

Considered: _____

VESTED RIGHT

WATER PERMIT NO. 1886-2

MAP No. 1886-2

Name of Applicant Bergette E Finney

Post Office Address St Rt Box 16, Oelrichs 57763

Amount of Water Claimed 1.60 Total Acres 108.40

Source of Water Supply Horsehead Creek and Duck Creek

Water to be used for IRR County FR

About 9 S 6 miles w of Oelrichs.

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved 9-26-84 Subject to _____

F.F.& C.L. Adopted _____ Not Approved _____ Deferred _____

PRIORITY _____ Date Received 7/13/84 Fee 10.50 Remarks _____

1/1/1909

Corrected Application Received _____ Period of Annual Use 1/1 12/31

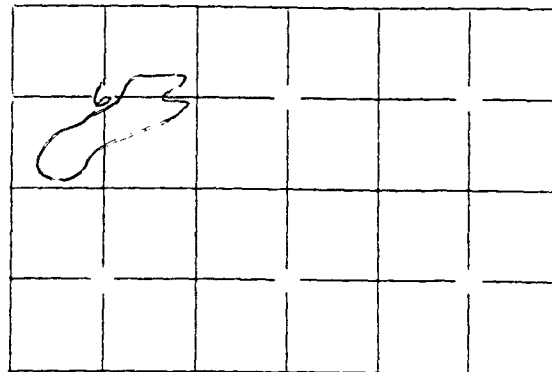
WATER QUALITY APPROVAL RECEIVED _____ APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as Application YES NO REMARKS n/a

Diversion Point^S Dam #1-SE $\frac{1}{4}$ SW $\frac{1}{4}$; Dam #2-NW $\frac{1}{4}$ SE $\frac{1}{4}$;

& Dam #3-NW $\frac{1}{4}$ SW $\frac{1}{4}$ all in Section 6-T12S-R7E

Land to be Irrigated SW $\frac{1}{4}$; S $\frac{1}{2}$ NE $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$ all in
Section 6-T12S-R7E



Well Log: Driller _____ Licensed YES NO

Depth of Well _____ REMARKS _____

Type of Map aerial PREPARED BY Del Brosz DWR Reviewed and the Number

assigned on 8/6/84 By Betty Westlund

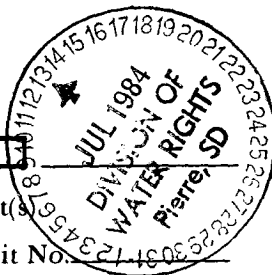
Betty Westlund NRA III

No. <u>1886-2</u>	Hydrologic Unit <u>10120106</u>
Map No. <u>1886-2</u>	Basin <u>UC</u>
Newspaper <u>N/A</u>	

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 ☐ LN 183-2 & LN 343-2
- ☐ 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 Bergette E. Finney Phone No. 535-6143
- Post Office Address Star Route, Box 16 Oelrichs State SD 57763
(Street, RR or Box) Zip Code
2. Amount of water claimed (c.f.s) 1.6 Total acres irrigated 108.4
3. Source of Water supply Horsehead and Duck Creeks
4. Location of point of diversion Dam #1-N59°E, 1910 feet from SW Corner of Section 6, T12S, R7E
Dam #2-W21°S, 2150 feet from the east quarter Corner of Section 6, T12S, R7E
Dam #3-N26°E, 1710 feet from SW Corner of Section 6, T12S, R7E County Fall River
5. Counties where water will be used Fall River
6. Annual period during which water is to be used all year
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 $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 6, T12S, R7E	7.9
NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 6, T12S, R7E	20.1
SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 6, T12S, R7E	10.2
SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 6, T12S, R7E	15.0

Land Description	No. Acres Irr.
SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 6, T12S, R7E	16.7
SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 6, T12S, R7E	14.5
NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 6, T12S, R7E	2.4
NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 6, T12S, R7E	21.6

Attach sheet if more space is needed

TOTAL 108.4 ACRES

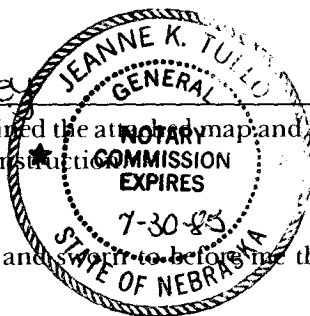
8. Give a brief description of proposed project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

This is a waterspreading project. The water is diverted from the creeks by three dams. The water is spread on the land thru the use of dikes and canals.

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)^{ss}

I, Bergette E. Finney, 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.



