32, HARRISON, NE 69346	S1/2SW1/4 SE1/4SE1/4 SE1/4SW1/4	11 11 12	12 S 12 S 12 S	1 E 1 E 1 E	N1/2NW1/4 W1/2NE1/4	13 13	12 S 12 S	1 E 1 E	55	0.8 CFS	4/30/1904	DOG CREEK
1897-2 QUINTO, LTD.	HC 57, BOX 32, HARRISON, NE 69346	SW1/4SW1/4	7	12 S	2 E	E1/2NW1/4 W1/2NE1/4	18 18	12 S 12 S	2 E 2 E	18	0.26 CFS	1/1/1920	DRY DRAW
1898-2 QUINTO, LTD.	HC 57, BOX 32, HARRISON, NE 69346	NE1/4NE1/4 SW1/4NE1/4	13 13	12 S 12 S	1 E 1 E	LOTS 1,2,&3 E1/2NW1/4 NE1/4SW1/4	18 18 18	12 S 12 S 12 S	2 E 2 E 2 E	77	1.1 CFS	7/29/1905	DOG CREEK
1906-2 JOHN W. HUNTER	BOX B, ARDMORE, SD 57715	NE1/4SE1/4 SE1/4SE1/4 SW1/4SW1/4 SE1/4SW1/4	10 10 11 11	12 S 12 S 12 S 12 S	4 E 4 E 4 E 4 E	SE1/4 S1/2SW1/4	10 11	12 S 12 S	4 E 4 E	60	0.86 CFS	3/30/1911	SHORT BRANCH CREEK
1912-2 ROBERT & MARK TUBBS	BOX 563, EDGEMONT, SD 57735	SE1/4SW1/4	30	7 S	1 E	S1/2NW1/4 N1/2SW1/4 SE1/4SW1/4	30 30 30	7 S 7 S 7 S	1 E 1 E 1 E	134	1.9 CFS	3/14/1914	DRY DRAW
1918-2 RICHARD PORTER	BOX 154, EDGEMONT, SD 57735	SE1/4SW1/4	20	9 S	2 E	S1/2SE1/4	20	9 S	2 E	21	0.3 CFS	8/14/1906	FIDDLE CREEK
LN17-2 JOHN W. HUNTER	BOX B, ARDMORE, SD 57715	SE1/4SE1/4 NW1/4SE1/4 SW1/4NW1/4 NW1/4SE1/4	26 34 34 33	11 S 11 S 11 S 11 S	4 E 4 E 4 E 4 E	SE1/4SW1/4 SW1/4SE1/4 NW1/4SE1/4, SW1/4 SE1/4 NE1/4, SE1/4 NW1/4, W1/2SW1/4 LOTS 1 & 2	26 26 27 28 33 34 4	11 S 11 S 11 S 11 S 11 S 11 S 12 S	4 E 4 E 4 E 4 E 4 E 4 E 4 E	393	5.6 CFS	1/29/1906	NULE CREEK & RINEER DRAW
LN444-2 ALTA WHEELER	14 CROOK, CUSTER, SD 57730	SW1/4NE1/4 SE1/4NE1/4 NW1/4SW1/4	23 23 24	10 S 10 S 10 S	3 E 3 E 3 E	NE1/4, SE1/4 SW1/4 N1/2NW1/4	23 24 25	10 S 10 S 10 S	3 E 3 E 3 E	381	2.4 CFS 3 CFS	10/5/1905 8/1/1910	PLAINS CREEK
16-2 LLOYD SOSKE	BOX 124, EDGEMONT, SD 57735	SE1/4SE1/4 NW1/4NE1/4 SW1/4NE1/4	12 18 18	11 S 11 S 11 S	3 E 4 E 4 E	NW1/4, S1/2SW1/4 SE1/4 NE1/4, NE1/4SE1/4	17 17 18	11 S 11 S 11 S	4 E 4 E 4 E	349.5	8.5 CFS	1/11/1906	LITTLE PLAINS CREEK

1716-2 MELVIN PORTER	WYO. RT., BOX 17, EDGEMONT, SD 57735	SW1/4NE1/4	11	8 S 1 E	W1/2NE1/4	11	8 S 1 E	10	0.14 CFS	1/1/1943	MOSS AGATE CREEK
1717-2 EDWIN BENTON	R.R., BOX 19, EDGEMONT, SD 57735	SW1/4NE1/4	28	8 S 2 E	SE1/4 N1/2NE1/4	21 28	8 S 2 E 8 S 2 E	184	2.63 CFS	1/1/1908	DRY CREEK
1728-2 NICK & EUGENE BOGNER	DEL RICHES, SD 57763	NW1/4NW1/4 NW1/4NW1/4 SW1/4SW1/4	2 3 6	11 S 6 E 11 S 6 E 11 S 7 E	S1/2SW1/4 N1/2NW1/4 N1/2NE1/4 N1/2NW1/4 SE1/4NW1/4	6 3 3 2 2	11 S 7 E 11 S 6 E 11 S 6 E 11 S 6 E 11 S 6 E	50.3 20.1	0.71 CFS 0.29 CFS	1/1/1920 1/1/1948	BEEF CREEK
1734-2 NICK & EUGENE BOGNER	DEL RICHES, SD 57763	NW1/4NE1/4 NE1/4NE1/4 SW1/4NW1/4 SE1/4NW1/4	7 7 11 11	11 S 7 E 11 S 7 E 11 S 7 E 11 S 7 E	N1/2NE1/4 SW1/4NE1/4 N1/2SE1/4	7 11 11	11 S 7 E 11 S 7 E 11 S 7 E	50.6	0.72 CFS	1/1/1945	BEEF CREEK
1783-2 TRIMMER WATER USERS ASSOCIATION	602 RIVER STREET, HOT SPRINGS, SD 57744	NW1/4NW1/4	24	7 S 5 E	NW1/4	24	7 S 5 E	32.8	0.46 CFS	1/1/1880	FALL RIVER
1813-2 ROBERT & MARK TUBBS	BOX 563, EDGEMONT SD 57735	NW1/4NW1/4 TO SE1/4SW1/4	1 6	8 S 1 E 8 S 2 E	NW1/4NW1/4, NE1/4 NE1/4SE1/4 NW1/4, SW1/4	1 1 6	8 S 1 E 8 S 1 E 8 S 2 E	308	4.4 CFS	1/1/1908	MOSS AGATE CREEK
1814-2 ROBERT & MARK TUBBS	BOX 563, EDGEMONT SD 57735	SE1/4SE1/4 NW1/4SW1/4 NE1/4SW1/4 SW1/4SW1/4 NW1/4NW1/4	34 28 29 27 27	8 S 2 E 8 S 2 E 8 S 2 E 8 S 2 E 8 S 2 E	SE1/4SE1/4 SW1/4 W1/2SW1/4 NW1/4, SW1/4 SW1/4NE1/4 NW1/4, N1/2SW1/4 SE1/4 SE1/4NW1/4 S1/2NE1/4 NE1/4SW1/4 NE1/4NE1/4 NW1/4, SW1/4NE1/4 NW1/4SE1/4 SE1/4SE1/4	20 21 22 27 27 28 28 29 29 29 33 34 34 34	8 S 2 E 8 S 2 E 8 S 2 E 8 S 2 E 8 S 2 E 8 S 2 E 8 S 2 E 8 S 2 E 8 S 2 E 8 S 2 E 8 S 2 E 8 S 2 E 8 S 2 E	972	4 CFS 9.9 CFS	12/12/1907 2/29/1908	DRY DRAWS
1826-2 ERNEST E. PETTEGREW	RR, BOX 13, DEL RICHES SD 57763	NE1/4NW1/4	3	12 S 7 E	N1/2NE1/4 SW1/4NE1/4 W1/2SE1/4 E1/2SW1/4 SE1/4NW1/4 E1/2NW1/4	27 27 27 27 27 34	11 S 7 E 11 S 7 E 11 S 7 E 11 S 7 E 11 S 7 E 11 S 7 E	158	2.26 CFS	1/1/1935	DRY DRAW

Water Rights Division -DWNR
Conversation or File Documentation

NAME OF PERSON OR FILE: Consolidated Waste Management Corporation (CMC)

ADDRESS: Reno, Nev.

COUNTY: Fall River

DATE: September 21, 1990

TELEPHONE:

RE: Status of NOTICE OF ORDER To Control Flowing Wells, dated April 6, 1989

COMMENTS:

On September 21, 1990, I spoke with Garland Erbele, Engineer, Drinking Water Program, Division of Environmental Regulation, South Dakota Department of Water and Natural Resources, Joe Foss Building, Pierre, South Dakota concerning the two flowing wells owned by CMC at Igloo, South Dakota. Mr. Erbele indicated that the two wells in question are either controlled or being used at this time by the Igloo-Provo Water Project District.

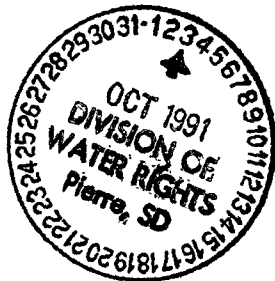
Mr. Erbele indicated that one well is valved and shut in while the other well is being used to supply water to the Igloo-Provo Water Project District.

Based upon Mr. Erbele comments, the wells in question have been controlled pursuant to the NOTICE OF ORDER dated April 6, 1989.

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.



David S. Brown
Natural Resources Engineer II
DWNR, Water Rights Division
Pierre, South Dakota



**WASTE
TECHNOLOGIES
DEVELOPMENT
CORPORATION**

October 1, 1991

{ 17251 17TH STREET, SUITE D }
TUSTIN, CALIFORNIA 92680
P.O. BOX 7429
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Mr. John Hatch
Chief Engineer
Water Rights Division
Department of Environment and Natural
Resources
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

Re: Validation of Igloo Water Company
Vested Water Right Claim, License No. 1850-2

Dear Mr. Hatch:

By this letter, I am confirming that Consolidated Management Corporation has substantially complied with the Notice of Order dated April 6, 1989. This order sought to control overflow of wells at that time in the amount of 100 gallons per minute. Subsequent to such notice, CMC took such actions necessary to significantly reduce the amount of water flowing to waste to roughly ten gallons per minute. This was done by repair to the system, including replacing pipe and shutting down portions of the system which were no longer operational.

If you have any other questions or comments regarding compliance with the order, please do not hesitate to contact me.

Sincerely,

William R. Mitchell
President

Consolidated Management Corporation

WRM:sb

Water Rights Division -DENR
Conversation or File Documentation

NAME OF PERSON OR FILE: Igloo-Provo Water Company

ADDRESS: COUNTY: Fall River

DATE: 10/9/91 and 10/24/91

TELEPHONE:

RE: Status of NOTICE OF ORDER TO Control Flowing Wells, dated April 6, 1989

COMMENTS:

On October 9, 1991, and October 24, 1991, I "inspected" the two wells covered under Vested Right No. 1850-2. Charle Thimens of Igloo accompanied me on the October 9, 1991 visit. Mr. Thimens claimed to be vaguely familiar with the system through his association with Earl Ellwanger. On both visits I had to view the wells through the windows of the pump houses (hence the " " around inspected).

Well No. 1, (1060'N and 304'W of the SE corner of Sec.3, T10S-R2E), was not in use at the time. The well casing terminates without a valve or the necessary plumbing to connect the well to the distribution system. A submersible pump was laying on the ground outside the pump house. The well was covered with a large (approximately 3'x4') piece of sheet metal with a couple of boards (looked like 4x4's) on top of the metal. The floor of the pump house had some water on it. It was difficult to quantify the flow from the well, but it was not very much (probably less than 5 gpm).

Well No.2, (S36°41'W 2501 feet from the NE corner of Sec.3, T10S-R2E), was in operation at the time. The well casing terminates into what appeared to be a 4" x 1.25" reducing coupler; from the coupler, 1.25" diameter plumbing goes through an electric pump and continues to the distribution system. Disregarding the minor amount of water loss at the pump bearing, there did not appear to be a waste of water at this well.

The evening of October 24, 1991, I contacted Mrs. Richard Howe via telephone she informed me that Richard Howe (contact person provided by Leslie England) is no longer involved with the system. She suggested I contact Don Jacobs for information about the system. After being unable to contact Mr. Jacobs, I telephoned Earl Ellwanger (662-7208). Mr. Ellwanger informed me that Jacobs was on vacation but that he (Ellwanger), could tell me all about the system.

Mr. Ellwanger confirmed that well No. 1, (a) was not in use, (b) was not valved, (c) could not be shut in completely, (d) had a minimal flow "less than 5 gpm", and (e) needed to be pumped with a submersible pump to be used. Ellwanger confirmed that all the flow from well No.2 must go through the pump and the restriction of the pump reduced the flow to a minimum.

I checked with Ellwanger about any open ends on the system or if the system was used to fill any stock dams, etc. He claimed there were no open ends and said the wells did not fill any dams.

K. R. H.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 6, 1992

NOTICE

TO: Les England
Suite 102, Western Mutual Building
731 St. Joseph Street
Rapid City, SD 57701

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

SUBJECT: Hearing to Consider Validation Vested Water Right Claim No.
1850-2, Igloo Water Company

A Notice of Intent to Validate Vested Water Right Claim No. 1850-2 was published June 7 and 14, 1988 in the Hot Springs Star. No petitions of intent to oppose the validation of this recognized vested water right claim were filed. In accordance with SDCL 46-2A-17, since no petitions opposing validation were received the Water Management Board shall issue an order validating the vested right claim. The claim appropriates 1.78 cubic feet of water per second (cfs) from two wells located in the SE1/4 SE1/4 and SW1/4 NE1/4 Section 3, T10S, R2E to be used for municipal and rural water system purposes.

The Water Management Board will consider validation of Claim No. 1850-2 at 9:30 am on March 4, 1992 in the conference room, Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave., Pierre, SD 57501.

Pursuant to the findings of on-site inspections, water use from the wells has not exceeded 100 gallons per minute (gpm) for a number of years. South Dakota Codified Law 46-5-37 states "When any person entitled to the use of appropriated water fails to use beneficially all or any part of such water for the purpose for which it was appropriated, for a period of three years, such unused water shall revert to the public and shall be regarded as unappropriated public water." Based on these findings, we intend, following validation of this claim to reissue the water license for the actual application of water to beneficial use. The reissued water license will reflect a diversion rate of 0.22 cfs (100 gpm) from the two wells.

The matter of reissuance of the water license may be brought before the Board, if you are in opposition to the reissuance of the water license. This discussion, if necessary will take place immediately following the Board action to validate the vested right claim.

If you have any questions regarding the validation of the vested right claim and the subsequent reissuance of the water license for 0.22 cfs, please contact Eric Gronlund at 605 773-3352.

cc: Diane Best, Assistant Attorney General
William Mitchell, Waste Technologies Development Corporation

CERTIFICATION

I hereby certify that on January 6, 1992 I have personally deposited with the U.S. Mail postage prepaid envelopes containing a Notice of Hearing to Consider Validation Vested Water Right Claim No. 1850-2, Igloo Water Company addressed as stated below:

Les England, Suite 102, Western Mutual Building, 731 St. Joseph Street, Rapid City, SD 57701.

William Mitchell, Waste Technologies Development Corporation, 17251
17th Street, Suite D, Tustin, CA 92680.

Copy Sent Inter-office To:

Diane Best, Assistant Attorney General, Capitol Building.

Cheryl F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 13th day of January, 1992.



John Bates
Notary Public

Water Rights Division - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Les England (Igloo Water Company - VR No. 1850-2)

ADDRESS: _____ COUNTY: _____

DATE: 12/6/91 TELEPHONE: 605 343-4131

RE: Validation of Recognized VR No. 1850-2

COMMENTS:

Les England returned my phone call regarding the validation of recognized VR Claim No. 1850-2. I told him that we had inspected the wells and after discussion with the chief engineer we will take the validation of this claim before the Water Management Board at their March meeting.

I told Mr. England that since no one (including our division) had opposed the validation when it was advertised back in 1988, that SDCL 46-2A-17 states the Board shall issue an order validating the vested right claim. I stated that since the claim was advertised for 1.78 cfs that the Board will now be required to validate it for that amount. However, since water use for the past years has only been 100 gallons per minute (gpm) that after validation we would proceed with reissuing the claim for 100 gpm.

Mr. England said he would relay this information to his client.

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: Eve Hurland



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 15, 1992

Susan Henderson
5141 Indian River Drive
Apt. 265
Las Vegas, Nevada 89103

Dear Ms. Henderson:

I am writing in response to our phone conversation regarding the recognized Vested Water Right Claim No. 1850-2, Igloo Water Company. I have enclosed a copy of this recognized right for your information and a copy of the notice scheduling the right for validation at the March 4, 1992 Water Management Board meeting.

This recognized vested right was not opposed in 1988 when it was advertised for validation. In accordance with SDCL 46-2A-17, since no petitions opposing validation were received, the Water Management Board shall issue an order validating the vested right claim. Upon validation of this claim it is the intent of this office to reissue the water license for the actual application of water to beneficial use. The reissued water license will reflect a diversion rate of 0.22 cfs (100 gallons per minute) from the two wells.

As we discussed, you may also request the Water Management Board to issue a declaratory ruling on this vested right. The decision would be based on the applicability of a statutory provision, rule, or order pertaining to a submitted factual situation within the Board's jurisdiction. General Rules 74:02:01:46-48 references declaratory rulings and the process for petitioning the Board for a ruling.

I have enclosed a copy of South Dakota Water Rights Law and the Administrative Rules of South Dakota regarding water rights general rules for you to reference.

If I may be of further assistance, please feel free to contact me.

Sincerely,

Eric Gronlund
Eric Gronlund
Water Rights Division
605 773-3352

enclosure



February 6, 1992

Dept. of Environment and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

Dear Mr. Hatch:

I understand the renewal of the water permit for Igloo Water Company in Fall River County will be discussed on March 4, 1992.

Water from these wells is being used by residents of Provo, Igloo, grazing lands within Provo Township and ranchers in outlying areas.

It is my understanding an industry hoping to come into this area has asked for 6 million gallons the first month of operation. Thereafter the usage may be about 3 million gallons of water per month. And another industry, if permitted, will use a large amount of water.

I have been a water user here since November, 1945, and have seen most years with very little rainfall. We must not forget that 1991 was a very exceptional year for moisture so the average usage of water for a 5-year period certainly cannot be based on the 1991 usage.

It is my recommendation that the permit for the Igloo Water Company be renewed with NO reduction in usage.

Sincerely,

Lanoir R. Pedersen

Lanoir R. Pedersen
P.O. Box 487
Provo, SD 57774-0487



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 12, 1992

Lanoir Pedersen
P.O. Box 487
Provo, SD 57774-0487

Dear Mrs. Pedersen:

I am writing in response to your letter concerning the Vested Water Right Claim No. 1850-2 for the Igloo Water Company. This vested water right is scheduled for validation at the March 4, 1992 Water Management Board meeting in Pierre. This validation is not a renewal of the vested water right as stated in your letter, but instead a legal process to validate those vested water right claims filed prior to July 1, 1986.

This vested water right claim was not opposed in 1988 when it was advertised for validation. In accordance with SDCL 46-2A-17, since no petitions opposing validation were received, the Water Management Board shall issue an order validating the vested water right claim for 800 gallons per minute (gpm). Upon validation of this claim it is the intent of this office to reissue the water license for the actual amount of water being used.

If water is not used for the purpose for which it was appropriated, for a period of three years, such unused water reverts back to the public as unappropriated water. Representatives of the Igloo Water Company advised that the system's water use (pump capacity) has been 100 gallons per minute under Vested Water Right Claim No. 1850-2. Although we had expected to issue a vested water right license for 100 gpm after validation, we will do further investigation of Igloo Water Company's actual water use for the past three years prior to issuing the validated vested water right license.

If you have additional questions, please feel free to contact Eric Gronlund at 605 773-3352.

Very truly yours,


JOHN HATCH, Chief Engineer
Water Rights Division



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 21, 1992

Susan Henderson
5141 Indian River Drive, Apt. 265
Las Vegas, Nevada 89103

Dear Ms. Henderson:

I am writing as a follow-up to to our phone conversation regarding validation of Igloo Water Company's Vested Right Claim No. 1850-2 and other issues.

Claim No. 1850-2 is scheduled for validation at the March 4, 1992 Water Management Board meeting in Pierre. Claim No. 1850-2 was not opposed in 1988 when it was advertised for validation. In accordance with SDCL 46-2A-17, since no petitions opposing validation were received, the Water Management Board is required to issue an order validating the vested water right claim for 800 gallons per minute (gpm). Following validation of this claim, it is our intent to reissue the water license for the actual amount of water being used.

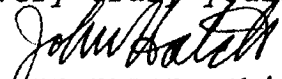
Representatives of the Igloo Water Company have advised that the system's water use (pump capacity) has been 100 gpm. Although we had expected to issue a vested water right license for 100 gpm after validation, in response to your comments, we will do further investigation of Igloo Water Company's actual water use for the past three years prior to issuing the validated vested water right license.

You also had a question on the status of the validation process on Vested Right Claim No. 1879-2 originally filed by Howard Henderson which has since been transferred to Dora Henderson. Validation of these types of water rights claims on a county by county basis has been ongoing since 1988 when the claims were all advertised. We have not brought the Fall River County vested right claims to the Board for validation as of this date. Vested Right Claim No. 1850-2 for the Igloo Water Company was scheduled for validation at the request of Les England, attorney representing Waste Technologies Development Corporation.

We also discussed the irrigation of the vegetable farm last summer. Although the owners were stopped from irrigating from the Igloo pipeline, agreement was reached to allow them to use the standby Igloo Water Company well. An application for a water permit was submitted last fall. On January 14, 1992, Chain of Lakes withdrew the application.

