

WATER PERMIT NO. 2338-2

Phone: 605 745-5456

Name of Applicant: Oscar Schwalick

Post Office Address: HCR 52 Box 1336, Hot Springs SD 57747

Amount of Water Claimed: 0.018 cfs (8 gpm) Total Acres: NA

Source of Water Supply: groundwater

Water to be used for: commercial County: Fall River

Location: 7 miles southeast of Hot Springs

PRIORITY Date Received: 6-9-95 Fee: \$50

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

Remarks: for use at Angostura Den

Diversion Point: SE 1/4 NE 1/4 Sec 22-T8S-R6E

Land to be Irrigated: _____

				⊗	
		22			

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

Depth of Well: 50 feet REMARKS: no well log available

Type of Map: aerial Prepared By: DelRon Peters Reviewed and the Number

Assigned on: 6-12-95 By: Karen Schlaak

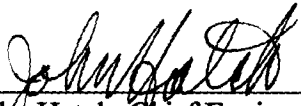
**SOUTH DAKOTA
WATER PERMIT NO. 2338-2**

Date of first receipt of application June 9, 1995.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2338-2 to Oscar Schwalick, HCR 52, Box 1336, Hot Springs SD 57747 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 2338-2 appropriates 0.018 cubic feet of water per second (8 gallons per minute) from one well (Quaternary Alluvium) 50 feet deep located in the SE 1/4 NE 1/4 Section 22-T8S-R6E.
2. The water appropriated shall be used for the purpose of supplying water to the Angostura Den and may not exceed the amount of water needed for beneficial use for commercial use.
3. The water is to be used during the following described annual period: January 1 - December 31
4. The date of approval of Permit No. 2338-2 is August 11, 1995.
5. The date from which applicant may claim right is June 9, 1995.
6. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

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

SEP 5 1995

date

FORM 2: Application for uses other than irrigation
(type or print)

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

No. 2338-2 Hydrologic Unit 10120106
Basin Upper Cheyenne
Newspaper Hot Springs Star, Box 1000
(office use only)



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

Check use of water:

☐ Municipal ☐ Suburban Housing ☐ Recreational ☐ Institutional
☐ Rural Water System ☒ Commercial ☐ Fish & Wildlife ☐ Geothermal Heat
☐ Domestic ☐ Industrial ☐ Other
(over 18 gpm)

Type of Application: ☒ New ☐ Vested Right (Use predates Mar 2, 1955) ☐ Future Use Reservation
(check one) ☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____
☐ Amendment/Correction to Permit No. _____

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

1. Name of Applicant Oscar Schwalick Phone (605) 745-5456
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address HCR 52 Box 1336 Hot Springs State SD 57747
(Street, RR, or Box) (City) (Zip Code)
2. Amount of water claimed 0.018 *CFS or 8 **GPM ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)
3. Source of water supply Groundwater - local terrace deposits (sand)
4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) SE 1/4 NE 1/4 Sec 22 T104N R6E

- County Fall River
5. County or counties where water will be used Fall River
6. Annual period during which water is to be used year-round Jan 1 - Dec 31
7. Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

Pump - from well with pump & pressure tank in pit. A water line runs to the store to a softener & RO unit.

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

STATE OF SOUTH DAKOTA

County of Custer)^{SS}

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

Signed Oscar Schwalick

Subscribed and sworn to before me this 22nd day of May 19 95

Kay F. Benson
Notary Public

My Commission expires 3-14-97

RECEIPT

414520

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, June 9, 19 95

RECEIVED OF Angostura Den, HCR 52 Box 133L, Hot Springs, SD 57747

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

Fee for Application for Permit No. <u>2338-2</u> to Appropriate Water, to construct and to put water to beneficial use _____	50	00
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	50 00

By John H. H. H. H. H.
Chief Engineer

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Delbon Peters
Nat. Res. Engineer
DENR

May 17, 1995

NHEL
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2328-2



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 15, 1995

Oscar Schwalick
Angostura Den
HCR 52 Box 133L
Hot Springs, SD 57747

Dear Mr. Schwalick:

I am contacting you regarding the possibility that you may need a permit to appropriate water for use in your facility. We have reviewed our records after receiving information from the Office of Drinking Water and can not locate a water permit for your facility.

