

Considered: _____

WATER PERMIT NO. 2109-2MAP No. same 255-4752Name of Applicant Lorraine Randall Eslinger,Post Office Address HC 2, Box 47A, Hermosa SD 57744Amount of Water Claimed 88 ac-ft Total Acres NASource of Water Supply dry drawWater to be used for DOM & REC County CusterAbout 19 miles E of Hermosa.

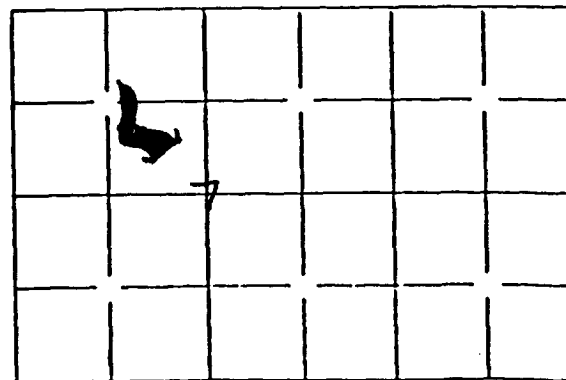
PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

PRIORITY _____ Date Received Nov. 7, 1989 Fee \$150.00 Remarks _____Corrected Application Received _____ Period of Annual Use Jan 1 - Dec 31WATER QUALITY APPROVAL RECEIVED NA APPROVED/CONDITIONAL (Circle one)

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

Diversion Point dam: SE 1/4 NW 1/4 section 7-T35-R11ELand to be Irrigated NAWell Log: Driller NA Licensed YES _____ NO _____

Depth of Well _____ REMARKS _____

Type of Map aerial photo PREPARED BY Tim Schaal Reviewed and the Numberassigned on Dec 18, 1989 By R. D. Smith

Mail to: Water Rights Div.

523 E. Capitol
Pierre, SD 57501
(605) 773-3352

No. 2109-2 Hydrologic Unit 10120109
 Map No. same Basin Upper Cheyenne
 Newspaper Custer Co. Chronicle, Box 551, (Wed)
57730

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

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

Type of Application: Check one or more of the following

New ☒ Vested Right ☐ Future Use ☐ Change Use ☐☐ Amend Permit No. _____ with old priority date retainedChange diversion point(s) ☐ Add diversion point(s) ☐ Other ☐ _____☐ Application to: Change diversion point(s) ☐ Add diversion point(s) ☐ on Permit No. _____☐ Construction to use water reserved by Future Use Permit No. _____1. Name of Applicant Lorraine Randall Eslinger Phone No. 255-4752Post Office Address HC 2 Box 47A Hermosa State SD 57744
(Street, RR or Box) (City) Zip Code2. Amount of water claimed (c.f.s.) 88 acre-feet3. Source of water supply Spring Creek Tributary4. Location of point of diversion 600' N and 500' W of the Center of Section 7-T3S-R11E
(SE $\frac{1}{4}$ NW $\frac{1}{4}$)_____ County Custer5. Counties where water will be used Custer6. Annual period during which water is to be used January 1 - December 31

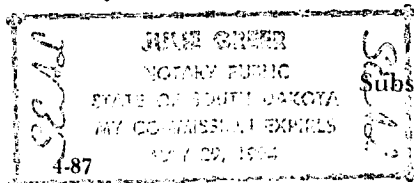
7. Give a brief description of proposed project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

This application is for an existing dam constructed in 1973.

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

STATE OF SOUTH DAKOTA
County of Pennington)^{ss}

I, _____ the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Signed Lorraine Randall EslingerSubscribed and sworn to before me this 6th day of November 1989Julie Greer
Notary Public

**SOUTH DAKOTA
WATER PERMIT No. 2109-2**

Date of first receipt of application November 7, 1989.

The Water Management Board approved Water Permit Application No. 2109-2 on March 7, 1990 for Lorraine Randall Eslinger, HC 2, Box 47A, Hermosa SD 57744 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 2109-2 authorizes impoundment of 88 acre-feet of water in an existing dry draw dam located in the SE1/4 NW1/4 section 7-T3S-R11E.
2. The water appropriated shall be used for the purpose of domestic and recreational uses and may not exceed the amount of water needed for beneficial use for domestic and recreational purposes.
3. The water is to be used during the following described annual period: January 1 - December 31.
4. The date from which applicant may claim right is November 7, 1989.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Approval of Permit No. 2109-2 authorizes storage of up to 88 acre-feet annually.

