

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

vested Right  
WATER PERMIT NO. 1993-2 9

MAP No. same

Name of Applicant Alex Pester

Post Office Address Route 2, Minature NE 69356

Amount of Water Claimed 0.94 cfs Total Acres 66

Source of Water Supply Indian Creek

Water to be used for irrigation County Fall River

About 15 miles W of Ardmore

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

APPLICATION: Approved \_\_\_\_\_ Subject to \_\_\_\_\_

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

PRIORITY \_\_\_\_\_ Date Received Sept. 8, 1986 Fee \$15.00 Remarks \_\_\_\_\_

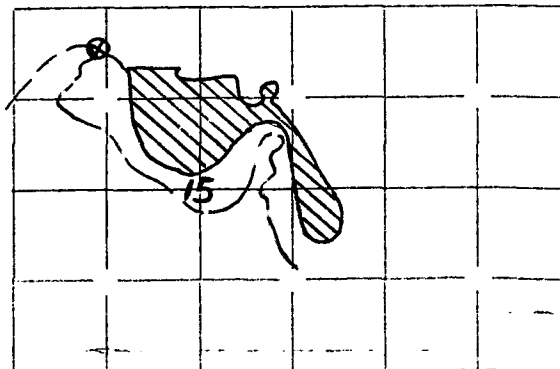
Corrected Application Received \_\_\_\_\_ Period of Annual Use Jan 1 - Dec 31

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

WI-1 Description same as Application YES \_\_\_\_\_ NO \_\_\_\_\_ REMARKS \_\_\_\_\_

Diversion Point Indian Creek (div pt. No. 1): NW $\frac{1}{4}$ NW $\frac{1}{4}$   
section 15 - T12S - R1E

Land to be Irrigated NE $\frac{1}{4}$ NW $\frac{1}{4}$  (6ac), SE $\frac{1}{4}$ NW $\frac{1}{4}$  (23ac),  
NW $\frac{1}{4}$ NE $\frac{1}{4}$  (4ac), SW $\frac{1}{4}$ NE $\frac{1}{4}$  (19ac), SE $\frac{1}{4}$ NE $\frac{1}{4}$  (6ac),  
NE $\frac{1}{4}$ SE $\frac{1}{4}$  (8ac) section 15 - T12S - R1E



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

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

Type of Map sketch PREPARED BY Del Brosz Reviewed and the Number  
assigned on October 20, 1986 By Ron Duvall

No. 1993-2 Hydrologic Unit 10120108  
 Map No. same Basin Upper Cheyenne  
 Newspaper Hot Springs Star, Box 1000 (Tues)

# 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 ☐☐ 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 Alex Pester Phone No. \_\_\_\_\_Post Office Address Rt 1, Minatare NE State 69356  
(Street, RR or Box) Zip Code2. Amount of water claimed (c.f.s) 0.94 Total acres irrigated 663. Source of Water supply Indian Creek4. Location of point of diversion Diversion Point #1 (map) - S80°W 4145 feet from the  
northeast corner of Section 15, T12S, R1E\_\_\_\_\_ County Fall River5. Counties where water will be used Fall River6. Annual period during which water is to be used all year January 1 - December 31

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. |
|-----------------------------------------------------|----------------|
| NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec 15, T12S, R1E | 6              |
| SE $\frac{1}{4}$ NW $\frac{1}{4}$ "                 | 23             |
| NW $\frac{1}{4}$ NE $\frac{1}{4}$ "                 | 4              |
| SW $\frac{1}{4}$ NE $\frac{1}{4}$ "                 | 19             |

| Land Description                                    | No. Acres Irr. |
|-----------------------------------------------------|----------------|
| SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec 15, T12S, R1E | 6              |
| NE $\frac{1}{4}$ SE $\frac{1}{4}$ "                 | 8              |
|                                                     |                |
|                                                     |                |

Attach sheet if more space is needed

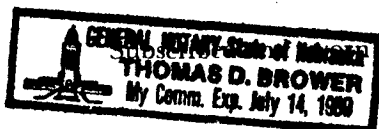
8. Give a brief description of proposed project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

This is a water spreading system. The water is diverted from the creek into a short canal. The water leaves the end of the canal and floods the flat grassland.

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~~ NEBRASKA  
 County of Scotts Bluff <sup>ss</sup>

I, Alex Pester 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 Alex Pesterto before me this 4th day of September 19 86

Thomas D. Brower  
 Notary Public (or other qualified officer)

# WATER PERMIT

The Water Management Board hereby approves Water Permit Application No. 1993-2  
Alex Pester Route 2 Minatare  
(Applicant) (Post Office Address)  
Nebraska 69356 With the following qualifications.  
(State) (Zip Code)

SEE 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:

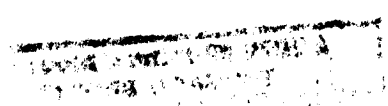
1. The date from which applicant may claim right is \_\_\_\_\_, 19\_\_\_\_.
2. One-fifth of the work is to be completed on or before \_\_\_\_\_, 19\_\_\_\_.
3. The whole of said work is to be completed on or before \_\_\_\_\_, 19\_\_\_\_.
4. The time limit for proof of beneficial use of water is \_\_\_\_\_, 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 validates Vested Water Right No. 1993-2

Alex Pester  
(applicant)

Rt. 2, Minatare  
(post office address)

NE  
(state)

69356  
(zip code)

Date of receipt of Application September 8, 1986.

Validated December 10, 1986.

The Water Management Board hereby validates 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 Jan. 1, 1954.
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 validated shall not exceed \_\_\_\_\_

0.94 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 - Dec 31.

WATER MANAGEMENT BOARD

By: John Hatch

(Chief Engineer)

Division of Water Rights  
Dept. of Water and Natural Resources

**FEB 17 1987**

\_\_\_\_\_, 19\_\_\_\_.

STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 1993-2

(1) Alex Pester of RR 1, Minatare NE 69356 made Application No. 1993-2, September 8, 1986 for validation of a vested right claim to appropriate 0.94 cubic feet per second of water from Indian Creek, Fall River County, South Dakota for irrigation purposes. Vested Water Right No. 1993-2, with a priority date of January 1, 1954 was validated December 10, 1986 and issued to applicant for diversion of water with construction of the described water supply system completed and the application to beneficial use of said water completed.

and

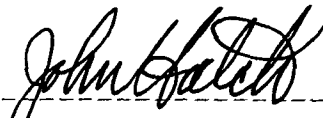
(2) It is certified that the application has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 0.94 cubic feet per second of water for beneficial use. The location of the diversion point(s) is S 80°W 4145 feet from the northeast corner of Section 15, T12S, R1E.