Pursuant to South Dakota Codified Laws 46-1-15 and 46-5-10, a water permit is required to use water from any water source, except for private domestic use. Examples of commercial use that require permits for private water supplies are: truckstops, motels, restaurants, tourist attractions, bars, clubs, campgrounds and any other business operation. Examples of noncommercial use that require permits for private water supplies are: churches, hospitals and nursing homes (any amount of water) and schools that pump more than 18 gallons per minute or use water outside of the school building. A vested water right can be claimed for water uses beginning on or prior to February 28, 1955, for ground water or March 2, 1955, for surface water.

A business or an institution without a required water permit has no legal right to the use of water. Water users without a water permit are not protected if their water use is interfered with by someone who has a water right. If you believe you have a permit issued under another name, please contact us.

Enclosed are water permit application forms and an instruction sheet. Please complete and return the application with the required fee to the "Water Rights Division, 523 E. Capitol, Pierre, SD 57501" by April 14, 1995. If you have questions or need assistance contact Barry McLaury, Environmental Scientist (605-773-3352).

Sincerely,

Ron Duvall, Natural Resources Engineer
for John Hatch, Chief Engineer
Water Rights Division

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 26, 1995

Oscar Schwalick
Angostura Den
HCR 52 Box 133L
Hot Springs, SD 57747

Dear Mr. Schwalick:

I am writing to follow-up my March 15, 1995 letter regarding the legal requirement that you obtain a permit to appropriate water for use in your facility. We have reviewed our records and can not locate a water permit for your business. **A business without a water permit has no legal right to the use of water. The Chief Engineer can issue a shut off order, if the illegal use of water continues.**

Please complete and return the application that was sent to you with my March 15, 1995 letter. Send the application, with the required fee, to the "Water Rights Division, 523 E. Capitol, Pierre, SD 57501" by May 19, 1995. If you believe you already have a water permit, have a permit issued under another name, or need assistance, contact Barry McLaury, Environmental Scientist (605-773-3352).

Sincerely,

Ron Duvall, Natural Resources Engineer
for John Hatch, Chief Engineer
Water Rights Division



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 2, 1995

Oscar Schwalick
Angostura Den
HCR 52, Box 133L
Hot Springs SD 57747

Dear Mr. Schwalick:

This letter is in response to our phone conversation on April 27, 1995, concerning water use in your business, the Angostura Den. Hopefully, this letter and the attached information will help explain why you need a permit to use water.

I realize you are frustrated by the requirements placed upon you by the Department of Environment and Natural Resources. The Department is always trying to improve service by coordinating related activities occurring within different Divisions in the Department. It was through an in-house review of department records that we became aware your business did not have a permit to use water. I do apologize for not being more timely in contacting you.

As you requested, I am enclosing a copy of the South Dakota Water Rights Laws and the General Rules. The primary statutes and rules concerning appropriation (use) of water are as follows (I marked the pages with paper clips and highlighted the sections):

Blue Book

South Dakota Codified Laws (SDCL)

46-1-2 46-5-10
46-1-3 46-6-3
46-1-15

General Rules

Chapter 74:02:01

74:02:01:01(1)
74:02:01:03

The only use of water in South Dakota which does not require obtaining a water permit is domestic use. Domestic uses are defined in SDCL 46-1-6(7). All other water uses such as commercial, municipal, irrigation, etc, require obtaining a water permit. Examples of permitted water uses in your area are the A & R Supper Club and Long's Resort.

(continued)

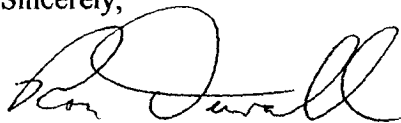
May 2, 1995
Oscar Schwalick
Page 2 of 2

I am also enclosing a copy of letters sent to you on March 15 and April 26, 1995. The second letter was sent when no response was received to the first letter. This letter is intended to serve as a reminder and advise what can occur if a water permit is not obtained (SDCL 46-2-18.) Only if someone absolutely refuses to apply for a water permit, would a shutoff order be issued. There was no intent to imply that issuance of a shutoff order was imminent. I apologize for any misunderstanding that may have been caused by the second letter. The format of the second letter is being revised so it is more in line with what I have just explained.

We will try to assist you in any way possible in completing your application. In the past, we have filled out applications for water users on site and we are willing to provide the same service to you. At the earliest opportunity when in your area, one of our staff members will contact you for an appointment.