Subscribed and sworn to before me this 26 day of June 19 84

Jeanne K. Tuelo
Notary Public (or other qualified officer)

WATER PERMIT

The Water Management Board hereby approves Water Permit Application No. _____

(Applicant)

(Post Office Address)

(State)

(Zip Code)

With the following qualifications.

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. 1886-2

Bergette E. Finney
(applicant)

ST. RT. Box 16 Oelrichs
(post office address)

South Dakota 57763
(state) (zip code)

Date of receipt of Application July 13, 1984.

Recognized September 26, 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 1.3 cfs, 4-5-1909
0.3 cfs, 3-20, 1911
~~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 1.60 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 Jan. 1 to Dec. 31.

WATER MANAGEMENT BOARD

By: John H. Hettich
(Chief Engineer)

Division of Water Rights
Dept. of Water and Natural Resources

October 25, 1984.

State of South Dakota

VESTED RIGHT Water License No. 1886-2

(1) Bergette E Finney
of Star Route, Box 16, Delrichs SD
made Application No. 1886-2, July 13, 1984 for recognition of a vested right for a water permit to appropriate
1.60 cubic feet per second of water from Horsehead and Duck Creek
Fall River County, South Dakota for Irrigation purposes.

Vested Right

Permit No. 1886-2, with a priority date of April 5, 1909 and March 20, 1911
recognized
was approved September 26, 1984 and issued to applicant(s) for diversion of water with construction of the described
recognizing
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 1.60 cubic feet per second of water
for beneficial use. The location of the diversion point(s) is are #1 - N59°E, 1910' from SW corner
Section 6, T12S, R7E; #2 - W21°S, 2150' from the east ¼ corner Section 6,
T12S, R7E; #3 - N26°E, 1710' from SW corner Section 6, T12S, R7E

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 6,

T12S, R7E

NW $\frac{1}{4}$ SW $\frac{1}{4}$ 7.9 acres

NE $\frac{1}{4}$ SW $\frac{1}{4}$ 20.1 "

SE $\frac{1}{4}$ SW $\frac{1}{4}$ 10.2 "

SW $\frac{1}{4}$ SW $\frac{1}{4}$ 15.0 "

SW $\frac{1}{4}$ NE $\frac{1}{4}$ 16.7 "

SE $\frac{1}{4}$ NE $\frac{1}{4}$ 14.5 "

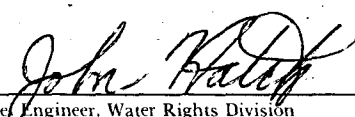
NE $\frac{1}{4}$ SE $\frac{1}{4}$ 2.4 "

NW $\frac{1}{4}$ SE $\frac{1}{4}$ 21.6 "

TOTAL 108.4 acres

(4) Pursuant to §46-5-30.1 Bergette E Finney V
of Star Route, Box 16, Oelrichs, South Dakota
the holder(s) and/or owner(s) of ~~Water Permit~~ Vested Right No. 1886-2 is issued a license to appropriate water, the right to use
1.60 cubic feet per second of water from Horsehead and Duck Creek with a priority date
of 1.3 cfs from April 5, 1909 & 0.3 cfs from March 20, 1911 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. 1886-2 and subject
to South Dakota State Law.


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

October 25, 1984

**This Water License No. 1886-2 is based upon a Vested Right Claim filed
with the Water Management Board**

Permit No. 1886-2Upper 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 Berge He
E. Finney of Delrichs, S.D. holder of
 Permit No. 1886-2, bearing the priority of April 5, 1909 & March 20, 1911 authorizing
 the diversion of 2.2 cu. ft. per second of the waters of Horsehead & Duck creeks
 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: Dam #1 - 12" Cmp & 4' x 4' concrete box culvert allow the water to be bypassed downstn. when these are closed the water flow around the end onto the fields. Dam #2 - 18" Cmp allows flow downstn - when closed water flows onto fields. Dam #3 - no pipe - water flows around ends onto fields.
- B. Works used to transport water to place of use:
Dams #1 & #2 - fields ~~begin at~~ ~~begin at~~ ~~begin at~~ the dam - no canals
Dam #3 - short canals to the fields
- C. Works used to apply water to beneficial use:
Small ~~small~~ canals and ditches

The system is in the following condition good

The point of diversion is located #1 - N59°E, 1910' from SW corner of sec 6, T12, R7.
#2 - W21°S, 2150' from east 1/2 corner sec 6, T12, R7. #3 - N26°E, 1710' from SW corner of sec 6, T12, R7.

