

WATER PERMIT NO. V.R. 2315-2

Phone: 605 255-4489

Name of Applicant: Kieth M. and Esther J. Katsch

Post Office Address: HC 58, Box 13, Fairburn SD 57738

Amount of Water Claimed: 0.80 cfs Total Acres: 56

Source of Water Supply: French Creek

Water to be used for: irrigation County: Custer

Location: 2 miles south of Fairburn

PRIORITY Date Received: 6-30-94 Fee: \$15.00

Corrected Application Received: 8-5-94 Period of Annual Use: April 1 - Oct 31

Remarks: Claimed priority date of March 10, 1887 - Applicable portions of Water Right

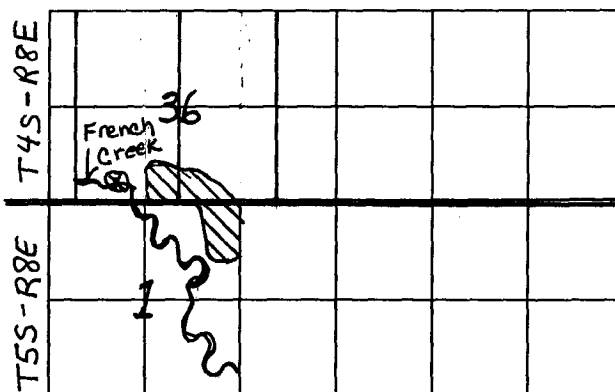
Filing No. 097-2 will be incorporated into this vested right.

Diversion Point: SW 1/4 SW 1/4 Sec 36-T4S-R8E

Land to be Irrigated: SE 1/4 SW 1/4 & SW 1/4

SE 1/4 Section 36-T4S-R8E and NE 1/4 NE 1/4

Section 1-T5S-R8E



Well Log: Driller: _____ Licensed: YES _____ NO _____

Depth of Well: _____ REMARKS: _____

Type of Map: aerial Prepared By: Timothy G. Schaal Reviewed and the Number

Assigned on: 8-5-94 By: Karen Schlaak

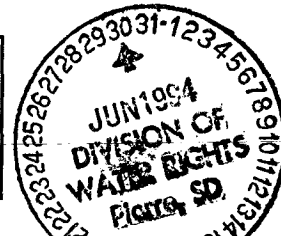
FORM 2: Application for irrigation in South Dakota

(type or print)

Mail to:

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

No. 2315-2 Hydrologic Unit 10120109
Basin Upper Cheyenne
Newspaper Custer Co Chronicle, Box 551, Custer
(office use only)



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

Type of Application: New ☒ 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 Kieth M. and Esther J. Katsch Phone 605-255-4489
Mailing Address Hc 58 Box 13 Fairburn State SO DAK 57138
(Street, RR, or Box) (City) (Zip Code)
- Amount of water claimed 0.80 *CFS or **GPM ***AF Total Acreage 56
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout if applicable)
- Source of water supply French Creek
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) SW 1/4 Section 36
Township 4 south Range 8 East BHM about 1/4 mile N. westerly from
Dwelling house of Kieth & Esther Katsch County CUSTER
- County or counties where water will be used CUSTER
- Annual period during which water is to be used Spring & Summer March 1 - Oct 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
<u>T4S R8E Section 36 SW 1/4 SW 1/4</u>
<u>SW 1/4 SE 1/4</u>
<u>T5S R8E Section 1</u>
<u>NE 1/4 NE 1/4</u>

Acres
<u>11</u>
<u>15</u>
<u>30</u>

Land Description

Acres

- Type of Irrigation: Gravity: Towline: Center Pivot: Gun: Other (Specify): Spreader
- Crops to be irrigated: hay (Pumped)
- Give a description of the project. (Attach sheet if more space is needed)

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, Kieth M. Katsch & Esther J. Katsch

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 Kieth M. Katsch Esther J. Katsch

Subscribed and sworn to before me this 28th day of June 19 94

Frances M. Hanson
Notary Public
Commission: 5/22/98

SOUTH DAKOTA

VESTED WATER RIGHT NO. 2315-2 FOR IRRIGATION

Date of Receipt of Claim June 30, 1994.

Date of Validation November 7, 1994.

