

WATER PERMIT NO. VR 2278-2

Phone: 255-4270

Name of Applicant: Richard Rausch

Post Office Address: HCR 89, Box 257, Hermosa SD 57744

Amount of Water Claimed: 1.30 cfs - 8 AF Total Acres: 91

Source of Water Supply: dry draw

Water to be used for: water spreading County: Custer

About 12 miles east of Hermosa

PRIORITY Date Received: 3-29-93 Fee: \$15 Remarks: Priority date
of November 29, 1949

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

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

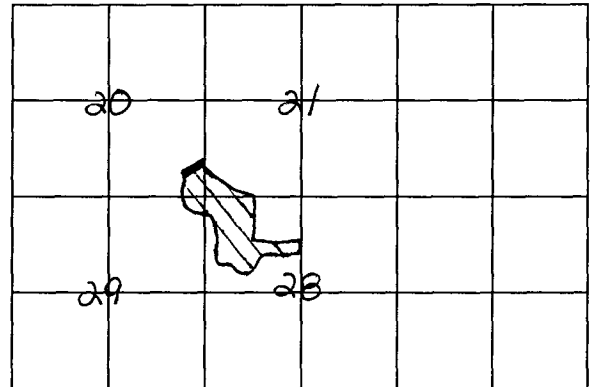
WI-1 Description same as Application YES _____ NO _____ REMARKS: _____

Diversion Point: SE 1/4 SE 1/4 Sec 20-T2S-R10E

Land to be Irrigated: SE 1/4 SE 1/4 Sec 20,

SW 1/4 SW 1/4 Sec 21, NE 1/4 NE 1/4 Sec 29;

W 1/2 NW 1/4, SE 1/4 NW 1/4 Sec 28; T2S-R10E



Well Log: Driller: _____ Licensed YES _____ NO _____

Depth of Well: _____ REMARKS: _____

Type of Map: aerial PREPARED BY: Tim Schaal Reviewed and the Number

Assigned on: 3-29-93 By: Karen Schlaak

STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 2278-2 FOR IRRIGATION

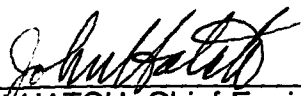
(1) Richard Rausch of HCR 89 Box 257, Hermosa, SD 57744, made Application No. 2278-2, March 29, 1993 for validation of a vested right claim to appropriate 1.30 cubic feet of water per second from a dry draw storage dam, Custer County South Dakota, for irrigation purposes. Vested Water Right No. 2278-2 was validated May 5, 1993 with a priority date of November 29, 1949. Construction of the described water supply system and application of water to beneficial use has been completed and complies with applicable provisions of South Dakota State Law.