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: NW⁴ SW⁴ - 7.9 ac., NE⁴ SW⁴ - 20.1 ac., SE⁴ SW⁴ - 10.2 ac., SW⁴ SW⁴ - 15.0 ac., SW⁴ NE⁴ - 16.7 ac., SE⁴ NE⁴ - 18.5 ac., NE⁴ SE⁴ - 2.4 ac., & NW⁴ SE⁴ - 21.6 ac. all in
Section 6, T12S, R7E.

comprising a total of 108.2 acres of land and the license should be issued for 1.6 cfsApplicable permit qualifications have been complied with ☒ Yes ☐ No

~~Exceptions to compliance are~~ 1.3 cfs - 1909 & 0.3 cfs - 1911 Date May 16, 1984

Devin D. Bury, P.E.
 (signature) Hydrologist

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) Bergette E. Finney

Post Office Address Star Route, Box 16 Delrichs South Dakota 57763
(Street, RR or Box) (State) (Zip Code)

A. Notice of Appropriation 4/5/1909 & 3/20/1911 Date of Posting _____

Date of recording 10/26/1909 & 4/18/1911 Recording date State Engineer
Where Book Page

B. Date of start of construction of water supply system 1909C. Date that water was first applied to beneficial use 1909D. Name of owner of original water supply system Ernest J. PettegrewE. Amount of water originally applied to beneficial use 1.3 cfs in 1909, additional 1.10 cfs in 1911F. Present Use of Water - Amount of water now being used 1.6 cfsDate that this water was first used 1909

G. Chronological History of Water Use

E. J. Pettegrew constructed the first part of the system in 1909 and increased the system in 1911.

Lois Pettegrew became the owner in 1954

Loree Pettegrew became the owner in 1963

Bergette Finney became the owner in 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)

SS

County of Fall River)

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

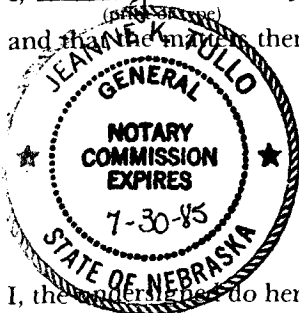
Signed

Bergette E. Finney

Subscribed and sworn to before me

June 26, 1984

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.

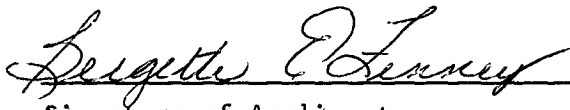
E. E. Pettegrew July 6 1984
(Print name) E. E. Pettegrew

Lloyd W. Thomson July 8 1984
(Print name) Lloyd W. Thomson

SUPPLEMENTAL INFORMATION

FORM 2A

Dam #	1	2	3
Freeboard	5 ft.	5 ft.	5 ft.
Crest Width	12 ft.	20 ft.	15 ft.
Crest Length	700 ft.	180 ft.	700 ft.
Height	30 ft.	20 ft.	15 ft.
Pipe Outlet	12" CMP Uncontrolled & 4'x4' gated concrete box culvert	18" CMP Uncontrolled	None
Spillway Width	None	None	10 ft. both ends
Upstream Slope	4:1	3:1	3:1
Downstream Slope	2:1	2:1	2:1
Surface Area	3 Acres	2 Acres	2 Acres
Storage	30 AF	12 AF	8 AF
Drainage Area	--	--	4500 Acres



 Signature of Applicant

REAL PROPERTY

East Half ($E\frac{1}{2}$) of Section Thirty-one (31),
Township Eleven (11), South of Range
Seven (7), East of the Black Hills Meridian,
Fall River County, South Dakota, and

Northeast Quarter ($NE\frac{1}{4}$) of Section Thirty-five (35),
Township Eleven (11), South of Range Six (6),
East of the Black Hills Meridian,
Fall River County, South Dakota, and

Northeast Quarter ($NE\frac{1}{4}$) of Section Twelve (12), in
Township Twelve (12), South of Range Six (6),
East of the Black Hills Meridian,
Fall River County, South Dakota, and

Southwest Quarter ($SW\frac{1}{4}$) of Section Five (5) and
East Half ($E\frac{1}{2}$) and

Southwest Quarter ($SW\frac{1}{4}$) of Section Six (6) and
Lots One and Two (1 & 2) and

East Half of Northwest Quarter ($E\frac{1}{2}NW\frac{1}{4}$) of
Section Seven (7) and

Northeast Quarter of Northwest Quarter ($NE\frac{1}{4}NW\frac{1}{4}$) and
Southeast Quarter of Southeast Quarter ($SE\frac{1}{4}SE\frac{1}{4}$) of
Section Eight (8) and

Southwest Quarter of Southwest Quarter ($SW\frac{1}{4}SW\frac{1}{4}$) of
Section Nine (9),

All of Section Seventeen (17),

Township Twelve (12), South of Range Seven (7),
East of the Black Hills Meridian,
Fall River County, South Dakota.