Again, I am sorry for the misunderstanding. Please advise if you have any other questions or concerns. I can be reached at (605) 773-3352.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Duvall", with a stylized, cursive script.

Ron Duvall
Natural Resources Engineer
Water Rights Division

enclosures

**Water Rights Division
File Documentation**

NAME OF PERSON OR FILE: Oscar Schwalick

ADDRESS: Hot Springs SD COUNTY: Fall River

DATE: 6-9-95 TELEPHONE:

RE: Well log

COMMENTS:

DelRon Peters helped Mr. Schwalick complete this application. I have checked the well log files and could not find a log for this well. DelRon indicated that the well was drilled several years ago. The only information he had regarding the well was the approximate depth of 50 feet.



Karen Schlaak
Environmental Scientist

REPORT ON WATER PERMIT APPLICATION NO. 2338-2
for Oscar Schwalick
June 26, 1995

Application No. 2338-2 proposes to appropriate 8 gallons per minute (0.018 cfs) from one well approximately 50 feet deep located in the SE 1/4 NE 1/4 of section 22, T8S R6E in Fall River County. The water is for commercial use at the Angostura Den.

AQUIFER - QUATERNARY ALLUVIUM (ALQ)

The Quaternary Alluvium consists of sand, clay and gravel under unconfined or water table conditions in this area (Littleton, 1949). The thickness of the alluvium is probably less than 20 feet with only a few feet of saturated thickness. Most of the wells appear to be bored through the alluvium and into the underlying shale to allow some room for storage. Typically this type of construction is used in an area of low well yields. There is no estimate available for the amount of water in storage in the alluvium or terrace deposits in this area.

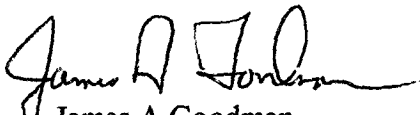
The Water Rights Program does not monitor any observation wells completed into the alluvium in this area.

REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are no other existing water permits or rights in this area. The closest existing water permit is No. 2180-2 which is located about 1/2 mile east of this application. Interference is not expected to be a concern. These are low yield wells and drawdown caused by pumping will not be significant.

CONCLUSIONS

1. Water is available from the Quaternary alluvium.
2. The aquifer is unconfined and under water table conditions. Interference is not a concern.
3. No information is available to determine if the construction of this well meets SD Well Construction Standards..


James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

Littleton, R.T., 1949, Geology and Ground-Water Hydrology of the Angostura Irrigation Project South Dakota, USGS Circular 54.

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2338-2, Oscar Schwalick**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 2338-2, Oscar Schwalick, HCR 52 Box 1336, Hot Springs, SD 57747.

The Chief Engineer is recommending APPROVAL of Application No. 2338-2 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) in the public interest.

See report on application for additional information.

A handwritten signature in black ink, appearing to read "John Hatch", written in a cursive style.

for JOHN HATCH, Chief Engineer
July 11, 1995



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

July 13, 1995

Hot Springs Star
Box 1000
Hot Springs, SD 57747-1000

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 2338-2 to be published twice. Please publish the first notice on July 25, 1995, 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 Oscar Schwalick, HCR 52 Box 1336, Hot Springs, SD 57747 (Ph # 605-745-5456).

A copy of BOTH publications must be SENT to the WATER RIGHTS PROGRAM. 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. No action may be taken on the permit application 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 Program
Joe Foss Building
Pierre SD 57501-3181

No. _____

Date _____

We are in receipt of your letter of _____ enclosing Notice of Hearing to Appropriate Water by Application No. _____ which was first published in our 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

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

July 14, 1995

Oscar Schwalick
HCR 52 Box 1336
Hot Springs, SD 57747

Dear Mr. Schwalick:

Water Permit Application No. 2338-2 for commercial use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Hot Springs Star printed at Hot Springs, SD (Ph # 605-745-4170). 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 prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice of Hearing and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. The newspaper has been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

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.

Instruction to Newspaper - Publish first Notice on July 25, 1995, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 2338-2 to Appropriate Water

Notice is given that Oscar Schwalick, HCR 52 Box 1336, Hot Springs, SD 57747 has filed an application for a water permit to appropriate 8 gallons per minute (0.018 cubic feet of water per second) from one well (Quaternary Alluvium) 50 feet deep in the SE 1/4 NE 1/4 Section 22-T8S-R6E. The water is for commercial use at the Angostura Den.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2338-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. 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 Program, 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 August 11, 1995.