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 T12S, R1E

|            |               |            |
|------------|---------------|------------|
| Section 15 | NE 1/4 NW 1/4 | 6 acres    |
|            | SE 1/4 NW 1/4 | 23 "       |
|            | NW 1/4 NE 1/4 | 4 "        |
|            | SW 1/4 NE 1/4 | 19 "       |
|            | SE 1/4 NE 1/4 | 6 "        |
|            | NE 1/4 SE 1/4 | <u>8 "</u> |
|            | TOTAL         | 66 acres   |

(4) Pursuant to Section 46-5-30.1 Alex Pester of RR 1, Minatare NE 69356 the holder(s) and/or owners(s) of Vested Water Right No. 1993-2 is issued a license to appropriate water, the right to use 0.94 cubic feet per second of water from Indian Creek with a priority date of January 1, 1954 from the location specified in (2) of this license. The water to be conducted to and upon lands specified in (3) of this license for the purpose of irrigation. This license is subject to any limitations or qualifications listed in Vested Water Right No. 1993-2 and subject to South Dakota State Law.

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

**FEB 17 1987**

**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) Alex Pester
 Post Office Address Rt 1, Minatare NE 69356  
(Street, RR or Box) (State) (Zip Code)

A. Notice of Appropriation \_\_\_\_\_ Date of Posting \_\_\_\_\_

 Date of recording \_\_\_\_\_ Recording date \_\_\_\_\_  
Where Book Page
B. Date of start of construction of water supply system 1954C. Date that water was first applied to beneficial use 1955D. Name of owner of original water supply system Robert GeiserE. Amount of water originally applied to beneficial use 0.94 cfsF. Present Use of Water - Amount of water now being used 0.94 cfsDate that this water was first used 1955

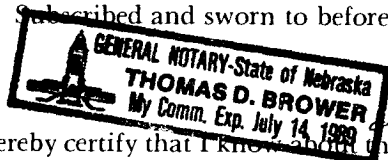
## G. Chronological History of Water Use

The system was under construction before March 2, 1955 and the water was put to beneficial use shortly after that by Robert Geiser. The property was purchased by Alex Pester in 1968.

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~~ Nebraska )County of Scotts Bluff )<sup>ss</sup>

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

Signed *Alex Pester*Subscribed and sworn to before me September 4, 1986*Thomas D. Brower*  
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) 19\_\_\_\_\_  
(Print name) 19

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 Alex  
Pester of Minatare, Neb. holder of  
 Permit No. 1993-2, bearing the priority of January 1 19 54 authorizing  
 the diversion of 0.94 cu. ft. per second of the waters of Indian Creek  
 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: Two 24" gated cmp at the diversion ditch inlet.
- B. Works used to transport water to place of use:  
A diversion ditch, approximately 900' long transports the water to the field
- C. Works used to apply water to beneficial use: Water flows from the end of the ditch onto the field and floods the grass land.

The system is in the following condition goodThe point of diversion is located S 80° W 2145 feet from the northeast corner of section 15, T12S, R1E.The works are capable of diverting and conveying to the place of use ~~12~~ 12 (est)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: NE<sup>1</sup>NW<sup>4</sup> - 6 acres,  
SE<sup>1</sup>NW<sup>4</sup> - 23 acres, NW<sup>2</sup>NE<sup>2</sup> - 4 acres, SW<sup>2</sup>NE<sup>2</sup> - 19 acres,  
SE<sup>2</sup>NE<sup>2</sup> - 6 acres, E<sup>1</sup>NE<sup>2</sup>SE<sup>2</sup> - 8 acres all in section 15, T12S,  
R1E.

comprising a total of 66 acres of land and the license should be issued for 0.94 cfsApplicable permit qualifications have been complied with ☒ Yes ☐ NoExceptions to compliance are: \_\_\_\_\_ Date July 19, 1984

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

August 27, 1984

Alex Pester  
Route #1  
Minatare, Nebraska 69356

Dear Mr. Pester:

I have completed all of the forms necessary for filing vested rights on your two water spreading systems in Section 15, T12S, R1E.

I spoke with Mr. Robert Geiser as you suggested. Mr. Geiser stated that all of the old filings that are on record were either abandoned or never developed. He stated that he constructed the two present systems in the 1950's. He wasn't exactly sure what years the construction took place. In order for a water right to be considered as a "vested right", under South Dakota law, the system would have had to been under construction on or before March 2, 1955. If this was not the case, the system would not have a valid water right.

Would you please examine the forms and correct anything that is in error. You may want to add more definite information on form 2-B if you have it or are able to obtain it. Especially for diversion point #1. 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. This is for the cost of the filing fee and the water license (\$10.50 for each system). Upon recognition by the Water Management Board your copies of the forms will be returned to you.

I have enclosed a map of your projects. If you have no changes to make on this map you may keep it for your files. If you have changes please indicate them on the map and return it with the forms. We will then correct our office copy.

All of the Location Notices and Water Right Filings that we have on record for your property in South Dakota, will be brought before the Board of Water Management for cancellation. This will be based on Mr. Geiser's statement of abandonment or non development. We will be forwarding cancellation notices on these at a later date. South Dakota law states that non use of water for a period of three years shall be considered abandonment.

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

Sincerely,

Delvin D. Brosz, P.E.  
Hydrologist

DDB:ms  
Enc.

*Equal Opportunity Employer*

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

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

July 10, 1986

NOTICE

TO: Alex Pester, RR #1, Minatare, NE 69356

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



SUBJECT: Notice of Requirement to File Vested Water Right Claim

This Notice is in regard to your two water spreading systems located in Fall River County, South Dakota and Sioux County, Nebraska. Del Brosz, Hydrologist, with the Division of Water Rights inspected your systems July 19, 1984. On August 27, 1984, partially completed application forms were sent to you for filing a vested right claim for each system. To date, we have not received these applications from you.

In order for a water right to be considered as a "vested right", under South Dakota law, the system would have had to been under construction on or before March 2, 1955. If these systems were constructed after this date, a new application will need to be filed.

South Dakota Water Law SDCL 46-5-49 as passed by the 1986 Legislature states that if the Chief Engineer is aware of a water use system for which the owner claims vested right status, the owner is required to file the vested right claim within 90 days. Any claim filed after the 90 days will be considered a new application and receive a new priority date, which would be the date the application is received in this office. You have 90 days from the date of this notice to submit your applications. The filing fee is \$15.00 per application (a total of \$30.00 for your applications).