RANCH OF
LORRAINE PETTEGAUER, DECEASED

UNITED STATES

To

Ernest J. Pettegrew

: Patent
: Dated April 29th, 1914
: Filed August 1st, 1914 at 9 A.M.
: Book 5 of Patents on page 555
: Recorded Patent No. 401694
:
:

-1-

Grants the Lots six and seven and the east half of the Southwest quarter of Section six in township twelve south of Range seven east of the Black Hills Meridian, South Dakota, containing one hundred fifty-four and sixty-two hundredths acres, according to the Official Plat of the Survey thereof.

United States General Land Office Seal attached.

LOCATION NOTICE

LN 343-2

Know all men by these presents: That Ernest J. Pettigrew whose postoffice address is Wayside, Nebraska, South Dakota, a citizen of the United States, above the age of twenty-one years, being in possession of the following described land, to-wit: Section six Township 12, S., Range 7 E.B.H.M. in Fall River County, South Dakota. Said land comprising desert entry No. -----Rapid City Land District, availing himself of the right granted him 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 on the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ Section 6, Township 12 South Range 7 East B.H.M., 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 water for said purpose.

Said locator claims for the above purpose one and 10/100 cubic feet of water per second during the following described annual periods: whenever available: exclusive, each year.

The location of the point of diversion of the reservoir is as follows: From the N. 44° 00' W. 603.0 feet; thence N. 35° 42' W. 642.0 feet from the south $\frac{1}{2}$ corner of Section 6, T. 12, S.R. 7 E.B.H.M.

The ditch will run in a northeasterly direction to and on said land for a distance of 4800 feet.

Said location was made on the 20th day of March, 1911.

Witness my hand and seal this 20th day of March, 1911.

Ernest J. Pettigrew, Locator

Acknowledged March 29th, 1911 before William W. Smithson, a Notary Public within and for the County of Fall River and State of South Dakota. Notary Seal attached.

Filed March 31st 1911 at 1 P.M. Book 5 on page 164. Register of Deeds Office.

LOCATION NOTICE

LN 183-2

KNOW ALL MEN BY THESE PRESENTS: That Ernest H. Pettegrew, whose post office address is Oelrichs, South Dakota, a citizen of the United States, above the age of 21 years, being in possession of the following described land, to-wit: Desert No. 04124, Rapid City Land District for the SW $\frac{1}{4}$ Section 6, Township 12 S. Range 7 E.B.H.M. in Fall River County, S.D. availing himself of the right granted under the provisions of Chapter 21 of the Session Laws of South Dakota, of 1907, has located and claims the right to construct a certain dam across a dry draw on the NW Quarter of SW $\frac{1}{4}$ Section 6 Township 12 S. Range 7 E.B.H.M., 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 so conveying said waters.

Said locator claims for the above purpose 1.3 cubic feet of water per second the whole of each year, prior to all subsequent appropriations. The location of the point of diversion of the reservoir is as follows.

From the SW Section corner of said section 6, the initial point of the dam is N. 24° 30' E., 1496 feet.

The ditch will run in an easterly direction to and on said land for distance of 4000 feet.

Said location was made on the 5th day of April 1909. Witness my hand and seal

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

In The Matter Of The Estate Of)

LOREE PETTEGREW, Deceased)

ORDER APPROVING FINAL REPORT AND
DECREE OF FINAL DISTRIBUTION

BERGETTE E. FINNEY, the duly appointed, qualified and acting administratrix of the estate of LOREE PETTEGREW, deceased, having heretofore presented and filed herein her duly verified Final Report of her proceedings as such administratrix together with her verified Petition for Decree of Final Distribution of the estate of the decedent as set forth in the said Final Report and this being the time and place for said hearing and said matter coming on now regularly for hearing and said petitioner appearing in person and with her witnesses and by her attorney and no one appearing in opposition thereto and the Court having heard the evidence adduced by the said petitioner and her witnesses and being fully advised in the premises, and it appearing the satisfaction of the Court from such evidence and from the files and records herein and the Court finding that due and legal notice of the time and place of this hearing was given in all respects as required by law and the Order of this Court and that more than two months elapsed from the first publication of the Notice to Creditors prior to the filing of the said Report and Petition and that there are no expenses of last illness, funeral expenses or unpaid claims against the said deceased or his estate and that there are no personal property taxes legally levied due from the said deceased or the said estate to the State of South Dakota, the County of Fall River of any municipal corporation therein and

IT APPEARING to the satisfaction of the Court and the Court finding that the estate was duly inventoried and that due proceedings

have been had on the matter of South Dakota inheritance taxes and that the South Dakota inheritance taxes have been paid in full.

