

VESTED WATER PERMIT NO. 2705-2

Name of Applicant: Sandra Huber and Karen Disney

Address: Box 188, Martin SD 57551 Phone: 605 685-1358

Amount of Water Claimed: 100 AF Total Acres: NA

Source of Water Supply: runoff

Water to be used for: fish & wildlife proagation and livestock County: Bennett

Type of Waste Disposal System:

Location: 20 miles northeast of Martin

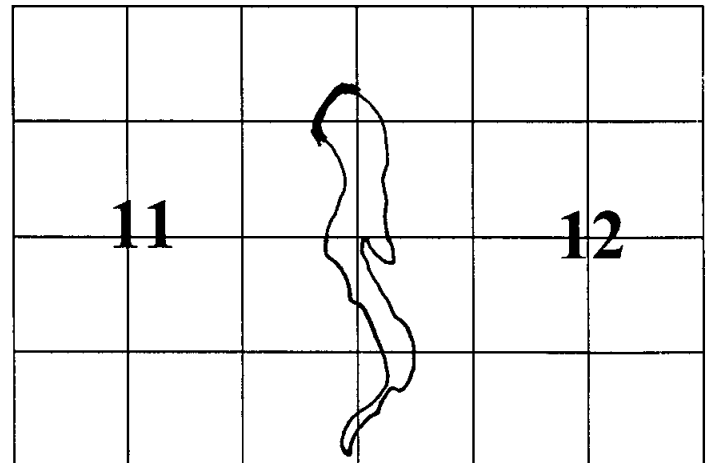
PRIORITY Date Received: 1-15-13 Application/License Fee: \$ 50

Corrected Application Received: 1-29-13 Period of Annual Use: Jan 1- Dec 31

Remarks: Vested Right with claimes priority date of 1950.

Diversion Point: E 1/2 NE 1/4 Sec 11-T38N-R35W

Water Impounded: E 1/2 NE 1/4, E 1/2 SE 1/4 Sec 11 and W 1/2 NW 1/4, W 1/2 SW 1/4 Sec 12; all in T38N-R35W



Depth of Well: NA

Well Driller:

Remarks:

Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 1-29-13

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

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

Mail to: PMB 2020 DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>2705-2</u> (office use only) Hydrologic Unit <u>16140202</u>
	Basin <u>White River</u> <u>605-685-6866</u>
	Newspaper <u>Bennett Co. Booster II Box 440</u>
	<u>Capital Journal Box 878</u> <u>Martins 7551</u>

RECEIVED
JAN 15 2013
WATER RIGHTS
PROGRAM

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

Check use(s) of water:

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

Type of Application:
(check one)

☐ New ☒ Vested Right (Use predates Mar 2, 1955) ☐ Future Use Reservation
☐ 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 Sandra Huber & Karen Disney Phone 605-685-1358
(check one) ☒ Owner ☐ Tenant/lessee

Mailing Address Box 188 (Address) Martin (City) SD (State) 57551 (Zip Code)

2. Amount of water claimed _____ *CFS or _____ **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 runoff

4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Bennett

NE 1/4
1 dam in E 1/4 section 11-T38N-R35W water impounded: E 1/2 NE 1/4, E 1/2 SE 1/4
Sec 11 & W 1/2 SW 1/4 Sec 12: all in T38N-R35W
5. County or counties where water will be used Bennett

6. Annual period during which water is to be used Year around 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)

To the best of my knowledge the current dam was built by my father, Frank Scherman Jr. and Grandfather, Frank Scherman Sr. for the purpose of watering cattle and horses as well as providing habitat for fish and wildlife. There was a small dam on the site and I believe the county highway crew enlarged it in the 1950's as per my mother. Dam is listed on SD Dam Inventory.

STATE OF SOUTH DAKOTA)
County of BENNETT) SS

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

I, Sandra Huber, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true.

Applicant's signature Sandra Huber

Subscribed and sworn to before me this 14 day of Jan 20 13

Cynthia M. Coon
Notary Public signature

Affidavit of Water Use

Form 2B

(Type or Print in Ink)

Note: This Form is supplemental to Form 2 and is to be used when an affidavit is needed to document historical water use, 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) Sandra Huber & Karen Disney

Mailing Address Box 188 Marlin SD 57551
(Address) (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 1950

C. Date that water was first applied to beneficial use 1950

D. Name of owner of original water supply system Frank Scherman

E. Amount of water originally applied to beneficial use 100 AF

F. Present use of water - amount of water now being used Livestock, Fish & Wildlife, Recreation, approx 60AF

Date that this water was first used 1950

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 BENNETT) SS

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

Signed Sandra Huber

Subscribed and sworn to before me Jan. 14, 2013

Cynthia M. Coon
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 are true.

Sandra Huber, 2013
(Print Name)

Sandra Huber, 2013
(Print Name)

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 _____ 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 applicant's property _____ On property owned by others _____

2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field) _____
- b) System Capacity (gallons) _____ Year Constructed _____
- c) Connected to the City of _____ Sanitary System

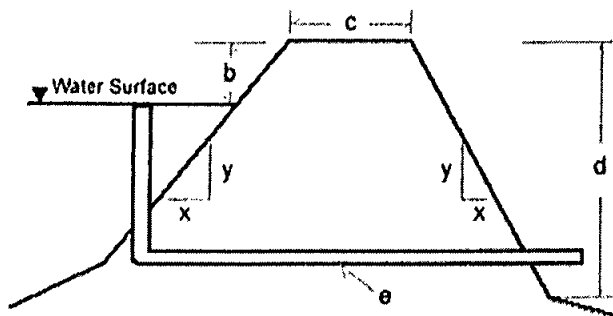
3. Dugout Information

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

4. 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 _____ 3 _____
- c) Crest Width _____ 14 _____
Crest Length _____ 725 _____
- d) Height _____ 14 _____
- e) Primary Outlet Capacity approx. 55 cfs.
If pipe, diameter 42" Riser w/ 30" Barrel
- f) Secondary Spillway Capacity 2500 cfs.
Spillway Width _____ 125 _____
- g) X & Y Slope (e.g. 3 to 1 is a typical slope)
Upstream _____ 3:1 _____
Downstream _____ 3:1 _____
- h) Surface Area of Impoundment 41.8 ac.
- i) Storage 250 Acre Feet
- j) Drainage Area Above Dam 11,360 Acres

**SOUTH DAKOTA
VESTED WATER RIGHT NO. 2705-2**

Date of Receipt of Claim January 15, 2013.

Date of Validation July 11, 2013.

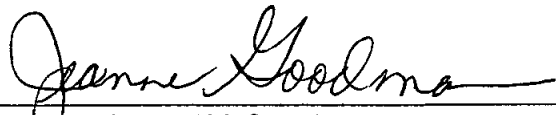
The Water Management Board validated Vested Water Right Claim No. 2705-2 for Sandra Huber & Karen Disney, PO Box 188, Martin SD 57551 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 2705-2 validates a claim to impound 100 acre-feet of water from runoff into an existing dam located in the E 1/2 NE 1/4 Section 11-T38N-R35W known as the Scharmans Dam. Water is impounded in the E 1/2 NE 1/4, E 1/2 SE 1/4 Section 11 and the W 1/2 NW 1/4, W 1/2 SW 1/4 Section 12; all in T38N-R35W.
2. The appropriated water is used for fish and wildlife propagation and livestock water purposes and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following annual period: January 1 – December 31.
4. The priority date of the Vested Water Right is January 1, 1950.
5. The water use system has been constructed and water has been applied to beneficial use.
6. Water Rights obtained in compliance with the laws of the State of South Dakota must not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Water Permit No. 2705-2 authorizes an impoundment with a storage capacity of 100 acre feet of water and sufficient water annually to maintain the water level to the outlet elevation.
2. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.

WATER MANAGEMENT BOARD

By: 
Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

AUG 28 2013

date



STATE OF SOUTH DAKOTA

VESTED WATER LICENSE NO. 2705-2

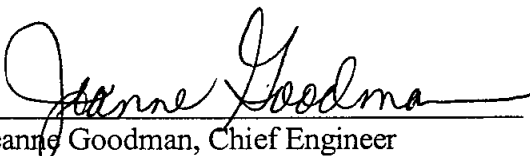
(1) Sandra Huber & Karen Disney, PO Box 188, Martin SD 57551 made Application No. 2705-2, for validation of a vested right claim to impound 100 acre-feet of water from runoff, Bennett County, South Dakota for fish and wildlife propagation and livestock watering purposes. Vested Water Right No. 2705-2, was validated July 11, 2013 with a priority date of January 1, 1950.

(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, the holders and/or owners of Vested Water Right No. 2705-2 are issued a license, bearing a priority date of January 1, 1950 to impound 100 acre-feet of water for fish and wildlife propagation and livestock watering purposes.

The location of the storage dam (spillway) is 1,450 feet south and 450 feet west of the northeast corner of Section 11-T38N-R35W (E 1/2 NE 1/4) known as the Scharmans Dam.

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Vested Water Right No. 2705-2, including the following applicable qualifications:

- Water Right No. 2705-2 authorizes an impoundment with a storage capacity of 100 acre-feet of water and sufficient water annually to maintain the water level to the outlet elevation.
- Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.



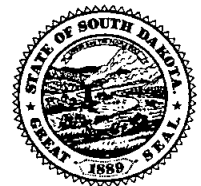
Jeanne Goodman, Chief Engineer

Water Rights Program

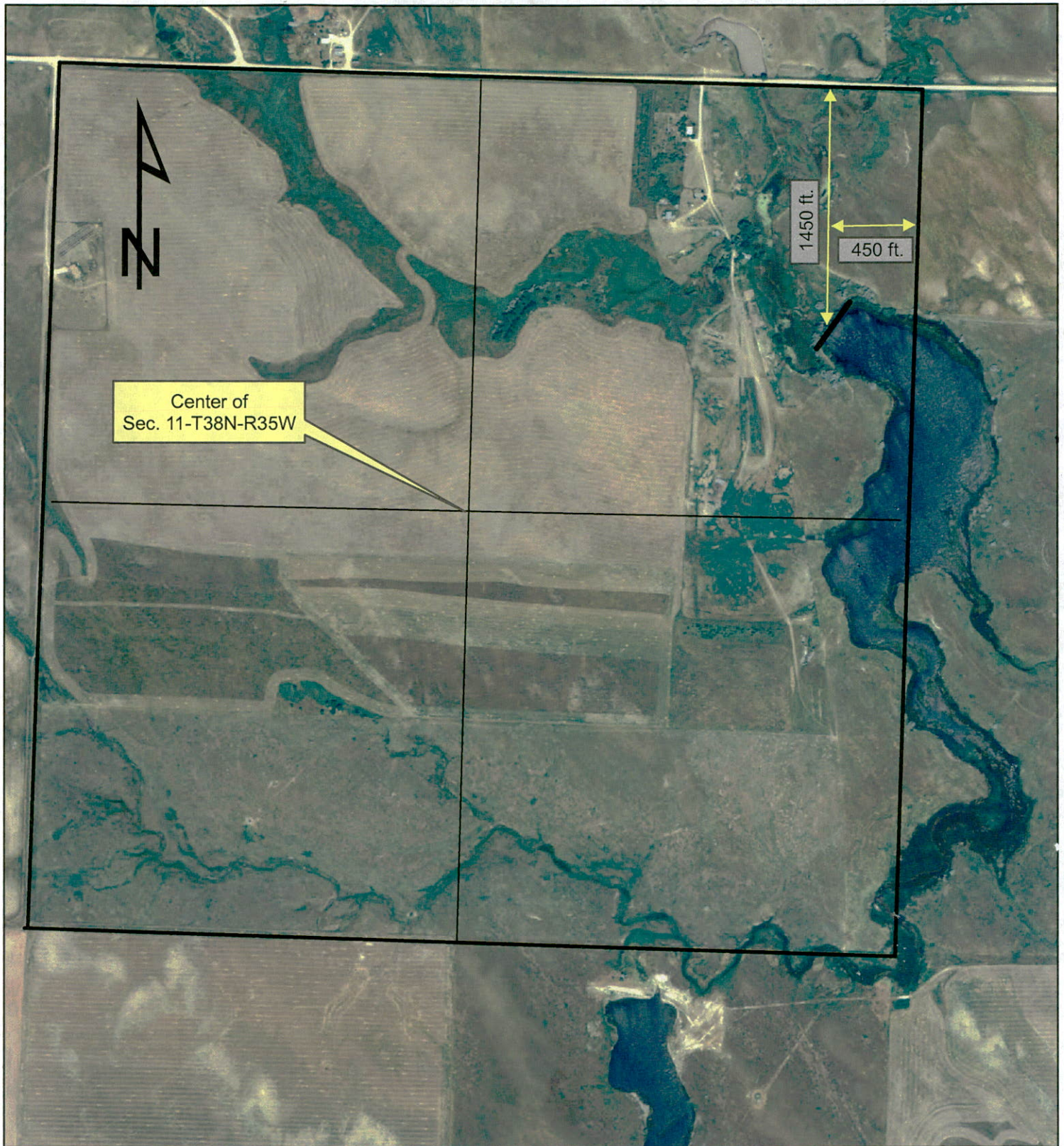
Department of Environment and Natural Resources

AUG 28 2013

date



Vested Water Right No. 2705-2



0 0.25 0.5 1 Miles



Timothy G. Schaal

Timothy G. Schaal, P.E.