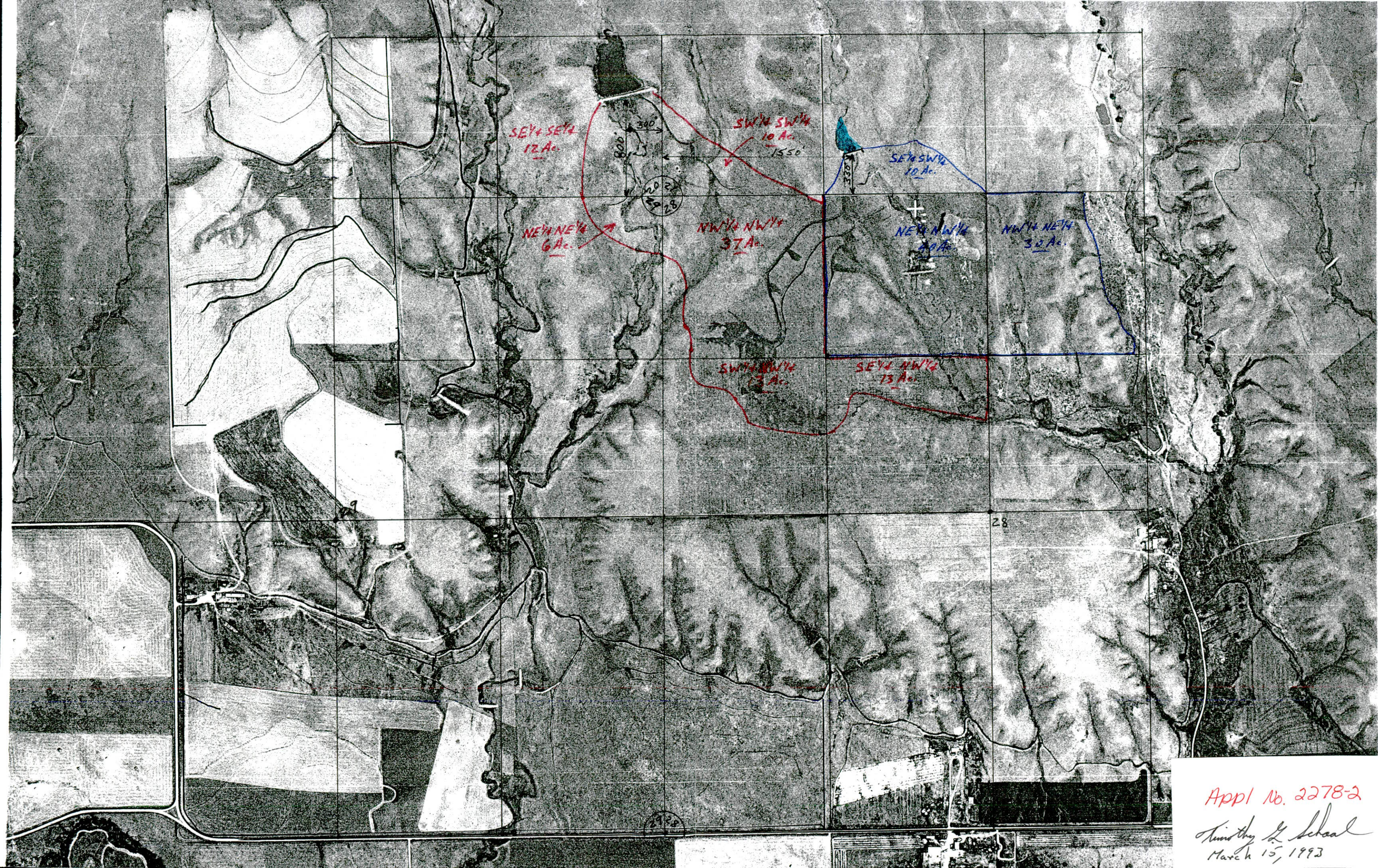
(2) The vested right owner is entitled to divert 1.30 cubic feet of water per second for beneficial use. The location of the diversion point is: 800 feet north and 300 feet west of the SE corner of Section 20, T2S, R10E (SE 1/4 SE 1/4). The storage dam is capable of storing 8 acre feet of water.

The location of the irrigated acreage is:

T2S, R10E	Section 20	SE 1/4 SE 1/4	12 acres
	Section 21	SW 1/4 SW 1/4	10 acres
	Section 28	NW 1/4 NW 1/4	37 acres
		SW 1/4 NW 1/4	13 acres
		SE 1/4 NW 1/4	13 acres
	Section 29	NE 1/4 NE 1/4	6 acres
		Total	91 acres

(3) Pursuant to Section 46-5-30.1 Richard Rausch of HCR 89 Box 257, Hermosa, SD 57744 the holder and/or owner of Vested Water Right No. 2278-2 is issued a license to appropriate 1.30 cubic feet of water per second from a dry draw storage dam (storage capacity of 8 acre feet) with a priority date of November 29, 1949 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. 2278-2 and subject to South Dakota State Law.


JUN 11 1993
JOHN HATCH, Chief Engineer
Water Rights Division
Department of Environment and Natural Resources



Appl No. 2278-2
Timothy L. Schaaf
March 15, 1993

SOUTH DAKOTA

VESTED WATER RIGHT NO. 2278-2 FOR IRRIGATION

Date of Receipt of Claim March 29, 1993.

Date of Validation May 5, 1993.

The Chief Engineer, on behalf of the Water Management Board validated Vested Water Right Claim No. 2278-2 for irrigation purposes for Richard Rausch, HCR 89, Box 257, Hermosa SD 57744 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 2278-2 appropriates 1.30 cubic feet of water per second (cfs) from a dam (8 acre-feet storage capacity) along a dry draw located in the SE 1/4 SE 1/4 Section 20-T2S-R10E for irrigation via a water spreading system of 91 acres located in the SE 1/4 SE 1/4 Section 20; SW 1/4 SW 1/4 Section 21; NE 1/4 NE 1/4 Section 29; W 1/2 NW 1/4, SE 1/4 NW 1/4 Section 28; all in T2S-R10E. The applicable portions of Location Notice No. 1411-2 were incorporated into Vested Right No. 2278-2 with the abandoned portions of Location Notice No. 1411-2 cancelled.
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 November 29, 1949.
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 must not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

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

JUN 11 1993
date

FORM 2: Application for irrigation in South Dakota

(type or print)



Mail to:
Water Rights Division
Joe Foss Building
523 E Capitol
Pierre SD 57501-3181
605 773-3352

No. 227B-2 Hydrologic Unit 10120109
Basin Upper Cheyenne
Newspaper Custer Co. Chronicle, Box 551 57730
Rapid City Journal, PO Box 450 (office use only)
57709

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

Type of Application: New X Vested Right Amendment/Correction to Permit No.
(check one) (Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. acreage change, change diversion point(s), add diversion point(s), etc.)

