

Considered: _____

WATER PERMIT NO. 2008-2

MAP No. same

Name of Applicant Walter E. Witcher

Post Office Address RR1, Box 13, Buffalo Gap SD 57722

Amount of Water Claimed 0.122 cfs Total Acres NA

Source of Water Supply Springs

Water to be used for livestock watering County Fall River

About 16 miles E of Hot Springs

PROOF OF PUBLICATION: Received ☒ Not Received ☐

APPLICATION: Approved 5/6/87 Subject to _____

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

PRIORITY Date Received Dec 10, 1986 Fee 150⁰⁰ Remarks returned
12/10/86 \$7.33 of original \$157.33 submitted with application

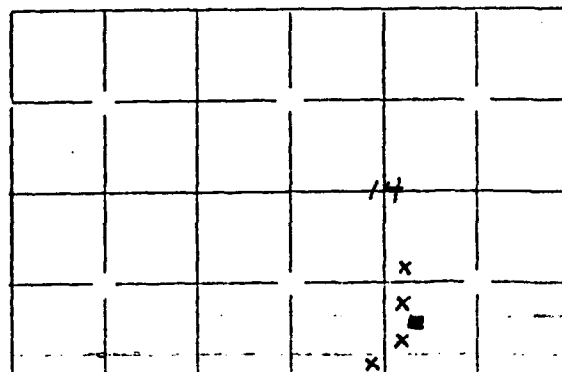
Corrected Application Received _____ Period of Annual Use Jan 1 - Dec 31

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

WI-1 Description same as Application YES ☐ NO ☐ REMARKS _____

Diversion Point Springs & Pumphouse: SE $\frac{1}{4}$ SW $\frac{1}{4}$,
W $\frac{1}{2}$ SE $\frac{1}{4}$ section 14-T7S-R8E

Land to be Irrigated NA



Well Log: Driller NA Licensed YES ☐ NO ☐

Depth of Well _____ REMARKS _____

Type of Map Topo sketch PREPARED BY Mark P. Haliter Reviewed and the Number
assigned on December 31, 1986 By Ron Duvall

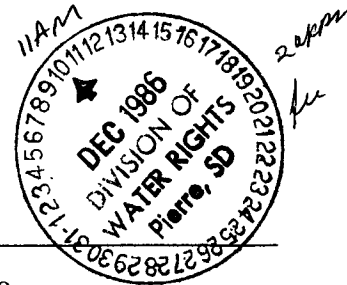
X → springs
■ → pumphouse

No. 2008-2 Hydrologic Unit 10120109
 Map No. same Basin Upper Cheyenne R.
 Newspaper Hot Springs Star, Box 1000 (Thurs)

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

Check use of water: Industrial ☐ Commercial ☐ Municipal ☐ Other Common Distribution System ☐
 Rural Water System ☐ Suburban Housing ☐ Geothermal Heat ☐ Institutional ☐ Recreational ☐
 Domestic ☐ (above 18gpm) Other ☒ Livestock watering pipeline

Type of Application: Check one or more of the following

New ☒ Vested Right ☐ Future Use ☐ Change Use ☐☐ Amend Permit No. _____ with old priority date retainedChange diversion point(s) ☐ Add diversion point(s) ☐ Other ☐ _____☐ Application to: Change diversion point(s) ☐ Add diversion point(s) ☐ on Permit No. _____☐ Construction to use water reserved by Future Use Permit No. _____

- Name of Applicant Walter E. Whitcher Phone No. 833-2900
 Post Office Address RR1 - Box 13 Buffalo Gap, SD State 57722
(Street, RR or Box) Zip Code
- Amount of water claimed (c.f.s) 0.122
- Source of water supply Springs
- Location of point of diversion SE $\frac{1}{4}$ SW $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 14, Township 7 South, Range 8 East
Black Hills Meridian
County Fall River
- Counties where water will be used Fall River
- Annual period during which water is to be used January 1 - December 31
- 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)

See attached sheets

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 Hughes)^{ss}

I, Walter E. Whitcher 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 Walter E. WhitcherSubscribed and sworn to before me this 10th day of December 1986

Cindy Droz
 Notary Public (or other qualified officer)

WATER PERMIT

The Water Management Board hereby approves Water Permit Application No. 2008-2
Walter E. Witcher RR1, Box 13 Buffalo Gap
(Applicant) (Post Office Address)
South Dakota 57722 With the following qualifications.
(State) (Zip Code)

Date of first receipt of application December 10, 1986.

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

Date of receipt of corrected application _____, 19____. Approved May 6, 1987.

The Water Management Board hereby approves this Water Permit No. 2008-2 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 December 10, 1986.
2. The equivalent of at least one-fifth of the specified 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 limit of time from proof of beneficial use of water appropriated in accordance herewith is _____, ~~19~~_____.
5. The water appropriated shall be used for the purpose of supplying livestock water
through the Hay Canyon pipeline
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 0.122 cubic feet per second; neither shall it exceed the capacity of the above described water supply system nor shall it exceed the amount of water needed for beneficial uses served and to which water is actually and beneficially applied for domestic use on or before _____, ~~19~~____; said water to be used during the following described annual period: Jan 1 - Dec 31

WATER MANAGEMENT BOARD
 By: John Gatty
Chief Engineer
 Division of Water Rights
 Dept. of Water and Natural Resources
 JUL 17 1987

Supplemental Information

(type or print in ink)

1. Well Information - Proposed construction

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

2. Dugout Information Estimates

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

3. Water Storage Dams

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

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

b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Outlet Dimensions:
Pipe diameter _____

