

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

Vested Right Claim. 1  
WATER PERMIT NO. 2038-2

HAP No. same

Name of Applicant Lone Tree Ditch / Dale Gossard, Pres.

Post Office Address RR 2, Box 5040, Rapid City SD 57701

Amount of Water Claimed 23.0 cfs Total Acres 1022

Source of Water Supply Rapid Creek

Water to be used for irrigation County \_\_\_\_\_

About \_\_\_\_\_ miles W of Caputa

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

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

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

PRIORITY \_\_\_\_\_ Date Received Oct. 19, 1987 Fee 15<sup>00</sup> Remarks \_\_\_\_\_

Corrected Application Received \_\_\_\_\_ Period of Annual Use Apr 15 - Nov 1

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

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

Diversion Point Rapid Creek: NE 1/4 NE 1/4

section 30 - T1N - R9E

Land to be Irrigated see application

|  |  |  |  |  |  |
|--|--|--|--|--|--|
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |

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

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

Type of Map plat PREPARED BY Tim Tollefsrud Reviewed and the Number

assigned on October 20, 1987 By Ron Duwall

(See instructions)

No. 2038-2 Hydrologic Unit 10120110  
Basin Upper Cheyenne River  
Newspaper Rapid City Journal, PO Box 450

## Application For Soil/Water Compatibility Permit and Permit To Appropriately Use Water

Type of Application: ☐ New ☒ Vested Right ☐ Amend Permit No. \_\_\_\_\_  
☐ Change Acreage ☐ Change diversion point(s) ☐ Add diversion point(s)  
☐ Add Acreage ☐ Increase diversion rate ☐ Other \_\_\_\_\_

1. Name of Applicant Lone Tree Ditch - Dale Gossard, President Phone No. \_\_\_\_\_

Post Office Address RR 2, Box 5040 Rapid City, South Dakota State 57701  
(Street, RR or Box) (City) Zip Code

2. Amount of water claimed (c.f.s) 27.0 15.0 Total acres irrigated 1022

3. Source of Water supply Rapid Creek - Lone Tree Ditch

4. Location of point of diversion NE 1/4 Section 30, T1N-R9E, 1230 feet S 64°W from NE  
Corner of Section 30 - T1N-R9E

County Pennington

5. Counties where water will be used Pennington

6. Annual period during which water is to be used April 15 - November 1

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

| Land Description    | No. Acres Irr. |
|---------------------|----------------|
| SEE ATTACHED SHEETS |                |
|                     |                |
|                     |                |
|                     |                |

| Land Description | No. Acres Irr. |
|------------------|----------------|
|                  |                |
|                  |                |
|                  |                |
|                  |                |

Attach sheet if more space is needed

8. Type of Irrigation: Gravity: X Towline: \_\_\_\_\_ Center Pivot: \_\_\_\_\_ Gun: \_\_\_\_\_ Other: \_\_\_\_\_  
(Specify)

\* 9. Crops to be Irrigated: Alfalfa, grass

10. Give a description of proposed project. (Attach sheet if more space is needed)

Diversion Dam and headgate located in the NE 1/4 of Section 30. Approximately 6 miles of main ditch with laterals used to transport water to various users on the ditch.

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach maps, soils information and any other technical information.

STATE OF SOUTH DAKOTA)  
County of Pennington ) ss

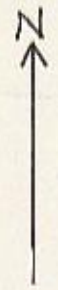
I, Dale Gossard, the applicant, certify that I have read this application and examined the attached maps, that the water sample, if needed, has been taken by the required procedures and has not been adulterated or tampered with and is truly representative of the water to be used, and that the matters stated in this application are true and correct.

Signed Dale Gossard

Subscribed and sworn to before me this 15 day of October 19 87

Deeann Morgan  
Notary Public

# LONE TREE DITCH



DRAWN BY:  
*Tim Tollefsrud* 9/22/87  
 TIM TOLLEFSRUD  
 Natural Resources Engineer

V.R. Appl. No. 2038-2

LONE TREE DITCH - VESTED RIGHT

\* PRIORITY DATE - SEPT. 29, 1881

DIVERSION POINT  
NE1/4 NE1/4 SEC 30-T1N-R9E

LAND IRRIGATED BY QUARTER  
QUARTER SECTION

| ACRES | LEGAL DESCRIPTION OF LAND  | ACRES | LEGAL DESCRIPTION OF LAND  |
|-------|----------------------------|-------|----------------------------|
| 28    | SW1/4 SE1/4 SEC 28-T1N-R9E | 11    | NE1/4 SW1/4 SEC 35-T1N-R9E |
| 28    | SE1/4 SE1/4 SEC 28-T1N-R9E | 33    | SE1/4 SW1/4 SEC 35-T1N-R9E |
| 17    | NW1/4 SW1/4 SEC 28-T1N-R9E | 27    | SE1/4 SE1/4 SEC 35-T1N-R9E |
| 5     | SW1/4 SW1/4 SEC 28-T1N-R9E | 31    | SW1/4 SE1/4 SEC 35-T1N-R9E |
| 16    | NE1/4 SW1/4 SEC 28-T1N-R9E | 40    | NE1/4 SE1/4 SEC 35-T1N-R9E |
| 15    | SE1/4 SW1/4 SEC 28-T1N-R9E | 36    | SW1/4 NE1/4 SEC 35-T1N-R9E |
|       |                            | 13    | SE1/4 NE1/4 SEC 35-T1N-R9E |
|       |                            | 28    | NW1/4 SE1/4 SEC 35-T1N-R9E |
| 29    | NW1/4 NW1/4 SEC 29-T1N-R9E | 26    | NW1/4 NE1/4 SEC 35-T1N-R9E |
| 14    | NE1/4 NW1/4 SEC 29-T1N-R9E | 39    | SE1/4 NW1/4 SEC 35-T1N-R9E |
| 19    | SW1/4 NW1/4 SEC 29-T1N-R9E | 16    | NE1/4 NW1/4 SEC 35-T1N-R9E |
| 32    | SE1/4 NW1/4 SEC 29-T1N-R9E | 34    | NW1/4 NW1/4 SEC 35-T1N-R9E |
| 33    | SW1/4 NE1/4 SEC 29-T1N-R9E | 30    | SW1/4 NW1/4 SEC 35-T1N-R9E |
| 9     | SE1/4 NE1/4 SEC 29-T1N-R9E |       |                            |
| 14    | NW1/4 SE1/4 SEC 29-T1N-R9E | 7     | NW1/4 SW1/4 SEC 36-T1N-R9E |
| 1     | NE1/4 SE1/4 SEC 29-T1N-R9E | 16    | SW1/4 SW1/4 SEC 36-T1N-R9E |
| 5     | NW1/4 SW1/4 SEC 29-T1N-R9E | 38    | SE1/4 SW1/4 SEC 36-T1N-R9E |
| 20    | SE1/4 NE1/4 SEC 30-T1N-R9E | 4     | NE1/4 SW1/4 SEC 36-T1N-R9E |
| 7     | NW1/4 NE1/4 SEC 33-T1N-R9E | 4     | LOT 2 SEC 1-T1S-R9E        |
| 14    | NE1/4 NE1/4 SEC 33-T1N-R9E | 29    | LOT 3 SEC 1-T1S-R9E        |
| 2     | NE1/4 NW1/4 SEC 33-T1N-R9E | 33    | LOT 4 SEC 1-T1S-R9E        |
|       |                            | 33    | NW1/4 SW1/4 SEC 1-T1S-R9E  |
| 26    | SE1/4 NE1/4 SEC 34-T1N-R9E | 9     | NE1/4 SW1/4 SEC 1-T1S-R9E  |
| 21    | NE1/4 NE1/4 SEC 34-T1N-R9E | 12    | NW1/4 SE1/4 SEC 1-T1S-R9E  |
| 2     | NW1/4 NE1/4 SEC 34-T1N-R9E |       |                            |
| 27    | SW1/4 NE1/4 SEC 34-T1N-R9E | 21    | LOT 1 SEC 2-T1S-R9E        |
|       |                            | 5     | LOT 2 SEC 2-T1S-R9E        |
| 25    | NW1/4 SW1/4 SEC 35-T1N-R9E | 16    | NE1/4 SE1/4 SEC 2-T1S-R9E  |
| 22    | SW1/4 SW1/4 SEC 35-T1N-R9E |       |                            |

TOTAL ACRES IRRIGATED

1022

STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 2038-2 FOR IRRIGATION

(1) Lone Tree Ditch, Dale Gossard, President of RR #2 Box 5040, Rapid City, SD 57701 made Application No. 2038-2, October 19, 1987 for validation of a vested right claim to appropriate 23.0 cubic feet of water per second from Rapid Creek, Pennington County, South Dakota for irrigation purposes. Vested Water Right No. 2038-2 was validated March 3, 1988, with a priority date of September 29, 1881. Construction of the described water supply system and application of water to beneficial use has been completed and complies with applicable provisions of South Dakota State Law.

(2) The applicant is entitled to divert 15.0 cubic feet of water per second for beneficial use. The location of the diversion point is:

1230 feet S 64°W from the NE corner of Section 30,  
T1N, R9E (NE 1/4 NE 1/4)

The location of the irrigated acreage is:

SEE ATTACHMENT 1

## Attachment I

Vested Right Water License No. 2038-2

The location of the irrigated acreage is:

