

Considered: *

Vested
WATER PERMIT NO. 2115-2 58

HAP No. same 459-2331

Name of Applicant Herbert J. Wasserburger

Post Office Address Box 83, Ardmore SD 57715

Amount of Water Claimed 2.6 cfs Total Acres 179

Source of Water Supply Hat Creek

Water to be used for irrigation County Fall River

About 1 mile N of Ardmore.

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

PRIORITY _____ Date Received Jan 5, 1990 Fee \$15⁰⁰ Remarks _____

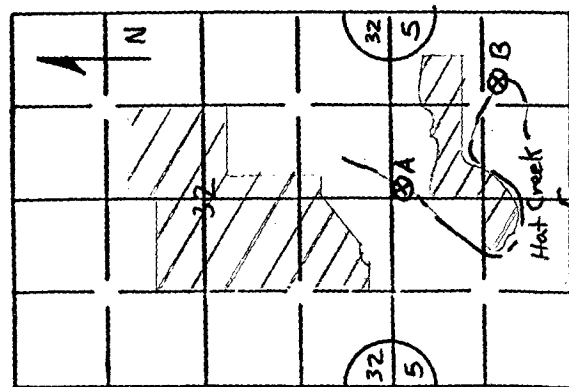
Corrected Application Received _____ Period of Annual Use Jan 1 - Dec 31

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

WI-1 Description same as Application YES NO REMARKS _____

Diversion Points: Hat Creek: NW¹/₄ NE¹/₄,
SE¹/₄ NE¹/₄ section 5-T12S-R4E

Land to be Irrigated SE¹/₄ NW¹/₄, NE¹/₄ section
5-T12S-R4E; SW¹/₄ NE¹/₄, SE¹/₄ NW¹/₄,
E¹/₂ SW¹/₄, W¹/₂ SE¹/₄ section 32-T11S-
R4E



Well Log: Driller NA Licensed YES NO

Depth of Well _____ REMARKS _____

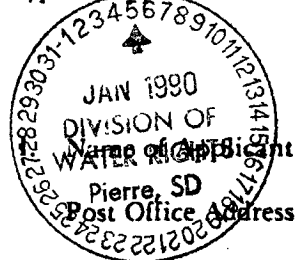
Type of Map topo PREPARED BY E. Dallas Wasserburger Reviewed and the Number
assigned on March 13, 1990 By Don Durrell

(See instructions)

No. 2115-2 Hydrologic Unit 10120108
Basin Upper Cheyenne River
Newspaper Hot Springs Star, Box 1000, 57747
(Town)**Application For Soil/Water Compatibility Permit and Permit To Appropriate 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 Correct No. 1193-2

Name of Applicant Herbert J. Wasserburger Phone No. 459-2331Box 83, Ardmore (Street, RR or Box) State SD 57715 Zip Code2. Amount of water claimed (c.f.s.) 2.6 Total acres irrigated 1793. Source of Water supply Hat Creek4. Location of point of diversion Correct Point "A" to (See Attached Map) NW 1/4 NE 1/4
both in Section 5-T12S-R4ECorrect Point "B" to (See Attached Map) SE 1/4 NE 1/4 County Fall River5. Counties where water will be used Fall River6. Annual period during which water is to be used When available Jan 1 - Dec 31

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

Land Description	No. Acres Irr.
See Attachment A	

Land Description	No. Acres Irr.

Attach sheet if more space is needed

8. Type of Irrigation: Gravity: _____ Towline: _____ Center Pivot: _____ Gun: _____ Other: Flood
9. Crops to be Irrigated: Alfalfa and grass

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

This application corrects diversion points and irrigated acreage in original Water License No. 1193-2, for validation as corrected.

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) ssI, Vincent M. Wasserburger, as a lawfully appointed attorney in fact for Herbert J. Wasserburger, 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 Vincent M. WasserburgerSubscribed and sworn to before me this 28 day of December 19 89

Notary Public

ATTACHMENT A

Fall River County

Location	Section	Twp.	Rge. BHM	Acres
NE $\frac{1}{4}$ NE $\frac{1}{4}$	5	12S	4E	8
SE $\frac{1}{4}$ NE $\frac{1}{4}$	5	12S	4E	12
SW $\frac{1}{4}$ NE $\frac{1}{4}$	5	12S	4E	7
NW $\frac{1}{4}$ NE $\frac{1}{4}$	5	12S	4E	15
SE $\frac{1}{4}$ NW $\frac{1}{4}$	5	12S	4E	10
SE $\frac{1}{4}$ NW $\frac{1}{4}$	32	11S	4E	17
SW $\frac{1}{4}$ NE $\frac{1}{4}$	32	11S	4E	30
NE $\frac{1}{4}$ SW $\frac{1}{4}$	32	11S	4E	38
SE $\frac{1}{4}$ SW $\frac{1}{4}$	32	11S	4E	21
NW $\frac{1}{4}$ SE $\frac{1}{4}$	32	11S	4E	17
SW $\frac{1}{4}$ SE $\frac{1}{4}$	32	11S	4E	<u>4</u>
Total Acres				179



SOUTH DAKOTA

VESTED WATER RIGHT NO. 2115-2 FOR IRRIGATION

Date of Receipt of Claim January 5, 1990.

Date of Validation May 24, 1990.

The Water Management Board validated Vested Water Right Claim No. 2115-2 for irrigation purposes for Herbert J. Wasserburger, Box 83, Ardmore, SD 57715 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 2115-2 appropriates 2.6 cubic feet of water per second from Hat Creek to irrigate 179 acres. The Hat Creek diversion points are located in the NW1/4 NE1/4, SE1/4 NE1/4 Section 5 T12S-R4E and the irrigated acreage is located in the SE1/4 NW1/4, NE1/4 Section 5 T12S-R4E; SW1/4 NE1/4, SE1/4 NW1/4, E1/2 SW1/4, W1/2 SE1/4 Section 32 T11S-R4E. Vested Right No. 2115-2 identifies the correct legal description of diversion points and irrigated acreage incorrectly described on Vested Water Right Claim No. 1193-2.
2. The appropriation may not exceed the amount of water needed for beneficial use for irrigation. The appropriation may not exceed 3 acre feet per irrigated acre per year. The water is to be used during the following annual period: January 1 - December 31.
3. The priority date of the Vested Water Right is January 1, 1950.
4. The water use system has been constructed and water has been applied to beneficial use.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

By: 
Chief Engineer

SEP 13 1990

date

Division of Water Rights
Dept. of Water and Natural Resources

STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 2115-2 FOR IRRIGATION

(1) Herbert J. Wasserburger of Box 83, Ardmore, SD 57715 made Application No. 2115-2, January 5, 1990 for validation of a vested right claim to appropriate 2.60 cubic feet of water per second from Hat Creek, Fall River County, South Dakota for irrigation purposes. Vested Water Right No. 2115-2 was validated May 23, 1990 with a priority date of January 1, 1950. 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.

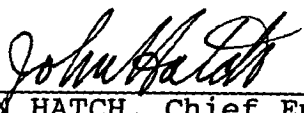
Vested Right No. 2115-2 correctly describes the diversion point location and the irrigated acreage claimed on Vested Water Right Claim No. 1193-2. The applicable portions of Vested Water Right Claim No. 1193-2 are incorporated into this vested right license and the abandoned portions of No. 1193-2 have been cancelled.

(2) The applicant is entitled to divert 2.6 cubic feet of water per second for beneficial use. The location of the diversion points are: Point "A" - S 878 degrees 55' W, 2,500 feet from the NE corner Section 5 (NW1/4 NE1/4) and Point "B" S 33 degrees 45' W 1,875 feet from the NE corner Section 5 (SE1/4 NE1/4) all in T12S, R4E.