THE COURT having examined the said Final Report and the Family Agreement attached thereto marked Exhibit "B" and finding that the same in all respects to be true and correct and that the said estate is ready for final closing.

NOW ON MOTION OF Martin P. Farrell of Farrell, Farrell & Ginsbach, 441 North River Street, Hot Springs, South Dakota, the attorney for the administratrix, it is in open Court with no one opposing,

ORDERED, ADJUDGED AND DECREED:

I.

THAT the Final Report of the administratrix and each and every act therein enumerated be and they hereby are approved, allowed and confirmed in full.

II.

THAT LOREE PETTEGREW departed this life intestate in Box Butte County, State of Nebraska, on October 28, 1982, being at the time of his death a resident of Fall River County, State of South Dakota, and leaving an estate within the County of Fall River and State of South Dakota.

III.

THAT LOREE PETTEGREW, deceased, departed this life intestate, a widower, leaving as his only heirs and heirs at law and next of kin the following:

NAME

RELATIONSHIP

Bergette E. Firney	Daughter
Thelma M. Elwess	Daughter

IV.

THAT the following described real property namely:

Northeast Quarter of
Section Thirty-five (35),
Township Eleven (11) South of Range Six (6) and
Southwest Quarter of
Section Five (5) and
South Half of Southeast Quarter of
Section Six (6) and
Northeast Quarter of Northwest Quarter and
Southeast Quarter of Southeast Quarter of
Section Eight (8) and
Southwest Quarter of Southwest Quarter of
Section Nine (9) and
All of Section Seventeen (17),
Township Twelve (12) South of Range Seven (7),
East of the Black Hills Meridian,
Fall River County, South Dakota,

be and the same hereby is distributed to THELMA M. ELWESS, to her, her
heirs and assigns forever.

V.

THAT the following real property, namely:

East Half of
Section Thirty-one (31),
Township Eleven (11) South of Range Seven (7) and
Northeast Quarter and
Southwest Quarter and
North Half of Southeast Quarter of
Section Six (6) and
Lots One and Two and
East Half of Northwest Quarter of
Section Seven (7),
Township Twelve (12) South of Range Seven (7) and
Northeast Quarter of
Section Twelve (12),
Township Twelve (12) South of Range Six (6)
East of the Black Hills Meridian,
Fall River County, South Dakota,

be and the same is hereby distributed to BERGETTE E. FINNEY, to her, her
heirs and assigns forever.

VI.

THAT any and all water rights as established by the Water Rights Division of the State of South Dakota of the Department of Water and Natural Resources, be and they hereby are assigned to the lands they respectfully benefit, namely, Location Notice 166-1 filed April 5, 1909, by LOIS K. PETTEGREW claiming 1.7 CFS to be diverted at a point in the Northeast Quarter of the Northwest Quarter of Section Eight (8) of Township Twelve (12) South of Range Seven (7), East, and a dry draw filing No. 5612-2 filed November 28, 1951, by LOREE PETTEGREW for a dam located in the Northeast Quarter of the Northeast Quarter of Section Thirty-five (35), Township Eleven (11) South of Range Six (6) and a dry draw filing No. 7237-2 filed by Mrs. E. J. PETTEGREW on June 18, 1953 for a dam in the Southwest Quarter of the Northeast Quarter of Section Eighteen (18), Township Twelve (12) South of Range Seven (7), all East of the Black Hills Meridian, Fall River County, South Dakota, be and the same is assigned to THELMA M. ELWESS.

VII.

THAT the following water rights, namely location No. 183-2 filed April 5, 1909, by ERNEST J. PETTEGREW claiming 1.3 CFS to be diverted at a point in the Northwest Quarter of the Southwest Quarter of Section Six (6) in Township Twelve (12) South of Range Seven (7) and Location Notice No. 343-2 filed March 20, 1911, by ERNEST J. PETTEGREW claiming 3.10 CFS to be diverted at a point in the Southeast Quarter of the Southwest Quarter of Section Six (6) in Township Twelve (12) South of Range Seven, East of the Black Hills Meridian, Fall River County, South Dakota, be and the same are hereby assigned to BERGETTE E. FINNEY.

VIII.

ANY valid water rights not described above are distributed to the owner or the party whose land the water right benefits the most.

IX.

THAT if there are, at this time, any oil and gas leases in effect, commencing in 1984, will be divided equally between BERGETTE E. FINNEY and THELMA M. ELWESS irrespective of whose land above described is involved, this arrangement to cease once the oil and gas lease now in effect on the above described premises is terminated, whereupon, after such time, any oil and gas lease will be entered into independently by the respective owner of the above described premises.