WATER MANAGEMENT BOARD

By: _____

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

APR 25 1990

(date)

Supplemental Information

(type or print in ink)



1. Well Information - Proposed construction

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

2. Dugout Information Estimates

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

3. Water Storage Dams

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

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

USDA SCS

b) Freeboard _____ 5'

c) Crest Width _____ 10'

Crest Length _____ 320'

d) Height _____ 28'

e) Primary Outlet Capacity NA
If Pipe, diameter _____

f) Secondary Spillway Capacity 1225 cfs
Spillway width 118'

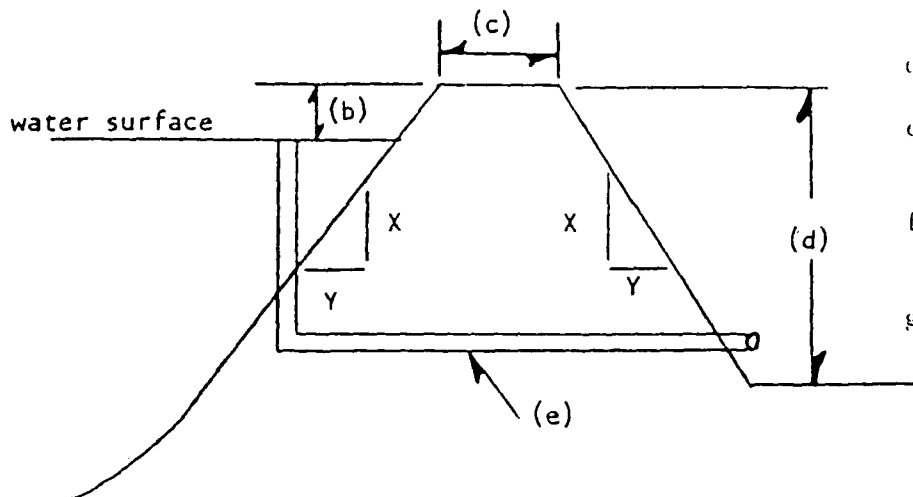
g) X & Y Slope
Upstream 2:1

Downstream 2:1

Surface Area of Impoundment 9.5 Ac.

Storage _____ 88 _____ acre feet

Drainage area above dam Approx. 3 sq mi



Signature of Applicant _____

LOAD"dotflood

Ok

RUN

Hello, this program estimates peak discharges and runoff volumes for 2, 5, 10, 25, 50, and 100 year floods based upon equations specified in USGS publication: Techniques for Estimating Flood Peaks Volumes, and Hydrographs on Small Streams, September 1980, Water Resources Investigations 80-80. Input data needed to run this program are: drainage basin size (sq. mi.), soil infiltration index (see Figure 13 in publication), and main channel slope in feet per mile.

WHAT IS THE DRAINAGE BASIN NAME?

? eslinger

ENTER THE DRAINAGE BASIN AREA (SQ. MI.)

? 2.2

ENTER THE SOIL INFILTRATION INDEX FROM FIGURE 13

? 1.76

DO YOU WISH TO DETERMINE THE PEAK DISCHARGE? (Y/N)

? y

ENTER SLOPE ALONG MAIN CHANNEL (FT/MILE)

? 35

THE ESTIMATED PEAK DISCHARGE FOR 2, 5, 10, 25, 50, AND 100 YEAR FLOODS FOR eslinger DRAINAGE ARE:

Q2 = 76.7881 CFS
Q5 = 166.5226 CFS
Q10 = 263.3126 CFS
Q25 = 425.834 CFS
Q50 = 584.062 CFS
Q100 = 774.3305 CFS

THE ESTIMATED RUNOFF VOLUME FOR 2, 5, 10, 25, 50, AND 100 YEARS FLOODS FOR eslinger DRAINAGE ARE:

V2 = 85.10243 ACRE-FEET
V5 = 150.6541 ACRE-FEET
V10 = 207.0925 ACRE-FEET
V25 = 296.3172 ACRE-FEET
V50 = 374.3115 ACRE-FEET
V100 = 465.5506 ACRE-FEET

THE ACCURACY OF THE ESTIMATED PEAK DISCHARGES AND RUNOFF VOLUMES ARE SUBJECT TO THE LIMITATIONS AS SPECIFIED IN THE ABOVE USGS PUBLICATION

Peak-discharge relation	Standard error of estimate (%) Average Range	Runoff volume relation	Standard error of estimate (%) Average Range
Q2	106 (+152, -60)	V2	96 (+136, -58)
Q10	90 (+124, -55)	V10	92 (+128, -56)
Q25	90 (+125, -56)	V25	90 (+125, -56)
Q50	93 (+130, -56)	V50	89 (+123, -55)

DO YOU WISH TO GENERATE A SYNTHETIC HYDROGRAPH FOR eslinger
DRAINAGE BASIN? (Y/N).