The location of the irrigated acreage is:

T12S, R4E Section 5	NE1/4 NE1/4	8 acres
	SE1/4 NE1/4	12 "
	SW1/4 NE1/4	7 "
	NW1/4 NE1/4	15 "
	SE1/4 NW1/4	10 "
T11S, R4E Section 32	SE1/4 NW1/4	17 acres
	SW1/4 NE1/4	30 "
	NE1/4 SW1/4	38 "
	SE1/4 SW1/4	21 "
	NW1/4 SE1/4	17 "
	SW1/4 SE1/4	4 "
	Total	179 acres

(3) Pursuant to Section 46-5-30.1 Herbert Wasserburger of Box 83, Ardmore SD 57715 the holder(s) and/or owner(s) of Vested Water Right No. 2115-2 is issued a license to appropriate 2.60 cubic feet of water per second from Hat Creek with a priority date of January 1, 1950 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. 2115-2 and subject to South Dakota State Law.

 SEP 13 1990
JOHN HATCH, Chief Engineer
Water Rights Division
Department of Water and Natural
Resources

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) Herbert J. Wasserburger

Post Office Address Box 83, Ardmore SD 57715
(Street, RR or Box) (State) (Zip Code)

A. Notice of Appropriation _____ Date of Posting March 28, 1930

Date of recording _____ Recording date _____
Where Book Page

B. Date of start of construction of water supply system March 28, 1930C. Date that water was first applied to beneficial use 1930D. Name of owner of original water supply system United States Department of AgricultureE. Amount of water originally applied to beneficial use .013 CFSF. Present Use of Water - Amount of water now being used 2.6 CFSDate that this water was first used January 1950

G. Chronological History of Water Use The United States Department of Agriculture made claim to .013 cubic feet per second of water to be used for watering of domestic stock. Later larger quantities of water were used for irrigation purposes by Robert Anderson who purchased the land from the United States in about 1950. This land was later sold to Herbert Wasserburger who is the present owner.

(See Attached Affidavit of Vincent M. Wasserburger.)

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, Vincent M. Wasserburger, as a lawfully appointed attorney in fact for Herbert J. Wasserburger,
(print or type) the applicant, certify that I have read the foregoing
 and that the matters therein stated are true.

Signed Vincent M. WasserburgerSubscribed and sworn to before me December 28, 19 89

[Signature]
 Notary Public or other qualified officer

I, the undersigned do hereby certify that I know about the water use system described above, that I have read the foregoing, and that the matters therein stated are true.

(Print name) 19_____
(Print name) 19

STATE OF SOUTH DAKOTA)
)SS
COUNTY OF PENNINGTON)

AFFIDAVIT

Vincent M. Wasserburger, Affiant herein, being first duly sworn upon his oath deposes and states as follows:

1. Affiant's father, Herbert J. Wasserburger, the holder of Water License No. 1193-2, is 99 years old, and by Durable Power of Attorney dated June 22, 1987 appointed Affiant as an attorney in fact to act with full power in the management of all his affairs, a copy of same attached for reference.

2. Affiant has lived in Ardmore, South Dakota since 1946 and is familiar with the ranching operation and associated irrigation on the land covered by Water License No. 1193-2. Since 1983, Affiant has managed the ranch on a daily basis. It has recently been brought to Affiant's attention that the actual diversion points and irrigated acreage described in Water License No. 1193-2 were in error. These have been corrected in the Application which this Affidavit pertains to reflecting actual conditions. The diversion rate is 2.6 CFS to irrigate the acreage based on 1 CFS per 70 acres.

3. Affiant is personally knowledgeable of irrigation that occurred every year since 1974 on this land, or partial irrigation during several years when sufficient water was unavailable in Hat Creek due to extremely dry climatic conditions and upstream diversions in Nebraska which have dried up Hat Creek over time.

Dated this 27 day of December, 1989.

Vincent M. Wasserburger
Vincent M. Wasserburger

Subscribed and sworn to before me this 28 day of
December, 1989.

[Signature]
Notary Public

My Commission Expires:

(SEAL)

DURABLE POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS that I, HERBERT J. WASSERBURGER, of Ardmore, in the County of Fall River, and State of South Dakota, do hereby constitute and appoint VINCENT M. WASSERBURGER, of Ardmore, South Dakota, and HAZEL B. ANDERSON, of Rapid City, South Dakota, to be my true and lawful attorneys with full power in my name and stead and on my behalf to do the following:

1. To manage my affairs, handle my investments, arrange for the investment, reinvestment and disposition of funds, exercise all rights with respect to my investments, accept remittances of income and disburse the same, including but not limited to authority to open bank accounts in my name and to endorse checks for deposit therein or in any bank where I may at any time have money on deposit and sign checks covering withdrawals therefrom;

2. To prepare, execute and file all tax returns required to be made by me, to pay the taxes due, to collect any refunds.

3. To expend or distribute income or principal of my estate for my support, comfort, maintenance, care, health or benefit;

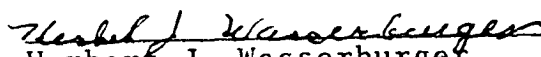
In general I give to my said attorneys full power to act in the management and disposition of all my estate, affairs and property of every kind and wherever situate in such manner and with such authority as I myself might exercise if personally present.

I nominate VINCENT M. WASSERBURGER and HAZEL B. ANDERSON as Co-Guardians of my person and estate in the event that guardianship proceedings are hereafter deemed necessary. This nomination shall not be construed as limiting the foregoing powers granted to my said attorneys or as requiring the appointment of Co-Guardians in the event of my subsequent disability or incapacity.

This power of attorney shall be binding on me and my heirs, executors and administrators and shall remain in force up to the time of the receipt by my said attorney of a written revocation signed by me.

This power of attorney shall not be affected by my subsequent disability or incapacity.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on this 22nd day of June, 1987.


Herbert J. Wasserburger

STATE OF SOUTH DAKOTA)
) SS.
COUNTY OF PENNINGTON)

On this the 22nd day of June, 1987, before

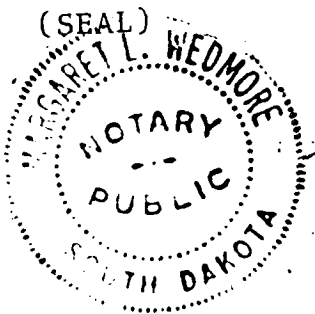
me the undersigned officer, personally appeared Herbert J. Wasserburger, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Margaret L. Wedmore
Notary Public, South Dakota

My Commission Expires:

2-16-89



LESLIE JAMES ENGLAND
ATTORNEY AT LAW
2693 COMMERCE DRIVE
RAPID CITY, SOUTH DAKOTA 57702
TELEPHONE (605) 341-8795 FAX (605) 348-2046

January 4, 1990

FEDERAL EXPRESS

Mr. John Hatch
Chief Engineer
Water Rights Division
SD Department of Water & Natural Resources
523 East Capitol Avenue
Pierre, SD 57501-3181



Re: Water License No. 1193-2

Dear John:

Enclosed please find for filing an application to correct diversion points and acreage and supplemental forms and documents in the above referenced water license along with my check in the amount of \$15.00 for the filing fee.