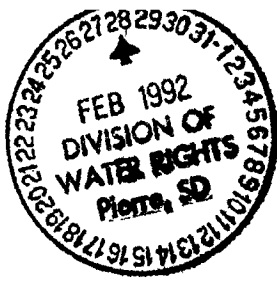
I have enclosed a copy of water permit application forms and an instruction sheet to assist you in completing the forms. If you have additional questions, please feel free to contact us.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John Hatch".

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

enclosure



Igloo-Provo Water Project District
Box 98
Edgemont, SD 57735
February 25, 1992

Dept. of Environment & Natural Resources
Joe Foss Building
523 E Capital
Pierre, SD 57501-3181

Re: Vested Water Right Claim No. 1850-2

Dear Mr. Gronlund:

It has come to the attention of the Igloo-Provo Water Project District Board of Directors that a hearing will be held on March 4, 1992 to determine the vested water rights claim (license no. 1850-2) for the two wells located at Igloo, SD in Fall River Co. The issue discussed will pertain to lowering the present gallons per minute vested water claim of 800 gallons per minute to only 100 gallons per minute.

At the present time the Igloo-Provo Water Project District operates this water system and provides water to approximately 25 homes and 7 ranch operations. Recently we have upgraded the system with the possibility of adding three more large ranch operations to the system. Also, in the Igloo area, there exists the facilities to accommodate potential industry which would require a much larger volume of water useage.

Because of expansion of the present system and the possibility of industrial development in the Igloo area, this water district would recommend that the vested water right claim remain at 800 gallon per minute. Thank you for your consideration of this matter.

Sincerely Yours,

Don Jacobs, Chairman
Igloo-Provo Water Project District

DJ/fs



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 28, 1992

Don Jacobs
Igloo-Provo Water Project District
Box 98
Edgemont, SD 57735

Dear Mr. Jacobs:

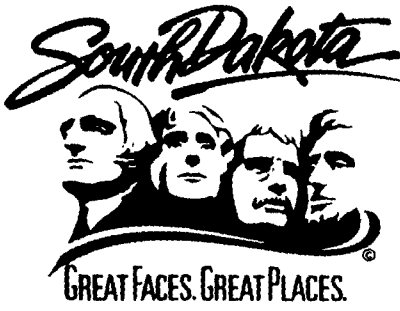
I am writing to respond to your February 25, 1992 letter concerning Vested Water Right Claim No. 1850-2. Claim 1850-2 is scheduled for validation at the March 4, 1992 Water Management Board meeting in Pierre. The claim was not opposed in 1988 when it was advertised for validation. In accordance with SDCL 46-2A-17, the Water Management Board is required to issue an order validating the vested water right claim for 800 gallons per minute (GPM) because no petitions opposing validation were received. Following validation of this claim, it was our intent to reissue the water license for the actual amount of water being used.

Representatives of the Igloo Water Company have advised us that the system's water use (pump capacity) has been 100 GPM. Although we had expected to issue a vested water right license for 100 GPM after validation, in response to your comments, we will do further investigation of Igloo Water Company's actual water use for the past three years prior to issuing the validated vested water right license.

If you have any further questions regarding this matter, please feel free to call me at (605) 773-3352.

Sincerely,

ERIC GRONLUND, Natural Resources Engineer
Division of Water Rights



March 13, 1992

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

NOTICE

TO: Les England
Suite 102, Western Mutual Building
731 St. Joseph Street
Rapid City, SD 57701

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

SUBJECT: Validation of Vested Water Right Claim No. 1850-2, Igloo
Water Company

On March 4, 1992, the Water Management Board validated Vested Water Right Claim No. 1850-2, Igloo Water Company. This validation was conducted in accordance with SDCL 46-2A-17. The claim appropriates 1.78 cubic feet of water per second (cfs) from two wells located in the SE1/4 SE1/4 and SW1/4 NE1/4 Section 3, T10S, R2E for municipal and rural water system purposes.

Prior to issuing the validated vested water right license, we intend to further investigate the Igloo Water Company's actual water use for the past years. South Dakota Codified Law 46-5-37 states "When any person entitled to the use of appropriated water fails to use beneficially all or any part of such water for the purpose for which it was appropriated, for a period of three years, such unused water shall revert to the public and shall be regarded as unappropriated public water." Based on the findings of the investigation, we intend to issue the water license for the actual application of water to beneficial use in accordance with the statutes.

Findings of previous on-site inspections and discussions with representatives of the Water Company have indicated that the system's water use (pump capacity) is 100 gallons per minute. Please submit any documentation you have of the Water Company's actual water use for the past years. This information will be used in determining the amount of water issued by the license.

If you have any questions, please feel free to contact Eric Gronlund at 605 773-3352.

cc: Diane Best, Assistant Attorney General
William Mitchell, Waste Technologies Development Corporation

CERTIFICATION

I hereby certify that on March 13, 1992, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 13, 1992 regarding Validation of Vested Water Right Claim No. 1850-2, Igloo Water Company addressed as stated below:

Les England, Suite 102, Western Mutual Building, 731 St. Joseph Street, Rapid City, SD 57701.

William Mitchell, Waste Technologies Development Corporation, 17251
17th Street, Suite D, Tustin, CA 92680.

Copy Sent Inter-office To:

Diane Best, Assistant Attorney General, Capitol Building.

Cheryl F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 16th day of March, 1992.

John Hatch
Notary Public





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 15, 1992

Les England
Suite 102, Rushmore Professional Building
731 St. Joseph Street
Rapid City, SD 57701

RE: Vested Water Right No. 1850-2, Igloo Water Company

Dear Mr. England:

The Water Management Board validated Vested Water Right Claim No. 1850-2 on March 4, 1992, as specified by the Notice from the Chief Engineer dated March 13, 1992. This Notice further stated that issuance of the license was being postponed until further investigation of the Igloo Water Company's actual water use for the past years was completed. One hundred gallons per minute (gpm) is the amount of water this office has previously indicated should be issued on the license. The 100 gpm amount was determined by previous on-site inspections and discussions with representatives of the Igloo-Provo Water Project District, who have operated the system.

You indicated during a previous phone conversation that you would be providing documentation that the water company's actual water use is greater than the 100 gallons per minute. To date, we have not received any response from your office.

Information that would prove helpful in determining the actual amount to be issued on the license for Vested Water Right No. 1850-2 should include: 1) past years pumping records; 2) the capacity of the pump (including the brand, model number, and serial number of pump); and 3) any other pertinent information. Ultimately, another inspection by a Water Rights staff person may be necessary.

Please submit any documentation you have on the Water Company's actual water use by May 15, 1992.

If you have further questions, please feel free to contact me.

Sincerely,

Eric Gronlund
Water Rights Division
(605) 773-3352

cc: William Mitchell, Waste Technologies Development Corporation

LESLIE J. ENGLAND
(ALSO ADMITTED IN COLORADO)

LAW FIRM OF
LESLIE JAMES ENGLAND
SUITE 102, RUSHMORE PROFESSIONAL BUILDING
731 ST. JOSEPH STREET
RAPID CITY, SOUTH DAKOTA 57701

TELEPHONE (605) 341-7600
FAX (605) 341-7321

April 16, 1992



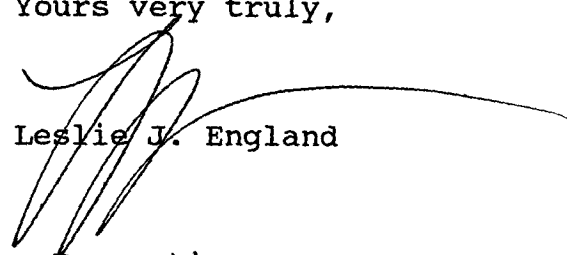
Eric Gronlund
Department of Environment and
Natural Resources
Water Rights Division
Joe Foss Building
523 E. Capitol
Pierre, SD 57501

Re: Vested Water Right No. 1850-2, Igloo Water Co.

Dear Eric:

This acknowledges receipt of your April 15, 1992, correspondence concerning the above-referenced water right. We are now in the process of obtaining pumpage information and records of water sold, as well as information from water users. This information will be formalized and provided to you by May 15, 1992, as requested.

Yours very truly,


Leslie J. England

LJE/kmr

cc: William R. Mitchell, Fall River Properties

Water Rights Division - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Igloo Water Company - Water Right No. 1850-2

ADDRESS: _____ COUNTY: FR

DATE: 5/13/92 TELEPHONE: _____

RE: Discussion with Les England

COMMENTS:

Les called to ask if we had done our field investigation of water use by the Igloo-Provo system. I stated that we hadn't done any further investigation in addition to previous investigations in which members of the system have stated maximum water usage at 100 gpm. I stated I was awaiting any information that he may be able to provide prior to doing a actual field investigation but that ultimately our recommendation will be based on the pump size on the well that has been being utilized. The other well has only been used as a standby.

He is going to be sending me their pumping records and electricity billings for the past years by the end of the week.

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: Eric Lund

LESLIE J. ENGLAND
(ALSO ADMITTED IN COLORADO)

LAW FIRM OF
LESLIE JAMES ENGLAND
SUITE 102, RUSHMORE PROFESSIONAL BUILDING
731 ST. JOSEPH STREET
RAPID CITY, SOUTH DAKOTA 57701

TELEPHONE (605) 341-7600
FAX (605) 341-7321

May 15, 1992



TRANSMITTED VIA FACSIMILE

Eric Gronlund
Department of Environment and
Natural Resources
Water Rights Division
Joe Foss Building
523 E. Capitol
Pierre, SD 57501

Re: Vested Water Right No. 1850-2, Igloo Water Company

Dear Eric:

This will confirm, in accordance with our previous discussions and correspondence regarding the above-captioned water right, that greater than 100 gallon per minute water demand exists on this distribution system. This can occur during periods of peak usage when the demand requires the full output of well No. 2 at 200 gallons per minute.

As you will recall, well No. 2 is pumped on a daily basis, and well No. 1 is relied upon as a backup well. According to the operations manager employed by Igloo-Provo Water Project District, Russell Anderson, Igloo, SD, (662-7020), well No. 2 is a flowing well at the rate of 200 gallons per minute. The 7 1/2 horsepower pump is set 20 feet below the surface and runs at 3600 rpm with a 3 inch diameter intake and outlet. Sometime ago, this well pump utilized a 2 inch outlet which restricted flow. Due to the fact that the well flows at the surface, the pump produces up to the entire 200 gallons per minute. This is accommodated by the larger 3 inch outlet which immediately opens up into a 10 inch pipeline facilitating maximum output from the pump. The pump equipment is not labeled, and no serial numbers or specification numbers are apparent upon inspection.

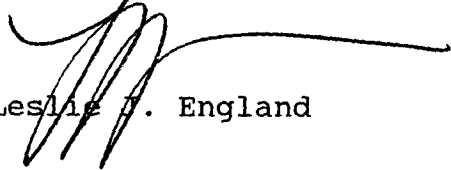
Mr. William R. Mitchell
May 15, 1992
Page 2

According to Anderson, any previous information you had from Rich Howe or Don Jacobs concerning 100 gallon per minute capacity in the past, was probably based on the 2 inch outlet, but because output was restricted that was increased by 1/3 to the 3 inch outlet into the 10 inch pipeline some time ago. Neither Don Jacobs nor Rich Howe are authorized spokesmen for Igloo Water Company, and any information you rely upon from them should be made available to Fall River Properties, the owner of Igloo Water Company, for verification.

All of the output of well No. 2 can be used during periods of peak demand (which demand may total approximately 4 million gallons during a one month period). Daily peak use obviously would be higher than daily average use over one month. Therefore, it is necessary to maintain the highest possible diversion in accordance with the ability of the existing equipment and circumstances of the flowing well to meet peak needs. A 200 gallon per minute diversion rate is supported by available information.

If I can provide any further information or be helpful in your examination or inspection with regard to the above-referenced water right, please let me know. Thank you for your kind attention to this matter, and please advise as to the position of your office in this regard.

Yours very truly,



Leslie J. England

LJE/kmr

cc: William R. Mitchell, Fall River Properties

COUNTY DEED

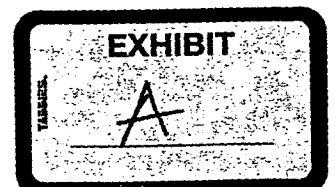
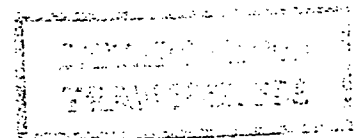
The COUNTY OF FALL RIVER, SOUTH DAKOTA, a political subdivision of the State of South Dakota, hereinafter referred to as Grantor, and for One Hundred One Thousand Nine Hundred Eighty One Dollars (\$101,981.00), and other good and valuable consideration, does hereby convey and quit claim to Mark Hutton, hereinafter referred to as Grantee, whose mailing address is 3803 Headlight Mile Road, Strasburg, CO 80136, the following described real property in Fall River County, South Dakota:

TRACT IGLOO LOCATED IN SECTIONS TWO (2), THREE (3), FOUR (4), NINE (9), TEN (10), AND ELEVEN (11), ALL IN TOWNSHIP TEN (10) SOUTH, RANGE TWO (2) EAST OF THE BLACK HILLS MERIDIAN, CONTAINING 743.87 ACRES, MORE OR LESS; LESS IGLOO SUBDIVISION CONTAINING APPROXIMATELY 8.60 ACRES; AND LESS PIXLEY TRACT LOCATED IN THE EAST HALF OF THE NORTHWEST QUARTER (E $\frac{1}{2}$ NW $\frac{1}{4}$) CONTAINING APPROXIMATELY 6.42 ACRES, TOWNSHIP TEN (10) SOUTH, RANGE TWO (2), EAST OF THE BLACK HILLS MERIDIAN, FALL RIVER COUNTY, SOUTH DAKOTA, ACCORDING TO THE PLAT THEREOF RECORDED IN BOOK X OF PLATS, PAGE 34, OFFICE OF THE REGISTER OF DEEDS, FALL RIVER COUNTY, SOUTH DAKOTA, AND

WELL TRACT NUMBER ONE (1), LOCATED IN THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER (SE $\frac{1}{4}$ SE $\frac{1}{4}$) OF SECTION THREE (3), TOWNSHIP TEN (10) SOUTH, RANGE TWO (2), EAST OF THE BLACK HILLS MERIDIAN, FALL RIVER COUNTY, SOUTH DAKOTA, ACCORDING TO THE PLAT THEREOF RECORDED IN BOOK XVII OF PLATS, PAGE 36, OFFICE OF THE REGISTER OF DEEDS, FALL RIVER COUNTY, SOUTH DAKOTA, REFERENCE TO WHICH IS MADE FOR FULL PARTICULARS;

LESS TOWER TRACT LOCATED IN THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER (NE $\frac{1}{4}$ NW $\frac{1}{4}$) OF SECTION TEN (10), TOWNSHIP TEN (10) SOUTH, RANGE TWO (2), EAST OF THE BLACK HILLS MERIDIAN, FALL RIVER COUNTY, SOUTH DAKOTA, ACCORDING TO THE PLAT THEREOF RECORDED IN BOOK XVII OF PLATS, PAGE 37, OFFICE OF THE REGISTER OF DEEDS, FALL RIVER COUNTY, SOUTH DAKOTA, REFERENCE TO WHICH IS MADE FOR FULL PARTICULARS;

AND LESS WELL TRACT NUMBER TWO (2), LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER (SW $\frac{1}{4}$ NE $\frac{1}{4}$) OF SECTION THREE (3), TOWNSHIP TEN (10) SOUTH, RANGE TWO (2), EAST OF THE BLACK HILLS MERIDIAN, FALL RIVER COUNTY, SOUTH DAKOTA,



ACCORDING TO THE PLAT THEREOF RECORDED IN BOOK XVII OF PLATS, PAGE 38, OFFICE OF THE REGISTER OF DEEDS, FALL RIVER COUNTY, SOUTH DAKOTA, REFERENCE TO WHICH IS MADE FOR FULL PARTICULARS.

SUBJECT, HOWEVER, to the following reservations and rights:

1. Grantee and its assigns, by the acceptance of this conveyance, hereby covenant to provide water from the well located on Well Tract No. One to the Township of Provo, South Dakota, and its customers whose property lays outside the boundaries of Provo Township, those customers' real property that is benefitted by this condition is described in Exhibit "A" attached hereto and incorporated herein by reference; at reasonable rates from existing water facilities located on Well Tract No. One, so long as water is available from existing wells or their replacements, at reasonable rates, provided however, Grantee and his assigns assume no responsibility for the condition of the water lines running between the property and Provo Township.

2. This conveyance is further subject to all, if any, existing easements, licenses, permits and grants of any kind for roads, streets, highways, railroads, right-of-way, public utilities, pipelines, waterlines, sewers, ditches, transmission lines, coal, oil or mineral rights reserved to or outstanding in third parties, in, on, over and across said property.

3. Grantor hereby specifically reserves to the Grantor and the owners of Tract Two, FHT Tract, and Burton Hutton Tract, and their assigns, an easement for ingress and egress to enter in, on, over and across the following described real property on a road known as Rushmore Road and described as:

Starting in the Northeast corner of the Northwest Quarter of the Southwest Quarter of the Southeast Quarter of the Southwest Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section Two (2), at point that intersects with the former railroad right-of-way in Lot Outlot A in Book XI of Plats, page 24, recorded in the Office of the Fall River County Register of Deeds, and traveling Southwest for Seven-sixteenths (7/16) of a mile across the Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section Two (2), located in Tract Igloo, according to the plat recorded in the Office of the Fall River County Register of Deeds in Book X Plats, page 34, to a point at the Northwest corner of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section Two (2), Township Ten (10) South, Range Two (2) East of the Black Hills Meridian, in Tract Igloo; then commencing at the Northwest corner of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section Two (2), Township Ten (10) South, Range Two (2), East of the Black Hills Meridian, in Tract Igloo, and then traveling Southwest across the Southeast Quarter (SE $\frac{1}{4}$) of Section Three (3) for One-eighth (1/8) of a mile, to a point in the

Southwest corner of the Southeast Quarter of the Southeast Quarter of the Southeast Quarter ($SE\frac{1}{4}SE\frac{1}{4}SE\frac{1}{4}$) of Section Three (3), Township Ten (10) South, Range Two (2), East of the Black Hills Meridian, in Tract Igloo; then commencing at the Southwest corner of the Southeast Quarter of the Southeast Quarter of the Southeast Quarter ($SE\frac{1}{4}SE\frac{1}{4}SE\frac{1}{4}$) of Section Three (3), Township Ten (10) South, Range Two (2), East of the Black Hills Meridian, in Tract Igloo, and then traveling Southwest across the Northeast Quarter ($NE\frac{1}{4}$) of Section Ten (10) for One-fourth ($\frac{1}{4}$) of a mile, to the Southeast corner of the Northwest Quarter of the Northwest Quarter of the Northeast Quarter ($NW\frac{1}{4}NW\frac{1}{4}NE\frac{1}{4}$) in Section Ten (10), Township Ten (10) South, Range Two (2), East of the Black Hills Meridian, in Tract Igloo; then from the point of the Southeast corner of the Northwest Quarter of the Northwest Quarter of the Northeast Quarter ($NW\frac{1}{4}NW\frac{1}{4}NE\frac{1}{4}$) of Section Ten (10), Township Ten (10) South, Range Two (2), East of the Black Hills Meridian, in Tract Igloo; then traveling South-Southwest for Three-sixteenths ($\frac{3}{16}$) of a mile to the Northeast corner of the Southeast Quarter of the Northwest Quarter ($SE\frac{1}{4}NW\frac{1}{4}$) of Section Ten (10), Township Ten (10) South, Range Two (2), East of the Black Hills Meridian, in Tract Igloo; thence from the Northeast corner of the Southeast Quarter of the Northwest Quarter ($SE\frac{1}{4}NW\frac{1}{4}$) in Section Ten (10), Township Ten (10) South, Range Two (2), East of the Black Hills Meridian, in Tract Igloo, Southwest for Three-eighths ($\frac{3}{8}$) of a mile to the Southwest corner of the Southeast Quarter of the Northwest Quarter ($SE\frac{1}{4}NW\frac{1}{4}$) of Section Ten (10), Township Ten (10) South, Range Two (2), East of the Black Hills Meridian, in Tract 2, according to the plat thereof recorded in Book IX of Plats, page 42, in the Office of the Fall River County Register of Deeds; and then at the Southwest corner of the Southeast Quarter of the Northwest Quarter ($SE\frac{1}{4}NW\frac{1}{4}$) of Section Ten (10), traveling Southwest for Five-sixteenths ($\frac{5}{16}$) of a mile to the Northwest corner of the Southwest Quarter of the Southwest Quarter of the Northwest Quarter of the Southwest Quarter ($SW\frac{1}{4}SW\frac{1}{4}NW\frac{1}{4}SW\frac{1}{4}$) of Section Ten (10), Township Ten (10) South, Range Two (2), East of the Black Hills Meridian, in Tract 2; and then from the Northwest corner of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter ($SW\frac{1}{4}SW\frac{1}{4}NW\frac{1}{4}SW\frac{1}{4}$) of Section Ten (10), Township Ten (10) South, Range Two (2), East of the Black Hills Meridian, in Tract 2, traveling Southwest for One-half ($\frac{1}{2}$) mile to the Southwest corner of the Southeast Quarter of the Southeast Quarter of the Southwest Quarter of the Southwest Quarter of the Southeast Quarter ($SE\frac{1}{4}SE\frac{1}{4}SW\frac{1}{4}SW\frac{1}{4}SE\frac{1}{4}$) in Section Nine (9), Township Ten (10) South, Range Two (2), East of

the Black Hills Meridian, in Tract 2; then commencing from the Southwest corner of the Southeast Quarter of the Southeast Quarter of the Southwest Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section Nine (9), Township Ten (10) South, Range Two (2), East of the Black Hills Meridian, in Tract 2, Southwest for One-sixteenth (1/16) of a mile to the Southeast corner of the Northwest Quarter of the Northeast Quarter of the Northwest Quarter of the Northwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$) in Section Six (6), Township Ten (10) South, Range Two (2), East of the Black Hills Meridian, all in Tract 2; then at a point from the Southeast corner of the Northwest Quarter of the Northeast Quarter of the Northwest Quarter of the Northwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$) in Section Six (6), Township Ten (10) South, Range Two (2), East of the Black Hills Meridian, of Tract 2; then South for One and One-sixteenth (1 1/16) of a mile across Tract 2 Southwesterly to the Southwest corner of the Northwest Quarter of the Southwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$) in Section Twenty-one (21), Township Ten (10) South, Range Two (2), East of the Black Hills Meridian, all in Tract 2, according to the plat thereof recorded in Book IX of Plats, page 42, in the Office of the Register of Deeds, Fall River County, South Dakota, all in Fall River County, South Dakota.

to benefit the property of the owner of the:

Southwest Quarter (SW $\frac{1}{4}$) of Section Six (6), and the Northwest Quarter (NW $\frac{1}{4}$) of Section Twenty-one (21), Township Ten (10) South, Range Two (2), East of the Black Hills Meridian, and

The owner of Northwest Quarter (NW $\frac{1}{4}$) of Section Six (6), and the Owner of Tract 2, according to the plat in Book IX of Plats, page 42, Office of the Fall River County Register of Deeds;
and the Owner of Outlot A, according to the plat in Book XI of Plats, page 24, Office of the Fall River County Register of Deeds;
and the Owner of Outlot B, according to the plat in Book XI of Plats, page 91, Office of the Fall River County Register of Deeds;
and the Owner of F.H.T. Tract, according to the plat in Book XII of Plats, page 83, Office of Fall River County Register of Deeds;
and the Owner of the Revised Plat of Burton-Hutton Tract, according to the plat in Book XIII of Plats, page 31;
and the Owner of Burton Hutton Tract in Sections 26, 35

and 36, Township 10 South, Range One East of the Black Hills Meridian, Fall River County, South Dakota, according to the plat in Book XIII of Plats, page 32, all in the Office of the Fall River County Register of Deeds.