| ACRES                 | LEGAL DESCRIPTION OF LAND  | ACRES | LEGAL DESCRIPTION OF LAND  |
|-----------------------|----------------------------|-------|----------------------------|
| 28                    | SW1/4 SE1/4 SEC 28-T1N-R9E | 11    | NE1/4 SW1/4 SEC 35-T1N-R9E |
| 28                    | SE1/4 SE1/4 SEC 28-T1N-R9E | 33    | SE1/4 SW1/4 SEC 35-T1N-R9E |
| 17                    | NW1/4 SW1/4 SEC 28-T1N-R9E | 27    | SE1/4 SE1/4 SEC 35-T1N-R9E |
| 5                     | SW1/4 SW1/4 SEC 28-T1N-R9E | 31    | SW1/4 SE1/4 SEC 35-T1N-R9E |
| 16                    | NE1/4 SW1/4 SEC 28-T1N-R9E | 40    | NE1/4 SE1/4 SEC 35-T1N-R9E |
| 15                    | SE1/4 SW1/4 SEC 28-T1N-R9E | 36    | SW1/4 NE1/4 SEC 35-T1N-R9E |
|                       |                            | 13    | SE1/4 NE1/4 SEC 35-T1N-R9E |
|                       |                            | 28    | NW1/4 SE1/4 SEC 35-T1N-R9E |
| 29                    | NW1/4 NW1/4 SEC 29-T1N-R9E | 26    | NW1/4 NE1/4 SEC 35-T1N-R9E |
| 14                    | NE1/4 NW1/4 SEC 29-T1N-R9E | 39    | SE1/4 NW1/4 SEC 35-T1N-R9E |
| 19                    | SW1/4 NW1/4 SEC 29-T1N-R9E | 16    | NE1/4 NW1/4 SEC 35-T1N-R9E |
| 32                    | SE1/4 NW1/4 SEC 29-T1N-R9E | 34    | NW1/4 NW1/4 SEC 35-T1N-R9E |
| 33                    | SW1/4 NE1/4 SEC 29-T1N-R9E | 30    | SW1/4 NW1/4 SEC 35-T1N-R9E |
| 9                     | SE1/4 NE1/4 SEC 29-T1N-R9E |       |                            |
| 14                    | NW1/4 SE1/4 SEC 29-T1N-R9E | 7     | NW1/4 SW1/4 SEC 36-T1N-R9E |
| 1                     | NE1/4 SE1/4 SEC 29-T1N-R9E | 16    | SW1/4 SW1/4 SEC 36-T1N-R9E |
| 5                     | NW1/4 SW1/4 SEC 29-T1N-R9E | 38    | SE1/4 SW1/4 SEC 36-T1N-R9E |
| 20                    | SE1/4 NE1/4 SEC 30-T1N-R9E | 4     | NE1/4 SW1/4 SEC 36-T1N-R9E |
| 7                     | NW1/4 NE1/4 SEC 33-T1N-R9E | 4     | LOT 2 SEC 1-T1S-R9E        |
| 14                    | NE1/4 NE1/4 SEC 33-T1N-R9E | 29    | LOT 3 SEC 1-T1S-R9E        |
| 2                     | NE1/4 NW1/4 SEC 33-T1N-R9E | 33    | LOT 4 SEC 1-T1S-R9E        |
|                       |                            | 33    | NW1/4 SW1/4 SEC 1-T1S-R9E  |
| 26                    | SE1/4 NE1/4 SEC 34-T1N-R9E | 9     | NE1/4 SW1/4 SEC 1-T1S-R9E  |
| 21                    | NE1/4 NE1/4 SEC 34-T1N-R9E | 12    | NW1/4 SE1/4 SEC 1-T1S-R9E  |
| 2                     | NW1/4 NE1/4 SEC 34-T1N-R9E |       |                            |
| 27                    | SW1/4 NE1/4 SEC 34-T1N-R9E | 21    | LOT 1 SEC 2-T1S-R9E        |
|                       |                            | 5     | LOT 2 SEC 2-T1S-R9E        |
| 25                    | NW1/4 SW1/4 SEC 35-T1N-R9E | 16    | NE1/4 SE1/4 SEC 2-T1S-R9E  |
| 22                    | SW1/4 SW1/4 SEC 35-T1N-R9E |       |                            |
| =====                 |                            | ===== |                            |
| TOTAL ACRES IRRIGATED |                            | 1022  |                            |

LONE TREE DITCH - LAND INCLUDED IN VESTED RIGHT APPPLICATION AND OWNERS

| IRRIGATOR                                    | ACRES | LEGAL DESCRIPTION<br>OF IRRIGATED LAND | COMMENTS |
|----------------------------------------------|-------|----------------------------------------|----------|
| AETNA                                        | 7     | SW1/4 SE1/4 SEC 28-T1N-R9E             |          |
|                                              | 12    | SE1/4 SE1/4 SEC 28-T1N-R9E             |          |
|                                              | 7     | NW1/4 NE1/4 SEC 33-T1N-R9E             |          |
|                                              | 14    | NE1/4 NE1/4 SEC 33-T1N-R9E             |          |
|                                              | 21    | NE1/4 NE1/4 SEC 34-T1N-R9E             |          |
|                                              | 8     | SE1/4 NE1/4 SEC 34-T1N-R9E             |          |
| PAULENE TLAMKA                               | 29    | NW1/4 NW1/4 SEC 29-T1N-R9E             |          |
|                                              | 14    | NE1/4 NW1/4 SEC 29-T1N-R9E             |          |
|                                              | 5     | NW1/4 SW1/4 SEC 29-T1N-R9E             |          |
|                                              | 19    | SW1/4 NW1/4 SEC 29-T1N-R9E             |          |
|                                              | 32    | SE1/4 NW1/4 SEC 29-T1N-R9E             |          |
|                                              | 33    | SW1/4 NE1/4 SEC 29-T1N-R9E             |          |
|                                              | 9     | SE1/4 NE1/4 SEC 29-T1N-R9E             |          |
|                                              | 14    | NW1/4 SE1/4 SEC 29-T1N-R9E             |          |
|                                              | 1     | NE1/4 SE1/4 SEC 29-T1N-R9E             |          |
| DAVE BROWDER &<br>BUD MARTIN                 | 2     | NW1/4 NE1/4 SEC 34-T1N-R9E             |          |
|                                              | 27    | SW1/4 NE1/4 SEC 34-T1N-R9E             |          |
|                                              | 18    | SE1/4 NE1/4 SEC 34-T1N-R9E             |          |
|                                              | 16    | SE1/4 SE1/4 SEC 28-T1N-R9E             |          |
| DON JUNDT                                    | 17    | NW1/4 SW1/4 SEC 28-T1N-R9E             |          |
|                                              | 5     | SW1/4 SW1/4 SEC 28-T1N-R9E             |          |
|                                              | 16    | NE1/4 SW1/4 SEC 28-T1N-R9E             |          |
|                                              | 15    | SE1/4 SW1/4 SEC 28-T1N-R9E             |          |
|                                              | 21    | SW1/4 SE1/4 SEC 28-T1N-R9E             |          |
|                                              | 2     | NE1/4 NW1/4 SEC 33-T1N-R9E             |          |
| DALE GOSSARD                                 | 5     | NE1/4 SW1/4 SEC 35-T1N-R9E             |          |
|                                              | 33    | SE1/4 SW1/4 SEC 35-T1N-R9E             |          |
| JAMES NORRIS                                 | 25    | NW1/4 SW1/4 SEC 35-T1N-R9E             |          |
|                                              | 22    | SW1/4 SW1/4 SEC 35-T1N-R9E             |          |
| DOROTHY HOHERZ<br>LEASED BY MARTY<br>RYPKEMA | 27    | SE1/4 SE1/4 SEC 35-T1N-R9E             |          |
|                                              | 31    | SW1/4 SE1/4 SEC 35-T1N-R9E             |          |
| GRANT JONES                                  | 20    | NE1/4 SE1/4 SEC 35-T1N-R9E             |          |
|                                              | 13    | SE1/4 NE1/4 SEC 35-T1N-R9E             |          |

PAGE 2

LEON FENHAUS 28 NW1/4 SE1/4 SEC 35-T1N-R9E

DENNIS CASEY 20 SE1/4 NE1/4 SEC 30-T1N-R9E

WALTER JONES 7 NW1/4 SW1/4 SEC 36-T1N-R9E  
16 SW1/4 SW1/4 SEC 36-T1N-R9E  
38 SE1/4 SW1/4 SEC 36-T1N-R9E  
4 NE1/4 SW1/4 SEC 36-T1N-R9E  
20 NE1/4 SE1/4 SEC 35-T1N-R9E  
26 NW1/4 NE1/4 SEC 35-T1N-R9E  
6 NE1/4 SW1/4 SEC 35-T1N-R9E  
19 SE1/4 NW1/4 SEC 35-T1N-R9E  
9 NE1/4 NW1/4 SEC 35-T1N-R9E  
36 SW1/4 NE1/4 SEC 35-T1N-R9E  
34 NW1/4 NW1/4 SEC 35-T1N-R9E  
30 SW1/4 NW1/4 SEC 35-T1N-R9E  
7 NE1/4 NW1/4 SEC 35-T1N-R9E  
20 SE1/4 NW1/4 SEC 35-T1N-R9E

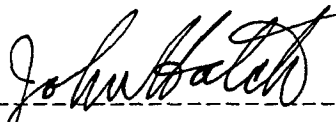
LORIN STALDER 21 LOT 1 SEC 2-T1S-R9E  
5 LOT 2 SEC 2-T1S-R9E  
16 NE1/4 SE1/4 SEC 2-T1S-R9E

\* MULTIPLE OWNERS 4 LOT 2 SEC 1-T1S-R9E \* THE FOLLOWING OWN  
29 LOT 3 SEC 1-T1S-R9E PROPERTY IN SEC 1:  
33 LOT 4 SEC 1-T1S-R9E A. BRAUNESREITHER 16 AC  
33 NW1/4 SW1/4 SEC 1-T1S-R9E TAMMY BESLER 17 AC.  
9 NE1/4 SW1/4 SEC 1-T1S-R9E TERRANCE THOMPSON 18 AC  
12 ~~NW~~1/4 SE1/4 SEC 1-T1S-R9E WILLIAM STERN 20 AC.  
~~NW~~ ALLEN LEIGHTON 32 AC.  
MIKE VICKERS 16 AC.

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TOTAL ACREAGE 1022

(3) Pursuant to Section 46-5-30.1 Lone Tree Ditch, Dale Gossard, President, of RR #2 Box 5040, Rapid City, SD 57701 the holder(s) and/or owner(s) of Vested Water Right No. 2038-2 is issued a license to appropriate 15.0 cubic feet of water per second from Rapid Creek with a priority date of September 29, 1881 from the location specified in (2) of this license. The water is to be used for the purpose of irrigation. This license is subject to any limitations, conditions or qualifications listed in Vested Water Right No. 2038-2 and subject to South Dakota State Law.



-----  
JOHN HATCH, Chief Engineer

Water Rights Division

Department of Water and Natural  
Resources

DEC 1 1988  
-----

## 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) Lone Tree Ditch Co., Dale Gossard, President

Post Office Address RR 2, Box 5040, Rapid City, South Dakota 57701  
(Street, RR or Box) (State) (Zip Code)

A. Notice of Appropriation September 29, 1881 Date of Posting September 29, 1881

Date of recording March 23, 1882 Recording date Pennington County F 217  
Where Book Page

B. Date of start of construction of water supply system September 29, 1881

C. Date that water was first applied to beneficial use 1882

D. Name of owner of original water supply system Lone Tree Ditch Co.

E. Amount of water originally applied to beneficial use Claimed 50 cfs

F. Present Use of Water - Amount of water now being used irrigation - 23.0 C.F.S

Date that this water was first used soon after 1881

### G. Chronological History of Water Use

1. Filing of Certificate #4556 with Pennington County Register of Deeds for 2000 miners inches of water.
2. Court decreed 33.8 cfs to Lone Tree as prior right to Cyclone Ditch (1900)
3. Acres vested - 1022 - See map for Location
4. These acres have been irrigated and water has been put to beneficial use since the ditch originated in 1881.

Attach to this Form 2B any copies of notices, postings, filings, publications, affidavits, or other records that apply. You may also attach any written statement by you, or by others, that you deem pertinent.

State of South Dakota )

County of Pennington ) SS

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

Signed Dale Gossard

Subscribed and sworn to before me October 15, 1987

Deanna Morgan  
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.

Walter Jones 10-15-1987  
(Print name) Secretary

\_\_\_\_\_  
(Print name) 19\_\_\_\_

# RECEIPT

## Division of Water Rights

### South Dakota Department of Water and Natural Resources

Pierre, October 19, 1987

RECEIVED OF Lone Tree Ditch, Dale Gossard, Pres. Box 5040, Rapid City, SD 57701

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

|                                                                                                                                    |       |    |    |
|------------------------------------------------------------------------------------------------------------------------------------|-------|----|----|
| Fee for Application for Permit No. <u>2038-2</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 John Hatch  
Chief Engineer JOHN HATCH ms

Lone Tree Ditch Company's Water Right

#4556

Know all men by these presents that we the undersigned citizens of the United States and residents of Pennington County, Dakota Territory do hereby claim by right of location and appropriation according to the laws of the United States and Territory of Dakota, two thousand (2000) miners inches of the water of Rapid Creek for mining, manufacturing, agricultural, domestic and other purposes and uses to be taken from Rapid Creek at a point on the ranch of Michael Thiel situated in the County of Pennington, Territory of Dakota, on the northeast quarter of the northeast quarter of section thirty township one north of range nine east to be taken or carried thence by ditch and flume in a north easterly direction along the northerly bank of Rapid Creek across or through section 29, 28, and 27 to the east side of section 26, said water right was located on the 29th day of September A. D., 1881 and shall be known as the Lone Tree Ditch Company water right.

