

404-2

Office of State Engineer
DOCUMENT FILE

Paul R. Fleming

Paul R. Fleming

Sec. 17-274 R 85

Full River County

S. Cheyenne District
Cheyenne River

Engineer: J. R. Richardson

Omaha, Nebraska

15120 J. St., Lincoln, Neb.

Map # 432-2

No. 404-2

Division No. 2

South Cheyenne

District

PERMIT

to appropriate water from

South Cheyenne River

Full River County, South Dakota

Name of applicant

Paul R. Fleming

Name of diversion works

Cedar Bluffs Irrigation Project

Date of first receipt at office of State

Engineer April 1 1954

Returned to applicant for Correction

April 6 1954

Corrected application received

May 13 1954

Date of water right

April 1 1954

Recorded in Book 3 Page 77

One-fifth of work to be completed

October 29 1957

Whole work to be completed

April 29 1960

Final proof of use of water

April 29 1960

Approved April 29 1955

AN W. LONCKS State Engineer.

Original Application
RECEIVED

NO. 404-2

RECEIVED

APR 3 - 1954

Water Division No. _____

(Blank to be filled by the State Engineer.)

Distrid MAY 13 1954

OFFICE OF STATE ENGINEER
PIERRE, SOUTH DAKOTA

APPLICATION FOR PERMIT

OFFICE OF STATE ENGINEER
PIERRE, SOUTH DAKOTA

to appropriate Water within the State of South Dakota

(NOTE--Draw a line through items not applicable.)

I. Name of applicant Paul J. Flannery Russell Wyatt
Postoffice address _____, County Fall River, State South Dakota

1. If a corporation _____
- (a) Name of same _____
 - (b) Date and place of incorporation _____
 - (c) Amount of capital stock _____
 - (d) Amount paid in _____
 - (e) Names and address of directors: _____

(NOTE--A certified copy of articles of incorporation must accompany the application.)

II. Method of accomplishing the work and financial resources of the applicant:

- (a) Method of accomplishing work (Whether by contract, employment of others, or by direct labor) Direct Labor
- (b) Cash on hand, \$ adequate
- (c) Treasury stock, \$ 00
- (d) Bonds to be issued, \$ 00
- (e) Other resources, \$ 00

2. Name of diversion work Cedar Bluffs Irrigation Project
3. Quantity of water claimed 2.53 cubic feet per second.
4. Source of water supply South Cheyenne River
5. Location of points of diversion Upper: 621 feet north of the SE Cor. of S 26 E 1, Sec. 18. Lower: 742 feet north of SE Cor. S 26 E 1, Sec. 17, T. 7 S. R. 3 E., bank, Fall River County.
6. Annual periods during which water is to be used April 1st. to Nov. 1st. annually
7. To be used for:

I. Irrigation or domestic use: Gravity, overhead sprinkling or combination system?

(a) Number of acres to be irrigated 180.90 acres.

(b) Legal subdivisions to be irrigated See List Attached

(NOTE--A list of lands to be irrigated, giving each subdivision and fraction with acreage, should be with this application. Same must be shown on accompanying map, or may be appended as a part of this application. Same must be shown on accompanying map, or may be appended as a part of this application. Same must be shown on accompanying map, or may be appended as a part of this application.)

(c) Statement as to domestic use _____

II. Stockwatering, mining, milling, power _____

(a) Nature of use _____

(b) Amount of power to be generated _____ horse power.

Amount claimed for engine cooling _____

(c) Location of plant _____

(d) Method of developing power _____

(e) Point where water will be returned to stream _____

TOTAL 180.90

Map No 432-2

8. Estimated cost of work:

(a) Head gates, \$----- (b) Pumping plant, \$ 2700.00
(c) Fluming, \$----- (d) Canal-earth, \$----- Rock, \$-----
(e) Other structures, Irrigation Pipe Line \$ 2500.00 Total, \$ 5200.00

9. Description of diversion works:

I. Nature of works: (Reservoir, dam, ditch, flume, pumping plant, etc.)

Pumping Plant complete with main and auxiliary irrigation lines of steel-----

II. Dimensions of works:

(a) Dam: Height none feet; length at bottom-----feet; length at top-----feet; thickness at bottom-----feet; thickness at top-----feet; slope at front water face-----; slope of back face-----; material used in construction-----
(b) Reservoir: Capacity when filled none acre feet. Surface area at highwater mark-----acres.

DEPTH AT OUTLET-Feet	SURFACE AREA AT EACH-----FEET DEPTH AT GUTLET-ACRES	ACRE-Feet CAPACITY

(c) * Head gate: Width Sprinkler nozzle 12/64 X 5/32 inch. 12/64 X 5/32 inch. feet; height-----feet;

Material Metal with pressure gauge in pipe line-----

(d) Canal: Total length of 35 sprinkler nozzles will be used.-----miles.

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER-LINE	GRADE PER MILE
At -----Mile	-----feet	-----feet	-----feet	-----feet
At -----Mile	-----feet	-----feet	-----feet	-----feet
At -----Mile	-----feet	-----feet	-----feet	-----feet
At -----Mile	-----feet	-----feet	-----feet	-----feet
At -----Mile	-----feet	-----feet	-----feet	-----feet
At -----Mile	-----feet	-----feet	-----feet	-----feet

(Give dimensions where reductions in size are made.)

10. Time required for completion of work-----5-----years.

11. Time required for complete application of water to the proposed beneficial use-----5-----years.

12. Choice of newspaper for publication of notice of intention to appropriate-----Hot Springs
Star, Hot Springs, S. Dak.

STATE OF SOUTH DAKOTA

County of Fall River, } ss.

I, Paul B. Fleming, being first duly sworn on my oath depose and say: That my relation to the above described undertaking is that of owner, that I have read the above foregoing statement, examined the map accompanying the same, and that I know of my own personal knowledge that the matters therein stated and shown are true.

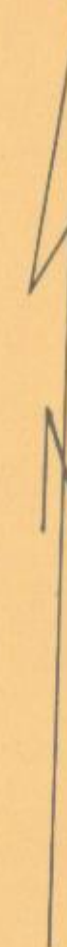
X Signed Paul B. Fleming
Subscribed and sworn to before me this 11th day of May, 1954
Notary Public (or other qualified officer.)