Spillway width _____

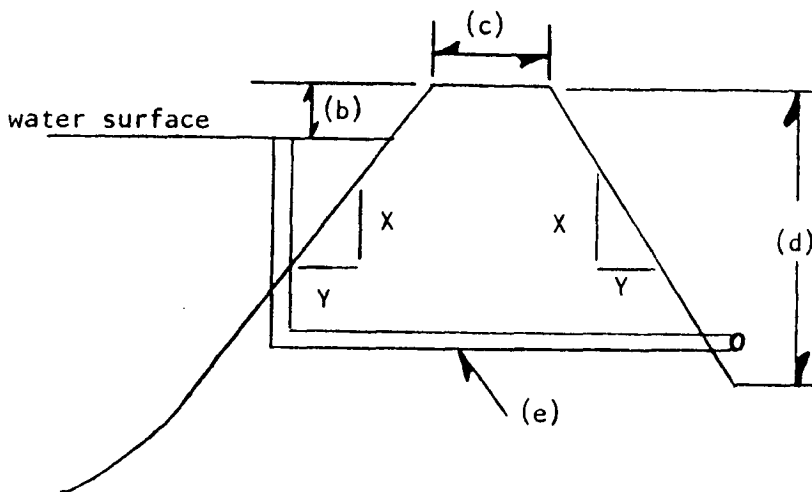
f) X & Y Slope
Upstream _____

Downstream _____

Surface Area of Impoundment _____

Storage _____ acre feet

Drainage area above dam _____



Walter E. White
Signature of Applicant

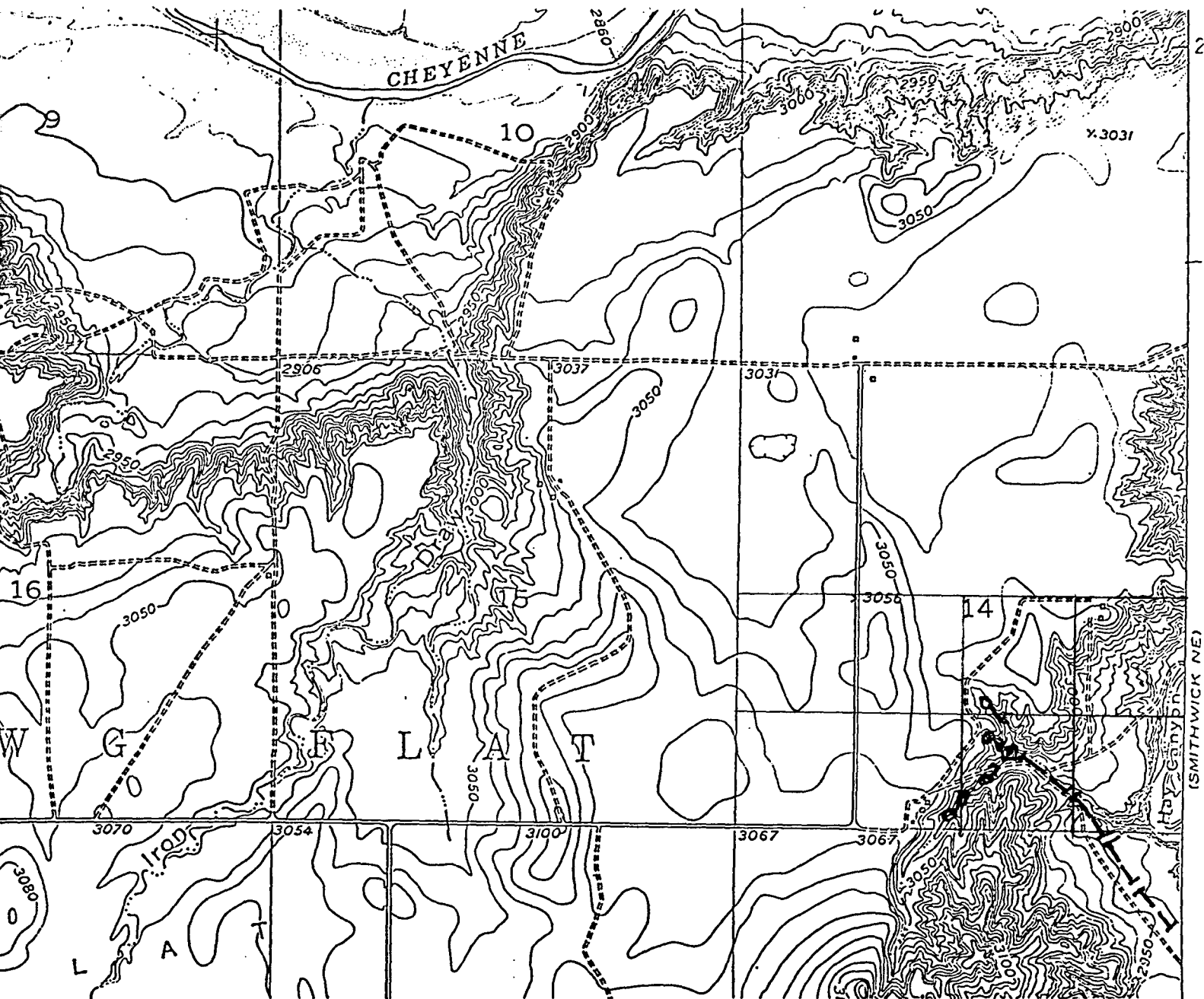
HAY CANYON PIPELINE
CONTRACT, AGREEMENT AND EASEMENT

THIS CONTRACT, AGREEMENT AND EASEMENT is entered into by and between the following permittees in the Pioneer Cooperative Grazing District who are involved in the Hay Canyon Pipeline, namely:

NAME OF PERMITTEE	POST OFFICE ADDRESS	SOUTH DAKOTA-COUNTY OF RESIDENCE
1. Wayne E. Hageman, single	Oral, SD 57766	Fall River
2. - TA Ranch, Inc. and John E. Barta and Donna F. Barta, husband & wife	Buffalo Gap, SD 57722	Custer
3. Sides Ranch, Inc. Ray Sides-President Judith R. Sides-Secretary	Smithwick, SD 57782	Fall River
4. Donald Putnam Ranch, Inc. Donald Putnam-Vice-President	Oelrichs, SD 57763	Fall River
5. Tom Norman & Audrey A. Norman, husband and wife	Buffalo Gap, SD 57722	Custer
6. William F. Fitzner & Thirsa J. Fitzner, husband & wife	Oral, SD 57766	Fall River
and Timothy Fitzner & Kathy Fitzner, husband and wife	Buffalo Gap, SD 57722	Custer
7. Elmer Morgan & Dorothy E. Morgan, husband and wife	Smithwick, SD 57782	Fall River
8. Wayne A. Morgan & Sandra Morgan, husband & wife	Oral, SD 57766	Fall River
9. Donald S. Fish and Margery Lynn Fish, husband & wife	Buffalo Gap, SD 57722	Custer
and Ruth Kirby	Chadron, Nebraska 69337	Dawes, NE
10. Warren A. Benson & Karen S. Benson, husband & wife	Oral, SD 57766	Fall River
and Lucy E. Benson, widow	Oral, SD 57766	Fall River
11. Lyle Bowker & Marie Bowker, husband and wife	Smithwick, SD 57782	Fall River
12. Willie Cope & Jean Cope, husband and wife	Oral, SD 57766	Fall River
13. R.C. Davison & John Davison	Smithwick, SD 57782	Fall River
14. Wilma DeBoer and Don DeBoer, wife and husband	Oral, SD 57766	Fall River
and Kenneth Kindred & Kathy Kindred, husband & wife	Smithwick, SD 57782	Fall River