Enclosed is a partially completed set of application forms to claim vested rights. If your systems do not qualify for vested right status, the filing fee for your applications will be \$225.00 each. We will be glad to help you complete the applications and answer any questions you may have.

CERTIFICATION

I hereby certify that on July 10, 1986 I have personally deposited with the U.S. Mail, a postage prepaid envelope containing a Notice pertaining to Requirement to File Vested Right Claim addressed as stated on the notice.

*Karen Schlaak*

KAREN SCHLAACK  
Administrative Aide

STATE OF SOUTH DAKOTA )  
                                  ) SS  
COUNTY OF HUGHES        )

Sworn to, before me, this 10<sup>th</sup> day of July, 1986.

*John Hatch*  
Notary Public



LAW OFFICES

VAN STEENBERG, BROWER, CHALOUPKA, MULLIN & HOLYOKE

A PROFESSIONAL CORPORATION

1904 1ST AVE.

200 GERING NATIONAL BANK BUILDING

POST OFFICE BOX 1204

POST OFFICE BOX 668

SCOTTSBLUFF, NEBRASKA 69361

GERING, NEBRASKA 69341

(308) 635-3161

(308) 436-3411

PLEASE REPLY TO:

Scottsbluff

R.M. VAN STEENBERG  
THOMAS D. BROWER  
ROBERT P. CHALOUPKA  
ROBERT W. MULLIN  
THOMAS T. HOLYOKE  
ROBERT G. PAHLKE  
STEVEN C. SMITH  
PAUL W. SNYDER  
PAUL E. HOFMEISTER

September 5, 1986



South Dakota Department of  
Water & Natural Resources  
Foss Building  
Pierre, South Dakota 57501

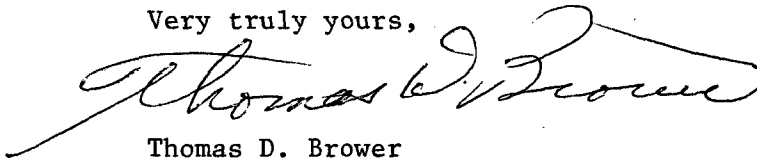
ATTN: Mr. John Hatch  
Chief Engineer  
Water Rights Division  
605 773-3352

Dear Mr. Hatch:

Find enclosed signed applications by Alex Pester, as well as the Affidavits of Construction.

We have also enclosed Mr. Pester's check in the sum of \$30.00 in accordance with your letter, which is the required application fee. If you have any questions, please don't hesitate to contact myself or Mr. Pester. Thank you.

Very truly yours,

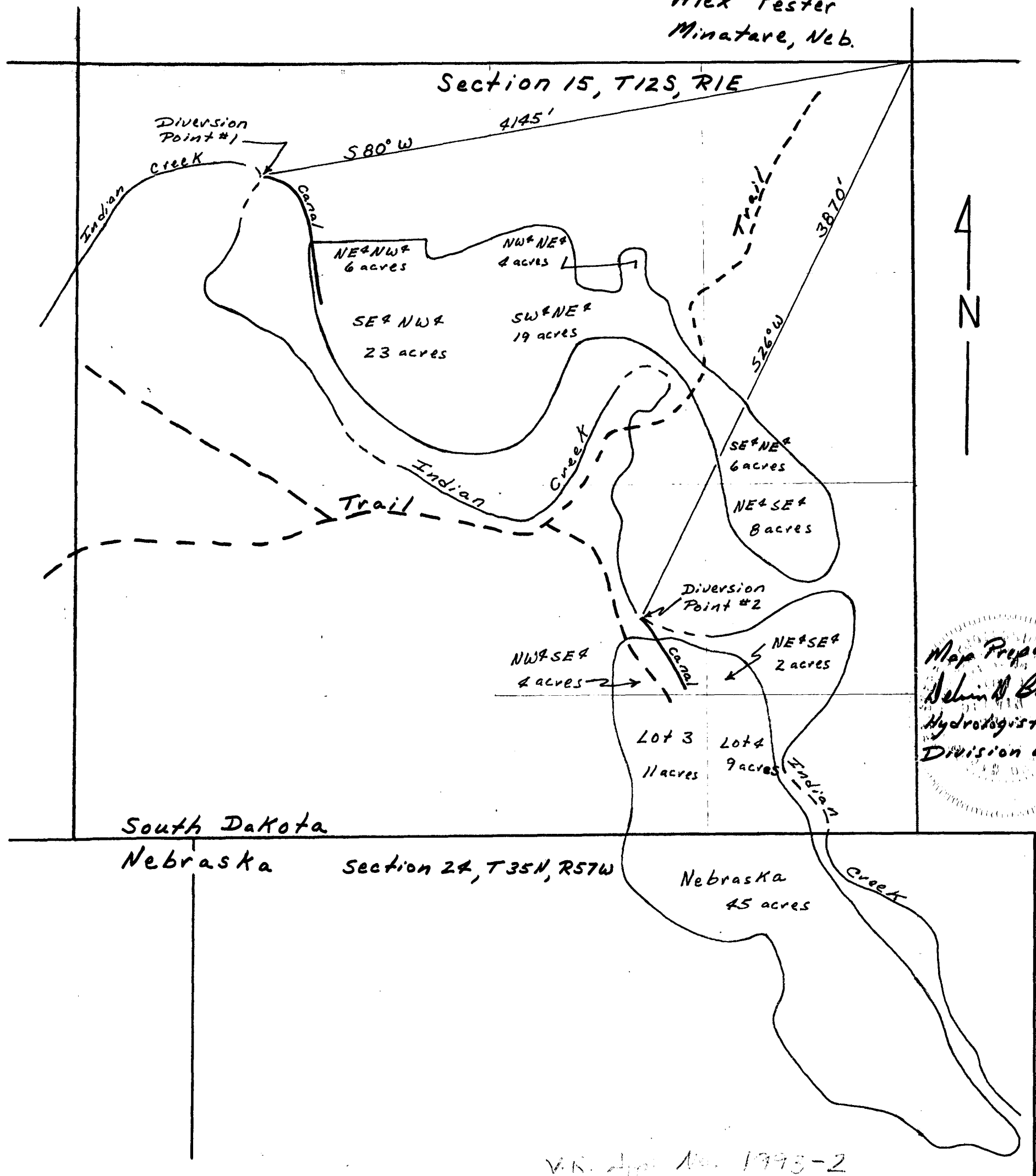
  
Thomas D. Brower

TDB/jh

Enclosures

*Alex Pester  
Rowle 2  
Muscatare NE  
69356*

Alex Pester  
Minatare, Neb.