? y

ENTER THE NUMERICAL FLOODING FREQUENCY, i.e. for a 25 year
flood enter the value 25.0

? 25

THE 25 YEAR SYNTHETIC HYDROGRAPH FOR THE eslinger
DRAINAGE IS AS FOLLOWS:

TIME (MINUTES)	DISCHARGE (CFS)
0	0
93.75205	39.74451
156.2534	92.26404
218.7548	177.4309
312.5068	347.7645
343.7576	404.5423
375.0082	425.834
406.2589	418.7368
437.5096	390.3479
562.5123	269.6949
718.7658	163.2364
937.5205	85.16681
1250.027	36.90561
1562.534	14.19447
1875.041	3.548617
2187.548	0

DO YOU WISH TO GENERATE ANOTHER SYNTHETIC HYDROGRAPH? (Y/N)

? y

IF YOU WISH TO RUN THIS PROGRAM AGAIN, TYPE RUN.
HAVE A NICE DAY!

Ok

run

Hello, this program estimates peak discharges and
runoff volumes for 2, 5, 10, 25, 50, and 100 year
floods based upon equations specified in USGS
publication: Techniques for Estimating Flood Peaks
Volumes, and Hydrographs on Small Streams, September
1980, Water Resources Investigations 80-80. Input
data needed to run this program are: drainage basin
size (sq. mi.), soil infiltration index (see Figure
13 in publication), and main channel slope in feet
per mile.

WHAT IS THE DRAINAGE BASIN NAME?

? eslinger

ENTER THE DRAINAGE BASIN AREA (SQ. MI.)

? 2.2

ENTER THE SOIL INFILTRATION INDEX FROM FIGURE 13

? 1.76

DO YOU WISH TO DETERMINE THE PEAK DISCHARGE? (Y/N)

? y

ENTER SLOPE ALONG MAIN CHANNEL (FT/MILE)

THE ESTIMATED PEAK DISCHARGE FOR 2, 5, 10,
25, 50, AND 100 YEAR FLOODS FOR eslinger DRAINAGE
ARE:

Q2 = 76.7881 CFS
Q5 = 166.5226 CFS
Q10 = 263.3126 CFS
Q25 = 425.834 CFS
Q50 = 584.062 CFS
Q100 = 774.3305 CFS

THE ESTIMATED RUNOFF VOLUME FOR 2, 5, 10, 25, 50,
AND 100 YEARS FLOODS FOR eslinger DRAINAGE ARE:

V2 = 85.10243 ACRE-FEET
V5 = 150.6541 ACRE-FEET
V10 = 207.0925 ACRE-FEET
V25 = 296.3172 ACRE-FEET
V50 = 374.3115 ACRE-FEET
V100 = 465.5506 ACRE-FEET

THE ACCURACY OF THE ESTIMATED PEAK DISCHARGES AND RUNOFF
VOLUMES ARE SUBJECT TO THE LIMITATIONS AS SPECIFIED IN
THE ABOVE USGS PUBLICATION

Peak-discharge relation	Standard error of estimate (%) Average Range	Runoff volume relation	Standard error of estimate (%) Average Range
Q2	106 (+152, -60)	V2	96 (+136, -58)
Q10	90 (+124, -55)	V10	92 (+128, -56)
Q25	90 (+125, -56)	V25	90 (+125, -56)
Q50	93 (+130, -56)	V50	89 (+123, -55)
Q100	98 (+139, -58)	V100	89 (+123, -55)

DO YOU WISH TO GENERATE A SYNTHETIC HYDROGRAPH FOR eslinger
DRAINAGE BASIN? (Y/N).

? y

ENTER THE NUMERICAL FLOODING FREQUENCY, i.e. for a 25 year
flood enter the value 25.0

? 50,100

?Redo from start

? 50

THE 50 YEAR SYNTHETIC HYDROGRAPH FOR THE eslinger
DRAINAGE IS AS FOLLOWS:

TIME (MINUTES)	DISCHARGE (CFS)
0	0
86.34528	54.51245
143.9088	126.5468
201.4723	243.3591
287.8176	476.9839
316.5994	554.8588
345.3811	584.062
374.1629	574.3276
402.9447	535.3901

518.0717	369.9059
661.9805	223.8904
863.4528	116.8124
1151.27	50.6187
1439.088	19.46873
1726.906	4.867183
2014.723	0

DO YOU WISH TO GENERATE ANOTHER SYNTHETIC HYDROGRAPH? (Y/N)

? n

IF YOU WISH TO RUN THIS PROGRAM AGAIN, TYPE RUN.
HAVE A NICE DAY!