CEDAR BLUFFS IRRIGATION PROJECT

FALL RIVER COUNTY SOUTH DAKOTA

Owner: Paul R. Fleming

Scale: 1" = 400'



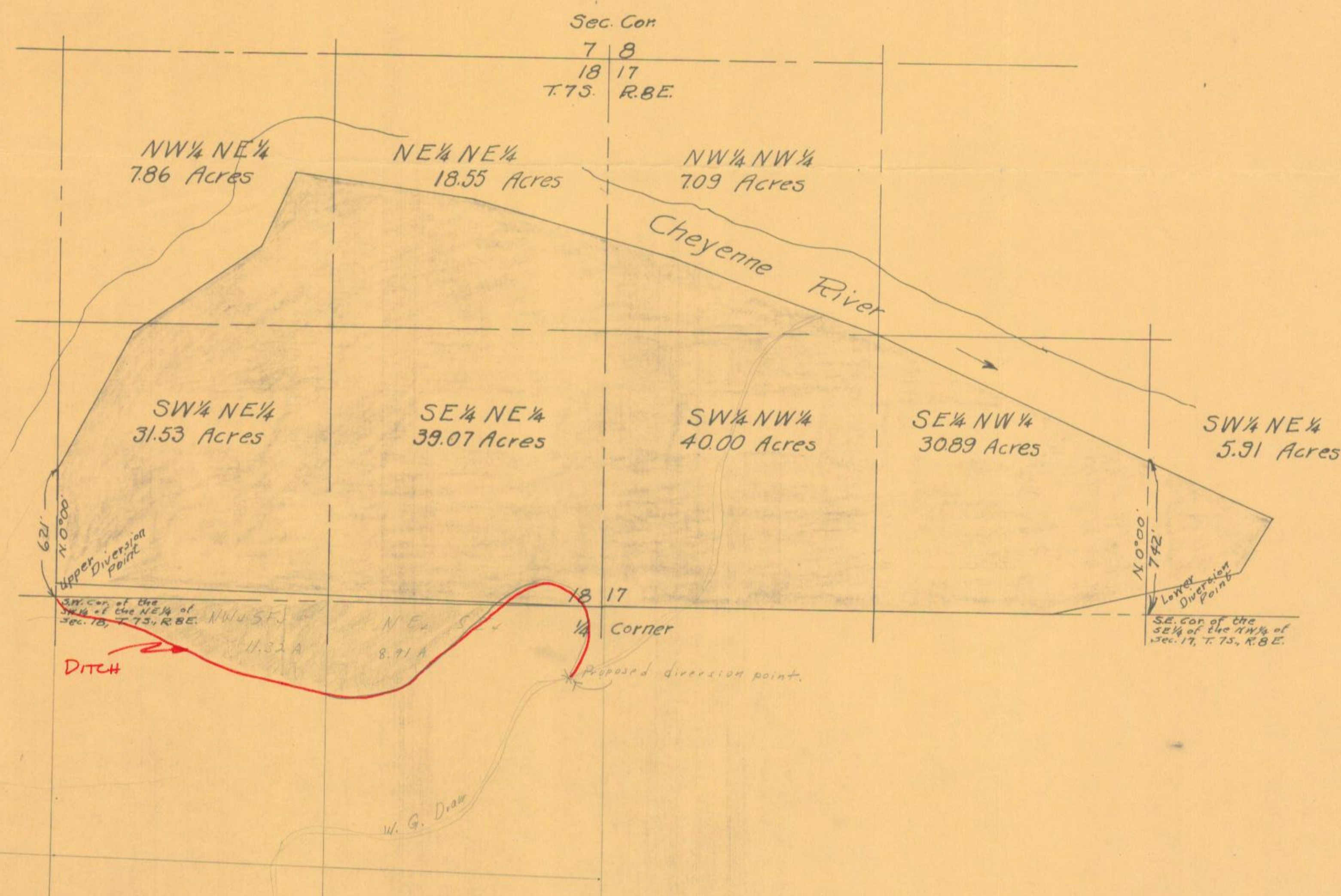
SURVEYOR'S CERTIFICATE

I, J.R. Richardson, Registered Professional Engineer And Land Surveyor No. 213, do hereby certify that I have made a careful and complete survey of Cedar Bluffs Irrigation Project and that the annexed Plat is a true representation of the same.
In Witness Whereof:
I have hereunto set my hand and seal this 27th Day of March A.D. 1954.

J. R. Richardson
Registered Professional Engineer & Land Surveyor

Subscribed and sworn to before me this 27th day of March, A.D. 1954.

J. Richardson
Notary Public.



LOCATION OF LAND TO BE IRRIGATED				
LOCATION	SEC.	TWP.	RGE.	ACRES
NW NE 1/4	18	75.	8 E.	7.86
NE NE 1/4	"	"	"	18.55
SW NE 1/4	"	"	"	31.53
SE NE 1/4	"	"	"	39.07
NW NW 1/4	17	"	"	7.09
SW NW 1/4	"	"	"	40.00
SE NW 1/4	"	"	"	30.89
SW NE 1/4	"	"	"	5.31
Total				180.90

(Water Right Number 404-2)

map # 432-2

Remarks by State Engineer:

STATE OF SOUTH DAKOTA

County of Hughes

} ss.

Pierre, South Dakota, April 29

19 55

This is to certify that the foregoing application was received at this office at 9:15 o'clock
a.m. upon the 1st day of April, 1954 and that after examination it
was found to comply with the South Dakota water laws, was published in accordance with the provisions
thereof and consideration given to any and all information presented, and no objections were
received

Dean W. Loucks
DEAN W. LOUCKS,

State Engineer.

Number of permit 404-2

Date of first receipt of application April 1, 1954

Date of return to applicant for correction April 6, 1954

Date of receipt of corrected application May 13, 1954

Date from which applicant may claim right April 1, 1954

Approved April 29, 1955, Recorded in Book 3 Page 77

This is to certify that I have examined the foregoing application for a permit to appropriate
water of the State of South Dakota, and I hereby grant the same as stated herein, subject, however,
to the following limitations and conditions:

1st. The equivalent of at least one-fifth, of the work above specified is to be completed on or
before October 29, 1957

2nd. The whole of said work is to be completed on or before April 29, 1960

3rd. The limit of time for proof of beneficial use of water appropriated in accordance herewith
is April 29, 1960

4th. The water appropriated shall be used for the purpose of sprinkler
irrigation

5th. The prior right of all persons who, by compliance with the laws of the State of South Da-
kota, have acquired a right to the use of water must not be injuriously affected by this appropriation.

6th. The amount of the appropriation herein granted shall not exceed 2.5
cubic feet per second; neither shall it exceed the capacity of the above described system of
diversion works, nor the least amount of water that experience may hereafter indicate as necessary
for the production of crops in the exercise of the best husbandry; and further, said appropriation
must be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of
time for each acre of land to which water is actually and beneficially applied for irrigation on or

before April 29, 1960; said water to be used during the following described annual
period:

April 1st. to November 1st, annually.

Witness my hand this 29th day of April, 1955

Dean W. Loucks
DEAN W. LOUCKS

State Engineer.