Engineer IV

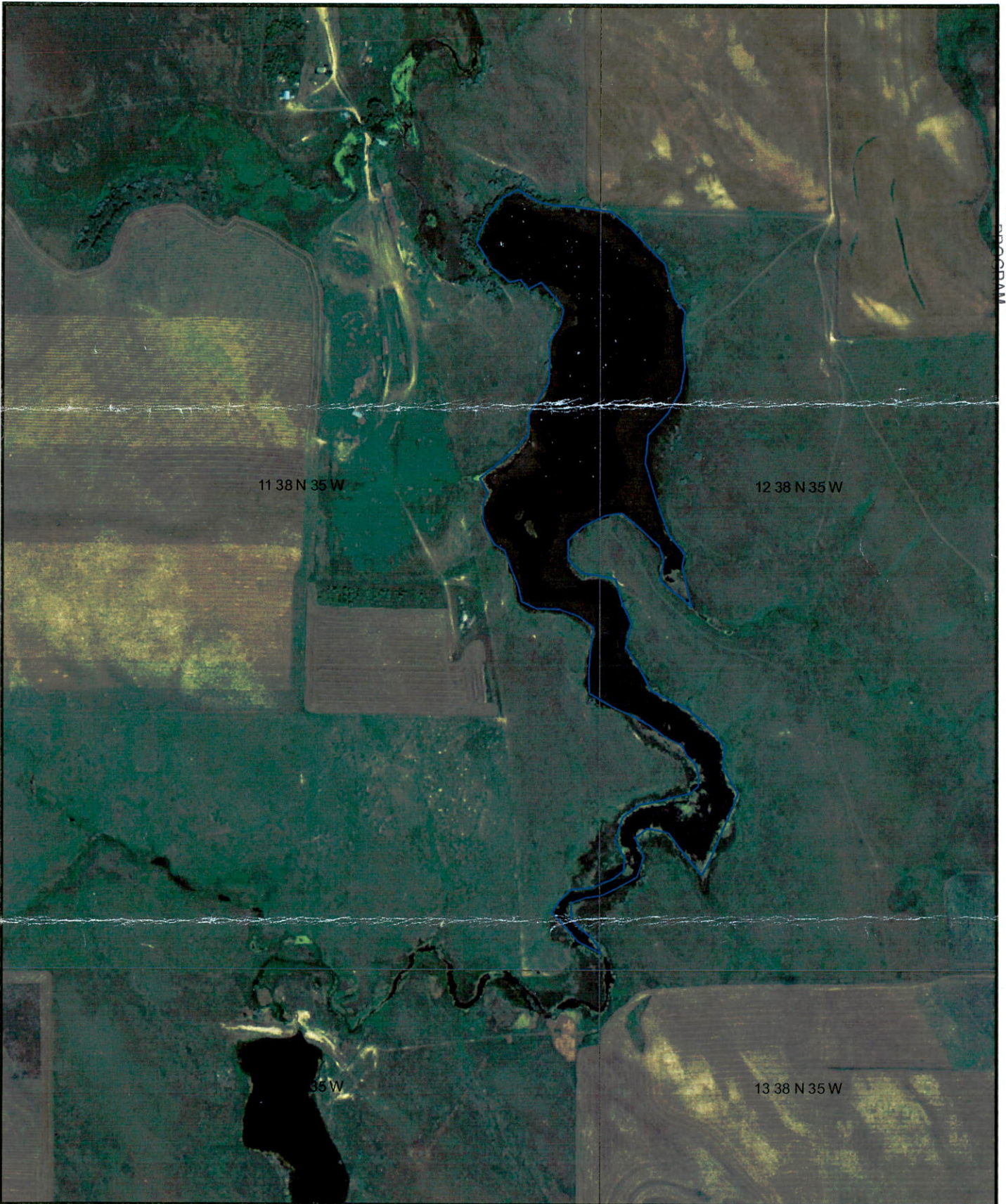
SD DENR, Water Rights Program

8/20/2013

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WATER RIGHTS
PROGRAM



Sheet 1 of 1



Natural Resources Conservation Service
United States Department of Agriculture

Sandra Huber & Karen Disney
Multi-Purpose Dam
SEC 11-T38N-R36W **35**
BENNETT COUNTY, SOUTH DAKOTA

Designed _____ Date _____
Drawn g miller Date 12/19/12
Checked _____ Date _____
Approved _____ Date _____

Vested Right No. 2705-2
White 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, April 3, 2013, made a thorough examination of the water use system constructed by Sandra Huber & Karen Disney of P.O. Box 188, Martin, SD 57551 holder of Vested Right No. 2705-2, bearing the priority of 1950 authorizing the storage of 100 acre-feet of the waters of runoff for fish & wildlife propagation and livestock water purposes, in Bennett County.

I have to report on the conditions of the same as follows:

A. Works used to divert the water:

A 14 foot high earthen dam with a normal storage capacity of 100 ac.-ft.

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

N/A

C. Works used to apply water to beneficial use:

A 14 foot high earthen dam with a normal storage capacity of 100 ac.-ft.

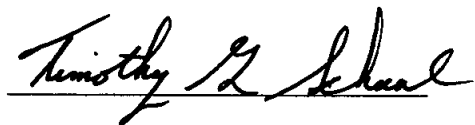
The system is in the following condition good. The point of diversion is located 1450 ft. south & 450 ft. west of the NE corner of Section 11-T38N-R35W (E ½ NE ¼) (Lat. 43.28359 & Long. -101.41688). The works are capable of storing 100 acre-feet of water which is to be used for fish & wildlife propagation and livestock water. Water has been put to beneficial use to the maximum extent as follows:

A 14 foot high earthen dam with a normal storage capacity of 100 ac.-ft.

and the license should be issued for 100 acre-feet of storage.

Applicable permit qualifications have been complied with: Yes X

Exceptions to compliance are: none Date Report Completed: August 20, 2013



Timothy G. Schaal, P.E.
Engineer IV
DENR, Water Rights Program

REPORT ON INSPECTION OF VESTED RIGHT NO. 2705-2

DATE OF INSPECTION: April 3, 2013

**NAME & ADDRESS OF PERMIT HOLDER: Sandra Huber & Karen Disney,
P.O. Box 188, Martin, SD 57551**

**DIVERSION POINT LEGAL LOCATION: 1450 ft. south and 450 ft. west of the NE corner of
Section 11-T38N R35W, (E ½ NE ¼), (Lat. 43.28359 & Long. -101.41688).**

DAM INFORMATION:

- 1) Height to crest 14 feet
- 2) Height to primary spillway 9 feet
- 3) Height to secondary spillway 11 feet
- 4) Crest width 14 feet
- 5) Crest length 725 feet
- 6) Spillway length XXX feet
- 7) Spillway width 125 feet
- 8) Approx. storage (Normal) 100 acre-feet
- 9) Approx. storage (Maximum) 250 acre-feet
- 10) Date constructed: 1950

PERMIT QUALIFICATIONS AND REGULATIONS:

- 1) Soil and water permit lands agree with lands being irrigated and lands listed on permit N/A
- 2) Special qualifications to permit being abided by yes
- 3) All structures, wells and lands on map yes
- 4) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period N/A

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 1/29, 20 13

RECEIVED OF Scott Huber PO Box 188 Martin SD 57551

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 _____		
Fee for <u>Vested Water Right No. 2705-2</u>		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____	50	00
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No. 06047

By [Signature]
Chief Engineer



January 16, 2013

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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JAN 29 2013

WATER RIGHTS
PROGRAM

Sandra Huber & Karen Disney
Box 188
Martin SD 57551

Dear Ms. Huber and Ms. Disney:

Thank you for submitting the *Application for a Permit to Appropriate Water* for a storage dam located in Bennett County. In order to complete the application, the following is required.

- The application/license filing fee for a vested right application is \$50.00.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352
karen.schlaak@state.sd.us

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MAR 13 2007
WATER RIGHTS
PROGRAM

CONSTRUCTION SPECIFICATIONS
FOR

SCHARMANS DAM

SE 1/4 NE 1/4 SEC 11 T 38 R 35

Restoration / Tube Replacement



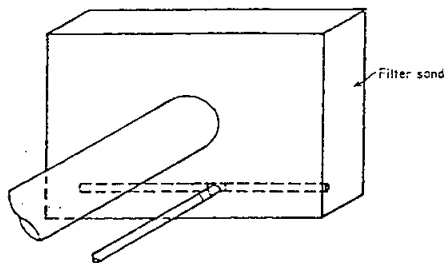
Prepared by:

Bob Timberman

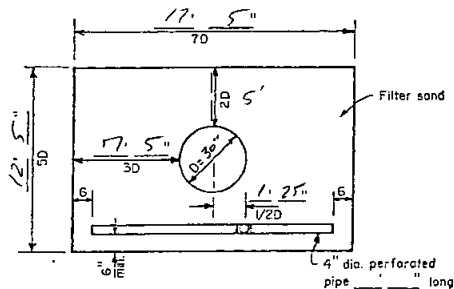
Assisting:

Bennett Co. Conservation District

Project Done!
20 Aug 1998



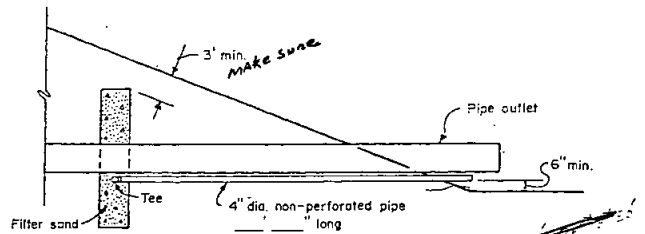
ISOMETRIC VIEW



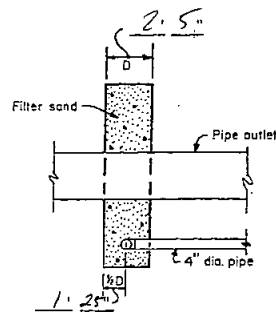
UPSTREAM VIEW

NOTE:

1. THE 4" DIA. PIPE SHALL BE ASTM D1785, SCHEDULE 40, PVC.
2. PROVIDE AN ANIMAL GUARD ON DRAIN OUTLET PIPE. DRILL 2, 1/2" DIA. HOLES, ON 6" FROM END OF PIPE AND PLACE A 3/8" DIA., 5 1/2" LONG GALVANIZED STEEL BOLT THRU THEM AND SECURE WITH A NUT (PLACE BOLT HORIZONTAL).



OUTLET DETAIL



SIDE VIEW

FILTER GRADATION

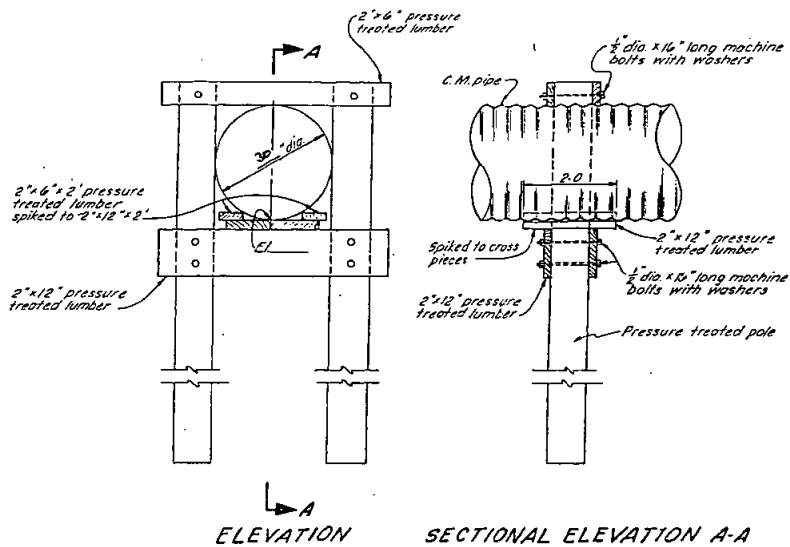
SIEVE SIZE	PERCENT PASSING
3/8"	100
4	95-100
8	80-100
16	50-85
30	25-60
50	10-30
100	2-10

Sec. 11, T. 38, R. 35
Bennett County
LOCATION

SAND ANTISEEP COLLAR

OPERATOR <u>VERA SCHARMAN</u>	
CONSERVATION DISTRICT <u>Bennett</u>	
U. S. DEPARTMENT OF AGRICULTURE SOIL CONSERVATION SERVICE	
Designed by _____	Drawn by _____
Checked by _____	Approved by _____
Drawn by _____	Title _____
Checked by _____	Date _____

JOB PLAN NO. 3.8



Does not need to be to
Exact specs - just a
good strong support

Only one is needed -
It is to be set 5-6 ft.
in from the pipe
outlet.

NOTES:

1. HAND OR MACHINE TAMP BACKFILL THOROUGHLY AROUND FOOTINGS AND COLUMNS.

TABLE OF QUANTITIES

ITEM	LENGTH FOR " DIA. C.M. PIPE	UNIT	QUANTITY
PRESSURE TREATED POLE " DIA.		EACH	
2" X 12" PRESSURE TREATED LUMBER		EACH	
2" X 6" PRESSURE TREATED LUMBER		EACH	
2" X 12" PRESSURE TREATED LUMBER		EACH	
2" X 6" PRESSURE TREATED LUMBER		EACH	
1/2" DIA. MACHINE BOLTS WITH NUTS		EACH	
1/2" DIA. WASHERS		EACH	

REFERENCE: GUIDE PLAN NO. 4.0

JOB PLAN NO. 4.0

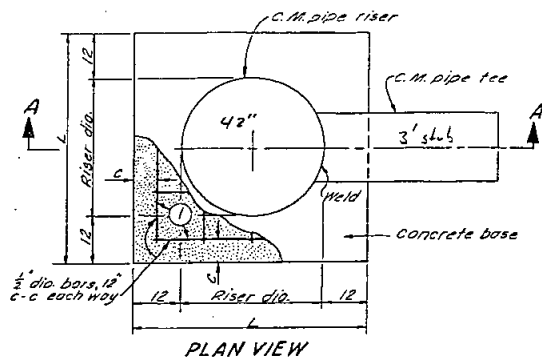
TIMBER PIPE SUPPORT

OPERATOR: VERA SCHARMAD
CONSERVATION DISTRICT: Bennett

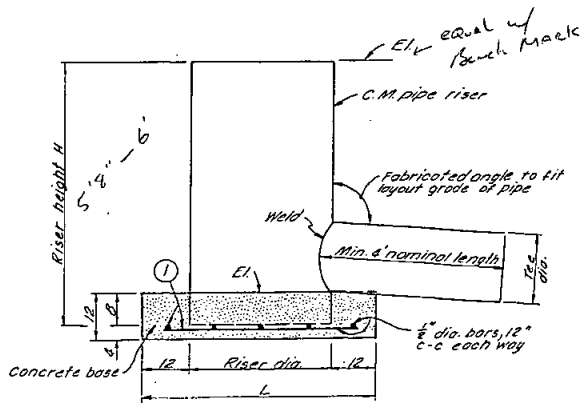
U. S. DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

Designed	Date	Approved By
Drawn		
Traced		
Checked		

5, N-29, 073.40



PLAN VIEW



SECTIONAL ELEVATION A-A

STEEL SCHEDULE AND CONCRETE QUANTITIES

RISER DIA. IN.	BAR SIZE	MARK	TYPE	NO. REQ'D.	LENGTH FT.-IN.	TOTAL LENGTH FT.-IN.	TOTAL WT. LB.	C IN.	L FT.-IN.	CONC. CU.YD.
18	4	1	STR.	8	3-0	24-0	16	3	3-6	0.5
24	4	1	STR.	8	3-6	28-0	19	6	4-0	0.6
30	4	1	STR.	10	4-0	40-0	27	3	4-6	0.8
36	4	1	STR.	10	4-6	45-0	30	6	5-0	1.0
42	4	1	STR.	12	5-0	60-0	40	3	5-6	1.2
48	4	1	STR.	12	5-6	66-0	44	6	6-0	1.4
54	4	1	STR.	14	6-0	84-0	56	3	6-6	1.6
60	4	1	STR.	14	6-6	91-0	61	6	7-0	1.9

- NOTES: 1. TRANSFER DIMENSIONS AND QUANTITIES TO JOB PLAN.
2. SPECIFY COATING OR JOINT SEALING REQUIREMENTS ON JOB PLAN IF APPLICABLE.
3. SEE SOUTH DAKOTA PLAN SERIES 6 FOR TRASH RACK.

— *Pl. 1. Vortex Baffle is to be mounted*

Grade - 580'
EM - 80'
Top - 14' wide
3:1 slopes
Fill at 10'

THICKNESS AND GAGE OF PIPE

PIPE TEE DIA. INCHES	GAGE	THICKNESS INCHES
12-21	16	0.064
24-30	14	0.079
36-42	12	0.109
48-60	10	0.138

C.M. PIPE RISER WITH FABRICATED TEE

SOUTH DAKOTA GUIDE PLAN NO. 5.3

U. S. DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

Designed: D.H. R.T.	Date: 5-20	Drawn By:
Drawn:	Time:	Sheet:
Checked:	By:	Drawn:
Approved:	By:	Drawn:

5,N-29,073.5-3

Invoice 125157

Invoice Date 07/03/98

HURON CULVERT & TANK CO.