- Name of Applicant Richard Rausch Phone 255-4270
(check one) X Owner Tenant/lessee
Mailing Address HCR 89, Box 257 Hermosa State SD 57744
(Street, RR, or Box) (City) (Zip Code)
- Amount of water claimed 1.30 *CFS or **GPM 8 ***AF Total Acreage 91
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout if applicable)
- Source of water supply Dry Draw
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) 800 ft. North and
300 ft. West of the SE corner of Section 20-T2S-R10E (SE1/4 SE1/4)
 County Custer
- County or counties where water will be used Custer
- Annual period during which water is to be used January 1 thru December 31
- List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
SE1/4 SE1/4 Sec. 20-T2S-R10E	12	NW1/4 NW1/4 Sec. 28-T2S-R10E	37
SW1/4 SW1/4 Sec. 21-T2S-R10E	10	SW1/4 NW1/4 " "	13
NE1/4 NE1/4 Sec. 29-T2S-R10E	6	SE1/4 NW1/4 " "	13

- Type of Irrigation: Gravity: X Towline: Center Pivot: Gun: Other (Specify):
- Crops to be irrigated: Pasture, Hay Land, Small Grain
- Give a description of the project. (Attach sheet if more space is needed)
Water spreading system constructed by Sam Wedmore, Location Notice No. 1411-2
filed on November 29, 1949.

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

STATE OF SOUTH DAKOTA)

County of CUSTER)^{SS}

I, RICHARD RAUSCH, 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 representative of the water to be used, and that the matters stated in this application are true and correct.

Signed Richard Rausch

Subscribed and sworn to before me this 23 day of March 19 93

Sylvia L. Robertson

Notary Public

My Commission 7-26-94

Supplemental Information

(type or print in ink)



1. Well Information - Proposed Construction

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

2. Dugout Information

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

3. Water Storage Dams

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

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

b) Freeboard _____ 4 ft. _____

c) Crest Width _____ 12 ft. _____

Crest Length _____ 300 ft. _____

d) Height _____ 12 ft. _____

e) Primary Outlet Capacity _____

If pipe, diameter _____

f) Secondary Spillway Capacity _____

Spillway Width _____

g) X & Y Slope

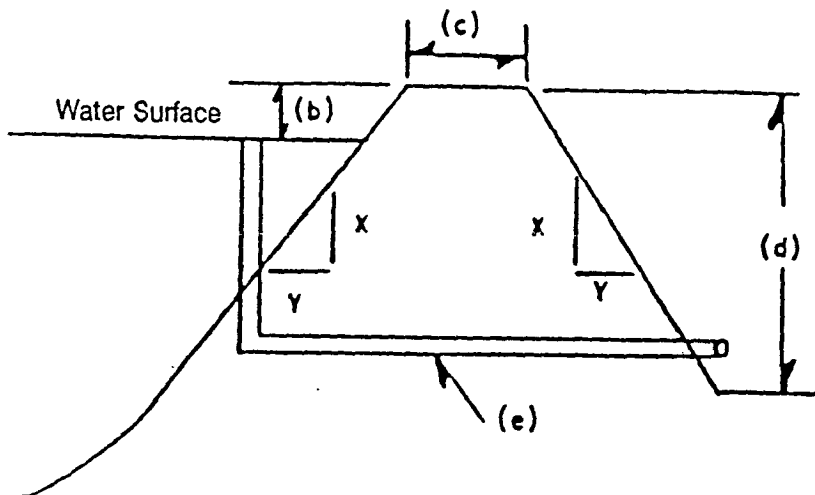
Upstream _____ 1 : 2 _____

Downstream _____ 1 : 2 _____

h) Surface Area of Impoundment _____ 3 acres _____

i) Storage _____ 8 _____ Acre Feet

j) Drainage Area above Dam _____ 200 _____ Acres



Affidavit of Water Use

No. _____

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) Richard Rausch
Mailing Address HCR 89, Box 257 Hermosa SD 57744
(Street, RR or Box) (City) (State) (Zip Code)

- A. Notice of Appropriation _____ Date of Posting _____
Date of Recording _____ Recording Date _____
B. Date of start of construction of water supply system _____
C. Date that water was first applied to beneficial use November 29, 1949
D. Name of owner of original water supply system Sam Wedmore
E. Amount of water originally applied to beneficial use _____
F. Present use of water - amount of water now being used 1.30 cfs
Date that this water was first used November 29, 1949

G. Chronological History of Water Use
Dry Draw Location Notice No. 1411-2 was filed by Sam Wedmore on November 29, 1949.
This is a water spreading irrigation system that has been used since then whenever runoff conditions allow.