Certificate of Construction issued September 4, 1962

Water License issued September 4, 1962

STATE OF SOUTH DAKOTA

WATER LICENSE No. 404-2

WHEREAS, On the 1st day of April A. D. 1954

Paul R. Fleming

of Oral County of Fall River and State of South Dakota duly made application (No. 404-2) to us for a permit to use 2.5

cubic feet per second of the waters of the Cheyenne River

County of Fall River, State of South Dakota, for irrigation purposes; and

WHEREAS, On the 29th day of April A. D. 1955

Permit No. 404-2 was issued to said applicant for the diversion of said water, and providing for the completion of the works of diversion therein described on or before the 25th

April A. D. 1960 and for the application to beneficial use of said

water on or before the 29th day of April A. D. 1960

and WHEREAS, on the 29th day of April, 1960, the permit was transferred to Russell Wyatt, Oral, South Dakota, and

WHEREAS, On the 6th day of August A. D. 1962

the holder of said permit duly made proof of the completion of adequate works for the diversion of 2.5

cubic feet per second of said waters, as evidenced by our Certificate No. 404-2

dated September 4, 1962 confirming the completion of works of sufficient capacity for

diverting and conveying to the place of intended use 2.5 cubic feet per second of water, with date of

priority of April 1, 1954 and,

WHEREAS, On the 6th day of August A. D. 1962

proof was duly made of the application to beneficial use of 2.5 cubic feet per second of said water;

for irrigating 160.90 acres in Sections 17 and 18, T7S, R3E

NOW, THEREFORE, By the virtue of the authority vested in us by the laws of the State of South Dakota,
 We hereby grant and confirm to Russell Wyatt
 of Oral the holder and owner of said permit No. 404-2
 a water right, dating from April 1, 1954 to the use of 2.5
 cubic feet per second of the waters of the Cheyenne River
 in the County of Fall River and State of South Dakota, or so much thereof as may be
 necessary for the purposes hereinbelow mentioned, to be diverted ~~at~~ between a point 621'N of the center,
Section 18, and a point 742'N of the center of Section 17, T7S, R8E
 and conducted to and upon 180.90 acres in Sections 17 & 18, T7S, R8E, more specifically
described in the Certificate of Completion of Works
 for the purpose of irrigation

subject, however, to the laws of the State of South Dakota applicable to a license for the use of the waters of the State, and subject, also to the local or community customs, rules and regulations which have been or may be adopted from time to time by a majority of the users from a common source of supply, canal or lateral from which such water may be taken, when such rules and regulations have for their object the economical use of such water.

WITNESS, My hand and seal of our office at Pierre, South Dakota,
 this 4th day of September A. D. Nineteen
 Hundred and Sixty-Two

State Water Resources Commission

By:

Chief Engineer, Executive Officer
 J. W. GRIMES

STATE OF SOUTH DAKOTA

Water License No. _____
 To _____

 Source of Supply _____

 County _____
 Am't _____ c. f. s.
 Point of Diversion _____

 Place of Use _____

 Purpose _____

 Date of Priority _____
 Recorded _____
 in Book _____ of _____ Page _____

Permit No. 404-2Water Division No. 2 So. Cheyenne River Water District**Certificate of Completion of Works**

TO ALL WHOM IT MAY CONCERN:

Russell Wyatt

This is to Certify, That

of Oral, County of Fall River, and State of South Dakota, the holder of Permit No. 404-2, issued upon Application No. 404-2, bearing date of priority of April 1, 1954, authorizing the diversion of 2.5 cu. ft. per second of the waters of the Cheyenne River County of Fall River, State of South Dakota, xx: between a point 621' N of the center of Section 18, and a point 742' N of the center, Section 17, 17S, R8E for irrigation

purposes, has fully complied with the provisions of the laws of the State of South Dakota relating to proof of completion of the works of diversion set out and described in said Permit; that said works are found in satisfactory condition for diverting and conveying to the place of intended use 2.5 cu. ft.

per second of water; and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit: All in T7S, R8E Section 17 NW $\frac{1}{4}$ NW $\frac{1}{4}$ 7.09 acres

SW $\frac{1}{4}$ NW $\frac{1}{4}$ 40.00 "SE $\frac{1}{4}$ NW $\frac{1}{4}$ 30.89 "SW $\frac{1}{4}$ NE $\frac{1}{4}$ 5.91 "Section 18 NW $\frac{1}{4}$ NE $\frac{1}{4}$ 7.86 "NE $\frac{1}{4}$ NE $\frac{1}{4}$ 18.55 "SW $\frac{1}{4}$ NE $\frac{1}{4}$ 31.53 "SE $\frac{1}{4}$ NE $\frac{1}{4}$ 32.07 "

Total... 180.90 "

Witness my hand this 4th day of September A. D. 1962

State Water Resources Commission

By:

Chief Engineer, Executive Officer
J. W. GRIMES

State Publishing Company, Pierre

9-Notice of Intention to appropriate Water

No. 404-2

(First Publication _____, 19__)

APPROPRIATION OF WATER
(Readvertisement)

Office of State Engineer

Pierre, S. Dak., March 7, 1955

Notice is hereby given that Paul R. Fleming, whose postoffice address is Oral, South Dakota, has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 2.58 cubic feet of water per second of time from the South Cheyenne River through the Cedar Bluffs Irrigation Project, and will be diverted from a reach of the river between the following two described points: 421 feet N of the SW corner SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ Sec. 18 and a point 742' N of the SE corner of the SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 17 T 7S 8E on the right bank. Said water to be used for the purpose of providing sprinkler irrigation on the following described land:

	Sec.	Twp.	Rge.	Acres
NW NE $\frac{1}{4}$	18	7S	8E	7.86
NE NE $\frac{1}{4}$	18	7S	8E	18.55
SW NE $\frac{1}{4}$	18	7S	8E	31.53
SE NE $\frac{1}{4}$	18	7S	8E	39.07
NW NW $\frac{1}{4}$	17	7S	8E	7.39
SW NW $\frac{1}{4}$	17	7S	8E	40.00
SE NW $\frac{1}{4}$	17	7S	8E	30.89
SW NE $\frac{1}{4}$	17	7S	8E	5.91
TOTAL				135.90

This application will be taken up by the State Engineer at his Office at Pierre for consideration upon the 11th day of April, 1955, at 2:00 P.M. All person who believe that their prior rights would be injuriously affected, or that the allowance of the permit would be detrimental to the public welfare shall file such protest with the State Engineer in writing prior to the above date and may appear on the day above mentioned in person for the purpose of discussing further, the information presented.