220 4TH ST NW

PO BOX 1439

HURON, SD 57350

Telephone: 605/352-8643

Pipe purchased for Scharman Dam
Location: Bennett county, S. Dakota

SE1/4, NE1/4, Sec. 11 T38N R35W

Bill To:

US FISH & WILDLIFE SERVICE

PO BOX 247

BROOKINGS, SD 57006

Ship To:

US FISH & WILDLIFE SERVICE

PO BOX 247

BROOKINGS, SD 57006

Customer	Ship Via	F.O.B.	Terms				
USF3	HCT 6-4-98	Origin	Net 30 Days				
Purchase Order Number		Salesperson	Order Date	Our Order Number			
Herber Bros		HU	04/29/98	111133			
Quantity Ordered	Quantity Shipped	Item Number	Unit of Measure	Unit Price	Discount %	Tax	Extended Price
	Back Ordered	Item Description					
1	1	CULV		521.330			521.33
	0	42" 14ga. 6' Poly Riser w/30" 14ga. 2' Stub at 93 Degree		N			
1	1	SP4-30X28		784.840			784.84
	0	30" 14ga. 28' Poly Spiral Culvert		N			
1	1	SP4-30X30		840.900			840.90
	0	30" 14ga. 30' Poly Spiral Culvert		N			
2	2	BA30X24W		96.530			193.06
	0	30" Poly Watertight Band 24" Wide		N			
12	12	RL30		0.000			0.00
	0	30" Rods & Lugs (Included in Band Price)		N			
2	2	DIA30-72-14		741.800			1483.60
	0	30" 14ga. 72" x 72" Poly Diaphragm (Rods & Lugs		N			
Nontaxable Subtotal							3823.73
Taxable Subtotal							0.00
Tax							0.00
Total Invoice							3823.73

Landowner Vera Scharman, the U.S. Fish and Wildlife Service, the Bennett Co. Conservation District, and the Cedar Creek Sportsmans Club are working together to repair and enhance "Scharmans Dam."

This project will:

Create new opportunities for anglers who enjoy fishing from the comfort of their bass boat. (a new ramp will be installed) *was not done.*

Increase fishing access by building a (floating dock. *was not done.*)

Ensure that the pond can attain the proper depth and remain structurally sound by replacing the 43 year old bent/leaking riser and pipe.

Provide another area in Bennett Co. where bird watchers and nature lovers can go to observe a variety of wildlife species.

Continue to be of direct benefit to resident wildlife.

Provide the assurance that this enhanced wetland will continue to provide quality migratory waterfowl resting, pairing, nesting, and brood rearing habitat for years to come.

.....

This project has many obvious benefits for people and wildlife. The land will continue to be financially productive for the landowner through livestock production.

SCHARMANS DAM

This project is to replace the existing riser and pipe.

The riser has been bent back by ice and the 43 yr old pipe (although it appears to be structurally sound) has developed three leaks that will only get worse with time.

A small amount of piping is occurring and this would eventually washout the structure.

All construction will be done to SCS specifications with FWS modifications.

All vegetation and sod will be stripped from the location prior to breaching the dam.

A temporary dike must be built to hold back the water while the dam is breached.

The pipe is to be dugout in a V fashion that has sides of 4:1 or flatter.

Prior to removing the riser, it must be separated from the pipe. Care is to be taken when removing the pipe so that it remains straight. The old riser is to be taken to a landfill.

A new 42 inch diameter riser - 6 ft tall - attached to a 30 inch pipe - 56 ft long will need to be installed.

The new riser will be set in concrete. (plans provided) *yes*

The pipe is to be installed using the provided (SCS) guidelines.

A sand anti-seep collar will be part of the pipe installation and specifications are provided. *yes*

A pipe support is to be installed using pressure treated lumber. Guidelines are provided, but a strong support is all that matters. *yes*

The back slope will be contoured to match the original slope. The front slope will be extended so that it surrounds the new riser with a 4 ft flat on all sides and has 3:1 minimum side slopes.

The top and sides will be backfilled with the topsoil that was originally stockpiled.

The top will be overbuilt approx. 5% so that it settles to the same elevation as the rest of the grade.

TOTAL COST FOR THE PROJECT ABOVE.....\$_____

CONTRACTOR SIGNATURE_____

SCHARMANS DAM SECONDARY BID

As discussed in the field, fill dirt is to be spilled over the entire front of the dam. This is to be wheel compacted if possible. This "refacing" is to be done as good as possible while leaving the trees standing.

The dam top will require fill dirt to be brought in to fill the holes and generally improve the surface. No sod is to be removed with the fill dirt going directly on the grass.

TOTAL COST FOR THE PROJECT ABOVE.....\$_____

CONTRACTOR SIGNATURE_____

An area will need to be sloped and smoothed for boat ramp installation at a later date. (as discussed in the field)

TOTAL COST.....\$_____

CONTRACTOR SIGNATURE_____

CONSTRUCTION SPECIFICATION

SD-12B CONCRETE FOR MINOR STRUCTURES
(FOR STRUCTURES UP TO 10 C.Y.)

12B.1 SCOPE

The work shall consist of proportioning, forming, placing, finishing, and curing portland cement concrete.

Acceptance:

The acceptance or rejection of concrete made under this specification will depend upon adherence to the procedures set forth herein, and the appearance of the finished structure.

12B.2 MATERIALS

Portland Cement shall be Type II or Type IIA Portland Cement. Cement that is partially hydrated or otherwise damaged shall not be used.

Fine Aggregate is defined as all material which will pass a $\frac{1}{2}$ -inch screen. Fine aggregate shall compose between 35 and 45 percent of the total aggregate and shall not contain more than 1 percent clay lumps or more than 4 percent finer than a No. 200 sieve. Coal in fine aggregate shall not exceed $\frac{1}{2}$ of 1 percent.

Coarse Aggregate is defined as all material larger than $\frac{1}{2}$ inch. Maximum size aggregate shall not exceed:

1 inch - Concrete thickness of 4 inches or less
 $1\frac{1}{2}$ inch - Concrete thickness of 4 inches or more

Coarse aggregate shall compose between 55 and 65 percent of total aggregate and shall not contain more than $\frac{1}{2}$ of 1 percent of clay lumps or more than 1 percent of material finer than No. 200 sieve. Coal shall not exceed one percent.

Mixed fine and coarse aggregate or pit-run aggregate may be used provided the requirements stated above are met.

Water shall be clean and free of harmful chemicals (suitable for drinking).

12B.3 DESIGN OF CONCRETE MIX

The contractor or person in charge of construction shall be responsible for designing a high quality concrete mix conforming to this specification.

The mix shall contain less than 6 gallons of water per bag of cement, and at least 6 bags of cement per cubic yard of concrete. The air-entrainment shall be between 4 and 7 percent by volume, and the slump after mixture shall be between 2 and 4 inches.

The following table is recommended as a guide for developing a satisfactory mix to give 3000 psi compressive strength for air-entrained concrete.

Max. Size Aggregate	Gal. Water per sack of cement	% of Fine Aggregate	Sacks Cement per cu. yd.	Pounds Fine Aggregate per sack cement	Pounds Coarse Aggregate per sack cement
1"	6.0	40	6.0	190-200	300-310
1½"	6.0	35	6.0	180-190	330-340

Ready Mixed concrete may be used provided it meets the requirements of these specifications. Upon request the vendor shall provide the owner with a signed delivery ticket giving the quantities of concrete, cement, fine aggregate, coarse aggregate and water contained in the batch.

Measurements of materials shall be by weight where suitable scales are available. Where suitable scales are not available, volume measurement may be used provided volume-weight relationships are carefully determined. Calcium chloride or other accelerators or anti-freeze compounds shall not be used.

Measurements (by weight) of materials in the mix shall be made available to the technician.

12B.4 FORMS FOR CONCRETE

Forms shall be made of wood, plywood, steel or other approved material. The type, size, shape, quality and strength of forms will be subject to approval by the technician.

All forms shall be true to line and grade, mortar tight, and rigid enough to prevent bulging or displacement. Tolerances will be close enough to assure that the structure appears and performs well.

All forms shall be removed from the concrete. Forming shall not be embedded in the concrete.

12B.5 PLACING CONCRETE

Concrete shall be placed in final position within one and one-half hours after mixing with cement.

Concrete shall be consolidated by hand spading and tamping or by mechanical vibration.

All concrete placed on earth shall be placed on clean damp surface, free of frost, ice, or running water. Concrete shall not be dropped more than 5 feet vertically unless suitable equipment is used to prevent segregation.

Uniformed surfaces (excluding slip form concrete) exposed in the completed work shall have a wood float finish. Exposed concrete edges shall be chamfered or finished with molding tools.

Concrete shall be placed at air temperatures between 40°F. and 80°F. unless special measures are taken to protect the concrete. Concrete shall be protected from freezing for 7 days after placement.

12B.6 CURING CONCRETE

All concrete shall be cured by keeping all exposed surfaces wet for 7 days or by applying a spray type curing compound to exposed concrete surfaces immediately after the free water has disappeared after pouring.

12B.7 DEFECTIVE CONCRETE

Honey combed areas and other voids in concrete will be promptly repaired with mortar patching immediately upon discovery.

Concrete subjected to damage and/or other violations of this specification will be rejected.

CONSTRUCTION SPECIFICATION

SD-13 STEEL REINFORCEMENT

13.1 SCOPE

The work shall consist of furnishing and placing steel reinforcement for reinforced concrete.

13.2 MATERIALS

All reinforcement shall be free from all flaky rust, oil, grease, paint, mill scale, or other foreign substance.

Steel bar reinforcement shall be deformed billet steel conforming to either ASTM specification A 15 Intermediate Grade or A 615 Grade 40.

Welded Steel wire fabric reinforcement shall conform to the requirements of ASTM Specification A 185.

13.3 CUTTING AND BENDING

Reinforcing bars may be mill or field cut or bent. All bends shall be made without heating and in accordance with standard practices. (See American Concrete Institute Standard 315). Bars with kinks, cracks, or improper bends will be rejected.

13.4 SPLICING BAR REINFORCEMENT

Unless otherwise specified on the drawings, splices of reinforcing bars shall provide an overlap equal to at least 30 times the diameter of the smaller bar in the splice but not less than 12 inches.

Welded wire fabric shall be overlapped one full mesh (not counting cut portions) and tied as necessary to keep the fabric in place during pouring.

13.5 PLACING

All reinforcement shall be placed as shown on the drawings, and shall be supported and tied in a manner assuring that it will not be moved during concrete placement. Tack welding of bars will not be allowed. Dimensions shown on the plans, indicating concrete cover, are the clear distance from the concrete surface to the reinforcing steel.

Reinforcement hangers and supports shall be of a type and used in such a manner that they will not be exposed or contribute to discoloration and deterioration of the concrete. On structures exceeding one cu. yd. in volume, concrete shall not be placed until the reinforcement has been inspected and approved by the technician.

PIPE CONSTRUCTION SPECIFICATIONS

Trench Construction

The trench bottom shall be uniform so that the pipe will lay on the bottom without bridging. Clods, rocks, and uneven spots which could damage or cause non-uniform support to the pipe shall be removed. Where rocks, boulders, or any other material which might damage the pipe are encountered, the trench bottom shall be undercut a minimum of 4 inches below final grade and filled with bedding material consisting of compacted fine-grained soils.

Provisions shall be made to insure safe working conditions where unstable soil, trench depth, or other conditions are such as to impose safety hazard to personnel working in the trench.

Placement

Care shall be taken to prevent permanent distortion and pipe damage when handling during unusually warm or cold weather. The pipe shall be uniformly and continuously supported over its entire length on firm stable material. Blocking or mounding shall not be used to bring the pipe to final grade.

Backfilling

The initial backfill shall be of selected material free from sharp edged rocks, stones, or clods. Care shall be taken to avoid deformation or displacement of the pipe during initial backfill operations. The pipe shall be loaded sufficiently during backfilling around the side to prevent its being lifted from the bedding.

Backfill around the pipe shall be placed in layers not more than 4 inches thick before compaction. Each layer of backfill shall be compacted with power tampers or hand tamping to the same density requirements as specified for the adjacent embankment. Backfill over and around the pipe shall be brought up uniformly on all sides and shall extend a minimum of 2 feet over the pipe before earth embankment with earth moving equipment over the pipe is started. Special care shall be taken not to disturb the grade and alignment during backfill operations.

All special requirements of the manufacturer shall be strictly observed. Installation and backfilling should be done in a workmanlike manner. Provisions for stabilization of disturbed areas and control of erosion should be installed as shown on the drawings and directed by the technician.

Engineering Specifications

Maximum pipe slope is 30%, minimum pipe slope for inlet to operate as hood inlet is that required to overcome friction in the pipe. In general, slopes over 5% will be adequate, slopes less than 5% should be investigated further. Minimum slope does not apply to outlet section. Place outlet section on approximately a 1% slope (see technical guide).

If needed to minimize erosion around entrance to inlet, place rock riprap or concrete paving 4' in all directions from the pipe. Use a minimum size rock of 12" for riprap.

If slope of barrel from inlet to outlet exceeds 5%, an elbow will be required with outlet pipe grade about 1% and must be shown on job plan. If barrel is 5% or less, no elbow will be required.

CONSTRUCTION SPECIFICATION

SD-7S EARTH FILL-CLASS S

7S.1 SCOPE

The work shall consist of the construction of compacted earth fills where the amount of compaction is to be controlled by a method type of specification.

7S.2 MATERIALS

All fill materials shall be obtained from required excavations and designated borrow areas. The selection, blending, routing and disposition of materials shall be subject to approval by the technician.

Fill materials shall not contain frozen material, sod, brush, roots, or other perishable materials, or rocks larger than 8 inches in diameter. Fill shall not be placed on a frozen surface.

7S.3 FOUNDATION PREPARATION

After stripping (see stripping specification), the foundation shall be scarified or plowed to a minimum depth of 4 inches. The entire foundation area shall then be compacted by the process used on the fill.

7S.4 PLACEMENT

All foundation excavations and/or preparation shall be completed before placing fill. The fill shall be placed such that the distribution of materials is essentially uniform throughout the entire fill and is free from lenses, pockets, streaks, or layers of materials differing substantially from surrounding material.

Fill, adjacent to structures, shall be placed in a manner that will prevent damage to the structures and allow the structures to assume the backfill loads gradually and uniformly. Equipment weighing more than 400 pounds shall not be operated within 2 feet of any structure.

Fill shall be placed in approximately equal horizontal layers. Fill layer thicknesses shall not exceed 9 inches for machine compaction or 4 inches for hand compaction (including hand directed power tampers adjacent to structures).

7S.5 MOISTURE CONTENT

The fill material shall have a moisture content that when kneaded in the hand will form a ball which does not easily crumble when struck sharply with a pencil or which does not crumble when pressed between the hands.

If the soil is too wet, it will yield free water when kneaded in the hand. The fill may have to be wetted or dried to achieve proper moisture control.