The Chief Engineer, on behalf of the Water Management Board validated Vested Water Right Claim No. 2315-2 for irrigation purposes for Kieth M. and Esther J. Katsch, HC 58, Box 13, Fairburn SD 57738 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 2315-2 appropriates 0.80 cubic feet of water per second from French Creek located in the SW 1/4 SW 1/4 Section 36-T4S-R8E for irrigation via a water spreading system of 56 acres located in the SE 1/4 SW 1/4, SW 1/4 SE 1/4 Section 36-T4S-R8E and the NE 1/4 NE 1/4 Section 1-T5S-R8E. The applicable portions of Water Right Filing No. 097-2 are incorporated into No. 2315-2 and the abandoned portions of No. 097-2 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: March 1 - October 31.
3. The priority date of the Vested Water Right is March 10, 1887.
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
John Hatch, Chief Engineer
Water Rights Division
Department of Environment and Natural Resources

DEC 28 1994

date

STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 2315-2 FOR IRRIGATION

(1) Kieth M. and Esther J. Katsch of HC 58, Box 13, Fairburn SD 57738, made Application No. 2315-2, June 30, 1994 for validation of a vested right claim to appropriate 0.80 cubic feet of water per second from French Creek, Custer County, South Dakota, for irrigation purposes. Vested Water Right No. 2315-2 was validated November 7, 1994 with a priority date of March 10, 1887. 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 0.80 cubic feet of water per second for beneficial use. The location of the diversion point is: SW 1/4 SW 1/4 Section 36-T4S-R8E.

The location of the irrigated acreage is:

Section 36-T4S-R8E	SE 1/4 SW 1/4	11 acres
	SW 1/4 SE 1/4	15 acres
Section 1-T5S-R8E	NE 1/4 NE 1/4	30 acres
	Total	56 acres

(3) Pursuant to Section 46-5-30.1 Kieth M. and Esther J. Katsch of HC 58, Box 13, Fairburn SD 57738 the holders and/or owners of Vested Water Right No. 2315-2 are issued a license to appropriate 0.80 cubic feet of water per second from French Creek with a priority date of March 10, 1887 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. 2315-2 and subject to South Dakota State Law.

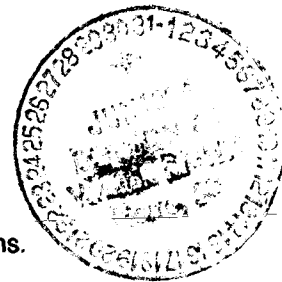


JOHN HATCH, Chief Engineer
Water Rights Division
Department of Environment and Natural Resources

DEC 28 1994

date

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) Kieth M. & Esther J. Katsch
Mailing Address Hc 58 Box 13 Fairburn So Dak. 57738
(Street, RR or Box) (City) (State) (Zip Code)
A. Notice of Appropriation March 10, 1887 Date of Posting March 10, 1887
Date of Recording March 22 1887 Recording Date _____
B. Date of start of construction of water supply system March 10, 1887
C. Date that water was first applied to beneficial use March 10, 1887
D. Name of owner of original water supply system J.C. Cotch
E. Amount of water originally applied to beneficial use 6000 inches
F. Present use of water - amount of water now being used 0.80 cfs
Date that this water was first used March 10, 1887
G. Chronological History of Water Use

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, Kieth M. Katsch & Esther J. Katsch the applicant, certify that I have read the foregoing and that
(print or type)
the matters therein are true.

Signed Kieth M. Katsch Esther J. Katsch
Subscribed and sworn to before me June 28, 19 94
James M. Hanson
Com expires 5/22/98 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.

_____, 19____
(Print name)

_____, 19____
(Print name)

RECEIPT

414241

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____ August 5, 19 94

RECEIVED OF Esther Katsch, HC 58 Box 13, Fairburn, SD 57738

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

Fee for Application for Permit No. <u>2315-2</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 W. Katsch (Emile)
Chief Engineer

Water Right. J.C. Catch et al.
Water Right Notice.

The undersigned citizens of the United States and residence of ~~the~~ Custer County in Dakota Territory, hereby claim for the purpose of irrigation and for domestic use Six thousand 6000 inches miners measurement, of the waters of this creek French Creek the said 6000 inches of water to be taken from said French Creek at a point on the SW¹/₄ of Section 36 Township 4 South Range 2 East BHM about ¹/₂ of a mile N. Westerly from the dwelling house of J.C. Catch and from thence carried by ditch to the lands claimed and occupied by the undersigned to-wit: a distance in full of two 2 miles on the South side of the line of Range 2 East, BHM. We also claim the right to build or construct a dam at the same point of commencement of said ditch for the purpose of raising the water of said creek to and above the level of said ditch, Said Water Right, situated in Custer County, Dakota Territory and is claimed this 10th day of March A.D. 1887.