OK

system

137-12
L 32

1671

132-159

600'

2

11-5

Henry H. School
October 24, 1999

Appl No. 2109-2

198

 **Department of
Water & Natural Resources**

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

October 25, 1989

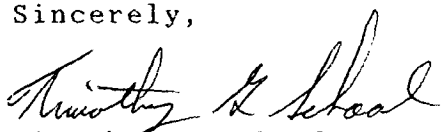
Lorraine Eslinger
HC 2, Box 47A
Hermosa, SD 57744

Dear Ms. Eslinger:

Enclosed is a copy of the Location Notice filed for the dam located in the SW 1/4 NE 1/4 Section 12-T3S-R10E that was covered under Vested Right Claim No. 525-2. Also enclosed is the check you included with the Location Notice filed for the dam in the SE 1/4 NW 1/4 Section 7-T3S-R11E. As I stated over the phone, this dam needs a Water Permit since the storage capacity is greater than 25 acre-feet. Enclosed are the necessary forms to apply for a Water Permit for this dam. Please review them for any corrections. If everything looks correct, sign them and have them notarized and return them to us with a filling fee of \$150.00.

If you have any question, please let us know.

Sincerely,



Timothy G. Schaal
Water Resources Engineer
(605) 773-3352

enclosures



RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

411969

Pierre, November 7, 19 89

RECEIVED OF Lorraine Randall Eslinger, HC 2 Box 47A, Hermosa, SD 57444

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

Fee for Application for Permit No. <u>2109-2</u> to Appropriate Water, to construct works and to put water to beneficial use _____	150	00
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
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	150 00

By John Hatch
Chief Engineer

REPORT ON
WATER PERMIT APPLICATION NO. 2109-2
LORRAINE RANDALL ESLINGER
DECEMBER 21, 1989

Water Permit Application No. 2109-2 was filed by Lorraine Randall Eslinger to impound 88 acre-feet of water in an existing dam constructed in 1973. The existing dam is constructed on a tributary to Spring Creek and is located in the SE 1/4 NW 1/4 of Section 7-T3S-R11E in Custer County. The stored water is to be used for domestic and recreational purposes.

Discussion

The existing dam has an embankment height of 28 feet and a normal storage capacity of 88 acre-feet and a maximum storage capacity of 160 acre-feet. It is classified as a Small size Category 3 Low Hazard dam.

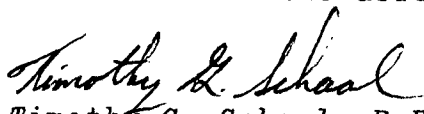
Since the dam was constructed in 1973 and is classified as a Category 3 dam, it is exempt from the Safety of Dams Rules minimum spillway design flood requirements; however, the dam exceeds the minimum spillway design flood requirements as specified in Section 74:02:08:07 of the Safety of Dams Rules. The existing dam has a spillway capacity of 1225 cfs. The dam has a drainage area of approximately 2.2 square miles which produces a peak runoff of 425 cfs from a 25 year frequency event and 585 cfs from a 50 year frequency event.

The dam was designed by the SCS with a drop inlet primary spillway structure with a low level outlet. At one time the low level outlet was used to irrigate land located below the dam. The applicant does not intend to irrigate this land any longer; therefore, Water Permit Application No. 2109-2 does not include storage for irrigation purposes.

There are two existing Water Rights on Spring Creek located approximately 6 miles downstream of the confluence of the tributary of the existing dam and Spring Creek. Water Right No. 61-2 is licensed for 0.51 cfs from Spring Creek to irrigate 35.5 acres and Water Right No. 72-2 is licensed for 3 cfs from Spring Creek to irrigate 210 acres of land.

Conclusion

Water Permit Application No. 2109-2 should be approved. We have received no complaints concerning the dam since its construction in 1973 and the runoff produced from the small drainage area would have little affect on existing downstream Water Rights.



Timothy G. Schaal, P.E.
Water Resources Engineer

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2109-2, Lorraine Randall Eslinger

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. 2109-2, Lorraine Randall Eslinger, HC 2 Box 47A, Hermosa SD.

The Chief Engineer is recommending APPROVAL of Application No. 2109-2 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) in the public interest with the following qualification:

1. Approval of Permit No. 2109-2 authorizes storage of up to 88 acre feet annually.

See the attached report for additional information.



JOHN HATCH, Chief Engineer
January 2, 1990

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

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

January 15, 1990

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

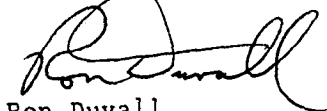
Lorraine Randall Eslinger
HC 2 Box 47A
Hermosa, SD 57744

Dear Ms. Eslinger:

Water Permit Application No. 2109-2 for domestic and recreational use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Custer Co. Chronicle printed at Custer SD. For your information, a copy of the notice is enclosed. Copies of the report and the Chief Engineer's recommendation are also enclosed. Please review the notice prior to publication 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 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,



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

January 15, 1990

Custer Co. Chronicle
Box 551
Custer, SD 57730

ATTN: Legal Publications:

Enclosed is a Notice of Hearing on Application No. 2109-2 to be published twice. Please publish the first notice on or before January 24, 1990 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. Please BILL the APPLICANT for the cost of publication. The APPLICANT is Lorraine Randall Eslinger, HC 2 Box 47A, Hermosa, SD 57744.