15.	Alta Dryden, widow and Tom and Constance Dryden, husband and wife	Oelrichs, SD 57763 Chadron, NE 69337	Fall River Dawes, NE
16.	Georgia Dryden Trust National Bank of South Dakota, Rapid City, SD 57701 Trustee		Fall River
17.	Charles Eng and Ruth Eng, husband and wife	Buffalo Gap, SD 57722	Fall River
18.	Robert A. Gamet & Blanche M. Gamet, husband & wife and Robert (Bobby) Gamet, single	Oral, SD 57766 Oral, SD 57766	Fall River Fall River
19.	Jerry Gilkey, single	Smithwick, SD 57782	Fall River
20.	Hagman Ranch, Inc.	Oelrichs, SD 57763	Fall River
21.	Edwin Hussey & Sidney Hussey, husband and wife and Harry Gorr	Oral, SD 57766 Oral, SD 57766	Fall River Fall River
22.	Roland C. Kimmey and Marie Kimmey, husband and wife and C. Gene Kimmey and Darwin Pierce & Bernice Pierce, husband and wife	Buffalo Gap, SD 57722 Buffalo Gap, SD 57722 Buffalo Gap, SD 57722	Custer Custer Custer
23.	Elaine Molitor-widow and Dale L. Molitor & Christine Molitor, husband & wife and Leon R. Molitor & Nancy Molitor, husband and wife and Leo Molitor and Violet Molitor, husband and wife	Smithwick, SD 57782 Smithwick, SD 57782 Oelrichs, SD 57763 Smithwick, SD 57782	Fall River Fall River Fall River Fall River
24.	Dan Mosier Estate	Orange City, IA	Sioux Co., IA
BY----- John Tepaske			

25. Neugebauer Brothers Dairy, a partnership consisting of Donald Neugebauer, Stanley Neugebauer and Marvin Neugebauer
Hermosa, SD 57744 Custer
26. Arthur Olson, single Oral, SD 57766 Fall River
27. Viola Perreault, widow Smithwick, SD 57782 Fall River
28. Herbert Peters & Rose Peters husband and wife R.R., Hot Springs, SD Fall River
29. B & V Thompson Ranch, Inc. Oral, SD 57766 Fall River
30. Dewey Trent & Myrtle Trent, husband and wife
and
Ronald Trent and Cynthia Trent, husband & wife
Oelrichs, SD 57763 Fall River
31. Dale Webster & Carol Webster, husband and wife R.R., Chadron, NE 69337 Fall River
32. Russell Wyatt & Betty Wyatt husband and wife Oral, SD 57766 Fall River
33. Earl Stombaugh and Betty J. Stombaugh, husband and wife Buffalo Gap, SD 57722 Custer
34. Richard L. Dinesen and Nancy Dinesen
3416 Michigan St.,
Rapid City, SD 57701 Pennington



T7S, Range 8 E.

Black Hills Meridian

Fall River County

Legend -



Spring



Pipeline



Pumphouse

Pumphouse is located 2925 feet East and 750 feet North of the Southwest corner of Section 14, T7S, R8E, Black Hills Meridian.

