

Considered: \_\_\_\_\_

VESTED RIGHT  
WATER PERMIT NO. 1873-2

MAP No. 1873-2

Name of Applicant William F Fitzner

Post Office Address Route #1, Box 78, Oral, S.D. 57766

Amount of Water Claimed 0.80 Total Acres 56.00

Source of Water Supply Hay Canyon

Water to be used for IRR County Fall River

About 7E 1 miles South of Oral

PROOF OF PUBLICATION: Received \_\_\_\_\_ Not Received \_\_\_\_\_

APPLICATION: Approved 7-11-84 Subject to \_\_\_\_\_

F.F. & C.L. Adopted \_\_\_\_\_ Not Approved \_\_\_\_\_ Deferred \_\_\_\_\_

PRIORITY Date Received 4/23/84 Fee 10.50 Remarks \_\_\_\_\_

01/01/1909 Water Spreading system w/4 diversion pts on Hay Canyon

Corrected Application Received \_\_\_\_\_ Period of Annual Use 4/1 to 10/1

WATER QUALITY APPROVAL RECEIVED \_\_\_\_\_ APPROVED/CONDITIONAL (Circle one)

W-1 Description same as Application YES \_\_\_\_\_ NO \_\_\_\_\_ REMARKS \_\_\_\_\_  
not applicable

Diversion Point \_\_\_\_\_

Four points on Hay Canyon in NE $\frac{1}{4}$  SW $\frac{1}{4}$ ; SW $\frac{1}{4}$  NW $\frac{1}{4}$   
and two points in SW $\frac{1}{4}$  NE $\frac{1}{4}$  all in Section 1,  
T8S, R8E

Land to be Irrigated \_\_\_\_\_

NW $\frac{1}{4}$  and W $\frac{1}{2}$  NE $\frac{1}{4}$ , Section 1-T8S-R8E

|                                                                                                                               |  |  |  |  |  |
|-------------------------------------------------------------------------------------------------------------------------------|--|--|--|--|--|
| <div>Diagram showing a 6x6 grid with 'x' marks in the top-left corner, indicating the location of the diversion points.</div> |  |  |  |  |  |
|                                                                                                                               |  |  |  |  |  |
|                                                                                                                               |  |  |  |  |  |
|                                                                                                                               |  |  |  |  |  |
|                                                                                                                               |  |  |  |  |  |
|                                                                                                                               |  |  |  |  |  |

Well Log: Driller \_\_\_\_\_ Licensed YES \_\_\_\_\_ NO \_\_\_\_\_

Depth of Well \_\_\_\_\_ REMARKS \_\_\_\_\_

Type of Map Drawn PREPARED BY PE Delvin D Brosz Reviewed and the Number  
DWNR

assigned on 4/27/84 By Betty Westlund

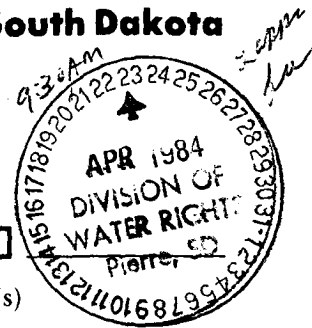
cc: Hanten & Nelson

No. 1873-2 Hydrologic Unit 10120109  
 Map No. 1873-2 Basin UC  
 Newspaper N/A

**Application For Permit To Appropriate Water Within The State Of South Dakota**

Type of Application: Check one or more of the following:

- New ☐ Vested Right ☒ Future Use ☐ Location Notices 178-2 and 179-2
- ☐ Application to amend Permit No. \_\_\_\_\_ with old priority date retained
- ☐ Change diversion point(s) ☐ Add diversion point(s) ☐ Change acreage ☐ Other ☐
- ☐ Application to: ☐ Change use ☐ Change diversion point(s) ☐ Add diversion point(s)
- ☐ Add Acreage ☐ Increase diversion rate ☐ Other \_\_\_\_\_ See Permit No. \_\_\_\_\_
- ☐ Application to: ☐ Use ☐ Transfer water reserved by Future Use Permit No. \_\_\_\_\_



1. Name of Applicant William F. Fitzner Phone No. 424-6295
- Post Office Address Route #1, Box 78 Oral \_\_\_\_\_ State SD 57766  
 (Street, RR or Box) Zip Code
2. Amount of water claimed (c.f.s) 0.8 Total acres irrigated 56
3. Source of Water supply Hay Canyon
4. Location of point of diversion (1) - S85°E 1980' from the NW Corner; (2) - S51°W 3100' from NE Corner; (3) - S48°W 3440' from NE Corner; (4) - S30°E 2510' from the NW Corner  
all in Section 1, T8S, R8E County Fall River
5. Counties where water will be used Fall River
6. Annual period during which water is to be used April 1 to October 1
7. 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. |
|------------------------------------------------------|----------------|
| NW $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 1, T8S, R8E | 3.5            |
| SW $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 1, T8S, R8E | 1.5            |
| SE $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 1, T8S, R8E | 17.7           |
| NE $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 1, T8S, R8E | 22.6           |

Attach sheet if more space is needed

| Land Description                                     | No. Acres Irr. |
|------------------------------------------------------|----------------|
| NW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 1, T8S, R8E | 1.2            |
| SW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 1, T8S, R8E | 9.5            |
| TOTAL                                                | 56.00          |

8. Give a brief description of proposed project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

The project is a water spreading system with four diversion points on Hay Canyon or its tributaries. The dams act as dikes directing the water out of the stream channel around the ends and onto the lowlands. The ungated CMP's in the dams allow flows to continue downstream.