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

No. _____

Date _____

We are in receipt of your letter of _____ enclosing Notice of Hearing to
Appropriate Water by Application No. _____ which was first published in our
of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name _____

Newspaper _____



Instruction to Newspaper - Publish first Notice on or before January 24, 1990 with 2nd publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 2109-2 to Appropriate Water

Notice is given that Lorraine Randall Eslinger, HC 2 Box 47A, Hermosa, SD 57744 has filed an application for a water permit to impound 88 acre-feet of water in an existing dry draw dam located in the SE1/4 NW1/4 Section 7-T3S-R11E. Water is to be stored for domestic and recreational purposes.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. 2109-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water and 4) it is in the public interest. This application will be considered by the Water Management Board in the Roosevelt - Jefferson Room, Howard Johnson, 2211 LaCrosse, Rapid City, SD on March 7, 1990 at 10:00 am. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer or 4) deny this application based on the facts presented at the public hearing.

Any interested person that intends to participate in the hearing before the Board by presenting evidence or cross-examining witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and Chief Engineer by February 23, 1990. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)". The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application and the signature and mailing address of the petitioner or legal counsel if legal counsel is obtained. The applicant need not file a petition. Contact the Water Rights Division to request information on this application or to assure access to the hearing by the handicapped.

This hearing is an adversary proceeding. Any person filing a petition and/or the applicant 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 by law. The time of the hearing will also be automatically delayed for at least twenty days upon written request to the Chief Engineer from the applicant or a petitioner. The request for a delay must be received by February 23, 1990.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) ss.
 County Custer)

I, Terri Tuggle

certify that the attached printed Notice was taken
 from the Custer County Chronicle

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 Custer

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

January 24, 1990

January 31, 1990

Terri Tuggle
 (Signature)

Publisher
 (Title)

2/1/90
 (Date Signed)

Cost of Printing: _____

1/24/90 - 20.66

1/31/90 - 16.53

Total - 37.19



NOTICE OF HEARING

NOTICE OF HEARING on Application
 No. 2109-2 to Appropriate Water
 Notice is given that Lorraine Randall
 Eslinger, HC 2 Box 47A, Hermosa, SD
 57744 has filed an application for a water
 permit to impound 88 acre-feet of water in
 an existing dry draw dam located in the SE
 1/4 NW 1/4 Section 7-T3S-R11E. Water is to
 be stored for domestic and recreational
 purposes.

Pursuant to SDCL 46-2A-2, the Chief
 Engineer of the Water Rights Division
 recommends APPROVAL of Application
 No. 2109-2 because 1) unappropriated water
 is available, 2) existing rights will not be
 unlawfully impaired, 3) it is a beneficial use
 of water and 4) it is in the public interest.
 This application will be considered by the
 Water Management Board in the Roosevelt -
 Jefferson Room, Howard Johnson, 2211
 LaCrosse, Rapid City, SD on March 7, 1990
 at 10:00 a.m. The Chief Engineer's
 recommendation is not final or binding upon
 the Board. The Board is authorized to 1)
 approve, 2) approve with qualifications, 3)
 defer or 4) deny this application based on the
 facts presented at the public hearing.

Any interested person that intends to
 participate in the hearing before the Board
 by presenting evidence or cross-examining
 witnesses according to SDCL 1-26, must file
 a written petition with BOTH the applicant
 and Chief Engineer by February 23, 1990.
 The Chief Engineer's address is "Water
 Rights Division, Foss Building, 523 E
 Capitol, Pierre, SD 57501 (605 773-3352)".
 The petition may be informal, but must
 include a statement describing the
 petitioner's interest in the application, the
 petitioner's reasons for opposing or
 supporting the application and the signature
 and mailing address of the petitioner or legal
 counsel if legal counsel is obtained. The
 applicant need not file a petition. Contact the
 Water Rights Division to request
 information on this application or to assure
 access to the hearing by the handicapped.

This hearing is an adversary proceeding.
 Any person filing a petition and/or the
 applicant 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
 by law. The time of the hearing will also be
 automatically delayed for at least twenty
 days upon written request to the Chief
 Engineer from the applicant or a petitioner.
 The request for a delay must be received by
 February 23, 1990.

This application is made pursuant to
 SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-
 1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13,
 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12,
 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11,
 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-
 5-30.2, 46-5-30.4, 46-5-31; and Board Rules
 ARSD 74:02:01 thru 74:02:01:15.
 #961 1/24 & 1/31/90

 **Department of
Water & Natural Resources**

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

APR 25 1990

Lorraine Randall Eslinger
HC 2, Box 47A
Hermosa SD 57744

Dear Ms. Eslinger:

Enclosed is Water Permit No. 2109-2 as approved by the Water Management Board authorizing construction of the water system and the application of water beneficial use, not exceeding the limits as specified in the Water Permit.