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 CUSTER)
SS

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

Signed Richard Rausch
Subscribed and sworn to before me 23rd March, 1993
My Commission Expires 7-26-94 Dale E. Robertson
Notary Public

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.

RICHARD RAUSCH, 1993
(Print name)
_____, 19____
(Print name)

RECEIPT

413703

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____ March 29, 19 93

RECEIVED OF Richard Rausch, HC 89 Box 257, Hermosa SD 57744

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

Fee for Application for Permit No. <u>2278-2</u> to Appropriate Water, to construct 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 _____		

(Any Other Work Provided by Law)	Total	15 00

By John Blatch
Chief Engineer

REPORT ON
VESTED RIGHT CLAIM NO. 2278-2
RICHARD RAUSCH
March 29, 1993

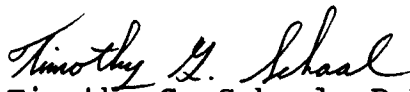
Vested Water Right Claim No. 2278-2 has been filed by Richard Rausch to appropriate 1.30 cubic feet of water per second from a dry draw to irrigate 91 acres. The project is a water spreading irrigation system out of a dry draw dam. The irrigation is located in the SE 1/4 SE 1/4 Section 20, SW 1/4 SW 1/4 Section 21, NE 1/4 NE 1/4 Section 29, NW 1/4 NW 1/4 and the S 1/2 NW 1/4 of Section 28, all in T2S-R10E. The dry draw dam is located in the SE 1/4 SE 1/4 of Section 20-T2S-R10E and stores 8 acre-feet of water

This water spreading system was constructed by Sam Wedmore and corresponds to Location Notice 1411-2, which was filed on November 29, 1949.

Vested Right Claim No. 2278-2 is adjacent to a water spreading system covered by Vested Right Claim No. 493-2, which is owned by Richard Rausch and Marion Maude. Vested Right Claim No. 493-2 was also constructed by Sam Wedmore, and corresponds to Location Notice No. 1427-2, which was filed on November 29, 1949.

CONCLUSIONS:

1. The project is a water spreading system. It was inspected and found to exist as described.
2. The priority date for Vested Right Claim No. 2278-2 should be November 29, 1949. The system has been used since then, whenever runoff conditions allow.
3. Vested Water Right Claim No. 2278-2 should be validated. The applicable portions of Location Notice No. 1411-2 should be incorporated into Vested Right Claim No. 2278-2 and the abandoned portions of Location Notice No. 1411-2 cancelled.


Timothy G. Schaal, P.E.
Natural Resources Engineer III

Reviewed by:

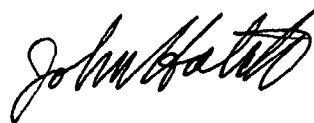

Gale N. Selken, P.E.
Natural Resources Engineer IV

RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED WATER
RIGHT APPLICATION NO. 2278-2, Richard Rausch

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. 2278-2, Richard Rausch, HCR 89 Box 257, Hermosa, SD 57744.

The Chief Engineer is recommending VALIDATION of Application No. 2278-2 for 1.30 cfs with applicable portions of Location Notice No. 1411-2 incorporated into No. 2278-2 and the abandoned portions cancelled because 1) water has been appropriated as described for irrigation use with a priority date of November 29, 1949, 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 report on application for additional information.

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

JOHN HATCH, Chief Engineer
March 30, 1993



**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
NEWSPAPERS RIGHT AWAY.**

March 31, 1993

Richard Rausch
HCR 89 Box 257
Hermosa, SD 57744

Dear Mr. Rausch:

Your Application Nos. 2278-2 and 2279-2 for vested water right claims have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of your claims have been sent to the Publishers of the Custer County Chronicle printed at Custer SD (Ph # 673-2217) and Rapid City Journal printed at Rapid City, SD (Ph #394-8300). For your information, a copy of the notice, the recommendations of the Chief Engineer and the reports on the applications are enclosed. Please review the notice and notify this office, if you have any corrections or questions.

Be sure to contact the above newspapers to authorize publication of your notice of hearing to validate a vested right and to arrange for payment. Early contact with the papers can eliminate delays. The publishers have 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 applications can be considered.

Sincerely,

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 notice 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

March 31, 1993

Rapid City Journal
PO Box 450
Rapid City, SD 57709-0450

ATTN: Legal Publications:

Enclosed is a Notice of Hearing to Validate Vested Right Application Nos. 2278-2 and 2279-2 to be published twice. Please publish the notice on April 7, 1993, 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 Richard Rausch, HCR 89 Box 257, Hermosa, SD 57744 (Ph # 255-4270).