4. Grantor hereby specifically reserves to the Grantor and its assigns, and the residents of Igloo Subdivision according to the Plat of Igloo Subdivision recorded in Book X of Plats, page 38, Office of the Register of Deeds, Fall River County, South Dakota, for the public use, an easement for ingress and egress, to enter in, on, over and across the following described real property:

Starting in the Northeast corner of the Northwest Quarter of the Southwest Quarter of the Southeast Quarter of the Southwest Quarter ($NW\frac{1}{4}SW\frac{1}{4}SE\frac{1}{4}SW\frac{1}{4}$) of Section Two (2), at a point that intersects with the former railroad right-of-way in Lot Outlot A in Book XI of Plats, page 24, recorded in the Office of the Fall River County Register of Deeds, and traveling Southwest for Seven-sixteenths ($\frac{7}{16}$) of a mile across the Southwest Quarter of the Southwest Quarter ($SW\frac{1}{4}SW\frac{1}{4}$) of Section Two (2), located in Tract Igloo, according to the plat recorded in the Office of the Fall River County Register of Deeds in Book X Plats, page 34, to a point at the Northwest corner of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter ($SW\frac{1}{4}SW\frac{1}{4}SW\frac{1}{4}SW\frac{1}{4}$) of Section Two (2), Township Ten (10) South, Range Two (2) East of the Black Hills Meridian, in Tract Igloo; then commencing at the Northwest corner of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter ($SW\frac{1}{4}SW\frac{1}{4}SW\frac{1}{4}SW\frac{1}{4}$) of Section Two (2), Township Ten (10) South, Range Two (2), East of the Black Hills Meridian, in Tract Igloo, and then traveling Southwest across the Southeast Quarter ($SE\frac{1}{4}$) of Section Three (3) for One-eighth ($\frac{1}{8}$) of a mile, to a point in the Southwest corner of the Southeast Quarter of the Southeast Quarter of the Southeast Quarter ($SE\frac{1}{4}SE\frac{1}{4}SE\frac{1}{4}$) of Section Three (3), Township Ten (10) South, Range Two (2), East of the Black Hills Meridian, in Tract Igloo; then commencing at the Southwest corner of the Southeast Quarter of the Southeast Quarter of the Southeast Quarter of the Southeast Quarter ($SE\frac{1}{4}SE\frac{1}{4}SE\frac{1}{4}$) of Section Three (3), Township Ten (10) South, Range Two (2), East of the Black Hills Meridian, in Tract Igloo, and then traveling Southwest across the Northeast Quarter ($NE\frac{1}{4}$) of Section Ten (10) for Five-sixtyfourths ($\frac{5}{64}$) of a mile, to the Southeast corner of Pixley Tract, and then from the Southeast corner of Pixley Tract Northwest along the east side of Pixley Tract for Three-sixteenths ($\frac{3}{16}$) of a mile; to the Northwest corner of the Northeast Quarter of the Southwest Quarter of the Southwest Quarter ($NE\frac{1}{4}SW\frac{1}{4}SW\frac{1}{4}$) and the Northeast Quarter of the Northwest Quarter

(NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section Ten (10), all in Tract Igloo according to the Plat recorded at Book X of Plats, page 34, where the right-of-way then intersects with Harney Road as platted in Igloo Subdivision in Book X of Plats, page 38.

5. Grantor hereby specifically reserves to the Grantor and the owners of Tract One, according to the Plat recorded thereof in Book IX of Plats, page 41, and Outlot A, according to the Plat recorded thereof in Book XI of Plats, page 24, and Outlot B, according to the Plat recorded thereof in Book XI of Plats, Page 91, all in the Office of the Register of Deeds, Fall River county, South Dakota; and Sections 12 and 13, Township 10 South, Range 2 East, BHM, Fall River County, South Dakota an easement for ingress and egress to enter in, on, over and across the following described real property:

Commencing at the Southwest corner of the Southeast Quarter of the Southeast Quarter of the Southwest Quarter of the Northeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$), Section 3, and travelling North for 1/16 of a mile to the Northwest corner of the Southeast Quarter of the Southeast Quarter of the Southwest Quarter of the Northeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$), Section 3, thence from the Northwest corner of the Southeast Quarter of the Southeast Quarter of the Southwest Quarter of the Northeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$), Section 3, and travelling east for 1/8 of a mile to the Northeast corner of the Southwest Quarter of the Southwest Quarter of the Southeast Quarter of the Northeast Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$) and then southeast for 1/16 of a mile to the Southwest corner of the Southeast Quarter of the Southwest Quarter of the Southeast Quarter of the Northeast Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$), all in Tract Igloo, and thence southeast for 1/2 mile to the Southeast corner of the Southeast Quarter (SE $\frac{1}{4}$) of Section 3, and thence from the Southeast corner of the Southeast Quarter (SE $\frac{1}{4}$), Section 3, travelling southeast from 3/8 mile to the Southeast corner of the Northwest Quarter of the Southwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$), Section 11, all in Tract Igloo and Outlot A, and thence from the Southeast corner of the Northwest Quarter of the Southwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 11, Township 10 South, Range 2, Tract Igloo and Outlot A, travelling south-southwest for 5/32 of a mile to the Northwest corner of the Northeast Quarter of the Northwest Quarter of the Northwest Quarter of the Southwest Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$), Section 11, Outlot A and Tract One, and then travelling South-Southwest for 1/32 of a mile to the Northeast corner of the Southeast Quarter of the Northwest Quarter of the Southwest Quarter of the Southwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 11, all in Tract One, and then travelling Southeast for 1/4 mile, to the Southeast corner of the Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$), Section 11, Tract One, and then from the Southeast corner of the Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$), Section 11, Township 10 South, Range 2, East, BHM, Tract 1, and travelling Southeast for 5/32 of a mile to the Southeast corner of the Northwest Quarter of the Northeast Quarter

of the Northwest Quarter ($NW\frac{1}{4}NE\frac{1}{4}NW\frac{1}{4}$), Section 14, Tract One, and then travelling Southwest for $\frac{1}{32}$ of a mile to the Southwest corner of the Northeast Quarter of the Northeast Quarter of the Southwest Quarter of the Northeast Quarter of the Northwest Quarter ($NE\frac{1}{4}NE\frac{1}{4}SW\frac{1}{4}NE\frac{1}{4}NW\frac{1}{4}$), Section 14, all in Tract One, and then from that point travelling Southeast for $\frac{1}{8}$ of a mile to the Southeast corner of the Northeast Quarter of the Southwest Quarter of the Southeast Quarter of the Northeast Quarter of the Northwest Quarter ($NE\frac{1}{4}SW\frac{1}{4}SE\frac{1}{4}NE\frac{1}{4}NW\frac{1}{4}$), Section 14, Tract One, then $\frac{1}{16}$ of a mile Southwest to the Northwest corner of the Northeast Quarter of the Northwest Quarter of the Northeast Quarter of the Southeast Quarter of the Northwest Quarter ($NE\frac{1}{4}NW\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}NW\frac{1}{4}$), Section 14, Tract One, and then travelling Southwest for $\frac{1}{8}$ of a mile to the Southeast corner of the Northeast Quarter of the Southeast Quarter of the Northwest Quarter ($NE\frac{1}{4}SE\frac{1}{4}NW\frac{1}{4}$), Section 14, Tract One, and then travelling Southwest for $\frac{1}{16}$ of a mile to the Southwest corner of the Northeast Quarter of the Southeast Quarter of the Southeast Quarter of the Northwest Quarter ($NE\frac{1}{4}SE\frac{1}{4}SE\frac{1}{4}NW\frac{1}{4}$), Section 14, Tract One, and then travelling Southeast $\frac{1}{8}$ of a mile to the Northeast corner of the Northwest Quarter of the Northwest Quarter of the Northwest Quarter of the Southeast Quarter ($NW\frac{1}{4}NW\frac{1}{4}NW\frac{1}{4}SE\frac{1}{4}$), Section 14, and then travelling South for $\frac{5}{32}$ of a mile to the Northwest corner of the Northeast Quarter of the Southwest Quarter of the Northwest Quarter of the Southeast Quarter ($NE\frac{1}{4}SW\frac{1}{4}NW\frac{1}{4}SE\frac{1}{4}$), Section 14, and then travelling $\frac{3}{32}$ of a mile to the Northwest corner of the Southwest Quarter of the Southeast Quarter of the Southeast Quarter of the Southwest Quarter of the Northwest Quarter of the Southeast Quarter ($SW\frac{1}{4}SE\frac{1}{4}SE\frac{1}{4}SW\frac{1}{4}NW\frac{1}{4}SE\frac{1}{4}$), Section 14, and then travelling east-northeast for $\frac{7}{32}$ of a mile to the Northwest corner of the Northeast Quarter of the Southeast Quarter of the Southwest Quarter of the Northeast Quarter of the Southeast Quarter ($NW\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}SW\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}$), Section 14, and then travelling Northwest for $\frac{5}{32}$ of a mile to the Southeast corner of the Northeast Quarter of the Northwest Quarter of the Northeast Quarter of the Southeast Quarter ($NE\frac{1}{4}NW\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}$), Section 14, and then travelling $\frac{5}{16}$ of a mile to the Southwest corner of the Southeast Quarter of the Southeast Quarter of the Southeast Quarter of the Northeast Quarter of the Northeast Quarter ($SE\frac{1}{4}SE\frac{1}{4}SE\frac{1}{4}NE\frac{1}{4}NE\frac{1}{4}$), Section 14, and then travelling North $\frac{1}{2}$ mile to the Northwest Corner of the Northeast Quarter of the Northeast Quarter of the Northeast Quarter of the Southeast Quarter of the Southeast Quarter ($NE\frac{1}{4}NE\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}SE\frac{1}{4}$), Section 11, and then travelling Northwest for $\frac{1}{16}$ of a mile to the Northwest corner of the Southeast Quarter of the Southeast Quarter of the Northeast Quarter of the Southwest Quarter ($SE\frac{1}{4}SE\frac{1}{4}NE\frac{1}{4}SW\frac{1}{4}$), Section 11, all in Tract One, where the easement intersects with an existing roadway.

6. Grantees and their Assigns, by acceptance of this Deed, specifically acknowledge portions of the property hereby conveyed are contaminated or may be contaminated for residual explosives. Grantees, for themselves and their assigns, expressly acknowledge that these areas will be used consistent with restrictions imposed by the United States Army, and that the use of these areas will be at their own risk. Grantees, for themselves and any successors

in interest, agree that they and any successor in interest shall be required to save harmless and indemnify Fall River County, South Dakota, from any claims or demands for damages of any type whatsoever arising out of the use of said contaminated areas; and this indemnity shall extend to all costs, counsel fees, expenses and liabilities incurred in connection with the defense of such claim, action or proceeding being brought against Fall River County, South Dakota, arising from, directly or indirectly and in any manner incident to the use of such contaminated areas.

7. This conveyance is subject to an Easement between Grantor and Provo Township for a perpetual right-of-way and easement to own, construct, operate and maintain a water system with related buildings, wells, storage tanks, underground piping and all necessary attachments and appurtenances, together with the right to place piping and valves where required, with the right of ingress and egress therefor, upon, over, under and across the above described property.

8. This conveyance is further subject to an Easement in favor of Provo Township, its successors and assigns, for an existing water line between the well located upon the above-described tract and the water system of the Township including Well Tract No. 2 located in the SW1/4NE1/4 of Section 3, Township 10 South, Range 2, East of the Black Hills Meridian, Fall River County, South Dakota, and Tower Tract located in the NE1/4NW1/4 of Section 10, Township 10 South, Range 2, East of the Black Hills Meridian, Fall River County, South Dakota, according to the recorded plats thereof, and for all purposes of maintenance, repairs and replacements of installation of water water lines therefor and for connection to said Well No. 1 for the purposes of covenant number 1 above.

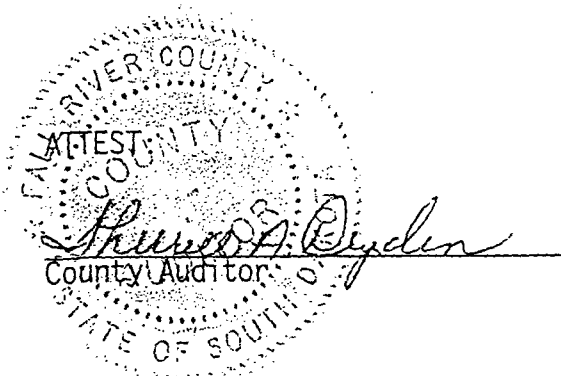
9. Subject to the Grantee and their assigns and successors in interest allowing the United States of America, through the Army Corps of Engineers and its agents, access and entry onto the property for the purposes of cleanup and monitoring of contaminated and/or hazardous materials located thereon.

EXEMPT FROM TRANSFER FEE PURSUANT TO SDCL 43-4-22(6).

DATED this 7 day of May, 1996.

FALL RIVER COUNTY

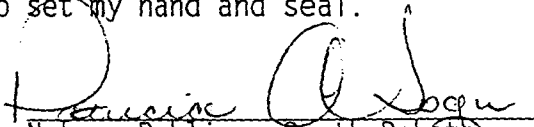
By: Linda Mines
Linda Mines, Chair
Fall River County Commission



STATE OF SOUTH DAKOTA)
)ss
COUNTY OF FALL RIVER)

On this, the 7th day of May, 1996, before me, the undersigned officer, personally appeared LINDA MINES, known to me or satisfactorily proven to be the Chair of the Fall River County Commission, and acknowledged to me that she executed the same on behalf of Fall River County, a political subdivision of the State of South Dakota, in her capacity as Chair of the Fall River County Commission, for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.



Notary Public - South Dakota

My commission expires: 5-23-97

(SEAL) A. SO
Prepared by: Patrick M. Ginsbach
Fall River County States Attorney
906 North River St., Room 301
Hot Springs, SD 57747
(605) 745-3866
PUBLIC
SOUTH DAKOTA

EXHIBIT A (page 1)

NE 1/4, S1/2NW1/4, N1/2SW1/4, SE1/4, SEC 16, TWP 9, RG 3;
SW1/4NW1/4, SEC 5, TWP 10, RG 3; NW1/4, SE1/4, N1/2SW1/4,
S1/2NE1/4, NW1/4NE1/4, SEC 6, TWP 10, RG 3; NE1/4,
W1/2SE1/4, SEC 7, TWP 10, RG 3; E1/2NW1/4, LOTS 1 & 2, SEC
7, TWP 10, RG 3; S1/2SW1/4, W1/2SE1/4, SEC 31, TWP 9, RG 3;
SE1/4, SW1/4NW1/4, W1/2SW1/4, SE1/4SW1/4, SEC 22, TWP 9, RG
3; NE1/4, SEC 25, TWP 9, RG 3; SW1/4, LESS R/W, SEC 30, TWP
9, RG 3; E1/2SE1/4, SEC 24, TWP 9, RG 3 FORMERLY LOTS 1 THRU
12 OF SUBD; NE1/4SW1/4, PT OF NW1/4NW1/4, PT OF SE1/4NW1/4,
SEC 22, TWP 9, RG 3; NW1/4, N1/2SW1/4, SEC 31, TWP 9, RG 3;
N1/2N1/2, SE 1/4, SEC 21, TWP 9, RG 3; S1/2N1/2, SEC 21, TWP
9, RG 3; NW1/4, LESS LOT B SEC 24, TWP 10, RG 2; SW1/4, LESS
LOT A, SEC 13, TWP 10, RG 2; N1/2NE1/4, SW1/4NE1/4,
NE1/4NW1/4, SEC 26, TWP 10, RG 2; N1/2, E1/2SW1/4,
NW1/4SW1/4, W1/2SE1/4, SEC 23, TWP 10, RG 2; N1/2SE1/4,
SE1/4SE1/4, SEC 26, TWP 9, RG 2; E1/2SE1/4, SEC 23, TWP 10,
RG 2; SE1/4SW1/4, SEC 1 TWP 10 R/W 2; NE1/4, SE1/4, LESS R/W
(10.18 A) SEC 12, TWP 10, RG 2; E1/2NW1/4, SEC 12, TWP 10,
RG 2; E1/2SE1/4, SEC 15, TWP 9, RG 2; TOWN OF PROVO: SOUTH
180 FT OF OUTLOT Y AND N 80 FT OF SOUTH 130 FT OF OUTLOT 5;
E1/2NE1/4, E1/2SW1/4, S1/2SE1/4, LESS RR, SEC 22, TWP 9, RG
2; S1/2SE1/4, SEC 1, TWP 10, RG 2; N1/2NW1/4, SEC 23, TWP 9,
RG 2; N1/2NE1/4, S1/2NE1/4, N1/2NEW1/4, S1/2NW1/4,
N1/2SW1/4, S1/2SW1/4, N1/2SE1/4, S1/2SE1/4, LESS RD R/W SEC
36, TWP 9, RG 2; S1/2S1/2, NE1/4SE1/4, SEC 25, TWP 9, RG 2;
TOWN OF PROVO: LOT 2, BLK 6 1ST ADDN (.17 ACRES); TOWN OF
PROVO: ALL OF BLK 6 1ST ADDN LESS LOT 2 1.87. ACRES; TOWN
OF PROVO: ALL BLK 5 1ST ADDN (2.04 ACRES); TOWN OF PROVO:
ALL BLK, LESS LOT 1, BLK 4, 1ST ADDN (2.21 ACRES); PT OF
SW1/4, LESS LOT 1 S OF RR SEC 12, TWP 10, RG 2; TOWN OF
PROVO LOTS 6, 10, 11, & 12 BLK 3, 1ST ADDN (.68 ACRES); TOWN
OF PROVO: LOTS 5, 7, 8, & 9 BLK 3, 1ST ADDN (.68 ACRES);
NW1/4, LESS 2. ACRES SEC 13, TWP 10, RG 2; TOWN OF PROVO: ALL
OF BLK 14 1ST ADDN (2.04 ACRES); TOWN OF PROVO: ALL OF BLK
12 1ST ADDN, 2.04 ACRES; TOWN OF PROVO: LOTS 11 & 12, BLK 10
1ST ADDN; ALL, SEC 9, TWP 11, RG 3; S1/2NE1/4, N1/2SE1/4,
PT NE1/4NE1/4, S OF COUNTY RD SEC 8, TWP 11, RG 3; E1/2,
S1/2SW1/4, SEC 4, TWP 11 RG 3; S1/2NW1/4, N1/2SW1/4, SE1/4,
SEC 21 TWP 11, RG 3; N1/2NW1/4, SEC 10, TWP 11, RG 3;
S1/2SW1/4, SEC 3, TWP 11, RG 3; ALL, LESS LOT 1 OF BARKLEY
SUBD OF (106 ACRES) SEC 16, TWP 11, RG 3; ALL OF SEC 17, TWP
12, RG 2; LOTS 1 & 2, N1/2SW1/4, SEC 16 TWP 12, RG 2; NW1/4,
SEC 16, TWP 12, RG 2; LOT 1, SE1/4NE1/4, SEC 4, TWP 12 RG 2;
NW1/4, SW1/4, SW1/4SE1/4, SEC 8 TWP 12, RG 2; NW1/4, LESS
RR, SEC 17, TWP 10 RG 3; S1/2N1/2, N1/2S1/2, SEC 25, TWP 11,
RG 2; NW1/4, W1/2E1/2, NE1/4NE1/4, SEC 34 TWP 11, RG 2;
N1/2, SE1/4, N1/2SW1/4, SE1/4SW1/4, SEC 33, TWP 11, RG 2;

EXHIBIT A (page 2)