Appropriate action will be taken by the State Engineer after suitable time has elapsed for the consideration of any or all information presented.

djr

cc: J. R. Richardson

M.F. Childers

DEAN W. LOUCKS
State Engineer

RECEIVED

PROOF OF PUBLICATION

MAR 7 1955

OFFICE OF STATE ENGINEER
SOUTH DAKOTA

STATE OF SOUTH DAKOTA

County of Hand ss.

Charles T. Leonard being duly sworn, deposes and says the annexed printed copy of Notice of Intention to appropriate Water was taken from the.....
.....The Hot Springs Echo..... a newspaper which during the whole time of publication of said notice herein after stated, has been and is printed and published in the.....
.....City of of Hot Springs..... County of.....
.....Hot Springs..... and State of South Dakota; that the said notice was published in said newspaper on the following dates:

Feb. 17, Feb. 24, March 2, 1955
.....
.....
in each and every issue of the full number thereof, the first publication being made on the 17th day of Feb.
1955 and the last publication on the 10th day of March
1955, upon which days or times of publication aforesaid the newspaper was regularly published, and that during the whole time of said publication he was..... the printer..... and publisher..... of the said newspaper:

Subscribed and sworn to before me this 10th day of March A. D. 1955

Notary Public Hand County, S. D.

APPROPRIATION OF WATER
Office of State Engineer
Pierre, S. Dak.
January 21, 1955
Notice is hereby given that Paul R. Fleming, whose postoffice address is Oriskany, South Dakota, has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 2.38 cubic feet of water per second of flow from the South-Cedar River through the Cedar River Irrigation Project, and will be irrigated from a reach of the river between the following two described points: 620 feet N of the SW corner, SW 1/4 of the NE 1/4 Sec. 18 and a point 742' N of the SE corner of the NE 1/4 NW 1/4 Sec. 17 T 78 R 8 E on the right bank. Said water to be used for the purpose of providing sprinkler irrigation on the following described land:

Sec	Twp	Rge	Acres	
NW NE 1/4	18	78	8E	7.86
NE NE 1/4	18	78	8E	18.55
SW NE 1/4	18	78	8E	31.53
SE NE 1/4	18	78	8E	39.07
NW NW 1/4	17	78	8E	7.09
SW NW 1/4	17	78	8E	46.00
SE NW 1/4	17	78	8E	50.49
NW NE 1/4	17	78	8E	5.91
TOTAL				180.50

This application will be taken up with the State Engineer at his office at Pierre for consideration upon the 3rd day of March, 1955, at 2:00 P.M. All persons who believe that their prior rights would be injuriously affected, or that the allowance of the permit would be detrimental to the public welfare shall file such protest with the State Engineer in writing prior to the above date and may appear on the day above mentioned in person for the purpose of discussing further, the information presented.
Appropriate action will be taken by the State Engineer after suitable time has elapsed for the consideration of any or all information presented.
DEAN W. LOUCKS
State Engineer
Pierre, S. Dak. 12-21-54-3-10

3-7-54
D.S.H.

April 3, 1956

Mr. H. O. Scobey
County Supervisor
Farmers Home Administration
Hot Springs, South Dakota

Dear Mr. Scobey:

The status of water right acquisition for Charles L. Halls, Paul Fleming, and B. F. Childers is as follows:

Charles Halls and L. L. Wyatt (No. 391-2)

Permit to Appropriate Water approved August 17, 1953.
Irrigation of 131.45 acres in Sec. 5, T 9S, R 5E.
Completion of Works scheduled for August 17, 1954.
Beneficial Use scheduled for August 17, 1958.

Mrs. Charles L. Halls advised by letter of March 19, 1956, of actions necessary to obtain a final water right. Forms sent to her (Application for Extension of Time for Completing Works, Notice of Completion of Works, and Notice of Application of Water to Beneficial Use). Duplicate copies of these forms are enclosed with this letter. Upon receipt of completed forms, inspection of the irrigation system can be scheduled.

✓ Paul R. Fleming (No. 404-2)

Permit to Appropriate Water approved April 29, 1954.
Irrigation of 180.9 acres in Sec. 17 and 18, T 7S, R 3E.
Completion of Works scheduled April 29, 1960.
Beneficial Use scheduled April 29, 1960,

Inspections of irrigation system have not been made. If Mr. Fleming has completed his irrigation system, he should complete the form, Notice of Completion of Works, and return it to this office. Also, if he is ready to prove beneficial use of water, he should complete the form, Notice of Application of Water to Beneficial Use. Forms are enclosed herewith.

Mr. H. O. Scobey
April 3, 1956
Page 2

E. P. Childers (No. 324-2)

Permit to Appropriate Water approved January 28, 1949.
Irrigation of 143.8 acres in Sec. 26, 27, & 35, T 3S, R 2E.
Completion of Works scheduled (including extensions of
time), January 28, 1952.
Beneficial Use scheduled (including extensions of time),
January 28, 1952.
Certificate of Completion of Works issued January 26, 1951.
Water License No. 324-2 issued January 26, 1951.

No further action required by applicant to obtain water right.

Thank you for your letter. Any effort that you may put forth
to complete the acquisition of water rights by Mr. Halls and Mr.
Fleming will be appreciated.

Sincerely,

J. W. GEIGES
Chief Engineer

JWG:rs

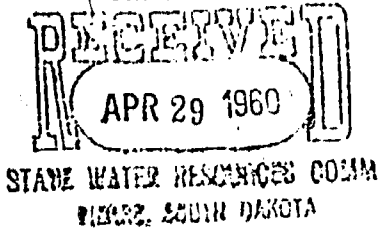
Enclosures

cc: 391-2
404-2
324-2

C
O
P
Y

Form No. 55

Permit No. 404-2



NOTICE OF TRANSFER OF WATER PERMIT

TO: Office of State Water Resources Commission
Pierre, South Dakota

This is to notify you that

who previously owned the land described below has sold his interests to

together with any rights to the beneficial use of water thereon as evidenced by State Water Permit No. 404-2
and as provided for in section 61.0141 of the SDC of 1930 and elsewhere

You are therefore hereby requested to file this "Notice of Transfer of Water Permit" in its appropriate file at
the OFFICE OF WATER RESOURCES COMMISSION as evidence of the change of ownership.

A fee of one dollar is hereto attached to cover filing fees as required under Section 55.1806 of the SDC of 1930.

STATE OF SOUTH DAKOTA

County of Fall River } ss.

I, Russell Wyatt being first duly sworn on my
oath depose and say That my relation to the above described undertaking is that of Owner, that I have read the
above foregoing statement, and I know of my own personal knowledge that the information herein stated is true.