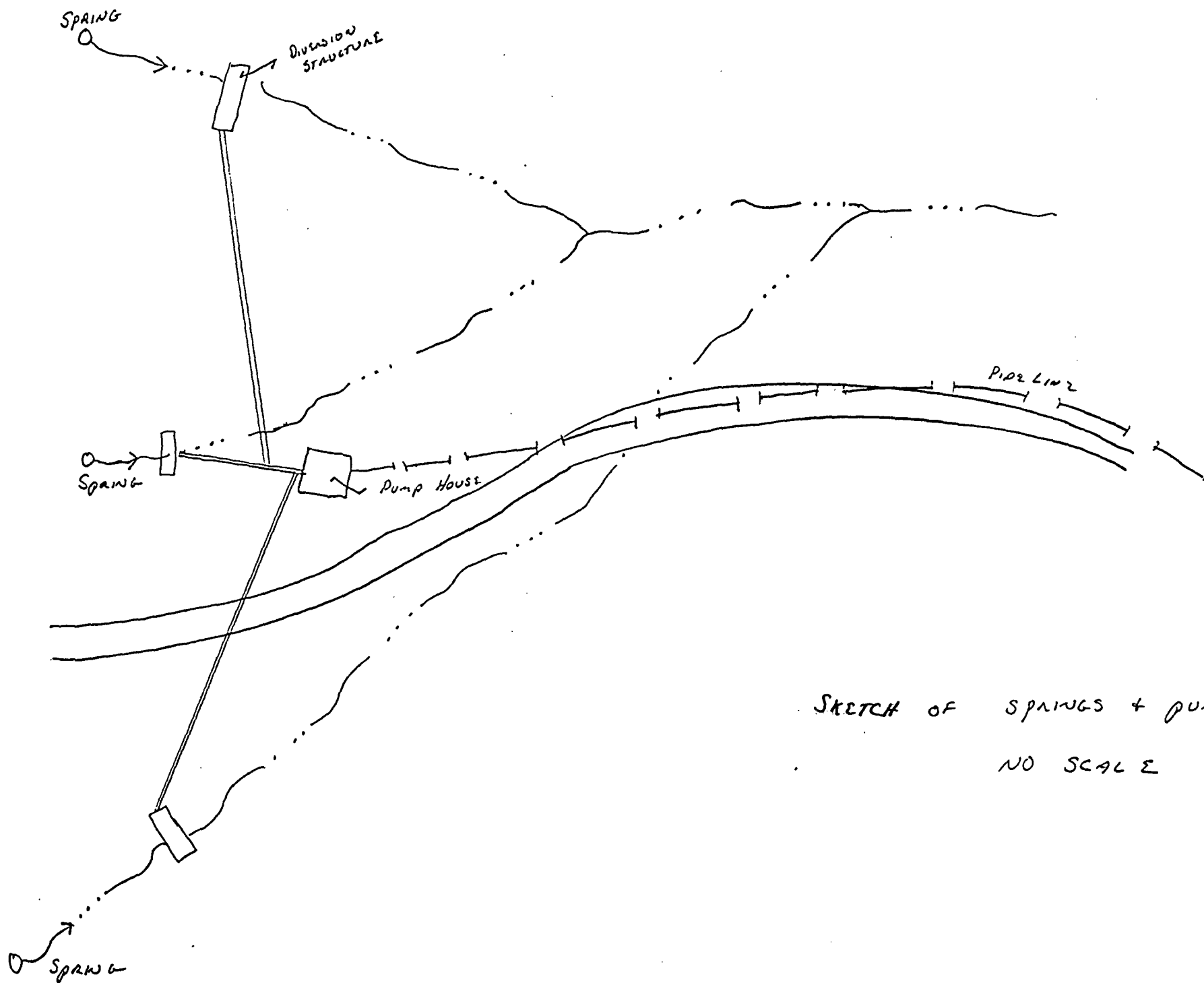
Map prepared by,

W. P. Feltz
U.S. FOREST SERVICE

Date

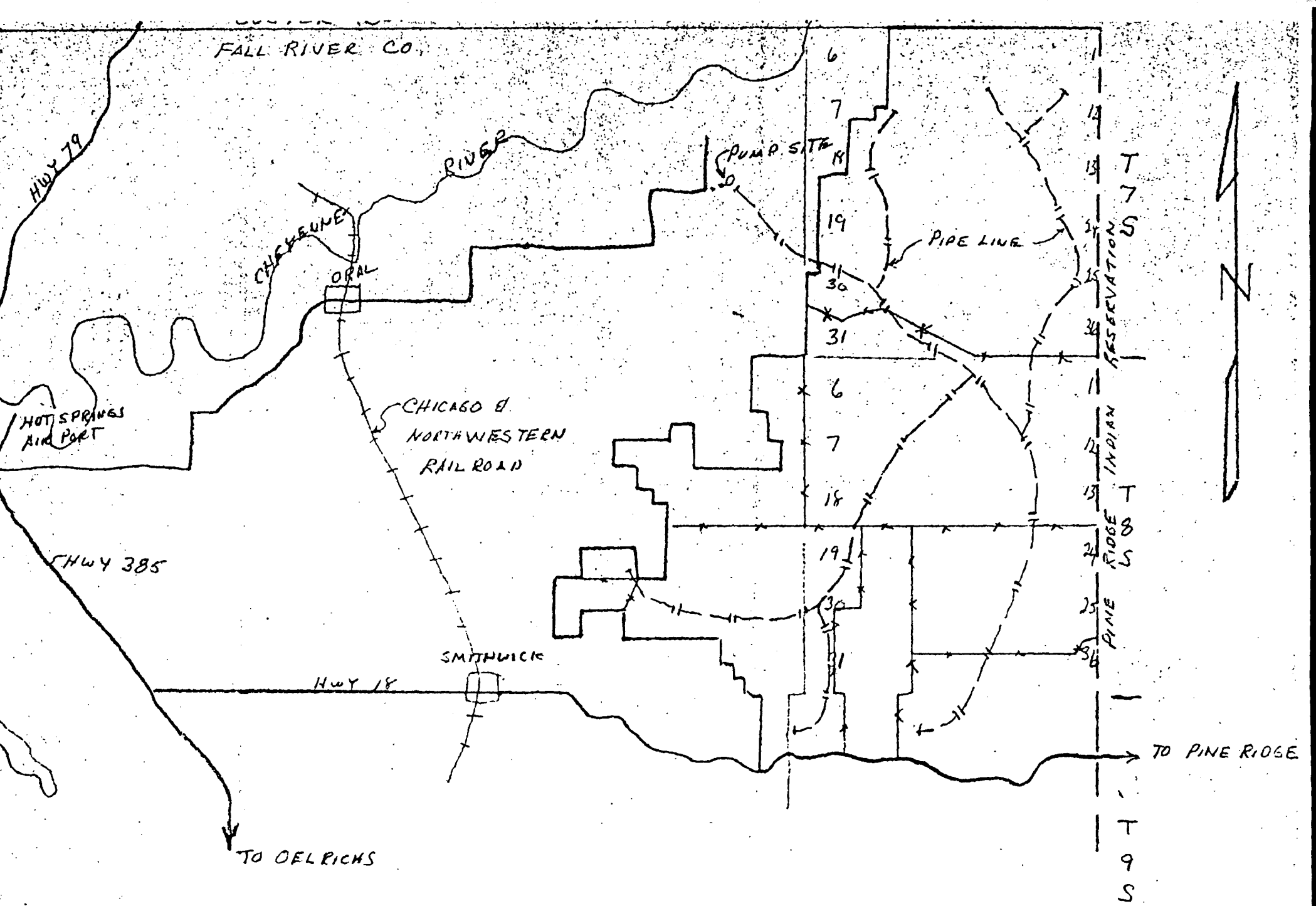
12/26/85

Application No. 2008-2

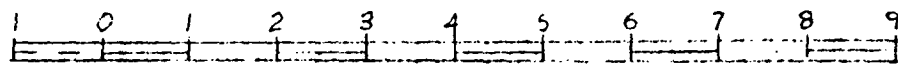


SKETCH OF SPRINGS + PUMP HOUSE
NO SCALE

Application No. 2008-2
M. P. K. 12/26/35



LOCATION MAP



Application No. 2008-2

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

410644

Pierre, December 10, 19 86
Rt 1, Box 13

RECEIVED OF Walter E. Whitcher, Buffalo Gap, SD 57722

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 _____	157	33
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	157	33

12/31/86
7.33 refunded
due to
overpayment
of fee

By John Hatch
Chief Engineer JOHN HATCH (ms)

SOUTH DAKOTA
Department of
Water & Natural Resources

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

January 5, 1987

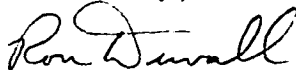
Walter E Whitcher
RR 1, Box 13
Buffalo Gap SD 57722

Dear Mr. Whitcher:

This letter is in response to the application fee submitted with your water permit application on December 10, 1986.