Date of Certificate March 23, 1882.

Geo. Cretsinger  
J. C. Jackson  
M. A. Dunning  
Chas. C. McElroy  
Henry C. Blanchard  
Geo. Buckingham  
O. Olsen  
John E. Hunt  
Wm. Ranson  
John R. Brennan  
H. A. Piper

Filed for record the 23rd day of March A. D. 1882 at 11:00 o'clock A.M., recorded in Book E page 217 of Locations.

A. P. Sterling, Deputy  
Register of Deeds.

Book E Location Certificate Records  
Page 217

REPRODUCTIONS.

REDUCTION

25

ROLL NO.

1

5-4-82  
DATE MICROFILMED

By  
[Signature]

# LIST OF RAPID VALLEY APPROPRIATORS

August 26, 1942

Listed in order of priorities

|                                                                                                                                            |                                  |
|--------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| Leedy (Sickler) Ditch, Not Inc.                                                                                                            | April 1877 - 1600" *32 s.f.      |
| Rapid Valley Water Co., Inc.                                                                                                               | April 6, 1878 - 1000" *20 s.f.   |
| Little Giant Ditch Co., Not Inc.                                                                                                           | June 14, 1878 - 2000" *40 s.f.   |
| South Side Ditch & Water Co., Inc.                                                                                                         | May 3, 1880 - 2500"              |
| July 29, 1899, Decreed 900" (23.4-s.f.) as prior to Hawthorne Ditch Location of 1890.                                                      | *23.4 s.f.                       |
| Dec. 4, 1900, Decreed 900" (23.4 s.f.) as prior to F. C. Feigel right.                                                                     |                                  |
| June 1, 1935, Decreed (23.45 s.f.) 900" as prior to claim of Brennan estate.                                                               |                                  |
| Cyclone Ditch Co., Inc.                                                                                                                    | May 25, 1881 - 4000"             |
| Aug. 7, 1900, Decreed 100" (2.6.s.f.) as prior to the Lone Tree Ditch Co.                                                                  |                                  |
| Lone Tree Ditch Co., Inc.                                                                                                                  | Sept. 29, 1881 - 2000"           |
| August 7, 1900, Decreed 1300" (33.8 s.f.) as prior to Cyclone Ditch Co. since water first diverted and used in Cyclone Ditch in 1892 1893. |                                  |
| St. Germain Irrigation Co., Inc.                                                                                                           | Nov. 1, 1883 - 400" *8.0 s.f.    |
| Aug. 20, 1901, Decreed 80" (7.08 s.f.) to Andronne Volin as prior to the above right.                                                      |                                  |
| Aug. 30, 1901, Decreed 450" (11.7 s.f.) to Gerge P. Bennett as prior to the above right (N. side).                                         |                                  |
| Aug. 30, 1901, Decreed 150" (3.9 s.f.) to George P. Bennett as prior to the above right (S. side.)                                         |                                  |
| Lone Tree Ditch Co., Inc.                                                                                                                  | May 25, 1885 2000" *40 s.f.      |
| Leedy (Sickler) Ditch                                                                                                                      | March 31, 1886 - 2000" *40 s.f.  |
| Hawthorne Ditch Co., Not Inc.                                                                                                              | July 12, 1886 - 2000" *40 s.f.   |
| Cyclone Ditch Co., Inc.                                                                                                                    | Oct. 31, 1887 - 3000" *60 s.f.   |
| Lemley-Taylor, Not Inc.                                                                                                                    | Feb. 23, 1888 - 3000" *60 s.f.   |
| Cyclone Ditch Co., Inc.                                                                                                                    | May 14, 1890 - 5000" *100 s.f.   |
| Farmingdale Canal & Development Co., Inc. (Hammerquist Ditch)                                                                              | May 28, 1890 - 2500" *50 s.f.    |
| Hawthorne Ditch Co., (Inc. 1890)                                                                                                           | July 8, 1890 - 3000"             |
| June 1, 1935, Decreed 21.0 s.f. as prior to Brennan estate.                                                                                |                                  |
| Allison Ditch, Not Inc.                                                                                                                    | Aug. 16, 1890 - 1000" *20 s.f.   |
| St. Germain Irrigation Co., Inc.                                                                                                           | Oct. 30, 1890 - 1000" *20 s.f.   |
| Creston Ditch Co., Not Inc. (Abandoned)                                                                                                    | April 7, 1891 - 2200"            |
| Lemley-Taylor                                                                                                                              | April 15, 1895 - 3000" *60 s.f.  |
| Iowa Irrigation Ditch Co., Inc.                                                                                                            | March 21, 1896 - 6000" *120 s.f. |
| Allen Water Right                                                                                                                          | Sept. 11, 1877 - 1000" *20 s.f.  |
| George P. Bennett                                                                                                                          | May 28, 1895 - 3000" *60 s.f.    |
| Brennan-Lockhart Ditch, Not Inc.                                                                                                           | Dec. 30, 1885 - 4000" *80 s.f.   |
| June 1, 1935, Decreed 60" as prior to Hawthorne 1908 right                                                                                 |                                  |
| Rapid Valley Ditch Co., Inc.                                                                                                               | Dec. 30, 1885 - 4000" *80 s.f.   |
| Hawthorne Ditch Co.,                                                                                                                       | Oct. 1, 1890 - 5 1/4 s.f.        |
| June 1, 1935, Decreed good and valid but junior to I, II, III, IV.                                                                         |                                  |
| I. South Side Ditch Co. - 23.45 s.f.                                                                                                       |                                  |
| II. Hawthorne Ditch Co. - 21.0 s.f.                                                                                                        |                                  |
| III. Little Giant Ditch - Murphy Ditch                                                                                                     |                                  |
| IV. Lockhart-Brennan - 60"                                                                                                                 |                                  |

\*Amounts claimed in location notice. Actual use not determined.

August 1942  
RAPID VALLEY DITCH COMPANIES  
showing

Geographic locations and priorities.  
From information from County records compiled by R. F. Lund

XVI. Geo. P. Bennett

3000" May 28, 1895

SW $\frac{1}{4}$ SW $\frac{1}{4}$  Sec. 9 - 1N - 7E

Decreases 11.7 s. f. (450") N-3.9 (150") S.

XVII. Rapid Valley Ditch Co., Inc.

4000" Dec. 30, 1885

2 $\frac{1}{4}$  Miles above Rapid City

XIV. Brennan-Lockhart Ditch, Not Inc.

1000" June 5, 1900

NW $\frac{1}{4}$ SE $\frac{1}{4}$  Sec. 6 - 1N - 8E.

Decreed 1.56 s.f. (60")

IV. Cyclone Ditch Co., Inc.

4000" May 25, 1881 (Loc. not described)

3000" Oct. 31, 1887 (Sec. 16-19-1N-8E)

5000" May 14, 1890 (SE $\frac{1}{4}$ SE $\frac{1}{4}$  Sec. 8-1N-8E)

Decree grants Joeseeph Jolly 2.6s.f. (100")

8-400 inches - 892 inches water

III. South Side Ditch & Water Co., Inc.

2500" May 3, 1880. Sec. 15-1N-8E-Sec. 33-1N-9E

Decreed 23.4 s.f. (900")

Acquired by the Lower Rapid Citch Co.

SW $\frac{1}{4}$ NE $\frac{1}{4}$  Sec. 15-T. 1 N.-R. 8 E

Amended notice posted Sept. 16, 1893

Contract for prior right of Little Giant Ditch for 400" only.

Decreed 23.45 s.f.

900 inches

XII. Allen Water Right

1000" Sept. 11, 1897

Ne portion NE $\frac{1}{4}$ NE Sec. 32 - 1S - 11E

XI Creston Ditch Co., Not Inc. (Abandoned)

2200" April 7, 1891

SE $\frac{1}{4}$  Sec. 32 - 1S - 12E

X. Allison Ditch, Not Inc.

1000" Aug. 16, 1890

SW $\frac{1}{4}$ NE $\frac{1}{4}$  Sec. 3 - 1S - 12E

Sec. ft - 24 hrs. A.F.

XV.

AI

Leedy (Sickler) Ditch - Not, inc.

1600" April 21, 1877

SW $\frac{1}{4}$  Sec. 9 - 1N - 7E

2000" March 31, 1886

NE $\frac{1}{4}$ SE $\frac{1}{4}$  Sec. 9 - 1N - 7E

400" Decreed to Sickler against Bennett Andrenne Volin decreed 2.08 s.f. (80")

N $\frac{1}{4}$ NW $\frac{1}{4}$  Sec. 10

Geo. P. Bennett 5000" June 30, 1905.

In the decree he was allotted 3.9 (150")

XIII. Iowa Irrigation Ditch Co., Inc.

6000" March 21, 1896

Between Second and Third Street

or Third and St. Louis

About 250 acres left to irrigate

150 inches - 200 in

VII. Hawthorne Ditch Co., Inc.

2000" July 12, 1886

100" W. Sec. line between Sec. 5 & 6 -

1N - \*E

3000" July 8, 1890 (Decreed 21.0 s.f.) 1890

500" W. Sec. line between Sec. 5 & 6

1N - 8E

5 $\frac{1}{4}$  Sec. Ft. October 1, 1907

I. Rapid Valley Water Co., Inc.

1-20-1894

1000" April 6, 1878

Amended April 26, 1893, 3000"

additional ditch extended from NW $\frac{1}{4}$ SE $\frac{1}{4}$

Sec. 9 - 1N - 8E.

850 inches to Williams Draw  
100 inches for Little Giant  
117 inches " " "

II. Little Giant Ditch Co., not Inc.

2000" June 14, 1878

Through Sec. 14 to E. side of Sec. 23

SE $\frac{1}{4}$ NE $\frac{1}{4}$  Sec. 34 - 1N - 9E

300 + 100

283 + 117 Murphy

VI. St. Germain Irrigation Co., Inc.

400" Nov. 1, 1883

SE $\frac{1}{4}$ NE $\frac{1}{4}$  Sec. 34 - 1N - 9E

1000" October 30, 1890

11 - No records

V. Lone Tree Ditch Company, Inc.

2000" Sept. 29 1881

NE $\frac{1}{4}$ NE $\frac{1}{4}$  Sec. 30 - 1N - 9E

2000" May 25, 1885 (Loc. to Bldg's.)

Decreed 33.8 s.f. (1300")

Decreed 38.0 s.f. (1500") not add.