Yours very truly,


Leslie J. England

LJE/cs

cc: Vince Wasserburger

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

412015

Pierre, January 5, 1990

RECEIVED OF Leslie J. England, 2693 Commerce Rd, Rapid City, SD 57702

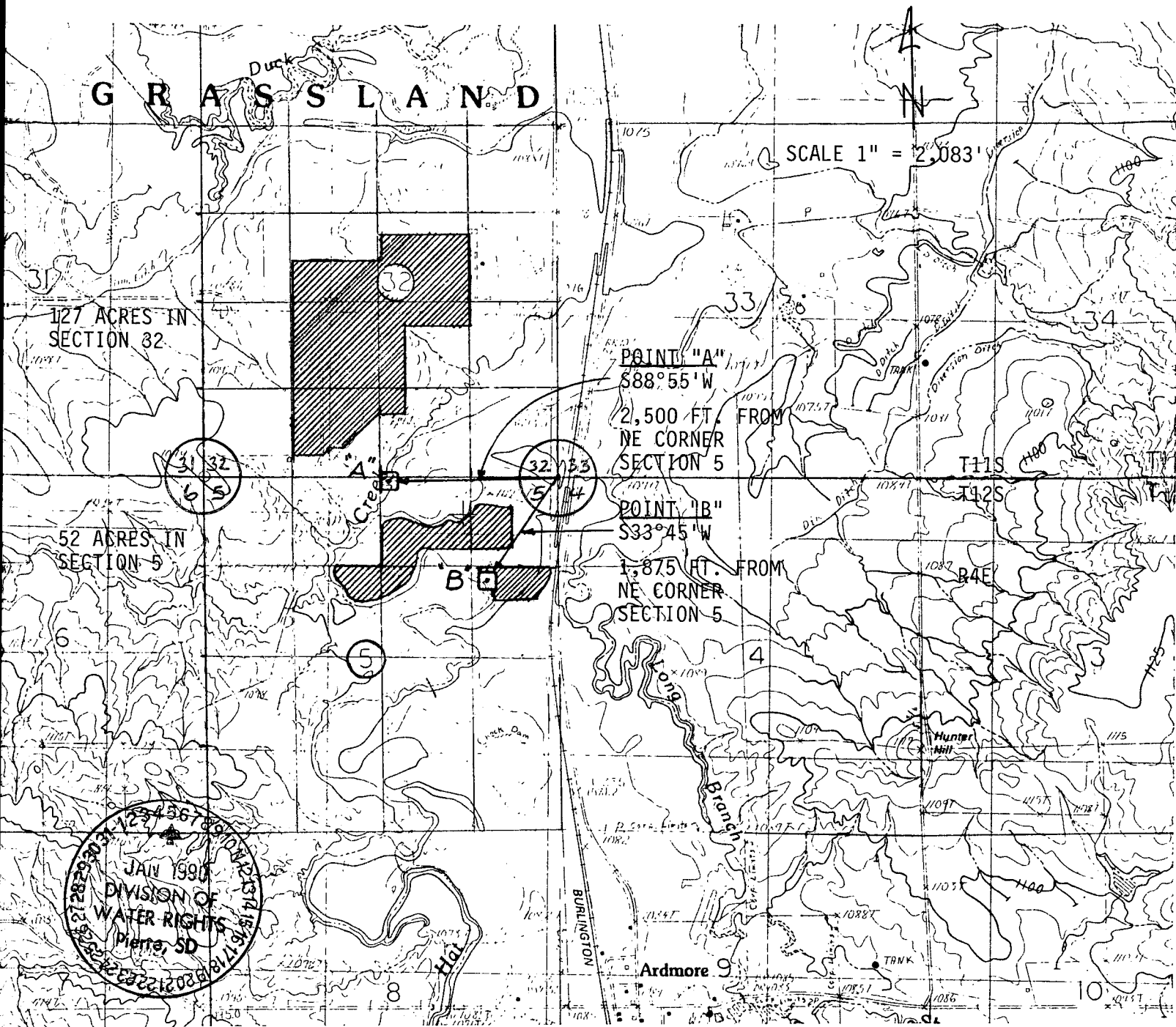
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. <u>2115-2</u> to Appropriate Water, to construct works and to put water to beneficial use	15	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	15 00

By John Hatch
Chief Engineer

MAP TO ACCOMPANY CORRECTION OF PERMIT NO. 1193-2

DIVERSION POINTS "A" AND "B" ARE LOCATED IN THE NE $\frac{1}{4}$, SECTION 5, T125 R4E, BHM,
FALL RIVER COUNTY, SOUTH DAKOTA



I, E. Dallas Wasserburger, Registered Land Surveyor in the State of South Dakota, hereby certify that at the request of the Owner, I have calculated the well location and lands to be irrigated as shown on the map above, and that the map is a true and correct representation of these calculations.

2740
E. Dallas
Wasserburger
Registered Land Surveyor No. 2740
SOUTH DAKOTA

V.R. A. N. 2115-2

RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED WATER
RIGHT APPLICATION NO. 2115-2, Herbert J. Wasserburger

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. 2115-2, Herbert J. Wasserburger, Box 83, Ardmore SD.

The Chief Engineer is recommending VALIDATION of Application No. 2115-2 for 2.6 cfs and that the applicable portions of Water Right Claim No. 1193-2 be incorporated into No. 2115-2 and that the abandoned portions of No. 1193-2 be cancelled, because 1) water has been appropriated as described for irrigation use with a priority date of January 1, 1950, 2) the use has been developed without unlawful impairment of existing rights, 3) the use is a beneficial use and 4) it is in the public interest.

See the attached report for additional information.

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

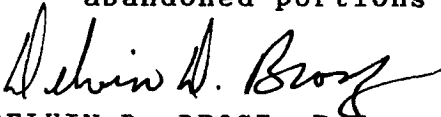
JOHN HATCH, Chief Engineer
March 5, 1990

REPORT ON VESTED WATER RIGHT APPLICATION NO. 2115-3
HERBERT J. WASSERBURGER
March 5, 1990

Application No. 2115-2 requests validation of a vested water right claim for the appropriation of 2.6 cubic feet of water per second from Hat Creek to irrigate 179 acres. The points of diversion are located in the NW 1/4 NE 1/4 and SE 1/4 NE 1/4 of Section 5, T12S, R4E. The irrigated acreage is located in the SE 1/4 NW 1/4, NE 1/4 of Section 5, T12S, R4E; SW 1/4 NE 1/4, SE 1/4 NW 1/4, E 1/2 SW 1/4, W 1/2 SE 1/4 of Section 32, T11S, R4E. This application identifies the correct legal description of the diversion points and the irrigated acreage which was incorrectly described on Vested Water Right Claim No. 1193-2. The claimed priority date is January, 1950.

Conclusions

1. The vested water right claim was inspected in June and July, 1989 and the equipment needed to irrigate the described acreage is in place.
2. The Affidavit of Water Use states that the water has been used since January, 1950.
3. If Vested Water Right Application No. 2115-2 is validated, the applicable portions of Vested Water Right Claim No. 1193-2 should be incorporated into No. 2115-2 and the abandoned portions of No. 1193-2 cancelled.


DELVIN D. BROSZ. P.E.
Natural Resources Engineer



Department of Water & Natural Resources

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

April 12, 1990

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

Herbert J. Wasserburger
Box 83
Ardmore SD 57715

Dear Mr. Wasserburger:

Your Application No. 2115-3 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 Hot Springs Star printed at Hot Springs SD. For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the 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 "Eric Gronlund".

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



Department of Water & Natural Resources

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

April 12, 1990

Hot Springs Star
Box 1000
Hot Springs SD 57747

Dear Sir:

Enclosed is a Notice of Hearing to Validate Vested Right Application No. 2115-2 to be published twice. Please publish the notice on or before April 19, 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 Herbert J. Wasserburger, Box 83, Ardmore SD 57715.