SE1/4SE1/4, NE1/4SW1/4SE1/4, S1/2SW1/4SE1/4, SEC 21, TWP 11 RG 2; W1/2SE1/4, S1/2SW1/4, SEC 28 TWP 11, RG 2; NE1/4, N1/2SW1/4, E1/2SE1/4, SEC 28, TWP 11, RG 2; S1/2NE1/4, SW1/4NW1/4, S1/2, SEC 27 TWP 11, RG 2; NE1/4, SW1/4, SEC 26, TWP 11, RG 2; PT OF NW1/4NE1/4, S OF COUNTY RD SEC 8, TWP 11, RG 3; N1/2NW1/4, SEC 27, TWP 11, RG 3; N1/2NW1/4, NE1/4, SEC 21, TWP 11, RG 3; N1/2N1/2, SE1/4NW1/4, SEC 27 TWP 11, RG 2; N1/2SE1/4, SEC 21, TWP 11, RG 2; S1/2, SEC 22, TWP 11, RG 2; SW1/4, SEC 34, TWP 11, RG 2; SE1/4, NW1/4, SEC 26, TWP 11, RG 2; SW1/4, SEC 23, TWP 11, RG 2; BARKLEY SUBD: LOT 1, IN N1/2, SEC 16, TWP 11, RG 3; PORTION OF FHT TRACT IN SECTIONS 13-14-23-24-25-26-35 & SEC 36 TWP 10, RG 1 (287 IGLOO'S); PART OF BLOCK "J" SEC 1 & 12 TWP 10, RG 1 (28 IGLOO'S) 140.49 ACRES; PT FHT TRACT IN SEC'S 16, 17, 18, 19, 20, 22, 27, 28, 29, 30, TWP 10, RG 2, 4097.91 ACRES, (178 IGLOO'S & 10 RED BRICK) 340 ACRES; PT OF BLK J OF BURTON HUTTON TRACT LYING IN SEC'S 5, 6, 7, 8 TWP 10, RG 2 (69 IGLOO'S); PORTION OF BURTON HUTTON TRACT IN SECTIONS 1-2-11-12-13 & SEC 14, TWP 10, RG 1 (93 IGLOO'S); BURTON HUTTON TRACT IN SEC 26-35-36, TWP 10, RG 1 (48 IGLOO'S); BURTON HUTTON TRACT IN SEC'S 4,5,6,7,8,9,16,17,18, & IN ANOTHER BK SEC'S 1,2,11,12,13, & 14, TWP 10, RG 1 (1805.89 ACRES) TWP 10, RG 2 (46 IGLOO'S); SE1/4NE1/4, SEC 2, TWP 11, RG 2; NW1/4, S1/2, SEC 12, TWP 11, RG 2; LOT 1, SEC 2, TWP 11, RG 2; SE1/4NE1/4, SEC 2, TWP 11, RG 2; ALL, SEC 1, TWP 11, RG 2; LOTS 1,2,3,4, E1/2W1/2, SEC 7, TWP 11, RG 3; NW1/4, S1/2, SEC 12, TWP 11, RG 2; W1/2, SEC 36, TWP 10, RG 2; LOTS 6, 7, E1/2SW1/4, SEC 6, TWP 11, RG 3; N1/2NE1/4, SEC 35, TWP 10, RG 2; E1/2, SEC 36, TWP 10, RG 2, RG 2; SE1/4, SE1/4NE1/4, SEC 26, TWP 10, RG 2; W1/2NW1/4, SE1/4NW1/4, SEC 26, TWP 10, RG 2; SW1/4SW1/4, SEC 23, TWP 10, RG 2; SW1/4, SW1/4SE1/4, SEC 25, TWP 10, RG 2; NW1/4, SEC 32, TWP 10, RG 3; ALL OF SEC 15, TWP 10, RG 3; ALL, LESS RR & HWY, SEC 16, TWP 10, RG 3; NW1/4, SEC 32, TWP 10, RG 3; W1/2SE1/4, SW1/4, SEC 14, TWP 10, RG 3; LOTS 3 & 4, E1/2SW1/4, E1/2SE1/2, SEC 7, TWP 10, RG 3; W1/2, SEC 23, TWP 10, RG 3; S1/2SW1/4, SEC 6, TWP 10, RG 3; E1/2, E1/2W1/2, PART OF LOT 1, LESS RR, SEC 18, TWP 10, RG 3; PART OF NE1/4NW1/4, PART OF NE1/4, PART OF E1/2SE1/4, E OF HWY, SE1/4, TWP 10, RG 3; S1/2, LESS RR, SEC 17, TWP 10, RG 3; ALL, LESS RR, SEC 22, TWP 10, RG 3; E1/2, NW1/4, E1/2SW1/4, SW1/4SW1/4, LESS RR SEC 21, TWP 10, RG 3; PT OF NW1/4, LYING S OF RR, SEC 17, TWP 10, RG 3; ALL OF SEC 29, TWP 10, RG 3; E1/2NW1/4, E1/2, 43 ACRES IN E1/2SW1/4, SEC 30, TWP 10, RG 3; ALL, LESS RR, SEC 27, TWP 10, RG 3; ALL OF SEC 28, TWP 10, RG 3; ALL OF, SEC 20, TWP 10, RG 3; ALL, LESS RR, SEC 27, TWP 10, RG 3; W1/2SW1/4, S1/2NW1/4, SEC 5, TWP 11, RG 3; E1/2, E1/2W1/2, SEC 19, TWP 10, RG 3; W1/2NW1/4, NW1/4SW1/4, LESS RR, SEC 26, TWP 10, RG 3;

015508

County of Fall River

To

Mark Hutton

STATE OF SOUTH DAKOTA } SS
COUNTY OF FALL RIVER }

FILED FOR RECORD

14th DAY OF May, 1996

AT 12:30 P M, AND RECORDED IN

BOOK 111 PAGE 252 thru 263

Anita Cape

REGISTER OF DEEDS

27.00 pd

FEE \$

Ken Dewell

RECORDED ✓

COMPALED ✓

INDEXED 7



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 16, 1992

Les England
Suite 102, Rushmore Professional Building
731 St. Joseph Street
Rapid City, SD 57701

Dear Mr. England:

I have enclosed the Validated Vested Water Right and the reissued Water License No. 1850-2 for Igloo Water Company. The Water License has been reissued for 0.45 cubic feet of water per second (cfs). The license amount is based upon 1) the historic peak water usage by the Company, and 2) the amount of water not subject to forfeiture for nonuse by SDCL 46-5-37.

Previous on-site inspections and discussions with operators of the system indicated a peak water use of 0.22 cfs [100 gallons per minute (gpm)]. The diversion rate of 0.45 cfs (200 gpm) is the result of addition information that has been provided by the Water Company to quantify peak water use. Future retention of the right to appropriate 0.45 cfs will be subject to SDCL 46-5-37 which states:

"When any person entitled to the use of appropriated water fails to use beneficially all or any part of such water for the purpose for which it was appropriated, for a period of three years, such unused water shall revert to the public and shall be regarded as unappropriated public water."

If the Company fails to use 0.45 cfs according to SDCL 46-5-37, the unused portion is subject to forfeiture for nonuse.

Very truly yours,

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

cc: William R. Mitchell, Waste Technologies

enclosures

SOUTH DAKOTA

VESTED WATER RIGHT CLAIM NO. 1850-2

Date of Receipt of Claim August 16, 1983.

Date of Validation March 4, 1992.

The Water Management Board validated Vested Water Right Claim No. 1850-2 for Igloo Water Company, c/o William Mitchell, Waste Technologies Development Corporation, 17251 17th St, Suite D, Tustin CA 92680 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 1850-2 appropriates 1.78 cubic feet of water per second from two wells located in the SE 1/4 SE 1/4 and the SW 1/4 NE 1/4 all in Section 3-T10S-R2E.
2. The appropriated water is used for supplying water to the Igloo Water Company distribution system and may not exceed the amount of water needed for beneficial use for municipal and rural water system use.

The water is to be used during the following annual period:
January 1 - December 31

3. The priority dates of the Vested Water Right are:

June 21, 1942
December 10, 1943

4. The water use system has been constructed and water has been applied to beneficial use.
5. Water Rights obtained in compliance with the laws of the State of South Dakota must not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

By: _____


Chief Engineer

JUL 16 1992

date

Division of Water Rights
Dept. of Environment and Natural Resources

STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 1850-2

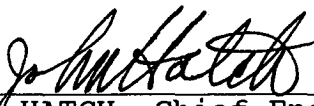
(1) Igloo Water Company, % William Mitchell, Waste Technologies Development Corporation of 17251 17th St., Suite D, Tustin, CA 92680 made Application No. 1850-2, August 16, 1983 for validation of a vested right claim to appropriate 1.78 cubic feet of water per second (cfs) from groundwater (two wells), Fall River County, South Dakota for municipal and rural water system purposes. Vested Water Right No. 1850-2 was validated March 4, 1992 with priority dates of June 21, 1942 and December 10, 1943. Construction of the described water supply system and application of water to beneficial use has been completed and complies with applicable provisions of South Dakota State Law.

Documentation was received, by letter dated May 15, 1992, from Les England, Attorney for Igloo Water Company concerning the company's peak water usage. A diversion rate of 0.45 cfs (200 gallons per minute) is the amount historically used during peak demand periods that is not subject to forfeiture for non use under SDCL 46-5-37.

Vested Right Water License No. 1850-2 is being reissued for the water company's peak water use of 0.45 cfs.

(2) The applicant is entitled to divert 0.45 cubic feet of water per second for beneficial use. The location of the diversion points are: Well #1 - SE 1/4 SE 1/4, and Well #2 - SW 1/4 NE 1/4 of Section 3, T10S, R2E. Well #1 is a standby well.

(3) Pursuant to Section 46-5-30.1 Igloo Water Company, % William Mitchell, Waste Technologies Development Corporation of 17251 17th St., Suite D, Tustin, CA 92680 the holder(s) and/or owners(s) of Vested Water Right No. 1850-2 is issued a license to appropriate 0.45 cubic feet of water per second from groundwater (two wells) with priority dates of June 21, 1942 and December 10, 1943 from the location specified in (2) of this license. The water is to be used for the purpose of municipal and rural water system use. This license is subject to any limitations, conditions or qualifications listed in Vested Water Right No. 1850-2 and subject to South Dakota State Law.



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

JUL 16 1992



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 22, 1994

1850-2

Pat Ginsbach, States Attorney
Fall River County
Room 301
906 N River St
Hot Springs, SD 57747

Dear Mr. Ginsbach:

Enclosed, as we discussed, is a partially completed "Notice of Transfer of Ownership" form for use in filing an ownership change on Vested Water Right No. 1850-2. The vested water right is currently listed in the name of Igloo Water Company.

Lanoir Pedersen, the Clerk for Provo Township, had contacted John Hatch and requested a transfer form be prepared and sent to your office. It is our understanding that the land is now owned by Provo Township.

Please review the enclosed form for accuracy and then complete as needed. The form must be signed by the new owner (representative for Provo Township) in the presence of a notary public. Upon completion, return the form to our office with a required filing fee of \$2.50.

If you have any questions, please contact me.

Sincerely,

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

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 28, 1995

SECOND NOTICE
Permit No. 1850-2

Pat Ginsbach, States Attorney
Fall River County
Room 301, 906 N. River St.
Hot Springs, SD 57747

Dear Mr. Ginsbach:

On November 22, 1994, notice was sent to you concerning the transfer of Water Right No. 1850-2 in the name of Igloo Water Company. To date, we have not heard from you on this matter.

A transfer form was previously sent to you, enclosed is an additional form. Please sign, have notarized and return the form to this office with the required filing fee of \$2.50. The water right can then be transferred to your name. If you are not the present owner of the land covered under this water right, please notify this office. It is very important that ownership records be kept current. South Dakota Water Law 46-5-30.3 requires Notice of any sale, grant, lease, conveyance or other transfer of a Water Permit or Water Right to appropriate water to be filed with this office within ninety days.

If you have any questions, please contact Genny McMath, (605) 773-3352.

Very truly yours,

RON DUVALL
Natural Resources Engineer
for John Hatch, Chief Engineer
Water Rights Division

enclosure

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:

1850-2

Pat Ginsbach, States Attorney
Fall River County
Room 301, 906 N. River St.
Hot Springs, SD 57747

4a. Article Number

P 318 052 688

4b. Service Type

☐ Registered ☐ Insured

☒ Certified ☐ COD

☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

3/29/95

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

5. Signature (Addressee)

Patty Logan

6. Signature (Agent)

[Signature]

PS Form 3811, December 1991

★U.S. GPO: 1992-323-402

DOMESTIC RETURN RECEIPT

Thank you for using Return Receipt Service.

WILSON, OLSON, NASH & BECKER, P.C.

LAWYERS

CREEKSIDE PROFESSIONAL OFFICES

2640 JACKSON BOULEVARD

P. O. BOX 1552

RAPID CITY, SOUTH DAKOTA 57709

(605) 342-7090

FAX (605) 342-9259

JAMES W. OLSON
ROBERT M. NASH
FRANCES R. BECKER

ERNEST GUNDERSEN (1915-1972)
J.H. BOTTUM (1903-1984)
JAMES H. WILSON (1927-1989)

February 15, 1996

Mr. John Hatch
Department of Environment
and Natural Resources
Joe Foss Building
523 East Capitol
Pierre SD 57501-3181



RE: Igloo-Provo Water Project District

Dear Mr. Hatch:

I am writing to you as the attorney for the Igloo-Provo Water Project District. Please advise any filings that you have with regard to the water rights on the following water wells:

Well No. 1 - A water well originally installed by the U.S. Army in the early 1940's and located in the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section Three (3), Township Ten South (T10S), Range Two East (R2E) of the Black Hills Meridian, Fall River County, South Dakota.

Well No. 2 - A well originally drilled in the early 1940's by the Army and located in the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section Three (3), Township Ten South (T10S), Range Two East (R2E) of the Black Hills Meridian, Fall River County, South Dakota.

Both of the above wells are located at the old Black Hills Army Depot site. I would like to request copies of all of your records with regards to these wells from any initial filing until now insofar as the same pertain to location, ownership, transfer and water rights. I am not requesting water quality tests data at this time.

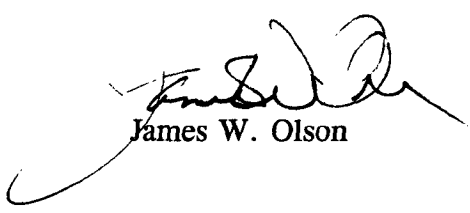
Mr. John Hatch
February 15, 1996
Page 2

Well No. 3 - water well completed by Igloo-Provo Water Project District and located in Section Eighteen (18) of Township Ten South (T10S), Range Two East (R2E) of the Black Hills Meridian, Fall River County, South Dakota. I would like the same information with regards to this well if any exists with your offices.

Thank you for your assistance in this matter. If there is any charge for preparation of copies, please invoice me with the copies and I will reimburse you.

Very truly yours,

WILSON, OLSON, NASH
& BECKER, P.C.



James W. Olson

JWO/ddh

OFFICE OF THE
STATES ATTORNEY
Fall River & Shannon Counties
906 North River Street, Room 301
Hot Springs, South Dakota 57747
(605) 745-3866



April 13, 1995

Ron Duvall
Natural Resources Engineer
Dept. of Environment and Natural Resources
Joe Foss Building
523 East Capital Avenue
Pierre, SD 57501-3181

RE: Permit No. 1850-2

Dear Mr. Duvall:

I'm in receipt of your letter dated March 28, 1995, and I had received the previous transfer form that was sent to me.

The County acquired the property on which I believe this particular well is located and it's my understanding that it's the intent of the County to eventually deed the well to Provo Township. I would provide these transfer forms to whatever entity ends up owning the well so that they could proceed with the transfer.

Thank you for the additional notice.

Yours truly,

Patrick M. Ginsbach
Fall River County States Attorney

PMG:ps



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 20, 1996

James W. Olson
Wilson, Olson, Nash & Becker, P.C.
P.O. Box 1552
Rapid City, SD 57709

RE: Igloo-Provo Water Project District

Dear Mr. Olson:

I am writing in response to your letter to John Hatch requesting copies of water right files related to wells in the Igloo-Provo area. Enclosed are the contents of two water rights files related to the wells mentioned in your letter.

Vested Water Right No. 1850-2 appropriates 0.45 cubic feet of water per second (cfs) from the two wells constructed by the U.S. Army. One of these wells is a standby well.

Water Permit Application No. 2254-2 is a pending application to appropriate 0.78 cfs from a Madison Formation well. This well is an oil test well converted for rural water system use. The publication of the notice of hearing on the application was delayed in 1993 for clarification of the well location and until the physical hazards and environmental contamination at the site are determined and addressed.

Enclosed is an invoice for the cost of preparing the copies. Please feel free to contact me if I may be of further assistance.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352

enclosures

Water Rights Program -- File Documentation

NAME: Jack Brunson

ADDRESS: HC 48, Box 218, Provo SD 57774

DATE: February 29, 1996

COUNTY: Fall River

TELEPHONE: 662-7871

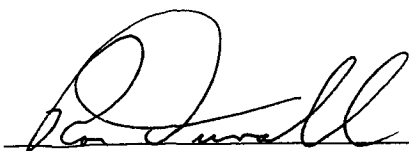
RE: Distribution of water appropriated by Vested Water Right No. 1850-2

COMMENTS:

Jack Brunson called concerning whether a water permit is needed for drip irrigation. The shelterbelt being irrigated was put in under the Great Plains program administered by the former Soil Conservation Service. I informed Mr. Brunson that a water permit was not needed provided the situation met the requirements of SDCL 46-5-51. Mr. Brunson further explained that the water was supplied from a well which may soon be deeded to the township by the county. The well is used to supply six ranches and about ten households in Provo/Igloo. In addition, Mr. Brunson said he was informed that the attorney for Provo township had said that it was not legal for water to be supplied for drip irrigation. I informed Mr. Brunson that SDCL 46-5-51 addressed a private water supply delivering water for drip irrigation. If water use from the well exceeded 18 gpm then a water permit is needed for all uses supplied by the well.

After further investigation, I found that the well and a standby well were currently permitted under Vested Water Right No. 1850-2 for municipal and rural water system uses. The vested right is currently in the name of Igloo Water Company, c/o William Mitchell. Pat Ginsbach, Fall River County states attorney, has been contacted regarding transfer of the vested right to a new owner. Mr. Ginsbach has indicated that the transfer will be completed following settlement of the ownership of the well between the county and Provo township. I informed Mr. Brunson that I found nothing in the vested right that would prohibit the delivery of water for use in a drip irrigation system. I also told Mr. Brunson that delivery/service terms are between the customer and the water supplier. Mr. Brunson indicated the township wanted to define his water use as "commercial" and then only supply "noncommercial" water uses from the well. Again, I told Mr. Brunson that the details about water delivery was between him and the well owner.

During the course of the conversation, Mr. Brunson also noted that Well No. 2 which is a standby well according to No. 1850-2 has not been operational since at least 1987 when he was notified that the pump did not work. The pump is apparently in the well but does not work and can not be removed because it is stuck. I told Mr. Brunson that use of Well No. 2 has probably been forfeited since it has not been maintained in standby condition as defined by ARSD 74:02:0137.02. However, I did say whether forfeiture has occurred is a decision for the Water Management Board to make, not me. Mr. Brunson also believed the pump rate to be less than 200 gpm from Well No. 1, he believed the pump rate to be 80 gpm.



Ron Duvall, Natural Resources Engineer
Water Rights Program



March 13, 1996

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

James W Olson, Attorney
Wilson, Olson, Nash & Becker, P.C.
PO Box 1552
Rapid City SD 57709

Dear Mr. Olson:

This letter is in response to our March 11, 1996, phone conversation regarding the transfer of ownership and vested right claims submitted on behalf of Provo Township. The forms were received on March 4, 1996.

Pursuant to our phone conversation, we recommend that a request for declaratory ruling be filed by Provo Township in lieu of proceeding with either the transfer of ownership or the vested right claim. A declaratory ruling by the Water Management Board may help clarify several of issues concerning ownership and use of the wells covered by Vested Water Right No. 1850-2. Enclosed is a copy of the General Rules, chapter 74:02:01, which lists procedures used for declaratory rulings in sections 46 through 49.

The township may want to include the following issues in the declaratory ruling request:

1. Ownership of Vested Water Right No. 1850-2;
2. Legal status of the "standby" well;

According to General Rule 74:02:01:37.02, a permitted water supply can be maintained for standby use provided it is maintained in working condition for immediate use upon demand. A water right for standby diversion works maintained in working condition is not subject to forfeiture due to nonuse (SDCL 46-5-37 and ARSD 74:02:01:37). Since the pump in the standby well has apparently not been functional for a number of years, it is possible that forfeiture of a portion of Vested Right No. 1850-2 has occurred. However, the Water Management Board may consider legal excuses for nonuse of water (ARSD 74:02:01:37.01) which suspend the period of nonuse.

3. Amount of water (diversion rate).

The water license for Vested Right No. 1850-2 was reissued on July 16, 1992, to reduce the diversion rate from 1.78 cubic feet of water per second (cfs) to 0.45 cfs (200 gpm). This reduction was based on information supplied by Les Englund, attorney, via letter dated May 15, 1992. It may be beneficial to request a ruling from the board to reconfirm the actual diversion rate. Jack Brunson indicated on February 29, 1996, that the diversion rate is approximately 80 gpm rather than 200 gpm. As noted earlier, all or any part of a water right can be forfeited due to nonuse pursuant to SDCL 46-5-37.

Each issue presented in the declaratory ruling also needs to include the requested action from the board and the reasons for the requested action. Please be as specific as possible when completing the declaratory ruling request.