1300 inches

IX. Farmingdale Canal & Development Co., Inc.

(Hammerquist Ditch)

2500" May 28, 1890

NW $\frac{1}{4}$  Sec. 16 - 1S - 10E

VIII. Lemley - Taylor, not Incorporated

3000" Feb. 23, 1888 - NW $\frac{1}{4}$  Sec. 36 -

1N - 11E

3000" April 15, 1895 - NW $\frac{1}{4}$  Sec. 36 -

1N - 11#

Order waters after Pactola  
is built ahead of time to save  
expenses Simpson will be a

## Rapid Valley Irrigation Water rights & Priorities

| DITCHES (Priority) | Capacity Alloted (cfs/sec) |
|--------------------|----------------------------|
| 1. Murphy          | 19.4                       |
| 2. Little Giant    | 5.6                        |
| 3. South Side      | 23.4                       |
| 4. Cyclone         | 2.6                        |
| 5. Lone Tree       | 26.0                       |
| 6. St. Germaine    | 8.0                        |
| 7. Hawthorne       | 21.0                       |
| 8. Cyclone         | 8.0                        |
| 9. Iowa            | 8.0                        |
| 10. Lockhart       | 1.6                        |
| 11. St. Germaine   | 20.0                       |
| 12. Hawthorn       | 8.0                        |

TOTAL 151.6 cfs

Note: Data obtained from Don Thorsen 6-10-64

## TENTATIVE PRIORITIES AND TENTATIVE MAXIMUM DIVERSION RATES

| Relative<br>Priority | Ditch                                                                                        | Priority<br>Date                                                  | 1908<br>Survey | Acreage Irrigated   |                 |                  |                            |            | W.R.C.<br>Action | Maximum<br>Diversion<br>Rate (cfs) | Diversion<br>Point                                                                                                                  | Water Right<br>Source References                                                                                       |
|----------------------|----------------------------------------------------------------------------------------------|-------------------------------------------------------------------|----------------|---------------------|-----------------|------------------|----------------------------|------------|------------------|------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|
|                      |                                                                                              |                                                                   |                | 1940<br>Cons. Dist. | 1963<br>Thorson | 1963<br>Thompson | 1963<br>Storage<br>Service |            |                  |                                    |                                                                                                                                     |                                                                                                                        |
| 1                    | Leedy - Sickler                                                                              | Apr. 1877                                                         | 170            |                     |                 |                  |                            |            |                  | ?                                  | NE $\frac{1}{4}$ , SW $\frac{1}{4}$ ,<br>Sec. 9, T 1N, R 7E                                                                         | Pg. 183, Filing 559                                                                                                    |
| 2                    | Rapid Valley (Murphy)<br>(a) Service to Little<br>Giant                                      | Apr. 6, 1878<br>(June 14, 1878)                                   | 886            | 1213                | 850             | 19.4             | 0                          | 21.9       |                  | 16.8<br>2.0                        | NW $\frac{1}{4}$ , SE $\frac{1}{4}$ ,<br>Sec. 8, T 1N, R 8E                                                                         | Pg. 22; Filing 134<br>653-2;                                                                                           |
| 3                    | Little Giant<br><br>(a) Diversion Thro.<br>Rapid Valley<br>(b) Diversion thro.<br>South Side | June 14, 1878                                                     | 1261           | 910                 | 1000            | 5.6              | 658                        | 7.7<br>2.1 | 779.77           | (8.0)<br><br>(2.0)<br>(6.0)        | <br><br>NW $\frac{1}{4}$ , SE $\frac{1}{4}$ , Sec. 8,<br>T 1N, R 8E<br>NE $\frac{1}{4}$ , SW $\frac{1}{4}$ , Sec. 15,<br>T 1N, R 8E | 653-2; 0658-2; pg<br>39; Total acreage<br>(653-2) may includ<br>some Rapid Valley<br>Ditch acreage<br>653-2;<br>653-2; |
| 4                    | Jolly (individual<br>right thro. Cyclone<br>Ditch)                                           | Feb. 3, 1879                                                      | 220            | 100                 | 100             | 2.6              | 0                          | 1.8        | 131.88           | (1.88)                             | SE $\frac{1}{4}$ , SE $\frac{1}{4}$ , Sec. 8,<br>T 1N, R 8E                                                                         | 582-2; So. Side vs.<br>Cyclone                                                                                         |
| 5                    | South Side<br>Extension<br><br>(a) Service to Little<br>Giant                                | May 3, 1880<br>after 1893<br>before 1908 ?<br><br>(June 14, 1878) | 1906           | 1507                | 1500            | 23.4             | 2105                       | 28.2       |                  | 18.0<br>5.4 ?<br>6.0               | NE $\frac{1}{4}$ , SW $\frac{1}{4}$ , Sec. 15,<br>(T 1N, R 8E<br>?)                                                                 | pg. 42; Filing -<br><br>pg. 43-44; filing<br>2588; apparently<br>Circuit Court<br>decision 1899;<br>653-2;             |
| 6                    | Lone Tree                                                                                    | Sept. 29, 1881                                                    | 1289           | 1468                | 1500            | 26.0             | 1121                       | 16.0       |                  | 15.0 ?                             | NE $\frac{1}{4}$ , NE $\frac{1}{4}$ ,<br>Sec. 30, T 1N, R 9E                                                                        | pg. 98; Filing 4536;<br>Lone Tree vs Cycl                                                                              |
| 7                    | St. Germain<br>(includes Sanders)                                                            | Nov. 1, 1882 ?                                                    | 1972           | 2423                | 2000            | 8.0              | 1687                       | 25.4       |                  | 8.0 ?                              | SE $\frac{1}{4}$ , NE $\frac{1}{4}$ ,<br>Sec. 34, T 1N, R 9E                                                                        | pg. 116; Filing -                                                                                                      |
| 8                    | Hawthorne<br><br>Extension-From Center<br>SE $\frac{1}{4}$ , 11-1-8                          | July 12, 1886<br>Oct. 1, 1907                                     | 1993           | 1914                | 2000            | 11.0             | 1500                       | 25.9       |                  | 21.0                               | SE $\frac{1}{4}$ , NE $\frac{1}{4}$ ,<br>Sec. 34, T 1N, R 9E                                                                        |                                                                                                                        |

Lone Tree Ditch  
Oct. 16, 1987

Dear, Tim Tollerud:

Please find completed forms along with the  
required application fee of \$15.00.



We cut back to 23.0 CFS on Amount of water  
claimed. Mr. Scott is in Arizona and will be  
for several weeks. We want to discuss this  
at length with him before cutting back any  
further. Mr. Scott should be back before our  
meeting in December.

Thank you.

Sincerely,

H. Dale Gossett

President of Lone Tree Ditch

Phone # 605 393-0223

REPORT ON VESTED RIGHT APPLICATION NO. 2038-2  
Lone Tree Ditch  
October 20, 1987

Vested Right Application No. 2038-2 requests validation of a vested right claim to appropriate 23 cubic feet of water per second from Rapid Creek to irrigate 1022 acres. The water claimed priority date is September 29, 1881. The point of diversion is located in the NE1/4 of the NE1/4 of Section 30 - T1N - R9E, Pennington County.

DISCUSSION

Pursuant to SDCL 46-5-49 and ARSD 74:01:01:20, Lone Tree Ditch has submitted this application to validate a vested water right claim. The following findings are the results of the investigation of Lone Tree Ditch.

A notice of water appropriation, No. 4556, was with the Pennington County Register of Deeds and recorded in Book E, Page 217 of the Location Certificates. The notice claimed the right to 2000 miner's inches of water. The date of the recording was March 23, 1882 and the date of posting was September 29, 1881.

A Seventh Judicial Court Decision in Lone Tree Ditch Co. vs. Rapid City Electric Co. decreed 1500 miner's inches of water to Lone Tree Ditch. This decision was recorded October 14, 1899 in Book 9 of Judgements, pages 111-123. The amended decision was recorded January 30, 1904 in Book 11 of Judgements, pages 210-214.

A Seventh Judicial Court decision in Lone Tree Ditch Co. vs. Cyclone Ditch Co. decreed 1300 miner's inches of water to Lone Tree Ditch. This decision was recorded August 17, 1900 in Book 9 of Judgements, pages 240-245. The Supreme Court filed an opinion on March 1, 1902 as recorded in volume 15 of South Dakota Reports which upheld the Seventh Judicial Courts decision.

South Dakota statutes states that one cfs is equal to 50 miner's inches. The Seventh Judicial Court in 1900 defined a miner's inch as the flow required to produce 2250 cubic feet of water in a 24 hour period. Reducing this value produces a value of one cfs is equal to 38.4 miner's inches. The 1300 miner's inches decreed Lone Tree Ditch is equal to 33.8 cfs using the courts definition of a miner's inch.

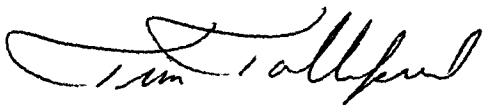
Lone Tree Ditch was investigated by Division of Water Rights engineers during the Fall of 1986 and the Summer of 1987. Water is diverted through a headgate by means of a diversion dam on Rapid Creek. A parshall flume with a throat width of 2.5 feet used to measure the ditch flow is located below the headgate.

The headgate is capable of diverting 23 cfs and the ditch is capable of carrying 23 cfs. Any surplus water or irrigation return flow is returned to Rapid Creek. There is approximately six miles of main ditch with laterals used to transport water to individual users on the ditch.

SDCL 46-5-6 allows the diversion of one cfs for each 70 acres of irrigation. Applying this rate to the number of acres claimed by this Vested Right Application, the total diversion rate allowed by state law would be 14.60 cfs. Considering the efficiency for flood irrigation is approximately 50%, a diversion rate of 23 cfs is practical for flood irrigation of 1022 acres.

### CONCLUSIONS

1. Location Certificate No. 4556 claimed the right to divert 2000 miner's inches of water. South Dakota statutes states that one cfs is equal to 50 miner's inches.
2. Lone Tree Ditch is capable of diverting and transporting the 23 cfs claimed by this vested right application.
3. The 23 cfs claimed in this vested right application is reasonable for flood irrigation of 1022 acres.
4. The water has been put to beneficial use continuously since the time the system was constructed.
5. A Seventh Judicial Court decreed Lone Tree Ditch 1500 miners inches of water in 1899 and 1300 miner's inches of water in 1900. The court used a value of one cfs being equal to 38.4 miner's inches.
6. It is recommended that Vested Right Application No. 2038-2 be validated with a priority date of September 29, 1881 for 23 cfs to irrigate 1022 acres.
7. It is recommended if Vested Right Application No. 2038-2 is validated, that the applicable portions of Location Certificate No. 4556 be incorporated into Vested Right No. 2038-2 and that the abandoned portions of Location Certificate No. 4556 be cancelled.



Tim Tollefsrud  
Natural Resources Engineer

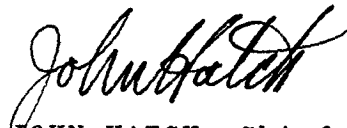
RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED WATER  
RIGHT APPLICATION NO. 2038-2, Lone Tree Ditch

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. 2038-2, Lone Tree Ditch, c/o Dale Gossard, President, RR 2, Box 5040, Rapid City SD.

The Chief Engineer is recommending VALIDATION of Application No. 2038-2 for 23.0 cfs and that the applicable portions of Location Certificate No. 4556 have been incorporated into No. 2038-2 and that the abandoned portions of Certificate No. 4556 have been cancelled, because 1) water has been appropriated as described for irrigation use with a priority date of September 29, 1881, 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 with the following qualifications.