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,

Eric Gronlund

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

CUT HERE

FIRST TRANSMITTAL NOTICE

TO:

ATTN: Eric Gronlund
Water Rights Division
523 E Capitol
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 _____

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) ss.
 County Fall River)

I, Christopher N. Spencer

certify that the attached printed Notice was taken
 from the Hot Springs Star

A newspaper which during the whole time of publication of
 said notice herein after stated, has been and is printed and
 published in the Hot Springs Star

City of Hot Springs

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

April 17, 1990

April 24, 1990

Christopher N. Spencer
 (Signature)

Publisher
 (Title)

April 24, 1990
 (Date Signed)

Cost of Printing: \$38.39



111
 NOTICE OF HEARING
 To Validate

Vested Water Right Application
 No. 2115-2 to Appropriate Water

Notice is given that Herbert J. Wasserburger, Box 83, Ardmore SD has filed an application to validate a vested water right claim to appropriate 2.6 cubic feet of water per second from Hat Creek to irrigate 179 acres with a claimed priority date of January, 1950. The Hat Creek diversion points are located in the NW 1/4 NE 1/4, SE 1/4 NE 1/4 Section 5, T12S, R4E and the irrigated acreage is located in the SE 1/4 NW 1/4, NE 1/4 Section 5, T12S, R4E; SW 1/4 NE 1/4, SE 1/4 NW 1/4, E 1/2 SW 1/4, W 1/2 SE 1/4 Section 32, T11S, R4E. This application identifies the correct legal description of diversion points and irrigated acreage incorrectly described on Vested Water Right Claim No. 1193-2.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Division recommends VALIDATION of Vested Water Right Application No. 2115-2 for 2.6 cfs and that applicable portions of Vested Water Right Claim No. 1193-2 be incorporated into No. 2115-2 and the abandoned portions of No. 1193-2 be cancelled because 1) water has been appropriated as described for irrigation with a priority date of January 1, 1950, 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. This application will be considered by the Water Management Board in the Pelican Room, Ramkota Inn, Hwy 212, Watertown SD on May 23, 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 validation, 2) approve the validation with qualifications, 3) defer or 4) deny validation of the 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 May 11, 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 May 11, 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, 46-2A-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.

Apr. 17, 24

Instruction to Newspaper - Publish first Notice on or before April 19, 1990 with 2nd publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING To Validate
Vested Water Right Application No. 2115-2 to Appropriate Water

Notice is given that Herbert J. Wasserburger, Box 83, Ardmore SD has filed an application to validate a vested water right claim to appropriate 2.6 cubic feet of water per second from Hat Creek to irrigate 179 acres with a claimed priority date of January, 1950. The Hat Creek diversion points are located in the NW1/4 NE 1/4, SE 1/4 NE 1/4 Section 5, T12S, R4E and the irrigated acreage is located in the SE 1/4 NW 1/4, NE 1/4 Section 5, T12S, R4E; SW 1/4 NE 1/4, SE 1/4 NW 1/4, E 1/2 SW 1/4, W 1/2 SE 1/4 Section 32, T11S, R4E. This application identifies the correct legal description of diversion points and irrigated acreage incorrectly described on Vested Water Right Claim No. 1193-2.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Division recommends VALIDATION of Vested Water Right Application No. 2115-2 for 2.6 cfs and that applicable portions of Vested Water Right Claim No. 1193-2 be incorporated into No. 2115-2 and the abandoned portions of No. 1193-2 be cancelled because 1) water has been appropriated as described for irrigation with a priority date of January 1, 1950, 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. This application will be considered by the Water Management Board in the Pelican Room, Ramkota Inn, Hwy 212, Watertown SD on May 23, 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 validation, 2) approve the validation with qualifications, 3) defer or 4) deny validation of the 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 May 11, 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 May 11, 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, 46-2A-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.

LESLIE J. ENGLAND
(ALSO ADMITTED IN COLORADO)

LAW FIRM OF
LESLIE JAMES ENGLAND
SUITE 102, WESTERN MUTUAL BUILDING
731 ST. JOSEPH STREET
RAPID CITY, SOUTH DAKOTA 57701

TELEPHONE (605) 341-7600
FAX (605) 343-4131

April 20, 1990

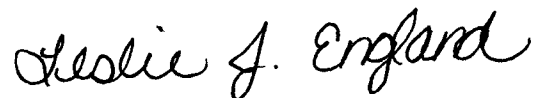
Mr. Eric Gronlund
Department of Water and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

Re: Herbert J. Wasserberger - Application No. 2115-2

Dear Eric:

This office represents Mr. Wasserberger in the above referenced application and requests that copies of all documents and notices be provided to the above address which is new since January, 1990. I also would like to point out that your correspondence to Mr. Wasserberger dated April 12, 1990, refers to Application No. 2115-3 which is believed to be incorrect as the related Notice of Hearing for Publication, Recommendation of Chief Engineer, and attached report all refer to Application No. 2115-2. Thank you for your kind attention in these regards.

Yours very truly,



Leslie J. England

LJE/tb

cc: Vince Wasserberger



4/19/90

Dept. of Water &
Natural Resources,

Grass Brook;

I am writing in regard to this
water right for Herbert Wasserbuerger.
I understand he put in another
pump so was wondering if this
is a new one and if that would affect
the water coming down the creek
for us. It says it would not
impair existing water rights.

Our priority date is 1936. I also
would like to know what the priority
date is on Jack Miller's pump on
the creek, and if that is good for
two pumping stations. ~~This~~ year
he was irrigating in January when
we didn't have livestock water.
How many pump stations does
Wasserbuerger have? and what is
over

their priority date? would it do
any good if we went to water town
for the hearing?

I would appreciate the information
that you can give me.

Thanking you

Leroy D. Vernon

HC 48 Box 248

Provo, UT - 84601

67744

SOUTH Dakota Department of
Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3131

April 24, 1990

LeRoy Duerson
HC 48 Box 248
Provo, SD 57774

Dear Mr. Duerson:

This letter is in regards to your concerns on Herbert Wasserburger's vested water right application. Mr. Wasserburger has two diversion points to irrigate 179 acres with a claimed priority date of January, 1950. This application identifies the correct location of the diversion points and the irrigated acreage described in Vested Water Right Claim No. 1193-2. This application does not increase the diversion rate, add additional diversion points or change the claimed priority date that is currently permitted under Vested Water Right Claim No. 1193-2.

You also asked the priority date of Jack Miller's vested water right on Hat Creek. Vested Water Right Claim No. 1210-2 was issued to John Miller which has a claimed priority date of January, 1907 for 2.55 cfs from Hat and Duck Creek.

If you wish to petition the Water Management Board, you must provide a written petition to this office by May 11, 1990 as stated in the Notice of Hearing.

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

Sincerely,

Eric Gronlund
Water Rights Division
(605) 773-3352

cc: Leslie J. England

LESLIE J. ENGLAND
(ALSO ADMITTED IN COLORADO)

LAW FIRM OF
LESLIE JAMES ENGLAND
SUITE 102, WESTERN MUTUAL BUILDING
731 ST. JOSEPH STREET
RAPID CITY, SOUTH DAKOTA 57701

TELEPHONE (605) 341-7600
FAX (605) 343-4131

May 16, 1990



Mr. Eric Gronlund
Water Rights Division
Department of Water and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

Re: Wasserberger Vested Water Right Claim No. 1193-2

Dear Eric:

This will confirm our phone conversation of May 15, 1990, at about 4:00 p.m. wherein you advised that no comments or petitions in opposition of the above-referenced matter have been received in your office, and consequently due to the distance of the Watertown hearing and the apparently uncontested nature of this proceeding, we do not intend to attend the hearing. If the status of this matter changes, please let me know immediately. Thank you for your kind attention in these regards.