# RECEIPT

Division of Water Rights

410546

South Dakota Department of Water and Natural Resources

Pierre, September 8, 1986

RECEIVED OF Alex Pester, Route 2, Minatare, NE 69356

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

|                                                                                                                                    |       |    |    |
|------------------------------------------------------------------------------------------------------------------------------------|-------|----|----|
| Fee for Application for Permit No. <u>1993-2</u> to Appropriate Water, to construct works and to put water to beneficial use _____ | 15    | 00 | VR |
| 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 _____                                                                                                 |       |    |    |
| 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 | 15 | 00 |

By

Chief Engineer

John Hatch  
JOHN HATCH MS

Report on Vested Water Right Application No. 1993-2  
Alex Pester  
October 20, 1986

Application No. 1993-2 requests validation of a vested right claim to appropriate 0.94 cfs from Indian Creek. The water has been used following construction of the system during 1954 to irrigate 66 acres. The point of diversion is located in the NW1/4NW1/4 of Section 15, T12S, R1E. The 66 irrigated acres are located in the E1/2NW1/4, W1/2NE1/4, SE1/4NE1/4 and NE1/4SE1/4 of Section 15, T12S, R1E.

Conclusions:

1. The project is a water spreading system. It was inspected by Delvin D. Brosz and found to exist as described.
2. According to the affidavit of water use the system was constructed during 1954 and water has been put to beneficial use since that time.
3. It is recommended that the vested right claim be validated.
4. A priority date of January 1, 1954 should be assigned since the exact date for start of construction during 1954 is unknown.



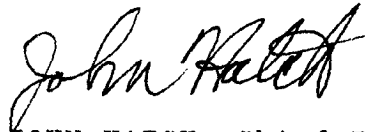
Delvin D. Brosz, P.E.  
Hydrologist

RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED WATER  
RIGHT APPLICATION NO. 1993-2

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Validation of Vested Water Right Application No. 1993-1, Alex Pester, Route 2, Minatare, Nebraska

The Chief Engineer is recommending VALIDATION of Application No. 1933-2 because 1) water has been appropriated as described for irrigation use with a January 1, 1954 priority date, 2) the use has been developed without unlawful impairment of existing rights, 3) the use is a beneficial use and 4) it is in the public interest.

See the attached report for additional information.

A handwritten signature in cursive script, reading "John Hatch".

JOHN HATCH, Chief Engineer  
October 31, 1986



# Department of Water & Natural Resources

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

November 5, 1986

NOTE: TO BE SURE OF PUBLICATION ON  
THE CORRECT DATES, CONTACT THE  
NEWSPAPER RIGHT AWAY.

Alex Pester  
Rt 2  
Minatare NE 69356

Dear Mr. Pester:

Your Application Nos. 1992-2 and 1993-2 for a vested water right claims has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of your 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, the recommendation of the Chief Engineer and a report on the applications are enclosed. Please review the notice and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your notice of intent to appropriate water and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. We must receive Proof of Publication before the applications can be considered by the Water Management Board.

Sincerely,

Ron Duvall  
Natural Resources Engineer  
605 773-3352

enclosures



# Department of Water & Natural Resources

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

November 5, 1986

HOT SPRINGS STAR  
Box 1000  
Hot Springs SD 57747

Dear Sir:

Enclosed is a Notice of Hearing to Validate Vested Right Application Nos. 1992-2 and 1993-2. Please publish this notice once each week for two consecutive weeks in your paper. The first publication should be on or before November 11, 1986.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. The applicant is to pay the cost of publication and should make the necessary arrangement with you to pay these costs.

A copy of BOTH publications must be sent to the Water Rights Division. IMMEDIATELY after the FIRST publication, return a copy of the notice with the FIRST Publication Transmittal form on the bottom of this page. The first copy is needed to check the publication for errors so any corrections can be made before the second notice is published.

Please be sure the SECOND publication is returned with the enclosed Proof of Publication form. The permit application cannot be considered by the Water Management Board until proof of publication has been received.

Sincerely,

Ron Duvall  
Natural Resources Engineer  
605 773-3352

enclosures

-----CUT HERE-----

Date\_\_\_\_\_

TO: Water Rights Division  
Joe Foss Building  
Pierre SD 57501-3181

We are in receipt of your letter of \_\_\_\_\_ enclosing Notice of Hearing to Validate Vested Right Applications which was first published in our issue of \_\_\_\_\_. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

-----  
Name

-----  
Newspaper

Instruction to Newspaper - Publish first publication of the following Notice on or before November 11, 1986 with 2nd publication 1 week later. The applicant is responsible for payment.

---

NOTICE OF HEARING To Validate  
Vested Right Application Nos. 1992-2 & 1993-2 to Appropriate Water

Notice is hereby given that Alex Pester whose mailing address is Route 2, Minatare, Nebraska has filed Application No. 1992-2 to validate a vested right claim to appropriate 1.01 cubic feet of water per second from Indian Creek to irrigate 71 acres (26 acres in SD and 45 acres in Nebraska) with a priority date of January 1, 1951. The point of diversion is located in the NW 1/4 SE 1/4 Section 15, T12S, R1E and the irrigated acreage is located in the N 1/2 SE 1/4, Lot 3, Lot 4 Section 15, R12S, R1E; and in Section 24, T35N, R57W in Nebraska. Application No. 1993-2 is to validate a vested right claim to appropriate 0.94 cubic feet of water per second from Indian Creek to irrigate 66 acres with a priority date of January 1, 1954. The point of diversion is located in the NW 1/4 NW 1/4 Section 15 and the irrigated acreage is located in the E 1/2 NW 1/4, W 1/2 NE 1/4, SE 1/4 NE 1/4, NE 1/4 SE 1/4 Section 15; all in T12S, R1E.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends VALIDATION of Vested Water Right Application Nos. 1992-2 and 1993-2 because 1) water has been appropriated as described for irrigation with the priority dates listed above, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water and 4) it is in the public interest.

Validation of this application will be considered by the Water Management Board in Room 216, Joe Foss Bldg, December 10, 1986 at 10:00 am.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve validation, 2) approve the validation with qualifications, 3) defer, or 4) deny validation of an application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and the Chief Engineer by November 28, 1986. The petition may be informal, but is must include a statement describing the petitioner's interest in the application, the reasons for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition.

These applications are made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-18; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31, 46-5-49; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15 and 74:02:01:19 thru 74:02:01:22.

These hearings are adversary proceedings. The applicant or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on these applications or to assure access to the hearing by the handicapped can contact the Water Rights Division, Joe Foss Bldg, Pierre SD (605 773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or person who has filed a petition to oppose or support an application. The request for extension must be filed with the Chief Engineer by November 28, 1986.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )  
County Fall River ) ss.