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 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: 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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 31, 1993

Custer County Chronicle
Box 551
Custer, SD 57730

ATTN: Legal Publications:

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Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----
FIRST TRANSMITTAL NOTICE

TO: 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 April 7, 1993, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING To Validate

Vested Water Right Application Nos. 2278-2 and 2279-2 to Appropriate Water

Notice is given that Richard Rausch, HCR 89 Box 257, Hermosa, SD 57744 has filed applications to validate vested water right claims.

Vested Right Application No. 2278-2 appropriates 1.30 cubic feet of water per second (cfs) from a dam (8 acre-feet storage capacity) along a dry draw located in the SE 1/4 SE 1/4 Section 20-T2S-R10E for irrigation via a water spreading system of 91 acres located in the SE 1/4 SE 1/4 Section 20; SW 1/4 SW 1/4 Section 21; NE 1/4 NE 1/4 Section 29; W 1/2 NW 1/4, SE 1/4 NW 1/4 Section 28; all in T2S-R10E. The water use has a claimed priority date of November 29, 1949.

Vested Right Application No. 2279-2 appropriates 4.86 cfs of water from dry draws located in the NW 1/4 SE 1/4 Section 20 and the NE 1/4 SW 1/4 Section 29 for irrigation via a water spreading system of 340 acres located in the E 1/2 SW 1/4, SW 1/4 SE 1/4 Section 20; SW 1/4 SW 1/4 Section 28; E 1/2 SW 1/4, SE 1/4, E 1/2 NW 1/4, W 1/2 NE 1/4 Section 29; all in T2S-R10E. The water use has a claimed priority date of April 13, 1938 for 3.57 cfs and November 29, 1949 for 1.29 cfs.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application Nos. 2278-2 and 2279-2 because 1) water has been appropriated as described for water spread irrigation with a claimed priority date of November 29, 1949 for Application No. 2278-2 with the applicable portions of Location Notice No. 1411-2 incorporated into No. 2278-2 and the abandoned portions cancelled, and a claimed priority date of April 13, 1938, and November 29, 1949 for Application No. 2279-2 with the applicable portions of Location Notice Nos. 620-2, 1423-2, 1428-2 and 1429-2 incorporated into No. 2279-2 and the abandoned portions cancelled, 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 applications or the applicant files a petition contesting the chief engineer's recommendations, the Water Management Board will NOT CONDUCT a HEARING to consider the applications and the chief engineer will issue the vested water right applications as recommended. Petitions filed in support of the applications will NOT require the Board to hear the applications.

Any person interested in opposing or supporting the applications 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 recommendations. 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 April 26, 1993. The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

If a petition is filed opposing the applications or the applicant files a petition contesting the chief engineer's recommendations, the Board will consider the applications at 10:00 am, May 5, 1993, Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, SD. If a hearing is held, the Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve the validations, 2) approve the validations with qualifications, 3) defer, or 4) deny validation of the applications based on the facts presented at the public hearing. The May 5, 1993, 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 applications. The request for an automatic delay must be filed by April 26, 1993.

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 Eric Gronlund by April 26, 1993, at the above Water Rights Division address to request copies of information pertaining to the applications, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

The applications are 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, 46-2A-22; 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. Robert E. Roberts, Secretary, Department of Environment and Natural Resources.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) ss
 County of Pennington)

I, Helena M. Bauer

certify that the attached printed Notice was

taken from the Rapid City Journal

printed and published in Rapid City

County of Pennington and State of

South Dakota. The notice was published in
 the newspaper on the following two dates:

April 7, 1993

April 14, 1993

Cost of Printing: 14 6/16 inch legal

adv @ 5.10 per inch published 2

times equals \$146.64

Helena M. Bauer

(Signature)

Bookkeeper

(Title)

April 14, 1993

(Date Signed)

April 7, 14 L658

NOTICE OF HEARING TO VALIDATE VESTED WATER RIGHT APPLICATION NOS. 2278-2 AND 2279-2 TO APPROPRIATE WATER

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Vested Right Application No. 2278-2 appropriates 1.30 cubic feet of water per second (cfs) from a dam (8 acre-foot storage capacity) along a dry draw located in the SE1/4SE1/4 Section 20-T2S-R10E, for irrigation via a water spreading system of 91 acres located in the SE1/4SE1/4 Section 20; SW1/4SW1/4 Section 21; NE1/4NE1/4 Section 29; NW1/4NW1/4 Section 28; all in T2S-R10E. The water use has a claimed priority date of November 29, 1949.