Yours very truly,

Leslie J. England

LJE/CS

cc: Vince Wasserburger



Department of Water & Natural Resources

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

2115-2

SEP 13 1990

Herbert Wasserburger
Box 83
Ardmore SD 57715-0083

Dear Mr. Wasserburger:

Enclosed are your Validated Vested Water Right and Water License No. 2115-2. 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 cursive script, appearing to read "John Hatch".

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

enclosures

NOTE: The applicable portions of Vested Water Right Claim No. 1193-2 are incorporated into this vested right license and the abandoned portions of No. 1193-2 have been cancelled.



Department of Water & Natural Resources

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

March 14, 1991

853-2
2115-2

NOTICE

TO: Herbert J. Wasserburger
Box 83
Ardmore, SD 57715

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

Delvin D. Brosz

SUBJECT: Reminder of Shut Off Order for Junior Water
Rights Upstream of Angostura Reservoir

This is a reminder that the March 19, 1990 notice you received ordering you to cease diversion under your water right is still in effect and will remain in effect until Angostura Reservoir has filled. The elevation of Angostura Reservoir when full is 3187.2 feet above mean sea level (msl). On February 27, 1991 the reservoir elevation was 3170.25 msl.

All water rights above Angostura Reservoir will be monitored until the reservoir has filled. I am again asking for your cooperation in complying with this order.

If you have any questions, please contact Mark Rath or Del Brosz (605) 773-3352.

South Dakota

GREAT FACES. GREAT PLACES.

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 20, 1991

853-2
2115-2

RESCISSION OF SHUTOFF ORDER

TO: Herbert J. Wasserburger
Box 83
Ardmore, SD 57715

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

Delvin D. Brosz

SUBJECT: Rescission of Shut Off Order for Junior Water
Rights Upstream of Angostura Reservoir for 1991
Irrigation Season.

The recent rains in the Upper Cheyenne River Basin have provided large inflows for Angostura Reservoir. Now that Angostura Reservoir has filled, the shutoff order for all junior water rights upstream of the reservoir is rescinded for the 1991 irrigation season.

If you have any questions, please contact Mark Rath or Del Brosz (605) 773-3352.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 25, 1992

392-2
853-2
2115-2

NOTICE

TO: VINCENT M WASSERBURGER
BOX 83
ARDMORE, SD 57715

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

SUBJECT: Shut Off Order for Junior Water Right Holders Upstream
of the Angostura Irrigation District.

Please be advised that effective immediately no diversions of water will be allowed under your Water Right Nos. 392-2, 853-2, 2115-2 which are junior in priority to Water Right No. US579-2 held by the US Bureau of Reclamation for the Angostura Irrigation District.

On March 20, 1992 the water elevation in Angostura Reservoir was 4.4 feet and 19,164 acre feet below full. Reservoir storage levels will be closely monitored. If inflows increase such that the reservoir will fill, this shut off order will be rescinded at that time.

All water rights above Angostura Reservoir will be monitored until the reservoir has filled. I am asking for your cooperation in complying with this order.

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

PERMIT NO	FIRST NAME	LAST NAME	ADDRESS 1	ADDRESS 2	CITY	STATE	ZIP CODE	PERM2	PERM3
657-2		A & T CATTLE CO	TOM LANDERS	ST RT	HOT SPRINGS	SD	57747		
398-2	RICHARD	ANDERSON	& CHAR ANDERSON	HCR 59 BOX 18	EDGE MONT	SD	57735		
1614-2	IRENE R	ANDERSON		HCR 59 BOX 20	EDGE MONT	SD	57735		
324-2		B & H RANCH INC	B F CHILDERS	PO BOX 723	EDGE MONT	SD	57735		
534-2		BALL BROS		BOX 617	EDGE MONT	SD	57735		
1995-2	LESTER I	BARKLEY		BOX 740	EDGE MONT	SD	57735		
1693-2	NICK/MICHAEL	BOGNER	ANICK BOGNER JR	HC 46 BOX 24	OELRICHS	SD	57763	1734-2	
755-2		BRAINERD INDIAN SCHOOL			HOT SPRINGS	SD	57747		
858-2	WAYNE F	CHILDERS		HCR 59 BOX 1A	EDGE MONT	SD	57735		
636-2	V L	CHILDERS		BOX 723	EDGE MONT	SD	57735		
654-2	OSCAR	COPE			OELRICHS	SD	57763		
1994-2	JOHN	DEGERING		SR 1 BOX 136	LAUREL	WY	82225		
567-2	HAROLD R	DODSON		HCR 59 BOX 5A	EDGE MONT	SD	57735	1410-2	
2058-2	LEROY/BERTHA	DIERSON		HC 48 BOX 248	PROVO	SD	57774		
1985-2	DAVID M	DUNBAR		RR BOX 32	OELRICHS	SD	57763		
788-2		HAID BROTHERS, INC.	CARL P HAID, PRES	HCR 46 BOX 5	OELRICHS	SD	57763	1695-2	
421-2	HEFMAN	HECK		BOX 441	EDGE MONT	SD	57735		
540-2	DARRELL R	HEIDMAN		BOX 402	EDGE MONT	SD	57735		
1879-2	DORA R	HENDERSON	APT 265	5141 INDIAN RIVER	LAS VEGAS	NV	89103		
1989-2	DON W	HENRY		BOX 276	ARMORE	SD	57715		
779-2	HENRY C	HOLLENBECK		DEWEY ROUTE	EDGE MONT	SD	57735		
1593-2		HU RANCH INC	SD CORPORATION	HCR 59 BOX 102	EDGE MONT	SD	57735		
350-2	DARREL D	HUNTER		BOX D	ARMORE	SD	57715		
1641-2	JAMES/PATRICIA	JOHNSTON		HC 68 BOX 7	LAKE SIDE	NE	69351		
18770-2	JIM	KANE		BOX 19A	PROVO	SD	57774		
763-2	CARL	KANNOLT	APT 207	BLANIE HOTEL	CHADRON	NE	69337		
1696-2	JOHN W	KOLLER		BOX 715	EDGE MONT	SD	57735		
866-2	A J	LANDERS	STAR CATTLE CO	BOX 159B HCR 52	HOT SPRINGS	SD	57747		
1840-2	B L/ALLEN	LAWRENCE		BOX 759	TIOGA	ND	58852		
676-2	MELVIN	LULF			HOT SPRINGS	SD	57747		
17295-2	JOHN D(JACK)	MANKR	(ESTATE)	RR #1 BOX 179C	HOT SPRINGS	SD	57747		
11447-2	KENNETH	MARTINSON		BOX 361	EDGE MONT	SD	57735		
785-2	ARNDITH W	MCLAIN		BOX 164	OELRICHS	SD	57763		
410-2	RALPH L	MEFFERD, JR		HCR 48 BOX 22	PROVO	SD	57774		
1973-2	A J	NELSON		BROADUS STAGE	MILES CITY	MT	59301		
2015-2		PETERSON & SON, INC		HCR 59 BOX 16	EDGE MONT	SD	57735		
1916-2	PAUL & JEAN	PETTY	& NOREEN PETTY	HCR 52 BOX 136	HOT SPRINGS	SD	577479603		
1716-2	MELVIN	PORTER		WYO RT BOX 17	EDGE MONT	SD	57735		
711-2	DONALD	PUTNAM		BOX 188	OELRICHS	SD	57763	2043-2	
1836-2	GLEN	REASER		HC 46 BOX 48	OELRICHS	SD	57763		
422-2	EDWARD/WANDA	REUTTER		HCR 59 BOX 90	EDGE MONT	SD	57735	1789-2	
293-2	CHANCE/ETERI	REYNOLDS		HCR 59 BOX 28	EDGE MONT	SD	57735	294-2	
669-2	OLIVER W	ROMNEY		BOX 175	OELRICHS	SD	57763		
718-2	VERNON	SCHNOSE		ST RT BOX 155	HOT SPRINGS	SD	57747	1700-2	
1649-2		SEGER RANCH INC		BOX 95	OELRICHS	SD	57763	671-2	1837-2
927-2	BERNARD D	SIMONS		BOX 381	EDGE MONT	SD	57735		
1732-2	ROBERT/MARK	TURBS		BOX 563	EDGE MONT	SD	57735		
1019-2		WAR BONNET RANCH LTD	BOX 132	105 E 5TH ST	MURDO	SD	57559		
392-2	VINCENT M	WASSERBURGER		BOX 83	ARMORE	SD	57715	853-2	2115-2