7S.6 COMPACTION (CLASS S)

The fill shall be compacted by one of the following methods.

- a. By routing the hauling and spreading equipment such that all points of the fill is traversed by at least one tread track of the loaded equipment, parallel to the centerline of the fill.
- b. By at least two passes of a tamping (sheepfoot) roller weighing at least 100 pounds per square inch of bearing area.

Fill adjacent to structures shall be compacted to a density equivalent to that of the surrounding fill by means of hand tamping or manually directed power tampers or plate vibrators. Heavy equipment shall not be operated within 2 feet of any structure.

Compaction of fill adjacent to concrete structures shall not be started until the following time limits have elapsed after placement of the concrete.

<u>Structure</u>	<u>Time Interval</u>
Walls and counterforts	14 days
Conduits and Spillway Risers (cast in place)	14 days
Conduits, precast, cradled	2 days
Conduits, precast, bedded	1 day
Anti-seep Collars and Cantilever pipe props	3 days

1. Looking West



2. Grade & Pipe



3. Drop inlet



4. Outlet



5. EM Spillway 80'



6. Tail H₂O



Tim if you want any of these on jpeg let me know by #. -Jre



Vested Right Claim No 2705-2
Sandra Huber & Karen Disney

Scharmans Dam
SD ID No. 01350

Top of Dam Elev. - 100
2nd Spillway Elev. - 97
P. Spillway Elev. - ?
D/S Emb Toe Elev. - 86 } HH. = 14 ft Cat. 3 - Low Hazard Dam

Normal Storage Capacity - 100 A.-Ft
Int. Storage Capacity - 150
Max. Storage Capacity - 250

Int. Capacity x Eff. Ht. = $150 \times 12 = 1800 < 3000 \therefore$ 25 year
Minimum Spillway Design

From USGS WRI 98-4035 "Tech Serv Est. Peak-Flows ... in SD"
Region C DA = 11360 Ac = 17.75 mi.²

$$\begin{aligned} Q_{es} &= 207 CA^{.573} \\ &= 207 (17.75)^{.573} \\ &= \underline{1075 \text{ cfs}} \end{aligned}$$

$$\begin{aligned} Q_{ins} &= 379 CA^{.566} \\ &= 379 (17.75)^{.566} \\ &= \underline{1930 \text{ cfs}} \end{aligned}$$

Secondary Spilling Capacity

$$\begin{aligned} Q &= CLH^{3/2} \quad C = 2.6 \\ &= 2.6 (125 \times 3)^{1.5} \quad L = 125 \\ &= \underline{1690 \text{ cfs}} \quad H = 3 \end{aligned}$$

NRCS Annual Yield

$$CN = 72 \quad ISO = 1\frac{1}{2} \quad DA = 11,360$$

$$\begin{aligned} 80\% \text{ chance} &= 0.06 \\ 0.06 \times 11360^{1/2} &= \underline{56 \text{ A.-Ft}} \end{aligned}$$

$$\begin{aligned} 50\% \text{ chance} &= 0.19 \\ 0.19 \times 11360^{1/2} &= \underline{180 \text{ A.-Ft}} \end{aligned}$$

$$\begin{aligned} 10\% \text{ chance} &= 1.1 \\ 1.1 \times 11360^{1/2} &= \underline{1040 \text{ A.-Ft.}} \end{aligned}$$

Section 74:02:08:09

1. Topo Map - OK
2. Dam Axis Profile - OK
3. Dam Max X-sec. - OK
4. Area Capacity - OK
5. Outlet Details - OK
6. Spillway Rating - OK
7. Spillway Details - OK
8. Specs - OK
9. EPP - N/A Cat. 3 - OK



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED
WATER RIGHT APPLICATION NO. 2705-2, Sandra Huber and Karen Disney**

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. 2705-2, Sandra Huber and Karen Disney, Box 188, Martin SD 57551.

The Chief Engineer is recommending Validation of Application No. 2705-2 for impoundment of 100 acre feet of water because 1) water has been appropriated as describe for domestic and fish and wildlife purposes with a priority date of January 1, 1950, 2) the use has been developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. Water Permit No. ²⁷⁰⁵⁻²~~1930-1~~ authorizes an impoundment with a storage capacity of 102 acre feet of water and sufficient water annually to maintain the water level to the outlet elevation.
2. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.

See report on application for additional information.

Garland Erbele, Chief Engineer
February 15, 2013

REPORT ON
VESTED WATER RIGHT APPLICATION No. 2705-2
Sandra Huber & Karen Disney
February 5, 2013

Vested Water Right Application No. 2705-2 has been filed by Sandra Huber and Karen Disney to validate a vested right claim to impound 100 acre-feet of water from runoff into an existing dam (Scharman Dam) located in the E ½ NE ¼ of Section 11-T38N-R35W, in Bennett County. The application also requests impoundment of sufficient water to maintain water at the outlet elevation. The water will be used for fish and wildlife propagation and livestock water purposes with a claimed priority date of 1950.

Discussion:

The Scharman Dam is listed on our Safety of Dams Inventory as South Dakota ID number SD01350 and is classified as a small size, Category 3, Low Hazard dam. The dam is 14 feet high with a normal storage capacity of 100 acre-feet with a reservoir level at the primary spillway elevation, and a maximum storage capacity of 250 acre-feet with a reservoir level at the top of dam elevation. In 1998, there was a USFWS project to replace the primary spillway structure at Scharman Dam.

Section 74:02:08 of our Safety of Dams rules states that Category 3 dams constructed before October 27, 1986, are exempt from spillway requirements unless the dam fails and is to be rebuilt. Since Scharman Dam was constructed in 1950, it would be exempt from the spillway requirements; however, if not exempt, a dam of this size and hazard category would be required to have a minimum spillway design capable of passing a 25-year frequency event.

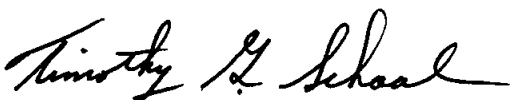
The dam has a drainage area of 11,360 acres or 17.75 square miles. The dam has a 42 inch diameter CMP riser with a 30 inch barrel as the primary spillway, and a 125 foot wide earthcut spillway as the secondary spillway. A 25 year frequency event produces a peak runoff of approximately 1075 cfs and a 100 year frequency event produces a peak runoff of approximately 1930 cfs. The earthcut secondary spillway will have a capacity of approximately 1700 cfs.

The annual yield for this drainage area with an 80 percent chance of occurrence, or 8 out of 10 years, is expected to be 56 acre-feet. The annual yield with a 50 percent chance of occurrence, or 1 out of 2 years, is expected to be 180 acre-feet and the annual yield with a 10 percent chance, or 1 out of 10 years, is expected to be 1040 acre-feet.

The Scharman Dam is located in the NE ¼ of Section 11-T38N-R35W on the headwaters of Pass Creek, about 35 miles upstream of the confluence of Pass Creek and the White River. Water Right No. 2611-2 was approved in 2007 to repair the Huddleston Dam, which is located in the N ½ NE ¼ of Section 14-T38N-R35W and about 1 mile upstream of Scharman Dam. There are no existing Water Rights/Permits located on Pass Creek between Scharman Dam and the White River.

Conclusions:

1. Vested Water Right Application No. 2705-2 should be approved since Scharman Dam has been in place since 1950, unappropriated water is available and approval should not have any adverse effect on existing Water Permits/Rights.
2. If approved, the low flow bypass requirement for downstream domestic use should be a qualification on Vested Water Right Application No. 2705-2.



Timothy G. Schaal, P.E.
Engineer IV

RECEIVED

MAR - 1 2013

WATER RIGHTS
PROGRAM

Affidavit of Publication

State of South Dakota

County of Bennett

Jill Potter, being, first duly sworn, on oath, says: That he/she is an employee of Huether Publishing, Inc., and that the **Bennett County Booster** is, and during all the times hereinafter mentioned was, a weekly legal newspaper as defined in the SDCL 17-2-2.1 through the 17-2-2.4 inclusive; that said newspaper has been published within the said county of Bennett and State of South Dakota, for at least one year prior to the first publication of the attached public notice, and that the printed copy of which, taken from the paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper for 1 successive week(s) to wit:

February 27, 2013

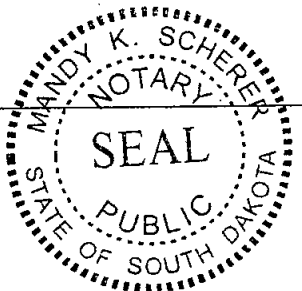
That the full amount of the fee charged for the publication of the attached public notice, **\$34.00**, insures to the sole benefit of the publisher or publishers; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are:

Signed: *Jill Potter*

Subscribed and sworn to before me this *27th* day of *February*, 2013.

Mandy K. Scherer
Notary Public

My Commission Expires
December 9, 2015



Legal Notices

Proceedings

Regular Session

The Martin City Council met in Regular Session on Wednesday, February 13, 2013 at 5:30 p.m. in the community room at 101 Main Street.

Mayor Gayle Kocer called the meeting to order with council members Tom Moffitt, Sherry Peck, Stephanie Noel, Shirley McCue, and Gregg Clausen present. Absent: Chuck Goshier.

Others present were: Marj Olske, with the Bennett County Booster, County Commissioners Rolf Kraft and Dennis Gregg, Kim Clausen, City Foreman Paul Noel, City Attorney Sara Frankenstein, Police Chief Julio Medeiros, Asst. Chief Richard Cummings Jr., and Jean Kirk, Finance Officer.

Approval of Agenda: Motion was entered by Clausen and seconded by Noel to approve the agenda with flexibility. All in favor, motion carried.

Minutes: A motion was entered by Peck to approve the minutes for the January 9th and January 22nd meetings. Noel seconded the motion, all voting eye, motion carried.

Finance Officer's Report: Marj Olske moved a motion to approve the Finance Officer's report for January. Seconded by Moffitt, all voting eye, motion carried.

Beginning Balance On Hand \$1,566,698.27
December Receipts 155,884.85
Total to be accounted for 1,722,583.12
Transfer In 22,334.29
Transfer Out 22,334.29
Disbursements 164,540.14
Outstanding Warrants 1,000.00
CD & Petty Cash 10,386.18
Claims February 2013: The claims were reviewed by the council. Moffitt entered a motion with a second by Clausen to approve payment of all claims. All voting eye, motion carried.

Feb-13
 Jan Wages, General Fund, \$24,819.46; Jan Wages, enterprise fund, \$10,793.09; Jan Withholdings, wage withholdings, \$7,404.84; Office of Child Support, child support, \$553.82; A-Rite, insurance, \$307.87; Assurity Life, insurance, \$45.28; Health Plan of South Dakota, health insurance, \$3,672.69; Debt Management Services, garnishment, \$197.71; SD Retirement, retirement, \$4,089.68; Garisch, Strom, Israel, garnishment, \$180.01; Fred A Lockwood & Co, annual report, \$1,910.00; Security First Bank, annual, \$13,063.12; Marco, copier lease, \$154.42; Bill Council of Local Govs, annual dues, \$255.00; Bob's Gas, propane, \$722.00; Hawkins, cylindrical rental, \$40.00; City of Martin, water bills, \$193.12; Weber Medical Services, Hep B test for employee, \$110.00; Metrolife, life insurance, \$3,364.65; Martin Auto Parts, parts & repairs, \$1,233.49; Larcreek Electric, electric bill & repair stop light, \$7,489.39; General Store, supplies for streets, water, sewer parks, etc, \$1,109.38; Eagle Express, tire repair for, \$90.00; Great Western Tire, new tires for park pickup, \$488.52; Holiday Inn Spearfish, room for water school, \$163.98; Jean Kirk, wage & hour workshop, \$99.10; McLeod, tickets for police, \$210.56; Office Products, office supplies, \$1.39; Post Office, postage for bill cards, \$132.00; Bennett County Booster, publications & return new report, \$233.42; United Systems Technology, annual software support, \$3,025.00; Quill Corporation, office supplies, \$354.53; Special Account, reimbursements for police and meals and misc, \$102.33; SD Dept of Revenue, garbage tax, \$624.24; SD Dept of Revenue, water tax, \$73.00; Sewall, meat & rugs for office, \$102.33; Stan Houston, repair ground pounder, \$730.03; Security First Insurance, finance officer surety bond, \$25.00; Golden West Telecommunications, phone bills, \$776.66; Adams 152, repair repair, \$287.00; City Association, repair for snow truck, \$415.53; Municipal Street Maintenance Assoc, annual conference, \$50.00; Fresh Start Convenience store, gas for cop cars, \$1,500.00; Western Communications, antenna for cop car, \$84.00; SD One call, one call, \$8.88; T&B, printer's Trade Controls, repairs for stop light, \$1,011.05; Dakota Backstop, office backup, \$58.99; Gunderson Palmer Goodwell, attorney fees, \$918.00; Voyager, fuel for vehicles, \$1,881.89; Redix, police shipping charges, \$11.75; Salomon Sanitation, garbage service, \$10,101.90; Insurance Benefits, airport liability, \$1,393.00; CNA/Haverhill, trailer rental, \$1,301.39; SD Airport Conference, annual conference, \$60.00; Card Services, confined space entry fee, \$2,955.79; Liberty Car Wash, tokens for repair, \$100.00; GenPro Power Systems, generator for water tower, \$30,348.22.

Total \$138,393.34

Reports from Standing Committees: The personnel committee will meet and set up the random drug testing according to the City's personnel manual. The maintenance guys have already done their drug testing, so the committee will set a schedule for the council and the office employees.

Law: The law committee interviewed five candidates on Monday the 11th. The top three are in the process of background checks. They will need to hire two officers as Officer Davidson has resigned.

County Commissioner Rolf Kraft: Addressed the council about the county law enforcement budget. Last year they went over budget by \$160,000, which they had to take out of their reserves. He said that a couple of more years like that and Bennett County will be broke. He asked that the City take responsibility for paying for the transportation of their prisoners to the Winner Jail. This would include the cost of having officials of the Winner Jail meet them in Mission to transfer custody of the prisoners.

Trip Ranger Gary Rayhill: informed the Council that there was a person from Longvalley that was interested in recovering the lead shot from the trap range. He has a machine that would mine the lead and once he was done he would remove and cover the ground with straw. The Council was interested but would like to see the contract before they make a decision. Mr. Rayhill will contact the person and have him bring a contract to the next meeting.

Annual Reports: The annual report was reviewed by the council. A motion was entered by McCue and seconded by Peck to accept the Annual Report. All voting eye, motion carried.

Lagoon Clean Out: The following motion was entered by Clausen and seconded by McCue. The City of Martin accepts that CDDPO 41010-104 for the Martin - Waterstar Lagoon Sludge Removal Project is satisfactory complete. All voting eye, motion carried.

Appropriation Ordinance #187: Finance Officer Kirk informed the Council that Rural Development had contacted her and that they had a problem with the 2013 appropriation ordinance because it showed the Contingency Fund would be partly funded by cash surplus in the sewer fund. Because of the covenants for the lagoon loans, no money may be transferred out of the sewer fund to pay for expenses of the city that do not pertain to the sewer. The only way to change the appropriation ordinance is to amend it. The Finance Officer Kirk will bring the amended ordinance to the March meeting so that the Council can do the first reading at that time.