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

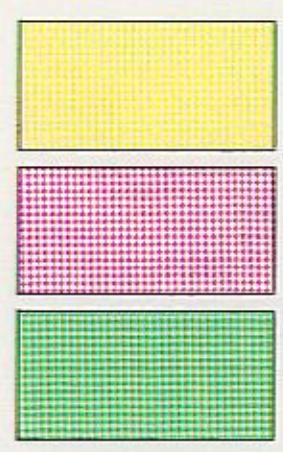
STATE OF SOUTH DAKOTA)  
 County of Fall River)<sup>ss</sup>

I, William F. Fitzner the applicant, certify that I have read the foregoing application, 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.

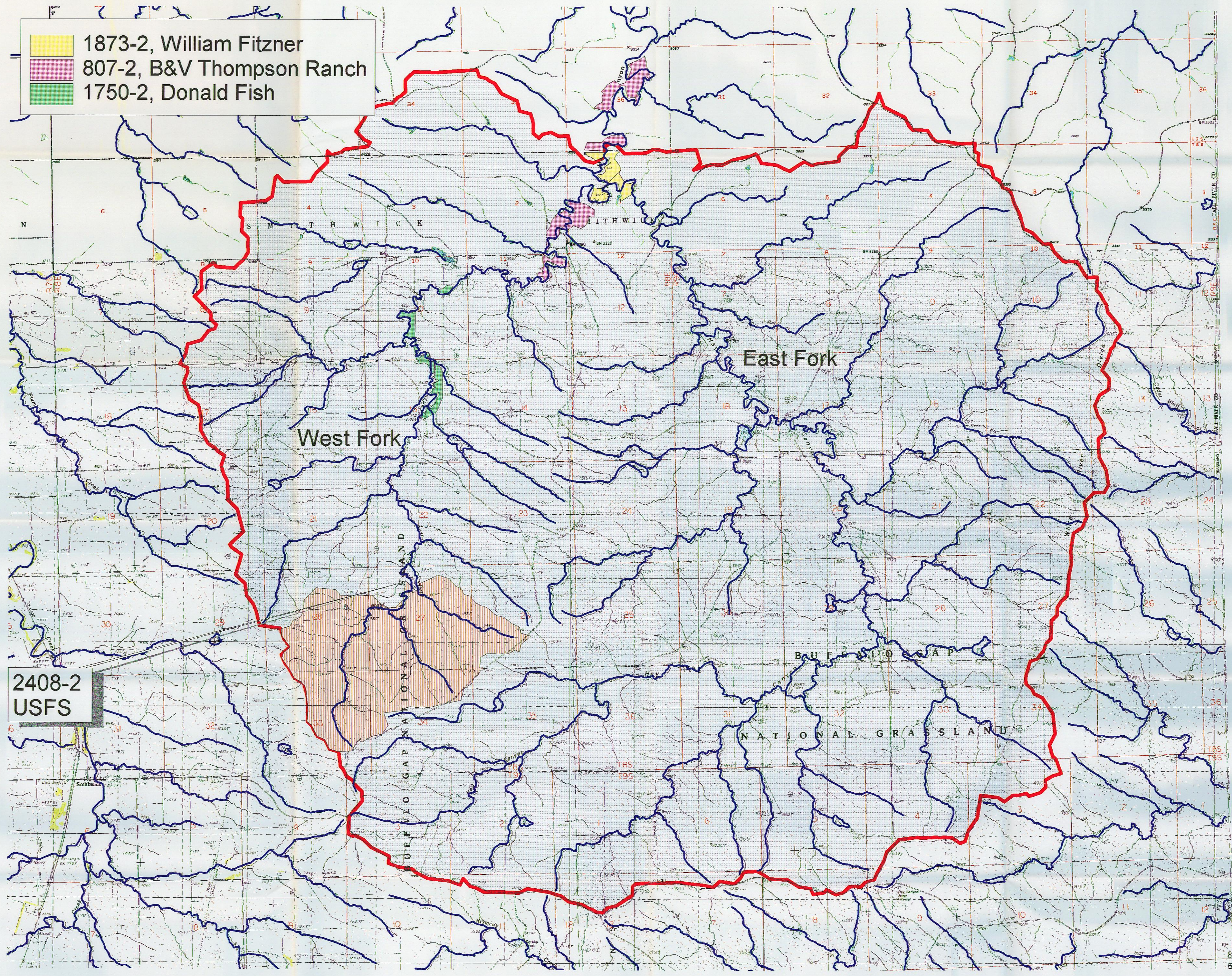
Signed William F. Fitzner

Subscribed and sworn to before me this 16th day of April 1984  
 Commission expires 6-11-89 Richard E. Miller  
 Notary Public (or other qualified officer)

2408-2



1873-2, William Fitzner  
807-2, B&V Thompson Ranch  
1750-2, Donald Fish



2408-2  
USFS

# WATER PERMIT

The Water Management Board hereby approves Water Permit Application No. \_\_\_\_\_

(Applicant)

(Post Office Address)

(State)

(Zip Code)

With the following qualifications.

The applicable portions of Location Notices No. 178-2 and 179-2 were incorporated into this Vested Right No. 1873-2 and the abandoned portions of Location Notices No. 178-2 and 179-2 have been cancelled.

see Form VR-1

Date of first receipt of application \_\_\_\_\_, 19\_\_\_\_.

Date of return to applicant for correction, amendments or changes required \_\_\_\_\_, 19\_\_\_\_.

Date of receipt of corrected application \_\_\_\_\_, 19\_\_\_\_. Approved \_\_\_\_\_, 19\_\_\_\_.