James Olson, Attorney

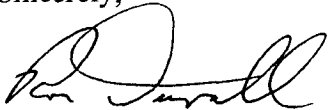
March 13, 1996

Page 2 of 2

You may also want to consider filing a new water permit application along with the request for declaratory ruling. If the board does not act favorably on your request concerning the status of the standby well, the new application can request board approval of a new water appropriation from the well. In addition, please direct us to delay taking any action with your transfer of ownership form and vested right claim if you plan to proceed with a declaratory ruling request.

If you have any questions or if I can be of further assistance, please contact me at (605) 773-3352.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Duvall", with a stylized, cursive script.

Ron Duvall
Natural Resources Engineer
Water Rights Program

enclosures

c: Lanoir Pedersen, Clerk
Provo Township

JAMES W. OLSON
ROBERT M. NASH

WILSON, OLSON, & NASH, P.C.
LAWYERS
CREEKSIDE PROFESSIONAL OFFICES
2640 JACKSON BOULEVARD
P. O. BOX 1552
RAPID CITY, SOUTH DAKOTA 57709

(605) 342-7090
FAX (605) 342-9259

ERNEST GUNDERSEN (1915-1972)
J.H. BOTTUM (1903-1984)
JAMES H. WILSON (1927-1989)

July 23, 1997

Eric Gronlund
Department of Environment
and Natural Resources
Joe Foss Building
523 East Capitol
Pierre SD 57501-3181



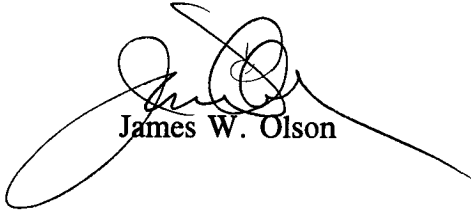
Re: Provo Township

Dear Eric:

Please provide me with the necessary form to file for transfer of vested water right. I appreciate all of your considerations in this matter.

Very truly yours,

WILSON, OLSON & NASH, P.C.


James W. Olson

JWO/lw
cc: Don Jacobs



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 24, 1997

James W Olson
WILSON, OLSON & NASH, P.C.
PO Box 1552
Rapid City, SD 57709

Dear Mr. Olson:

Enclosed, as you requested, is a "Notice of Transfer of Ownership" form for use in filing an ownership change on Vested Water Right No. 1850-2.

The form will need to be signed completed, and then signed in the presence of a notary by the new owner or their representative. Upon completion, please return the form to our office with a required filing fee of \$2.50.

If you have any questions, please contact me.

Sincerely,

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

encl.

JAMES W. OLSON
ROBERT M. NASH

WILSON, OLSON, & NASH, P.C.
LAWYERS
CREEKSIDE PROFESSIONAL OFFICES
2640 JACKSON BOULEVARD
P. O. BOX 1552
RAPID CITY, SOUTH DAKOTA 57709

—
(605) 342-7090
FAX (605) 342-9259

ERNEST GUNDERSEN (1915-1972)
J.H. BOTTUM (1903-1984)
JAMES H. WILSON (1927-1989)

May 18, 1998

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



Re: Provo Township Water Right No. 1850-2

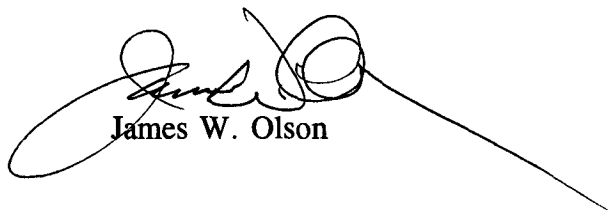
Greetings:

I enclose herewith Notice of Transfer of Ownership of Water Right No. 1850-2 together with a check in the amount of \$2.50 for filing with your office. Please acknowledge the same.

Thank you for your assistance.

Very truly yours,

WILSON, OLSON & NASH, P.C.


James W. Olson

JWO/lw

Enclosures

cc: Provo Township Board of Supervisors
Pat Ginsbach
Ken Dewell

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

12 415769

Pierre, May 19, 19 98

RECEIVED OF Provo Township Water, P.O Box 480, Provo, SD 57774
the following amount in fees for services rendered as provided for by law:

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

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

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

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

Fee for Filing Transfer Form Water Right No. 1850-2

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

2 50

2 50

By _____
Chief Engineer

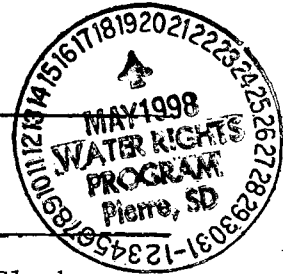
Jah Hatch

NOTICE OF TRANSFER OF OWNERSHIP

No. _____

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

Date: May 11, 1998

I/We request that Water Permit/Right No. 1850-2formerly owned by: Igloo Water Companybe transferred to: (name & address) Provo Township, c/o Lanoir Pedersen, Clerk,P.O. Box 487, Provo, SD 57774-0487(telephone No.) 662-7378

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

Well No. 2 located on Amended Well Tract No. 2 in SW $\frac{1}{4}$ of NE $\frac{1}{4}$, Section 3, Township 10 S,

Range 2 E, Black Hills Meridian, Fall River County, South Dakota, according to the Plat
recorded in Book 17 of Plats, Page 61, in the Office of the Fall River Co. Reg. of Deeds
I/We understand that the validity of Water Permit/Right No. 1850-2 has not been deter-
mined by this transfer action. If I/We have any questions on validity, I/We understand
that only the Water Management Board has the authority to determine if a water permit/
right is valid (see note).

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

A fee of Two Dollars and Fifty Cents (\$2.50) is attached to cover the filing fees as
required under SDCL 48-2-13.

STATE OF SOUTH DAKOTA)
County of FALL RIVER)

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

ATTEST

PROVO TOWNSHIP BOARD OF SUPERVISORS

Lanoir R. Pedersen
Lanoir R. Pedersen, Clerk

By: Herbert Plant
Herbert Plant (Signed) Chairman

Subscribed and sworn to before me this 14th day of May, 19 98.

Linda J. Anderson
(Notary Public)
My Commission Expires 11-18-2001

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

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

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

500 EAST CAPITOL
Pierre, South Dakota 57501-5070
Phone (605) 773-3215
FAX# (605) 773-4106

MARK W. BARNETT
ATTORNEY GENERAL



LAWRENCE E. LONG
CHIEF DEPUTY ATTORNEY GENERAL

May 29, 1998

James W. Olson
Attorney at Law
P.O. Box 1552
Rapid City, SD 57709-1552

Re: **Igloo Provo water system**

Dear Mr. Olson:

The Department of Environment and Natural Resources has received Provo Township's notice of transfer of ownership of Vested Water Right No. 1850-2. This vested water right is currently listed in the name of Igloo Water Company.

The notice of transfer of ownership of Vested Water Right No. 1850-2 lists only the Provo well. As you know, Vested Water Right No. 1850-2 was validated for Well No. 2 (Provo well) as the primary well and Well No. 1 (Hutton well) for standby purposes.

The DENR does not believe this transfer of ownership can be processed until there is some resolution to the status of the Hutton well under this vested water right. It seems ironic that the declaratory ruling request that would have resolved the status of Hutton well on the vested water right was withdrawn by Provo Township. Instead, the parties stated to the Water Management Board they would jointly transfer the vested water right. I anticipate that the status of Hutton well will need to be determined as part of the hearing on Provo Township's and Mark Hutton's water permit applications to be considered by the Water Management Board.

The DENR acknowledges that Provo Township is currently diverting water from the Provo well. Based on the circumstances, the DENR has no objection to these continuing diversions. Although the fact that the vested water right is currently in the name of Igloo Water Company, neither the DENR nor the Office of Attorney General intends to take legal action anytime in the near future to deny the township the ability to divert this water.

James W. Olson
May 29, 1998
Page 2

If you have any questions or would like to discuss this matter further, please feel free to contact me at (605) 773-3215.

Sincerely,

A handwritten signature in cursive script that reads "Diane Best". The signature is written in dark ink and is positioned above the printed name and title.

Diane Best
Assistant Attorney General

DB:nan
cc: John Hatch



OFFICE OF ATTORNEY GENERAL

500 EAST CAPITOL
Pierre, South Dakota 57501-5070
Phone (605) 773-3215
FAX# (605) 773-4106

MARK W. BARNETT
ATTORNEY GENERAL

LAWRENCE E. LONG
CHIEF DEPUTY ATTORNEY GENERAL

September 28, 1998

Kenneth R. Dewell
Viken, Viken, Pechota, Leach & Dewell
1617 Sheridan Lake Road
Rapid City, SD 57702-3483

Re: Water Permit Application No. 2388-2, Mark Hutton

Dear Mr. Dewell:

This letter is to acknowledge DENR's receipt of Mark Hutton's amendment to Water Permit Application No. 2388-2 and receipt of Hutton's answers to DENR's first set of interrogatories and request for production of documents.

Mr. Hutton proposes to amend his application to include irrigation. Water uses from the well are now to include stock watering, irrigation, aquaculture and a back-up water supply for Provo Township. As previously explained, readvertisement of the public notice is necessary to clearly reflect the proposed uses from the well. However, DENR informs me that the submitted amendment is not complete in its current form. Prior to readvertising and scheduling a Board hearing, the following additional information is necessary to complete amendment of the application.

1. Irrigation is contemplated for the E½ Section 8 and W½ of Section 9, T10S, R2E. The letter amending the application indicates two center pivots. How many acres are actually planned for irrigation development? Please provide the number of acres to be irrigated within each forty acre (quarter-quarter) subdivision.
2. Board rule requires a map not smaller than 8 inches by 11 inches which clearly indicates the lands to be irrigated in relation to a government section corner. This map is to be prepared by a South Dakota licensed land surveyor, South Dakota registered professional engineer, or by a government employee who regularly prepares such map as part of his employment. DENR commonly directs agricultural producers to

the local Natural Resource Conservation Service (NRCS) office for assistance with this requirement.

3. What is the annual period during which water will be used for irrigation?

An important consideration in developing an irrigation project is assessing the compatibility of the soil and water for irrigation. The suitability of the acreage for irrigation may be an issue raised at the Board hearing. DENR will require as part of the application process that the applicant provide a soil/water analysis on the suitability of this land for irrigation. Mr. Hutton should contact John Bischoff with the Water Resources Institute in Brookings, South Dakota at (605) 688-4910 or a qualified individual to perform this type of analysis.

The answer to interrogatories states 800 gallons per minute of water for stock watering uses. Is this truly the anticipated diversion rate necessary for stock watering? It is the applicant's responsibility to show that this quantity is an amount that is reasonable, useful, and beneficial to the appropriator. State law prohibits the waste or unreasonable method of use of water. If the actual quantity of water needed for stock watering is less than 800 gpm, how will the applicant control his withdrawals to the amount needed?

Finally, Mr. Hutton lists aquaculture as a proposed use. I want to make you aware that in addition to water right permitting, other state permitting issues may be involved in such a venture. Information on starting up an aquaculture business can be obtained from the South Dakota Department of Agriculture at 1-800-228-5254. Generally, other regulatory issues include:

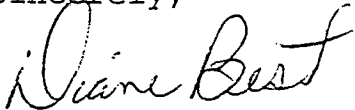
- Plans and specifications for any wastewater treatment system must be submitted to DENR for approval prior to construction.
- A discharge permit is necessary if the facility discharges wastewater.
- Private Fish Hatchery licenses are required by South Dakota Department of Game, Fish and Parks.
- Disease Free Certification is required for all trout and salmon brought into South Dakota.

Kenneth R. Dewell
September 28, 1998
Page 3

- The Animal Industry Board requires health certificates on all animals, including fish.

DENR wants to schedule these water right permit applications for Hutton and Provo for final resolution before the Water Management Board. The next scheduled Board meetings are December 2 and 3, 1998, and March 3 and 4, 1999. However, prior to public noticing Hutton's amended application for a Board hearing, the amended application must be complete. Upon receipt of the complete application, DENR will expeditiously process the application and prepare for public notice for the earliest possible Board meeting date.

Sincerely,



Diane Best
Assistant Attorney General

DB/dh

cc: Patrick M. Ginsbach
Dora R. Henderson
Susan R. Henderson
Gary D. Martin
James W. Olson
Ron Semler

JAMES W. OLSON
ROBERT M. NASH



WILSON, OLSON, & NASH, P.C.
LAWYERS
CREEKSIDE PROFESSIONAL OFFICES
2640 JACKSON BOULEVARD
P. O. BOX 1552
RAPID CITY, SOUTH DAKOTA 57709

(605) 342-7090
FAX (605) 342-9259

Attorney General
DEC 17 1998

ERNEST GUNDERSEN (1915-1972)
J.H. BOTTUM (1903-1984)
JAMES H. WILSON (1927-1989)

December 16, 1998

Diane Best
Assistant Attorney General
Attorney General's Office
500 E. Capitol
Pierre, SD 57501

Re: Provo Township Water Permit Application No. 2362-2

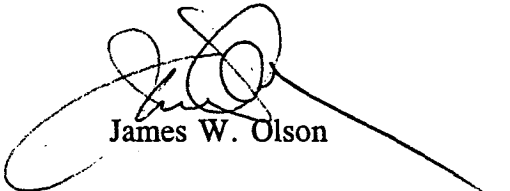
Dear Diane:

Thank you for your letter of December 8. I am writing this letter to you to confirm my telephone conversation with you wherein I advised that Provo Township would not oppose forfeiture proceedings with regard to Well No. 1 as a point of use for Invested Water Right No. 1850-2.

If you have any further questions or concerns in this matter, please feel free to contact me.

Very truly yours,

WILSON, OLSON & NASH, P.C.



James W. Olson

JWO/lw

cc: Provo Township

RECOMMENDATION OF CHIEF ENGINEER

FOR VESTED WATER RIGHT NO. 1850-2

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Vested Water Right No. 1850-2 currently held in the name of Igloo Water Company, c/o William Mitchell, Waste Technologies Development Corporation, 17251 17th St., Suite D, Tustin CA 92680.

The Chief Engineer is recommending that Well No. 1 be cancelled by forfeiture for nonuse from Vested Water Right No. 1850-2. The basis for this recommendation is that Well No. 1 has not been maintained in working condition for immediate use upon demand pursuant to Board Rule 74:02:01:37.02. Staff investigations in 1991 found Well No. 1 non-operational for the purpose intended under Vested Water Right No. 1850-2.

Furthermore, information disclosed to the Water Rights staff indicate that the well has not been operational since at least 1987 because of the pump being stuck in the well. This recommendation is not intended to diminish the quantity of water appropriated under Vested Water Right No. 1850-2.

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

JOHN HATCH, Chief Engineer
January 4, 1999

WATER RIGHT PROGRAM
SOUTH DAKOTA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES

FACSIMILE TRANSMITTAL SHEET

TO: Patrick Ginsbach	FROM: Eric Gronlund
COMPANY: Fall River States Attorney	DATE: January 5, 1999
FAX NUMBER: (605) 745-3154	TOTAL NO. OF PAGES INCLUDING COVER: 4
PHONE NUMBER:	SENDER'S TELEPHONE NUMBER: (605) 773-3352
RE: Notice	SENDER'S FAX NUMBER: (605) 773-4068

☒ FYI ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ AS YOU REQUESTED

NOTES/COMMENTS:

I am faxing you a copy of a notice scheduling a hearing before the Water Management Board on cancellation of a portion of Vested Water Right No. 1850-2, Igloo Water Company.

WATER RIGHT PROGRAM

SOUTH DAKOTA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
Susan Henderson	Eric Gronlund
COMPANY:	DATE:
care of - Nelson Oil Company	January 5, 1999
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
(605) 662-6381	4
PHONE NUMBER:	SENDER'S TELPHONE NUMBER:
	(605) 773-3352
RE:	SENDERS FAX NUMBER:
Notice	(605) 773-4068

☒ FYI ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☒ AS YOU REQUESTED

NOTES/COMMENTS:

I am faxing you a copy of a notice scheduling a hearing before the Water Management Board on cancellation of a portion of Vested Water Right No. 1850-2, Igloo Water Company.

Ms. Henderson has been called and will be stopping in to pick up this fax. Thank you!



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

January 5, 1999

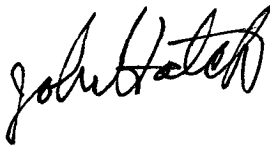
NOTICE

TO: James Olson
Counsel for Provo Township
Wilson, Olson, Nash & Becker, P.C.
P.O. Box 1552
Rapid City, SD 57709

Kenneth Dewell
Counsel for Mark Hutton
Viken, Viken, Pechota, Leach & Dewell
1617 Sheridan Lake Road
Rapid City, SD 57702-3483

William Mitchell
Waste Technologies Development Corp.
17251 17th St., Suite D
Tustin CA 92680

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



SUBJECT: Cancellation of a Portion of Vested Water Right No. 1850-2, Igloo Water Company

The Chief Engineer has scheduled a hearing before the Water Management Board for cancellation of the portion of Vested Water Right No. 1850-2 relating to Well No. 1 (Hutton well). The Board hearing will be held at 10:30 am (Central Time) on March 3, 1999 in the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD.

Vested Water Right No. 1850-2 is currently held in the name of Igloo Water Company and was validated by the Board on March 4, 1992. The Chief Engineer subsequently issued the vested right water license for 0.45 cubic feet of water per second (200 gpm) from two Madison Formation wells for municipal and rural water system use. Well No. 2 is the primary water source for the system and Well No. 1 is listed as a standby well. Fall River County conveyed Well No. 2 to Provo Township while Mark Hutton purchased Well No. 1 at auction.

The Chief Engineer recommends that Well No. 1 located in the SE1/4 SE1/4 Section 3, T10S, R2E be cancelled by forfeiture for nonuse from Vested Water Right No. 1850-2. The basis for this recommendation is that Well No. 1 has not been maintained in working condition for immediate use upon demand pursuant to Board Rule 74:02:01:37.02. This recommendation is not intended to diminish the quantity of water appropriated under Vested Water Right No. 1850-2 for Well No. 2.

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel portions of Vested Water Right No. 1850-2, 2) delay action, or 3) take no action based on the facts presented at the public hearing. Provo Township, Mark Hutton and Waste Technologies are parties to this proceeding. Persons other than those listed above that intend to participate in this hearing before the Board and present evidence or cross examine witnesses according to SDCL 1-26 must file a written petition with the Chief Engineer by February 22, 1999. The petition may be informal, but it must include a statement describing the reasons for your support or opposition to the cancellation, and your signature and mailing address.

This hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17, 46-2A-18, 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-7; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. This is a contested case pursuant to procedures contained in SDCL 1-26.

This hearing is an adversary proceeding. Any party 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 Sate Supreme Court as provided by law.

Please note: Cancellation of Well No. 1 from Vested Water Right No. 1850-2 does not prohibit a new application to appropriate water from this well.

enclosure

c: Diane Best, Assistant Attorney General
Patrick Ginsbach, Fall River County States Attorney, Room 301, 906 N River Road, Hot Springs SD
Parties of Record to Water Permit Application Nos. 2362-2 and 2388-2

CERTIFICATION

I hereby certify that on January 5, 1999, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated January 5, 1999, along with a copy of the Recommendation of Chief Engineer, regarding Cancellation of a Portion of Vested Water Right No. 1850-2, Igloo Water Company, addressed as stated below, and on the attached Combined Parties of Record List for Water Permit Application No. 2362-2, Provo Township & Water Permit Application No. 2388-2, Mark Hutton:

James Olson, Counsel for Provo Township, Wilson, Olson, Nash & Becker, P.C., P.O. Box 1552, Rapid City, SD 57709.

Kenneth Dewell, Counsel for Mark Hutton, Viken, Viken, Pechota, Leach & Dewell, 1617 Sheridan Lake Road, Rapid City, SD 57702-3483.

William Mitchell, Waste Technologies Development Corp., 17251 17th St., Suite D, Tustin, CA 92680.

A copy of the above described Notice and attachment was sent Inter-office to:

Diane Best, Assistant Attorney General, Capitol Building.

The above described Notice and attachment was faxed to the following individuals, and a hard copy was also sent out to these individuals at the addresses shown on the attached Parties of Record List:

Patrick Ginsbach: (605) 745-3154.

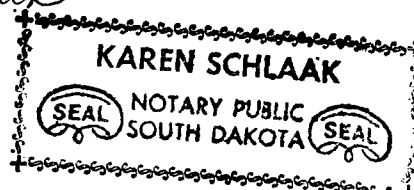
Susan Henderson (%Nelson Oil Company): (605) 662-6381.


Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 6th day of January, 1999


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



COMBINED PARTIES OF RECORD LIST
for
WATER PERMIT APPLICATION NO. 2362-2, Provo Township
&
WATER PERMIT APPLICATION NO. 2388-2, Mark Hutton

Applicant for Application No. 2362-2

Provo Township
c/o Lanoir Pederson, Clerk
PO Box 487
Provo, SD 57774-0487

represented by:
James W. Olson
Wilson, Olson, & Nash, P.C.
P.O. Box 1552
Rapid City, SD 57709

Applicant for Application No. 2388-2

Mark Hutton
3803 Headlight Mile Road
Strasburg, CO 80136

represented by:
Kenneth Dewell
Viken, Viken, Pechota, Leach & Dewell
1617 Sheridan Lake Road
Rapid City, SD 57702

Petitioners

Fall River County
c/o Patrick M. Ginsbach
Fall River States Attorney
906 North River Street, Room 301
Hot Springs, SD 57747

Cindy Brunson
HC 48, Box 218
Provo, SD 57774

Gary D. Martin, Mayor
City of Edgemont
P.O. Box A
Edgemont, SD 57735

Georgene LeBar
LeBar Ranches
P. O. Drawer O
Douglas, WY 82633

Ron Semler, Manager
Evans Plunge
P.O. Box 610
Hot Springs, SD 57747

Dora R. Henderson &
Susan R. Henderson
Box 731
Edgemont, SD 57735



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

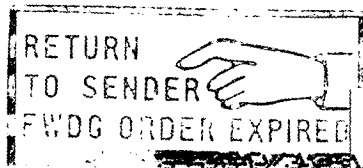
RETURN SERVICE REQUESTED

Eric

William Mitchell
Waste Technologies Development Corp.
17251 17th St., Suite D
Tustin CA 92680

WEAT251 927803001 1N 37 01/09/99
RETURN TO SENDER

NO FORWARD ORDER ON FILE
UNABLE TO FORWARD
RETURN TO SENDER



SIOUX FALLS SD 57105-28 01/05



JAMES W. OLSON
ROBERT M. NASH



WILSON, OLSON, & NASH, P.C.
LAWYERS
CREEKSIDE PROFESSIONAL OFFICES
2640 JACKSON BOULEVARD
P. O. BOX 1552
RAPID CITY, SOUTH DAKOTA 57709

(605) 342-7090
FAX (605) 342-9259

ERNEST GUNDERSEN (1915-1972)
J.H. BOTTUM (1903-1984)
JAMES H. WILSON (1927-1989)

January 11, 1999

Mr. Eric Gronlund
SD Dept. of Environment & Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

Re: Provo Township Vested Water Right #1850-2

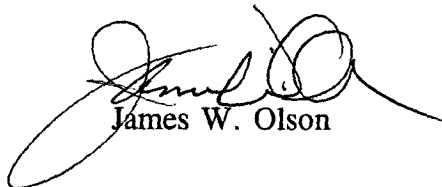
Dear Mr. Gronlund:

I enclose herewith, for filing with the Department, the original Assignment of Water Right from Marshall Cator, the successor in interest to Texas Calf Palace, Inc., d/b/a Igloo Water Company, to Provo Township.

The same is submitted for filing with regards to Provo Township's Application for Registration of the Vested Right 1850-2 to Provo Township with regards to Well #2.

Very truly yours,

WILSON, OLSON & NASH, P.C.


James W. Olson

JWO/mcs
Enclosure

cc: Kenneth R. Dewell
Patrick M. Ginsbach
Diane Best

*Original returned
to Provo Township
after verification*

DBest

ASSIGNMENT OF VESTED WATER RIGHT

WHEREAS, the Texas Calf Palace, Inc., did business as Igloo Water Company at Provo, South Dakota; and

WHEREAS, the Texas Calf Palace, Inc., was a corporation which has been dissolved and all remaining assets thereof are the property of the undersigned, Marshall Cator; and

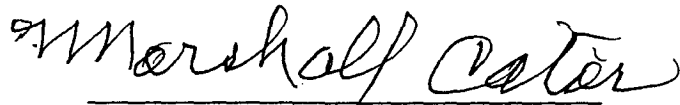
WHEREAS, the Igloo Water Company has also ceased to do business as a result of the termination of the Texas Calf Palace; and

WHEREAS, the undersigned acknowledges that Provo Township has operated the water system which was formerly operated by Igloo Water Company for a period of four years and has requested assignment of the vested water right for the same.

NOW, THEREFORE, the undersigned Marshall Cator, as the successor in interest to the Texas Calf Palace, Inc., and Igloo Water Company does hereby assign, transfer, and set over unto Provo Township all right, title and interest of Texas Calf Palace, Inc., d/b/a Igloo Water Company in and to vested water license No. 1850-2 as described on the attached State of South Dakota Vested Water License form dated October 31, 1983.

Assignor further states that neither assignor nor Texas Calf Palace, Inc., d/b/a Igloo Water Company or otherwise has ever assigned, transferred, subdivided or otherwise licensed the assignment or transfer of any right, title or interest in the said vested water license No. 1850-2 prior to the date hereof and that the Texas Calf Palace, Inc., d/b/a Igloo Water Company was the owner of the real estate upon which the two ground water wells which are the subject of said vested water right at the time of issuance of said vested right on October 31, 1983 and has not previously executed an assignment of vested water license No. 1850-2.

DATED this 29 day of December, 1988.

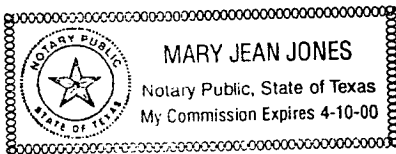


Marshall Cator

State of Texas)
) ss:
County of Moore)

On this the 29 day of December, 1998, before me, the undersigned officer, personally appeared Marshall Cator, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF I hereunto set my hand and official seal.



Mary Jean Jones
Notary Public, Texas
My Commission Expires: 4-10-2000

(SEAL)



DB
Attorney General
JAN 13 1999
Dean Harrod
Box 259
Edgemont, SD 57735

January 11, 1999

Mr. Mark Barnett
Attorney General
State of South Dakota
500 E. Capitol St.
Pierre, SD 57501

Dear Mr. Barnett:

This is a complaint letter. I am a railroader living in Provo, South Dakota where I own a home.

It has come to my attention that the Fall River County States' Attorney, Mr. Patrick Ginsbach, and the Chairman of the Fall River County Commission for last year, Mr. Franklin Manke have set a hearing now scheduled for January 19, 1999 in which they intend to sign a water use contract for Provo Township.

For the last several years, the County and Mr. Ginsbach have been manouvering to gain control of the three Madison wells in the Provo/Igloo area in favor of a land speculator from Colorado Mr. Burton Hutton and his son Mark Hutton.

You may recall that when the US Army pulled out of the Black Hills Army Depot in 1968 it left a deed restriction on the Depot land containing two Madison water wells which provided that Provo Township should have the use of the water at reasonable rates as long as water was available and that this applied to any new wells developed on the property.

Through the years various owners of the land on which the wells sit including bankrupt waste dumpers supplied water to the small towns of Igloo, Provo, and several surrounding ranches. The wells are flowing wells and provide excellent water for the towns and about 35,000 acres of ranchland.

About 5 years ago, Fall River County took the land back from a bankrupt waste dumper, CMC, for \$740,000 in unpaid taxes.

After almost a year of wrangling, in which Mr. Ginsbach did everything possible to prevent Provo Township from getting the wells or easements for its pipelines, the Commissioners voted unanimously for a resolution to cede the two Army wells to Provo Township.

Just before the tax sale, Franklin Manke took office as a commissioner and promptly "forgot" about the resolution. In the end only one well was deeded to Provo Township and the county retained some control over the township via a Joint Powers Agreement between the County and Provo Township which was designed mainly to settle disputes between water users and the township.

At the tax sale, Mark Hutton purchased the CMC land and the county deeded the back-up well for the system to him. This well (Well No. 1) is flowing but has no power, pump, or a production pumping system and it has a pump dropped 4000 feet into the well. It does not meet State standards for a vested water right.

Mr. Hutton has applied to the State of South Dakota for an 800 gallon per minute permit on the well and is attempting to prevent Provo Township from getting its vested water right on Provo's production well (Well No. 2).

The two wells have a joint vested water right dating from 1941. Mr. Hutton has conspired to gain control of this water right by trying to force Provo Township to sign a "back-up use" contract which would require Provo to spend \$40,000 to \$100,000 repairing Hutton's well, in preparation for a joint vested water right application. The contract would also prevent Provo Township from objecting to the 800 gallon per minute permit request on Hutton's well.

Since the wells are only a few hundred yards apart, Hutton's well would surely draw down the water level in the well serving Provo Township.

When Mr. Hutton could not get Provo Township to sign the water agreement and proceed with a joint vested water right application, he petitioned the Fall River County Commissioners to sign the contract on behalf of Provo Township.

To the total shock of the residents and taxpayers of Provo and Igloo, the County under the questionable leadership of Franklin Manke agreed and set a hearing date. In December the township filed suit against Fall River County pointing out that the County has no jurisdiction over a township in the type of matter.

Mr. Ginsbach has vigorously pursued the County's objective in trying to sign the Hutton contract, demanding an immediate hearing to lift the Township's restraining order to pave the way for a county hearing on the matter.

The Provo Township attorney insists that Fall River County has no jurisdiction in the matter and I cannot find any basis for the action of the States' Attorney.

It seems to me that Mr. Ginsbach and the Commissioners are mis-using their power in support of Mr. Hutton's water grabbing actions. Our poor township has now expended several thousand dollars attempting to prevent the county's meddling in our affairs. We are very concerned that this will all end in the loss of our water for the area.

You may recall that in 1989 severe problems erupted in the area over an ill conceived well drilled by the now dissolved Igloo Provo Water Project District conceived by one Rich Howe, an embezzler who was a business partner of John Henry "Jack" Brunson and who together leased the Hutton land at Igloo.

Jack Brunson was the tenant and business partner of L.D. Alderson who was the target of a South Dakota Attorney General's office investigation and conviction.

Mr. Brunson is currently heavily involved in the water issues and is a tenant and business partner of Burton Hutton and his son Mark Hutton.

Hutton has sued the Igloo Provo Water Project District attempting to gain control of that well which is located on property now owned by Robert Mines at Igloo. - why??

One wonders why Mr. Hutton needs to control all the water in the Igloo Provo area. I note that he has so far refused to tell the State what his intentions are for the use of the 800 gallons per minute that he has requested.

I would like you to look into this mess and determine whether Mr. Ginsbach and Fall River County are acting properly.

I look forward to hearing from you as soon as possible.

Very truly yours,

Dean E. Harrod

Dean Harrod
Provo South Dakota

and thank you

Grantee assumes no responsibility for the contents of said building other than the obligation to provide reasonable protection for the entire property.

Grantor hereby specifically reserves to the Government and its assigns an easement for ingress and egress in and over all existing roadways located within the above described parcels.

Grantor hereby specifically reserves an easement for the Government and its assigns for a road over the existing roadway known as Bailey Access Road in, on, over and across the SW¹/₄ of Section 3, and the ESE¹/₄ of Section 4, Township 10 South, Range 2 East.

Grantor hereby specifically excepts from this conveyance all rights to oil, gas, and other minerals. The title and ownership of said oil, gas and other minerals are expressly reserved to the Grantor herein, together with the right to establish non-exclusive easements and other surface rights in the said property as Grantor herein deems necessary and appropriate, directly or indirectly, for the exploration, mining, drilling, extracting and in general the full and complete exploitation of oil, gas and other minerals in said property.

Grantor hereby specifically exempts from this conveyance all right, title and interest in and to that body of water emanating from the north portion of Tract No. 1 described in Quitclaim Deed dated November 17, 1970 between the United States of America, acting by and through the Administrator of General Services, Grantor, and the City of Edgemont, South Dakota, a Municipal Corporation, Grantee.

Grantee and its assigns, by acceptance of this conveyance, hereby covenant that the Chapel Building located upon said property shall be maintained by Grantee and its assigns and made available for interdenominational religious services.

Grantee and its assigns, by acceptance of this conveyance, hereby covenant to provide water to the Township of Provo, South Dakota, at reasonable rates from existing water facilities located on said property so long as water is available from existing wells or their replacements; provided, however, Grantee and its assigns assume no responsibility for the condition of water lines running between said property and the Township of Provo, South Dakota.

Grantee and its assigns, by acceptance of this deed, specifically acknowledge that portions of the property hereby conveyed are contaminated or may be contaminated from residual explosives and are restricted, fenced and placarded, "Contaminated Area, surface use only, no digging". Grantee, for itself and its

2
think there is the separate covenant, well everyone that there that water upon (wells or their) this is plural more than one more from or where do they get the authority to wrap a covenant from the federal gov to the people of Provo Township ??? If the covenant was "land" you'd say that's a question why this don't all stand.

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

500 EAST CAPITOL
Pierre, South Dakota 57501-5070
Phone (605) 773-3215
FAX# (605) 773-4106



MARK W. BARNETT
ATTORNEY GENERAL

January 14, 1999

LAWRENCE E. LONG
CHIEF DEPUTY ATTORNEY GENERAL

James W. Olson
Attorney at Law
P.O. Box 1552
Rapid City, SD 57709-1552

Re: **Vested Water Right No. 1850-2**

Dear Mr. Olson:

This letter confirms our telephone conversation of January 11, 1999, regarding Vested Water Right No. 1850-2. We discussed the assignment of Water Right No. 1850-2 from Marshall Cator to Provo Township. You indicated that you would attempt to obtain dissolution documents of the former Texas Calf Palace (which would provide documentation showing that Mr. Cator obtained the assets of Texas Calf Palace, Inc. d/b/a Igloo Water Company when that entity dissolved). According to records available from the South Dakota Secretary of State, Texas Calf Palace is listed as a Delaware corporation. Texas Calf Palace, Inc. withdrew its registration with the South Dakota Secretary of State in 1987.

Further, you indicated that you would check your notes for the previous hearing in Provo Township v. Fall River County to determine whether Mr. Dewell had made any oral stipulations at the beginning of trial pertaining to nonuse of the "Hutton Well." If you believe he made any such stipulations or representations, please let me know and I will order at least a portion of that transcript.

Thank you in advance for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Diane Best".

Diane Best
Assistant Attorney General

DB:nan

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

500 EAST CAPITOL
Pierre, South Dakota 57501-5070
Phone (605) 773-3215
FAX# (605) 773-4106



MARK W. BARNETT
ATTORNEY GENERAL

LAWRENCE E. LONG
CHIEF DEPUTY ATTORNEY GENERAL

February 3, 1999

Dean Harrod
Box 259
Edgemont, SD 57735

Re: Water Well

Dear Mr. Harrod:

This Office has received your correspondence of January 11, 1999, regarding the water wells constructed in the 1940's by the Department of the Army in Fall River County.

The Office of Attorney General represents the Department of Environment and Natural Resources with respect to water issues. At the present time, I am the Assistant Attorney General assigned to perform this service.

The Chief Engineer for the Water Rights Program within the DENR has now scheduled a hearing on March 3, 1999, relative to Well No. 1. This well has not been used for a number of years. Accordingly, a hearing will be held as to whether the water right for this well should be cancelled for non-use. I am providing you with a copy of the notice in this matter. If you intend to intervene, a petition must be filed with the Chief Engineer by February 22, 1999.

Please note that the proposal to cancel Well No. 1 is not intended to effect Well No. 2, which serves as the primary water source for Provo Township.

Also, as you indicated in your letter, Mr. Hutton has requested a new water rights permit for 800 gallons per minute. Based upon a notarized document filed on September 21, 1998, Hutton intends to use this water for stock watering, irrigation, aquaculture, and water for human consumption. On September 28, 1998, I wrote a letter to Kenneth Dewell, counsel for Mr. Hutton, indicating that the DENR considers his application to be incomplete at the present time. I am enclosing a copy of the letter, which explains the information needed in order to process this

Dean Harrod
February 3, 1999
Page 2

application. The information has not been filed yet. Since the application is incomplete it has not yet been scheduled for hearing.

The State has authority to resolve outstanding issues with respect to the water rights for these wells. Further, I believe the State is actively working to resolve these issues.

You also discussed issues pertaining to a proposed water use agreement between the township, the county, and the Huttons. I understand that this is a contentious issue and some litigation has already occurred. A water use agreement setting forth the terms and conditions for access to and cost of water service is separate from the water rights issues discussed above. This is a civil matter between the parties and does not necessarily invoke the DENR's authority.

Further, you have asked this Office to investigate the conduct of the state's attorney. I visited about this matter with Deputy Attorney General Robert Mayer. Mr. Mayer is our director of litigation, and oversees the complaints we receive which are lodged against the various states' attorneys. He advised that Attorney General Barnett has concurrent jurisdiction with the state's attorneys in any and all CRIMINAL proceedings. Any question over Mr. Ginsbach's jurisdiction to act in this CIVIL matter, however, belongs in a court as opposed to the Attorney General's Office. If you believe Mr. Ginsbach is acting under a conflict of interest, then that should be taken up with the State Bar Association.

Thank you for your interest.

Sincerely,


Diane Best
Assistant Attorney General

DB:sk
Enc.
s-ltr52.db
bcc/enc Eric Gronlund

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

500 EAST CAPITOL
Pierre, South Dakota 57501-5070
Phone (605) 773-3215
FAX# (605) 773-4106



MARK W. BARNETT
ATTORNEY GENERAL

LAWRENCE E. LONG
CHIEF DEPUTY ATTORNEY GENERAL

February 9, 1999

Donald Jacobs
HCR 48, Box 137
Edgemont, SD 57735

Re: **In the Matter of the Cancellation of a Portion of Vested
Water Right No. 1850-2 (Well No. 1)**

Dear Mr. Jacobs:

Consistent with our previous conversation I am enclosing a Subpoena for your attendance and testimony at the South Dakota Water Management Board's hearing in the above-referenced matter. This hearing will be conducted at 10:30 a.m. (Central Time) on March 3, 1999, in Pierre.

If you have an opportunity to come to Pierre early, please contact me in order to discuss this water rights issue. In the event that you wish to reach me at home, my home telephone number is (605) 224-5568. Otherwise, I will be at the Matthews Training Center the morning of the hearing starting at about 8:30 a.m.

Also, I am requesting that you sign the Admission of Service in this matter and return the same to me in the enclosed self-addressed stamped envelope. This Admission of Service just shows that you received the Subpoena.

Further, please note that mileage and appearance fee will be paid following hearing on this case. Thank you in advance for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Diane Best".

Diane Best
Assistant Attorney General

DB:clr

Enclosure
cc/enc: Eric Gronlund, DENR ✓
c-ltr547.db

STATE OF SOUTH DAKOTA

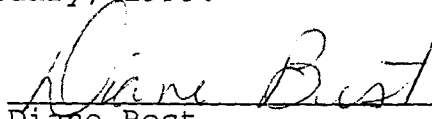
BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF THE)
CANCELLATION OF A PORTION) SUBPOENA
OF VESTED WATER RIGHT)
NO. 1850-2 (WELL NO. 1))

TO: DONALD JACOBS, HCR 48, BOX 137, EDMONT, SOUTH DAKOTA
57735:

You are hereby directed to appear and present testimony at hearing in the above matter on March 3, 1999, at 10:30 a.m. (Central time) in the Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol Avenue, Pierre, South Dakota. Your testimony is requested by the South Dakota Department of Environment and Natural Resources. For failure to appear and present testimony as requested, you will be liable for the penalties prescribed by law. Authority for issuance of this subpoena is set forth in SDCL 1-26-19.1 and SDCL 15-6-45. Statutory appearance fee and mileage allowed by law will be paid following the hearing as provided by SDCL 15-6-45(c).

Issued in the name of the South Dakota Water Management Board this 9th day of February, 1999.



Diane Best
Assistant Attorney General
Counsel for the SD Water
Management Board

STATE OF SOUTH DAKOTA)
: ss ADMISION OF SERVICE
COUNTY OF FALL RIVER)

I, Donald Jacobs, do hereby certify that the above subpoena came into my possession on the ____ day of February, 1999. I hereby admit service of the same.

Dated this ____ day of February, 1999, at _____, South Dakota.

Donald Jacobs

STATE OF SOUTH DAKOTA

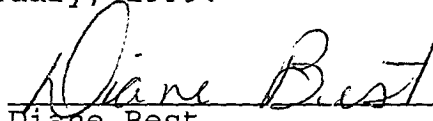
BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF THE)
CANCELLATION OF A PORTION) SUBPOENA
OF VESTED WATER RIGHT)
NO. 1850-2 (WELL NO. 1))

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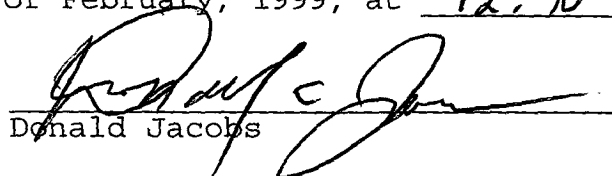
Issued in the name of the South Dakota Water Management Board this 9th day of February, 1999.


Diane Best
Assistant Attorney General
Counsel for the SD Water
Management Board

STATE OF SOUTH DAKOTA)
COUNTY OF FALL RIVER) : ss ADMISION OF SERVICE

I, Donald Jacobs, do hereby certify that the above subpoena came into my possession on the 10 day of February, 1999. I hereby admit service of the same.

Dated this 10 day of February, 1999, at 12:14, South Dakota.


Donald Jacobs

CITY OF EDMONT

Southwestern Gateway to the Black Hills

(605) 642-7422

Box A

603 Second Avenue

Edgemont, South Dakota 57735



February 22, 1999

Mr. John Hatch
Chief Engineer
Water Rights Program
Department of Environmental & Natural
Resources - State of South Dakota
523 E. Capitol
Pierre, SD 57501-3181

Dear Mr. Hatch:

Please be advised that we wish to participate in the upcoming hearing involving the cancellation of a Portion of Vested Water Right No. 1850-2, Igloo Water Company.

This affects wells in the Madison Aquifer and the City of Edgemont will be adversely affected, as the city wells draw their water from this aquifer. Historically we have drawn water for some time, and during the operation of the Black Hills Army Depot their use of the water greatly impacted pressure and availability of water in Edgemont.

Thank you.

Sincerely,

Gary D Martin
Mayor
City of Edgemont



Dora R. Henderson
Susan R. Henderson
HC 48 Box 215
Provo, SD 57774

605-662-5150

February 22, 1999

Mr. John Hatch
Chief Engineer
Water Rights Program
Department of Environment & Natural
Resources
523 E. Capitol
Pierre, SD 57501-3181

Dear Mr. Hatch:

Re: Cancellation of a Portion of
Vested Water Right No. 1850-2,
Igloo Water Company

Please be advised that we wish to participate in the upcoming hearing involving Vested Water Right No. 1850-2.

Since 1972, our ranch has used water from the Igloo Water Wells as livestock water for our ranch. Due to the many problems with the administration of this water system, we drilled a new well on the ranch but the Provo/Igloo water system remains a source of water for the ranch which we wish to protect.