I, Charles Najacht hereby  
certify that the annexed printed copy of Notice of Intent to Appropriate  
Water 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 \_\_\_\_\_

City of Hot Springs

County of Fall River and State of South Dakota;  
that the said notice was published in said newspaper on the following  
two dates:

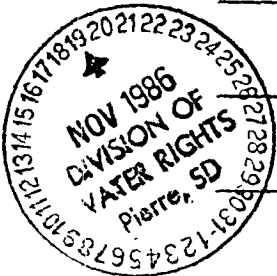
November 11, 1986

November 18, 1986

Charles Najacht  
(Signature)

Publisher  
(Title)

November 18, 1986  
(Date Signed)



Cost of Printing: \$45.65

WNR-808-7/79  
Proof of Publication

295  
NOTICE OF HEARING TO VALIDATE  
VESTED RIGHT APPLICATION  
NOS. 1992-2 & 1993-2  
TO APPROPRIATE WATER

Notice is hereby given that Alex Pester whose mailing address is Route 2, Minatare, Nebraska has filed Application No. 1992-2 to validate a vested right claim to appropriate 1.01 cubic feet of water per second from Indian Creek to irrigate 71 acres (26 acres in SD and 45 acres in Nebraska) with a priority date of January 1, 1951.

The point of diversion is located in the NW 1/4 SE 1/4 Section 15, T12S, R1E and the irrigated acreage is located in the N 1/2 SE 1/4, Lot 3, Lot 4 Section 15, T12S, R1E; and in Section 24, T35N, R57W in Nebraska.

Application No. 1993-2 is to validate a vested right claim to appropriate 0.94 cubic feet of water per second from Indian Creek to irrigate 66 acres with a priority date of January 1, 1954. The point of diversion is located in the NW 1/4 NW 1/4 Section 15 and the irrigated acreage is located in the E 1/2 NW 1/4, W 1/2 NE 1/4, SE 1/4 NE 1/4, NE 1/4 SE 1/4 Section 15; all in T12S, R1E.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends VALIDATION of Vested Water Right Application Nos. 1992-2 and 1993-2 because 1) water has been appropriated as described for irrigation with the priority dates listed above, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water and 4) it is in the public interest.

Validation of these applications will be considered by the Water Management Board in Room 216, Joe Foss Bldg., December 10, 1986 at 10:00 a.m.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve validation, 2) approve the validation with qualifications, 3) defer, or 4) deny validation of an application after it reaches a conclusion based upon facts presented at the public hearing.

Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and the Chief Engineer by November 28, 1986.

The petition may be informal, but it must include a statement describing the petitioner's interest in the application, the reasons for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition.

These applications are made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-18; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31, 46-5-49; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15 and 74:02:01:19 thru 74:02:01:22.

These hearings are adversary proceedings. The applicant or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on these applications or to assure access to the hearing by the handicapped can contact the Water Rights Division, Joe Foss Bldg., Pierre SD (605 773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or person who has filed a petition to oppose or support an application.

The request for extension must be filed with the Chief Engineer by November 28, 1986. Nov. 11, 1986



# Department of Water & Natural Resources

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

WATER RIGHTS DIVISION  
(605) 773-3352

FEB 17 1987

Alex Pester  
Route 2  
Minatare, Nebraska 69356

Dear Mr. Pester:

Enclosed are your Validated Vested Water Right and Water License No. 1993-2.  
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.

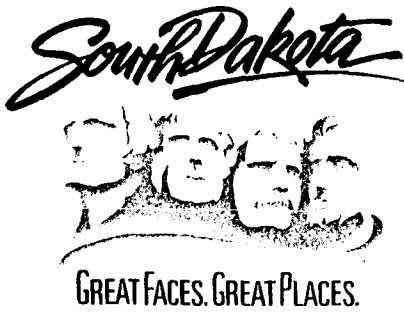
Very truly yours,

A handwritten signature in black ink, appearing to read "John Hatch". The signature is fluid and cursive.

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

JH: ms

enclosures



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

June 28, 1991

1992-2  
1993-2

Jane Farrell  
FARRELL, FARRELL & GINSBACH  
441 N River Street  
Hot Springs, SD 57747

Dear Ms. Farrell:

Enclosed, as you requested, are "Notice of Transfer of Ownership" forms for use in filing ownership changes on Vested Water Right Nos. 1992-2 and 1993-2. These are currently listed in the name of Alex Pester.

The forms will need to be completed and then signed by the new owner(s) in the presence of a notary. Upon completion, return the forms to our office with a required filing fee of \$2.50 each.

South Dakota Water Law 46-5-30.3 requires Notice of any sale, grant, lease, conveyance or other transfer of a water permit or water right to appropriate water to be filed with this office within ninety days.

I have included copies of Vested Right Nos. 1992-2 and 1993-2 for your files. If you have any questions, please contact me.

Sincerely,

Genny McMath  
Natural Resources Analyst  
(605) 773-3352

enclosures

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

Beverly J. Irwin  
Certified Legal Assistant

July 12, 1991



S.D. Dept. Environment & Natural Resources  
Jenny McMath, Natural Resources Analyst  
Joe Foss Building  
523 E. Capitol  
Pierre, SD 57501-3181

Re: 1992-2, 1993-3

Dear Ms. McMath:

Enclosed please find the Notice of Transfer of Ownership for the above-referenced water rights.

Also enclosed please find a filing fee totalling \$5.00.

If I can be of further assistance, please don't hesitate to get in touch with me.

Thank you very much.

Sincerely,

  
JANE M. FARRELL

jc

Enclosures

cc: Joe & Nancy Falkenburg

## NOTICE OF TRANSFER OF OWNERSHIP

No. 1993-2

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

Date: July 3, 1991I/We request that Water ~~Permit~~/Right No. 1993-2formerly owned by: Alex Pester

be transferred to: (name & address) Joe Falkenburg and Nancy Falkenburg, husband and wife,  
as joint tenants, P.O. Box 8, Edgemont, SD 57735 (telephone No.) (605)459-2608

Title to the following described land(s)/property has been transferred as described above:  
Township 12 South, Range 1 East, Section 15: All

I/We understand that the validity of Water Permit/Right No. 1993-2 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 at the Division of Water Rights, as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is attached to cover the filing fee required under SDCL 46-2-13.