Signed

Subscribed and sworn to before me this

27th day of

April

1960

Notary Public

Russell Wyatt
Joyce Wilson

Permit No. 404-2RECEIVED
APR 28 1966Water Division No. 3STATE WATER RESOURCES COM.
Water District PIERRE, SOUTH DAKOTA

NOTICE OF COMPLETION OF WORKS

This blank must be filled out by the holder of permit and forwarded to the Executive Officer at least 60 days before the time set for completion of works

(P. O.) And SD(Date) April 29/66TO THE STATE WATER RESOURCES COMMISSION
OF SOUTH DAKOTA, PIERRE:

DEAR SIR: Notice is hereby given of the completion of the works for the diversion of 2.5
average flow cu. ft. per second of the waters of the state from Plot
through the canal system
for irrigation purposes
in accordance with the terms and con-
ditions of a certain permit heretofore issued by the Water Resources Commission of the State of South Dakota.

- The name of the person or corporation holding said permit is Farmer's Union
Paul F. Larson, president, P.O. Box 100, Pierre, S.D.
- The postoffice address of such person or the place of business of such corporation is Pierre, S.D.
County of Fall River State of S.D.
- The number of such permit is 404-2 and the date set for the completion of such work is April 29 - 1966
- Said water to be used for irrigation purposes.
- Said works of diversion will be fully completed on the date set for such completion, and the amount of water which said works are capable of conducting to the place of intended use, in accordance with the plans accompanying the application for such permit, is 9.5 cubic feet per second.
- The amount of land for which said water is available is 140.4 acres,
particularly described as follows:

I hereby certify that the facts set forth in the above notice are true.

NW 1/4 NE 1/4 Sec. 18 T14N R10W
NE 1/4 NE 1/4 Sec. 18 T14N R10W
SW 1/4 NE 1/4 Sec. 18 T14N R10W
SE 1/4 NE 1/4 Sec. 18 T14N R10W
NW 1/4 NE 1/4 Sec. 17 T14N R10W
SW 1/4 NE 1/4 Sec. 17 T14N R10W
SE 1/4 NE 1/4 Sec. 17 T14N R10W
SW 1/4 NE 1/4 Sec. 18 T14N R10W

(Signature of Owners)

Permit No. 404-2Water Division No. 2 5, Cheyenne Water District

Certificate of Examination of Works

Report of Examining Engineer

To the State Water Resources Commission, Pierre, South Dakota:

Dear Sirs: I hereby certify that in accordance with your letter of authorization dated _____
 19____, I have this day made a thorough examination of the diversion works constructed by _____

Russell Wyatt, of Fall River
 _____ County, South Dakota, holder of Permit No. 404-2 issued
 upon Application No. 404-2, bearing date of priority of April 1, 1954, authorizing the
 diversion of 2.56 cu. ft. per second of the waters of 5, Cheyenne R. for Irrigation
 purposes. I have to report on the condition of the same as follows:

The diversion works comprise: Pump 6" Pacific in 5' cut
Run by an Oliver Diesel 199 70 H.P.
56 joints of 6" 30' Long
85 joints of 4" 30' Long } Total 4130'

and the system is in the following condition: Good

The point of diversion is located Upper 62' N. of the S.W. cor. of Sec. 18, T7S R8E
Lower 742' N. of S.E. cor. Sec. 17 T7S R8E Right bank.

The works are capable of diverting and conveying to the place of use 2.56 cu. ft. per second of water,
 which is to be used for Irrigation

The legal sub-divisions to be irrigated are:

	NW NE 1/4	Sec. 18	T 7 S	R 8 E	Acres
NW NE 1/4	"	"	"	"	7.86
NE NE 1/4	"	"	"	"	18.53
SW NE 1/4	"	"	"	"	31.53
SE NE 1/4	"	"	"	"	39.07
NW NW 1/4	"	17	"	"	7.09
SW NW 1/4	"	"	"	"	10.00
SE NW 1/4	"	"	"	"	30.89
SW NE 1/4	"	"	"	"	5.91

comprising a total of 180.90 acres of land.

The domestic use intended comprises _____

The utilization for power, mining, or other beneficial uses comprises: _____

Witness my hand, this 6th day of August A. D. 1954.

—SEAL—

Lillian H. Miller
 Examining Engineer.



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

March 23, 1987

RUSSELL WYATT
BOX 83
ORAL, SD 57766

NOTICE

Re: Violation of Requirement To Submit 1986 Irrigation
Questionnaire

Our records indicate that the 1986 Irrigation Questionnaire has not been submitted for Permit No(s). 404-2. The request for the Questionnaire was dated November 3, 1986. The Water Management Board has directed that owners of water permits who have not submitted 1986 Irrigation Questionnaires be given notice of hearing(s) to be held by the Board to determine if any action is to be taken concerning the violation.

The hearings will be held at 2:00 pm, May 6, 1987 in Room 216, Joe Foss Building, 523 E Capitol, Pierre SD.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to procedures contained in SDCL 1-26. Following the hearing(s), the Water Management Board can:

1. Amend Permit No(s). 404-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action;
3. Take no action.

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

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

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

NOTE: If the questionnaire(s) is received in this office before the hearing date, your name will be deleted from the agenda for the hearing.

SOUTH DAKOTA
Department of
Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

April 13, 1987

404-2

Russell Wyatt
Box 83
Oral, SD 57766

Dear Mr. Wyatt:

This will acknowledge receipt of and thank you for the return of your 1986 Irrigation Questionnaire. A notice was sent to you March 23, 1987 regarding the Irrigation Questionnaire submittal violation of Water Right No. 404-2 and the date hearings were to be held before the Water Management Board to determine any action to be taken concerning the violation.

Please disregard the notice sent to you dated March 23, 1987. Your name has been deleted from the agenda pertaining to these hearings.

If you have any questions, please contact us.

Very truly yours,



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

404-2

**South Dakota Department of
Water & Natural Resources**

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

July 19, 1990

NOTICE

TO: Cheyenne River Irrigators

FROM: John Hatch, Chief Engineer *[Signature]*
Division of Water Rights

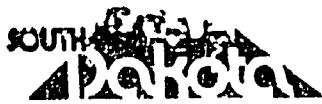
SUBJECT: Shutoff Order for water rights in the Cheyenne River
reach from the Angostura Dam to Rapid Creek with
priority dates after 1965.

Due to the present low flow conditions in the Cheyenne River, the following water rights must cease withdrawals of water from the Cheyenne River for the remainder of this irrigation season. This order is effective July 21, 1990. Additional shutoffs may be necessary if conditions show the need.