Robert snowplow attachment: A motion was entered by Clausen and seconded by Moffitt to advertise the sale of a snowplow attachment for sale by sealed bid. All voting eye, motion carried.

Playground slides: A quote from Game Time for the replacement of the two damaged slides at the City Park was reviewed. They wanted \$4,183.72 to replace the two slides. A motion was entered by McCue and seconded by Noel to table this until the next meeting so that they can figure out how to pay for it. All voting eye, motion carried.

Confined Space Entry Policy: A motion was entered by Moffitt and seconded by Peck to approve the Confined Space Entry Policy that Foreman Noel had written up. All voting eye, motion carried.

Volunteers: A motion was entered by Peck and seconded by Moffitt to approve the following volunteers: Martin Volunteer Fire Department: Earl Adair, Lindell Adair, Dave Bakley, Carol Borhe, Heather Burke, Stuart Boushells, Trevor Bridges, Troy Haver, Dan Copchala, Chaele Clausen, Dene Clausen, Brody Clausen, Geoff Coleman, Michael Conquering Bear, Merik Hicks, Mike Hicks, Jeff Johnson, Jim Johnson, Joanne Joyce, Harold Koenig, Jeff Muser, Chris O'Brien, Doug Olske, Michelle Olske, Sue Olske, Orlan Olske, Rayhill, Jim Russell, Jo Sharp, Jeff Sisco, Shelly Sisco, Walter York.

Martin Volunteer Fire Department Explorers: Sandra Rader, Taylor Fuchs, Sky Gomer, Cody Gerson, Brady Hicks, Dustin Hicks, Jake Jarquet, Darrell Justice, Eric Kiser, Brendan Nelson, Kalen Nelson, Wyatt Wolfe, Frankie York.

Mercantile Volunteers: Aaron Noel.

A motion was entered by Peck and seconded by McCue to approve all the volunteers. All voting eye, motion carried.

Isacomonas Grants: Kim Clausen asked the Council if they would consider applying for the Isacomonas Grant in the City's name as the Wild Horse Dune Community Development Corporation does not have its 501 C 3 designation yet. This grant would pay for an event to get the public's input on the housing needs of our community. A motion was entered by Peck and seconded by McCue to have the City of Martin apply for this grant. All voting eye, motion carried.

Friends of the Island Theatre: Discussion was held on the request for a \$1,500 donation to the Friends of the Island Theatre. A motion was entered by Peck and seconded by Noel to table this item. All voting eye, motion carried.

Campers in City Limits: A lengthy discussion was held on people living in campers inside the city limits and not being connected to water and sewer. The city has an ordinance that states it is unlawful for any person or persons to occupy as a residence any property without said residence having a connection to the City of Martin's sewer system by which all waste from the human body can be disposed of through connection to said sewer. Foreman Noel will inform the people that they will have to be connected to city water and sewer or they will not be allowed to live there.

Code Enforcement: City Attorney Frankenstein updated the Council on the Curfew for Minors Ordinance. She suggested changing the ordinance so that a curfew violation would be a petty offense. With this change the officer can write a ticket to both the minor and the parent or guardian. The Council agreed with that this would make the curfew ordinance easier to enforce. The first reading of Ordinance #189 was read. An Ordinance Amending Martin City Ordinance 21, 6-4, Curfew for Minors.

A motion was entered by McCue and seconded by Peck to approve the first reading of Ordinance #189. All voting eye, motion carried.

Past due Water Bills: The past due water bills were reviewed by the council.

Adjournment: As there was no further business to come before the council at this time, Motion to adjourn was entered by Peck. The next city council meeting will be held March 13th at 5:30 p.m. at the library community room.

Dated this 13th day of February, 2013

Gayle Kocer, Mayor

ATTEST:
 Jean Kirk, Finance Officer
 Published once at the total approximate cost of \$119.66
 Published: February 27, 2013

Proceedings

BOARD OF BENNETT COUNTY COMMISSIONERS

MINUTES OF PROCEEDINGS

WEDNESDAY, FEBRUARY 13TH, 2013

The Bennett County Board of Commissioners met in special session Wednesday, February 13th, 2013, in the Commissioner's meeting room.

Chairman Rolf Kraft called the meeting to order at 1:00 p.m. Commissioners present: Rolf Kraft, Dennis Gregg, Jason Fanning and Wayne David Newton Cummings arrived at 1:00 p.m.

Others present: Susan Williams, Auditor, Luke Hamer, Sheriff and Tim Huchler, Bennett County Booster.

Jail
 A Conference call was held with Jerry Johnson, GA Johnson Construction, Inc.; Steve Davis, HAN Architects, Inc.; and an accountant working with GA Johnson Construction. There was extensive discussion concerning the budget and the amount needed to build and operate a jail.

Horsehoe Bar
 Rolf Kraft reported an incident at the Horsehoe Bar. Mr. Kraft explained the State Attorney Ken Orosko had contacted him and discussed the situation. Sheriff Luke Hamer met with the Board to explain the incident. Sheriff Hamer reported the bar had been open all night which had violated the terms of the probation and he requested a suspension of the license. There was some discussion.

Dennis Gregg made a motion to immediately suspend the liquor license for the Horsehoe Bar until such time as the Board of Commissioners can establish a proper hearing date with the owner, Marvin Olske, Sheriff Newton Cummings agreed.

All voted eye, Motion carried.

Cloze
 There being no further business to come before the Commissioners Jan Fanning made a motion to adjourn with a second by Wayne David Newton Cummings.

All voted eye, Motion carried.

BOARD OF BENNETT COUNTY COMMISSION
 Rolf Kraft, Chairman

ATTEST:
 Susan Williams, Auditor
 The next regular meeting will be Wednesday, February 20th, 2013 at 9:30 a.m. in the Commissioner's meeting room.

Published once at the total approximate cost of \$28.52
 Published: February 27, 2013

School Land Lease Auction

A school land lease auction will be held in Bennett County Courthouse, in Martin, SD on March 28, 2013 at 10:00 a.m. (MT).

A list of tracts available for lease can be obtained at the Bennett County Auditor's Office, by visiting adjudicatelands.com, or by contacting Mike Connelison, Office of School & Public Lands, 500 E Capitol Avenue, Pierre, SD 57501-5070 or phone (605)773-4174. Disabled individuals needing assistance should contact the Office of School and Public Lands at least 48 hours in advance of the auction to make any necessary arrangements. Published four times at the total approximate cost of \$32.62
 Published: February 27, March 6, 13 and 20, 2013

Legal Notice

ATTENTION ALL CONTRACTORS: Looking for weatherization, furnace, electrical and plumbing contractors in Bennett, Platte, Corral, Custer, Dewey, Fall River, Haskell, Harding, Jackson, Lawrence, Meade, Pennington, Perkins, Shannon and Ziebach Counties interested in completing residential work for the July, 2013 - June 30, 2014 contract year.

Contractors must submit a letter of interest, provide copy of insurance (workers compensation, full comprehensive, general and automobile liability insurance and certificate of insurance), certificate of completion of EPA approved Lead-Based Paint for Renovators Training and be a certified EPA lead based paint renovator. Interested Western SD Community Action Core Contractors Training and be willing to comply with Davis Bacon Act wages, weekly reporting. Please return requested information to Western South Dakota Community Action, Inc., 1444 Lombardy Drive, Rapid City, SD 57705 by 4:00 p.m. on Friday, March 15, 2013. Please call 605-348-1460 or 1-800-327-1703 for more information. Published twice at the total approximate cost of \$27.06
 Published: February 27 and March 6, 2013

Notice of Hearing To Validate Vested Water Right Application No. 2705-2 to Appropriate Water

Notice is given that Sandra Luther and Karen Diney, Box 188, Martin SD 57551 have filed an application to validate a vested water right claim to impound 100 acre-foot of water from runoff into an existing dam located in the E 1/2 NE 1/4 Section 11 and the E 1/2 NE 1/4, E 1/2 SE 1/4 Section 11 and the W 1/2 NW 1/4, W 1/2 SW 1/4 Section 12 all in T8N-R25W. This application requests impoundment of sufficient water to maintain water to the outlet elevation. The water is for fish and wildlife propagation and livestock water purposes with a claimed priority date of 1950.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 2705-2 because 1) water has been appropriated as described for fish and wildlife propagation and livestock water use with a priority date of January 1, 1950; 2) the use has been developed without unlawful impairment of existing rights; 3) it is a beneficial use of water; and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition opposing 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 this 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 NOTI 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, Box Building, 533 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 March 11, 2013.

The petitioner 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 counsel is retained, contact Eric Orosko at the above address. Rights Program address to request copies of information pertaining to this application. Steven M. Pirmer, Secretary, Department of Environment and Natural Resources. Published once at the total approximate cost of \$34.00
 Published: February 27, 2013

ANNUAL REPORT FOR CITY OF MARTIN AS OF AND FOR THE YEAR ENDED DECEMBER 31, 2012

GOVERNMENTAL FUNDS - MODIFIED CASH BASIS					
	General Fund	Water Fund	Marble Fund	BBB Tax Fund	Total Governmental Funds
Beginning Fund Balance	\$17,877.90	\$1,313.76	\$2,233.34	\$7,935.81	\$29,360.81
Revenues and Other Sources:					
Property Taxes	138,841.18				138,841.18
General Sales and Use Taxes	419,820.48			41,253.88	880,915.54
Intergovernmental	437.00				437.00
Licenses and Permits	20,875.67				20,875.67
Federal Grants	48,386.75				48,386.75
State and Federal Grants	17,888.08				17,888.08
County Shared Revenue	36,889.80				36,889.80
Charges for Goods and Services	19,224.48		9,262.13	14.87	28,501.48
Miscellaneous Revenues	1,888.72				1,888.72
Total Revenues and Other Sources	754,134.58		9,262.13	41,268.75	764,725.46
Expenditures and Other Uses:					
General Government	143,880.71				143,880.71
Public Safety	270,383.14				270,383.14
Public Works	302,889.80				302,889.80
Culture and Recreation	47,024.87		48,803.87		95,828.74
Economic Development				17,814.80	17,814.80
Total Expenditures and Other Uses	764,178.52		48,803.87	17,814.80	830,807.19
Transfers In (Out)	48,206.00		30,234.00	-18,015.00	60,425.00
Increases/Decreases in Fund Balance	\$1,895.37		21.24	4,788.94	\$6,705.55
Ending Fund Balance:					
Assigned	\$11,948.17	\$1,340.88			\$13,289.05
Unassigned	229,942.38		2,271.86	12,822.88	245,047.12
Total Ending Fund Balance	\$13,096.54	\$1,340.88	\$2,271.86	\$12,822.88	\$29,732.16
Long-term Debt	\$15,946.24	\$0.00	\$0.00	\$0.00	\$15,946.24

PROPRIETARY FUNDS - MODIFIED CASH BASIS

	Water Fund	Bower Fund	Liquor Fund	Sanitation Fund	Total
Beginning Net Assets	\$86,047.46	\$11,308.15	\$28,104.04	\$48,238.38	\$173,698.03
Revenues	301,888.98	888,308.48	114,838.88	148,847.88	1,353,883.22
Expenses	217,081.88	888,778.88	6,881.88	148,130.38	1,260,873.02
Transfers In (Out)	-7,000.00		-71,824.00	-80,000.00	-158,824.00
Ending Net Assets:					
Unassigned	\$24,965.44	\$27,529.27	\$18,122.17	\$44,811.04	\$115,427.92
Long-term Debt	\$78,817.88	\$81,279.88	\$0.00	\$0.00	\$160,097.76

The preceding financial data does not include fiduciary funds or component units. Information pertaining to these activities may be obtained by contacting the municipal finance officer at 605-688-6623.

Municipal funds are reported on a modified cash basis.
 City Auditor
 Published once at the total approximate cost of \$45.40
 Published: February 27, 2012

RECEIVED

MAR - 1 2013

WATER RIGHTS
PROGRAM

Affidavit of Publication

State of South Dakota

County of Bennett

Jill Potter, being, first duly sworn, on oath, says: That he/she is an employee of Huether Publishing, Inc., and that the **Bennett County Booster** is, and during all the times hereinafter mentioned was, a weekly legal newspaper as defined in the SDCL 17-2-2.1 through the 17-2-2.4 inclusive; that said newspaper has been published within the said county of Bennett and State of South Dakota, for at least one year prior to the first publication of the attached public notice, and that the printed copy of which, taken from the paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper for 1 successive week(s) to wit:

February 27, 2013

That the full amount of the fee charged for the publication of the attached public notice, **\$34.00**, insures to the sole benefit of the publisher or publishers; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are:

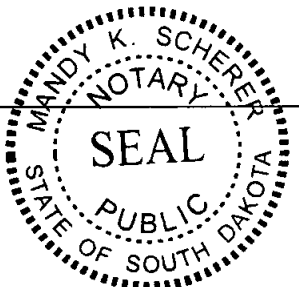
Signed: *Jill Potter*

Subscribed and sworn to before me this *27th* day of *February*, 2013.

Mandy K. Scherer

Notary Public

My Commission Expires
December 9, 2015



RECEIVED

MAR - 7 2013

WATER RIGHTS
PROGRAM

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County of Hughes) SS

I, Marylinn Baker

certify that the attached printed Notice was taken

from the Capital Journal

printed and published in Pierre

County of Hughes and

state of South Dakota. The notice was published

in the newspaper on the following date:

2-27-13

Cost of Printing \$34.65

Marylinn Baker
(Signature)

Bookkeeper
(Title)

3-5-13
(Date Signed)

ND Public Notice SD Public Notice

claim to impound 100 acre-feet of person or the ap- water from runoff plicant must be into an existing filed by March 11, dam located in the 2013.
E 1/2 NE 1/4 Sec- The petition may tion be informal, but 11-T38N-R35W must include a known as the statement describ- Schamans Dam. ing the petitioner's Water is im- Interest in the ap- ponded in the E plication, the peti- 1/2 NE 1/4, E 1/2 tioner's reasons SE 1/4 Section 11 for opposing or and the W 1/2 NW supporting the ap- 1/4, W 1/2 SW 1/4 plication, and the Section 12; all in signature and T38N-R35W. mailing address of This application the petitioner or requests impound- the petitioner's le- ment of sufficient gal counsel, if le- water to maintain gal counsel is ob- water to the outlet tained. Contact elevation. The wa- Eric Gronlund at ter is for fish and the above Water wildlife propaga- Rights Program tion and livestock address to request water purposes copies of informa- with a claimed pri- tion pertaining to ory date of 1950. this application.
Pursuant to Steven M. Pimer, SDCL 46-2A-2, Secretary Depart- the Chief Engineer ment of Environ- recommends ment and Natural VALIDATION of Resources. Vested Water Right Application Published once at No. 2705-2 be- the total approxi- cause 1) water mate cost of has been appro- priated as de- scribed for fish and wildlife propa- gation and live- stock water use with a priority date of January 1, 1950. 2) the use has been devel- oped without un- lawful impairment of existing rights. 3) it is a beneficial use of water, and 4) it is in the public interest. In ac- cordance with SDCL 46-2A-23, the Chief Engineer will act on this appli- cation, as recom- mended, unless a petition is filed op- posing the appli- cation or the appli- cant files a peti- tion contesting the Chief Engineer's recommendation. If a petition oppo- sing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Manage- ment Board will consider this ap- plication. Notice of the hearing will be given to the appli- cant and any per- son filing a peti- tion.
Any person inter- ested in opposing or supporting this application or rec- ommendation must file a written petition with BOTH the appli- cant and Chief En- gineer. The appli- cant must file a petition contest- ing the Chief En- gineer's recommen- dation. The Chief Engineer's ad- dress is "Water Rights Program, Fors Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and SD 57551 have the applicant's, filed an application mailing address is to validate a given above. A- vested water right petition filed by at-

NOTICE OF HEARING To Validate Vested Water Right Application No. 2705-2 to Appropriate Water

Notice is given that Sandra Huber and Karen Dierwy, SD 57501 (605 773-3352) and SD 57551 have the applicant's, filed an application mailing address is to validate a given above. A- vested water right petition filed by at-



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

February 20, 2013

Bennett County Booster II
PO Box 610
Martin SD 57551

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 2705-2 to Appropriate Water. Please publish the notice once on February 27, 2013. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

The applicant must verify to you that the notice is to be published and arrange for payment. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Sandra Huber and Karen Disney, PO Box 188, Martin SD 57551 (Ph # 605-685-1358).