2115-2

LESLIE J. ENGLAND
(ALSO ADMITTED IN COLORADO)

LAW FIRM OF
LESLIE JAMES ENGLAND
SUITE 102, RUSHMORE PROFESSIONAL BUILDING
731 ST. JOSEPH STREET
RAPID CITY, SOUTH DAKOTA 57701

TELEPHONE (605) 341-7600
FAX (605) 341-7321

April 17, 1992



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

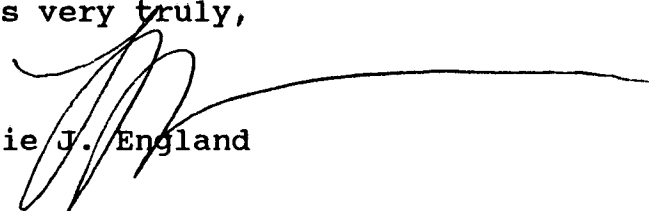
Re: Wasserburger Water Permit Nos. 392-2, 853-2, 2115-2, Angostura
Shut Off Order

Dear John:

On behalf of the Wasserburger ranch, this acknowledges your Shut Off Order until it appears that Angostura Reservoir will fill. Since water needs on the ranch are critical, please advise as soon as possible, when it appears based upon precipitation and run-off that Angostura will fill. Even a small amount of water as soon as possible will benefit Wasserburger's irrigation use.

Thank you for your kind attention to this matter.

Yours very truly,


Leslie J. England

LJE/kmr

cc: Vincent M. Wasserburger
E. Dallas Wasserburger

2115-2

April 18, 1992

Mr. Del Brong
Water Rights Division
533 E Capitol Ave
Pierre S.D. 57501



Subject: Shut off order on permit Nos
392-2, 853-2, (2115-2)

Dear Del:

We will comply with your order.
Please advise us as soon as possible
when the order is lifted. Even a
small amount of water will help
our hay crops.

Thank you for any help.

Yours truly

Vincent Wasserburger

Box 83

Andover, SD 57715



June 29, 1992

2115-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Vincent M. Wasserburger
Box 83
Ardmore, SD 57715

Dear Mr. Wasserburger:

I am writing in response to a telephone call from Senator James Emery. Senator Emery advised that you wanted to know if the law concerning priorities for water rights could be changed. Since water rights are similar to property rights, and the value of a water right is based upon the priority date, it would be difficult to change the priority law without compensating affected senior priority water right owners.

I understand that you would like to be able to pump from Hat Creek until June 30, each year. Unless Angostura Reservoir has filled, allowing junior priority water right owners to pump would have to be subject to some type of an agreement with the Bureau of Reclamation and the Angostura Irrigation District. Your Water Right No. 392-2, priority of January 5, 1953, and Water Right No. 2115-2, priority of January 1, 1950, for diversions from Hat Creek are junior to a number of other water rights, including the water right for Angostura Reservoir.

The US Bureau of Reclamation holds the water right for storage in Angostura Reservoir and contracts to supply the Angostura Irrigation District with water for District members. The priority date for Angostura's water right is April 11, 1941. This water right authorizes storage of the water needed for one annual fill of Angostura Reservoir. The amount of water needed to fill the reservoir is the amount required to fill the empty storage space. Releases during 1992 for irrigation and seepage losses at the control gates are subtracted from the amount required in 1992 to fill the empty storage.

On March 25, 1992, I issued a shutoff order to water rights owners located in the drainage basin upstream of the reservoir with priority dates junior to that of the Angostura Reservoir water right. Upstream water rights with priority dates senior to Angostura Reservoir, including some on Hat Creek, are not subject to this shutoff order. The shutoff order will remain in effect until enough water has flowed into the reservoir to fill the empty storage. We are closely monitoring the inflows into the

reservoir. When, and if the reservoir fills in 1992, I will be able to rescind the shutoff order.

I am sorry that we cannot help you to obtain irrigation water. I realize that shutoff of a junior water right can be costly to the owner. At the same time during a water short year, water becomes very beneficial and valuable to a senior water right owner.

If you have other questions, please contact Del Brosz or Mark Rath, (605) 773-3352.

Very Truly Yours,

A handwritten signature in cursive script, appearing to read "John Hatch".

John Hatch, Chief Engineer
Division of Water Rights

cc: Senator James Emery



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 12, 1993

392-2
853-2
2115-2

NOTICE

TO: VINCENT M WASSERBURGER
BOX 83
ARDMORE, SD 57715

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

Delvin D. Brosz

SUBJECT: Shutoff Order for Junior Water Right Holders Upstream
of the Angostura Irrigation District.

Effective immediately no diversions of water under your Water Right Nos. 392-2, 853-2 and 2115-2 are authorized. Your water rights are junior in priority to the US Bureau of Reclamation Water Right No. 579-2, April 11, 1941 priority date. The Bureau of Reclamation water right for the Angostura Irrigation District allows one annual fill of the reservoir.

The amount of water required for one annual fill of Angostura Reservoir as of January 1, 1993 was 45,402 acre feet. On March 9, 1993 the water elevation in Angostura Reservoir was 10.2 feet and 41,305 acre feet below full. Reservoir storage levels will be closely monitored. If inflows increase and the reservoir will fill, this shutoff order will be rescinded. Any 1993 irrigation releases from the reservoir will be included in the inflow calculations.

All water rights above Angostura Reservoir will be monitored until the reservoir has filled. I am asking for your cooperation in complying with this order.

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

cc: US Bureau of Reclamation
Angostura Irrigation District

2115-2

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 Shutoff Order for Junior Water Right Holders Upstream of the Angostura Irrigation District addressed as stated below, and on the attached:

Copy Sent To:

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

Joseph Kramer, Manager, Angostura Irrigation District, P.O. Box 346,
Oral, SD 57766.

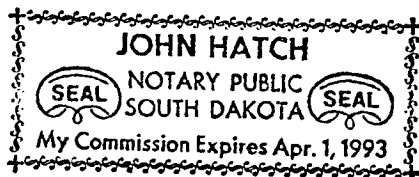
Cheryl F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 15th day of March, 1993.