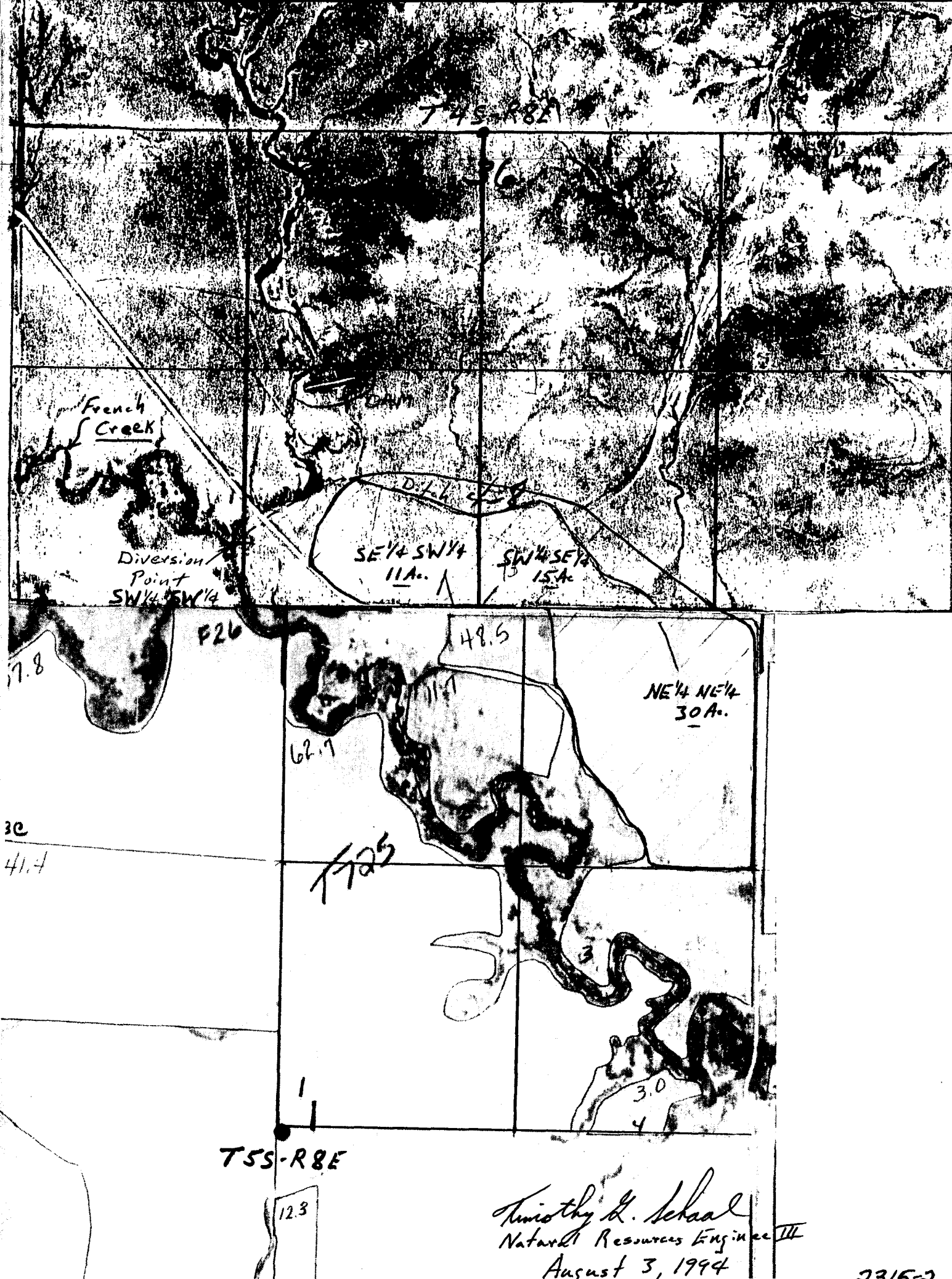
J.C. Catch
F. Bowers
F.M. Ayres
J.S. Thilcott
L.S. Ayres

Filed for record at 2.30 P.M. March 22nd 1887 and duly recorded in Book 4 page 329.