The Water Management Board hereby approves this Water Permit No. \_\_\_\_\_ authorizing the construction of the water use system and the placing of water to beneficial use as stated in the Application and as qualified in the Water Permit approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is \_\_\_\_\_, 19\_\_\_\_.
2. One-fifth of the work is to be completed on or before \_\_\_\_\_, 19\_\_\_\_.
3. The whole of said work is to be completed on or before \_\_\_\_\_, 19\_\_\_\_.
4. The time limit for proof of beneficial use of water is \_\_\_\_\_, 19\_\_\_\_.
5. The water appropriated shall be used for the purpose of \_\_\_\_\_
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 unlawfully impaired by this appropriation.
7. The amount of the appropriation herein granted shall not exceed \_\_\_\_\_ 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. For irrigation purposes said appropriation must be limited to not more than 2 acre feet per acre per year and be limited to not more than one-seventieth ( $1/70$ ) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for irrigation on or before \_\_\_\_\_, 19\_\_\_\_; said water to be used during the following described annual period: \_\_\_\_\_

## WATER MANAGEMENT BOARD

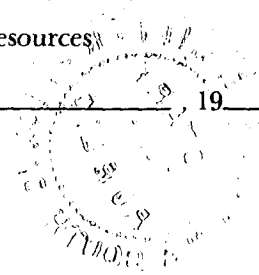
By: \_\_\_\_\_

Chief Engineer

Division of Water Rights

Dept. of Water and Natural Resources

19\_\_\_\_



## VESTED WATER RIGHT

The Water Management Board hereby recognizes Vested Water Right No. 1873-2

William F. Fitzner  
(applicant)

Route 1 Box 78 Oral  
(post office address)

South Dakota 57766  
(state) (zip code)

Date of receipt of Application April 23, 1984.

Recognized July 11, 1984.

The Water Management Board hereby recognizes the construction of the water use system and the placing of water to beneficial use as stated in the Application and as qualified in the Vested Water Right, subject, however, to the following limitations and conditions:

1. The date from which the applicant may claim right is January 1, 1909.
2. The whole of said work has been completed and water has been applied to beneficial use as described on Form 2B of this application.
3. The water appropriated is used for the purpose of Irrigation.
4. The prior rights 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 unlawfully impaired by this appropriation.
5. The amount of the appropriation hereby recognized shall not exceed \_\_\_\_\_

0.80 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. For irrigation purposes said appropriation must be limited to not more than 2 acre feet per acre per year and be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water has been actually and beneficially applied for irrigation. The water is to be used during the following described annual period April 1st to October 31.

WATER MANAGEMENT BOARD

By: John H. Hatcher  
(Chief Engineer)

Division of Water Rights  
Dept. of Water and Natural Resources

July 18, 1984.

Affidavit of Water Use

No. \_\_\_\_\_

(Type or Print in Ink)

Note: This Form is supplemental to Form 2 and is to be used when an affidavit pertaining to construction and water use already constructed is needed, primarily with vested right claims.

Affidavit Of Construction Of Water Use System  
And Application Of Water To Beneficial Use

Name of Applicant (Same as Form 2) William F. Fitzner

Post Office Address Route #1, Box 78 Oral SD 57766  
(Street, RR or Box) (State) (Zip Code)

A. Notice of Appropriation August 26, 1909 Date of Posting \_\_\_\_\_

Date of recording October 22, 1909 Recording date State Engineer  
Where Book Page

B. Date of start of construction of water supply system 1909

C. Date that water was first applied to beneficial use 1909

D. Name of owner of original water supply system Worth M. Gamet

E. Amount of water originally applied to beneficial use 6cfs

F. Present Use of Water - Amount of water now being used 0.8 cfs

Date that this water was first used 1909

G. Chronological History of Water Use Location Notices 178-2 and 179-2

Worth M. Gamet constructed the system in 1909  
Joe Gamet obtained the system in the early 1940's  
W. F. Fitzner, the present owner, purchased the property in 1976

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, William F. Fitzner the applicant, certify that I have read the foregoing  
(print or type)  
and that the matters therein stated are true.

Signed William F. Fitzner

Subscribed and sworn to before me this 16th day of April, 19 84

Commission expires 6-11-89  
Richard E. Miller  
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.

\_\_\_\_\_  
(Print name)

\_\_\_\_\_  
(Print name)

# Supplemental Information

(type or print in ink)

## 1. Well Information - Proposed construction

- a) Drill Hole Diameter \_\_\_\_\_ Depth \_\_\_\_\_
- b) Casing Type \_\_\_\_\_ Diameter \_\_\_\_\_ Thickness \_\_\_\_\_
- c) Screen Type \_\_\_\_\_ Diameter \_\_\_\_\_ Thickness \_\_\_\_\_
- d) Gravel Pack Thickness \_\_\_\_\_ Length of Gravel Pack \_\_\_\_\_
- e) Depth to Top of Water Bearing Material \_\_\_\_\_
- f) Depth of Water (ground surface to water level) \_\_\_\_\_
- g) Distance to nearest existing domestic well:
- On applicants property \_\_\_\_\_ On property owned by others \_\_\_\_\_

## 2. Dugout Information Estimates

- a) Surface Dimensions \_\_\_\_\_ Depth \_\_\_\_\_
- b) Depth to water (ground surface to water level) \_\_\_\_\_

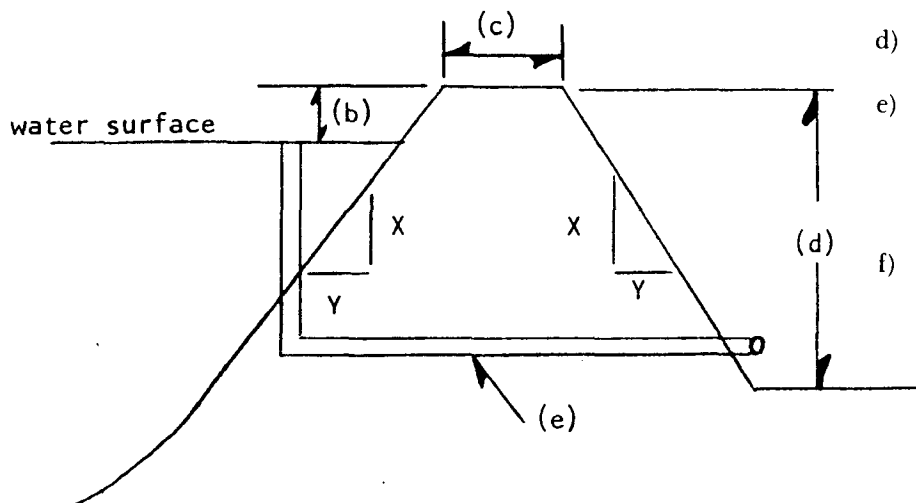
## 3. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below. The locations of each dam should be shown on the map submitted with the application.