Vested Right Application No. 2279-2 appropriates 4.86 cfs of water from dry draws located in the NW1/4SE1/4 Section 20 and the NE1/4SW1/4 Section 29 for irrigation via a water spreading system of 340 acres located in the E1/4SW1/4 Section 28; E1/4SW1/4, SE1/4, E1/4NW1/4, NW1/4NW1/4 Section 29; all in T2S-R10E. The water use has a claimed priority date of April 13, 1938 for 3.57 cfs and November 29, 1949 for 1.29 cfs.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application Nos. 2278-2 and 2279-2 because 1) water has been appropriated as described for water spread irrigation with a claimed priority date of November 29, 1949 for Application No. 2278-2 with the applicable portions of Location Notice No. 1411-2 incorporated into No. 2278-2 and the abandoned portions cancelled, and a claimed priority date of April 13, 1938, and November 29, 1949 for Application No. 2279-2 with the applicable portions of Location Notice Nos. 620-2, 1423-2, 1428-2 and 1429-2 incorporated into No. 2279-2 and the abandoned portions cancelled, 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 applications or the applicant files a petition contesting the chief engineer's recommendations, the Water Management Board will NOT CONDUCT a HEARING to consider the applications and the chief engineer will issue the vested water right applications as recommended. Petitions filed in support of the applications will NOT require the Board to hear the applications.

Any person interested in opposing or supporting the applications 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 recommendations. The Chief Engineer's ad-

dress 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 April 26, 1993. The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

If a petition is filed opposing the applications or the applicant files a petition contesting the chief engineer's recommendations, the Board will consider the applications at 10:00 a.m., May 5, 1993, Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, S.D. If a hearing is held, the Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve the applications, 2) approve the validations with qualifications, 3) defer, or 4) deny validation of the applications based on the facts presented at the public hearing. The May 5, 1993, 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 applications. The request for an automatic delay must be filed by April 26, 1993.

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 Eric Gronlund by April 26, 1993, at the above Water Rights Division address to request copies of information pertaining to the applications, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

The applications are 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-16, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-18, 46-2A-22; 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.

Robert E. Roberts
 Secretary
 Department of Environment
 and Natural Resources



PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Custer) ss

I, Terri Tuggle

certify that the attached printed Notice was

taken from the Custer Co
Chronicle

printed and published in City

County of Custer and State

South Dakota. The notice was published in
the newspaper on the following two dates:

3/7, 93

3/14 93

Cost of Printing: 45.15

Terri Tuggle

Terri Tuggle
(Signature)

Publisher
(Title)

April 19, 1993
(Date Signed)

NOTICE OF HEARING

To Validate Vested Water Right
Application Nos. 2278-2 and 2279-2 to
Appropriate Water

Notice is given that Richard Rausch,
HCR 89 Box 257, Hermosa, SD 57744 has
filed applications to validate vested water
right claims.

Vested Right Application No. 2278-2
appropriates 1.30 cubic feet of water per
second (cfs) from a dam (8 acre-feet storage
capacity) along a dry draw located in the SE
1/4 SE 1/4 Section 20-T2S-R10E for
irrigation via a water spreading system of 91
acres located in the SE 1/4 SE 1/4 Section
20; SW 1/4 SW 1/4 Section 21; NE 1/4 NE
1/4 Section 29; W 1/2 NW 1/4, SE 1/4 NW
1/4 Section 28; all in T2S-R10E. The water
use has a claimed priority date of November
29, 1949.

Vested Right Application No. 2279-2
appropriates 4.86 cfs of water from dry
draws located in the NW 1/4 SE 1/4 Section
20 and the NE 1/4 SW 1/4 Section 29 for
irrigation via a water spreading system of
340 acres located in the E 1/2 SW 1/4, SW
1/4 SE 1/4 Section 20; SW 1/4 SW 1/4
Section 28; E 1/2 SW 1/4, SE 1/4, E 1/2 NW
1/4, W 1/2 NE 1/4 Section 29; all in T2S-
R10E. The water use has a claimed priority
date of April 13, 1938 for 3.57 cfs and
November 29, 1949 for 1.29 cfs.

Pursuant to SDCL 46-2A-2, the Chief



Engineer recommends VALIDATION of
Vested Water Right Application Nos. 2278-2
and 2279-2 because 1) water has been
appropriated as described for water spread
irrigation with a claimed priority date of
November 29, 1949 for Application No.
2278-2 with the applicable portions of
Location Notice No. 1411-2 incorporated
into No. 2278-2 and the abandoned portions
cancelled, and a claimed priority date of
April 13, 1938, and November 29, 1949 for
Application No. 2279-2 with the applicable
portions of Location Notice Nos. 620-2,
1423-2, 1428-2 and 1429-2 incorporated into
No. 2279-2 and the abandoned portions
cancelled, 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 applications or
the applicant files a petition contesting the
chief engineer's recommendations, the Water
Management Board will NOT CONDUCT a
HEARING to consider the applications and
the chief engineer will issue the vested water
right applications as recommended. Petitions
filed in support of the applications will NOT
require the Board to hear the applications.