An application fee of \$157.33 was submitted with the application. The fee for the application should have been \$150.00; therefore, \$7.33 will be refunded to you. I apologize for the error and please contact us if you have any questions.

Sincerely,



RON DUVALL
Natural Resources Engineer

RD:ks

REPORT ON APPLICATION NO. 2008-2
Walter E. Whitcher
January 5, 1987

Water Permit Application No. 2008-2 requests 0.122 cfs of water to be diverted from springs in the SE1/4 of the SW1/4 and the W1/2 of the SE1/4 of Section 14, T7S, R8E in Fall River County. The water is used to supply livestock water through the Hay Canyon pipeline system.

DISCUSSION

The springs originate at the contact between the Pierre Shale and a Quaternary eolian sand deposit (Littleton, 1949). The probable water source for these springs is percolating precipitation and irrigation water. The water is pumped through a series of pipelines (Hay Canyon Pipeline) to different users in Fall River County.

USDA Forest Service applied for a permit for this system but the Water Management Board denied the permit on December 10, 1986. The permit was denied on the basis the Forest Service did not own the land where the springs were located and did not have the private landowner's consent.

This system can be compared to a rural water system. Water is diverted from a source located on private land and distributed to other parties. The use of the water is restricted to the sole purpose stated in the Permit Application, in this case supplying livestock water through the Hay Canyon Pipeline for grazing permittees on National Grasslands and also privately owned land. The water cannot be used for any other purpose without filing for a new application.

There is an easement between Hay Canyon Pipeline and the owner of the springs. The easement was for 35 gallons per minute. The easement was amended in 1985 for 55 gallons per minute but there is some question whether this amount is binding on the new owner. The 35 gallons per minute is binding on the current owner of the springs and future owners.

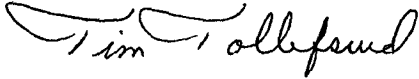
CONCLUSIONS

1. The system has already been built and has been in service for a number of years.
2. There has been no adverse effects on any water users in the area.

3. Due to the nature of the source of water for this application the flow from these springs cannot be assured in the future.

4. The water use is restricted to supplying water to livestock through the Hay Canyon Pipeline.

5. This permit can be approved with no qualifications.

A handwritten signature in cursive script that reads "Tim Tollefsrud".

Tim Tollefsrud
Natural Resources Engineer

Reference:

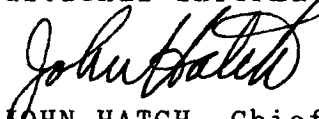
Littleton, Robert T., 1949. Geology and Ground-Water Hydrology of the Angostura Irrigation Project South Dakota. Geological Survey Circular 54.

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2008-2

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 Water Permit Application No. 2008-2, Walter E Whitcher, RR 1, Box 13, Buffalo Gap SD.

The Chief Engineer is recommending APPROVAL of Application No. 2008-2 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) in the public interest.

See the attached report for additional information.


JOHN HATCH, Chief Engineer
January 13, 1987

No. **2008-2**

Instruction to Newspaper - Publish first publication of the following Notice on or before **February 3, 1987** with 2nd publication 1 week later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. **2008-2** to Appropriate Water
~~and/or to Amend Water Permit or Water Right No. _____~~

Notice is hereby given that **Walter E. Whitcher** whose mailing address is
RR 1, Box 13, Buffalo Gap, South Dakota has made an application for a permit

to appropriate 0.122 cubic feet of water per second from springs located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 14, T7S-R8E. The water is used for the domestic purpose of supplying livestock water through the Hay Canyon pipeline.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends **APPROVAL** of Application No. **2008-2** because 1) unappropriated water is available, 2) will be no unlawful impairment of existing rights, 3) is beneficial use of water and 4) is in the public interest.

This application will be considered by the Water Management Board at **room 216, Joe Foss Building, 523 E. Capitol, Pierre, South Dakota, March 4** 19 **87** at 10:00 am.
11:00 am.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this 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 **February 20, 1987**. The petition may be informal, but it must include a statement describing the petitioners 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.

This application is 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; 46-5-1 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; ~~(ground) 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14; (future use) 46-5-38 thru 46-5-40; (transfer lands) 46-5-30.4, 46-5-33 thru 46-5-35; (10,000 AFA) 46-5-20.1, 46-5-20.1; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15, (future use) 74:02:01:24 thru 74:02:01:25; (10,000 AFA) 74:02:01:15.02 thru 74:02:01:15.05.~~

This hearing is an adversary proceeding. 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 the State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWNR, 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 any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by **February 20, 1987**.

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 Hot Springs of _____

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

February 3, 1987

February 10, 1987

Charles Najacht
(Signature)

Publisher
(Title)

February 10, 1987
(Date Signed)

Cost of Printing: \$37.11



27
NOTICE OF HEARING
ON APPLICATION NO. 2008-2
TO APPROPRIATE WATER

Notice is hereby given that Walter E. Whitchee whose mailing address is RR1 Box 13, Buffalo Gap, South Dakota has made an application for a permit to appropriate 0.122 cubic feet of water per second from springs located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 14, T7S-R8E. The water is used for the domestic purpose of supplying livestock water through the Hay Canyon pipeline.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. 2008-2 because 1) unappropriated water is available, 2) will be no unlawful impairment of existing rights, 3) is beneficial use of water and 4) is in the public interest.

This application will be considered by the Water Management Board at Room 216, Joe Foss Building, 523 E. Capitol, Pierre, South Dakota, March 4, 1987 at 11:00 a.m.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this 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 February 20, 1987.

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.

This application is 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; 46-5-1 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; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

This hearing is an adversary proceeding. 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 the State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWNR, 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 any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by February 20, 1987.

Feb. 3, 10



Feb. 16, 1987

Dear Ron,

I am writing in regard to application 2008-2. I am against the forest service asking for the use of the water for wildlife, as the state owns and has control of the wildlife as I understand it. There is no way, and no one would want to stop the wildlife from using the water. It appears to me that they want some control over the water and I don't feel they need it.

Sincerely Yours

Walter E. Whitcher
RR1 - Box 13
Buffalo Gap, S.D.