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 Program address to request copies of information pertaining to this application. Nettie H. Myers, Secretary, Department of Environment and Natural Resources.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) SS
 County of Fall River)

I, Gregory Corr

certify that the attached printed Notice was

taken from the _____

Hot Springs Star

printed and published in Hot Springs SD

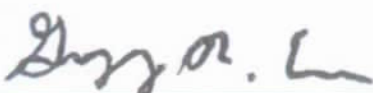
County of Fall River and State of

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

July 25, 1995

August 1, 1995

Cost of Printing: \$31.01


 (Signature)

Publisher
 (Title)

August 1, 1995
 (Date Signed)

179

**NOTICE OF APPLICATION NO.
 2338-2 to Appropriate Water**

Notice is given that Oscar Schwalick, HCR 52 Box 1336, Hot Springs, SD 57747 has filed an application for a water permit to appropriate 8 gallons per minute (0.018 cubic feet of water per second) from one well (Quaternary Alluvium) 50 feet deep in the SE 1/4 NE 1/4 Section 22-T8S-R6E. The water is for commercial use at the Angostura Den.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2338-2 because

1) unappropriated water is available,
 2) existing rights will not be unlawfully impaired,

3) it is a beneficial use of water, and

4) it is in the public interest. 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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July 25, Aug. 1





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

SEP 5 1995

Oscar Schwalick
HCR 52 Box 1336
Hot Springs, SD 57747

Dear Mr. Schwalick:

Enclosed is Water Permit No. 2338-2 authorizing your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

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

Very truly yours,

A handwritten signature in black ink, appearing to read "John Hatch", is written over a horizontal line.

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

enclosures

Permit No. 2338-2
Fall River - Water District

Report of Examination of Works and/or Application of Water to Beneficial Use

TO: Chief Engineer, Water Rights Program, DENR, Foss Bldg., Pierre, SD 57501

I have this day, **November 24, 2009**, made a thorough examination of the water use system constructed by **Angustora Den, Inc.**, of **28041 Highway 385, Hot Springs, SD 57747** holder of Permit No. **2338-2**, bearing the priority of **6/9/1995** authorizing the diversion of **0.018** cu. ft. per second of the waters of the **Quaternary Alluvium Aquifer** for **commercial use** purposes, in **Fall River** County.

Inspection contact & relationship **Bob Azarski—permit holder**
to permit holder, if applicable:

A. Works used to divert the water:

Pump:

- 1) Make Unknown
- 2) Model
- 3) Size ¾ hp
- 4) Capacity 8 GPM

B. Works used to transport water to place of use:

- 1) Type _____
- 2) Size 1 inches
- 3) Length _____ feet

C. Works used to apply water to beneficial use:

-

Chemigation Equipment:

- 1) Does chemigate No

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Yes
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period N/A
- 3) Exceptions to compliance are: none

The system is in **good** condition with the point of diversion located as follows: **135 feet west and 1,870 feet south of the NE corner of Section 22, Township 8 South, Range 6 East, lat/long N 43.34188 W -103.38268**. The

Report of Examination of Works

Permit No. 2338-2

works are capable of diverting and conveying to the place of use **0.018** cu. ft. per second of water which is to be used for **commercial use**. Water has been put to beneficial use to the maximum extent as follows:

Water from the well is used as reserve water supply for the Angustora Den, a commercial business at described location, and the license should be issued for **0.018** cfs.

All structures, wells and lands on map **Yes**

Comments or other permit(s) associated with the project:

-The Angustora Den is connected to Fall River Rural Water and keeps the well as a back-up water supply. No information available on the pump. A nearby permit in the same aquifer has a well that is approximately fifty feet deep with a static water level of twenty-seven feet below land surface.



Hayes Haas
Natural Resources Engineer
DENR, Water Rights Program

Date report completed: **5/25/2010**

Permit 2338-2
Angustora Den



0 0.25 0.5 Miles

Hayes Haas
Hayes Haas
Natural Resources Engineer
DENR Water Rights Program
November 2009



South Dakota



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

May 27, 2010

2338-2

Bob Azarski
Angustora Den Inc
28041 Hwy 385
Hot Springs SD 57747

Dear Mr. Azarski:

On November 24, 2009 the investigation of the water use system, including the extent of application of water to beneficial use, as developed under Water Permit No. 2338-2, was completed by Hays Haas, a staff engineer with our program. The final water right document, the water license, can now be issued. Your licensed water right will be similar to a property right that can not be lost as long as the water use continues and you abide by the permit requirements.