We are aware that Mark Hutton and his father, Burton Hutton are seeking an 800 gallon per minute permit from Well No. 1 of the Igloo/Provo system.

We are greatly concerned that this huge draw down of water in a well so very close to Well No. 2 which Provo Township is now administering, will destroy that wells' water supply. Indeed, this much water appropriated from the Madison aquifer might, and probably would, lower the water tables in all the formations and lower the water in wells in Edgemont, Hot Springs, and surrounding ranches such as ours.

We feel that it is essential for the economic and social health of the area that the water supply for the region be protected, with adequate water allocated for the existing wells and ranches and towns that have historically used the water.

via Fax 605-773-4068
and Mail

SRH/ms

Sincerely yours,

Dora R. Henderson

Dora R. Henderson

Susan R. Henderson
Susan R. Henderson

Nelson's Oil & Gas, Inc.

North 6th and Truck Bypass

PO Box 690

Edgemont, SD 57735

DATE: February 22, 1999
TO: John Hatch - Water Rights Program
COMPANY: DENR - STATE OF SD
FAX NUMBER: 605-773-4068

FROM: Susan R Henderson
COMPANY: Henderson Ranch Ph. 662-5150
I will be sending 2 pages including this cover sheet.

If there is a problem or interruption, please call me at (605-662-7500) for assistance.

Our fax number is (605-662-6381) for any return correspondence.

SPECIAL INSTRUCTIONS

Re: Cancellation Hearing - Water Right 1850-2
Please confirm receipt of this letter and
provide copy to Diane Best.

Thank you.

Susan Henderson

605 - 662-5150

(605) 662-7422 Box A 603 Second Avenue
Edgemont, South Dakota 57735

Gary D Martin
Mayor
City of Edgemont





Dora R. Henderson
Susan R. Henderson
HC 48 Box 215
Provo, SD 57774

605-662-5150

February 22, 1999

Mr. John Hatch
Chief Engineer
Water Rights Program
Department of Environment & Natural
Resources
523 E. Capitol
Pierre, SD 57501-3181

Dear Mr. Hatch:

Re: Cancellation of a Portion of
Vested Water Right No. 1850-2,
Igloo Water Company

Please be advised that we wish to participate in the upcoming hearing involving Vested Water Right No. 1850-2.

Since 1972, our ranch has used water from the Igloo Water Wells as livestock water for our ranch. Due to the many problems with the administration of this water system, we drilled a new well on the ranch but the Provo/Igloo water system remains a source of water for the ranch which we wish to protect.

We are aware that Mark Hutton and his father, Burton Hutton are seeking an 800 gallon per minute permit from Well No. 1 of the Igloo/Provo system.

We are greatly concerned that this huge draw down of water in a well so very close to Well No. 2 which Provo Township is now administering, will destroy that wells' water supply. Indeed, this much water appropriated from the Madison aquifer might, and probably would, lower the water tables in all the formations and lower the water in wells in Edgemont, Hot Springs, and surrounding ranches such as ours.

We feel that it is essential for the economic and social health of the area that the water supply for the region be protected, with adequate water allocated for the existing wells and ranches and towns that have historically used the water.

via Fax 605-773-4068
and Mail

SRH/ms

Sincerely yours,

Dora R. Henderson

Dora R. Henderson

Susan R. Henderson
Susan R. Henderson



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

February 24, 1999

TO: James Olson
Counsel for Provo Township
Wilson, Olson, Nash & Becker, P.C.
P.O. Box 1552
Rapid City, SD 57709

Kenneth Dewell
Counsel for Mark Hutton
Viken, Viken, Pechota, Leach
& Dewell
1617 Sheridan Lake Road
Rapid City, SD 57702-3483

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



SUBJECT: Cancellation of a Portion of Vested Water Right No. 1850-2, Igloo Water Company

The hearing before the Water Management Board for cancellation of the portion of Vested Water Right No. 1850-2 relating to Well No. 1 will be held at 10:30 am (Central Time) on March 3, 1999 in the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD.

To date, the City of Edgemont, Dora Henderson and Susan Henderson have filed petitions to participate in the hearing. A copy of these petitions are enclosed for Mr. Olson and Mr. Dewell. Also, a copy of the staff report in this matter is enclosed. It is our intention to distribute this report to the Water Management Board members at the time of hearing.

Diane Best, who is out of the office this week, asked me to remind all parties that testimony at the March 3rd hearing is to be limited in scope to the cancellation of the portion of Vested Water Right No. 1850-2 relating to Well No. 1 as specified in my notice dated January 5, 1999. The March 3rd hearing is not the time or place for consideration of either Mark Hutton's or Provo Township's pending water right permit application for Well No. 1.

enclosure

c: Diane Best, Assistant Attorney General
Patrick Ginsbach, Fall River County States Attny, Room 301, 906 N River Road, Hot Springs SD
Parties of Record to Water Permit Application Nos. 2362-2 and 2388-2

COMBINED PARTIES OF RECORD LIST
for
WATER PERMIT APPLICATION NO. 2362-2, Provo Township
&
WATER PERMIT APPLICATION NO. 2388-2, Mark Hutton

Applicant for Application No. 2362-2

Provo Township
c/o Lanoir Pederson, Clerk
PO Box 487
Provo, SD 57774-0487

represented by:
James W. Olson
Wilson, Olson, & Nash, P.C.
P.O. Box 1552
Rapid City, SD 57709

Applicant for Application No. 2388-2

Mark Hutton
3803 Headlight Mile Road
Strasburg, CO 80136

represented by:
Kenneth Dewell
Viken, Viken, Pechota, Leach & Dewell
1617 Sheridan Lake Road
Rapid City, SD 57702

Petitioners

Fall River County
c/o Patrick M. Ginsbach
Fall River States Attorney
906 North River Street, Room 301
Hot Springs, SD 57747

Cindy Brunson
HC 48, Box 218
Provo, SD 57774

Gary D. Martin, Mayor
City of Edgemont
P.O. Box A
Edgemont, SD 57735

Georgene LeBar
LeBar Ranches
P. O. Drawer O
Douglas, WY 82633

Ron Semler, Manager
Evans Plunge
P.O. Box 610
Hot Springs, SD 57747

Dora R. Henderson &
Susan R. Henderson
Box 731
Edgemont, SD 57735



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

RETURN SERVICE REQUESTED



- ☐ For return to sender
☐ Insufficient address
☐ Unclaimed
☒ Attempted, Not in LeBar Ranches
☐ No Such Street or P.O. Drawer
☐ No Mail Recipient
☐ Other _____
- Rto. No. _____ Car. _____

Georgene LeBar

LeBar Ranches

P.O. Drawer 0

Douglas, WY 82633

AUTO



CANCELLATION OF A PORTION OF VESTED WATER RIGHT No. 1850-2, IGLOO WATER COMPANY

INTRODUCTION

The Chief Engineer has scheduled a hearing for cancellation of the portion of Vested Water Right No. 1850-2 relating to Well No. 1 (Hutton well). This vested water right is currently held in the name of Igloo Water Company for 0.45 cubic feet of water per second from two Madison Formation wells for municipal and rural water system use. Today, the water distribution system provides water to the Town of Provo, local ranchers and a residential group at Igloo.

The wells are now owned by two owners. Provo Township owns Well No. 2 located in the SW ¼ NE ¼ Section 3, T10S, R2E. This well was constructed on or about December 10, 1943 and currently serves as the primary water source for the water distribution system. Mark Hutton purchased Well No. 1 at auction. This well was constructed in or about June 21, 1942 and is located in the SE ¼ SE ¼ Section 3, T10S, R2E. Well No. 1 is listed as a stand by well on Vested Water Right No. 1850-2.

BACKGROUND

The wells authorized under No. 1850-2 were developed to supply water for the Black Hills Ordnance Depot operated by the War Department beginning in 1942. The Depot was used for long term storage of ammunition. The Depot was closed in 1967. Today, many of the buildings are gone and the water distribution system altered to provide water to local residents. The two wells are still in existence.

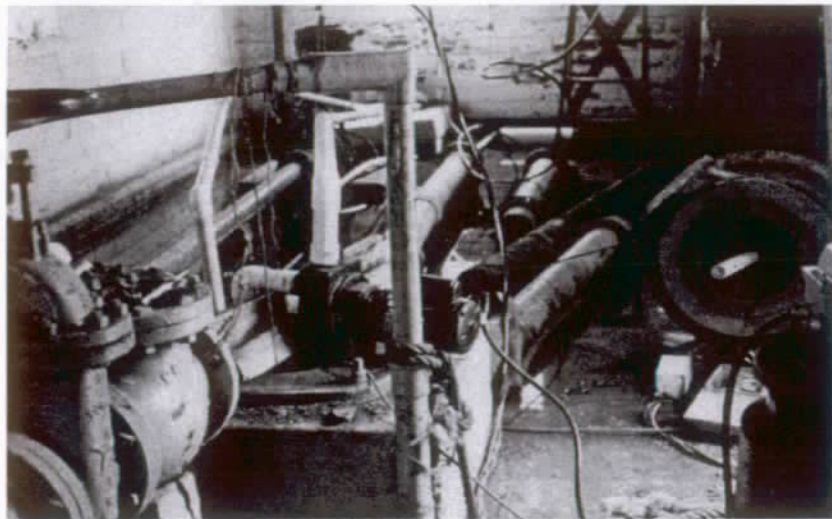
The Igloo Water Company filed a vested water right claim in 1983. Recognized Vested Water Right Claim No. 1850-2 was issued for 1.78 cfs (800 gpm) from the two wells to supply the water system. In 1986, the state legislature enacted SDCL 46-2A-16 requiring that claims for vested rights filed with the Chief Engineer prior to July 1, 1986, be public noticed for validation. Vested Water Right No. 1850-2 was validated in 1992 for 1.78 cfs as advertised in accordance with SDCL 46-2A-17 even though inspections did not agree with the quantity of water as validated.

Mr. Leslie England, attorney for the Igloo Water Company, wrote a letter dated May 15, 1992, stating that Well No. 2 was pumped on a daily basis and Well No. 1 was relied upon as a backup well. Well No. 2 was described as flowing at a rate of 200 gpm. Based on this information, the vested right water license was reissued for 0.45 cfs (200 gpm) including a statement that Well No. 1 is a standby well. A copy of Vested Right Water License No. 1850-2 is attached.

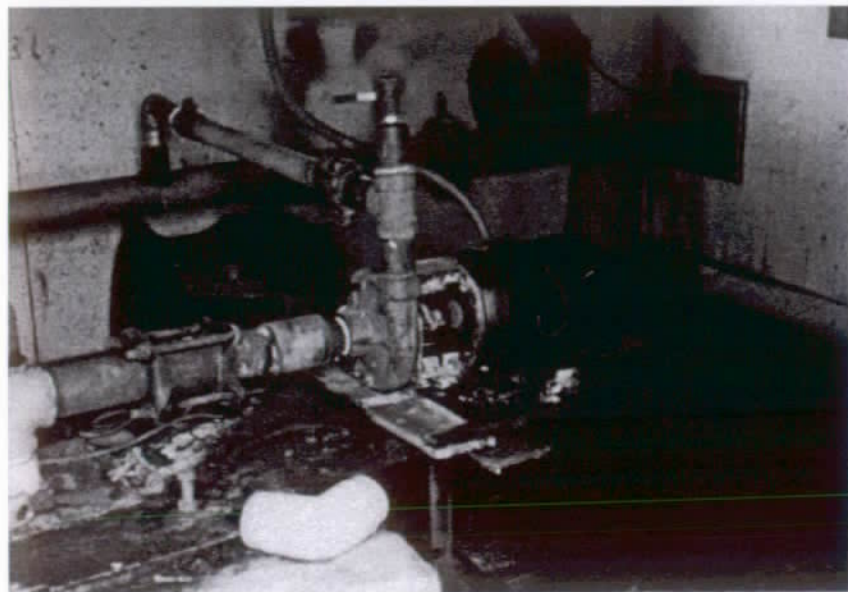
INVESTIGATIONS OF WELL NO. 1

Currently Well No. 1 is listed as a standby well on Vested Right Water License No. 1850-2. Past staff investigations of Well No. 1 include:

- 1989 Jim Wendte, WR staff engineer, investigated the two wells. Based on this investigation a Notice of Order to control the flowing wells was issued to Consolidated Management Corporation. The notice states the wells flow approximately 100 gpm each with a large amount of the water flowing to waste.
- 1990 David Brown, WR Staff Engineer, spoke with Garland Erbele from the Drinking Water Program who indicated the two wells are either controlled or being used at the time by the water distribution system.
- 1991 Eric Gronlund, WR Staff Engineer, conducted an investigation in July based on a complaint. Well No. 1 was found not controlled and disconnected from the distribution system. A small jet pump was installed for use by a vegetable farm. The use of water by the vegetable farm was an unauthorized use of water.



Picture of Well No. 1 taken July 26, 1991



Picture of Well No. 2 taken July 26, 1991

1991 Ken Buhler, WR Staff Engineer, inspected the two wells authorized by No. 1850-2 in October. Mr. Buhler found that Well No. 1 was not in use at the time. The well casing terminates without a valve or the necessary plumbing to connect the well to the distribution system. A submersible pump was laying on the ground outside the pump house. The well was covered with a large piece of sheet metal with a couple of boards on top of the metal. Mr. Buhler witnessed a small flow coming from the well. Earl Ellwanger confirmed to Mr. Buhler that Well No. 1 was a) not in use, b) was not valved, c) could not be shut in completely, d) had a minimal flow, and e) needs to be pumped with a submersible pump to be used.

DOCUMENTS IN FILE REGARDING STATUS OF WELL NO. 1

May 15, 1992	Letter from Leslie England, attorney for Fall River Properties (previously Waste Technologies) states Well No. 1 is relied upon as a backup well.
February 29, 1996	Phone conversation between Ron Duvall, WR staff engineer, with Jack Brunson where Mr. Brunson states the well has not been operational since at least 1987 when he was notified that the pump did not work. The pump is supposedly stuck in the well.
February 20, 1997	Letter to Mr. Olson from Mr. Dewell where Hutton acknowledges a problem with the well because the pump fell inside the well casing. Mr. Dewell further explains Mr. Hutton's intention to correct the problem.

APPLICABLE STATUTES & RULES

SDCL 46-5-37 Failure to use beneficially appropriated water – Forfeiture for nonuse – reversion to public. When any person entitled to the use of appropriated water fails to use beneficially all or any part of such water for the purpose for which it was appropriated, for a period of three years, such unused water shall revert to the public and shall be regarded as unappropriated public water.

SDCL 46-5-37.1 Abandonment or forfeiture of permits or rights – Recommendation of chief engineer for cancellation. Upon the initiative of the chief engineer or upon petition by any interested person and after reasonable notice to the holder of the right or permit, if he can be located, the chief engineer may investigate whether or not a water permit or right has been abandoned or forfeited. After the investigation, the chief engineer may recommend cancellation of the permit or right for reason of abandonment or forfeiture. The recommendation, notice and hearing shall be conducted pursuant to the procedure contained in chapter 46-2A.

Administrative Rule 74:02:01:37.01. Legal excuse for nonuse of water. Legal excuse for nonuse of water suspends the period of nonuse specified in SDCL 46-5-37. Legal excuses for nonuse of water include but are not limited to the following:

- (1) Unavailability of water to satisfy a permit, right, or vested right;
- (2) Legal proceedings which prevent the use of water;
- (3) Water use under existing climatic conditions would result in a waste of water.

Administrative Rule 74:02:01:37.02 Exceptions to nonuse of water. A water supply maintained for either fire protection or standby purposes, or both, is not nonuse of a water permit, right, or vested right if the water diversion works are maintained in working condition for immediate use upon demand. Works to divert appropriated water must include wells equipped with functional motors, pumps, and appurtenances to convey water or functional motors, pumps, and appurtenances to convey water from a surface source, as applicable. Wells that are capped, sealed, or plugged are not standby or fire protection works.

CONCLUSIONS

1. Vested Water Right License No. 1850-2 appropriates 0.45 cfs from two Madison Formation well. Well No. 1 is listed on the vested water right as a standby well.
2. Well No. 1 was not connected to the water distribution system during two Water Right staff investigation conducted in 1991.
3. The well has not been maintained in working condition for immediate use upon demand since at least 1991.
4. The 1992 validation of Well No. 1 under Vested Water Right No. 1850-2 does not preclude abandonment and/or forfeiture for nonuse pursuant to SDCL 46-2A-18.
5. Legal excuse for nonuse of water includes but is not limited to unavailability of water, legal proceedings, and climatic conditions.
6. If the Board determines that Well No. 1 has been forfeited for nonuse, Vested Water Right No. 1850-2 should be reissued for 0.45 cfs solely from Well No. 2.

Prepared by:



Eric Gronlund
Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

March 10, 1999

NOTICE

TO: James Olson
Counsel for Provo Township
Wilson, Olson, Nash & Becker, P.C.
P.O. Box 1552
Rapid City, SD 57709

Kenneth Dewell
Counsel for Mark Hutton
Viken, Viken, Pechota, Leach & Dewell
1617 Sheridan Lake Road
Rapid City, SD 57702-3483

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



SUBJECT: Cancellation of a Portion of Vested Water Right No. 1850-2, Igloo Water Company

On March 3, 1999, the Water Management Board cancelled Well No. 1 (Hutton well) from Vested Water Right No. 1850-2. The basis for this action was that Well No. 1 has not been maintained in working condition for immediate use upon demand pursuant to Board Rule 74:02:01:37.02. Vested Water Right No. 1850-2 will now be reissued for 0.45 cubic feet of water per second (200 gpm) solely from Well No. 2 (Provo Township well).

Additionally, Vested Water Right No. 1850-2 will be reissued in the name of Provo Township. This is based on the fact the Provo Township owns the water works system including the one well authorized under the vested water right and that they have filed the necessary transfer of ownership form.

Please contact Diane Best, Assistant Attorney General at (605) 773-3215 if you have any questions.

c: Diane Best, Assistant Attorney General
Patrick Ginsbach, Fall River County States Attorney, Room 301, 906 N River Road, Hot Springs SD

CERTIFICATION

I hereby certify that on March 10, 1999, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 10, 1999, regarding Cancellation of a Portion of Vested Water Right No. 1850-2, Igloo Water Company, addressed as stated below:

James Olson
Counsel for Provo Township
Wilson, Olson, Nash & Becker, P.C.
P.O. Box 1552
Rapid City, SD 57709

Kenneth Dewell
Counsel for Mark Hutton
Viken, Viken, Pechota, Leach & Dewell
1617 Sheridan Lake Road
Rapid City, SD 57702-3483

Patrick Ginsbach
Fall River County States Attorney
Room 301, 906 N. River Road
Hot Springs, SD 57747

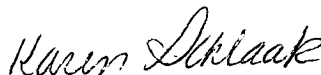
A copy of the above described Notice was sent Inter-office:

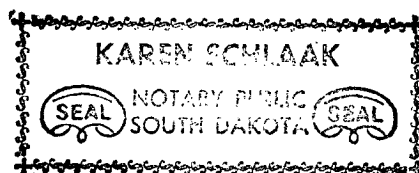
Diane Best, Assistant Attorney General, Capitol Building.


Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 11th day of March, 1999


Notary Public



KAREN SCHLAACK, Notary Public
My Commission Expires
April 1, 2000

STATE OF SOUTH DAKOTA

REISSUED VESTED RIGHT WATER LICENSE NO. 1850-2

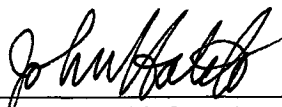
(1) Igloo Water Company, Waste Technologies Development Corporation, 17251 17th St, Suite D, Tustin CA was issued Vested Right Water License No. 1850-2, for validation of a vested right claim to appropriate 0.45 cubic feet of water per second from groundwater (two wells), Fall River County, South Dakota, for municipal and rural water system purposes. Vested Water Right No. 1850-2 was validated March 4, 1992 with priority dates of June 21, 1942 and December 10, 1943. Construction of the described water supply system and application of water to beneficial use has been completed and complies with applicable provisions of South Dakota State Law.

Reissued Vested Right Water License No. 1850-2 has been transferred to Provo Township.

On March 3, 1999, the Water Management Board cancelled Well No. 1 from Vested Right Water License No. 1850-2 by forfeiture for nonuse. The license is being reissued to reflect this change.

(2) It is certified that the vested right owner is entitled to divert 0.45 cubic feet of water per second for beneficial use. The location of the diversion point is: Well No. 2 - SW ¼ NE ¼ Section 3-T10S-R2E.

(3) Pursuant to Section 46-5-30.1 Provo Township, c/o Lanoir Pedersen, Clerk, PO Box 487, Provo SD 57774-0487 the holder and/or owner of Vested Water Right No. 1850-2 is reissued a license to appropriate 0.45 cubic feet of water per second from groundwater (one Madison Formation well) with a priority date of June 21, 1942 from the location specified in (2) of this license for the purpose of municipal and rural water system use. This license is subject to any limitations, conditions or qualifications listed in Vested Water Right No. 1850-2 and subject to South Dakota State Law.



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

APR 6 1999

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

APR 6 1999

Provo Township
c/o Lanoir Pedersen, Clerk
PO Box 487
Provo SD 57774-0487

Dear Ms. Pedersen:

Enclosed are Reissued Vested Right Water License No. 1850-2 and the receipt for the payment of the notice of transfer fee. The transfer has been completed and No. 1850-2 is now listed in the name of Provo Township.