X.

THE Black Hills Electric Cooperative, Inc. membership is distributed to BERGETTE E. FINNEY.

XI.

THAT in relation to the above described premises, there is now in effect a good and valid lease with JAMES D. FINNEY and BERGETTE E. FINNEY which said lease covers all of the above described real property and which expires January 1, 1987, which lease, until such time as it expires, takes precedence and remains in effect as long as the conditions of said lease and agreement are complied with by JAMES D. FINNEY and BERGETTE E. FINNEY, which said lease also pertains to the above described cattle.

XII.

THAT the following machinery and equipment, namely:

1965 Pontiac Tempest 4-door
Coffee horse trailer 5X16 (1/2 interest owned by
the decedent)
1975 IHC-766 Diesel tractor and loader
1950 JD B Tractor
1967 Owatana Swather

Farmhand 5-wheel rake
Miscellaneous tools of the decedent
Household goods and old clothing of the decedent
Miscellaneous junk
South Dakota livestock brand. *? L R + L H*

is hereby distributed to BERGETTE E. FINNEY.

XIII.

THAT the following described machinery and equipment namely:

1979 GMC 3/4 ton four-wheel pickup
1963 IHC 560 Diesel Tractor and Loader
1948 JD R Tractor
IHC 14 foot deep furrow drill
IHC 12' tandem disk
Speed King 36 foot grain auger
1967 JD 16 foot one-way plow
IHC one-way plow 7'
Dempster Chisel Plow 8'
Bearcat feed mill
Junk machinery-horse drawn
South Dakota livestock brand. *9 L R + L H*

is hereby distributed to THELMA M. ELWESS.

XIV.

THAT a one-1966 Everson Scraper, 2 1/2 yards is hereby
distributed equally to BERGETTE E. FINNEY and THELMA M. ELWESS.

XV.

THAT the Family Agreement attached to the Final Report and
marked Exhibit "B" is hereby approved.

XVI.

THAT the remaining assets of the estate of LOREE PETTEGREW,
deceased, including the sum of \$ 3,800.79 is hereby distributed as
follows:

To BERGETTE E. FINNEY: 1/2

To THELMA M. ELWESS: 1/2

XVII.

THAT any and all other property not included in the administration of the estate of LOREE PETTEGREW, deceased, which may be discovered after the administration of the estate of LOREE PETTEGREW, deceased is completed, is hereby distributed equally to BERGETTE E. FINNEY and THELMA M. ELWESS.

DONE IN OPEN COURT IN the City of Hot Springs, County of Fall River, State of South Dakota, this 18th day of November, 1983.

BY THE COURT:

THOMAS PARKER

CIRCUIT JUDGE

ATTEST:

Lorry Lou Millett

CLERK

RECEIPT

Division of Water Rights

No 4 9712

South Dakota Department of Water and Natural Resources

Pierre, July 13, 1984

RECEIVED OF Bergette E. Finney, SR, Box 16, Oelrichs, SD 57763

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

Fee for Application for Permit No. 1886-2 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. 1886-2	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

Chief Engineer

John Hatch
JOHN HATCH/ms

FARRELL, FARRELL & GINSBACH

LAWYERS

441 NORTH RIVER STREET

HOT SPRINGS, SOUTH DAKOTA 57747

Martin P. Farrell

Jane M. Farrell

Patrick M. Ginsbach

(605) 745-5161

January 28, 1983

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

Re: Estate of Loree Pettegrew, deceased

Gentlemen:

Could you help me in connection with some water rights.

I need to know whether or not there are any water rights on record in your office to the property, the legal description of which I am enclosing herein and which was owned at the time of his death by Loree Pettegrew.

I believe there should be at least three water rights. One water right being on Duck Creek, one on Horse Head Creek and one on Grouse Creek.

Bergette E. Finney is the administratrix of her father's estate and is presently living on the ranch.

It now becomes important in the administration of this estate to know whether or not there are any water rights on record in your office.

I will be glad to pay you for your search.

When convenient, please let me know.

Sincerely,

Martin P. Farrell
MARTIN P. FARRELL

MPF:jo





Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501
February 3, 1983

Water Rights Division
605 773-3352

Farrell, Farrell & Ginsbach
441 North River St
Hot Springs SD 57747

Gentlemen:

ATTN: Martin P Farrell

As requested in your letter dated January 28, 1983, we have searched the records for water rights on certain described land owned by Loree Pettigrew.

Location Notice 166-1 was filed April 5, 1909 by Lois K Pettigrew, claiming 1.7 cfs - does not state name of the stream - to be diverted at a point in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 8, T12S, R7E. No specific lands to be irrigated, only stating that she was the owner of the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 6, SW $\frac{1}{4}$, Section 5 and NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 8, T12S, R7E.