1. That Vested Water Right No. 2038-2 is subject to domestic use rights. Diversion of natural flow water under Water Right No. 2038-2 is contingent upon supplies being available first to domestic users.
2. That the existing flow measuring device be maintained at or near the point of diversion for Lone Tree Ditch.

See the attached report for additional information.



JOHN HATCH, Chief Engineer  
October 22, 1987



# Department of Water & Natural Resources

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

October 28, 1987

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

Lone Tree Ditch  
c/o Dale Gossard  
RR 2, Box 5040  
Rapid City SD 57701

Dear Mr. Gossard:

Your Application No. 2038-2 for a vested water right claim has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of your claim has been sent to the Publisher of the RAPID CITY JOURNAL printed at Rapid City SD. For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application 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 hearing to validate a vested right 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 application can be considered by the Water Management Board.

Sincerely,

A handwritten signature in cursive script that reads "Ron Duvall".

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

October 28, 1987

RAPID CITY JOURNAL  
PO Box 450  
Rapid City SD 57701

Dear Sir:

Enclosed is a Notice of Hearing to Validate Vested Right Application No. 2038-2. Please publish this notice once each week for two consecutive weeks in your paper. The first publication should be on or before November 4, 1987.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is Lone Tree Ditch, c/o Dale Gossard, RR 2 Box 5040, Rapid City SD.

A copy of BOTH publications must be SENT to the WATER RIGHTS DIVISION. IMMEDIATELY return the FIRST publication with the FIRST 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 in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. 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-----

FIRST TRANSMITTAL NOTICE

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

Date \_\_\_\_\_

We are in receipt of your letter of \_\_\_\_\_ enclosing Notice of Hearing to Validate A Vested Right Application 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 4, 1987 with 2nd publication 1 week later. The applicant is responsible for payment.

NOTICE OF HEARING To Validate  
Vested Right Application No. 2038-2 to Appropriate Water

Notice is hereby given that Lone Tree Ditch, c/o Dale Gossard, President whose mailing address is RR 2, Box 5040, Rapid City, South Dakota has filed an application to validate a vested right claim to appropriate 23.0 cubic feet of water per second (cfs) from Rapid Creek to irrigate 1,022 acres via the Lone Tree Ditch with a claimed priority date of September 29, 1881. The Rapid Creek diversion point for the Lone Tree Ditch is located in the NE 1/4 NE 1/4 Section 30, T1N, R9E. The irrigated acreage is located in the S 1/2 SE 1/4, SW 1/4 Section 28; NW 1/4, S 1/2 NE 1/4, N 1/2 SE 1/4, NW 1/4 SW 1/4 Section 29; SE 1/4 NE 1/4 Section 30; N 1/2 NE 1/4, NE 1/4 NW 1/4 Section 33; NE 1/4 Section 34; S 1/2, NW 1/4, S 1/2 NE 1/4, NW 1/4 NE 1/4 Section 35; SW 1/4 Section 36; all in T1N, R9E: Lots 2 thru 4, N 1/2 SW 1/4, NW 1/4 SE 1/4 Section 1; Lots 1 and 2, NE 1/4 SE 1/4 Section 2; all in T1S, R9E.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends VALIDATION of Vested Water Right Application No. 2038-2 for 23.0 cfs and that the applicable portions of Location Certificate No. 4556 be incorporated into No. 2038-2 and that the abandoned portions of No. 4556 will be cancelled because 1) water has been appropriated as described for irrigation with a priority date of September 29, 1881, 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 at Howard Johnson's, Roosevelt and Jefferson Rooms, Rapid City SD, December 2, 1987 at 1:00 pm.

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 the 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 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, 46-2A-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.

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 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, 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 the application. The request for extension must be filed with the Chief Engineer by November 20, 1987.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )  
 ) ss.  
County \_\_\_\_\_)

I, Mary K. Garness hereby

certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Rapid City Journal

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 Rapid City

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

November 4, 1987

November 11, 1987

Mary K. Garness  
(Signature)

Bookkeeper

(Title)

November 11, 1987

(Date Signed)

Cost of Printing: Ran 11 inches legal advertising  
in the Rapid city Journal on November 4 & 11 @  
\$4.20 per inch = \$92.40

Ran public notice of hearing (Gossard) L327

WNR-808-7/79  
Proof of Publication

Nov. 4, 11 L327  
NOTICE OF HEARING  
TO VALIDATE VESTED RIGHT  
APPLICATION NO. 2038-2  
TO APPROPRIATE WATER

Notice is hereby given that Lone Tree Ditch, c/o Dale Gossard, President, whose mailing address is RR 2, Box 5040, Rapid City, South Dakota has filed an application to validate a vested right claim to appropriate 23.0 cubic feet of water per second (cfs) from Rapid Creek to irrigate 1,022 acres via the Lone Tree Ditch with a claimed priority date of September 29, 1881. The Rapid Creek diversion point for the Lone Tree Ditch is located in the NE 1/4 NE 1/4 Section 30, T1N, R9E. The irrigated acreage is located in the S 1/2 SE 1/4, SW 1/4 Section 28; NW 1/4 S 1/2 NE 1/4, N 1/2 SE 1/4 NW 1/4, SW 1/4 Section 29; SE 1/4 NE 1/4 Section 30; N 1/2 NE 1/4, NE 1/4 NW 1/4 Section 33; NE 1/4 Section 34, S 1/2 NW 1/4, S 1/2 NE 1/4, NW 1/4 NE 1/4 Section 35; SW 1/4 Section 36; all in T1N, R9E; Lots 2 thru 4, N 1/2 SW 1/4, NW 1/4 SE 1/4 Section 1; Lots 1 and 2, NE 1/4 SE 1/4 Section 2; all in T1S, R9E.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends VALIDATION of Vested Water Right Application No. 2038-2 for 23.0 cfs and that the applicable portions of Location Certificate No. 4556 be incorporated into No. 2038-2 and that the abandoned portions of No. 4556 will be canceled because 1) water has been appropriated as described for irrigation with priority date of September 29, 1881, 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 at Howard Johnson's, Roosevelt and Jefferson Rooms, Rapid City, S.D., December 2, 1987 at 1:00 p.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 the 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 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; 46-2A-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.

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, DWR, Joe Foss Bldg., Pierre, S.D., (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 November 20, 1987.

**South Dakota  
Department of  
Game, Fish and Parks**

**Division of Wildlife  
Sigurd Anderson Building  
445 East Capitol  
Pierre, South Dakota 57501-3185  
(605) 773-3381**

November 16, 1987



Mr. John Hatch, Chief Engineer  
Division of Water Rights  
S.D. Department of Water & Natural Resources  
Joe Foss Building  
Pierre, SD 57501

Dear Mr. Hatch:

Pursuant to the notice provided by the Chief Engineer under SDCL 46-2A-4 the South Dakota Department of Game, Fish and Parks intends to be a party to water right claim 2038-2 on Rapid Creek, Pennington.

GF&P is an interested and potentially affected party by virtue of statutory authority to manage fish and wildlife resources of the state (SDCL Chapter 41). The pending water right claim could affect the quantity of water available for natural resource management.

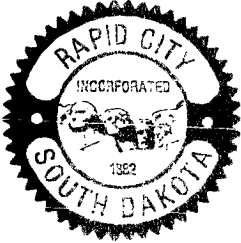
Thank you for the opportunity to comment on this pending water right application.

Sincerely,

Richard J. Beringson  
Secretary

RJB/ld

cc: Lone Tree Ditch % Dale Gossard, Pres.



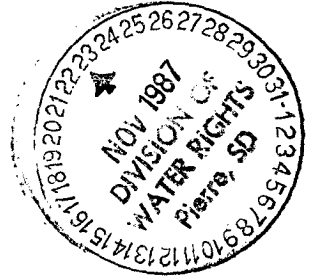
# City of Rapid City

RAPID CITY, SOUTH DAKOTA 57701

## OFFICE OF CITY ATTORNEY

22 Main Street  
Rapid City, South Dakota 57701  
Telephone: 605-394-4140

November 20, 1987



John Hatch, Chief Engineer  
South Dakota Department of Natural Resources  
Water Rights Division  
Joe Foss Building  
523 East Capitol  
Pierre, SD 57501-3181

RE: Application No. 2038-2

Dear Mr. Hatch:

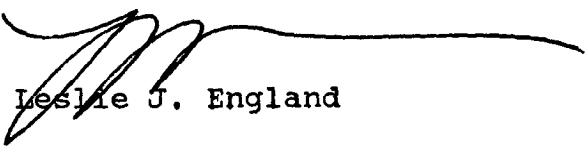
This will serve as the petition of the City of Rapid City as an interested party who may be affected by the above pending application.

The interest of the City of Rapid City in the pending application is that the City of Rapid City is a junior appropriator on Rapid Creek and has a contractual obligation to replace water taken into its municipal system for the benefit of the above referenced applicant. The Rapid City urban area including Rapid Valley and Ellsworth Air Force Base, has a population in excess of 70,000 people who are dependent upon Rapid Creek for daily water supply.

Please provide copies of the pertinent engineering reports, recommendations, and applications so that the City of Rapid City may determine whether it may support or oppose the pending application.

Yours very truly,

OFFICE OF THE CITY ATTORNEY

  
Leslie J. England

LJE/sd  
cc: Dale Gossard, Lone Tree Ditch Co.



EQUAL HOUSING  
OPPORTUNITY

EQUAL OPPORTUNITY EMPLOYER

**South Dakota  
Department of  
Game, Fish and Parks**

**Division of Wildlife  
Sigurd Anderson Building  
445 East Capitol  
Pierre, South Dakota 57501-3185  
(605) 773-3381**

November 20, 1987

Mr. John Hatch, Chief Engineer  
Division of Water Rights  
S.D. Department of Water & Natural Resources  
Joe Foss Building  
Pierre, SD 57501



Dear Mr. Hatch:

Pursuant to the filings made by the S.D. Department of Game, Fish and Parks to the attached list of applicants, some confusion exists regarding the intent of the filings. For your information when dealing with inquiries to the nature of the GF&P interest in the upcoming hearings the following information should be useful.

GF&P intends to participate in the upcoming water right validations by supporting the water rights staff recommendations that will bring each water right into legal compliance with existing laws, e.g. appropriate quantities of water for the land base, appropriately sized and gauged headgates for the right in question, abandonment of unused quantities of water, etc. GF&P filed with your office and each applicant so that we would officially be parties to the hearing process and be able to carry out the mandated duties of the Department under SDCL Chapter 41. We also are of the opinion that the Department would have been negligent in not participating in proceedings that relate to water resource allocation directly affecting waters that support fish and wildlife values.

I hope this information will aid you in describing the nature of the interest the Department of Game, Fish and Parks has in the upcoming proceedings. If you have any questions you can contact me at 773-5511.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ron Koth".

Ron Koth  
Water Permits Coordinator

RK/ld



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

WATER RIGHTS DIVISION  
(605) 773-3352

November 23, 1987

Dale Gossard, President  
Lone Tree Ditch  
RR 2, Box 5040  
Rapid City, South Dakota 57701

Dear Mr. Gossard:

I am writing to advise you that the legal notice of hearing published in the Rapid City Journal on November 4 and 11, 1987 is not correct. Publication errors were made in the legal description of the irrigated acreage in the first publication received by our office on November 5, 1987. I contacted the newspaper on November 9, 1987 to correct the errors in the second publication; however, the corrections were not made in the second publication. Enclosed are copies of both publications and a copy of the notice sent to the newspaper.