- a) If a private engineering firm or government agency was involved in the design of this dam please give their name and address

DAM # 1

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b) Freeboard 4 ft.c) Crest Width 12 ft.Crest Length 150 ft.d) Height 12 ft.e) Outlet Dimensions:  
Pipe diameter 14" CMPSpillway width Nonef) X & Y Slope  
Upstream 3:1Downstream 2:1Surface Area of Impoundment 2.5 AcresStorage 5 acre feetDrainage area above dam 39,000 ac.

Signature of Applicant \_\_\_\_\_

(Form 2A cont.)

|                  | Dam #2       | Dam #3    | Dam #4       |
|------------------|--------------|-----------|--------------|
| Freeboard        | 5 ft.        | 4 ft.     | 5 ft.        |
| Crest Width      | 12 ft.       | 12 ft.    | 12 ft.       |
| Crest Length     | 120 ft.      | 210 ft.   | 300 ft.      |
| Height           | 14 ft.       | 18 ft.    | 15 ft.       |
| Pipe Diameter    | 14" CMP      | None      | 12" CMP      |
| Spillway Width   | NONE         | None      | None         |
| Upstream Slope   | 3:1          | 3:1       | 3:1          |
| Downstream Slope | 3:1          | 2:1       | 2:1          |
| Surface Area     | 2.5          | 1.5       | 1.5          |
| Storage (AF)     | 5            | 8         | 6            |
| Drainage Area    | 27,000 acres | 110 acres | 10,500 acres |

Permit No. 1873-2

Upper Cheyenne Water District

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

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

I have this day made a thorough examination of the water use system constructed by William F  
Fitzner of Oral, S.D. holder of  
Permit No. 1873-2, bearing the priority of January 1 1909 authorizing  
the diversion of 0.80 cu. ft. per second of the waters of Hay Canyon  
for irrigation purposes, in Fall River County.

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

- A. Works used to divert the water: Diversion dams with low flow outlet  
tubes in three of them. one dam on a small tributary  
has no tube.
- B. Works used to transport water to place of use: Water is diverted from the stream  
by the dams around the ends and onto the lowlands.
- C. Works used to apply water to beneficial use: Water spreads over the lowlands and  
then back into the stream.

The system is in the following condition Good to Fair

The point of diversion is located (1) - S 85° E 1980' from the NW corner; (2) - S 51° W 3100'  
from NE corner; (3) S 88° W 3440' from NE corner; (4) S 30° E 2610' from  
NW corner, all in section 1, T8S, R8E

The works are capable of diverting and conveying to the place of use \_\_\_\_\_

cu. ft. per second of water which is to be used for irrigation

Water has been put to beneficial use to the maximum extent as follows: NW<sup>1</sup> NW<sup>2</sup> - 3.5 ac.; SW<sup>1</sup> NW<sup>2</sup> -  
1.5 ac.; SE<sup>1</sup> NW<sup>2</sup> - 17.7 ac.; NE<sup>1</sup> NW<sup>2</sup> - 22.6 ac.; NW<sup>1</sup> NE<sup>2</sup> - 1.2 ac.;  
SW<sup>1</sup> NE<sup>2</sup> - 9.5 ac., all in sec. 1, T8S, R8E.

comprising a total of 56 acres of land and the license should be issued for 0.8 cfs

Applicable permit qualifications have been complied with ☒ Yes ☐ No

Exceptions to compliance are: \_\_\_\_\_ Date 3/22/89

Delwin D. Benz, P.E.  
(signature) Hydrologist

# Report of Examination (Cont)

|                     | <u>Dam #1</u> | <u># 2</u> | <u># 3</u> | <u># 4</u> |
|---------------------|---------------|------------|------------|------------|
| Free board          | 4'            | 5'         | 4'         | 5'         |
| Crest Width         | 12'           | 12'        | 12'        | 12'        |
| Crest Length        | 150'          | 120'       | 210'       | 300'       |
| Height              | 12'           | 14'        | 18'        | 15'        |
| Pipe Diameter       | 14" CMP       | 14" CMP    | None       | 12" CMP    |
| Spillway Width      | None          | None       | None       | None       |
| upstr. slope        | 3:1           | 3:1        | 3:1        | 3:1        |
| Dwnstr. slope       | 2:1           | 3:1        | 2:1        | 2:1        |
| Surface Area (Ac.)  | 2.5           | 2.5        | 1.5        | 1.5        |
| Storage (AF)        | 5             | 5          | 8          | 6          |
| Drainage Area (Ac.) | 37,000        | 27,000     | 110        | 19,500     |