Location Notice 183-2 was filed April 5, 1909 by Ernest J Pettigrew, claiming 1.3 cfs - does not state name of the stream - to be diverted at a point in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 6, T12S, R7E. No specific lands to be irrigated, only stating that he is the owner of the SW $\frac{1}{4}$, Section 6, T12S, R7E.

Location Notice 343-2 was filed March 20, 1911 by Ernest J Pettigrew claiming 3.10 cfs - does not state the name of the stream - to be diverted at a point in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 6, T12S, R7E. No specific lands to be irrigated, only stating that he is the owner of Section 6, T12S, R7E.

If the above filings have been used, they are valid water rights. We would suggest that these records be modernized to reflect the actual use of water. Someone from the staff will contact you later this spring on filing a modernized "vested right" on what exists under these filings.

Two other dry draw location notices have been filed with this office for stockwatering dams.

Dry Draw filing #5612-2 was filed November 28, 1951 by Loree Pettigrew for a dam to be located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 35, T11S, R6E.

Dry Draw filing #7237-2 was filed by Mrs. E J Pettigrew on June 18, 1953 for a dam to be located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 18, T12S, R7E.

We find no other records on the lands described in your letter.

If you need further information, feel free to contact this office

Sincerely,

BURTON F JONES
Water Rights Specialist

BJ:ks

FARRELL, FARRELL & GINSBACH

LAWYERS

441 NORTH RIVER STREET
HOT SPRINGS, SOUTH DAKOTA 57747

Martin P. Farrell
Jane M. Farrell
Patrick M. Ginsbach

(605) 745-5161

November 21, 1983



Water Rights Division
Department of Water and Natural Resources
State of South Dakota
Joe Foss Building
523 East Capital
Pierre, SD 57501

Attention: Berton F. Jones
Water Rights Specialist

RE: Estate of Loree Pettegrew, Deceased

Dear Mr. Jones:

Your February 3, 1983 letter to me setting forth the various water rights owned by Loree Pettegrew when he died was very much appreciated.

The estate of Loree Pettegrew, deceased has been fully probated. Enclosed herein is a certified copy of the Decree of Final Distribution wherein it distributes approximately one half of the ranch to one daughter and approximately one half to the other. Also, it mentions several of the water rights.

In order for you to keep your records current I hope that the enclosed is of some assistance to you.

Sincerely,

Martin P. Farrell

MARTIN P. FARRELL

MPF/jm

Enclosures

May 28, 1984

Bergette E. Finney
Star Route, Box 16
Oelrichs, South Dakota 57763

Dear Bergette:

After inspecting your water spreading systems 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" for each system.

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 \$21.00 to cover the cost of the filing fee and license (\$10.50 for each system).

Upon approval by the Water Management Board, Location Notices 183-2 and 343-2 will be incorporated into the one Water Right.

I have also enclosed maps of your projects. If you have no changes to these maps you may keep them for your files. If you have some changes please indicate them on the map(s) and return with the forms so that we can correct our office copies. You may keep the copies of the location notices 183-2 and 343-2.

Since the system for Thelma M. Elwess was previously licensed, we are relicensing this to reflect my field inspection. There is no charge for this and we will be sending the new license directly to Thelma.

I will be completing the forms for your system that receives water from the Thomsen dam at a later date. I need to do a Field inspection on this one, with Mr. Thomsen.

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

Sincerely,

Delvin D. Brosz, P.E.
Hydrologist

DDB:ms
Enc.

Equal Opportunity Employer



No. 1886-2

Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

WATER RIGHTS DIVISION
(605) 773-3352

October 26, 1984

Bergette Finney
Sr Rt, Box 16
Oelrichs SD 57763

Dear Mrs. Finney:

Enclosed herewith are your Vested Right Permit, Water License No. 1886-2. 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,

A handwritten signature in cursive script that reads "John Hatch".

JOHN HATCH, Chief Engineer
Water Rights Division

JH: ks

enclosures

NOTE: The applicable portions of Location Notices No. 183-2 and 343-2 were incorporated into Vested Right No. 1886-2 and the abandoned portions of Location Notices No. 183-2 and 343-2 have been cancelled.



Department of Water & Natural Resources

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

March 23, 1990

1890-2

~~1885-2~~

1886-2

NOTICE

TO: Bergette E Finney
ST RT BOX 16
OELRICHS, SD 57763

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

SUBJECT: Low Water Levels in Angostura Reservoir

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

Since your Water Right Nos. 1885-2, 1886-2 and 1890-2 have priority dates that are senior to the April 11, 1941 priority for Angostura Irrigation Water Right No. 579-2, your permits are not directly affected by the Junior Priority Order. However, I am requesting that all Senior Water Right holders comply with any qualifications and limitations as stated on their water rights. With the existing low runoff conditions, we expect to monitor all water rights above Angostura Reservoir.