Feb. 16, 1987

Chief Engineer
Water Rights Division
Joe Mass Building
523 East Capitol
Pierre, S.D.



Dear Sir,

I am writing in regard to application 2008-2. I am against the forest service asking for the use of the water for wildlife, as the state owns and has control of the wildlife, as I understood it. There is no way, and no one would want to stop the wildlife from using the water. It appears to me that they want some control over the water and I don't feel they need it.

Sincerely yours,
Walter E. Whitchee
RR1 - Box 13
Buffalo Gap, S.D.



UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

Nebraska National Forest
Fall River Ranger District
Star Route, Box 200
Hot Springs, SD 57747

Chief Engineer
Water Rights Division
Joe Foss Building
523 East Capitol
Pierre, SD 57501

In Reply Refer To:
2240/2540
February 13, 1987

Dear Sir:

We are petitioning Application 2008-2 asking for additional qualifications.

Except for the first two miles, the pipeline carrying this water is almost entirely on the Buffalo Gap National Grassland. The pipeline was built to provide water for livestock use, but not all of the use on the lands watered by this pipeline is by livestock. Antelope, deer and numerous non-game birds and animals also rely on the water provided by the pipeline.

We ask that the Water Right be granted with the additional qualifications to allow incidental use of the water through the pipeline by wildlife.

Sincerely,

for 
ROBERT G. CHILDRESS
District Ranger

cc: Walt Whitcher





Department of Water & Natural Resources

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

Water Rights Division
605 773-3352

JUL 17 1987

Walter E. Whitcher
RR 1, Box 13
Buffalo Gap, South Dakota 57722

Dear Mr. Whitcher:

Enclosed is your Water Permit No. 2008-2 as approved by the Water Management Board authorizing the water diversion system and apply the water to beneficial use, not exceeding the limits as specified in the Water Permit.

We will schedule an inspection so that the Water License may be issued to you, thus completing your acquisition of a Water Right.

Very truly yours,

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

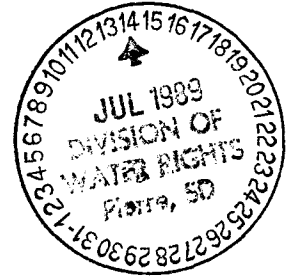
JOHN HATCH, Chief Engineer
Water Rights Division

JH: ms

enclosure

July 12, 1989

Leonard Benson
RR # 1 Box 65A
Oral, SD 57766



Mr. John Hatch
Water Rights Division
DWRN, Foss Bldg.
Pierre, SD 57501

RE: Water Permit 2008-2 Discussion by Phone 6-7-89

Dear Mr. Hatch:

This letter is to follow the direction you suggested to create an audit trail of our change relating to the water permit No. 2008-2 approved for Walter Whitcher on May 6, 1987.

Enclosed is a copy of the motion that was made and carried by the Pioneer Cooperative Grazing District Board of Directors to move the pump and pit five hundred seventy five feet (575) East and slightly South of the present location as described in the attached motion.

For our records please respond to this change. Thank you very much for your cooperation.

Sincerely,

Leonard Benson

Leonard Benson
Pioneer Grazing District Director

MOTION

The Pioneer Cooperative Grazing District Board of Directors, rather than holding a special meeting; will circulate to the Directors, this statement of amendment and additional detail to the following motion made during a Special Meeting of May 25, 1989 at the Oelrichs Community Hall.

Motion made by Leonard Benson to go ahead and move Pump House in Hay Canyon if Elvin Duster can keep down time to one day and based on bid of \$3750.00. Walt Whitcher seconded. Motion carried.

Amended with additional detail:

Motion made by Leonard Benson to move Pump House # 1 and Pit a maximum of 575 feet East and slightly South of present location. This would take water from a pond, fed by the springs, named in Water Permit # 2008-2. The move would source clean water, to eliminate Maintenance Costs, due to dirt in floats causing overflowing or dry tanks. Total reconstruction will be made by Elvin Duster at estimated maximum cost of \$3750.00.

The approval or disapproval of this amended motion will be by directors signature and the word approve or disapprove beside their signature.

LEONARD BENSON

Leonard Benson

approve

JOE BOGNER

Joe Bogner

approve

WAYNE BURGESS

Wayne Burgess

approve

NORWOOD HANSEN

Norwood Hansen

approve

DONALD PUTNAM

Donald Putnam

approved

JOEL RICKENBACH

Joel Rickenbach

approve

JOHN SIDES

John Sides

approve

WALTER WHITCHER

Walter E. Whitcher

approve

TOM WHITE

Tom White

approve



Department of Water & Natural Resources

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

July 21, 1989

Leonard Benson
Pioneer Grazing District Director
RR 1, Box 65A
Oral SD 57766

Dear Mr. Benson:

I am writing in regard to your letter dated July 12, 1989, requesting a response to the proposed relocation of the diversion point authorized by Water Permit No. 2008-2.

Permit No. 2008-2 authorizes diversion of water supplied by springs located in the SE1/4 SW1/4, W1/2 SE1/4 section 14-T7S-R8E. According to your letter, the pump house is to be relocated to a more suitable site and will be supplied by the same springs as specified on Permit No. 2008-2. The given description of the pump house location change is within 660 feet of the original diversion point and also remains within the area described on Permit No. 2008-2. Pursuant to SDCL 46-5-13.1, approval is given to relocate the pump house subject to not increasing the potential for interference with existing diversions by other water users.

Please contact Ron Duvall, Division Engineer, if you have any questions.

Very truly yours,

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





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 3, 1995

Jim Strain
Suite 3
500 1/2 W Blvd
Rapid City, SD 57701

Dear Mr. Strain:

Enclosed, as we discussed, are copies of Water Right No. 416-2, Vested Water Right No. 489-2 and Water Permit No. 2008-2, held by Walter Whitcher.

If you need additional information or copies, please contact me.