State of South Dakota

VESTED Water License No. 1873-2

(1) William F. Fitzner  
of Route #1, Box 78, Oral, South Dakota  
made Application No. 1873-2, April 23, 1984 for recognition of a Vested Right for a water permit to appropriate  
0.80 cubic feet per second of water from Hay Canyon,  
Fall River County, South Dakota for Irrigation purposes.  
**Vested Right**  
/Permit No. 1873-2, with a priority date of January 1, 1909  
**Recognized** July 11, 1984 and issued to applicant(s) for diversion of water **/recognizing** 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 0.80 cubic feet per second of water  
for beneficial use. The location of the diversion point(s) is are (1) - S85°E 1980' from the NW Corner;  
(2) - S51°W 3100' from the NE Corner; (3) - S48°W 3440' from the NE Corner; (4) - S30°  
E2510' from the NW Corner, all in Section 1, T8S, R8E

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, to irrigate the following land all in Section 1, T8S, R8E

NW $\frac{1}{4}$ NW $\frac{1}{4}$  3.5 Acres (BB)

SW $\frac{1}{4}$ NW $\frac{1}{4}$  1.5 Acres (BC)

SE $\frac{1}{4}$ NW $\frac{1}{4}$  17.7 Acres (BD)

NE $\frac{1}{4}$ NW $\frac{1}{4}$  22.6 Acres (BA)

NW $\frac{1}{4}$ NE $\frac{1}{4}$  1.2 Acres (AB)

SW $\frac{1}{4}$ NE $\frac{1}{4}$  9.5 Acres (AC)

TOTAL 56.0 ACRES

(4) Pursuant to §46-5-30.1 William F. Fitzner

of Route #1, Box 78, Oral, South Dakota

the holder(s) and/or owner(s) of Vested Right ~~Water Permit~~ No. 1873-2 is issued a license to appropriate water, the right to use

0.80 cubic feet per second of water from Hay Canyon with a priority date

of January 1, 1909 from the location specified in (2) of this license. The water to be conducted to and upon lands specified in (3) of this license for the purpose of Irrigation

**Vested Right**

This license is subject to any limitations or qualifications listed in ~~Water Permit~~ No. 1873-2 and subject to South Dakota State Law.

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

**JOHN HATCH**

**July 19, 1964**

**This Water License No. 1873-2 is based upon a Vested Right Claim filed with the Water Management Board.**



No. 1873-2

Joe Foss Building  
523 East Capitol  
Pierre, South Dakota 57501

WATER RIGHTS DIVISION  
(605) 773-3352

July 24, 1984

William F. Fitzner  
Route #1, Box 78  
Oral, South Dakota 57766

Dear Mr. Fitzner:

Enclosed herewith are your Vested Right Permit, Water License No. 1873-2. 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: ms

enclosures

The applicable portions of Location Notices No. 178-2 and 179-2 were incorporated into this Vested Right No. 1873-2 and the abandoned portions of Location Notices No. 178-2 and 179-2 have been cancelled.

# LOCATION NOTICE

KNOW ALL MEN BY THESE PRESENTS:

THAT North M. Garnet whose post office is  
oral, South Dakota, a citizen of the United States, above the age of  
21 years, being in possession of the following described land, to-wit: S 1/2 NW 1/4 SW 1/4 NE 1/4 and 1/2 section  
one township Eight South range Eight East B. H. M.  
in Hall River County, South Dakota. Said lands comprising Desert Entry No 22322  
Rapid City Land District, availing himself of the right granted under the provisions  
of Section 31 of Chapter 180 of the Session Laws of South Dakota of 1907, has located and claims the right to  
construct a certain dam across a dry draw situated in the SW 1-4 of the NE 1-4 section one  
township Eight South range Eight East and has located and claims the right to construct ditches and  
flumes for the purpose of directing flood waters from said dam for irrigation of the land first above described, and  
claims the right of way across any land for the purpose of conveying said waters for said purpose.

Said locator claims for the above purpose Three cubic feet of water per second during the following  
described annual periods inclusive, each year.

Said location was made on the 26th day of August 1909.

Witness my hand and seal this 14th day of October 1909.

North M. Garnet

Locator.

STATE OF SOUTH DAKOTA } ss  
COUNTY OF \_\_\_\_\_

On the \_\_\_\_\_ day of \_\_\_\_\_ 1909, before me \_\_\_\_\_

\_\_\_\_\_, a Notary Public in and for the County and State aforesaid, personally  
appeared \_\_\_\_\_ to me personally known to be the person who executed  
the foregoing instrument and acknowledged that he executed the same for the uses and purposes therein set forth.

Witness my hand and official seal, the day and date above written.

\_\_\_\_\_  
Notary Public.

Pierre, South Dakota, October 22nd 1909

This is to certify that the foregoing location notice was received at this office at 9 o'clock A. M.,  
upon the 22nd day of October 1909, and after examination it was filed for  
record

Samuel H. Lee

State Engineer.

# LOCATION NOTICE

## KNOW ALL MEN BY THESE PRESENTS:

THAT Worth O. Garnet whose post office is  
Oral, South Dakota, a citizen of the United States, above the age of  
21 years, being in possession of the following described land, to-wit: Lot 3 S 5 NW 1/4 and SW 1/4 NE 1/4 section  
one township Eight South range Eight East B. H. M.  
in Fall River County, South Dakota. Said lands comprising Desert Entry No. 25522  
Rapid City Land District, availing himself of the right granted under the provisions  
of Section 31 of Chapter 180 of the Session Laws of South Dakota of 1907, has located and claims the right to  
construct a certain dam across a dry draw situated in the 1-4 of the 1-4 section one  
township Eight S range Eight E and has located and claims the right to construct ditches and  
flumes for the purpose of directing flood waters from said dam for irrigation of the land first above described, and  
claims the right of way across any land for the purpose of conveying said waters for said purpose.

Said locator claims for the above purpose Three cubic feet of water per second during the following  
described annual periods inclusive, each year.

Said location was made on the 26<sup>th</sup> day of August 1909.