STATE OF NEBRASKA )

County of Scotts Bluff )

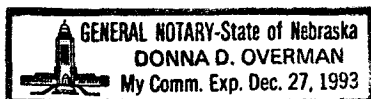
Joe Falkenburg and

Nancy Falkenburg

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

Joe FalkenburgNancy S. Falkenburg  
(Signed)

Subscribed and sworn to before me this 3rd day of July, 19 91.

Donna D. Overman  
(Notary Public)

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

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

# RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

412739

Pierre, \_\_\_\_\_ July 15, 1991

RECEIVED OF Farrell, Farrell & Ginsbach, 441 N. River St., Hot Springs, SD 57747

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

|                                                                                                                            |       |      |
|----------------------------------------------------------------------------------------------------------------------------|-------|------|
| Fee for Application for Permit No. _____ to Appropriate Water, to construct works 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>Water Right No. 1993-2</u>                                                                 | 2     | 50   |
| 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 | 2 50 |

By John Hatch   
Chief Engineer

*South Dakota*



GREAT FACES. GREAT PLACES.

July 24, 1991

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING

523 EAST CAPITOL

PIERRE SOUTH DAKOTA 57501-3181

No. 1992-2

1993-2

Jane M. Farrell  
Farrell, Farrell & Ginsbach  
441 North River Street  
Hot Springs, SD 57747

Dear Ms. Farrell:

Enclosed receipts in the amount of \$2.50 each which you paid for the transfer of Water Right Nos. 1992-2 and 1993-2.

Our records now show Joe and Nancy Falkenburg, P.O. Box 8, Edgemont, SD 57735 as the owner of Water Right Nos. 1992-2 and 1993-2.

Sincerely,

*Cheryl F. Frost*

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

enclosure

cc: Joe and Nancy Falkenburg



**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)

April 30, 2004

**NOTICE OF SHUTOFF ORDER**

**TO:** JOE/NANCY FALKENBURG  
PO BOX 8  
EDGEMONT SD 57735

**FROM:** GARLAND ERBELE, Chief Engineer  
Water Rights Program *Garland Erbele*

**SUBJECT:** Shutoff Order for Junior Priority Date Water Rights Upstream of  
Angostura Dam

**Shutoff Order for Water Right Nos. 1992-2, 1993-2**

To protect the US Bureau of Reclamation's Water Right No. US579-2 for Angostura Reservoir with a senior priority date of April 11, 1941, the Bureau of Reclamation has asked that we issue shutoff orders for junior water right holders. Effective immediately no diversions of water from the Cheyenne River and tributaries by holders of junior water rights upstream of Angostura Dam will be allowed. On April 30, 2004, the water elevation in Angostura Reservoir was 3179.1 feet, a little over 8 feet below the full elevation of 3187.2 feet. Current storage is at 96,912 acre-feet, about 33,850 acre-feet below full and inflows are only about 38 acre-feet per day.

The Angostura Reservoir storage level will be closely monitored and if the Cheyenne River flows upstream of dam increase such that the reservoir will fill, this shutoff order will be rescinded at that time. If conditions do not improve, this order will remain in effect until December 31, 2004.

I am asking for your cooperation in complying with this shutoff order. If you have any questions, please contact Mark Rath or Don Stroup with the Water Rights Program at (605) 773-3352. Thank you.



1993-2

DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

March 15, 2005

**NOTICE OF SHUTOFF ORDER**

**TO:** JOE/NANCY FALKENBURG  
PO BOX 8  
EDGEMONT SD 57735

**FROM:** GARLAND ERBELE, Chief Engineer  
Water Rights Program

**SUBJECT:** Shutoff Order for Junior Priority Date Water Rights Upstream of  
Angostura Dam

**Shutoff Order for Water Right Nos. 1992-2, 1993-2**

To protect the US Bureau of Reclamation's Water Right No. US579-2 for Angostura Reservoir with a senior priority date of April 11, 1941, the Bureau of Reclamation has asked that we issue shutoff orders for junior water right holders. Effective immediately no diversions of water from the Cheyenne River and tributaries by holders of junior water rights upstream of Angostura Dam will be allowed. On March 8, 2005, the water elevation in Angostura Reservoir was 3169.5 feet, almost 18-feet below the full elevation of 3187.2 feet. Storage is at 65,521 acre-feet, about 73,240 acre-feet below full and inflows are 14.9 acre-feet per day.

The Angostura Reservoir storage level will be closely monitored and if the Cheyenne River flows upstream of the dam increase such that the reservoir will fill, this shutoff order will be rescinded at that time. If conditions do not improve, this order will remain in effect until the end of the calendar year.

I am asking for your cooperation in complying with this shutoff order. If you have any questions, please contact Mark Rath or Don Stroup with the Water Rights Program at (605) 773-3352. Thank you.



IN REPLY REFER TO:

DK-700  
PRJ 13.00

1993-2

# United States Department of the Interior

BUREAU OF RECLAMATION  
Dakotas Area Office  
Rapid City Field Office  
515 9th St., Room 101  
Rapid City, South Dakota 57701

FEB 24 2006



Mr. Garland Erbele  
Chief Engineer  
Water Rights Division  
South Dakota Department of Environment and Natural Resources  
523 E. Capitol  
Pierre, South Dakota 57501-3181

RECEIVED  
FEB 27 2006  
WATER RIGHTS  
PROGRAM

Subject: Request for Junior Water Rights Shut Off Order - Angostura Reservoir, South Dakota

Dear Mr. Erbele:

We request that the State of South Dakota's Department of Environment and Natural Resources Water Rights Division issue shut off orders to junior water right holders on the Cheyenne River above Angostura Reservoir.

Angostura Reservoir is presently at elevation 3169.90, which is a little over 17 feet down from full (top of conservation or full is at elevation 3187.2). On February 24, 2005, the storage in Angostura Reservoir is about 60,000 acre-feet, which is 63,000 acre-feet from full. If the spring weather continues to be dry, the water right at Angostura will not be satisfied.

If you have questions, please contact Curt Anderson or me at 605-394-9757.