Sincerely,

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

enclosures

Approval of Location Change and/or Additional Diversion Point(s)

NAME: Walter Whitcher

ADDRESS: RR 1 Box 13, Buffalo Gap SD 57722

DATE: March 6, 1998

COUNTY: Fall River

TELEPHONE: 605-883-2900

AUTHORITY:

Pursuant to SDCL 46-5-13.1, the location of a diversion point may be changed or additional diversion points may be licensed provided the following conditions are met and the potential for interference with other existing diversions is not increased:

- **Developed water source same as permitted source and no additional water appropriated**

Yes

- **If irrigation, no new land is irrigated**

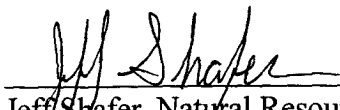
NA

- **Review of Existing Diversions**

Originally the four springs, located in the SE1/4 SW1/4 and W1/2 SE1/4 of Section 14 T7S-R8E, were collected in a sump just downstream of where they converged. The sump consisted of a small gravel pit from which the water was pumped into the distribution system. Due to problems with the sump collection, the pump was moved downstream a couple of hundred feet to an existing small dam where it was much easier to collect the flow and pump the water into the distribution lines. The dam is not used for storage and water is flowing out of the primary spillway outlet at all times. The dam is located in the SW1/4 SE1/4 of Section 14 T7S-R8E.

RECOMMENDED ACTION

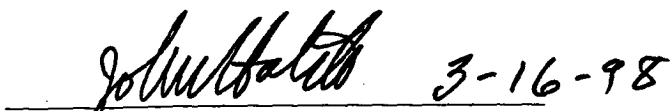
Based on the above criteria, it is recommended that the diversion point(s) be licensed as developed.



Jeff Shafer, Natural Resources Engineer
Water Rights Program

The Chief Engineer makes a finding pursuant SDCL 46-5-13.1 and ARSD 74:02:01:14.01 that:

This change in location and/or additional diversion point(s) does not increase the potential for adverse effects to existing diversions.



John Hatch, Chief Engineer
Water Rights Program

Permit No. 2008-2
Upper Cheyenne River - Water District

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

TO: Chief Engineer, Water Rights Program, DENR, Foss Bldg., Pierre, SD 57501

On, **January 28, 1998**, I made a thorough examination of the water use system constructed by **Walter E. Whitcher** of **RR 1 Box 13, Buffalo Gap SD 57722** holder of Permit No. **2008-2**, bearing the priority of **December 10, 1986** authorizing the diversion of **.122** cu. ft. per second of water of **four spring** for **livestock watering** purposes, in **Fall River** County.

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

- A. Works used to divert the water:
Regulating dam, pumphouse and pump
- B. Works used to transport water to place of use:
Hay Canyon pipeline
- C. Works used to apply water to beneficial use:
Stocktanks

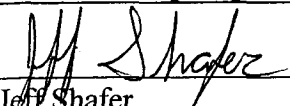
The system is in the following condition **Very Good**. The points of diversion are located **approximately 1) 2550' south and 350' west 2) 2150' south 3) 1400' south and 120' east 4) 1150' south and 300' east of the center of Section 14, T7S-R8E and flow into the regulating dam 1000' south and 800' east of the center of Section 14, T7S-R8E.** The works are capable of diverting and conveying to the place of use **.122** cu. ft. per second of water which is to be used for **livestock watering**. Water has been put to beneficial use to the maximum extent as follows:

\Supplies water to livestock through the Hay Canyon pipeline.

Applicable permit qualifications have been complied with: **Yes**

Exceptions to compliance are: **none**

The water is pumped from an existing dam that acts as a regulating structure.



Jeff Shafer

3-10-98

Date

Natural Resources Engineer
DENR, Water Rights Program

REPORT ON INSPECTION OF PERMIT NO. 2008-2

DATE OF INSPECTION: 1/28/98

Other permit(s) associated with the project: none

Contact Person & Address: Walter E. Whitcher, RR 1 Box 13, Buffalo Gap SD 57722

DIVERSION POINT LEGAL LOCATION: SE1/4 SW1/4 and W1/2 SE 1/4 of Section 14 T7S-R8E

WATER SUPPLY Source: Springs

Pump:

- | | |
|---------------------------------|---------------------------|
| 1) Make <u>Flint and Waller</u> | 2) Model <u>Unknown</u> |
| 3) Size <u>Unknown</u> | 4) Capacity <u>55</u> GPM |

Motor:

- | | |
|----------------------------------|-----------------------------|
| 1) Make <u>Unknown</u> | 2) Model No. <u>Unknown</u> |
| 3) Horsepower rating <u>5</u> hp | |

DISTRIBUTION LINES OR CANALS:

- 1) Type PVC 2) Size Varies 3) Length NA feet

DAM INFORMATION:

- | | |
|---|--|
| 1) Height to crest <u>18</u> feet | 2) Height to primary spillway <u>16</u> feet |
| 3) Height to secondary spillway <u>17</u> ft | 4) Crest width <u>20</u> feet |
| 5) Crest length <u>210</u> feet | 6) Spillway length <u>40</u> feet |
| 7) Spillway width <u>20</u> feet | 8) Approx. storage <u>2</u> ac-ft |
| 9) Approx. storage to crest <u>5</u> ac-ft | 10) Date constructed: <u>Unknown</u> |
| 11) Outlet tubes: | |
| a) diameter <u>6</u> inches | b) type <u>Plastic</u> |
| c) valved <u>no</u> | d) valve type <u>NA</u> |
| e) location on structure <u>20' south of North Edge</u> | |
| 12) Category of Dam <u>3</u> | 13) Inspection Sheet Completed <u>No</u> |

PERMIT QUALIFICATIONS AND REGULATIONS:

- 1) Special qualifications to permit being abided by Yes

- 2) All structures, wells and lands on map Yes
- 3) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period NA



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 24, 1998

2008-2

Walter E. Witcher
RR 1, Box 13
Buffalo Gap, SD 57722

Dear Mr. Witcher:

The investigation of your water use system was conducted on January 28, 1998, by Jeff Shafer, staff engineer. The investigation included the extent of application of water to beneficial use, as developed under Water Permit No. 2008-2. Your final water right document, the Water License, can now be issued.

Statutes require that we charge a \$50.00 fee for the investigation and issuance of the Water License. Upon receipt of the \$50.00 fee from you, we will begin processing your Water License.

**Please remit fee to:
Department of Environment & Natural Resources
Water Rights Program
523 E. Capitol
Pierre, SD 57501-3181**

Sincerely,

Cheryl F. Frost
Secretary
Water Rights Program
(605) 773-3352

NOTE: On check or money order, please specify your permit number. This will insure proper handling of the fee.