PERMIT NO.	NAME	PRIORITY DATE
1241A-2	Chauncey D. Taylor, Hermosa	02/06/75
1241B-2	Donald R. Thorson, Scenic	02/06/75
2061-2	Rittberger Beef & Dairy, Buffalo Gap	08/22/88
1923-2	Rittberger Beef & Dairy, Buffalo Gap	03/15/85
1613-2	Rittberger Beef & Dairy, Buffalo Gap	10/28/77
2059-2	Fred Weibert, Hermosa	06/27/88
1408-2	RIBOB-ELJIM-KADEN, Rapid City	06/06/77
1754-2	Earl Stombaugh, Buffalo Gap	01/27/81
1109-2	Lloyd Neugebauer, Oral	04/21/72
1882-2	Roland/Donna March, Hot Springs	05/29/84
1024-2	Clarence Werner, Hermosa	05/22/70

If you have any questions, please contact Del Brosz, Division of Water Rights, Joe Foss Building, Pierre, SD 57501.
Phone (605) 773-3352.

cc: Water Right Holders on the Cheyenne River in the Reach from
Angostura Dam to Rapid Creek Confluence



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

March 14, 1991

404-2

Russell Wyatt
Box 83
Cral, SD 57766

Dear Mr. Wyatt:

I am contacting irrigators and water users below Angostura Reservoir to advise of the low water level conditions in Angostura Reservoir and of potential water use restrictions from the Cheyenne River. Due to the continuing drought, Angostura Reservoir is receiving below normal inflows. As of February 27, 1991 the water level in the reservoir was at elevation 3170.25 feet above mean sea level (msl). Full elevation of the reservoir is 3187.2 msl.

Flow conditions in the Cheyenne River will be monitored during the coming irrigation season. Low flows may require that shut off orders be issued to junior water right holders to protect senior water rights. Low water levels in Angostura and the potential for low flows in the Cheyenne should be considered when planning for the coming water use and irrigation season.

Junior Water Rights above Angostura were shut off during 1989 and will remain shut off until Angostura fills again. If you have any questions, please contact Mark Rath or Del Brosz (605-773-3352).

Very truly yours,

John Hatch
JOHN HATCH, Chief Engineer
Water Rights Division
605-773-3352

File No. **404-2**
596-2

WATER RIGHTS PROGRAM – FILE DOCUMENTATION

NAME & ADDRESS: Russell Wyatt, HCR 56 Box 83, Oral, SD 57766

DATE: October 29, 2001

TELEPHONE: 605 424-2623

RE: irrigation questionnaire for Water Right No. 404-2

COMMENTS:

Mr. Wyatt returned his 2001 irrigation questionnaire saying he used gravity irrigation from a creek to irrigate with this past year. I contacted him to find out if he had irrigated from the Cheyenne River at all. The Cheyenne River is the water source he should be reporting information for.

He indicated he has not had to use water from the Cheyenne in recent years. Many years ago he did some land leveling and put in ditches etc and flood irrigates the land using the creek (dry draw) covered under No. 596-2.

I reviewed the water rights – both cover the same land. No. 404-2 is from the Upper Cheyenne River and No. 596-2 is from a dry draw. I told him that the irrigation from the Cheyenne is what we were requesting information on and if he only uses the creek (dry draw), he should write that comment on the questionnaires each year.

He indicated he would like to keep the water right from the Upper Cheyenne just in case the water in the creek because too low. I told him this was acceptable since both water rights covered the same land and the Cheyenne River would be considered a back-up water supply.

Genny McMath
Environmental Scientist



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 30, 2006

404-2

Russell Wyatt
12818 Pine Haven Rd
Hot Springs SD 57747-7551

Dear Mr. Wyatt:

Enclosed is a "Notice" dated October 20, 2006 concerning the 2006 irrigation questionnaire. The notice was originally mailed to HCR 56 Box 83, Oral SD. The post office notified us that your address has changed and I will update our records accordingly.

If you have any questions, please contact me.

Sincerely,

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

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 5, 2007

Dear Water Right Holder;

Due to the ongoing drought I am advising Cheyenne River water right holders of the possibility of shutoff orders in 2007 for the river reach from Angostura Dam to the Belle Fourche River confluence. This is **not a shutoff order**.

As a result of the continuing lack of precipitation, tributary flows throughout the Cheyenne River basin remain well below the historical average. Angostura Reservoir ended February almost 21-feet below full and the forecast for improved conditions throughout the summer months is not favorable.

This letter is only intended to give you advanced warning that your ability to divert water may be cut short this year. If shut-off orders are issued, you will receive another letter from the department. In the meantime, water right holders can help by closely monitoring water usage and trying to avoid wasting water.

South Dakota water law gives the highest priority to domestic use, which includes livestock watering. There is generally adequate water available to meet both domestic use and other needs. However, once water availability reaches critical low levels, other uses, including irrigation, will begin to interfere with domestic use. If levels become critically low, the department must issue shut-off orders to protect domestic water uses. Once these orders are issued, the department will continue to monitor water availability and should conditions improve, the shutoff orders would be rescinded.

If you are interested, the US Geological Survey has an Internet site showing river flows at 150 stream gauging stations across the state. Go to sd.water.usgs.gov and click on "Realtime streamflow data via satellite".

Thank you for your cooperation. If you have any questions, please contact Mark Rath or Mike DeFea at (605) 773-3352.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program

404-2

From the Desk of
Russell Wyatt
12818 Pine Haven Road
Hot Springs, SD 57747

RECEIVED
JUL 20 2007
WATER RIGHTS
PROGRAM

July 18, 2007

Dept. of Environment & Natural Resources
PMB 2020 – Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

Water Commission Board:

This is a request to continue use of my Water Right No. 404-2 on the Cheyenne River that was issued in 1954.

In 1960, I constructed an irrigation system that was gravity flow and was fed from W.G. Draw. This was water from live springs and sometimes tail water from Angostura drainage runoff from adjoining farms.

The original water right from the Cheyenne River required pumping so it is obvious the gravity flow was more cost effective.

Because of drought conditions and the installation of several pivots on adjoining farms, the flow of W.G. Draw has become too small to supply water to my cropland.

I have installed a pivot, which helps conserve water but it requires a given amount to operate and W.G. Draw no long flows enough to supply water to the pivot.

W.G. Draw flows into the Cheyenne River about 1/3 of a mile from my diversion ditch. When I wasn't using that water it goes to the Cheyenne River.

I was under the impression all these years I had one water right with two (2) diversion sites. In reviewing my water rights, I find I have two (2) water rights for the same land.

I want to install a pump site in the Cheyenne River to supply water to my pivot thus using my Water Right No. 404-2, which was issued in 1954.

I have filed the annual reports faithfully since 1958 when I purchased this ranch. I will not be using any more water (in fact not as much with the pivot) than I ever have.

I would have liked to have put in the pumps this summer so I could run my pivot but I felt before I spent several thousand dollars for installation, I should have your approval to continue to use my 1954 Water Right No. 404-2.

I am asking you to give me permission to continue use of this 1954 water right.