Please send the Water Rights Program an affidavit or the enclosed Proof of Publication form immediately.

The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

February 20, 2013

Capital Journal
PO Box 878
Pierre SD 57501

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 2705-2 to Appropriate Water. Please publish the notice once on February 27, 2013. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

The applicant must verify to you that the notice is to be published and arrange for payment. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Sandra Huber and Karen Disney, PO Box 188, Martin SD 57551 (Ph # 605-685-1358).

Please send the Water Rights Program an affidavit or the enclosed Proof of Publication form immediately.

The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATE, CONTACT
THE NEWSPAPER(S) RIGHT AWAY.

February 20, 2013

Sandra Huber & Karen Disney
PO Box 188
Martin SD 57551

Dear Ms. Huber & Ms. Disney:

Water Permit Application No. 2705-2 for fish & wildlife use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Bennett County Booster II printed at Martin SD (Ph # 605-685-6866) and the Capital Journal printed at Pierre SD (Ph # 605-224-7301). You will need to contact the newspaper(s) and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and 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(s) to authorize publication of your Notice and to arrange for payment. Early contact with the paper(s) can eliminate delays. Upon receiving authorization from you, the publisher has been instructed to publish your notice. The newspaper has also 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 the Notice on February 27, 2013. The applicant is responsible for payment. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352 or email: Karen.schlaak@state.sd.us.

NOTICE OF HEARING To Validate
Vested Water Right Application No. 2705-2 to Appropriate Water

Notice is given that Sandra Huber and Karen Disney, Box 188, Martin SD 57551 have filed an application to validate a vested water right claim to impound 100 acre-feet of water from runoff into an existing dam located in the E 1/2 NE 1/4 Section 11-T38N-R35W known as the Scharmans Dam. Water is impounded in the E 1/2 NE 1/4, E 1/2 SE 1/4 Section 11 and the W 1/2 NW 1/4, W 1/2 SW 1/4 Section 12; all in T38N-R35W. This application requests impoundment of sufficient water to maintain water to the outlet elevation. The water is for fish and wildlife propagation and livestock water purposes with a claimed priority date of 1950.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 2705-2 because 1) water has been appropriated as described for fish and wildlife propagation and livestock water use with a priority date of January 1, 1950, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this 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 this 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 March 11, 2013.

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. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.
Published once at the total approximate cost of _____.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

AUG 28 2013

Sandra Huber & Karen Disney
PO Box 188
Martin SD 57551

Dear Ms. Huber & Ms. Disney:

Enclosed are your Validated Vested Water Right and Water License No. 2705-2. As long as you use the water beneficially, as stated in the Water License, the State Water Laws provide that you have a continuing right to use the water.

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

3/5/2013

RECEIVED

MAR - 6 2013

WATER RIGHTS
PROGRAM

Water Rights Program
Foss Building
523 E. Capitol
Pierre, SD 57501

RE: Notice of Application
No. 2705-2 to Validate Vested
Water Rights

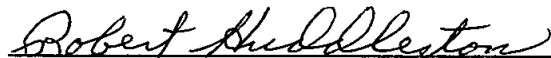
Dear Chief Engineer's,

This written letter will serve notice as to my opposition in contesting the Validation of Vested Water Rights No. 2705-2. This pertains to Sandy Huber, Karen Disney, and Chief Engineer's recommendation.

I Robert Huddleston protest the validation and of this impounding of substantial water allowing them to have 100 ac ft. of water. This would put me Robert Huddleston in great jeopardy as I own and operate land located in Bennett County downstream on Pass Creek where my cattle utilize this stream. Numerous land owners downstream depend on Pass Creek for their livestock water. Sandy Huber and Karen Disney – Sharman Dam has NO WAY to regulate Outflow for Livestock Producers.

Hoping this Validated Vested Water Rights Application No.2705-2 is denied.

Sincerely,



Robert Huddleston
23034 284th St
Martin, SD 57551

CC: Water Rights Program

RECEIVED

MAR - 6 2013

WATER RIGHTS
PROGRAM

3/5/2013

Water Rights Program
Foss Building
523 E. Capitol
Pierre, SD 57501

RE: Notice of Application
No. 2705-2 to Validate Vested
Water Rights

Dear Chief Engineer's,

This written letter will serve as notice as to my opposition to the proposed Vested Water Right Application NO. 2705-2 for Sandy Huber, Karen Disney and contest the Chief Engineer's recommendation. I protest the validation and claimed priority date of 1950 and First Water Rights. The validation of vested Water rights application NO. 2705-2 with a priority date of January 1, 1950 should not be allowed.

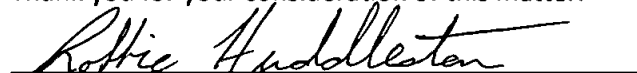
I Robbie Huddleston own the property located NE1/4 of Section 14T 38N R35W on the head waters of Pass Creek. I Robbie Huddleston have already had 1st Water Rights NO. 2611-2 and all permits as of September 1, 2011. Claims were made as nothing was put in place in the 1st 3 years of my ownership this is false. The Huddleston Dam was still maintained even with a slight breach, as there was always 3 to 4 foot of water level there, maintained by springs. Plus the Huddleston Dam is costly to put in and took time with funding and paper work. The Huddleston Dam was built in the WPA 1920's-1930's; which still has First Water Rights precedence over the existing Scharman Dam of the 1950's.

I STRONGLY believe any and all future water programs or releasing of water from upstream to downstream for People, Livestock, or Wildlife may be in jeopardy or abused by Sharman's Dam holding 100 Ac ft. of water. I also contest the validation and am very concerned of this impounding of substantial water allowing them to have 100 ac ft. of water as it will deplete my dam and lower my **Property Value**.

Will this application hinder any and all future water development on adjoining properties; or for the community?

For the above reasons I believe that the water rights application would not be beneficial if the application for the 1950 date is ALLOWED. This application should be denied.

Thank you for your consideration of this matter.



Robbie Huddleston
23055 284th St
Martin, SD 57551

CC: Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

March 11, 2013

NOTICE OF HEARING

TO: Sandra Huber and Karen Disney
PO Box 188
Martin SD 57551

Robbie Huddleston
23055 284th Street
Martin SD 57551

Robert Huddleston
23034 284th Street
Martin SD 57551

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Notice of Hearing on Vested Water Right Application No. 2705-2, Sandra Huber and Karen Disney

Two petitions opposing approval of Water Permit Application No. 2705-2 has been filed in response to the Notice of Application published in the Bennett County Booster and Capital Journal. This notice schedules a hearing on the application before the South Dakota Water Management Board.

Application No. 2705-2 is to validate a vested water right claim to impound 100 acre-feet of water from runoff into an existing dam located in the E 1/2 NE 1/4 Section 11-T38N-R35W known as the Scharmans Dam. Water is impounded in the E 1/2 NE 1/4, E 1/2 SE 1/4 Section 11 and the W 1/2 NW 1/4, W 1/2 SW 1/4 Section 12; all in T38N-R35W. This application requests impoundment of sufficient water to maintain water to the outlet elevation. The water is for fish and wildlife propagation and livestock water purposes with a claimed priority date of 1950.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 2705-2 because 1) water has been appropriated as described for fish and wildlife propagation and livestock water use with a priority date of January 1, 1950, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) it is in the public interest.

The Water Management Board will consider Application No. 2705-2 at 2:30 PM on May 2, 2013 in the Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave. Pierre SD. Parties will be provided written notice if there is a change to the hearing time or date. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application after it reaches a conclusion based on the facts presented at the public hearing.

The May 2, 2013 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support the application. The request for an automatic delay must be filed by April 22, 2013. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

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

Contact Eric Gronlund at the above Chief Engineer's address to request copies of the staff report, recommendation, application or any other information. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Enclosed is a copy of the report, recommendation, affidavit of publication and petition in the matter of Water Permit Application No. 2705-2. State law directs the Chief Engineer to provide Water Management Board members with a copy of all pleadings including petitions for each proceeding. This same information will be sent to the Board members in advance of the hearing. In addition, enclosed are two documents intended to acquaint parties with the hearing process entitled "Procedure for Hearings before the Water Management Board" and "Summary of South Dakota Water Laws and Rules". You are encouraged to review these documents prior to the hearing.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is March 22, 2013. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; Board Rules ARSD 74:02:01:01 thru 74:02:01:24.02 and ARSD Chapter 74:02:04.

Questions regarding the hearing process may be directed to Eric Gronlund, Water Rights Program at (605) 773-3352 or eric.gronlund@state.sd.us.

c: Diane Best, Assistant Attorney General

enclosures

CERTIFICATION

I hereby certify that on March 11, 2013, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Hearing dated March 11, 2013, regarding scheduling the hearing for Water Right Permit Application No. 2705-2, as addressed below:

Sandra Huber and Karen Disney
PO Box 188
Martin SD 57551

Robbie Huddleston
23055 284th Street
Martin SD 57551

Diane Best, Assistant Attorney General
317 North Main Avenue
Sioux Falls SD 57104

Robert Huddleston
23034 284th Street
Martin SD 57551



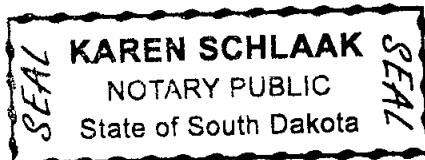
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 11th day of March, 2013



Karen Schlaak
Notary Public
My Commission expires April 1, 2013



REPORT ON
VESTED WATER RIGHT APPLICATION No. 2705-2
Sandra Huber & Karen Disney
February 5, 2013

Vested Water Right Application No. 2705-2 has been filed by Sandra Huber and Karen Disney to validate a vested right claim to impound 100 acre-feet of water from runoff into an existing dam (Scharman Dam) located in the E ½ NE ¼ of Section 11-T38N-R35W, in Bennett County. The application also requests impoundment of sufficient water to maintain water at the outlet elevation. The water will be used for fish and wildlife propagation and livestock water purposes with a claimed priority date of 1950.

Discussion:

The Scharman Dam is listed on our Safety of Dams Inventory as South Dakota ID number SD01350 and is classified as a small size, Category 3, Low Hazard dam. The dam is 14 feet high with a normal storage capacity of 100 acre-feet with a reservoir level at the primary spillway elevation, and a maximum storage capacity of 250 acre-feet with a reservoir level at the top of dam elevation. In 1998, there was a USFWS project to replace the primary spillway structure at Scharman Dam.

Section 74:02:08 of our Safety of Dams rules states that Category 3 dams constructed before October 27, 1986, are exempt from spillway requirements unless the dam fails and is to be rebuilt. Since Scharman Dam was constructed in 1950, it would be exempt from the spillway requirements; however; if not exempt, a dam of this size and hazard category would be required to have a minimum spillway design capable of passing a 25-year frequency event.

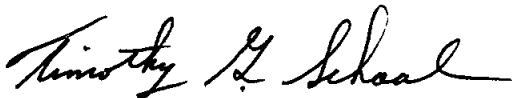
The dam has a drainage area of 11,360 acres or 17.75 square miles. The dam has a 42 inch diameter CMP riser with a 30 inch barrel as the primary spillway, and a 125 foot wide earthcut spillway as the secondary spillway. A 25 year frequency event produces a peak runoff of approximately 1075 cfs and a 100 year frequency event produces a peak runoff of approximately 1930 cfs. The earthcut secondary spillway will have a capacity of approximately 1700 cfs.

The annual yield for this drainage area with an 80 percent chance of occurrence, or 8 out of 10 years, is expected to be 56 acre-feet. The annual yield with a 50 percent chance of occurrence, or 1 out of 2 years, is expected to be 180 acre-feet and the annual yield with a 10 percent chance, or 1 out of 10 years, is expected to be 1040 acre-feet.

The Scharman Dam is located in the NE ¼ of Section 11-T38N-R35W on the headwaters of Pass Creek, about 35 miles upstream of the confluence of Pass Creek and the White River. Water Right No. 2611-2 was approved in 2007 to repair the Huddleston Dam, which is located in the N ½ NE ¼ of Section 14-T38N-R35W and about 1 mile upstream of Scharman Dam. There are no existing Water Rights/Permits located on Pass Creek between Scharman Dam and the White River.

Conclusions:

1. Vested Water Right Application No. 2705-2 should be approved since Scharman Dam has been in place since 1950, unappropriated water is available and approval should not have any adverse effect on existing Water Permits/Rights.
2. If approved, the low flow bypass requirement for downstream domestic use should be a qualification on Vested Water Right Application No. 2705-2.



Timothy G. Schaal, P.E.
Engineer IV



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED
WATER RIGHT APPLICATION NO. 2705-2, Sandra Huber and Karen Disney**

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. 2705-2, Sandra Huber and Karen Disney, Box 188, Martin SD 57551.

The Chief Engineer is recommending Validation of Application No. 2705-2 for impoundment of 100 acre feet of water because 1) water has been appropriated as describe for domestic and fish and wildlife purposes with a priority date of January 1, 1950, 2) the use has been developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. Water Permit No. 1930-1 authorizes an impoundment with a storage capacity of 102 acre feet of water and sufficient water annually to maintain the water level to the outlet elevation.
2. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.

See report on application for additional information.

Garland Erbele, Chief Engineer
February 15, 2013

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3/5/2013

MAR - 6 2013

WATER RIGHTS
PROGRAM

Water Rights Program
Foss Building
523 E. Capitol
Pierre, SD 57501

RE: Notice of Application
No. 2705-2 to Validate Vested
Water Rights

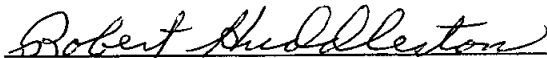
Dear Chief Engineer's,

This written letter will serve notice as to my opposition in contesting the Validation of Vested Water Rights No. 2705-2. This pertains to Sandy Huber, Karen Disney, and Chief Engineer's recommendation.