Sincerely,

For Jeffrey L. Nettleton  
Rapid City Field Office Manager

cc: Ms. Sue Lowry  
Administrator  
Interstate Streams Division  
Wyoming State Engineer's Office  
Herschler Building 4E  
Cheyenne, WY 82002

Mr. Mick Jenniges  
Manager  
Angostura Irrigation District  
P.O. Box 346  
Oral, SD 57766



**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)

March 10, 2006

**NOTICE OF SHUTOFF ORDER**

**TO:** JOE/NANCY FALKENBURG  
PO BOX 69  
EDGEMONT SD 57735

**FROM:** GARLAND ERBELE, Chief Engineer  
Water Rights Program

**SUBJECT:** Shutoff Order for Junior Priority Date Water Rights Upstream of  
Angostura Dam

**Shutoff Order for Water Right Nos. 1992-2, 1993-2**

To protect the US Bureau of Reclamation's Water Right No. US579-2 for Angostura Reservoir with a senior priority date of April 11, 1941, the Bureau of Reclamation has asked that we issue shutoff orders for junior water right holders. Effective immediately no diversions of water from the Cheyenne River and tributaries by holders of junior water rights upstream of Angostura Dam will be allowed. On March 7, 2006, the water elevation in Angostura Reservoir was 3170.3-feet, almost 17-feet below the full elevation of 3187.2-feet. Storage is at 64,524 acre-feet, about 74,237 acre-feet below full. Angostura Reservoir is not expected to fill with the current low inflows.

The Angostura Reservoir storage level will be closely monitored and if the Cheyenne River flows upstream of the dam increase such that the reservoir will fill, this shutoff order will be rescinded at that time. If conditions do not improve, this order will remain in effect until the end of the calendar year.

I am asking for your cooperation in complying with this shutoff order. If you have any questions, please contact Mark Rath or Don Stroup with the Water Rights Program at (605) 773-3352. Thank you.



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)

March 19, 2008

**NOTICE OF SHUTOFF ORDER**

**TO:** JOE/NANCY FALKENBURG  
PO BOX 69  
EDGEMONT SD 57735

**FROM:** GARLAND ERBELE, Chief Engineer  
Water Rights Program

**SUBJECT:** Shutoff Order for Junior Priority Date Water Rights Upstream of  
Angostura Dam

**Shutoff Order for Water Right Nos. 1992-2, 1993-2**

The US Bureau of Reclamation holds Water Right No. US579-2 for Angostura Reservoir with a senior priority date of April 11, 1941. To protect this right, the Bureau of Reclamation has asked that we issue shutoff orders for junior water right holders. Effective immediately no diversions of water from the Cheyenne River and tributaries by holders of water rights junior to the priority date of April 11, 1941 upstream of Angostura Dam will be allowed. On March 17, 2008, the water elevation in Angostura Reservoir was 3168.8-feet, 18.4-feet below the full elevation of 3187.2-feet. Storage is at 56785 acre-feet, about 66263 acre-feet below full. Angostura Reservoir is not expected to fill with the current low inflows.

The Angostura Reservoir storage level will be closely monitored and if the Cheyenne River flows upstream of the dam increase such that the reservoir will fill, this shutoff order will be rescinded at that time. If conditions do not improve, this order will remain in effect until the end of the calendar year.

I am asking for your cooperation in complying with this shutoff order. If you have any questions, please contact Mark Rath at (605) 773-3352 or Aaron Tieman at (605) 394-2229 with the Water Rights Program. Thank you.



**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)

March 19, 2009

**NOTICE OF SHUTOFF ORDER**

**TO:**

JOE/NANCY FALKENBURG  
PO BOX 69  
EDGEMONT SD 57735

**FROM:**

GARLAND ERBELE, Chief Engineer  
Water Rights Program

**SUBJECT:** Shutoff Order for Junior Priority Date Water Rights Upstream of  
Angostura Dam

**Shutoff Order for Water Right Nos. 1992-2, 1993-2**

The US Bureau of Reclamation holds Water Right No. US579-2 for Angostura Reservoir with a senior priority date of April 11, 1941. To protect this right, the Bureau of Reclamation has asked that we issue shutoff orders for junior water right holders. Effective immediately no diversions of water from the Cheyenne River and tributaries by holders of water rights junior to the priority date of April 11, 1941 upstream of Angostura Dam will be allowed. On March 18, 2009, the water elevation in Angostura Reservoir was 3176.7-feet, 10.5-feet below the full elevation of 3187.2-feet. Storage is at 80792 acre-feet, about 42256 acre-feet below full. Angostura Reservoir is not expected to fill with the current low inflows.

The Angostura Reservoir storage level will be closely monitored and if the Cheyenne River flows upstream of the dam increase such that the reservoir will fill, this shutoff order will be rescinded at that time. If conditions do not improve, this order will remain in effect until the end of the calendar year.

I am asking for your cooperation in complying with this shutoff order. If you have any questions, please contact Mark Rath at (605) 773-3352 or Aaron Tieman at (605) 394-2229 with the Water Rights Program. Thank you.



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

March 06, 2013

**NOTICE OF SHUTOFF ORDER**

**TO:** JOE/NANCY FALKENBURG  
PO BOX 69  
EDGEMONT SD 57735

**FROM:** GARLAND ERBELE, Chief Engineer  
Water Rights Program *Garland Erbele*

**SUBJECT:** Shutoff Order for Junior Priority Date Water Rights Upstream of  
Angostura Dam

**Shutoff Order for  
Water Right Nos. (1993-2)1992-2**

The US Bureau of Reclamation holds Water Right No. US579-2 for Angostura Reservoir with a senior priority date of April 11, 1941. To protect this right, the Bureau of Reclamation has asked that we issue shutoff orders for junior water right holders. Effective immediately no diversions of water from the Cheyenne River and tributaries by holders of water rights junior to the priority date of April 11, 1941 upstream of Angostura Dam will be allowed. On March 05, 2013, the water elevation in Angostura Reservoir was 3176.8-feet, 10.4-feet below the full elevation of 3187.2-feet. Storage is at 81068 acre-feet, about 41980 acre-feet below full. Angostura Reservoir is not expected to fill with the current low inflows.

The Angostura Reservoir storage level will be closely monitored and if the Cheyenne River flows upstream of the dam increase such that the reservoir will fill, this shutoff order will be rescinded at that time. If conditions do not improve, this order will remain in effect until the end of the calendar year.

I am asking for your cooperation in complying with this shutoff order. If you have any questions, please contact Mark Rath at (605) 773-3352 or Aaron Tieman at (605) 394-2229 with the Water Rights Program. Thank you.