Witness my hand and seal this 14<sup>th</sup> day of October 1909.

Worth O. Garnet

Locator.

STATE OF SOUTH DAKOTA } ss  
COUNTY OF \_\_\_\_\_

On the \_\_\_\_\_ day of \_\_\_\_\_ 1909, before me \_\_\_\_\_

\_\_\_\_\_, a Notary Public in and for the County and State aforesaid, personally  
appeared \_\_\_\_\_ to me personally known to be the person who executed  
the foregoing instrument and acknowledged that he executed the same for the uses and purposes therein set forth.

Witness my hand and official seal, the day and date above written.

\_\_\_\_\_  
Notary Public.

Pierre, South Dakota, October 22<sup>nd</sup> 1909

This is to certify that the foregoing location notice was received at this office at 9 o'clock a M.,  
upon the 22<sup>nd</sup> day of October 1909, and after examination it was filed for  
record

Samuel H. Lee

State Engineer.

# RECEIPT

Division of Water Rights

No 4 9646

South Dakota Department of Water and Natural Resources

Pierre, April 23, 19 84

RECEIVED OF William F. Fitzner, Route #1, Box 78, Omal, SD 57766

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

|                                                                                                                       |       |
|-----------------------------------------------------------------------------------------------------------------------|-------|
| Fee for Application for Permit No. 1873-2 to Appropriate Water, to construct works and to put water to beneficial use | 8 00  |
| Fee for Application for Permit No. to Appropriate Water for Future Use                                                |       |
| Fee to retain Future Use Permit No. after period of seven years.                                                      |       |
| Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. 1873-2                  | 2 50  |
| Fee for Filing Transfer Form                                                                                          |       |
| Fee for Filing Extension Request                                                                                      |       |
| Fee for Certified Copy of                                                                                             |       |
| Fee for Print Copy of Map                                                                                             |       |
| Fee for Certifying                                                                                                    |       |
| Fee for (Any Other Work Provided by Law)                                                                              |       |
| Total                                                                                                                 | 10 50 |

By John Hatch  
Chief Engineer JOHN HATCH (ms)

WATER RIGHTS DIVISION  
(605) 773-3352

April 2, 1984

William F. Fitzner  
Route #1, Box 78  
Oral, South Dakota 57766

Dear Mr. Fitzner:

After inspecting your water spreading system I have completed all of the necessary forms. Enclosed are two copies of form 2, "Application for Permit", two copies of form 2A for the water storage dam information and one copy of form 2B, "Affidavit of Water Use".

Would you please examine the forms and correct anything that is in error. Then, please sign the forms in the presence of a notary where indicated. The forms should then be returned to our office with a check for \$10.50 to cover the cost of the filing fee and license.

Upon approval by the Water Management Board, Location Notices 178-2 and 179-2 will be incorporated into this Water Right.

I have also enclosed a map of your project. If you have no changes to this map you may keep it for your files. If you have some changes please indicate them on the map and return it with the forms so that we can correct our office copy. You may keep the copies of Location Notices 178-2 and 179-2.

If you have any questions regarding this matter please feel free to contact me.

Sincerely,

Delvin D. Brosz, P.E.  
Hydrologist

DDB:ms  
Enc.

William Fitzner Project

924-6295

Sec. 1, T8S, R8E

Name - Worth M. Gamet

Location Notice No. 178

Date - 10/22/09

Div. Pt. - SW<sup>2</sup>NE<sup>2</sup> Sec 1, T8, R8

Lands - S<sup>2</sup>NW<sup>2</sup>, SW<sup>2</sup>NE<sup>2</sup>, Lot 3  
Sec 1, T8, R8

Name - Worth M. Gamet

Location Notice No. 179

Date - 10/22/09

Div. Pt. - Sec 1, T8, R8

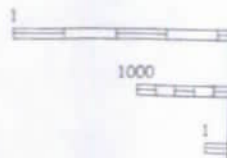
Lands - Lot 3, S<sup>2</sup>NW<sup>2</sup>, SW<sup>2</sup>NE<sup>2</sup>  
Sec. 1, T8, R8

Both - Certificate for Land office issued  
Jan. 5, 1912

Water Right Files - Filed in special  
Water right filing - irrigation



Mapped, edited, and published by the Geological Survey  
 as part of the Department of the Interior program  
 for the development of the Missouri River Basin  
 Control by USGS, USC&GS, and Bureau of Reclamation  
 Topography from aerial photographs by multiplex methods  
 Aerial photographs taken 1949. Field check 1951  
 Polyconic projection. 1927 North American datum  
 10,000-foot grid based on South Dakota coordinate system,  
 south zone