Any person interested in opposing or
supporting the applications 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 recommendations. 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 April 26, 1993.
The petition may be informal, but must
include a statement describing the
petitioner's interest in the applications, the
petitioner's reasons for opposing or
supporting the applications, and the signature
and mailing address of the petitioner or the
petitioner's legal counsel, if legal counsel is
obtained.

If a petition is filed opposing the
applications or the applicant files a petition
contesting the chief engineer's
recommendations, the Board will consider
the applications at 10:00 am, May 5, 1993,
Floyd Matthew Training Center, Joe Foss
Building, 523 East Capitol, Pierre, SD. If a
hearing is held, the Chief Engineer's
recommendations are not final or binding
upon the Board. The Board is authorized to
1) approve the validations, 2) approve the
validations with qualifications, 3) defer, or 4)
deny validation of the applications based on
the facts presented at the public hearing. The
May 5, 1993, 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 applications. The request for an
automatic delay must be filed by April 26,
1993.

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
Eric Gronlund by April 26, 1993, at the
above Water Rights Division address to
request copies of information pertaining to
the applications, to assure access to the
hearing by the handicapped or to obtain an
interpreter for the hearing impaired.

The applications are 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, 46-2A-22; 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.

Robert E. Roberts, Secretary,
Department of Environment and
Natural Resources.

#3385, 4/7, 4/14

Conversation or File Documentation

NAME OF PERSON OR FILE: RICHARD RAUSCH
ADDRESS: HCR 89 Box 257 HERMIDA, SD COUNTY CLUSTER
57744
DATE: 4/9/92 TELEPHONE 255-4270
RE: VESTED WATER RIGHT CLAIM

COMMENTS:

MR RAUSCH CALLED SAID HE HAS OLD IRRIGATION DITCHES
ON HIS PROPERTY. HE IS PLANNING ON HAVING THESE CLEARED
BUT WAS TOLD HE DOESN'T HAVE A WATER RIGHT. HE SAID
TIM SCHWAB TALKED TO HIM A FEW YEARS AGO ABOUT THIS
BUT HAS NOT HEARD ANYTHING MORE.
HE SAID THE DITCHES WERE IN PLACE WHEN HIS
FATHER PURCHASED THE LAND IN 1951. HE SAID THE
PREVIOUS OWNER WAS SAM WEDMORE AND BEFORE HIM WAS
A MR ZIGLER. HE SAID THAT THE IRRIGATION IS LISTED ON
THE PATENT'S ABSTRACT.
I TOLD HIM HE WOULD NEED TO FILE A VESTED
WATER RIGHT CLAIM, I EXPLAINED THE PROCEDURE.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: Paul D. Roth



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 17, 1993

Richard Rausch
HCR 89, Box 257
Hermosa, SD 57744

Dear Mr. Rausch:

Enclosed is an application form to file for a Vested Right Claim for the water spreading system near your home. This claim references Location Notice Nos. 620-2, 1423-2, 1428-2 & 1429-2 filed by Sam Wedmore on April 13, 1938, and November 29, 1949.

Also enclosed is an application for a Vested Right Claim for the water spreading system connected to, and just to the west of the system you share with Marion Maude. This claim references Location Notice No. 1411-2 filed by Sam Wedmore on November 29, 1949.

A Transfer of Ownership form for the system you share with Marion Maude is also enclosed.

Please review these forms, and let me know if any corrections need to be made. If not, the forms need to be signed, dated and notarized and returned to us along with the filing fee of \$32.50. The Vested Right Claims cost \$15.00 each and the Transfer of Ownership \$2.50. These forms need to be returned ASAP, in order to be on the agenda for the May Water Management Board meeting.

Sincerely,

Timothy G. Schaal, P.E.
Natural Resources Engineer III
Water Rights Division
605 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

JUN 11 1993

2278-2
2279-2

Richard Rausch
HCR 89, Box 257
Hermosa, SD 57744

Dear Mr. Rausch:

Enclosed are your Validated Vested Water Right and Water License Nos. 2278-2 and 2279-2. As long as you use the water beneficially, as stated in the Water Licenses, 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

2278-2

COSTELLO, PORTER, HILL, HEISTERKAMP,
BUSHNELL & CARPENTER, LLP

ATTORNEYS AT LAW

KENNETH L. HEISTERKAMP
GENE R. BUSHNELL
EDWARD C. CARPENTER
DONALD A. PORTER
JOSEPH R. LUX
HEATHER LAMMERS BOGARD[†]
JESS M. PEKARSKI

[†]Also available at Spearfish office
115 N. 7th Street, Suite 3
Spearfish, SD 57783