I Robert Huddleston protest the validation and of this impounding of substantial water allowing them to have 100 ac ft. of water. This would put me Robert Huddleston in great jeopardy as I own and operate land located in Bennett County downstream on Pass Creek where my cattle utilize this stream. Numerous land owners downstream depend on Pass Creek for their livestock water. Sandy Huber and Karen Disney – Sharman Dam has NO WAY to regulate Outflow for Livestock Producers.

Hoping this Validated Vested Water Rights Application No.2705-2 is denied.

Sincerely,

A handwritten signature in cursive script, reading "Robert Huddleston", is written over a horizontal line.

Robert Huddleston
23034 284th St
Martin, SD 57551

CC: Water Rights Program

RECEIVED

MAR - 6 2013

WATER RIGHTS
PROGRAM

3/5/2013

Water Rights Program
Foss Building
523 E. Capitol
Pierre, SD 57501

RE: Notice of Application
No. 2705-2 to Validate Vested
Water Rights

Dear Chief Engineer's,

This written letter will serve as notice as to my opposition to the proposed Vested Water Right Application NO. 2705-2 for Sandy Huber, Karen Disney and contest the Chief Engineer's recommendation. I protest the validation and claimed priority date of 1950 and First Water Rights. The validation of vested Water rights application NO. 2705-2 with a priority date of January 1, 1950 should not be allowed.

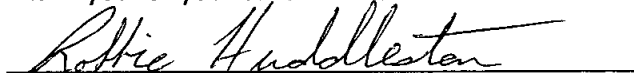
I Robbie Huddleston own the property located NE1/4 of Section 14T 38N R35W on the head waters of Pass Creek. I Robbie Huddleston have already had 1st Water Rights NO. 2611-2 and all permits as of September 1, 2011. Claims were made as nothing was put in place in the 1st 3 years of my ownership this is false. The Huddleston Dam was still maintained even with a slight breach, as there was always 3 to 4 foot of water level there, maintained by springs. Plus the Huddleston Dam is costly to put in and took time with funding and paper work. The Huddleston Dam was built in the WPA 1920's-1930's; which still has First Water Rights precedence over the existing Scharman Dam of the 1950's.

I STRONGLY believe any and all future water programs or releasing of water from upstream to downstream for People, Livestock, or Wildlife may be in jeopardy or abused by Sharman's Dam holding 100 Ac ft. of water. I also contest the validation and am very concerned of this impounding of substantial water allowing them to have 100 ac ft. of water as it will deplete my dam and lower my **Property Value**.

Will this application hinder any and all future water development on adjoining properties; or for the community?

For the above reasons I believe that the water rights application would not be beneficial if the application for the 1950 date is ALLOWED. This application should be denied.

Thank you for your consideration of this matter.



Robbie Huddleston
23055 284th St
Martin, SD 57551

CC: Water Rights Program

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MAR - 1 2013

WATER RIGHTS
PROGRAM

Affidavit of Publication

State of South Dakota

County of Bennett

Jill Potter, being, first duly sworn, on oath, says: That he/she is an employee of Huether Publishing, Inc., and that the **Bennett County Booster** is, and during all the times hereinafter mentioned was, a weekly legal newspaper as defined in the SDCL 17-2-2.1 through the 17-2-2.4 inclusive; that said newspaper has been published within the said county of Bennett and State of South Dakota, for at least one year prior to the first publication of the attached public notice, and that the printed copy of which, taken from the paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper for 1 successive week(s) to wit:

February 27, 2013

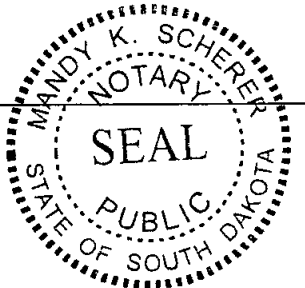
That the full amount of the fee charged for the publication of the attached public notice, **\$34.00**, insures to the sole benefit of the publisher or publishers; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are:

Signed: *Jill Potter*

Subscribed and sworn to before me this *27th* day of *February*, 2013.

Mandy K. Scherer
Notary Public

My Commission Expires
December 9, 2015



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MAR - 7 2013

Form 8

WATER RIGHTS
PROGRAM

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

) SS

County of Hughes)

I, Marilynn Baker

certify that the attached printed Notice was
taken

from the Capital Journal

printed and published in Pierre

County of Hughes and

state of South Dakota. The notice was
published

in the newspaper on the following date:

2-27-13

Cost of Printing \$34.65

Marilynn Baker
(Signature)

Bookkeeper
(Title)

3-5-13
(Date Signed)

800 Public Notice 800 Public Notice

claim to impound 100 acre-feet of water from runoff into an existing dam located in the E 1/2 NE 1/4 Sec. 11-T38N-R35W. The petitioner may be informal, but must include a known as the statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the petitioner's signature and mailing address. This application the petitioner or requests impoundment of sufficient counsel. If le- water to maintain the outlet. Contact elevation. The wa- Eric Gronlund at ter is for fish and the above Water wildlife propaga- Rights Program tion and livestock address to request water purposes copies of informa- with a claimed pri- tion pertaining to city date of 1950. this application. Pursuant to Steven M. Pinner, SDCL 46-2A-2, Secretary, Depart- the Chief Engineer ment of Environ- recommends ment and Natural VALIDATION of Resources.

Vested Water Right Application Published once at No. 2705-2 be- the total appro- cause 1) water mats cost of has been appro- \$34.65.

described for fish and wildlife propaga- tion and live- stock water use with a priority date of January 1, 1950. 2) the use has been devel- oped without un- lawful impairment of existing rights. 3) it is a beneficial use of water, and 4) it is in the public interest. In accor- dance with SDCL 46-2A-23, the Chief Engineer will act on this appli- cation, as recom- mended, unless a petition is filed op- posing the appli- cation or the appli- cant files a petition contesting the Chief Engineer's recommendation. If a petition oppos- ing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Manage- ment Board will consider this ap- plication. Notice of the hearing will be given to the appli- cant and any per- son filing a peti- tion.

Any person inter- ested in opposing or supporting this application or rec- ommendation must file a written petition with BOTH the appli- cant and Chief En- gineer. The appli- cant must file a petition if contest- ing the Chief En- gineer's recommen- dation. The Chief Engineer's ad- dress is "Water Rights Program, Foss Building, 523 E Capitol, Pierre, SD 57501 (605 773-3352)" and the applicant's mailing address is to validate a given above. A petition filed by el-

Notice is given that Sandra Huber and Karen Disney, SD 57551 have filed an application to validate a given above. A petition filed by el-

PSNAXI-2013-03-07-13

NOTICE OF HEARING TO Validate Vested Water Right Application No. 2705-2 to Appropriate Water

Notice is given that Sandra Huber and Karen Disney, SD 57551 have filed an application to validate a given above. A petition filed by el-

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MAR 12 2013

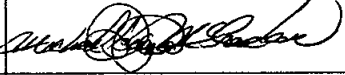
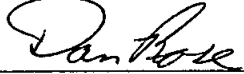
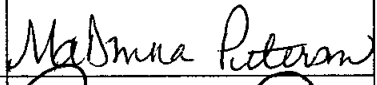
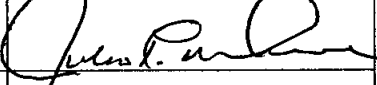
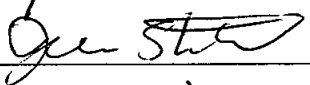
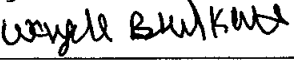
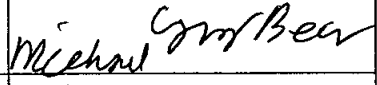
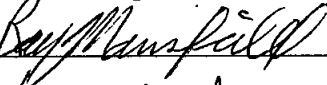
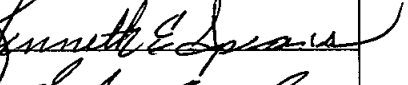
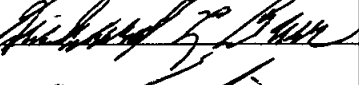
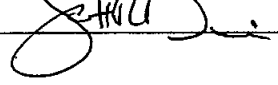
WATER RIGHTS
PROGRAM

PETITION IN SUPPORT OF WATER RIGHT APPLICATION 2705-2

We the undersigned support Application 2705-2 to validate the vested water right claim to appropriate and impound 100 acre-feet from runoff into an existing dam known as Scharman's Dam.

The under-signed are local sportsmen who use this dam for recreational fishing and maintaining the water to the outlet elevation is critical to this public use.

We are supporting this application because the dam has been in existence since 1950 without impairing any existing water rights. This dam has been open for public recreation and is one of the best fishing ponds in Bennett County. We are grateful to the applicants for providing this area for public fishing and allowing public access for so many years.

Date	Printed Name	Mailing Address	Signature
3/6/2013	MICHAEL DOUGLAS MCCracken	143 MAIN STREET TUTHILL, SOUTH DAKOTA 57574	
3/7/13	Susan Lewis	PO BOX 328 Martin SD 57551	
3/7/13	Dan Rose	PO box 643 Martin SD 57551	
3/7/13	Madonna Peterson	P.O. Box 705 Martin SD 57551	
3/7/13	Julio Medeiros	P.O. Box 526 Martin, SD 57551	
3/7/13	John STERKEL	PO BOX 351 MARTIN, SD 57551	
3/7/13	Wayne Brockorb	HC 54 BOX 71 BATESLAND S.D.	
3/7/13	Michael Conquering bear	PO BOX 95 Martin, SD 57551	
3/7/13	Justin Smekol	22441 Project Rd. Martin SD 57551	
03-07-13	Linda Frubion	PO BOX #686 Arlington, S.D. 57714	
3-7-13	Ray Mansfield	22968 25TH ST Martin S.D. 57551	
3-7-13	KENNETH E. SPEARS	109 FRONT ST TUTHILL S.D. 57574	
3-7-13	Richard L. Bair	202 AVE C Martin SD 57551	
3-7-13	Keith Risse	202 Ave D Martin SD	
3-7-13	Scott R. Bair	211 AVE C MARTIN, SD. 57551	

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MAR 12 2013

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WATER RIGHTS
PROGRAM

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Date	Printed Name	Mailing Address	Signature
3-7-13	Robert Fetter	P.O. Box 329 ^{Martin}	Robert Fetter
3-7-13	Vernon Briggs	PO Box 53 Batesland SD 57716	Vernon Briggs
3-7-13	Herb Hodson	PO BOX 72 MARTIN, SD 57551	Herb Hodson
3-7-13	Steve Thompson	PO Box 100 Martin So Dak	Steve Thompson
3-7-13	Patricia K. Bader	PO BOX 51 Martin, SD 57551	Patricia K. Bader
3-7-13	Richard May	PO BOX 29 Martin SD. 57551	Richard May
3-7-13	Steve Hicks	^{Martin SD} 21839 297th St	Steve Hicks
3-7-13	David Vowell	Box 403 Martin SD	David Vowell
3-7-13	Dennis Winslow	P.O. Box 1 Martin SD	Dennis Winslow
3-7-13	Val Mauer	216 Honey St Martin	Val Mauer
3-7-13	Justin Albers	Box 131 Martin	Justin Albers
3-7-13	Michael Keegan	22821 Cedar Creek Rd	Michael J. Keegan
3-7-13	Tom Louma	22719 - 292nd Martin, SD	Tom Louma
3-7-13	Terry Smolakov	22856 - 290th Martin, S.D.	Terry Smolakov
3-7-13	Michael Marrs	P.O. Box 835	Michael Marrs

PETITION IN SUPPORT OF WATER RIGHT APPLICATION 2705-2

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Date	Printed Name	Mailing Address	Signature
3-7-13	Steve York	Box 155 Martin SD	Steve York
3-7-13	Frankie York	Box 772 Martin SD	Frankie York
3-7-13	Walter York	Box 635 Martin S.D	Walter York
3-7-13	Roger Nussgen	Box 577 ⁵⁷⁷ Martin SD ⁵⁷⁵⁵¹	Roger Nussgen
3-7-13	Patricia Butcher	Box 334 Martin SD	Patricia Butcher
3-7-13	Lloyd A Serres	Box 770 Martin S.D.	Lloyd A Serres
3-7-13	Charles E. Jansik	Box 363 ⁵⁷⁷¹⁴ Allen SD	Charles E. Jansik
3-7-13	Matt Kachopau	Box 214 ^{Martin} 57751	Matt Kachopau
3-8-13	Linda Kiefer	Box 152 Martin 57551	Linda Kiefer
3-8-13	Steven Fuchs	Box 7 Martin 57551	Steven Fuchs
3-8-13	Bob Fuchs	Box 867 Martin ⁵⁷⁵⁵¹ SD	Bob Fuchs
3-8-13	Kayla Kiefer	P.O. Box 152 ⁵⁷⁵⁵¹ Martin SD	Kayla Kiefer
3/8/13	Cory Fuchs	P.O. Box 542 ^{Martin, SD 57551}	Cory Fuchs

**WATER RIGHTS
PROGRAM**

[illegible]

MAR 12 2013

We the undersigned support Application 2705-2 to validate the vested water right claim to appropriate WATER RIGHTS PROGRAM and impound 100 acre-feet from runoff into an existing dam known as Scharman's Dam.

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[illegible]

[illegible]

**WATER RIGHTS
PROGRAM**

[illegible]



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

March 13, 2013

NOTICE OF HEARING

TO: Sandra Huber and Karen Disney
PO Box 188
Martin SD 57551
and Parties of Record (see attached list)

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Notice of Hearing on Vested Water Right Application No. 2705-2, Sandra Huber and Karen Disney

Since the March 11, 2013 notice of hearing was sent to the applicant and two petitioners in opposition, a petition signed by numerous citizens supporting the application has been received. Therefore the notice of hearing scheduling a hearing on Application No. 2705-2 before the South Dakota Water Management Board is being resent to all parties of record.

Application No. 2705-2 is to validate a vested water right claim to impound 100 acre-feet of water from runoff into an existing dam located in the E 1/2 NE 1/4 Section 11-T38N-R35W known as the Scharmans Dam. Water is impounded in the E 1/2 NE 1/4, E 1/2 SE 1/4 Section 11 and the W 1/2 NW 1/4, W 1/2 SW 1/4 Section 12; all in T38N-R35W. This application requests impoundment of sufficient water to maintain water to the outlet elevation. The water is for fish and wildlife propagation and livestock water purposes with a claimed priority date of 1950.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 2705-2 because 1) water has been appropriated as described for fish and wildlife propagation and livestock water use with a priority date of January 1, 1950, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) it is in the public interest.

The Water Management Board will consider Application No. 2705-2 at 2:30 PM on May 2, 2013 in the Matthew Training Center, Joe Foss Building, 523 E. Capitol Ave. Pierre SD. Parties will be provided written notice if there is a change to the hearing time or date. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application after it reaches a conclusion based on the facts presented at the public hearing.