J.E. Pilcher, Register of Deeds

329
Aug 906
Newby & Co.

LM 1-27-41. IT IS FURTHER CERTIFIED THAT THE PHOTOGRAPHIC PROCESS USED FOR MICROFILMING OF THE ABOVE RECORDS WAS IN A MANNER
AND ON MICROFILM WHICH MEET THE RECOMMENDED REQUIREMENTS OF THE NATIONAL BUREAU OF STANDARDS FOR PERMANENT MICROPHOTODUPLICATION.
REPRODUCTION. REDUCTION 25X ROLL NO. # 3
3-4-12
DATE MICROFILMED
CARENA OPERATOR



HC 58, Box 13
Fairburn, S.D. 57738
August 3, 1994

Dept. of Environment & Nat'l. Resources
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

Attn: Karen Schlaak
Environmental Scientist

This is in reply to your letter dated
July 27, 1994 on our Vested Right
Application. Sorry for the oversight in
our neglecting to send the \$15.00 check
for the application filing fee, of which
we are enclosing at this time.

Again, we thank you!

Yours truly,
Keith M. & Evelyn J. Kater
(Eds.)



Report on Vested Right Application No. 2315-2
Kieth M. and Esther J. Katsch
September 9, 1994

Application No. 2315-2 requests validation of a vested right claim for the appropriation of 0.80 cubic feet of water per second from French Creek to irrigate 56 acres. The diversion point is located in the SW 1/4 SW 1/4 Section 36-T4S-R8E, about 1/4 mile northwesterly from the home of Kieth and Esther Katsch. The recording date for the system is March 22, 1887. The water is utilized for irrigation via a water spreading system of 56 acres located in the SE 1/4 SW 1/4, SW 1/4 SE 1/4 Section 36-T4S-R8E and the NE 1/4 NE 1/4 Section 1-T5S-R8E.

Conclusions

1. The project consists of pumping water from a depression adjoining French Creek through 700 feet of aluminum piping to a gravity water spreading system. The system was inspected and found to exist as described.
2. Water has been used when available since the time that the system was constructed.
3. The priority date of this vested water right claim should be March 22, 1887, for 0.80 cfs.
4. If Vested Water Right Application No. 2315-2 is validated, the applicable portions of Water Filing No. 097-2 should be incorporated into No. 2315-2 and the abandoned portion of water Filing No. 097-2 cancelled.

DelRon V. Peters

DelRon V. Peters
Natural Resources Engineer

Approved by:

Delvin D. Brosz

Delvin D. Brosz, PE
Natural Resources Engineer

RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED WATER
RIGHT APPLICATION NO. 2315-2

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. 2315-2, Kieth M. and Esther J. Katsch, HC 58 Box 13, Fairburn, SD 57738.

The Chief Engineer is recommending VALIDATION of Application No. 2315-2 for 0.80 cfs and that the applicable portions of Water Filing No. 097-2 be incorporated into No. 2315-2 and that the abandoned portions of No. 097-2 be cancelled, because 1) water has been appropriated as described for irrigation use with a priority date of March 22, 1887, 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.


for JOHN HATCH, Chief Engineer
September 30, 1994



**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.

October 11, 1994

Kieth M. and Esther J. Katsch
HC 58 Box 13
Fairburn, SD 57738

Dear Mr. & Mrs. Katsch:

Your Application No.2315-2 for a vested water right claim has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of your claim has been sent to the Publisher of the Custer County Chronicle printed at Custer, SD (Ph # 605-673-2217). For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice and notify this office, if you have any corrections or questions.

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

Sincerely,

Eric Gronlund
Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, 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 application.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 11, 1994

Custer County Chronicle
Box 551
Custer, SD 57730-0551

ATTN: Legal Publications:

Enclosed is a Notice of Hearing to Validate Vested Right Application No. 2315-2 to be published twice. Please publish the notice on October 19, 1994, 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 Kieth M. and Esther J. Katsch, HC 58 Box 13, Fairburn, SD 57738 (Ph # 605-255-4489).