Sincerely,



Russell Wyatt



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR PETITION FOR DECLARATORY
RULING ON THE STATUS OF WATER RIGHT No. 404-2, Russell Wyatt**

The following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning the petition for declaratory ruling on the status of Water Right No. 404-2, Russell Wyatt, 12818 Pine Haven Road, Hot Springs SD 57747.

The Chief Engineer recommends the Water Management Board find that Water Right No. 404-2 from the Cheyenne River has been maintained for standby purposes pursuant to ARSD 74:02:01:37.02 and therefore is not subject to forfeiture for nonuse.

See report on application for additional information.

Garland Erbele, Chief Engineer
August 27, 2007

NOTE: This recommendation is based on that fact that these acres have been irrigated from W.G Draw as authorized by Water Right No. 596-2 and the Cheyenne River diversion remained a standby water source. This recommendation does not apply or protect the water right from forfeiture due to potential future nonuse.

Water Right No. 404-2 from the Cheyenne River authorizes 180.90 acres which is 20.23 acres less than Water Right No. 596-2 for W.G. Draw. Irrigation in the N ½ SE ¼ Section 18, T7S, R8E is not authorized by Water Right No. 404-2. Water from the Cheyenne River may only be applied to the 180.90 acres as stated by Water Right No. 404-2.

REPORT ON PETITION FOR A DECLARATORY RULING REGARDING THE STATUS OF WATER RIGHT NO. 404-2

INTRODUCTION

Russell Wyatt has petitioned the Water Management Board for a declaratory ruling seeking a determination on the status of Water Right No. 404-2 with a priority date of April 1, 1954. Water Right No. 404-2 appropriates 2.5 cubic feet of water per second (cfs) from Cheyenne River to irrigate 180.9 acres in W½ NW¼, SE¼ NW¼ and SW¼ NE¼ Section 17 and the NE¼ Section 18, T7S-R8E. The Cheyenne River diversion point is located between point in the N½ of Section 17 and the N½ of Section 18, T7S-R8E; all in Fall River County.

BACKGROUND

Mr. Wyatt filed a declaratory ruling requesting a determination on the validity of his Cheyenne River Water Right 404-2 prior to installation of pumps. The request states that since 1960 he has irrigated these same lands from W.G. Draw as authorized by Water Right No. 596-2. Irrigating from W.G. Draw was more cost effective as a gravity flow system, whereas, the Cheyenne River site required pumping. However, due to drought conditions and other neighboring irrigation systems, the flow of W.G. Draw has become insufficient to supply water to the center pivot. Therefore, Mr. Wyatt desires to again use the Cheyenne River pump site to supply water for irrigation of his authorized land. Water Right 404-2 could be considered a back-up water supply to Water Right 596-2 if the diversion works are in working condition for immediate use. Upon review of Water Rights files, a Certificate of Completion of Works exists for the Cheyenne River diversion dated September 4, 1962.

APPLICABLE STATUTES & RULES

Administrative Rule 74:02:01:37.02. Exceptions to nonuse of water. A water supply maintained for either fire protection or standby purposes, or both, is not nonuse of a water permit, right, or vested right if the water diversion works are maintained in working condition for immediate use upon demand. Works to divert appropriated water must include wells equipped with functional motors, pumps, and appurtenances to convey water or functional motors, pumps, and appurtenances to convey water from a surface source, as applicable. Wells that are capped, sealed, or plugged are not standby or fire protection works.

CONCLUSIONS

1. Mr. Wyatt's petition for a declaratory ruling meets requirements set forth in board rules.
2. The operative Board rule is 74:02:01:37.02. The Cheyenne River could be considered a back up water supply to W.G. Draw if the diversion works are in working condition and available for immediate use .

Prepared by:

Aaron A. Tieman

Aaron Tieman
Natural Resource Project Engineer
Water Rights Program



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

August 28, 2007

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

ATTENTION: Legal Public Notice

Enclosed is a Notice of Hearing on Petition for a Declaratory Ruling on the Status of Water Right No. 404-2, Russell Wyatt to be published twice. Please publish the first notice on September 4, 2007 with the second publication 7 days later. 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, before you make the first publication. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Russell Wyatt, 12818 Pine Haven Road, Hot Springs SD 57747 (Ph # 605 745-5354).

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** 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

-----CUT HERE-----

No. 404-2

TO: Eric Gronlund
Water Rights Program
Joe Foss Building
Pierre SD 57501-3181

Date _____

We are in receipt of your letter of August 28, 2007 enclosing Notice of Hearing which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 28, 2007

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

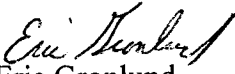
Russell Wyatt
12818 Pine Haven Road
Hot Springs SD 57747

Dear Mr. Wyatt:

Your request for a declaratory ruling on the status of Water Right No. 404-2 use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Publisher of the Hot Springs Star printed at Hot Springs SD (Ph # 605 745-4170). You will need to contact the newspaper 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 is enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization, the publisher has been instructed to publish your notice once each week for two consecutive weeks. 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 applications.

Sincerely,


Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

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

Instruction to Newspaper - Publish first Notice on September 4, 2007 with the second publication 7 days later. Russell Wyatt is responsible for payment.

NOTICE OF HEARING on Petition for a Declaratory Ruling
on the Status of Water Right No. 404-2, Russell Wyatt

Notice is given that Russell Wyatt, 12818 Pine Haven Road, Hot Springs SD 57747 has petitioned the Water Management Board for a declaratory ruling seeking a determination on the status of Water Right No. 404-2. The water right appropriates 2.5 cubic feet of water per second from the Cheyenne River to irrigate 180.9 acres in W 1/2 NW 1/4, SE 1/4 NW 1/4, and SW 1/4 NE 1/4 Section 17 and the NE 1/4 Section 18, T7S, R8E. The point of diversion from the river is located between points in N 1/2 of Section 17 and N 1/2 of Section 18, T7S, R8E. The priority date is April 1, 1954.

Mr. Wyatt filed a declaratory ruling requesting a determination on the validity of his Cheyenne River water right prior to installation of new pumps. The request states that since 1960 he has irrigated these same lands from W. G. Draw as authorized by Water Right No. 596-2. W. G. Draw was more cost effective as a gravity flow system, whereas, the Cheyenne River site required pumping. However, due to drought conditions and other neighboring irrigation systems, the flow of W. G. Draw has become insufficient to supply water to the center pivot. Therefore, Mr. Wyatt desires to again use the Cheyenne River pump site to supply water for irrigation of his authorized land.

The petition for a declaratory ruling will be considered by the Water Management Board at 10:00 AM (Central Standard Time) on October 3, 2007, in the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. The agenda time is an estimate and may be delayed due to prior agenda items. If the Board accepts the petition, the Board may issue one of the following decisions after all evidence is taken at the hearing: 1) that Water Right No. 404-2 is valid; 2) that Water Right No. 404-2 is subject to forfeiture for nonuse pursuant to SDCL 46-5-37; 3) defer action; 4) take no action or do some combination of the above.