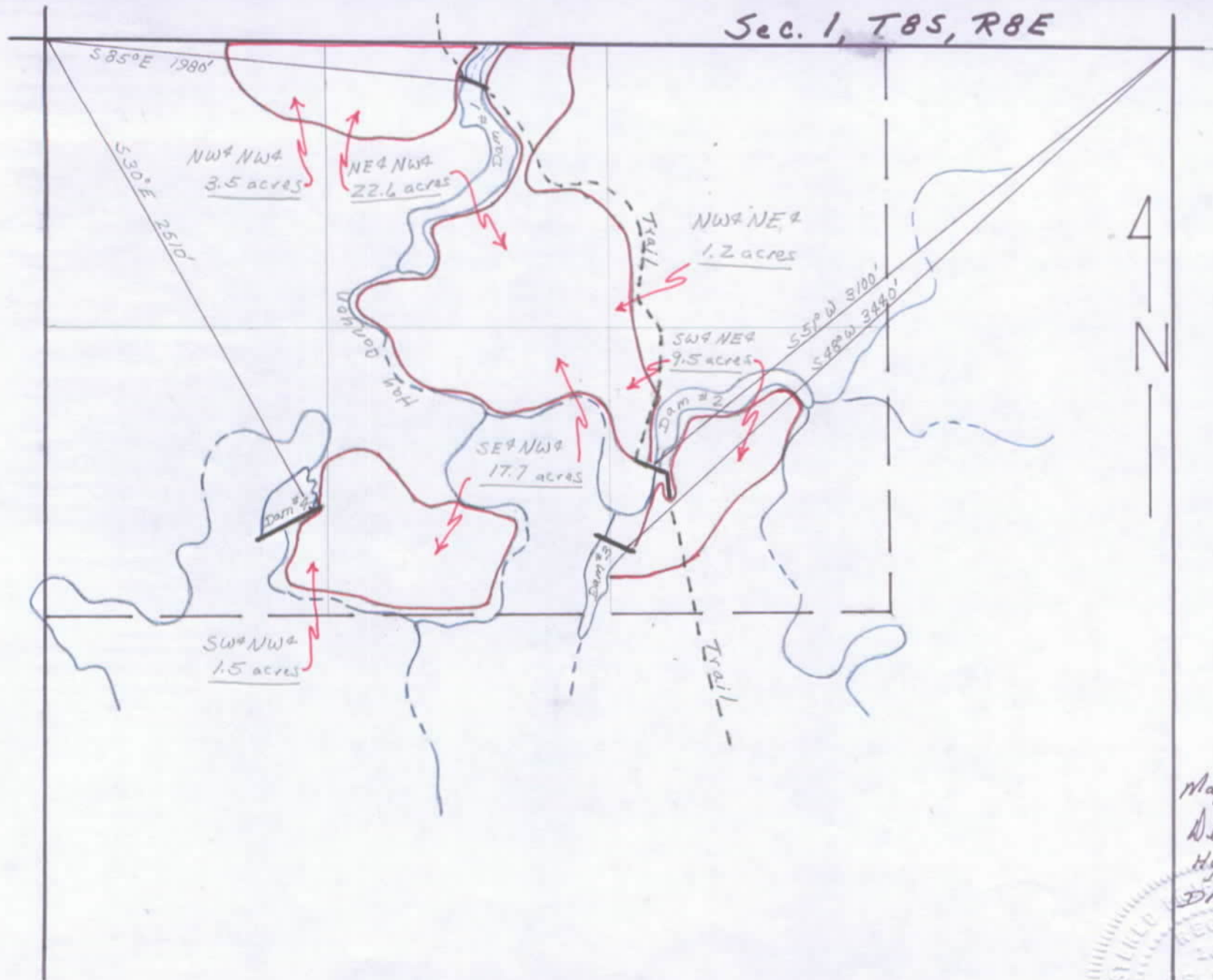


*William Fitzger Project*

*Scale 1:24000*

FOR SALE BY U. S. GEOLOG  
A FOLDER D

Sec. 1, T8S, R8E



Map Prepared by:  
 Delvin W. Brog, P.E.  
 Hydrologist  
 Division of Water Rights



*South Dakota*



GREAT FACES. GREAT PLACES.

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

August 20, 1992

William R. Fitzner  
Rt 1, Box 78  
Oral SD 57766

Dear Mr. Fitzner:

The original Notice of Intent to Validate Vested Water Right Claims was published with an error. The location of the diversion point in the SW 1/4 NE 1/4 Section 1-T8S-R8E was incorrectly listed as the SW 1/4 NW 1/4 Section 1-T8S-R8E. Therefore, the notice needs to be readvertised to correct the error. The Readvertisement of the Notice of Intent to Validate Vested Water Right Claims has been sent to the Publisher of the Hot Springs Star printed at Hot Springs SD. For your information, a copy of the notice is enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

*Eric Gronlund*

Eric Gronlund  
Natural Resources Engineer  
605 773-3352

enclosures

# PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )  
County Fall River ) ss.

I, James R. Shanks

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

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

City of Hot S  
County of Fall River and Sta  
that the said notice was published in sai  
following two dates:

September 1, 19

September 8, 19

(Signature)

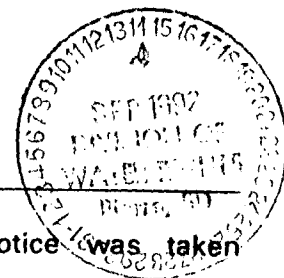
Publisher

(Title)

September 8,

(Date Signed)

Cost of Printing: \$74.47



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

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

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

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

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

Vested Water Right No. 1879-2, Dora  
R. Henderson, Apt#265, 5141 Indian River

Drive, Las Vegas NV 89103, appropriates  
25.3 cfs from Coal Creek located in the NE  
1/4 NE 1/4 Section 23-T10S-R2E to irri-  
gate 1,772 acres. The irrigated lands are  
located in the SW 1/4 Section 14; S 1/2  
NW 1/4, SW 1/4, S 1/2 NE 1/4, SE 1/4  
Section 15; NW 1/4, SW 1/4, S 1/2 NE 1/  
4, SE 1/4 Section 16; SW 1/4 NW 1/4, SE  
1/4 SW 1/4, SE 1/4 Section 17; NW 1/4, S  
1/2 NE 1/4, NE 1/4 SE 1/4 Section 18; NE  
1/4 NE 1/4 Section 21; NW 1/4, NE 1/4 SW  
1/4, NE 1/4, SE 1/4 Section 22; SW 1/4,  
NW 1/4 Section 23; NW 1/4 NW 1/4 Sec-  
tion 26; all in T10S-R3E. The priority date  
is 10/4/1945.

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

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

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

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

If no person opposes validation of a  
recognized vested water right claim pur-  
suant to SDCL 46-2A- 16, the Water Man-  
agement Board will issue an order pursu-  
ant to SDCL 46-2A-17, validating the  
vested water right claim.