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
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 October 19, 1994, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING To Validate
Vested Water Right Application No. 2315-2 to Appropriate Water

Notice is given that Kieth M. and Esther J. Katsch, HC 58 Box 13, Fairburn, SD 57738 has filed an application to validate a vested water right claim to appropriate 0.80 cubic feet of water per second from French Creek located in the SW 1/4 SW 1/4 Section 36-T4S-R8E for irrigation via a water spreading system of 56 acres located in the SE 1/4 SW 1/4, SW 1/4 SE 1/4 Section 36-T4S-R8E and the NE 1/4 NE 1/4 Section 1-T5S-R8E. The water use has a claimed priority date of March 10, 1887.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 2315-2 because 1) water has been appropriated as described for water spreading irrigation with a claimed priority date of March 10, 1887, with the applicable portions of Water Right Filing No. 097-2 incorporated into No. 2315-2 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. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and chief engineer. The applicant must file a petition if contesting 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 November 7, 1994.

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. Contact Eric Gronlund at the above Water Rights Division address to request copies of information pertaining to this application. Robert E. Roberts, Secretary, Department of Environment and Natural Resources.

Affidavit of Publication

STATE OF SOUTH DAKOTA

)
)SS.
)

COUNTY OF CUSTER

Terri Tuggle

of said county, being duly sworn, on oath says that she is publisher or _____ of the CUSTER COUNTY CHRONICLE, a weekly newspaper printed and published in Custer City, said County of Custer and has full and personal knowledge of all the facts herein stated; that said newspaper is a legal newspaper and has a bona-fide circulation of at least two hundred copies weekly, and has been published within said County for fifty-two successive weeks next prior to the publication of the notice herein, mentioned, and was and is printed wholly or in part in an office maintained at said place of

publication: that the Keith Katsch
NC 58 Box 13 Fairburn SD 57738

Notice of Hearing

a printed copy of which, taken from the paper in which the same was published, is attached to this sheet, and is made a part of this Affidavit, was published in said newspaper at least once each week for 2 successive week(s), on which said newspaper was regularly published, to wit:

10/20, 1994; _____, 19____;
10/27, 1994; _____, 19____;
_____, 19____; _____, 19____;
_____, 19____; _____, 19____;
_____, 19____; _____, 19____;

the the full amount of the fees for the publication of the annexed notice is \$ 43.42

Terri Tuggle
4th

Subscribed and sworn to me before this 4th
of November, 1994;

Barbara Zweibel
Notary Public

My commission expires: May 14, 2001



OK

NOTICE OF HEARING TO VALIDATE VESTED WATER RIGHT APPLICATION NO. 2315-2 TO APPROPRIATE WATER

Notice is given that Keith M. and Esther J. Katsch, HC 58 Box 13, Fairburn, SD 57738 has filed an application to validate a vested water right claim to appropriate 0.80 cubic feet of water per second from French Creek located in the SW 1/4 SW 1/4 Section 36-T4S-R8E for irrigation via a water spreading system of 56 acres located in the SE 1/4 SW 1/4, SW 1/4 SE 1/4 Section 36-T4S-R8E and the NE 1/4 NE 1/4 Section 1-T5S-R8E. The water use has a claimed priority date of March 10, 1887.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 2315-2 because 1) water has been appropriated as described for water spreading irrigation with a claimed priority date of March 10, 1887, with the applicable portions of Water Right Filing No. 097-2 incorporated into No. 2315-2 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. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water

Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

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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. Contact Eric Gronlund at the above Water Rights Division address to request copies of information pertaining to this application. Robert E. Roberts, Secretary, Department of Environment and Natural Resources.

#4433, 10/20, 10/27



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 27, 1994

Kieth M. and Esther J. Katsch
HC 58, Box 13
Fairburn SD 57738

Dear Mr. & Mrs. Katsch:

We have received your Vested Right Application on June 30, 1994. The filing fee for this application is \$15.00.

Upon receipt of the fee, further processing of your application will continue. If you have any questions, please contact this office.

Sincerely,

Karen Schlaak
Environmental Scientist
605 773-3352



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

DEC 28 1994

2315-2

Kieth M. and Esther J. Katsch
HC 58, Box 13
Fairburn, SD 57738

Dear Mr. and Ms. Katsch:

Enclosed are Vested Water License and Vested Water Right No. 2315-2.

As long as you use the water beneficially, as stated in the Vested Water License, 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

ks
enclosures