Vested Right Application No. 2038-2 will NOT be heard at the December 2, 1987 Board meeting due to the publication errors. The advertising deadline for the December 2, meeting ended on November 12, 1987. Therefore, the legal notice of hearing will need to be readvertised for the March 2 & 3, 1988 Board meeting. Readvertisement of the notice is needed to ensure that the application is free from any potential legal problems due to inaccurate and incomplete public notice. The information needed to readvertise will be sent to you under separate cover.

Please contact us if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Ron Duvall".

Ron Duvall  
Natural Resources Engineer

RD:ms  
Enc.

cc: Rapid City Journal  
Leslie J. England, Attorney, City of Rapid City

November 24, 1987  
(date)

page 1

Parties of Record before Water Management Board regarding Vested Right  
Application No. 2038-2, Lone Tree Ditch

For:

Dale Gossard, President  
Lone Tree Ditch  
RR 2, Box 5040  
Rapid City SD 57701

Interested:

Leslie J. England, attorney  
City of Rapid City  
22 Main Street  
Rapid City SD 57701

Richard Beringson, Secretary  
SD Dept of Game, Fish & Parks  
Anderson Bldg., 445 E Capitol  
Pierre SD 57501

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

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

December 22, 1987

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

Lone Tree Ditch  
c/o Dale Gossard  
RR 2, Box 5040  
Rapid City SD 57701

Dear Mr. Gossard:

Your Application No. 2038-2 for a vested water right claim has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of your claim has been sent to the Publisher of the RAPID CITY JOURNAL printed at Rapid City SD. 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 hearing to validate a vested right. 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 application 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

December 22, 1987

RAPID CITY JOURNAL  
PO Box 450  
Rapid City SD 57701

Dear Sir:

Enclosed is a Notice of Hearing to Validate Vested Right Application No. 2038-2 to be published twice. Please publish this notice on or before January 6, 1988 with the second publication 7 days later.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. This notice is a readvertisement of the notice published in your paper on November 4 and 11, 1987. Due to publishing errors on the original notice this notice needs to be readvertised.

A copy of BOTH publications must be SENT to the WATER RIGHTS DIVISION. IMMEDIATELY return the FIRST publication with the FIRST 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 in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. 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-----

FIRST TRANSMITTAL NOTICE

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

Date \_\_\_\_\_

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

\_\_\_\_\_  
Name

\_\_\_\_\_  
Newspaper



# City of Rapid City

RAPID CITY, SOUTH DAKOTA 57701

## OFFICE OF CITY ATTORNEY

300 Sixth Street  
Rapid City, South Dakota 57701  
Telephone: 605-394-4140

December 28, 1987



John Hatch, Chief Engineer  
South Dakota Department of Natural Resources  
Water Rights Division  
Joe Foss Building  
523 East Capitol  
Pierre, SD 57501-3181

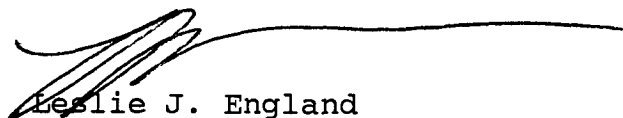
RE: Lone Tree Ditch, Application No. 2038-2  
Notice of Hearing

Dear Mr. Hatch:

Please provide copies of the pertinent engineering reports, recommendations, and applications so that the City of Rapid City may determine whether it may support or oppose the pending application.

Yours very truly,

OFFICE OF THE CITY ATTORNEY

  
Leslie J. England

LJE/sd



EQUAL HOUSING  
OPPORTUNITY

EQUAL OPPORTUNITY EMPLOYER

REVISED RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT  
APPLICATION NO. 2038-2, Lone Tree Ditch

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. 2038-2, Lone Tree Ditch, c/o Dale Gassard, President, RR 2, Box 5040, Rapid City SD.

The Chief Engineer is recommending VALIDATION of Application No. 2038-2 for 15.0 cfs and that the applicable portions of Location Certificate No. 4556 have been incorporated into No. 2038-2 and that the abandoned portions of Certificate No. 4556 have been cancelled, because 1) water has been appropriated as described for irrigation use with a priority date of September 29, 1881, 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 with the following qualifications:

1. That Vested Water Right No. 2038-2 is subject to domestic use rights. Diversion of natural flow water under Water Right No. 2038-2 is contingent upon supplies being available first to domestic users.
2. That the existing flow measuring device be maintained at or near the point of diversion for Lone Tree Ditch.

See the attached report for additional information.



JOHN HATCH, Chief Engineer  
January 27, 1988

REVISED REPORT ON VESTED RIGHT APPLICATION NO. 2038-2  
Lone Tree Ditch  
January 28, 1988

Vested Right Application No. 2038-2 requests validation of a vested right claim to appropriate 15 cubic feet of water per second (cfs) from Rapid Creek to irrigate 1022 acres. The claimed priority date is September 29, 1881. The point of diversion is located in the NE1/4 of the NE1/4 of Section 30 - T1N - R9E, Pennington County.

DISCUSSION

Pursuant to SDCL 46-5-49 and ARSD 74:01:01:20, Lone Tree Ditch has submitted this application to validate a vested water right claim. The following findings are the results of the investigation of Lone Tree Ditch.

Vested Right Application No. 2038-2 originally claimed 23 cfs of water. A letter dated January 5, 1988 from Dale Gossard, President Lone Tree Ditch, stated they were lowering the amount of water claimed from 23 cfs to 15 cfs. They based their decision on new data on Lone Tree Ditch diversion rates and discussing the matter with Duane Scott, Rapid Valley Watermaster.

A notice of water appropriation, No. 4556, was filed with the Pennington County Register of Deeds and recorded in Book E, Page 217 of the Location Certificates. The notice claimed the right to 2000 miner's inches of water. The date of the recording was March 23, 1882 and the date of posting was September 29, 1881.

A Seventh Judicial Court Decision in Lone Tree Ditch Co. vs. Rapid City Electric Co. decreed 1500 miner's inches of water to Lone Tree Ditch. This decision was recorded October 14, 1899 in Book 9 of Judgements, pages 111-123. The amended decision was recorded January 30, 1904 in Book 11 of Judgements, pages 210-214.

A Seventh Judicial Court decision in Lone Tree Ditch Co. vs. Cyclone Ditch Co. decreed 1300 miner's inches of water to Lone Tree Ditch. This decision was recorded August 17, 1900 in Book 9 of Judgements, pages 240-245. The Supreme Court filed an opinion on March 1, 1902 as recorded in volume 15 of South Dakota Reports which upheld the Seventh Judicial Courts decision.

South Dakota statutes states that one cfs is equal to 50 miner's inches. The Seventh Judicial Court in 1900 defined a miner's inch as the flow required to produce 2250 cubic feet of water in a 24 hour period. Reducing this value produces a value of one cfs is equal to 38.4 miner's inches. The 1300 miner's inches decreed Lone Tree Ditch is equal to 33.8 cfs using the courts definition of a miner's inch.

Lone Tree Ditch was investigated by Division of Water Rights engineers during the Fall of 1986 and the Summer of 1987. Water is diverted through a headgate by means of a diversion dam on Rapid Creek. A parshall flume with a throat width of 2.5 feet used to measure the ditch flow is located below the headgate. The headgate is capable of diverting 15 cfs and the ditch is capable of carrying 15 cfs. Any surplus water or irrigation return flow is returned to Rapid Creek. There is approximately six miles of main ditch with laterals used to transport water to individual users on the ditch.

SDCL 46-5-6 allows the diversion of one cfs for each 70 acres of irrigation. Applying this rate to the number of acres claimed by this Vested Right Application, the total diversion rate allowed by state law would be 14.60 cfs. Considering the efficiency for flood irrigation is approximately 50%, a diversion rate of 15 cfs is practical for flood irrigation of 1022 acres.

#### CONCLUSIONS

1. Location Certificate No. 4556 claimed the right to divert 2000 miner's inches of water. South Dakota statutes states that one cfs is equal to 50 miner's inches.
2. Lone Tree Ditch is capable of diverting and transporting the 15 cfs claimed by this vested right application.
3. The 15 cfs claimed in this vested right application is reasonable for flood irrigation of 1022 acres.
4. The water has been put to beneficial use continuously since the time the system was constructed.
5. A Seventh Judicial Court decreed Lone Tree Ditch 1500 miners inches of water in 1899 and 1300 miner's inches of water in 1900. The court used a value of one cfs being equal to 38.4 miner's inches.
6. It is recommended Vested Right Application No. 2038-2 be validated with a priority date of September 29, 1881 for 15 cfs to irrigate 1022 acres.
7. It is recommended if Vested Right Application No. 2038-2 is validated, the applicable portions of Location Certificate No. 4556 be incorporated into Vested Right No. 2038-2 and the abandoned portions of Location Certificate No. 4556 be cancelled.



Tim Tollefsrud  
Natural Resources Engineer

Instruction to Newspaper - Publish first publication of the following Notice on or before January 6, 1988 with 2nd publication 1 week later.

NOTICE OF HEARING To Validate  
Vested Right Application No. 2038-2 to Appropriate Water

Notice is hereby given that Lone Tree Ditch, c/o Dale Gossard, President whose mailing address is RR 2, Box 5040, Rapid City, South Dakota has filed an application to validate a vested right claim to appropriate 23.0 cubic feet of water per second (cfs) from Rapid Creek to irrigate 1,022 acres via the Lone Tree Ditch with a claimed priority date of September 29, 1881. The Rapid Creek diversion point for the Lone Tree Ditch is located in the NE 1/4 NE 1/4 Section 30, T1N, R9E. The irrigated acreage is located in the S 1/2 SE 1/4, SW 1/4 Section 28; NW 1/4, S 1/2 NE 1/4, N 1/2 SE 1/4, NW 1/4 SW 1/4 Section 29; SE 1/4 NE 1/4 Section 30; N 1/2 NE 1/4, NE 1/4 NW 1/4 Section 33; NE 1/4 Section 34; S 1/2, NW 1/4, S 1/2 NE 1/4, NW 1/4 NE 1/4 Section 35; SW 1/4 Section 36; all in T1N, R9E: Lots 2 thru 4, N 1/2 SW 1/4, NW 1/4 SE 1/4 Section 1; Lots 1 and 2, NE 1/4 SE 1/4 Section 2; all in T1S, R9E.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends VALIDATION of Vested Water Right Application No. 2038-2 for 23.0 cfs and that the applicable portions of Location Certificate No. 4556 be incorporated into No. 2038-2 and that the abandoned portions of No. 4556 will be cancelled because 1) water has been appropriated as described for irrigation with a priority date of September 29, 1881, 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 Building, 523 East Capitol, Pierre SD at 10:00 am, March 2, 1988.

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 the 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 19, 1988. 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, 46-2A-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.

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 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, 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 the application. The request for extension must be filed with the Chief Engineer by February 19, 1988.

Form 8 - Proof of Publication - Notice of  
Intent to Appropriate Water

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

PROOF OF PUBLICATION



STATE OF SOUTH DAKOTA )  
County \_\_\_\_\_ ) ss.

I, Mary K. Garness hereby  
certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Rapid city Journal

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 Rapid City

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

January 6, 1988

January 13, 1988

Mary K. Garness  
(Signature)

Bookkeeper  
(Title)

January 13, 1988  
(Date Signed)

Cost of Printing: Ran 11 2/16 inch legal advertising  
in the Rapid City Journal on January 6 & 13  
@ \$4.20 per inch = \$46.73 (No charge  
for one day because of error in first  
printing in November ) L119

WNR-808-7/79  
Proof of Publication

Jan. 6, 13 L119

NOTICE OF HEARING  
TO VALIDATE VESTED RIGHT  
APPLICATION NO. 2038-2  
TO APPROPRIATE WATER

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Validation of this application will be considered by the Water Management Board in Room 216, Joe Foss Building, 523 E. Capitol, Pierre, S.D., at 10:00 a.m., March 2, 1988.

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 the 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 19, 1988. 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.

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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, Joe Foss Bldg., Pierre, S.D., (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 19, 1988.



Lone Tree Ditch  
RR 2 Box 5040  
Rapid City, SD, 57701  
Jan. 5, 1988

Department of Water & Natural Resources  
Joe Foss Building  
523 East Capitol  
Pierre, South Dakota

Dear Mr. Tollefsrud and Duvall:

In reference to my phone conversation to Mr. Tollefsrud of 12/29/87 requesting a change to 15 cfs from 23 cfs on application No. 2038-2 for a vested water right claim, and a follow up phone conversation from Mr. Duvall on 1/5/88 in confirmation of this change.

The Rapid City Journal was notified of the change on 12/29/87 following my conversation with Mr. Tollefsrud.

The 23 cfs claim was based on old data. Upon review of later data and a discussion between water master Duane Scott, Walter Jones, secretary Treasurer of Lone Tree Ditch and myself it was decided to change or correct the amount of water claimed to 15 cfs.

The 15 cfs claim complies with the 70 acre per cfs rule for ditch method irrigation. Lone Tree Ditch vested water right claim application figures out 1022 acres at 14.6 cfs, when rounded equals 15 cfs. On an average this 15 cfs is the amount of water used by the Lone Tree Ditch for the past 25 to 30 years or longer.

The amount of this claim at 15 cfs does not take into consideration the 50 percent loss rule which can be applied to ditch loss for this ditch type of irrigation.

Thank you for your consideration and correcting this requested amount of water.

Sincerely,  
*H. Dale Gossard*  
President, of Lone Tree Ditch  
*Walter Jones*  
Secretary, Treasurer of Lone  
Tree Ditch

WATER RIGHTS DIVISION  
(605) 773-3352

February 8, 1988

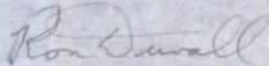
Leslie J. England, Attorney  
City of Rapid City  
300 6th Street  
Rapid City, South Dakota 57701

Dear Mr. England:

The enclosed copies of Permit Application No. 2038-2 and the revised report and recommendation are in response to your letter dated December 28, 1987.

Please contact us if you have any questions.

Sincerely,



Ron Duvall  
Natural Resources Engineer

RD:ms  
Enc.



# Department of Water & Natural Resources

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

DEC 1 1988

Lone Tree Ditch  
c/o Dale Gossard, President  
RR 2, Box 5040  
Rapid City, South Dakota 57701

Dear Mr. Gossard:

Enclosed are your Validated Vested Water Right and Water License No. 2038-2.  
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 written in a cursive, flowing style with a large, prominent "J" and "H".

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

JH: MS

enclosures

 **Department of  
Water & Natural Resources**

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

December 18, 1989

**NOTICE OF REQUEST TO  
REMOVE TREES FROM DITCH**

TO: Lonetree Ditch  
c/o Dale Gossard  
RR 2, Box 5040  
Rapid City SD 57701

FROM: JOHN HATCH, Chief Engineer  
Water Rights Division



SUBJECT: REQUEST To Remove Trees And Brush FROM LONETREE DITCH AND/OR RIGHTS OF WAY

Pursuant to SDCL 46-1-4, 46-2-17 and 46-7-3 Lonetree Ditch Company is REQUESTED to remove trees and brush from Lonetree Ditch, canals, laterals and/or rights of way prior to diverting water from Rapid Creek for the 1990 irrigation season. The roots of larger trees located within the ditches or on ditch embankments need to be removed and resulting holes backfilled with impervious material. Smaller trees and brush need to be trimmed to the ground and treated to prevent regrowth. Trees and brush consume water and contribute to water loss from a ditch. Decayed roots of trees located within ditches or on embankments can provide channels for water to leak or seep from the ditch. Where ditch embankments could fail and cause flooding, decaying tree roots provide channels ("piping") which can result in embankment failure.

All trees and brush that may be located within a ditch, or on ditch embankments, and/or within approximately five feet of the edge of the ditch need to be removed. Where wider rights of way exist, it may be prudent to leave older trees and shrubs that are important to adjacent property owners.

Please advise by February 2, 1990 if your Ditch Company intends to comply with this request or if you would like to have a hearing before the State Water Management Board. The Board will be meeting in Rapid City March 7 & 8, 1990.

If you have questions on this request, please contact Del Brosz (605 773-3352) or myself.

cc: Mark Kieffer, Vice-President  
Bud Jones, Secretary/Treasurer

### CERTIFICATION

I hereby certify that on December 18, 1989 I have personally deposited with the U.S. Mail postage prepaid envelopes containing a Notice of Request to Remove Trees From Ditch addressed as stated below:

**Lonetree Ditch,**

c/o Dale Gossard  
RR 2, Box 5040  
Rapid City, SD 57701

Vice President:

Mark Kieffer  
Keystone Rt, Box 8308  
Rapid City, SD 57701

Secretary/Treasurer:

Bud Jones  
Rt 2, Box 4980  
Rapid City, SD 57701

Baron Schlaak

KAREN SCHLAAK  
Senior Secretary

STATE OF SOUTH DAKOTA )  
 ) SS  
COUNTY OF HUGHES )

Sworn to, before me, this 19<sup>th</sup> day of December, 1989.



*John M. Bates*  
Notary Public

Bangs, McCullen, Butler, Foye & Simmons

Lawyers

818 St. Joe Street

Mailing Address P. O. Box 2670

Rapid City, South Dakota 57709

605-343-1040

Telecopier 605-343-1503

January 25, 1990

George A. Bangs  
W. A. McCullen (1943-1987)  
Joseph M. Butler  
Thomas H. Foye  
Thomas E. Simmons  
Ronald E. Clabaugh  
Charles L. Riter

Allen G. Nelson  
James P. Hurley  
Michael M. Hickey  
Mark F. Marshall  
Terry L. Hofer  
Rebecca A. McMahon  
Patrick K. Duffy



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

Re: Notice of Request to Remove  
Trees from Ditch

Dear Mr. Hatch:

Pursuant to your Notice dated December 18, 1989, this is to request a formal hearing before the State Water Management Board concerning your request to remove trees and brush from the various ditches, canals, laterals and rights of way prior to diverting water from Rapid Creek for the 1990 irrigation season. This request for hearing is made on behalf of Hawthorne Ditch, St. Germaine Ditch, South Side Ditch, Lonetree Ditch, Little Giant Ditch, Cyclone Ditch and Rapid Valley Ditch Co., Inc. Additionally, I would appreciate it if you would supply me with copies of any investigations, reports, memoranda or correspondence dealing with any of the issues raised by this Notice.

I thank you in advance for your anticipated assistance and cooperation, and if you have any questions or comments, please do not hesitate to contact me. Thank you.

Sincerely,

BANGS, MCCULLEN, BUTLER, FOYE & SIMMONS

*Michael M. Hickey*  
Michael M. Hickey

MMH/dcc

cc: St. Germaine Ditch  
South Side Ditch  
Lonetree Ditch  
Hawthorne Ditch  
Little Giant Ditch  
Cyclone Ditch  
Rapid Valley Ditch Co., Inc.

Lone Tree Water Co  
RR 2 Box 4980  
Rapid City S.D 57701  
Jan 26, 1990

Dept of Water & Natural Resources  
John Hatch, Chief Engineer

Dear Sir:

Pursuant to your Dec 18, 1989 letter to Lone Tree Water Co requesting removal of trees & brush from ditch &/or Rights of Way, the Lone Tree Water Co met Jan 16, 1990 to consider request. Decision was made to do regular maintenance work on ditch, including removal of brush and debris from channel, but will appeal request to remove larger trees.

We would like a hearing before the State Water Management Board on March 7th or 8th, 1990.

Bud Jones, Sec





# Department of Water & Natural Resources

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

February 2, 1990

## NOTICE

TO: Lonetree Ditch  
c/o Dale Gossard  
RR 2, Box 5040  
Rapid City SD 57701

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

SUBJECT: Hearing to Consider Noncompliance with Request to Remove Trees  
from Lonetree Ditch and/or Rights of Way

Pursuant to the Notice from the Chief Engineer dated December 18, 1989, a request was made to remove trees and brush from Lonetree Ditch, canals, laterals and/or rights of way prior to diverting water for the 1990 irrigation season. On January 26, 1990, a letter was received from Michael Hickey, attorney, and on January 29, 1990, a letter was received from Bud Jones confirming that brush and debris would be removed and appealing the request to remove the larger trees. Both letters requested a hearing before the Water Management Board.

The Water Management Board will consider this matter during a hearing scheduled for 1:30 pm on March 7, 1990, in the Roosevelt/Jefferson Room, Howard Johnson's, 2211 LaCrosse Street, Rapid City SD. The agenda time is an estimate. The actual time of hearing may be later than 1:30 pm due to prior agenda items.

After all evidence is taken at the hearing, the Board is authorized to: 1) order removal of trees and brush from Lonetree Ditch as outlined in the Notice dated December 18, 1989, 2) take no action, 3) amend Vested Water Right No. 2038-2 to add qualifications, 4) defer action or do some combination of the above. The Board has legal authority and jurisdiction to consider this matter and may amend Vested Water Right No. 2038-2 pursuant to SDCL 46-1-4, 46-1-14, 46-2-3.1, 46-2-5, 46-2-9, 46-2-11, 46-2-17 and 46-7-3.

This hearing is an adversary proceeding. You have the right to be represented by a lawyer. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided for by law.

cc: John Haak, Assistant Attorney General  
Mark Kieffer, Vice President  
Bud Jones, Secretary/Treasurer  
Michael M Hickey, Attorney

CERTIFICATION

I hereby certify that on February 2, 1990 I have personally deposited with the U.S. Mail postage prepaid envelopes containing a Notice to Consider Noncompliance with Request to Remove Trees From Ditch addressed as stated below:

Lonetree Ditch, c/o Dale Gossard  
RR 2, Box 5040  
Rapid City, SD 57701

Vice President: Mark Kieffer  
Keystone Rt, Box 8308  
Rapid City, SD 57701

Secretary/Treasurer: Bud Jones  
Rt 2, Box 4980  
Rapid City, SD 57701

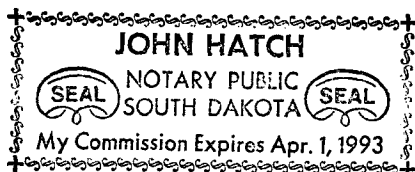
Michael M. Hickey, Attorney  
PO Box 2670  
Rapid City SD 57709

*Karen Schlaak*

KAREN SCHLAACK  
Senior Secretary

STATE OF SOUTH DAKOTA )  
COUNTY OF HUGHES ) SS  
)

Sworn to, before me, this 6<sup>th</sup> day of February, 1990.