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

Very truly yours,



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

enclosures



February 24, 1992

John Hatch
Chief Engineer
Water Rights Division

Dear Sir,

Due to an illness of my Mother(Lorraine Randall Eslinger) I am helping with some questions about Water Rights. This concerns #WP 0525-2, WP 2109-2, and WP 489-2.

According to what records I have found WP 0525-2 has been cancelled. WP 2109-2 has been approved for Domestic and Recreational use, with no irrigation rights. How does an individual get back the irrigation rights if needed at a later date?

Also in her papers there is a letter concerning WP 489-2. We have no idea what this permit is for. The letter is dated September 26, 1988. Legal description-- 13.5 acres NM $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$. Section 16, T4S, R15E.

Please let us know if the information is correct on WP0525-2 and WP 2109-2. We appreciate the information on irrigation rights to WP 2109-2.

Sincerely,
Randall L. Davis

107 Teak
Gillette, Wy 82716



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 3, 1992

Randall L. Davis
107 Teak
Gillette, WY 82716

Dear Mr. Davis:

I am writing in response to your letter regarding permits of Lorraine Randall Eslinger which we received on March 2, 1992. Our records show that Water Right No. 525-2 was cancelled on December 6, 1989. Water Right No. 489-2 is listed under the name of Walter E. Whitcher of Buffalo Gap, SD which appropriates 1.92 cfs from a dry draw dam to irrigate 135 acres in Section 16, T4S, R15E.

Water Permit No. 2109-2 is listed under the name of Lorraine Randall Eslinger for storage of 88 acre-feet of water from a dry draw dam for domestic and recreational use. If you wish to use this water for irrigation, which is a consumptive use of water, you would need to make a new application. I have enclosed a copy of this water permit and the report prepared by a staff engineer on this application. I have also enclosed a copy of the necessary forms and an instruction sheet for an application for a water permit.

If you need any further information, or have any questions regarding the completion of a water permit application, please call Don Frye, Natural Resources Analyst at (605) 773-3352.

Very truly yours,

ERIC GRONLUND, Natural Resources Engineer
Division of Water Rights

enclosure

**Permit No. 2109-2
Custer County**

To: Chief Engineer, Water Rights Program, DENR Foss Bldg., Pierre, SD 57501
Other permit/license(s) associated with project: **None**
Contact Person & Address: **Randall L. Davis, 107 Teak, Gillette, WY 82718**

Report of Examination of Works

On **August 15, 2001**, I made a thorough examination of the water use system authorizing the storage of approximately 88 acre-feet of water in a dry draw dam for domestic and recreational purposes. Permit No.2109-2 bears a priority date of November 7, 1989.

The dam is located **2165 feet East and 2000 feet South of the NW corner of Section 7 T3S R11E (N43.80490 W102.85070)** in Custer County, SD and is in **good condition**. Under normal conditions, this dam has a storage capacity of 88 acre-feet of water.

Review of Permit Qualifications and Regulations:

- 1) Special qualifications to permit being abided by: **Yes**
- 2) All structures, wells and lands on map: **Yes**
- 3) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period: **NA**
- 4) Exceptions to compliance are: **None**

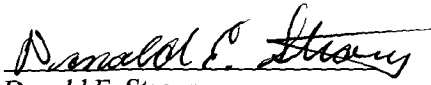
Report On the Specifics of the System

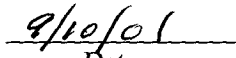
Dam Information

- | | |
|---|---|
| 1) Height to crest: 28 feet | 2) Height to primary spillway or outlet: 20 feet |
| 3) Height to secondary spillway: NA ft | 4) Crest width: 18 feet |
| 5) Crest length: 290 feet | 6) Spillway length: 90 feet |
| 7) Spillway width: 30 feet | 8) Approx. storage: 88 ac-ft |
| 9) Outlet tubes: | |
| a) diameter: 36 inches | b) type: Vertical Galvanized Steel |
| c) valved: No | d) valve type: NA |

COMMENTS:

The dam is located in a steep ravine and the on-site measurement of the height of the dam's face is approximately 40-feet. Due to the high relief of the ravine, the as built dam height of 28-feet should be used for calculating storage capacity. The dam is classified Category 3 and should be licensed for storage of 88 acre-feet of water for domestic and recreational purposes. This license should be transferred to Randall L. Davis, 107 Teak, Gillette, WY 82718.