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

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

Robert E. Roberts, Secretary, Depart-  
ment of Environment and Natural Re-  
sources

**SOUTH DAKOTA**

**VESTED WATER RIGHT NO. 1873-2 FOR IRRIGATION**

Date of Receipt of Claim April 23, 1984.

Date of Validation September 30, 1992.

The Water Management Board validated Vested Water Right Claim No. 1873-2 for irrigation purposes for William F. Fitzner, Rt 1, Box 78, Oral SD 57766 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 1873-2 appropriates 0.8 cubic feet of water per second from Hay Canyon located in the NE 1/4 NW 1/4, SW 1/4 NW 1/4, SW 1/4 NE 1/4 Section 1 to irrigate 56 acres located in the NW 1/4, W 1/2 NE 1/4 Section 1; all in T8S-R8E.
2. The appropriation may not exceed the amount of water needed for beneficial use for irrigation. The appropriation may not exceed 3 acre feet per irrigated acre per year. Water is to be used during the following annual period: April 1 - October 1.
3. The priority date of the Vested Water Right is January 1, 1909.
4. The water use system has been constructed and water has been applied to beneficial use.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

**QUALIFICATIONS**

The applicable portions of Location Notices No. 178-2 and 179-2 were incorporated into this Vested Right No. 1873-2 and the abandoned portions of Location Notices No. 178-2 and 179-2 have been cancelled.

**WATER MANAGEMENT BOARD**

By:   
Chief Engineer

**OCT 28 1992**

date

Division of Water Rights  
Dept. of Environment and Natural Resources



OCT 28 1992

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

William F. Fitzner  
Rt 1, Box 78  
Oral SD 57766

Dear Mr. Fitzner:

The Water Management Board has validated the enclosed Vested Water Right No. 1873-2. This validation gives legal status to the claim and is the final document for your vested right.

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

Very truly yours,

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

enclosure



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

November 16, 2006

1873-2

Patrick Foley  
4769 Cliff Dr  
Rapid City SD 57702

Dear Mr. Foley:

Thank you for your inquiry into Vested Water Right No. 1873-2, held by William Fitzner.  
Enclosed as we discussed is a copy of No. 1873-2.

Also enclosed is a partially completed "Notice of Transfer of Ownership" form for filing an ownership change. The form should be signed by the new owner and returned to our office with a required filing fee of \$2.50. The check or money order for the fee can be made payable to the Water Rights Program.

If I can answer any questions for you concerning the vested right or completion of the transfer form, please give me a call.

Sincerely,

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

enclosures



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

January 17, 2007

1873-2

Patrick Foley  
4769 Cliff Dr  
Rapid City SD 57702

Dear Mr. Foley:

I am writing in follow-up to our phone conversation concerning ownership of Vested Water Right No. 1873-2, currently listed in the name of William Fitzner.

Enclosed is your check # 9586 in the amount of \$2.50. We had already stamped the check on the back but it was not processed or ran through the bank.

I am hopeful that the new owner of the property contacts us soon concerning the vested water right.

Sincerely,

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

enclosure

RECEIVED

MAR 04 2015

WATER RIGHTS  
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 1873-2

Date: 2-25-15

I/We request that Vested Water Right No. 1873-2

formerly owned by: William F Fitzner

be transferred to: (name & address) Carl & Kari Sanders  
14366 WG Flt  
Orad SD 57766 Telephone No. 605 890-2113

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

56 acres - NW ¼ and W ½ NE ¼ Section 1, T8S, R8E

I/We understand that the validity of Vested Water Right No. 1873-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

**A fee of Fifty Dollars (\$50.00) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.**

I/We Carl Sanders, the new owner, certify that the above information is true and correct.

CS

(Signed by new owner)

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

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

# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 3/5, 20 15

RECEIVED OF Carl Sanders 14366 WG Flat Oral SD 57766

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

|                                                                                                                |       |    |
|----------------------------------------------------------------------------------------------------------------|-------|----|
| Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use | 50    | 00 |
| Fee for Application for Permit No. _____ to Appropriate Water for Future use                                   |       |    |
| Fee to retain Future Use Permit No. _____ after period of seven years.                                         |       |    |
| Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____            |       |    |
| Fee for Filing Transfer Form _____ 1873-2                                                                      |       |    |
| Fee for _____                                                                                                  |       |    |
| Fee for Issuing New Well Driller's License No. _____ for C.Y. _____                                            |       |    |
| Fee for Renewal of Well Driller's License No. _____ for C.Y. _____                                             |       |    |
| Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____                                         | 50    | 00 |
| Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____                                      |       |    |
| (Any Other Work Provided by Law)                                                                               | TOTAL |    |
|                                                                                                                | 50    | 00 |

No. 07310

By James Goodman Jr  
Chief Engineer



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
PMB 2020  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
[www.denr.sd.gov](http://www.denr.sd.gov)

March 5, 2015

807-2  
1873-2  
2488-2

Carl & Kari Sanders  
14366 WG Flat  
Oral SD 57766

Dear Mr. & Mrs. Sanders:

I am writing to acknowledge receipt of the transfer forms and filing fees you submitted for changing ownership on Vested Water Right Nos. 807-2 & 1873-2 and Water Right No. 2488-2.

The ownership changes have been completed. Vested Water Right No. 807-2 and Water Right No. 2488-2 formerly held by B & V Thompson Ranch Inc., is now listed in your names. Vested Water Right No. 1873-2, formerly held by William Fitzner is also now listed in your names.

Enclosed for your records are Receipt Nos. 07309, 07310 and 07311. The receipts are for the filing fees you paid for the ownership changes.

If you have any questions, please contact me.

Sincerely,

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

enclosures