John Hatch
Notary Public





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 14, 1993

392-2
853-2
2115-2

RESCISSION OF SHUTOFF ORDER

TO: VINCENT M WASSERBURGER
BOX 83
ARDMORE, SD 57715

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

SUBJECT: Rescission of the Shutoff Order for Junior Water Right
Holders Upstream of the Angostura Irrigation District
for the 1993 Irrigation Season.

Recent wet conditions in the Upper Cheyenne River Basin have provided large inflows and the Angostura Reservoir is expected to fill shortly. The shutoff order for all junior water rights upstream of the reservoir is rescinded for the 1993 irrigation season.

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

cc: US Bureau of Reclamation
Angostura Irrigation District



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 29, 1993

392-2

2115-2

Vincent Wasserburger
HC 48 Box 226
Ardmore, SD 57735

Dear Mr. Wasserburger:

Enclosed are your 1993 irrigation questionnaires. You indicated at the top of each of the forms that you did irrigate, however, the remainder of the forms were left blank.

Water Management Board Rule 74:02:01:14.02 states that all irrigation permit owners except water spreading permit owners shall submit **completed** irrigation questionnaires on the forms mailed to them each year by the chief engineer. With the information you included on your questionnaires, it is not possible for us to calculate how much water you used during 1993.

You will need to make an estimate of how many days and hours per day you pumped for each of the months. If the days, hours per day and the pump rate is known, the amount of water used can be completed and filled in by our office. I realize obtaining this information may be difficult, but without the information the forms can not be considered complete.

Please complete and return them to our office by January 14, 1994. If you have any questions, please contact me at (605) 773-3352.

Sincerely,

Genny McMath
Natural Resources Analyst
Water Rights Division



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 15, 1995

392-2
853-2
2115-2

NOTICE

TO: VINCENT M WASSERBURGER
HC 48 BOX 226
ARDMORE, SD 57715

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

SUBJECT: Shutoff Order for Junior Water Right Holders
Upstream of the Angostura Irrigation District.

Effective immediately no diversions of water under your Water Right Nos. 392-2, 853-2 and 2115-2 are authorized. Your water right is junior in priority to the US Bureau of Reclamation Water Right No. US579-2 (April 11, 1941 priority date). Water Right No. US579-2 allows one annual fill of the reservoir.

On March 14, 1995, the water elevation in Angostura Reservoir was 7 feet and 30,000 acre feet below full. The Division of Water Rights, in cooperation with the Bureau of Reclamation, will closely monitor the reservoir storage level. If inflows increase and the reservoir will fill, this shutoff order will be rescinded. Any 1994 irrigation releases from the reservoir will be included in the inflow calculations.

The Division of Water Rights will monitor all water rights above Angostura Reservoir until the reservoir has filled. I am asking for your cooperation in complying with this order.

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

cc: US Bureau of Reclamation
Angostura Irrigation District



2115-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 26, 1995

392-2

853-2

2115-2

RESCISSION OF SHUTOFF ORDER

TO: VINCENT M WASSERBURGER
HC 48 BOX 226
ARDMORE, SD 57715

FROM: *for* John Hatch, Chief Engineer
Water Rights Division
(605) 773-3352

SUBJECT: Rescission of the Shutoff Order for Junior Water Right Holders Upstream of the Angostura Reservoir for 1995 Irrigation Season.

Recent wet conditions in the Upper Cheyenne River Basin have provided large inflows and the Angostura Reservoir is expected to fill shortly. The shutoff order for all junior water rights upstream of the reservoir is rescinded for the 1995 irrigation season.

If you have any questions, please contact Del Brosz or Rassool Ahadi, Division of Water Rights, 523 E. Capitol Ave., Pierre, SD 57501.

cc: US Bureau of Reclamation
Angostura Irrigation District



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

April 30, 2004

NOTICE OF SHUTOFF ORDER

TO: HERBERT WASSERBURGER
HC 48 BOX 83
ARDMORE SD 57735

FROM: GARLAND ERBELE, Chief Engineer
Water Rights Program

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

Shutoff Order for Water Right Nos. 2115-2, 853-2

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

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

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



2115-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 15, 2005

NOTICE OF SHUTOFF ORDER

TO: HERBERT WASSERBURGER
HC 48 BOX 83
ARDMORE SD 57735

FROM: GARLAND ERBELE, Chief Engineer
Water Rights Program

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

Shutoff Order for Water Right Nos. 2115-2, 853-2

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

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

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

215-2



United States Department of the Interior



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

FEB 24 2006

IN REPLY REFER TO:

DK-700
PRJ 13.00

RECEIVED
FEB 27 2006
WATER RIGHTS
PROGRAM

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

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

Dear Mr. Erbele:

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

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

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

Sincerely,

For Jeffrey L. Nettleton
Rapid City Field Office Manager

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

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

March 10, 2006

NOTICE OF SHUTOFF ORDER

TO: HERBERT WASSERBURGER
HC 48 BOX 83
ARDMORE SD 57735

FROM: GARLAND ERBELE, Chief Engineer
Water Rights Program

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

Shutoff Order for Water Right Nos. 2115-2, 853-2

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

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

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

March 9, 2007

NOTICE OF SHUTOFF ORDER

TO: HERBERT WASSERBURGER
HC 48 BOX 83
ARDMORE, SD 57735

FROM: GARLAND ERBELE, Chief Engineer
Water Rights Program

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

Shutoff Order for Water Right Nos. 2115-2853-2

To protect the US Bureau of Reclamation's Water Right No. US579-2 for Angostura Reservoir with a senior priority date of April 11, 1941, the Bureau of Reclamation has asked that we issue shutoff orders for junior water right holders. Effective immediately no diversions of water from the Cheyenne River and tributaries by holders of junior water rights upstream of Angostura Dam will be allowed. On March 9, 2007, the water elevation in Angostura Reservoir was 3166.9-feet, 20.3-feet below the full elevation of 3187.2-feet. Storage is at 51652 acre-feet, about 87109 acre-feet below full. Angostura Reservoir is not expected to fill with the current low inflows.

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

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

March 19, 2008

NOTICE OF SHUTOFF ORDER

TO: HERBERT WASSERBURGER
30131 CASCADE RD
ARDMORE SD 57735

FROM: GARLAND ERBELE, Chief Engineer
Water Rights Program

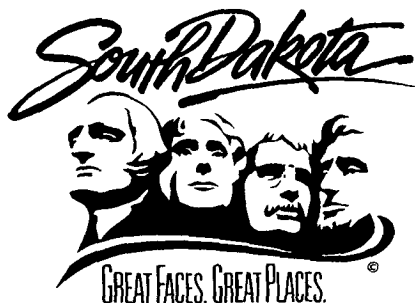
SUBJECT: Shutoff Order for Junior Priority Date Water Rights Upstream of
Angostura Dam

Shutoff Order for Water Right Nos. 2115-2, 853-2

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

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

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

March 19, 2009

NOTICE OF SHUTOFF ORDER

TO:

HERBERT J WASSERBURGER
29999 CASCADE RD
ARDMORE SD 57715

FROM:

GARLAND ERBELE, Chief Engineer
Water Rights Program

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

Shutoff Order for Water Right Nos. 853-2, 2115-2

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

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

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

October 19, 2010

392-2
2115-2

Herbert & Vincent Wasserburger
30131 Cascade Rd
Edgemont SD 57735-7325

Dear Sirs:

Enclosed is a "Notice" dated October 15, 2010 concerning the 2010 irrigation questionnaire.

The notice was originally mailed to 29999 Cascade Rd, Ardmore SD. The post office notified us that your address has changed and I will update our records accordingly.

If you have any questions, please contact me.