Enclosed please find a
check for \$50⁰⁰, for Water
license permit # 2008-2.

Walter Whitchee
Buffalo Gap, S. D.



RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

19 415711

Pierre, March 27, 19 98

RECEIVED OF Walter or Virginia Whitcher, HC 56, Box 13, Buffalo Gap, SD 57722-9717

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. <u>2008-2</u>	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	50 00

By

Chief Engineer

John Hatch 



prepared by:
Jeff Shafer
Nat. Resources Eng.

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 2008-2

(1) Walter Whitcher, RR 1 Box 13, Buffalo Gap SD 57722 made Application No. 2008-2, December 10, 1986 for a water permit to divert 0.122 cubic feet of water per second from springs, Fall River County, South Dakota for livestock watering purposes. Permit No. 2008-2, with a priority date of December 10, 1986 was approved May 6, 1987 and issued to the applicant for diversion of water with construction of the described water supply system completed and the application to beneficial use of said water completed.

An investigation conducted for licensing purposes found an additional diversion point developed under Water Permit No. 2008-2 not authorized by the permit. Pursuant to SDCL 46-5-13.1, the Chief Engineer makes a finding that the additional diversion point does not increase the potential for interference with existing water rights.

(2) It is certified that the applicant 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 0.122 cubic feet of water per second for beneficial use. The location of the diversion points are: #1 – 2,550 feet south and 350 feet west (SE ¼ SW ¼); #2 – 2,150 feet south (SE ¼ SW ¼); #3 – 1,400 feet south and 120 feet east (SW ¼ SE ¼); #4 – 1,150 feet south and 300 feet east (SW ¼ SE ¼); all from the center of Section 14-T7S-R8E. The water flows into a regulating dam located 1,000 feet south and 800 feet east of the center of Section 14-T7S-R8E (SW ¼ SE ¼).

(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to supply livestock water through the Hay Canyon pipeline.

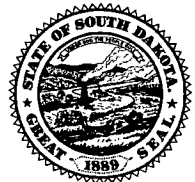
(4) Pursuant to South Dakota Water Law 46-5-30.1 Walter E. Whitcher, RR 1 Box 13, Buffalo Gap SD 57722 the holder and/or owner of Water Permit No. 2008-2 is issued a license to appropriate water, the right to use 0.122 cubic feet of water per second from four springs with a priority date of December 10, 1986 from the location specified in (2) of this license for livestock watering use. This license is subject to any limitations or qualifications listed in Water Permit No. 2008-2 and subject to South Dakota State Law.



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

APR 23 1998

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

APR 23 1998

2008-2

Walter E. Whitcher
RR 1, Box 13
Buffalo Gap, SD 57722

Dear Mr. Whitcher:

Enclosed is Water License No. 2008-2 and Receipt No. 415711 for \$50.00 which was assessed for an investigation and issuance of the license. Water License No. 2008-2 is the final document which completes the process of obtaining a water right.

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

Very truly yours,

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

ks
enclosures



2008-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

January 8, 2016

2008-2
416-2

Dillion Whitcher
15031 Riverside Rd
Buffalo Gap SD 57722

Dear Mr. Whitcher:

Thank you for taking the time to visit with me about the irrigation questionnaire for Water Right No. 416-2. I completed a form for you for 2015 based on our conversation. Enclosed as we discussed are copies of the forms for 2012 through 2015 for your records.

It is my understanding from our conversation that the ranch is now operated under an "LLC". In reviewing the files I found two water rights under Walter's name. I have included a copy of both water rights for your records. If you decide to transfer the water rights to coincide with current operations, an ownership change will need be filed for each one.

Enclosed are partially completed Notice of Transfer of Ownership forms for filing the ownership changes. Upon completion, please sign and return the forms to our office with a required filing fee of \$50.00 each (\$100 total). The check or money order for the fee can be made payable to the Water Rights Program.

As I indicated on the phone, the irrigation questionnaire requirement for 2015 is completed. I have also entered you in the database as operator for No. 416-2. This will allow us to send the annual form to you but does not change ownership of the water right. If, after discussing with your family, you decide to change ownership of the water rights, please complete and return the enclosed transfer forms.

If you have any questions, please contact me.

Sincerely,

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

enclosures

RECEIVED

JAN 27 2016

WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 2008-2

Date: 2/5 - 2016

I/We request that Water Right No. 2008-2

formerly owned by: Walter Whitcher

be transferred to: (name & address)

Whitcher Land LLP
15031 Riverside Rd
Buffalo Gap SD 57722 Telephone No. (605) 833-2900

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

Hay Canyon Pipeline - 4 springs and regulating dam located in Section 14, T7S, R8E

I/We understand that the validity of Water Right No. 2008-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

I/We Whitcher Land LLP, the new owner, certify that the above information is true and correct.

James A. Whitney
Monte Whitcher
David White
(Signed by new owner)

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

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 1/27, 20 16

RECEIVED OF Whitcher Land LLP 15031 Riverside Rd Buffalo Gap SD 57722

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>2008-2</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No. **07704**

By Jane Lockman
Chief Engineer



2008-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

February 4, 2016

2008-2
416-2

Dillion Whitcher
15031 Riverside Rd
Buffalo Gap SD 57722

Dear Mr. Whitcher:

I am writing to acknowledge receipt of the transfer forms and filing fees you submitted for changing ownership of Water Right Nos. 416-2 and 2008-2.

The ownership changes have been completed. Both water rights formerly held by Walter Whitcher are now listed under "Whitcher Land LLLP". The receipts for the filing fees are enclosed.

As I was changing the records for these water rights, I found one more listed in Walter's name. I have enclosed a copy of Vested Water Right No. 489-2 for your review. Our records show Vested Water Right No. 489-2 authorizes diversion of water from a dry draw for irrigation purposes utilizing a water spreading system. Annual irrigation questionnaires are not required for these types of systems because there is no way to tell how much water is being diverted through the ditches.

I have included a partially completed transfer of ownership form should you decide to transfer Vested Water Right No. 489-2 over to Whitcher Land LLLP. If you want to transfer the vested right, follow the same procedure as you did for the other two water rights. Complete the form and return it to us along with a \$50 filing fee as required by statute.

If you have any questions, please contact me.

Sincerely,

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

enclosures