+ Also admitted in North Dakota

* Also admitted in Wyoming

^ Also admitted in Nebraska

200 SECURITY BUILDING
704 ST. JOSEPH STREET
MAILING ADDRESS P. O. BOX 290
RAPID CITY, SD 57709

Telephone: (605) 343-2410
Fax: (605) 343-4262

RECEIVED
MAR 15 2021
WATER RIGHTS
PROGRAM

PHILLIP R. STILES
JONATHAN P. McCOY*
MICHAEL F. STEVE^
KRISTEN E. BASHAM
REECE R. WEBER

± Registered Patent Attorney

J.M. COSTELLO
1923-2007

WILLIAM G. PORTER
1926-2004

March 12, 2021

PMB 2020
DENR-Water Rights Program
523 E. Capitol Avenue
Pierre, SD 57501

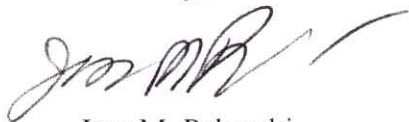
Re: Water Right/Permit No. 2278-2
Water Right/Permit No. 2279-2
Our File No. 162214

Dear DENR:

Enclosed please find the executed Notices of Transfer of Ownership to transfer the above water permits to the new owners, Jake D. VanderMay and Sarah M. VanderMay. Also enclosed is our office check in the amount of \$100 as payment for the transfers of ownership.

Thank you for your assistance in this matter and please do not hesitate to contact our office with any questions for concerns.

Sincerely,



Jess M. Pekarski

JMP/rjw

Enclosures

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

PAID

MAR 15 2021

Ck# 079493

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

RECEIVED

MAR 15 2021

WATER RIGHTS
PROGRAM

Water Right/Permit No. 2278-2

Date: February 2021

I/We request that Water Right/Permit No. 2278-2 formerly owned by:

Richard Rausch be transferred to:

New Owner Name: Jake D. VanderMay and Sarah M. VanderMay

Address: 26704 Fish Creek Road

City, State, Zip Long Valley SD 57547 Telephone No.

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

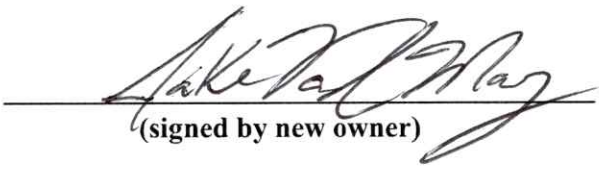
See Attached Exhibit A

- ☒ I understand that the validity of Water Right/Permit No. 2278-2 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, Jake D. VanderMay, the new owner, certify that the above information is true and correct.


(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.

RECEIVED

MAR 15 2021

WATER RIGHTS
PROGRAM

EXHIBIT A

Township 2 South, Range 10 East of the Black Hills Meridian, Custer County, South Dakota:

Section 20: SE1/4SW1/4; S1/2SE1/4

Section 21: SW1/4SW1/4

Section 28: NW1/4; W1/2SW1/4

Section 29: E1/2; E1/2W1/2

Township 2 South, Range 10 East of the Black Hills Meridian, Pennington County, South
Dakota:

Section 20: NE1/4SW1/4; PT SE1/4SW1/4; NW1/4SE1/4; PT SW1/4SE1/4; PT SE1/4SE1/4

Section 21: PT SW1/4SW1/4

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date March 15, 2021

RECEIVED OF Costello Porter Hill Heisterkamp Bushnell & Carpenter PO Box 290 Rapid City SD 57709

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	\$
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$
Fee to retain Future Use Permit No. _____ after period of seven years.	\$
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	\$
Fee for Filing Transfer Form <u>2278-2</u>	\$50.00
Fee for _____	\$
Fee for Issuing New Well Driller's License No. _____	\$
Fee for Renewal of Well Driller's License No. _____	\$
Fee for Issuing Well Pump Installer's License No. _____	\$
Fee for Renewal of Well Pump Installer's License No. _____	\$
(Any Other Work Provided by Law) TOTAL	\$50.00

By *Brian Bronlund*
Chief Engineer

2021

2278-2



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 19, 2021

2278-2

2279-2

Jake D & Sarah M VanderMay
26704 Fish Creek Rd
Long Valley SD 57547

Dear Mr. & Mrs. VanderMay:

I am writing to acknowledge receipt of the transfer forms and filing fees submitted on your behalf by Costello, Porter law firm in Rapid City.

The ownership changes have been completed. Vested Water Right Nos. 2278-2 and 2279-2 formerly held by Richard Rausch are now listed under your names. Enclosed is a stamped copy of the transfer forms for your records.

The receipts for the filing fees are being sent to Jess Pekarski with the law firm by copy of this letter. If you have any questions, please let me know.

Sincerely,

A handwritten signature in blue ink that reads "Genny McMath".

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us

c: Jess M Pekarski w/Costello, Porter, Hill, Heisterkamp, Bushnell & Carpenter LLP