As long as the township uses the water beneficially as stated in the Reissued 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 Program
605 773-3352

ks

enclosures

c: James Olson, Attorney
Susan Henderson



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 11, 2009

Re: CWFCP Provo Township
2009G-301, Water Storage and Distribution System Rehabilitation Project
P&S No.: 08-135

Gene Plant, President
Provo Township Board of Supervisors
PO Box 480
Provo, SD 57774

Dear Mr. Plant:

The Department of Environment and Natural Resources (DENR) is in receipt of three sets of the plans and specifications for the Water System Rehabilitation Project for Provo Township. The Department has reviewed and hereby approves the plans and specifications for this project. The following are conditions of approval:

- Section 7.2 of the Instructions to Bidders allows the bids of bidders with a reasonable chance of receiving the award to be held for 36 days. State bid law allows holding these bids for a maximum of 30-days. Revise this section to conform to state bid law.
- Under the "Summary of Work" section of the General Requirements and also on Drawing 2/8, the top of the 8 5/8-inch diameter casing is identified at 810 feet below grade. Consequently, the specifications call for the installation of 810 feet of 8 5/8-inch diameter casing. The well information on file with DENR-Water Rights Program identifies the 8 5/8-inch casing at about 380 feet below grade. Review your records and calculations and update the plans and specifications as necessary.
- The specifications call for grouting the 24-inch diameter corrugated PE culvert in place. It is not clear on how this can be accomplished. Provide a detail in the plans addressing this issue.
- Include a note on the plans alerting the contractor that a discharge permit may be necessary for the disposal of water during construction. The note should advise the contractor to contact the Department of Environment and Natural Resources prior to construction to determine what permits are required.

- The department recommends that the well bypass be eliminated after the rehabilitation is complete. If the bypass is not eliminated then a flow restrictor must be placed immediately downstream of the 8-inch diameter gate valve on the emergency by-pass piping after completion of the well improvements. The flow restrictor must restrict the flow to not exceed 18 gallons per minute. Include this information on the plans with notes and details addressing elimination of the bypass or installation of the flow restrictor.
- Regulations governing removal of asbestos-containing material require that an inspection of the well house be conducted by a certified asbestos inspector to identify the condition of the material. This inspection will determine if the material should be removed by a certified asbestos abatement company. The inspection should be completed and a notification of demolition be submitted 10 days prior to removal of the asbestos. For more information, please contact Erin Schmidt of the DENR Waste Management program (605-773-3153). The inspection report should be made part of the plans and specifications to inform bidders of the requirements for removing the well house siding.

Our review is primarily to determine compliance with the minimum sanitary engineering requirements and does not cover items, such as, quality of material, structural soundness, electrical and mechanical design features. Approval of the plans and specifications does not in any way release the applicant from the responsibility that the project will be an operable facility/utility when construction is completed. Provide a set of plans and specifications to the department after addressing these comments.

If you have any questions, please contact us.

Sincerely,

Michael A. Perkovich, P.E.
Natural Resources Engineering Director
Water Resources Assistance Program
Phone: (605) 773-4216

Enclosure

Cc: Keith Anderson, Anderson Engineering, Edgemont
Bill Lass, Black Hills Council of Local Governments, Rapid City
Mark Mayer, DENR



ANDERSEN ENGINEERS

Professional Engineering & Environmental Consultants
P.O. Box 446 • Edgemont, SD 57735 • (605) 662-5500

March 12, 2009

RECEIVED

MAR 13 2009

WATER RIGHTS
PROGRAM

Mr. Kent Buhler
Water Rights Specialist
SD DENR
Joe Foss Building
Pierre, SD 57501

Re: Provo Township Well #2 – Provo Water System Rehabilitation Project

Dear Mr. Buhler:

At the pre-bid conference held March 11 for the referenced project, Mr. Jack Brunson represented that he had talked with you, and that you had indicated to him that it was the State of South Dakota's position that there was no requirement that the flow from the well be shut in. Since that position is directly contrary to our understanding of ARSD 74:02:04:76 and your previously stated position, we are requesting clarification of this matter.

Please copy the listed parties with your response.

Sincerely,

ANDERSEN ENGINEERS, Inc.
Keith E. Andersen, PE/PLS, president

Cc: Jack Brunson
Joe Falkenberg, Fall River County Commission
Herb Plant, Provo Town Board

FROM : JACK CINDY BRUNSON

FAX NO. : 6056627824

Mar. 13 2009 02:37PM P1

March 13, 2009

DC 7R
att: Eric Grunland and Ron Wural

Gentlemen.

I'm writing this letter to clarify a letter I received from Keith Anderson. I talked with you previously about the overflow coming out of the well house belonging to Provo Township. Eric spoke with Department Engineers and it was your understanding along with mine that 18 gallons per minute could be released for domestic use.

You suggested we work out an arrangement with Provo Township. We contacted Pat Ginsbach to write a letter to Jim Olson Provo Township Attorney in regard to this matter. Mr Ginsbach and Mr Olson spoke by phone and the letter I'm enclosing is to clarify what they discussed. Mr Olson thought this sounded reasonable and was going to present it to the Township.

FROM : JACK CINDY BRUNSON

FAX NO. : 6056627824

Mar. 13 2009 02:37PM P2

At the prebid conference
my husband told Mr Anderson
we talked to the state and there
was no mention of names, so
please tell Mr. Buhler we made
no mention we spoke directly
to him. My husband also talked
to Joe Falkenburg and told him
of our proposal to Provo Township.
As stated in our letter we would
like to get this matter cleared up.

If you have any questions please
feel free to call or write.
Thank you for your attention to
this matter.

Sincerely
Jack & Cindy Brunson
1122 Fort Igloo Rd
Colgemont,
SD 57735

605-662-7871

FROM : JACK CINDY BRUNSON

FAX NO. : 6056627824

Mar. 13 2009 02:38PM P3

FARRELL, FARRELL & GINSBACH, P.C.
LAWYERS441 NORTH RIVER STREET
HOT SPRINGS, SOUTH DAKOTA 57747

PHONE: 605.745.5161

FAX: 605.745.3154

EMAIL: farrellginsbach@gwtc.net

MARTIN P. FARRELL (1940-1995)**JANE M. FARRELL, OF COUNSEL****PATRICK M. GINSBACH**
JAMES G. SWORD

March 11, 2009

James W. Olson
Attorney at Law
PO Box 1552
Rapid City, SD 57709

RE: Provo Township - Jack and Cindy Brunson

Dear Jim:

This is a follow-up to our conversation on Wednesday, March 11, 200. At that time I had contacted you on behalf of Jack and Cindy Brunson to make a proposal that they would enter into an agreement with Provo Township that Provo Township could discharge onto to them from the overflow of Well #2 up to 100 gallons per minute with a minimum of 50 gallons per minute. It was the Brunsons' understanding that the water in Well #2 would need to be pumped out or pumped low enough so that the casing could be replaced, and that the water that was being pumped out of there would need to be discharged somewhere. The Brunsons are agreeable that they would give a temporary easement to Provo Township to discharge any water that they need to upon the Brunsons' property as it currently flows to the pond, so that Provo Township would have the necessary access to make the repairs to the well house and the well casing.

As it relates to the well house Brunsons believe that it may be necessary for the contractor to store materials on their property that adjoins that well house. They would give the contractor a temporary easement for storage at that location while the repairs were being made to the well house.

It does appear that water has been discharged from the overflow of Well #2 onto Brunsons' property when it was owned by Brunsons and their predecessors in interest. The Brunsons have no objection to this, but they would like to get the matter cleaned up for their records, so that if they sell in the future, there is some understanding of why that water is being discharged onto them. They would agree that the discharge could take place without any liability to Provo Township or its successors in interest and that the discharge would be allowed to continue, not only as it applied to Jack and Cindy Brunson, but also their successors in interest.

FROM : JACK CINDY BRUNSON

FAX NO. : 6056627824

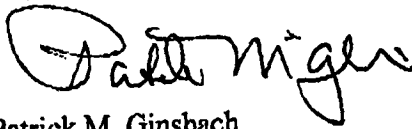
Mar. 13 2009 02:38PM P4

I went through some of the bid documents, and I note that in the General Requirements for the Summary of Work it places the responsibility upon the owner to obtain the temporary easements.

It does appear from the Environmental Assessment Checklist, pages 22 and 23, that the Project Engineer agreed that the project will not stop the overflow and would therefore not affect the pond.

I am enclosing those pages for your reference.

Yours truly,



Patrick M. Ginsbach

PMG/sjs

cc: Jack and Cindy Brunson

Enclosure

FROM : JACK CINDY BRUNSON

FAX NO. : 6056627824

Mar. 13 2009 02:38PM P5

PROJECT MEETINGS

Pre-construction Meeting:

There will be a pre-construction meeting of the Contractor and his representatives involved in the project. Such meeting shall be called by the Owner and Engineer and will be held with the Contractor, Engineer, and representatives of the Owner to review and discuss the proposed progress of the project.

Storage and Protection

The Contractor will be responsible for locating storage areas.

All materials stored on job site shall be properly handled and stored. They shall be protected and covered and placed on blocking off the ground in an approved and safe manner so damage will not be caused to materials in storage.

Contractor may provide such storage sheds and/or trailers for materials stored as deemed necessary but these shall be removed from the site at his expense prior to the acceptance of the work.

The area of storage and site shall be returned to its original condition at the expense of the Contractor.

Arrangements for areas shall be as arranged with the Owner and shall be determined at the pre-construction meeting.

Project Closeout

The Contractor shall at all times keep the premises free from accumulation of waste materials or rubbish caused by his employees or work. At the completion of the work, he shall remove all his rubbish from and about the site and buildings, and all his tools, scaffolding, surplus materials and temporary buildings and installations. He shall leave his work broom clean or its equivalent or as otherwise specified. In case of dispute, the Owner may remove the rubbish and charge the cost to the General Contractor as the Engineer shall determine to be just.

Substantial Completion And Beneficial Occupancy

Contractor shall submit all guarantees, equipment instructions, and manuals required when he requests substantial completion.

When the project is substantially complete and all required submittals are received, Engineer will issue a Certificate of Substantial Completion.

FROM : JACK CINDY BRUNSON

FAX NO. : 6056627824

Mar. 13 2009 02:39PM P6

General Requirements

Summary of Work

Unless otherwise specified, the Contractor shall supply all labor, materials, transportation, apparatus, scaffolding, and tools necessary for the entire proper, and substantial completion of the work and shall install, maintain and remove all equipment of the construction. The Contractor shall be responsible for the sole, proper, and lawful construction in the best workmanlike manner, all the work as shown on the plans, stated in the specifications, or reasonably implied therefrom, all in accordance with the contract documents.

In general, the following work is included:

A. WELL HOUSE DEMOLITION This work shall include demolition of the existing well house and appurtenant structures. Special care shall be required in the removal and proper disposal of the asbestos-containing siding.

B. RELINING AND PRESSURE GROUTING OF THE EXISTING WELL This work shall include installation of 810 feet of new 8 5/8" steel well casing inside of the existing 16" diameter well casing, installation of 24" PE corrugated surface pipe as shown, and pressure grouting of the annular space between the casings.

C. FURNISH AND INSTALL NEW WELL HOUSE The existing concrete cistern shall be carefully backfilled with the concrete rubble from demolition of the old floor and clean pea gravel. A new, reinforced concrete floor shall be poured, and a pre-fabricated fiberglass well house installed as shown.

D. INSTALL NEW PUMP, PIPING, AND ELECTRICAL CONTROLS A new pump, piping and electrical controls as shown on the drawings shall be furnished and installed. The existing power cable from the existing main disconnect shall be placed in conduit and/or buried as required. All electrical work shall be in accordance with the requirements of the NEC latest edition and specific requirements of Black Hills Power, Inc.

E. SECURITY FENCING New chain link security fencing shall be constructed around the well as shown on the drawings. Additionally, an area of 50' x 50' around the water tower shall be enclosed with chain link fencing.

F. WATER METERS New water meters and meter pits shall be installed at the residence locations in Provo and in the Igloo Subdivision at the locations identified by the Owner.

FROM : JACK CINDY BRUNSON

FAX NO. : 6056627824

Mar. 13 2009 02:39PM P7

G. BACKFLOW PREVENTION DEVICES Watts Series 919QT Reduced Pressure Zone Backflow Assemblies (1" size), or approved equal, shall be installed in freeze proof pits on all lines serving livestock watering tanks.

H. INSTALL HDPE WATER LINES New HDPE waterline shall be constructed as shown on the plans. Pipe shall be new IPS High Density Polyethylene pipe meeting the requirements of ASTM F714, ASTM D 3035, ASTM C901/C906, and NSF-61. The pipe shall have a minimum bury depth of 6 feet, and shall be installed in accordance with the recommendations of the pipe manufacturer. Care shall be taken during storage of the pipe and installation to ensure the inside of the pipe is kept free of dirt, debris and foreign material. As shown on the plans, the waterline under the existing RR tracks on the Provo line shall be installed by boring. This will require the installation of a 6" schedule 40 steel conduit.

I. BNSF RR BORE This work shall include the construction of a new waterline under the BNSF RR at Provo as shown in the project details. This work shall be coordinated with the BNSF Roadmaster.

J. WATER TANK REHABILITATION This work includes construction of fencing as shown on the plans, fabrication and installation of new manhole covers, installation of water level controls, and installation of a water-proof liner on the inside of the tank as detailed in the specifications. Following installation and curing of the liner, the tank shall be cleaned and disinfected as detailed for the water lines.

K. WATER SYSTEM DISINFECTION The water mains and water storage tank shall be cleaned, flushed, and disinfected in accordance with the requirements of AWWA C651-05. Final flushing shall be done by the Contractor after notification of a satisfactory chlorine residual test by the Owner. After the applicable retention period, the chlorinated water shall be flushed from the system until chlorine measurements reach 4 mg/L. Flushing water shall be land applied for disposal.

The Owner will collect two sets of samples at least 24 hours apart after completion of final flushing as indicated above. Samples will be tested for coliform organisms and standard plate count according to the latest edition of the Standard Methods for the Examination of Water and Wastewater. Sampling and laboratory costs of the initial sampling will be the Owners responsibility.

If disinfection fails to produce satisfactory bacteriological counts, the pipe shall be reflushed and resampled. If the counts from analysis of the second samples exceed the acceptable criteria, the system shall be re-disinfected and retested until satisfactory results are obtained. The Contractor shall be responsible for all costs associated with retesting.

L. HYDROSTATIC TESTING After installation and flushing of the water main, it shall be filled with water and pressurized to 150 psi and sealed. The piping system shall maintain 150 psi shut in pressure for 2 hours with an allowable pressure loss of 2 psi.

FROM : JACK CINDY BRUNSON

FAX NO. : 6056627824

Mar. 13 2009 02:40PM PB

All guarantees begin as of date of Substantial completion.

At Contractor's request the Engineer will make one semi-final inspection to determine readiness for close-out of project; Engineer will issue a punch list indicating items required to be completed, replaced or repaired.

At Contractor's written request the Engineer will make the final inspection to determine completion of all work including punch list items.

Additional final inspections will be charged Owner at Engineer's hourly rate plus expenses. Owner will back charge Engineer charges against retained amount due Contractor.

SITE ACCESS AND PERMITS

The Owner shall provide all notification and secure any permits required under Section 404 of the Clean Water Act.

The Owner shall arrange for temporary easements or access agreements from adjacent property owners in order to provide the Contractor with access reasonably required to complete the work.

Site Visit: The Contractor shall visit the site and verify the existing site conditions prior to submitting a Bid on this Project. In submitting a bid on the project, the contractor certifies that he/she has satisfied himself/herself as to the adequacy of the plans in describing the work to be done and as to the site conditions.

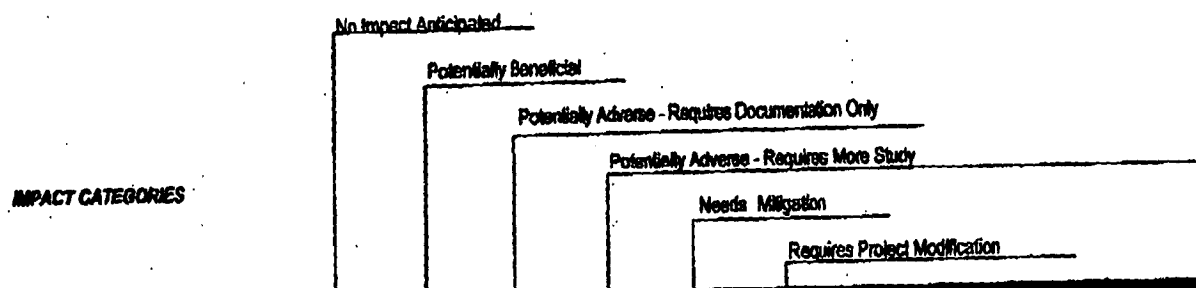
Excavation: Excavation shall be carried out as required to complete the work called for in the plans and specifications and as directed by the Engineer.

Section B
Environmental Requirements

**FORM 13 –
ENVIRONMENTAL ASSESSMENT
CHECKLIST – Page 4**

GRANT RECIPIENT: Fall River County
GRANT #: CDBG # 0607-111
PROJECT: Provo Township Water Project

DATE: 11/1/07



Cultural Facilities	X						There are no cultural facilities in the project vicinity. (Findings of Environmental Certifying Officer, August, 2007).
Transportation	X						The project involves upgrades to the existing Provo Township water system. Access to the existing system is provided via access easements and this will not change as a result of the project. (Information provided to BHCLG's by Provo Township, Summer, 2007).
Natural Features							
Water Resources	X						There is a small pond just downhill from the existing well house that is caused by overflow from the well. According to the project engineer, this project will not stop this overflow and will therefore not affect the pond. (Conversation between BHCLG's staff and project engineer, July, 2007). Drinking Water: Project is not expected to have adverse impacts to drinking water resources. (See 9/5/07 response from Mark Mayer of SD DENR).

FROM : JACK CINDY BRUNSON

FAX NO. : 6056627824

Mar. 13 2009 02:41PM P10

Section B
Environmental Requirements

FORM 13 – ENVIRONMENTAL ASSESSMENT CHECKLIST – Page 4

GRANT RECIPIENT: Fall River County
GRANT #: CDBG # 0607-111
PROJECT: Provo Township Water Project

DATE: 11/1/07

IMPACT CATEGORIES

No Impact Anticipated

Potentially Beneficial

Potentially Adverse - Requires Documentation Only

Potentially Adverse - Requires More Study

Needs Mitigation

Requires Project Modification

							Ground Water: Project is not expected to have adverse impacts to ground water quality provided the design and construction meets the State-recommended design criteria for public water supply facilities. Also, there are no known petroleum or chemical spill sites in the construction area but in the unlikely event contaminated soil is found during construction, the contamination must be reported to the DENR with the contaminated soil being temporarily stockpiled and sampled. (Refer to August 30, 2007 letter from John Foster of SD DENR).
Surface Water	X						There is a small pond just downhill from the existing well house that is caused by overflow from the well. According to the project engineer, this project will not stop this overflow and will therefore not affect the pond. (Conversation between BHCLG's staff and project engineer, July, 2007). Little or no impact to surface water resources is anticipated (see 9/27/07)



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 16, 2009

Keith Andersen
Andersen Engineers
PO Box 446
Edgemont SD 57735

Dear Mr. Andersen:

Your March 12th letter to Ken Buhler requests clarification of DENR's position regarding the Provo Township well. The letter states that at a recent pre-bid conference Jack Brunson represented the State of South Dakota's position as there being no requirement that the flow from the well be shut-in.

DENR position is set forth in one of the conditions in the February 11, 2009 letter from Mike Perkovich approving the plans and specifications for this project. DENR recommended that the well bypass be eliminated. However, if the bypass is not eliminated then a flow restrictor must be placed immediately downstream of the 8-inch diameter gate valve on the emergency by-pass piping. The flow restrictor must restrict the flow to not exceed 18 gallons per minute. DENR's preference is that the well bypass be eliminated. However, DENR recognizes Provo Township's right, if they choose, to allow a domestic use of the overflow from the well as long as the flow does not exceed the domestic use criteria of 18 gpm and the flow is reduced to the amount needed or to a minimum when not being used.

I spoke with Cindy Brunson about this issue on March 5, 2009. During that conversation it was explained that Provo Township is allowed an 18 gpm overflow for domestic purposes without further water right permitting. If there is to be an overflow greater than the domestic use threshold of 18gpm, a new water right permit will need to be obtained. In either event, DENR made it clear that Provo Township as the owner of the well controls whether to make a domestic use overflow from the well.

I hope this further clarifies DENR's position. If you have any further questions regarding this issue, please contact Ken Buhler or myself at (605) 773-3352.

Sincerely,


Eric Gronlund
Water Rights Program

c: Jack and Cindy Brunson, 11122 Fort Igloo Road, Edgemont SD 57735

1850-2

Gronlund, Eric

From: Hilding, Randy
Sent: Wednesday, September 02, 2009 9:35 AM
To: Gronlund, Eric
Cc: Buhler, Ken
Subject: Provo Township Well

I performed a routine drinking water inspection for Provo Township on August 20, 2009. When I arrived at the new wellhouse with Tom Simons, my contact at Provo, I noticed water from the well overflow pipe flowing in a ditch to a stock pond at an estimated flow between 50 to 100 gpm. This flow exceeded the 18 gpm maximum that the township had agreed to provide to the pond landowner. Tom called a Mr. Green who had been working on the wellhouse. He arrived and shut the flow down to less than 18 gpm by our estimates. Mr. Green explained that he had forgotten to shut down the valve when he left the previous day. Mr. Green also explained that the flow controller that that was to limit flow to 18 gpm had not been installed yet. Within minutes Mr. Brunson, the landowner, drove up and asked why his water had been shut off. Mr. Green replied that Brunson was entitled to no more than 18 gpm and that was what he was getting. Mr. Green added that a controller would be installed on the wellhead to limit the flow to 18 gpm. Mr. Green and Mr. Brunson left and Tom and I continued the inspection.

RandyH

09/02/2009