Donald E. Stroup
Natural Resources Project Engineer
DENR, Water Rights Program


Date



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

September 12, 2001

2109-2

Randall L Davis
107 Teak
Gillette, WY 82718

Dear Mr. Davis:

On August 15, 2001, the investigation of the water use system, including the extent of application of water to beneficial use, as developed under Water Permit No. 2109-2, was completed by Donald Stroup, a staff engineer with our program. The final water right document, the water license, can now be issued.

Your licensed water right will be similar to a property right that can not be lost as long as the water use continues and you abide by the permit requirements.

State law requires that we charge a \$50.00 fee for the investigation and issuance of the water license. Upon receipt of the \$50.00 fee from you, we will complete processing your water license.

The permit is currently listed in the name of Lorraine Randall Eslinger. It is our understanding that it should be transferred to your name. Enclosed is a partially completed "Notice of Transfer of Ownership" form. Please review the form and complete as needed. Upon completion, please sign the form in the presence of a notary public. A \$2.50 fee is required for filing the transfer of ownership.

The total amount due for the licensing and transfer of Water Permit No. 2109-2 is \$52.50. The check or money order for the fee should be made payable to the "Water Rights Program".

If you have any questions regarding the water permit, investigation of your water use system, transfer of the permit or payment of the fees, please contact me.

Sincerely,

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

enclosure

LEROY HILL LAW OFFICE

LEROY HILL
Attorney and Counselor at Law

517 Grant Street
P.O. Box 158
Belle Fourche, SD 57717
Phone: (605) 892-6388
Fax # (605) 892-6380
E-mail lhill@dtgnet.com

CORAL ROHLF
Legal Assistant

September 27, 2001

Enviornmental Scientist
Water Rights Program,
Department of Enviornment and Natural Resources
Joe Foss Building
523 East Capital
Pierre, SD 57501-3182

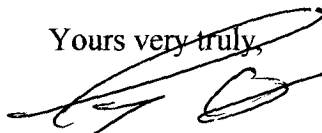
Re: Water Permit # 2109-2

Dear Ms McMath:

Enclosed herein you will find the executed Notice of Transfer of Ownership of water permit number 2109-2 signed by my client, Randall L. Davis along with his check number 741 in the amount of \$52.50 as payment for the license and transfer fee.

We ask you issue the transfer as indicated in your letter to Mr. Davis dated September 12, 2001.

Yours very truly,



Leroy Hill

LH/cdr
cc: client

Enclosures



NOTICE OF TRANSFER OF OWNERSHIP

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

No. 2109-2

Date: Sept 21-2001

I/We request that Water Permit No. 2109-2

formerly owned by: Lorraine Randall Eslinger

be transferred to: (name & address) Randall L Davis - 107 TEAK
Gillette Wyo 82718 Telephone No. 307 682 2215

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

storage dam located in the SE 1/4 NW 1/4 Section 7, T3S, R11E

I/We understand that the validity of Water Permit No. 2109-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

A fee of Two Dollars and Fifty Cents (\$2.50) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

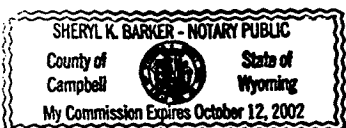
STATE OF SOUTH DAKOTA)

County of Custer)

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

Randall L Davis
(Signature of new owner)

Subscribed and sworn to before me this 21st day of September, 2001.



Sheryl K Barker
(Notary Public)