*John Hatch*  
Notary Public



2038-2

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

March 12, 1993

**NOTICE**

TO: Dale Gossard  
Lone Tree Ditch Company  
Rt 2 Box 5040  
Rapid City, SD 57701

FROM: JOHN HATCH, CHIEF ENGINEER  
Water Rights Division  
(605) 773-3352

SUBJECT: Request for Continued Sealing and Maintenance of Rapid Valley Irrigation Ditches.

Pursuant to SDCL 46-1-4, 46-2-17 and 46-7-3, I am contacting the Lone Tree Ditch Company to remind the Ditch owners of the need to continue with irrigation ditch and lateral maintenance. The Water Management Board is concerned with water loss from and the maintenance of Rapid Valley Ditches. Targeted areas include: repair and sealing of identified high seepage areas within the ditch, small tree and brush removal, and ditch channel cleaning and shaping.

I am requesting that Lone Tree Ditch Company submit, to the Division of Water Rights by August 1, 1993, a list of repairs and improvements performed on the ditch since August 1, 1992.

If you have any questions, please contact Mark Rath or Del Brosz, Division of Water Rights, 523 E Capitol Ave, Pierre, SD 57501. Phone (605) 773-3352.

cy: Rapid Valley Water Conservancy District  
US Bureau of Reclamation

## CERTIFICATION

I hereby certify that on March 12, 1993, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 12, 1993, regarding Request for Continued Sealing and Maintenance of Rapid Valley Irrigation Ditches addressed as stated below, and the attached:

Jerry Hammerquist, Rapid Valley Water Conservancy District, Box 26,  
Caputa, SD 57725.

Bruce Laymon, U.S. Bureau of Reclamation, P.O. Box 226, Belle Fourche,  
SD 57760.

**Blind Copy Sent To:**

John West, Pennington County Extension Office, 601 Centre, Rapid City,  
SD 57701.

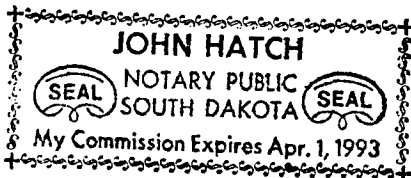
Cheryl A. Frost

Cheryl F. Frost  
Secretary

STATE OF SOUTH DAKOTA )  
 ) SS  
COUNTY OF HUGHES )

Sworn to, before me, this 15<sup>th</sup> day of March, 1993.

  
Notary Public





2038-2

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

August 23, 1993

**NOTICE**

TO: Dale Gossard  
Lone Tree Ditch Company  
Rt 2 Box 5040  
Rapid City, SD 57701

FROM: JOHN HATCH, CHIEF ENGINEER  
Water Rights Division  
(605) 773-3352

SUBJECT: Failure to submit list of completed ditch repairs and maintenance for the past year that was due August 1, 1993.

Our records indicate that Lone Tree Ditch Company has failed to submit a list of repairs and improvements performed on the ditch since August 1, 1992 as required per the March 12, 1993 Notice. Please submit this list to the Division of Water Rights by September 10, 1993

If you have any questions, please contact Mark Rath or Del Brosz, Division of Water Rights, 523 E Capitol Ave, Pierre, SD 57501. Phone (605) 773-3352.

cc: Rapid Valley Water Conservancy District  
US Bureau of Reclamation



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3181  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

February 22, 2000

Mark Kieffer  
13605 Neck Yoke Rd  
Rapid City, SD 57702

Dear Mr Kieffer:

This is in regards to the Lone Tree Ditch Company vested right claim that we discussed last summer. I am enclosing a copy of a draft map that I put together based upon my site visit. I have included the acres for each of the quarter quarter sections. Please review the map and corresponding acres and make any changes needed and send it back to me. Then I'll use that to put together the vested right claim.

If you have any additional questions, please contact me at phone (605) 773-3352.

Sincerely,

Mark D. Rath  
Natural Resources Engineer  
Water Rights Program



# United States Department of the Interior



## BUREAU OF RECLAMATION

Dakotas Area Office

P.O. Box 1017

Bismarck, North Dakota 58502

IN REPLY REFER TO:

DK-500 (Barrios)

October 11, 2000

Mr. Jerry Hammerquist  
President, Board of Directors  
Rapid Valley Water Conservancy District  
P.O. Box 26  
Caputa SD 57725

Subject: Contract Administration Memorandum, Contract No. 11r-1413, Rapid Valley Project  
(Deerfield), South Dakota

Dear Mr. Hammerquist:

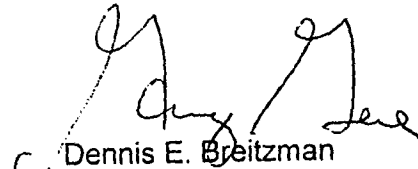
During technical discussions regarding renewal of the Rapid Valley Water Conservancy District's (District) long-term contract for water from Pactola Reservoir, the District asked Reclamation to clarify how acreage limitation provisions of contract 11r-1413 (Contract) are administered. This letter is Reclamation's response to the District's request.

Article 34 of the Contract provides that no water shall be delivered through or by means of the project works to or for more than 160 acres of irrigable land owned by a single landowner.

Reclamation considers the District to be in compliance with this article as long as the District can demonstrate that, during any 24-hour period, the quantity of water delivered by Reclamation to the District under the Contract does not exceed the quantity of water which the District delivers to single farm units of 160 acres or less. Put another way, the District would need to have water sources other than project water for any deliveries to acreages in excess of 160 acres owned by a single landowner.

If you have any questions regarding this letter or any further questions, please contact Rich Barrios of my staff at 701-250-4242, extension 3305.

Sincerely,

  
Dennis E. Breitzman  
Area Manager

## Water Rights Program - DENR

### File Documentation

**File No.** 2038-2 – LoneTree Ditch Co

**County:** Pennington

**Name of Person:** Mark Kieffer and Dale Gossard

**Address:** 13605 Neckyoke Road, Rapid City SD 57702

**Date:** 5/16/00 **Telephone:** 393-2993

**RE:** Possible vested water right claim from Rapid Creek by Lone Tree Ditch Company

### Comments:

*On May 16, 2000, Don Stroup and I met with Mark Kieffer and Dale Gossard with the Lone Tree Ditch Company. In 1999 Dale Gossard had contacted me concerning some missing acres from the Lone Tree Ditch Company water right. It appears that a portion of the acres located in Sections 27, 33, and 34 of T1N-R9E may have been left off the claim that had been validated by the Water Management Board in 1988. This property at that time was tied up in a bankruptcy between Paul Bunn and Aetna Life Insurance Company. Dale Gossard, president of the ditch company, said that he has records that the assessment for the property by the ditch company was paid through this time. By his calculations the ditch company is short approximately 100 acres between what is validated and what is being assessed. Mr. Kieffer said that he has a total of about 351 acres under irrigation that does not appear to have a water right on it. Part of these acres may have been tied to a private water right claimed by the HO ranch. There is record from the State Engineer's files that these acres were irrigated in 1911-1912. I told Mr. Kieffer that I would check our files to see if I could find any record of these and get back in touch with him.*



Mark D Rath

Natural Resources Engineer

April 9, 2001

To: Mark Rath, Water Rights Program, DENR  
Joe Foss Building, 523 East Capitol  
Pierre, SD 57501-3181

From: H. Dale Gossard, President, Lone Tree Water Co.

Subject: Mark Kieffer acreage, Lone Tree Water CO.

Enclosed are copies of the acreage Mark Kieffer gave me to review and forward to you concerning the missing, as well as some of the listed irrigation acreages on his Ranch. These are listed on maps included from USDA - FSA/NRCS. This information is in reference of my phone conversation with you earlier this date of April 9, 2001.

I will further review this information as soon as time will allow, but wanted to get it into your hands as soon as I could. He delivered me the maps around April 1st. He had misplaced the maps, and thought he would need to get new copies made, but found them recently.

Feel free to call me concerning this at any time.  
As soon as I review it further I will contact you.

Sincerely,  
*H. Dale Gossard*  
H. Dale Gossard



**Water Rights Program - DENR**

**File Documentation**

**File No.** 2479-2, (2038-2) 1839A-2

**County:** Pennington

**Name of Person:** Jerry Hammerquist, RVWCD

**Address:** Caputa SD

**Date:** July, 18 2003

**RE:** Mark Kieffer pumping water on a pivot away from Lone Tree Ditch Company

**Comments:**

*Mr. Hammerquist called and said that Mark Kieffer was pumping water through a centerpivot on land, NW $\frac{1}{4}$  Sec27 T1N-R9E, not covered by the Lone Tree water right. He said that since Mr. Kieffer was not buying water but was pumping natural flow water, another Rapid Valley irrigator did not think he should have to buy water either.*

*I told Mr. Hammerquist because of the Water Management Board's ruling last year on No. 2479-2 which was based on an earlier Redwater Ditch Supreme Court ruling, Lone Tree's water right did not tie irrigation to specific acres but to diversion rate and shares in the ditch company. I suggested that Mr. Hammerquist look at the Findings-of Fact in the No. 2479-2 issue and he said id he had a copy I sent him last year.*

*Mr. Hammerquist said he would inform the other irrigator he would have to purchase water and why.*



Mark D Rath  
Natural Resources Engineering Specialist

October 9, 2003

To: Garland Erbele, Chief Engineer, and Mark Rath  
Water Rights Program DENR  
Joe Foss Building, 523 East Capitol  
Pierre, SD 57501-3181

From: H. Dale Gossard, President of Lone Tree Ditch

Reference: Your Letter dated March 5, 2003, Final Decision  
vested water right No. 2479-2, Lone Tree Ditch,  
covering 333 acres.

Listed Qualifications:

1. That Vested Water Right Nos. 2038-2 and 2479-2 are subject to domestic use rights. Diversion of natural flow water under these vested water rights is contingent upon supplies being available first to domestic uses.

(This is understood, and standard operation procedure for the Lone Tree Ditch.)

2. That a flow measuring device be maintained at or near the point of diversion for Lone Tree Ditch.

(Lone Tree Ditch had selected a new site for the measuring device between the 2001 and 2002 irrigation seasons. The move to the new site was to occur between the 2002 and 2003 irrigation seasons. Completion of the new site installation of a 6 foot length weir was completed April 4, 2003. Some minor repair work on the irrigation box at the location of the measuring device was done on May 22, 2003. We are very pleased with the site location and its easy access.

For the record the location is 300 feet south of Highway 44 and South Airport Road junction. Lone Tree ditch crosses beneath the road at this point. The box and measuring device are 90 feet east of South Airport Road, or 1000 feet below Lone Tree Ditch Headgate. The footage numbers of these locations are approximate.)

After comparing acreages and legal descriptions in the final version of the above Vested Water Right claims and Final Decision all appears to be in order.

Thank you.

Sincerely,  
*H. Dale Gossard*

cc/Max Main, Attorney; Mark Kieffer, Irrigator