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

Prior to licensing, the permit should be transferred to reflect current ownership. I have enclosed a partially completed Notice of Transfer of Ownership form for filing an ownership change. Please review the form and make any necessary corrections. Upon completion, please sign the form and return it to our office with a required filing fee of \$50.00.

A total of **\$100.00** is required for the transfer of ownership and for licensing. The check or money order for \$100.00 can be made payable to the Water Rights Program.

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

Sincerely,

A handwritten signature in cursive script that reads "Genny McMath".

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 6/3, 20 10

RECEIVED OF Angostura Den Inc 28041 HWY 385 Hot Springs SD 57747

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>2338-2</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No. **04569**

By *Stephen O. Erbe*
Chief Engineer

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 6/3, 2010

RECEIVED OF Angostura Den Inc 28041 HWY 385 Hot Springs SD 57747

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>2338-2</u>		
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No. **04570**

By *Laurel Erbe*
Chief Engineer

NOTICE OF TRANSFER OF OWNERSHIP

RECEIVED

JUN 03 2010

WATER RIGHTS
PROGRAM

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

No. 2338-2

Date: 28 May 2010

I/We request that Water Permit No. 2338-2

formerly owned by: Oscar Schwalick

be transferred to: (name & address) Angostura Den Inc

28041 Hi Way 385 Hot Springs SD 57747

Telephone No. 605 745 5456

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

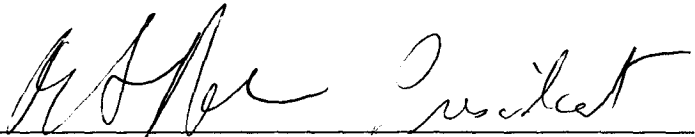
Well in the SE ¼ NE ¼ Section 22, T8S, R6E

I/We understand that the validity of Water Right No. 2338-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

I/We Angostura Den Inc, 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.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

JUL 28 2010

2338-2

Bob Azarski
Angostura Den Inc
28041 Hwy 385
Hot Springs SD 57747

Dear Sir:

Enclosed is your Water License No. 2338-2. This is the final water right document completing your process of obtaining a Water Right.

Included with your license is a map prepared by the staff engineer who conducted the field investigation. Also enclosed are Receipt Nos. 04569 and 04570 in the amount of \$50.00 each which you paid for the transfer of ownership and for the inspection and licensing of the permit.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 2338-2, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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. If you have any questions, please contact our office.

Sincerely,

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

enclosures

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 2338-2

(1) Oscar Schwalick made Application No. 2338-2, June 9, 1995 for a water permit to divert 0.018 cubic feet of water per second (8 gallons per minute) from ground water – one well (Quaternary Alluvium), Fall River County, South Dakota for commercial purposes. Permit No. 2338-2, with a priority date of June 9, 1995 was approved August 11, 1995 and issued to the applicant for diversion of water with construction of the described water supply system and the application of water to beneficial use completed.

On June 3, 2010, Water Permit No. 2338-2 was transferred to Angostura Den Inc.

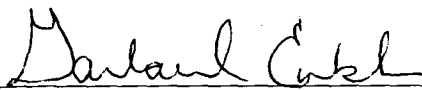
(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 0.018 cubic feet of water per second (8 gallons per minute) for beneficial use.

The location of the diversion point is 135 feet west and 1,870 feet south of the NE corner of Section 22, T8S, R6E (SE ¼ NE ¼).

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use. Angostura Den is connected to the Fall River Water Users District. The well described above is maintained as a back-up water supply.

(4) Pursuant to South Dakota Water Law 46-5-30.1 Angostura Den Inc, 28041 Highway 385, Hot Springs, SD 57747 the holder and/or owner of Water Right No. 2338-2 is issued a license to appropriate water, the right to use 0.018 cubic feet of water per second from ground water – one well (Quaternary Alluvium) with a priority date of June 9, 1995 from the location specified in (2) of this license for commercial use purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 2338-2.


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

JUL 28 2010

date