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

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

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

NO 416926

Pierre, September 28, 20 01

RECEIVED OF Randall Davis, 107 Teak, Gillette WY 82718

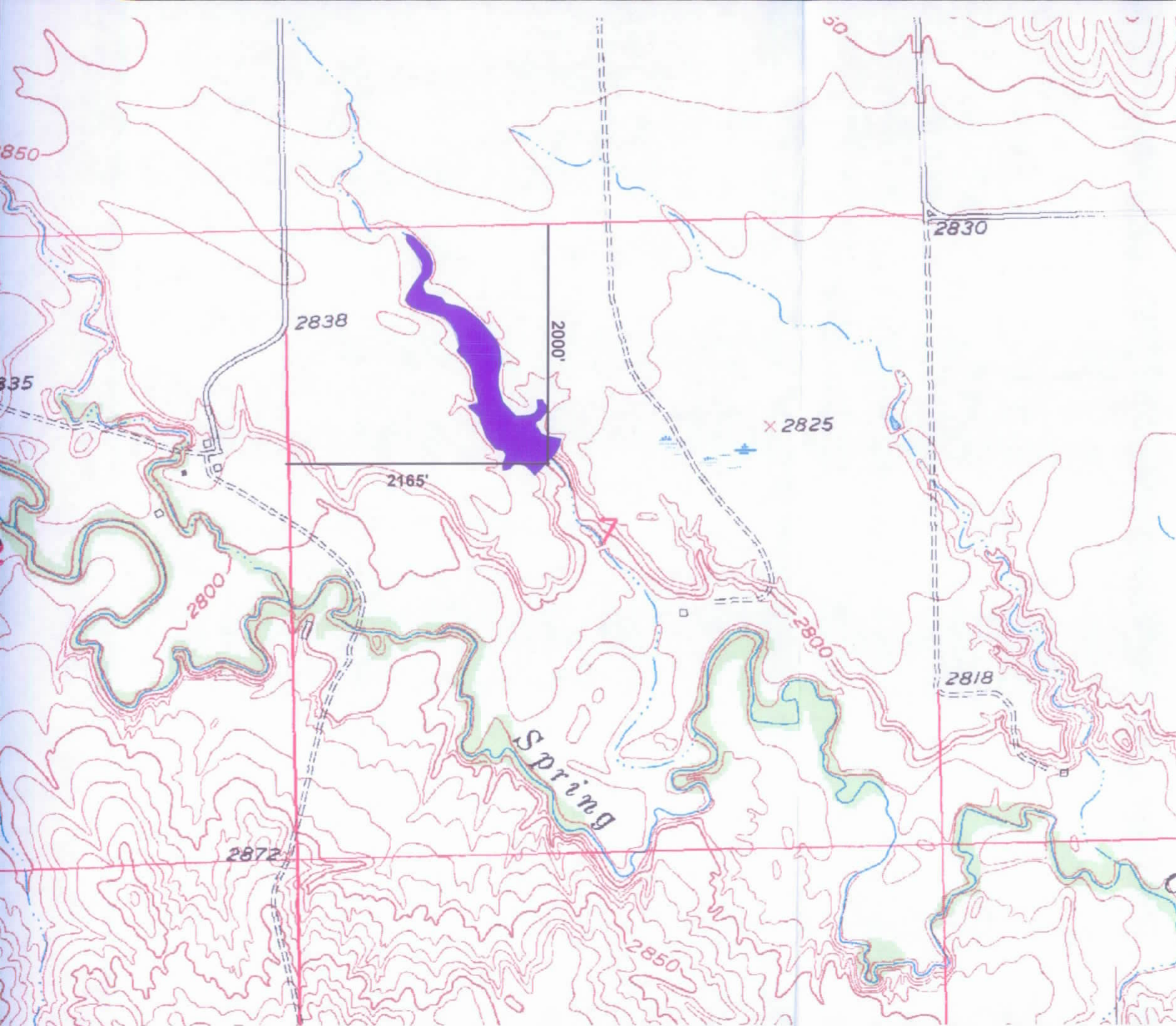
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>2109-2</u>	50	00
Fee for Filing Transfer Form <u>2109-2</u>	2	50
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	52 50

By

Darland Erbe
Chief Engineer
gm



#2109-2
Randall L. Davis
107 Teak
Gillette, WY 82718
307-682-2215

Dam
Section 7 T3S R11E
N43 deg 48.293 min
W102 deg 51.042 min

Approximately 88 acre-feet
Domestic/Recreation

Donald E. Stroup 11/29/01
Donald E. Stroup
DENR
Natural Resources Project Engineer

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 2109-2

(1) Lorraine Randall Eslinger, Hermosa SD made Application No. 2109-2, November 7, 1989 for a water permit to impound 88 acre-feet of water from a dry draw, Custer County, South Dakota for domestic and recreational purposes. Permit No. 2109-2, with a priority date of November 7, 1989 was approved March 7, 1990 and issued to the applicant for diversion of water with construction of the described water supply system and the application to beneficial use of said water completed.

On September 28, 2001, Water Permit No. 2109-2 was transferred to Randall L. Davis.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the storage dam and is entitled to impound 88 acre-feet of water for beneficial use with sufficient water annually to maintain the water level to the outlet elevation. The location of the storage dam (spillway) is 2,165 feet east and 2,000 feet south of the northwest corner of Section 7-T3S-R11E (SE ¼ NW ¼)

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use.

(4) Pursuant to South Dakota Water Law 46-5-30.1 Randall L. Davis, 107 Teak, Gillette WY 82718 the holder and/or owner of Water Right No. 2109-2 is issued a license to appropriate water, the right to impound 88 acre-feet of water from a dry draw with sufficient water annually to maintain the water level to the outlet elevation with a priority date of November 7, 1989 from the location specified in (2) of this license for domestic and recreational purposes. This license is subject to any limitations or qualifications listed in Water Right No. 2109-2 and subject to South Dakota State Law.

Garland Erbele

Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

DEC 07 2001

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

DEC 07 2001

2109-2

Randall Davis
107 Teak
Gillette WY 82718

Dear Mr. Davis:

Enclosed is Water License No. 2109-2. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 416926 in the amount of \$52.50 which you paid for the investigation and issuance of the Water License and the fee for filing the transfer form.

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

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures