

Considered: _____

WATER PERMIT NO. VR 2209-2

Phone: 393-0522

Name of Applicant: Elks Lodge #1187

Post Office Address: 3333 E 39th St. Rapid City SD 57701

Amount of Water Claimed: 0.66 Total Acres: 46

Source of Water Supply: Rapid Creek

Water to be used for: irrigation County: Pennington

About _____ miles _____ of _____

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

PRIORITY Date Received: 11-27-91 Fee: \$15.00 Remarks Priority date
of May 25, 1881

Corrected Application Received 3-19-92 Period of Annual Use April 1 - Oct 31

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

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

Diversion Point: SE 1/4 SE 1/4 Sec 8-T1N-R8E

Land to be Irrigated: NE 1/4 SE 1/4, SE 1/4 NE 1/4

Sec 16-T1N-R8E

Well Log: Driller: _____ Licensed YES _____ NO _____

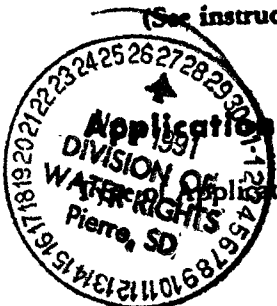
Depth of Well: _____ REMARKS _____

Type of Map: aerial PREPARED BY: Mark Rath Reviewed and the Number

Assigned on 3-19-92 By Karen Schlaak

No. 2209-2 Hydrologic Unit 10120110
Basin Upper Cheyenne
Newspaper Rapid City Journal, P.O. Box 450

57709



Application For Soil/Water Compatibility Permit and Permit To Appropriate Water

- Application: ☐ New ☒ Vested Right ☐ Amend Permit No. _____
- ☐ Change Acreage ☐ Change diversion point(s) ☐ Add diversion point(s)
- ☐ Add Acreage ☐ Increase diversion rate ☐ Other _____
- Name of Applicant ELKS LODGE #1187 Phone No. 393-0522
 - Post Office Address 3333 E 39th St Rapid City State SD Zip Code 57701
(Street, R.R. or Box) (City)
 - Amount of water claimed (c.f.s.) 0.66 Total acres irrigated 46
 - Source of Water supply RAPID CREEK THROUGH CYCLONE DITCH
 - Location of point of diversion SE 1/4 SE 1/4 OF SECTION 8-T1N-R8E
 - County PENNINGTON
 - Counties where water will be used PENNINGTON
 - Annual period during which water is to be used APRIL 1 - OCTOBER 31
 - 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.
<u>SEE ATTACHMENT A</u>	

Land Description	No. Acres Irr.

Attach sheet if more space is needed

8. Type of Irrigation: Gravity: X Towline: X Center Pivot: _____ Gun: _____ Other: _____ (Specify) _____
9. Crops to be Irrigated: ALFALFA
10. Give a description of proposed project. (Attach sheet if more space is needed)

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

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

I, David A. Howard, 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 David A. Howard

Subscribed and sworn to before me this 26 day of Nov. 1991

Sally Oller
Notary Public

SOUTH DAKOTA

VESTED WATER RIGHT NO. 2209-2 FOR IRRIGATION

Date of Receipt of Claim November 27, 1991.

Date of Validation September 30, 1992.

The Water Management Board validated Vested Water Right Claim No. 2209-2 for irrigation purposes for the Elks Lodge, 333 E 39th St, Rapid City SD 57701 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 2209-2 authorizes 0.66 cubic feet of water per second from Rapid Creek through Cyclone Ditch located in the SE 1/4 SE 1/4 Section 8-T1N-R8E to irrigate 46 acres located in the NE 1/4 SE 1/4, SE 1/4 NE 1/4 Section 16-T1N-R8E. These irrigated acres were originally covered under the Elks Lodge's Recognized Vested Right No. 582-2, but were left off the portion of Vested Water Right No. 582-2 that was validated on October 1, 1991.
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: April 1 - October 31.
3. The priority date of the Vested Water Right is May 25, 1881.
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.

QUALIFICATION

That Vested Right No. 2209-2 is subject to domestic use rights and senior water rights. Diversion of water under Vested Right No. 2209-2 is contingent upon supplies being available first to domestic users and senior water rights.

WATER MANAGEMENT BOARD

By: _____

John Hatch
John Hatch, Chief Engineer
Water Rights Division
Dept. of Environment and Natural Resources

MAR 16 1993

date

Attachment A

Location of Acreage all in S16-T1N-R8E	Original 582-2 Claim	Validated Portion of 582-2 Claim	Irrigated Acreage Claimed For Vested Water Right	Required For Expanded Course	Acreage Needed to be Transferred
SE1/4 SE1/4	0			10	10
NE1/4 SE1/4	25		23	10	
NW1/4 SE1/4	1			16	16
SE1/4 NE1/4	25	1	23	15	
NE1/4 NE1/4	27	20		14	
NW1/4 NE1/4	32	24		14	
SW1/4 NE1/4	22	16		19	3
SW1/4 SE1/4	0			8	8
Total	132	61	46	106	37 6

Application Statement:

The first application makes a vested right claim for an additional 46 acres of irrigated land which had been originally claimed under Water Permit No. 582-2, listed on the inspection report, but was inadvertently excluded from the water license when it was issued June 29, 1971.

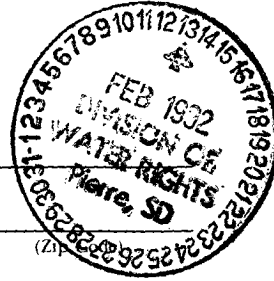
The second application is to change the location of portions of the validated acreage and acreage claimed by the vested water right claim to be included in acreage to be irrigated by the expanded golf course.

Affidavit of Water UseNo. 2209-2

(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) Rapid City Elks LodgePost Office Address 3333 E 39TH ST.

(Street, RR or Box)

(State)

(Zip)

A. Notice of Appropriation _____ Date of Posting _____

Date of recording _____ Recording date _____
Where Book PageB. Date of start of construction of water supply system 7/8/91C. Date that water was first applied to beneficial use 8/26/91D. Name of owner of original water supply system Cyclone DitchE. Amount of water originally applied to beneficial use AREA WAS NON-IRRIGATEDF. Present Use of Water - Amount of water now being used As of 12/7/91, 11,011,000 GALLONS USEDDate that this water was first used 7/8/91

G. Chronological History of Water Use BEGINNING OF WATER USE ON THIS PORTION OF PROPERTY STARTED 8/26/91. THE GALLONS USED FROM 8/26/91 TO 12/7/91 WAS 11,011,000. WE EXPECT MORE WATER TO BE USED IN THE UPCOMING YEARS BECAUSE OF GROWING CONDITIONS TO START IN APRIL. IRRIGATION SHOULD RUN APRIL TO DECEMBER.

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)
SSI, RAPID CITY ELKS LODGE # 1187

(print or type)

the applicant, certify that I have read the foregoing
and that the matters therein stated are true.

Signed

Subscribed and sworn to before me FEB. 12, 19 92Sally Oller
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.

DAVID A. HOWARD2/12 19 92

(Print name)

(Print name)

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) ELKS LODGE #1187
 Post Office Address 3333 E 39th St RAPID CITY S.D. 57701
(Street, RR or Box) (State) (Zip Code)
A. Notice of Appropriation MAY 25, 1881 Date of Posting MAY 25, 1881
 Date of recording _____ Recording date _____
Where Book Page
B. Date of start of construction of water supply system TAKEN FROM CYCLONE DITCHC. Date that water was first applied to beneficial use 1971
 D. Name of owner of original water supply system FRED JOLLEY (582-2) May 25, 1881
1971 ELKS (OWNER) HAROLD BIES (LEASED)
E. Amount of water originally applied to beneficial use 2.6 CFSF. Present Use of Water - Amount of water now being used GOLF COURSE IRRIGATION - 500 GPMDate that this water was first used MAY 25, 1881

G. Chronological History of Water Use

1968 - PROPERTY PURCHASED BY ELKS.
1971-1990 IRRIGATED ALFALFA LEASED BY HAROLD BIES
1991 - IRRIGATED GOLF COURSE

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, RAPID CITY ELKS LODGE # 1187 the applicant, certify that I have read the foregoing
(print or type)
 and that the matters therein stated are true.

Signed [Signature]Subscribed and sworn to before me March 18, 1992[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.

David A. Howard 1992
(Print name)

 _____ 19_____
(Print name)

Mark Hall
NATURAL RESOURCES ENGINEER
DIVISION of WATER RIGHTS
10/12/91

No 2209-2

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

412986

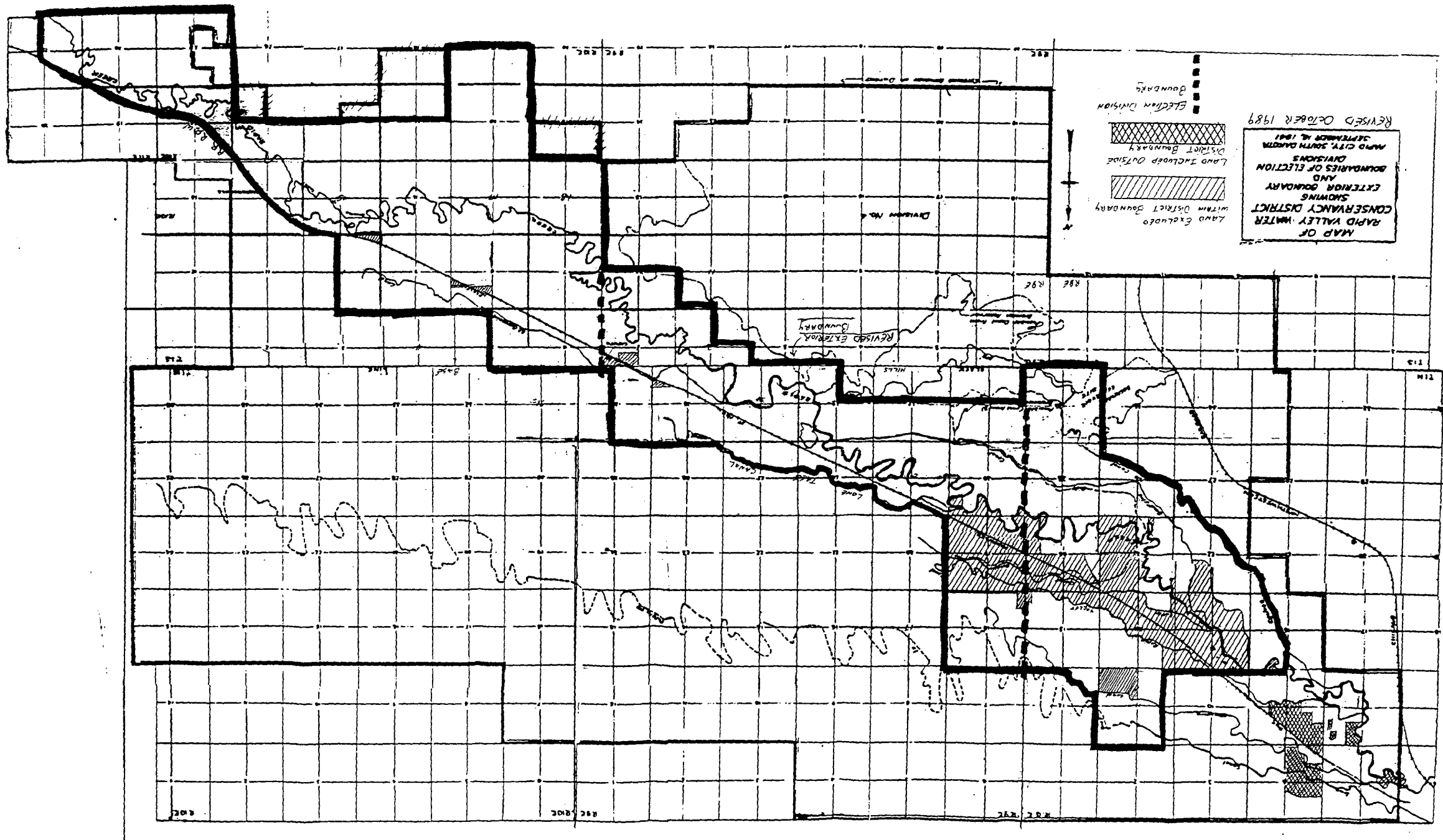
Pierre, _____, November 27, 19 91

RECEIVED OF _____ Rapid City Elks Lodge No. 1187, P.O. Box 3000, Rapid City, SD 57709

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

Fee for Application for Permit No. <u>2209-L</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 H. Hutton*
Chief Engineer





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 20, 1991

Vincent M. Seaman
Elks Lodge 1187
3333 E 39th St
Rapid City, SD 57701

Dear Mr. Seaman:

This is in regard to the application submitted to this office by Elks Lodge #1187 for a vested water right claim. Before we can continue processing the application we need to have an affidavit of water use filed with the application. I have enclosed an affidavit form for you to complete and return to this office.

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

Sincerely,

Mark D. Rath
Natural Resources Engineer II
Division of Water Rights
(605) 773-3352

Enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 13, 1992

David Howard
Elks Lodge #1187
3333 E 39th St
Rapid City, SD 57701

Dear Mr. Howard,

I am writing this letter concerning the Affidavit of Water Use you submitted concerning Vested Water Right Application No. 2209-2. There has been a misunderstanding which was my fault concerning what we need to proceed with the applications. There are two parts to your application, the vested water right portion or historical irrigation and the water permit portion for the addition to the golf course. The affidavit of water use that we need submitted deals with the irrigation of the land in the SE1/4 NE1/4 and NE1/4 SE1/4 of Section 16-T1N-R8E prior to the addition of the back nine holes. We have some record of irrigation on this property until 1971, but have no record for the twenty plus years since. If you would submit a new affidavit covering the irrigation of the property during this time frame, we will be able to proceed with the application process.

I am enclosing an affidavit form and a copy of the application and map concerning vested water right claim portion of your application. If you have any questions, feel free to contact me.

Sincerely,

Mark D. Rath
Natural Resources Engineer
Division of Water Rights
(605) 773-3352

Enclosures

Report on Vested Water Right Claim No. 2209-2
And Water Permit Application No. 2210-2
Elks Lodge #1187
April 27, 1992

Elks Lodge #1187, Rapid City, SD has filed Vested Water Right Claim No. 2209-2 for irrigation of 46 acres of hayland located in the NE1/4 SE1/4 and SE1/4 NE1/4 of Section 16, T1N-R8E with a diversion rate of 0.66 cubic feet of water per second (cfs). Irrigation from Cyclone Ditch was originally authorized by Recognized Vested Water Right Claim No. 582-2 for 132 acres, a diversion rate of 1.88 cfs and a priority date of May 25, 1881. The diversion point on Rapid Creek for Cyclone Ditch is located in the SE1/4 of Section 8 T1N-R8E in Pennington County.

Vested Water Right Claim No. 582-2 was inspected on April 29, 1971. The Report of Examination of Works listed 61 acres of the Elks Valley Hi Golf Course located in the NE1/4 of Section 16 as being irrigated. The report also stated that 75 acres located in the E1/4 of Section 16 were irrigated. Water License No. 582-2 was issued on June 29, 1971 for irrigation of 61 acres of the golf course with a diversion rate of 0.87 cfs. The irrigation of the 75 acres of hayland was left off the water license. A May 21, 1971 letter from J.W. Grimes, Executive Officer, Water Resources Commission, to the Chairman of the Elks Lodge stated the 75 acres would be assumed to be included in a later water right application. This was never followed up until this application which claims irrigation of 46 acres originally authorized by Recognized Vested Water Right Claim No. 582-2. This is separate from the 61 acres of land irrigated at the golf course and authorized by Validated Vested Water Right No. 582-2. The Affidavit of Water Use submitted with this application claims that irrigation has been performed on 46 acres of hayland since the 1971 inspection. Vested Water Right Claim No. 582-2 was validated by the Water Management Board on October 1, 1991 for 0.87 cfs and the irrigation of 61 acres.

Water Permit Application No. 2210-2, requests a change in acreage for irrigation authorized by Vested Water Right No. 582-2 and claimed by Vested Water Right Application No. 2209-2 for irrigation of the expanded Elks Valley Hi Golf Course. The golf course was expanded from 9 to 18 holes in 1991. No additional water is requested beyond the water authorized by Vested Water Right No. 582-2 and claimed under Vested Water Right Application No. 2209-2. Table 1 lists the location of irrigated acreage associated with the Elks Valley Hi Golf Course.

Table 1. Irrigated Acreage Associated with Golf Course

Location of Acreage All In S16-T1N-R8E	Recognized Vested Water Right No. 582-2	Validated Water Right No. 582-2 Acreage	Acreage For Vested Water Right Claim No. 2209-2	Acreage Required For Golf Course
SE1/4 SE1/4	0			10
NE1/4 SE1/4	25		23	10
NW1/4 SE1/4	1			16
SE1/4 NE1/4	25	1	23	15
NE1/4 NE1/4	27	20		14
NW1/4 NE1/4	32	24		14
SW1/4 NE1/4	22	16		19
SW1/4 SE1/4	0			8
Total	132	61	46	106

The total acreage irrigated by the golf course is 106 acres. This is less acres than was originally authorized by Recognized Vested Water Right Claim No. 582-2. The allowable diversion rate for irrigating 106 acres is 1.51 cfs.

Review of Existing Water Rights

Water for the vested water right claim and the proposed transfer is from Rapid Creek through Cyclone Ditch. The priority date claimed by this proposal is May 25, 1881. This priority date is senior to the Cyclone Ditch Company's water right.

There are 64 existing water rights/permits appropriating 255.61 cfs from Rapid Creek between Pactola Reservoir and the confluence with the Cheyenne River. Of these, 12 water rights appropriating 51.97 cfs have priority dates senior to this claim, with 3 senior water rights appropriating 31.40 cfs located downstream from the Cyclone Ditch diversion point.

Conclusions

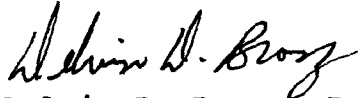
1. Vested Water Right Claim No. 2209-2 requests validation for irrigation of 46 acres and a diversion rate of 0.66 cfs.
2. Application No. 2210-2 requests a change of acreage for irrigation covered under Vested Water Right No. 582-2 and Vested Water Right Claim No. 2209-2 for the golf course.
3. The claimed priority date is May 25, 1881.

4. The total acreage and diversion rate associated with the golf course is 106 acres and 1.51 cfs.



Mark D. Rath
Natural Resources Engineer II

Approved by,



Delvin D. Brosz, P.E.
Natural Resources Engineer IV

SUMMARY OF ELKS VALLEY HI'S WATER RIGHTS

Vested Water Right No. 578-2 set a priority of May 25, 1881 to divert 2 cfs from Rapid Creek to irrigate 134.31 acres located in the NE1/4 SE1/4 and NE1/4 of Section 16 T1N-R8E. The priority was decreed for the described land by the 7th Judicial Circuit Court on August 17, 1900.

Water Right No. 580-2, priority date February 15, 1960, approved the construction of two reservoirs to be filled from Cyclone Ditch during the non-irrigation season and to be used as a standby source of water.

Water Right No. 582-2 proposed to change the location of the irrigated acreage authorized by Vested Water Right No. 578-2. The priority date of May 25, 1881 was retained for this water right. The acreage was reduced from 134.31 acres to 131.88 acres and the diversion rate was reduced from 2.00 cfs to 1.88 cfs.

On April 29, 1971, Donald Driscoll made an inspection of these water permits. At that time he found 61 acres located in the NE1/4 of Section 16 T1N-R8E irrigated for the golf course. He also found 75 leased acres located in the NE1/4 SE1/4 in Section 16 irrigated from Cyclone Ditch separate from the golf course. At that time Water License No. 582-2 was issued for the irrigation of the 61 acres in the NE1/4 of Section 16, a diversion rate of 0.87 cfs and the storage of 8.5 acre feet. He found that 27 acres of the 75 acres of leased irrigated land was not authorized by any existing water right. Because of this it was expected that the Elks Lodge would submit a new application to cover this, the 48 of the 75 irrigated acres authorized by Water Permit No. 582-2 were not included on the issued Water License No. 582-2.

Table 1. Irrigated Acreage Associated with Golf Course

Location of Acreage All In S16-T1N-R8E	Original Vested Water Right No. 578-2	Recognized Vested Water Right No. 582-2	Validated Water Right No. 582-2 Acreage	Acreage For Vested Water Right Claim No. 2209-2
SE1/4 SE1/4	0.00	0.00		
NE1/4 SE1/4	33.48	25.40		23
NW1/4 SE1/4	0.00	0.69		
SE1/4 NE1/4	40.00	24.62	1	23
NE1/4 NE1/4	29.39	27.04	20	
NW1/4 NE1/4	25.06	31.82	24	
SW1/4 NE1/4	6.38	22.31	16	
SW1/4 SE1/4	0.00	0.00		
Total	134.31	131.88	61	46

RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED WATER

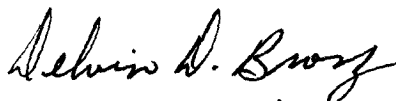
RIGHT APPLICATION NO. 2209-2, Elks Lodge #1187

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Environment and Natural Resources concerning Validation of Vested Water Right Application No. 2209-2, Elks Lodge #1187, c/o David Howard, 3333 East 39th Street, Rapid City, SD 57701.

The Chief Engineer is recommending VALIDATION of Application No. 2209-2 for 0.66 cfs because 1) water has been appropriated as described for irrigation use with a priority date of May 25, 1881, 2) the use has been developed without unlawful impairment of existing rights, 3) the use is a beneficial use and 4) it is in the public interest with the following qualification:

That Vested Right No. 2209-2 is subject to domestic use rights and senior water rights. Diversion of water under Vested Right No. 2209-2 is contingent upon supplies being available first to domestic users and senior rights.

See report on application for additional information.

for 
JOHN HATCH, Chief Engineer
May 15, 1992



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

May 26, 1992

David A Howard
Elks Lodge #1187
3333 E 39th St
Rapid City, SD 57701

Dear Mr. Howard:

Your Application No. 2209-2 for a vested water right claim and Water Permit Application No. 2210-2 for irrigation use have been examined and found to comply with the South Dakota Water Laws and applicable rules. Notices of your claims have been sent to the Publisher of the Rapid City Journal printed at Rapid City, SD (Ph # 394-8300). For your information, copies of the notices, recommendations of the Chief Engineer and a report on the applications are enclosed. Please review the notices and notify this office, if you have any corrections or questions.

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

Sincerely,

Eric Gronlund /KS

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendations, you must file a petition pursuant to the procedures outlined in the attached notices of hearing. The Water Management Board will then consider your concerns during a hearing on the applications.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 26, 1992

Rapid City Journal
PO Box 450
Rapid City, SD 57709

ATTN: Legal Publications:

Enclosed are Notices of Hearing to Validate Vested Right Application No. 2209-2 and Water Permit Application No. 2210-2 to be published twice. Please publish the notices on June 3, 1992, with the second publication 7 days later.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICES ARE TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publications. The APPLICANT is the Elks Lodge #1187, 3333 E 39th Street, Rapid City, SD 57701 (Ph # 393-0522).

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 notices and cause the applicant costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication forms. DO NOT WAIT until the end of the month or the billing cycle. The permit applications cannot be considered until proof of publication has been received.

Sincerely,

Eric Gronlund/KCS

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

Instruction to Newspaper - Publish first Notice on June 3, 1992, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING To Validate
Vested Water Right Application No. 2209-2 to Appropriate Water

Notice is given that the Elks Lodge, 3333 E 39th Street, Rapid City, SD 57701 has filed an application to validate a vested water right claim to appropriate 0.66 cubic feet of water per second (cfs) from Rapid Creek through Cyclone Ditch located in the SE 1/4 SE 1/4 Section 8-T1N-R8E to irrigate 46 acres located in the NE 1/4 SE 1/4, SE 1/4 NE 1/4 Section 16-T1N-R8E. These irrigated acres were originally covered under the Elks Lodge's Recognized Vested Right No. 582-2, but were left off the portion of Vested Water Right No. 582-2 that was validated on October 1, 1991.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 2209-2 for 0.66 cfs because 1) water has been appropriated as described for irrigation with a priority date of May 25, 1881, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) it is in the public interest. Unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Water Management Board will NOT CONDUCT a HEARING to consider this application and the chief engineer will issue the vested water right as recommended. Petitions filed in support of the application will NOT require the Board to hear the application.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by June 22, 1992. 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 the petitioner's legal counsel, if legal counsel is obtained.

For purposes of publishing 1) the notice of hearing on Application No. 2209-2 and 2) the chief engineer's recommendation, a meeting at the Division of Water Rights office to hear this application is scheduled for June 30, 1992, at 9:00 am in Room 413, Joe Foss Building, 523 E Capitol, Pierre SD. If this application is opposed or the recommendation is contested, the June 30, 1992, hearing date will be rescheduled for a regularly scheduled Board meeting. Notice of the time and place of the rescheduled hearing before the Board will be given by First Class Mail to the applicant and persons filing petitions. Anyone not filing a petition, but interested in attending the hearing, may contact the Division of Water Rights to confirm a hearing date and location. The June 30, 1992, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by June 22, 1992.

If a hearing is held, the Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve the 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 hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. 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. Contact the Water Rights Division to request copies of information pertaining to this application or to assure access to the hearing by the handicapped.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 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; 74:02:01:19 thru 74:02:01:22.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Pennington) ss.

I, Helena M. Bauer

certify that the attached printed Notice was taken
from the Rapid City Journal

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

City _____ of Rapid City

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

June 3, 1992

June 10, 1992

Helena M. Bauer

(Signature)

Bookkeeper

(Title)

June 10, 1992

(Date Signed)

Cost of Printing: 12 5/16 inch legal adv run 2 times

@ 4.90 per inch \$120.66



June 3, 10 L1204

**NOTICE OF HEARING
TO VALIDATE VESTED WATER
RIGHT APPLICATION NO. 2209-2
TO APPROPRIATE WATER**

Notice is given that the Eiks Lodge, 3333 E. 29th Street, Rapid City, SD 57701 has filed an application to validate a vested water right claim to appropriate 0.66 cubic feet of water per second (cfs) from Rapid Creek through Cyclone Ditch located in the SE1/4 SE1/4 Section 8-T1N-R8E to irrigate 46 acres located in the NE1/4 SE1/4 NE1/4 Section 16-T1N-R8E. These irrigated acres were originally covered under the Eiks Lodge's Recognized Vested Right No. 582-2, but were left off the portion of Vested Water Right No. 582-2 that was validated on October 1, 1991.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Rights Application No. 2209-2 for 0.66 cfs because 1) water has been appropriated as described for irrigation with a priority date of May 25, 1881, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) it is in the public interest. Unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Water Management Board will NOT CONDUCT a HEARING to consider this application and the chief engineer will issue the vested water right as recommended. Petitions filed in support of the application will NOT require the Board to hear the application.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E. Capitol, Pierre, SD 57501 (605-773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by June 22, 1992. 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 the petitioner's legal counsel, if legal counsel is obtained.

For purposes of publishing 1) the notice of hearing on Application No. 2209-2 and 2) the chief engineer's recommendation, a meeting at the Division of Water Rights office to hear this application is scheduled for June 30, 1992, at 9:00 a.m. in Room 413, Joe Foss Building, 523 E. Capitol, Pierre, S.D. If this application is opposed or the recommendation is contested, the June 30, 1992, hearing date will be rescheduled for a regularly scheduled Board meeting. Notice of the time and place of the rescheduled hearing before the Board will be given by First Class Mail to the applicant and persons filing petitions. Anyone not filing a petition, but interested in attending the hearing, may contact the Division of Water Rights to confirm a hearing date and location. The June 30, 1992, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by June 22, 1992.

If a hearing is held, 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 hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. 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. Contact the Water Rights Division to request copies of information pertaining to this application or to assure access to the hearing by the handicapped.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3, 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; 74:02:01:19 thru 74:02:01:22.



JUNE 21, 1992

CHIEF ENGINEER
WATER RIGHTS DIVISION
FOSS BUILDING
523 E. CAPITOL
PIERRE, SD. 57501

DEAR SIR:

WE WISH TO FILE A PROTEST OF THE APPLICATION OF ELKS LODGE 1187 FOR VALIDATION OF WATER RIGHT NUMBER 2209-2. WE BELIEVE THAT THIS WOULD VALIDATE A WATER RIGHT ON LANDS THAT ARE NOT ENTITLED TO A 1881 PRIORITY DATE, BUT SHOULD BE A PART OF THE CYCLONE DITCH CO. WATER RIGHT PRIORITY 1887 AND THAT THIS ACTION WOULD IMPAIR EXISTING WATER RIGHTS WITH PRIORITIES BETWEEN 1881 AND 1887.

TO ASSIST US IN OUR RESEARCH OF THIS MATTER, WE REQUEST THAT THE WATER RIGHTS DIVISION PROVIDE US WITH COPIES OF ALL PREVIOUS WATER RIGHT APPLICATIONS FOR THE JOLLEY RIGHT AND CYCLONE RIGHTS. ALSO WE WOULD LIKE COPIES OF DOCUMENTS PERTAINING TO CHANGES OF THE JOLLEY RIGHT OF 1.9 CFS WITH AN 1879 PRIORITY AS LISTED IN A PRIORITY LIST DATED 1970 TO A RIGHT OF 0.87 CFS WITH AN 1881 PRIORITY.

IF WE FIND THAT WE ARE IN ERROR IN THIS MATTER, WE WILL IMMEDIATELY WITHDRAW OUR OBJECTION.

SINCERELY,

Jerry Marsh

JERRY MARSH
MARSH HEREFORD RANCH
HCR 36 BOX 35
CAPUTA, SD 57725

cc. ELKS LODGE #1187



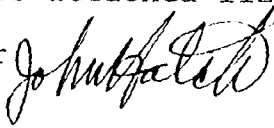
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

June 25, 1992

NOTICE

TO: David A. Howard
Elks Lodge #1187
3333 East 39th Street
Rapid City, SD 57701
and Parties of Record (see attached list)

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

SUBJECT: Rescheduling of Hearings for Vested Right Application No.
2209-2 and Water Permit Application No. 2210-2, Elks
Lodge #1187

Petitions in opposition to Vested Right Application No. 2209-2 have been filed by Jerry Hammerquist, President of the Rapid Valley Water Conservancy District and Jerry Marsh. The petitions protest the May 25, 1881 priority date claimed by Application No. 2209-2. The meeting at the Division of Water Rights office to hear this application will no longer be held on June 30, 1992. A copy of the petitions are enclosed.

The petitions do not oppose Water Permit Application No. 2210-2. However, Application No. 2210-2 is contingent on validation of Vested Right Application No. 2209-2. For this reason, the meeting at the Division of Water Rights office to hear Application No. 2210-2 will also not be held on June 30, 1992.

A hearing on Application Nos. 2209-2 and 2210-2 will be scheduled for the September 30, 1992 and October 1, 1992 Water Management Board meeting to be held in Pierre. Future notice of the time, date and location of the hearing to be held by the Water Management Board will be provided to all parties of record.

If you have any questions regarding these application or future scheduling before the Water Management Board, please contact Eric Gronlund at 773-3352.

cc: Diane Best, Assistant Attorney General

enclosure

PARTIES OF RECORD

WATER PERMIT APPLICATION NO. 2209-2

Applicant

David A. Howard
Elks Lodge #1187
3333 E 39th Street
Rapid City, SD 57701

Petition of Opposition

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

Jerry Marsh
Marsh Hereford Ranch
HCR 36, Box 35
Caputa, SD 57725

CERTIFICATION

I hereby certify that on June 25, 1992, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated June 25, 1992, regarding Rescheduling of Hearings for Vested Right Application No. 2209-2 and Water Permit Application No. 2210-2, Elks Lodge #1187 addressed as stated below:

David A. Howard, Elks Lodge #1187, 3333 East 39th Street, Rapid City,
SD 57701.

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

Jerry Marsh, Marsh Hereford Ranch, HCR 36, Box 35, Caputa, SD 57725.

Copy Sent Inter-office To:

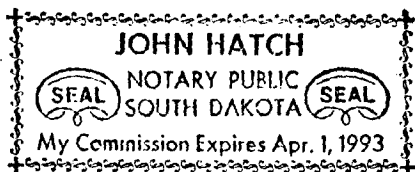
Diane Best, Assistant Attorney General, Capitol Building.

Charles F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 26th day of June, 1992.



John Batist
Notary Public



June 26, 1992

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Jerry Marsh
Marsh Hereford Ranch
HCR 36 Box 35
Caputa, SD 57725

Dear Mr. Marsh:

I am writing this in answer to your letter requesting information on water rights for Cyclone Ditch and the Elks Lodge #1187, previously Jolley Acres Country Club Inc. Enclosed are copies of both the active and cancelled water right files for Cyclone Ditch and the Elks Lodge.

Water Right No. 582-2 incorporated the appropriate portions of Water Right No. 578-2 and Water Permit No. 580-2. The file for cancelled Water Right No. 578-2 contains a copy of the court transcript which was used as evidence for setting the priority date for the vested water right.

If you have any questions, please contact Mark Rath of the Division of Water Rights, 523 East Capitol, Pierre, SD 57501. Phone (605) 773-3352.

Very Truly Yours,

Delvin D. Brosz, P.E.
Natural Resources Engineer
for John Hatch, Chief Engineer
Division of Water Rights

cc: Elks Lodge #1187
enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 7, 1992

NOTICE

TO: David A. Howard
Elks Lodge #1187
3333 East 39th Street
Rapid City, SD 57701
and Parties of Record (see attached list)

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

SUBJECT: Rescheduling of Hearings for Vested Right Application No.
2209-2 and Water Permit Application No. 2210-2, Elks
Lodge #1187

The Water Management Board will consider Vested Right Application No. 2209-2 and Water Permit Application No. 2210-2 on September 30, 1992 at 10:00 am in the Conference Room, Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave., Pierre, SD 57501. The agenda time is an estimate. The actual time of the hearing may be later than 10:00 am due to prior agenda items. Applicable provisions of the Notice of Hearing published June 3 and 10, 1992 in the Rapid City Journal will still apply at this hearing.

This hearing is an adversary proceeding. Any party has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Contact Eric Gronlund by September 18, 1992 at 773-3352 to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

cc: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on August 7, 1992, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated August 7, 1992, regarding Rescheduling of Hearings for Vested Right Application No. 2209-2 and Water Permit Application No. 2210-2, Elks Lodge #1187, along with a copy of the Parties of Record addressed as stated below and on the attached list:

Copy Sent Inter-office To:

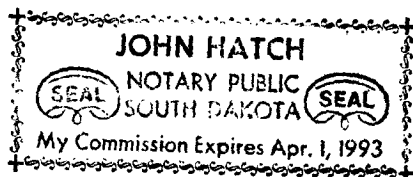
Diane Best, Assistant Attorney General, Capitol Building.

Cheryl H. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 11th day of August, 1992.



John Hatch
Notary Public

Sept 3, 1992

Department of Environment & Natural Resources
John S. B. Building
525 East Capitol
Pierre, S.D. 57501-5181



Dear John Hallen,

The Upper Valley Water Conservancy District
would like to withdraw its objection to the
Culpe Club Transfer. We don't feel that there
is a problem.

Very Respectfully,
Garry Hornum, President



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 10, 1992

David Howard
Elks Lodge #1187
3333 E 39th Street
Rapid City, SD 57701

RE: Elks Lodge's Vested Water Right Application No. 2209-2

Dear Mr. Howard:

I have enclosed a copy of the letter from the Rapid Valley Water Conservancy District withdrawing their objection to the Elks Lodge's vested water right claim. A petition of opposition to this application was also submitted by Jerry Marsh and this petition has not at this date been rescinded. The Water Management Board hearing to consider Application No. 2209-2 is still scheduled for 10:00 am in the Conference Room, Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Ave., Pierre, SD.

If any further development occur in regards to the Lodge's application, I will contact you immediately. Please feel free to contact Mark Rath or myself if you have any questions.

Sincerely,

Eric Gronlund
Eric Gronlund
Water Rights Division
605 773-3352

enclosure



SEPTEMBER 25, 1992

CHEIF ENGINEER
WATER RIGHTS DIVISION
FOSS BUILDING
523 E. CAPITOL
PIERRE, S.D. 57501

DEAR SIR:

WE WISH TO INFORM YOU THAT MARSH HEREFORD RANCH, CAPUTA, S.D. IS WITHDRAWING ITS OBJECTION TO THE APPLICATION OF ELKS LODGE 1187 FOR VALIDATION OF WATER RIGHT NUMBER 2209-2. OUR RESEARCH INDICATES THAT THE WATER RIGHT OF ELKS LODGE 1187 WAS ESTABLISHED AS 100 MINERS INCHES (2.0 CUBIC FEET PER SECOND) WITH A PROIRITY DATE OF MAY 25, 1881 IN THE NAME OF JOSEPH JOLLEY BY COURT DECREE. WE HAVE NO OBJECTION TO THIS AMOUNT OF WATER WITH THIS PRIORITY BEING VALIDATED FOR ELKS LODGE 1187.

SINCERELY,

JERRY MARSH
MARSH HEREFORD RANCH
HCR 36 BVOX 35
CAPUTA, S.D. 57725

cc: ELKS LODGE #1187



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

MAR 1 6 1993

David A. Howard
Elks Lodge #1187
3333 East 39th Street
Rapid City, SD 57701

Dear Mr. Howard:

Enclosed are Validated Vested Water Right Nos. 582-2 and 2209-2, and Water Permit No. 2210-2. 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,

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

Enclosures



October 1, 2002

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Ray Elliott
2655 S Valley
Rapid City, SD 57703

Dear Mr. Elliott:

This letter is in regards to our September 30, 2002, telephone conversation about the Elks golf course and nearby developments. I am enclosing copies of the water right files for the Elks Lodge that you requested.

Since talking to you, I have been in contact with our attorney, Diane Best, from the Attorney Generals Office. I discussed some of the issues that you brought up concerning the 1991 validation of Vested Water Right No. 2209-2. Ms. Best was interested in what Leslie England's legal analysis on the matter is. If this is an issue you wish to pursue, you may want to have your attorney contact Ms. Best at (605-773-3215) so they can discuss his analysis.

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

Sincerely,

Mark D. Rath
Natural Resources Engineering Specialist
Water Rights Program

enclosures



**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 3, 2006

1736-2

582-2

2209-2

2210-2

Andrea Anderson
Cyclone Ditch
4555 Reservoir Road
Rapid City, SD 57703

Dear Ms. Anderson:

I am writing this letter is in reference to your request allowing diversion into Cyclone prior to the irrigation season. I checked Water Right No. 1736-2 and the annual use period for Cyclone Ditch is April 1 through October 31.

I also check the annual use period for the Elks Club water permits/rights Nos. 582-2, 2209-2 and 2210-2. The annual use period for all three is April 1 through October 31, the same as the Cyclone Ditch annual use period. Diversions into Cyclone Ditch are allowed at this time as authorized by these water rights/permits.

If you have any questions, please contact me at the Water Rights Program at phone (605) 773-3352.

Sincerely,

Mark D Rath,
Natural Resources Engineering Specialist



March 20, 2007

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

1736-2

582-2

2209-2

2210-2

Andrea Anderson
Cyclone Ditch
4555 Reservoir Road
Rapid City, SD 57703

Dear Ms. Anderson:

I am writing this letter in reference to your March 20, 2007 telephone request allowing diversion into Cyclone Ditch prior to the irrigation season. Flow today in Rapid Creek at the USGS gaging station at Rapid City is 24 cfs.

The Water Rights Program will grant your request to immediately begin diverting into Cyclone ditch under the Cyclone Ditch's Water Right No. 1736-2 and the Elks Club water permits/rights Nos. 582-2, 2209-2 and 2210-2.

If you have any questions, please contact me at the Water Rights Program at phone (605) 773-3352.

Sincerely,

Mark D Rath,
Natural Resources Engineering Specialist