Sincerely,

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

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

November 18, 2010

Martin Wasserburger
30131 Cascade Rd
Ardmore SD 57735

RE: Location Notice No. 31-2, Water Right No. 392-2 and Vested Water Right Nos. 853-2
and 2115-2

Dear Mr. Wasserburger:

Thank you for returning the annual irrigation questionnaires and also the note concerning the ownership changes needed for the above water rights.

Enclosed are partially completed Notice of Transfer of Ownership forms for filing ownership changes. Upon completion, please sign the forms and return them to our office with a required filing fee of \$50.00 each (total of \$200.00). The check or money order for the fee can be made payable to the Water Rights Program.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

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

enclosures

RECEIVED

DEC - 2 2010

WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 2115-2

Date: Nov 29 2010

I/We request that Vested Water Right No. 2115-2

formerly owned by: Herbert J Wasserburger

be transferred to: (name & address) Martin W Wasserburger + E. Dallas Wasserburger
30131 Cascade Rd
Ardmore SD 57735 Telephone No. 605-459-2431

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

179 acres - NE ¼, SE ¼ NW ¼ Section 5, T12S, R4E

SE ¼ NW ¼, SW ¼ NE ¼, E ½ SW ¼, W ½ SE ¼ Section 32, T11S, R4E

I/We understand that the validity of Vested Water Right No. 2115-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

Martin W Wasserburger

I/We E. Dallas Wasserburger, the new owner, certify that the above information is true and correct.

Martin W. Wasserburger
(Signed by new owner)

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

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 12/2, 20 10

RECEIVED OF MX Ranch LLC 30131 Cascade Rd Ardmore SD 57735

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50 00	
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>2115-2</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No.

04687

By

Lincoln Erbe
Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

November 18, 2010

Martin Wasserburger
30131 Cascade Rd
Ardmore SD 57735

RE: Location Notice No. 31-2, Water Right No. 392 2 and Vested Water Right Nos. 853-2
and 2115-2

Dear Mr. Wasserburger:

I am writing to acknowledge receipt of the "Notice of Transfer of Ownership" forms and filing fees you submitted for the above water rights.

The ownership changes have been completed. The above listed water rights are now listed as follows:

- LN 31-2: Martin W Wasserburger & E Dallas Wasserburger et al;
- 392-2: Martin W Wasserburger
- 853-2: Martin W Wasserburger & E Dallas Wasserburger
- 2115-2: Martin W Wasserburger & E Dallas Wasserburger

Enclosed for your records are Receipt Nos. 04685, 04586, 04687 and 04688 in the amounts of \$50.00 each. If you have any questions, please contact me.

Sincerely,

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

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

March 06, 2013

NOTICE OF SHUTOFF ORDER

TO: MARTIN W & E DALLAS WASSERBURGER
30131 CASCADE RD
ARDMORE SD 57735

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

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

**Shutoff Order for
Water Right Nos. 2115-2 853-2 392-2**

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

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

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

CERTIFICATION

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

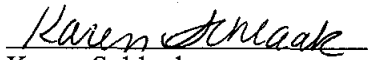
LAST_NAME	FIRST_NAME	ADDRESS2	CITY	STATE	ZIP
INDIAN CREEK CATTLE LLP		32296 190TH ST	SLEEPY EYE	MN	56085
INDIAN CREEK LAND & CATTLE LLC		PO BOX 538	EDGEMONT	SD	57735
WEINREIS BROTHERS		230908 HIGHLAND RD	SCOTTSBLUFF	NE	69361
SEGER RANCH INC		RR 1 BOX 100A1	HOT SPRINGS	SD	57747
REUTTER	EDWARD/WANDA	HCR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

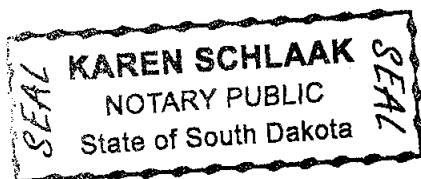
SCHNOSE	VERNON	12685 MAITLAND RD	HOT SPRINGS	SD	57747
SEABECK	DORIS SEABECK & THOMAS	2533 PARK AVE	LARAMIE	WY	82070
SIMONS	BERNARD D	BOX 381	EDGEMONT	SD	57735
TUBBS LAND & CATTLE LLC		10891 RIVER RD	EDGEMONT	SD	57735
WALKER	FRED S & CYNTHIA K	30301 CASCADE RD	ARDMORE	SD	57735
WYOMING DAKOTA RAILROAD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


 Gail Jacobson
 Secretary/Water Rights

STATE OF SOUTH DAKOTA)
) SS
 COUNTY OF HUGHES)

Sworn to, before me, this 6th day of March, 2013.


 Karen Schlaak
 Notary Public
 My Commission expires April 1, 2013



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

October 22, 2013

392-2
2115-2

Martin Wasserburger
5117 Chalkstone Dr
Rapid City SD 57701 4708

Dear Mr. Wasserburger:

Enclosed is a "Notice" dated October 18, 2013 concerning the 2013 irrigation questionnaire.

The notice was originally mailed to 30131 Cascade Rd, Edgemont SD. The post office notified us that your address has changed and I will update our records accordingly.

If you have any questions, please contact me.

Sincerely,

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

enclosures

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

RECEIVED

NOV 20 2013

WATER RIGHTS
PROGRAM

Mail to: PMB 2020
DENR - Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182

Water Right/Permit No. 2115-2

Date: _____

I/We request that Water Right/Permit No. 2115-2 formerly owned by:
Martin W. Wasserburger and E. Dallas Wasserburger be transferred to:

New Owner Name: A & O Farming and Harvesting
Address: 14199 South Dakota Highway 40
City, State, Zip Hermosa SD 57744 Telephone No. (605) 390-4804

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

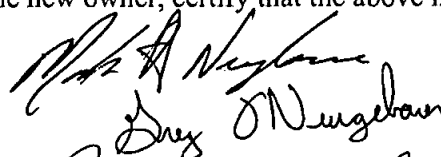
179 acres - NE1/4, SE1/4NW1/4 Section 5, T12S, R4E
SE1/4NW1/4, SW1/4NE1/4, E1/2SW1/4, W1/2SE1/4 Section 32, T11S, R4E

☒ I understand that the validity of Water Right/Permit No. 2115-2 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

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

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

I, A + O FARMING + HARVESTING, the new owner, certify that the above information is true and correct.


Jennifer L. Hengeman
(signed by new owner)

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

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 11/20, 20 13

RECEIVED OF Pennington Title 725 Kansas City St Rapid City SD 57701

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>2115-2</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____	50	00
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No. **06491**

By Joanne Goodman
Chief Engineer

2115-2



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.denr.sd.gov

December 17, 2013

LN31-2
392-2
853-2
2115-2

Mark A Neugebauer
A & O Farming & Harvesting
14199 SD Hwy 40
Hermosa SD 57744

Dear Mr. Neugebauer:

I am writing to acknowledge receipt of the transfer forms and filing fees submitted for changing ownership on Location Notice No. 31-2, Water Right No. 392-2 and Vested Water Right Nos. 853-2 and 2115-2.

The ownership changes have been completed. All of the above listed water rights, formerly held by Martin and Dallas Wasserburger are now listed in the name of "A & O Farming and Harvesting" in care of Mark A, Greg O and Jennifer L Neugebauer.

The receipts for the filing fees are being forwarded by copy of this letter to Pennington Title in Rapid City.

Sincerely,

A handwritten signature in black ink that reads 'Genny McMath'.

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

c: Pennington Title, 725 Kansas City St, Rapid City SD w/receipts