# CERTIFICATION

I hereby certify that on March 6, 2013, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated March 6, 2013 regarding shut-off orders addressed as stated below:

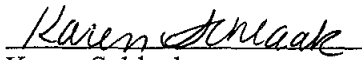
| LAST_NAME                      | FIRST_NAME            | ADDRESS2               | CITY        | STATE | ZIP   |
|--------------------------------|-----------------------|------------------------|-------------|-------|-------|
| INDIAN CREEK CATTLE LLP        |                       | 32296 190TH ST         | SLEEPY EYE  | MN    | 56085 |
| INDIAN CREEK LAND & CATTLE LLC |                       | PO BOX 538             | EDGEMONT    | SD    | 57735 |
| WEINREIS BROTHERS              |                       | 230908 HIGHLAND RD     | SCOTTSBLUFF | NE    | 69361 |
| SEGER RANCH INC                |                       | RR 1 BOX 100A1         | HOT SPRINGS | SD    | 57747 |
| REUTTER                        | EDWARD/WANDA          | HCR 59 BOX 90          | EDGEMONT    | SD    | 57735 |
| WASSERBURGER                   | MARTIN W & E DALLAS   | 30131 CASCADE RD       | ARDMORE     | SD    | 57735 |
| HALD BROTHERS INC              |                       | 30195 HIGHWAY 385      | OELRICHS    | SD    | 57763 |
| GCC DACOTAH INC                |                       | PO DRAWER 360          | RAPID CITY  | SD    | 57709 |
| FALKENBURG                     | JOE/NANCY             | PO BOX 69              | EDGEMONT    | SD    | 57735 |
| ANDERSEN                       | DONALD J/LYNDA J      | 10194 ARGENTINE RD     | BURDOCK     | SD    | 57735 |
| ANDERSEN                       | KEITH                 | 27360 S FLAT TOP RD    | EDGEMONT    | SD    | 57735 |
| ANDERSON                       | DALE & JEANETTE       | 1401 TOMPKINS ST       | RAPID CITY  | SD    | 57701 |
| B & H RANCH INC                |                       | 900 W 7TH ST           | CHADRON     | NE    | 69337 |
| BACHAND                        | DOUG & LORI           | HC 48 BOX 248          | PROVO       | SD    | 57774 |
| BALL BROS                      |                       | BOX 527                | EDGEMONT    | SD    | 57735 |
| BIRDSALL                       | JIM OR SHERYL         | 28086 ANGOSTURA RD     | HOT SPRINGS | SD    | 57747 |
| BOGNER                         | NICK/EUGENE           | HC 46 BOX 24           | OELRICHS    | SD    | 57763 |
| BOGNER                         | NICK/MICHAEL          | 29599 BLACK BANKS RD   | OELRICHS    | SD    | 57763 |
| BRAINERD INDIAN SCHOOL         |                       | PO BOX 7038            | RAPID CITY  | SD    | 57709 |
| CHILDERS                       | V L                   | 900 W 7TH ST           | CHADRON     | NE    | 69337 |
| COPE                           | OSCAR                 | PO BOX 147             | OELRICHS    | SD    | 57763 |
| COPE RANCH                     |                       | 14160 SHIRK CREEK RD   | OELRICHS    | SD    | 57763 |
| DUNBAR                         | DAVID M               | HC 46 BOX 48A          | OELRICHS    | SD    | 57763 |
| HENDERSON                      | DORA R                | 11507 HWY 471          | EDGEMONT    | SD    | 57735 |
| HINESLEY                       | TED AND GAIL          | 103 W AVE A            | BISMARCK    | ND    | 58501 |
| HOLLENBECK                     | HENRY C               | 665 OAK ST             | EDGEMONT    | SD    | 57735 |
| HOLLENBECK                     | MARK J                | 27772 ELBOW CANYON RD  | EDGEMONT    | SD    | 57735 |
| HOLLENBECK                     | PAT OR TAMMY          | 665 OAK ST             | EDGEMONT    | SD    | 57735 |
| HU RANCH INC                   |                       | 28469 OLD HWY18        | EDGEMONT    | SD    | 57735 |
| HUBER                          | GAYLE & LINDA         | 28797 LENNON SCHOOL RD | OELRICHS    | SD    | 57763 |
| HUNTER                         | ROSS J                | 30068 HAT CREEK RD     | EDGEMONT    | SD    | 57735 |
| KOLLER                         | JOHN W                | PO BOX 715             | EDGEMONT    | SD    | 57735 |
| LANDERS                        | A J                   | BOX 159B HCR 52        | HOT SPRINGS | SD    | 57747 |
| LANDERS LIVESTOCK CO INC       |                       | 29088 ASH CREEK RD     | HOT SPRINGS | SD    | 57747 |
| MANKE LAND & CATTLE CO LLC     |                       | PO BOX 599             | EDGEMONT    | SD    | 57735 |
| MARTINSON                      | KENNETH               | BOX 361                | EDGEMONT    | SD    | 57735 |
| NELSON                         | A J                   | 503 S CENTER AVE       | MILES CITY  | MT    | 59301 |
| PETERSON & SON INC             |                       | 27389 BURDOCK LOOP     | BURDOCK     | SD    | 57735 |
| PORTER                         | EVERETT               | 10413 MOSS AGATE RD    | EDGEMONT    | SD    | 57735 |
| PUTNAM                         | DONALD                | BOX 188                | OELRICHS    | SD    | 57763 |
| PUTNAM RANCH INC               | DONALD                | BOX 188                | OELRICHS    | SD    | 57763 |
| QUINTO LTD                     |                       | PO BOX 69              | EDGEMONT    | SD    | 57735 |
| ROMEY                          | JOHN R OR TRACY       | 29773 HARD SCRABBLE RD | OELRICHS    | SD    | 57763 |
| SCHNOSE                        | ROBERT A & KIMBERLY L | 29037 OLD HWY 79       | OELRICHS    | SD    | 57763 |

|                         |                    |                          |             |    |       |
|-------------------------|--------------------|--------------------------|-------------|----|-------|
| SCHNOSE                 | VERNON             | 12685 MAITLAND RD        | HOT SPRINGS | SD | 57747 |
| SEABECK                 | DORIS SEABECK &    | 2533 PARK AVE            | LARAMIE     | WY | 82070 |
| SIMONS                  | THOMAS             | BOX 381                  | EDGEMONT    | SD | 57735 |
| TUBBS LAND & CATTLE LLC | BERNARD D          | 10891 RIVER RD           | EDGEMONT    | SD | 57735 |
| WALKER                  | FRED S & CYNTHIA K | 30301 CASCADE RD         | ARDMORE     | SD | 57735 |
| WYOMING DAKOTA RAILROAD | WAYNE F            | 120 S 6TH ST - 9TH FLOOR | MINNEAPOLIS | MN | 55402 |
| PROPERTIES INC          |                    |                          |             |    |       |

  
 Gail Jacobson  
 Secretary/Water Rights

STATE OF SOUTH DAKOTA     )  
                                               ) SS  
 COUNTY OF HUGHES         )

Sworn to, before me, this 6<sup>th</sup> day of March, 2013.

  
 Karen Schlaak  
 Notary Public  
 My Commission expires April 1, 2013