The May 2, 2013 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support

the application. The request for an automatic delay must be filed by April 22, 2013. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

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

Contact Eric Gronlund at the above Chief Engineer's address to request copies of the staff report, recommendation, application or any other information. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Enclosed is a copy of the report, recommendation, affidavit of publication and petitions in the matter of Water Permit Application No. 2705-2. State law directs the Chief Engineer to provide Water Management Board members with a copy of all pleadings including petitions for each proceeding. This same information will be sent to the Board members in advance of the hearing. In addition, enclosed are two documents intended to acquaint parties with the hearing process entitled "Procedure for Hearings before the Water Management Board" and "Summary of South Dakota Water Laws and Rules". You are encouraged to review these documents prior to the hearing.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is March 25, 2013. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; Board Rules ARSD 74:02:01:01 thru 74:02:01:24.02 and ARSD Chapter 74:02:04.

Questions regarding the hearing process may be directed to Eric Gronlund, Water Rights Program at (605) 773-3352 or eric.gronlund@state.sd.us.

c: Diane Best, Assistant Attorney General

enclosures

Parties of Record in Water Permit No. 2705-2

Applicants:

SANDRA HUBER & KAREN DISNEY
PO BOX 188
MARTIN SD 57551

Petitioners opposed:

ROBBIE HUDDLESTON
23055 284TH ST
MARTIN SD 57551

ROBERT HUDDLESTON
23034 284TH ST
MARTIN SD 57551

Petitioners in favor:

MICHAEL DOUGLAS MCCracken
143 MAIN ST
TUTHILL SD 57574

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GABRIEL GROPPER
PO BOX 24
LONG VALLEY SD 57547

CERTIFICATION

I hereby certify that on March 13, 2013, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Hearing dated March 13, 2013, regarding scheduling the hearing for Water Right Permit Application No. 2705-2, as set forth on the attached parties of record list and as addressed below:

Sandra Huber and Karen Disney
PO Box 188
Martin SD 57551

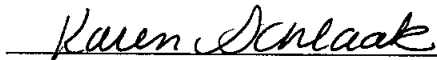
Diane Best, Assistant Attorney General
317 North Main Avenue
Sioux Falls SD 57104



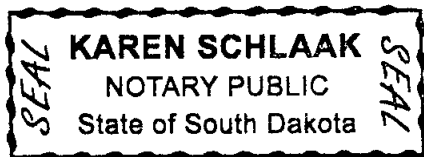
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 13th day of March, 2013



Karen Schlaak
Notary Public
My Commission expires April 1, 2013



ERIC A. SCOTT
ATTORNEY AT LAW
P.O. BOX 349
VALENTINE, NE 69201
(402) 376-1803 PHONE
(402) 376-1964 FAX

RECEIVED
APR - 8 2013
WATER RIGHTS
PROGRAM

April 4, 2013

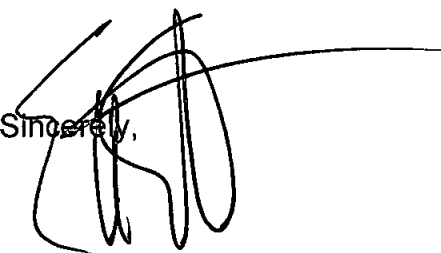
Ms. Jeanne Goodman
Chief Engineer
Water Rights Program
Department of Environment and Natural Resources
PMB 2020
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

RE: Vested Water Right Application 2705-2

Dear Ms. Goodman,

Please consider this as a Notice of Appearance on behalf of Robbie Huddleston in the above referenced matter before the Water Management Board for the State of South Dakota.

Sincerely,


Eric A. Scott
Attorney At Law

EAS:ers

Cc: Mr. Robbie Huddleston
23055 284th Street
Martin, SD 57551

Ms. Sandy Huber
P.O. Box 188
Martin, SD 57551

**ERIC A. SCOTT
ATTORNEY AT LAW
P.O. BOX 349
VALENTINE, NE 69201
(402) 376-1803 PHONE
(402) 376-1964 FAX**

**RECEIVED
APR - 8 2013
WATER RIGHTS
PROGRAM**

April 4, 2013

Ms. Jeanne Goodman
Chief Engineer
Water Rights Program
Department of Environment and Natural Resources
PMB 2020
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

RE: Vested Water Right Application 2705-2

Dear Ms. Goodman,

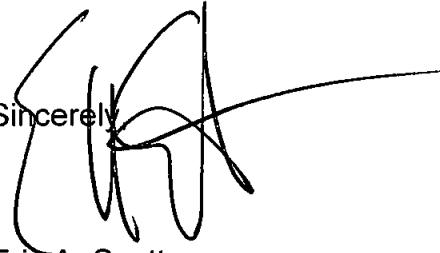
This office represents Robbie Huddleston of Martin, South Dakota. Mr. Huddleston is an objecting party to the above referenced application.

On April 3, 2013, Mr. Huddleston, Ms. Sandy Huber, Mr. Timothy Schaal and I met in Martin, South Dakota. At that time the outline of an agreement was reached between the parties, which would eliminate Mr. Huddleston's objection. This proposed agreement has not yet been memorialized in writing or agreed to in final form by the parties.

At this time we are requesting a continuance of the hearing set for May 2, 2013 at 2:30 p.m. I would represent to you that at the above referenced meeting of April 3, 2013, all parties consented to this continuance. It is my understanding in speaking with Mr. Schaal that the next hearing dates before the Water Board are July 10 and 11, 2013. These dates are acceptable to all parties.

Do not hesitate to contact this office should you have any questions or concerns.

Sincerely,


Eric A. Scott
Attorney At Law

EAS:ers

Cc: Mr. Robbie Huddleston
23055 284th Street
Martin, SD 57551

Ms. Sandy Huber
P.O. Box 188
Martin, SD 57551

Mr. Tim Schaal
Natural Resources Engineering Specialist
523 East Capitol
Pierre, SD 57501-3182



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

April 9, 2013

NOTICE OF HEARING

TO: Sandra Huber and Karen Disney
PO Box 188
Martin SD 57551
and Parties of Record (see attached list)

FROM: Jeanne Goodman, Chief Engineer 
Water Rights Program

SUBJECT: Automatic Delay of Hearing on Vested Water Right Application No. 2705-2,
Sandra Huber and Karen Disney

Petitions were received in response to the public notice for validation of Vested Water Right Application No. 2705-2 filed by Sandra Huber and Karen Disney for Scharman Dam in Bennett County. Eric Scott, counsel for Petitioner Huddleston, has made formal request for postponement of the May 2, 2013, hearing date before the Water Management Board. The request and Notice of Appearance filed by Mr. Scott are attached. Therefore, the hearing on Application No. 2705-2 is automatically delayed pursuant to SDCL 46-2A-4 and 46-2A-5 and will not be held on May 2, 2013.

The hearing to consider Application No. 2705-2 will now be scheduled for the July 10 – 11, 2013, Water Management Board meeting tentatively to be held in Pierre. Future notice of the time and place of the hearing for Application No. 2705-2 will be provided to all parties of record.

Questions regarding the hearing process may be directed to Eric Gronlund, Water Rights Program at (605) 773-3352 or eric.gronlund@state.sd.us.

c: Diane Best, Assistant Attorney General

enclosures

CERTIFICATION

I hereby certify that on April 9, 2013, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Hearing dated April 9, 2013, regarding automatic delay of the hearing for Water Right Permit Application No. 2705-2, as set forth on the attached parties of record list and as addressed below:

Sandra Huber and Karen Disney
PO Box 188
Martin SD 57551

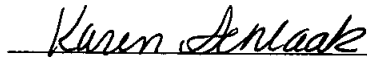
Diane Best, Assistant Attorney General
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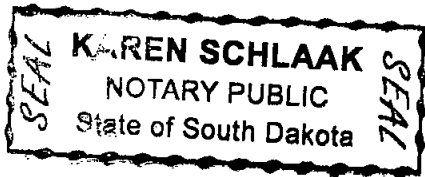
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 9th day of April, 2013



Karen Schlaak
Notary Public
My Commission expires April 1, 2013



Parties of Record in Water Permit No. 2705-2

Applicants:

SANDRA HUBER & KAREN DISNEY
PO BOX 188
MARTIN SD 57551

Petitioners opposed:

ROBBIE HUDDLESTON
23055 284TH ST
MARTIN SD 57551

Represented by: ERIC A SCOTT
PO BOX 349
VALENTINE NE 69201

ROBERT HUDDLESTON
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**DEPARTMENT of ENVIRONMENT
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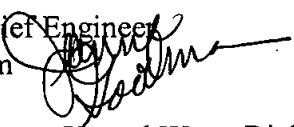
PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

June 18, 2013

NOTICE OF HEARING

TO: Sandra Huber and Karen Disney
PO Box 188
Martin SD 57551
and Parties of Record (see attached list)

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program 

SUBJECT: Scheduling of Hearing on Vested Water Right Application No. 2705-2, Sandra Huber and Karen Disney

A petition was submitted to Vested Water Right Application No. 2705-2 filed by Sandra Huber and Karen Disney for Scharmans Dam. The petition was filed in response to the Notice of Application published February 27, 2013, in the Bennett County Booster and Capital Journal. Subsequently, a notice of hearing was sent to parties on March 13, 2013, scheduling a May 2, 2013, hearing before the Water Management Board. The May 2nd hearing was then postponed pursuant to SDCL 46-2A-5 based on the request by legal counsel for the petitioner. This notice schedules a hearing before the Water Management Board to consider Application No. 2705-2.

Application No. 2705-2 is to validate a vested water right claim to impound 100 acre-feet of water from runoff into an existing dam located in the E 1/2 NE 1/4 Section 11-T38N-R35W known as the Scharmans Dam. Water is impounded in the E 1/2 NE 1/4, E 1/2 SE 1/4 Section 11 and the W 1/2 NW 1/4, W 1/2 SW 1/4 Section 12; all in T38N-R35W. This application requests impoundment of sufficient water to maintain water to the outlet elevation. The water is for fish and wildlife propagation and livestock water purposes with a claimed priority date of 1950.

The Water Management Board will conduct a hearing to consider Application No. 2705-2 at 9:00 AM (Central Time) on Thursday, July 11, 2013, at the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. Applicable provisions of the Notice of Hearing dated March 13, 2013, will apply at the time of hearing. Future notice will be provided to all parties if there are changes to the hearing date or time.

Please contact Eric Gronlund at (605) 773-3352, if you have any questions.

c: Diane Best, Assistant Attorney General

Parties of Record in Water Permit No. 2705-2

Applicants:

SANDRA HUBER & KAREN DISNEY
PO BOX 188
MARTIN SD 57551

Petitioners opposed:

ROBBIE HUDDLESTON
23055 284TH ST
MARTIN SD 57551

Represented by: ERIC A SCOTT
PO BOX 349
VALENTINE NE 69201

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CERTIFICATION

I hereby certify that on June 18, 2013, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Hearing dated June 18, 2013, regarding scheduling the hearing for Vested Water Right Application No. 2705-2, as set forth on the attached parties of record list and as addressed below:

Sandra Huber and Karen Disney
PO Box 188
Martin SD 57551

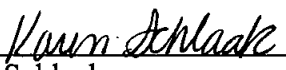
Diane Best, Assistant Attorney General
317 North Main Avenue
Sioux Falls SD 57104



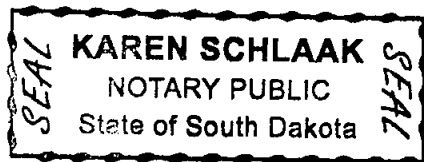
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 18th day of June, 2013



Karen Schlaak
Notary Public
My Commission expires April 1, 2019



RECEIVED

JUN 28 2013

WATER RIGHTS
PROGRAM

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SD Dept. of Environment and Natural Resources
Attn: Jeanne Goodman, Chief Engineer
Water Rights Program
PMB 2020
523 E. Capitol
Pierre, SD 57501

RE: Scharman Dam Vested Water Rights Application No. 2705-2
Our File: 0011

Dear Ms. Goodman:

Enclosed please find a Notice of Appearance on behalf of Sandra Huber and Karen Disney in the above referenced Application. If you have any questions please feel free to contact me.

Very truly yours,

MAY, ADAM, GERDES & THOMPSON LLP



BRETT KOENECKE

BK/sjs

Cc: Eric Scott
Karen Disney (via email)
Sandra Huber (via email)

**STATE OF SOUTH DAKOTA
SOUTH DAKOTA WATER MANAGEMENT BOARD**

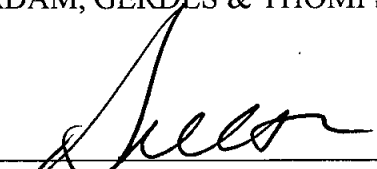
WATER PERMIT APPLICATION NO.)
2705-2, SANDRA HUBER AND)
KAREN DISNEY)
)

NOTICE OF APPEARANCE

PLEASE TAKE NOTICE that May, Adam, Gerdes & Thompson LLP, 503 South Pierre Street, PO Box 160, Pierre, South Dakota, 57501-0160, through Brett Koenecke, hereby appears as one of the attorneys for Sandra Huber and Karen Disney in the above-entitled action.

Dated this 27 day of June, 2013.

MAY, ADAM, GERDES & THOMPSON LLP

BY: 

BRETT KOENECKE

Attorneys for Sandra Huber and Karen Disney
503 South Pierre Street
PO Box 160
Pierre, SD 57501-0160
(605) 224-8803

CERTIFICATE OF SERVICE

27 Brett Koenecke of May, Adam, Gerdes & Thompson LLP hereby certifies that on the day of June, 2013, he mailed by United States mail, first class postage thereon prepaid, a true and correct copy of the foregoing in the above captioned action to the following at his last known address, to-wit:

Eric A. Scott
Attorney at Law
PO Box 349
Valentine, NE 69201



BRETT KOENECKE

**STATE OF SOUTH DAKOTA
SOUTH DAKOTA WATER MANAGEMENT BOARD**

WATER PERMIT APPLICATION NO.	)	
2705-2, SANDRA HUBER AND	)	
KAREN DISNEY	)	STIPULATION
	)	

COMES NOW, Sandra Huber and Karen Disney, Applicants and Robbie Huddleston, Intervener and enter into this Stipulation and Agreement:

WHEREAS, Huber and Disney own property in Bennett County, South Dakota upon which the Scharman Dam is located, and

WHEREAS Huddleston is an adjoining upstream landowner with a dam on his property, the Huddleston Dam, which dam has been permitted and reconstructed as of 2007, and,

WHEREAS, Applicants seek a validation of vested water rights for 100 acre feet of water, and,

WHEREAS, Huddleston claims a water right of 45 acre feet, and

WHEREAS, the Huddleston dam is upstream on Pass Creek from the Scharman dam, both dams having Pass Creek as the principal source of flow.

STIPULATION

Based upon the foregoing, the parties agree as follows:

1. Applicants agree that it is appropriate for the parties to share the water flows up to the storage capacity of the Huddleston dam.
2. Applicants agree to not make a call for water upon the Huddleston dam which would draw down the Huddleston dam below 25 acre feet of storage.
3. Robbie Huddleston agrees to withdraw his Intervention in the Vested Water Rights Application 2705-2.

Dated this 10 day of July, 2013.

BY: Sandra Huber
Sandra Huber

BY: Karen Disney
Karen Disney

Dated this 10 day of July, 2013.

BY: Robbie Huddleston
Robbie Huddleston