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

SOUTH DAKOTA

VESTED WATER RIGHT NO. 1886-2 FOR IRRIGATION

Date of Receipt of Claim July 13, 1984.

Date of Validation May 6, 1992.

The Water Management Board validated Vested Water Right Claim No. 1886-2 for irrigation purposes for Bergette Finney, St Rt, Box 16, Oelrichs SD 57763 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 1886-2 appropriates 1.6 cubic feet of water per second (cfs) from Horsehead & Duck Creeks located in the SE 1/4 SW 1/4, NW 1/4 SE 1/4, NW 1/4 SW 1/4 Section 6 to irrigate 108.4 acres located in the SW 1/4, S 1/2 NE 1/4, N 1/2 SE 1/4 Section 6; all in T12S-R7E.
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: January 1 - December 31.
3. The priority dates of the Vested Water Right are:

 1.3 cfs - April 5, 1909
 0.3 cfs - March 20, 1911
4. The water use system has been constructed and water has been applied to beneficial use.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

By: 
Chief Engineer

JUL 1 1992

date

Division of Water Rights
Dept. of Environment and Natural Resources



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

JUL 1 1992

Bergette E Finney
St Rt, Box 16
Oelrich SD 57763

Dear Ms. Finney:

The Water Management Board has validated the enclosed Vested Water Right No. 1885-2, 1886-2 and 1890-2. These validations give legal status to the claims and are the final document for your vested rights.

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

enclosures

11-7

24.1

99B

15.4

10.2

12.2

Section 6, T12S, R7E

14.9

NW & SW
7.9 acres

Dam #3

NE & SW
20.1 acres

SW & SW
15.0 acres

SE & SW
10.2 acres

SW & NE
16.7 acres

SE & NE
14.5 acres

NE & SE
2.4 acres

Dam #2

NW & SE
21.6 acres

Dam #1

Map Prepared By:
Delvin W. Brong, P.E.
Hydrologist
Division of Water Rights

12-7

1886-2



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

April 8, 2024

1885-2

1886-2

1890-2

Wesley Delbert Tlustos
13397 E Ardmore Rd
Oelrichs SD 57763

Dear Mr. Tlustos:

I have received your "Notice of Transfer of Ownership" forms and the required fees. Enclosed are receipts of payment for your records.

Water Right Nos. 1885-2, 1886-2, and 1890-2, previously owned by Bergette E Finney, are now listed under yourself. I have also updated your contact information in our system.

As a reminder, so long as you use the water beneficially, as stated in the Water Rights, State Water Laws provide that you have a continuing right to use the water. Should the water not be put to beneficial use for a period longer than 3 consecutive years, without legal excuse, the rights will be subject to cancellation.

If you have any questions, please contact me.

Sincerely,

Amanda Dewell
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us

enclosures

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date April 8, 2024

RECEIVED OF Wesley Tlustos 13397 E Ardmore Rd, Oelrichs SD 57763

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	\$ _____
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$ _____
Fee to retain Future Use Permit No. _____ after period of seven years.	\$ _____
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	\$ _____
Fee for Filing Transfer Form <u>1886-2</u>	<u>\$50.00</u>
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law) TOTAL	<u>\$50.00</u>

By Eric Gronlund
Chief Engineer
me

PAID

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

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

Water Right/Permit No. 1885-2
1886-2
1890-2

Date: April 2, 2024

APR 08 2024
CH 17345
Rec't#

I/We request that Water Right/Permit No. 1885-2
1886-2
1890-2 formerly owned by:

Bergette E. Finney / Donna Essay (Trustee)

1806 E. 10th St
Alliance, NE 68301
308-762-7031
be transferred to:

New Owner Name: Wesley Delbert Thustas

Address: 13397 E. Ardmore Rd. home: 605-535-2153

City, State, Zip Delrichs, SD 57763 email:

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

See attachment.

*attached copies of Water Licenses for 1885-2,
1886-2, and 1890-2 (AD)



I understand that the validity of Water Right/Permit No. 1885-2
1886-2
1890-2 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below).

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

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

I, Wesley Delbert Thustas, the new owner, certify that the above information is true and correct.

Wesley Delbert Thustas
(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, an inspection is conducted to issue a water right license for the project as developed. A water permit/right may be cancelled for one or more of the following 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.

RECEIVED

APR 08

OFF'
V