Any person intending to participate in the hearing before the Board by presenting evidence or cross-examining witnesses according to SDCL 1-26, must file a written petition Mr. Wyatt and the Chief Engineer by September 21, 2007. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605) 773-3352"; and Mr. Wyatt's address is listed above. The petition may be informal but must include a statement describing the petitioner's interest in the declaratory ruling, the petitioner's reasons for opposing or supporting the declaratory ruling, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Mr. Wyatt need not file a petition to intervene. The October 3, 2007, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer by any interested person. The request for an automatic delay must be filed by September 21, 2007.

This hearing will be an adversary proceeding. Any person filing a petition has the right to be represented by a lawyer. These and other due process rights will be forfeited if not exercised.

Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Notice is further given to individuals with disabilities that this hearing is being held in a physically accessible place. Contact Eric Gronlund by September 21, 2007, at the above Water Rights Program address to request copies of information pertaining to this petition for declaratory ruling or if you have special needs for which special arrangements can be made.

A petitioner may request use of the Office of Hearing Examiners pursuant to SDCL 1-26-18.3 rather than the hearing procedure describe above. A request to use the Office of Hearing Examiners must be filed with the Chief Engineer by September 21, 2007.

This petition for a declaratory ruling is made pursuant to Board General Rules, Sections 74:02:01:46 thru 74:02:01:50. The Board has legal authority and jurisdiction to consider this matter pursuant to SDCL 46-2-3.1, 46-2-5, 46-2-9, 46-2-11, 46-2-17, 46-2A-16, 46-2A-17, 46-5-1 thru 46-5-2.

Steven M. Pirner, Secretary
Department of Environment and Natural Resources.

RECEIVED

SEP 12 2007

WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

State of South Dakota)
) ss.
County of Fall River)

Brett Nachtigall of Hot Springs, Fall River County, South Dakota, being duly sworn, upon oath says that he is the publisher of the Hot Springs Star, as a legal newspaper, as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive, and is published at Hot Springs, county and state aforesaid; that the advertisement headed -

374 - Notice of

HEaring

a true printed copy thereof is hereunto annexed, was published in the said Hot Springs Star, in the regular and entire issue of said paper,

for two

successive issues, beginning with the issue dated

Sept. 4, 2007

and ending with the issue dated

Sept. 11, 2007

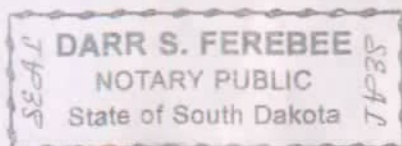
That the full amount of the fee charged for the publication of said notice is

\$ 85.39, and 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 whole amount insures to the benefit of the publishers of said newspaper.

Brett Nachtigall
Subscribed and sworn to before me

this 11 day of Sept20 07.*Darr S. Ferebee*

My Commission Expires Notary Public
November 24, 2010



374

NOTICE OF HEARING on Petition
for a Declaratory Ruling
on the Status of Water Right No.
404-2, Russell Wyatt

Notice is given that Russell Wyatt, 12818 Pine Haven Road, Hot Springs SD 57747 has petitioned the Water Management Board for a declaratory ruling seeking a determination on the status of Water Right No. 404-2 The water right appropriates 2.5 cubic feet of water per second from the Cheyenne River to irrigate 180.9 acres in W 1/2 NW 1/4, SE 1/4 NW 1/4, and SW 1/4 NE 1/4 Section 17 and the NE 1/4 Section 18, T7S, R8E. The point of diversion from the river is located between points in N 1/2 of Section 17 and N 1/2 of Section 18, T7S, R8E. The priority date is April 1, 1954.

Mr. Wyatt filed a declaratory ruling requesting a determination on the validity of his Cheyenne River water right prior to installation of new pumps. The request states that since 1960 he has irrigated these same lands from W. G. Draw as authorized by Water Right No. 596-2. W. G. Draw was more cost effective as a gravity flow system, whereas, the Cheyenne River site required pumping. However, due to drought conditions and other neighboring irrigation systems, the flow of W. G. Draw has become insufficient to supply water to the center pivot. Therefore, Mr. Wyatt desires to again use the Cheyenne River pump site to supply water for irrigation of his authorized land.

The petition for a declaratory ruling will be considered by the Water Management Board at 10:00 AM (Central Standard Time) on October 3, 2007, in the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. The agenda time is an estimate and may be delayed due to prior agenda items. If the Board accepts the petition, the Board may issue one of the following decisions after all evidence is taken at the hearing: 1) that Water Right No. 404-2 is valid; 2) that Water Right No. 404-2 is subject to forfeiture for nonuse pursuant to SDCL 46-5-37; 3) defer action; 4) take no action or do some combination of the above.

Any person intending to participate in the hearing before the Board by presenting evidence or cross-examining witnesses according to SDCL 1-26, must file a written petition Mr. Wyatt and the Chief Engineer by September 21, 2007. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605) 773-3352"; and Mr. Wyatt's address is listed above. The petition may be informal but must include a state-

ment describing the petitioner's interest in the declaratory ruling, the petitioner's reasons for opposing or supporting the declaratory ruling, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Mr. Wyatt need not file a petition to intervene. The October 3, 2007, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer by any interested person. The request for an automatic delay must be filed by September 21, 2007.

This hearing will be an adversary proceeding. Any person filing a petition has the right to be represented by a lawyer. These and other due process rights will be forfeited if not exercised.

Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Notice is further given to individuals with disabilities that this hearing is being held in a physically accessible place. Contact Eric Gronlund by September 21, 2007, at the above Water Rights Program address to request copies of information pertaining to this petition for declaratory ruling or if you have special needs for which special arrangements can be made.

A petitioner may request use of the Office of Hearing Examiners pursuant to SDCL 1-26-18.3 rather than the hearing procedure describe above. A request to use the Office of Hearing Examiners must be filed with the Chief Engineer by September 21, 2007.

This petition for a declaratory ruling is made pursuant to Board General Rules, Sections 74:02:01:46 thru 74:02:01:50. The Board has legal authority and jurisdiction to consider this matter pursuant to SDCL 46-2-3.1, 46-2-5, 46-2-9, 46-2-11, 46-2-17, 46-2A-16, 46-2A-17, 46-5-1 thru 46-5-2.

Steven M. Pirner, Secretary
Department of Environment and Natural Resources.

Sept. 4, 11



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 6, 2007

NOTICE

TO: Russell Wyatt
12818 Pine Haven Road
Hot Springs SD 57747

FROM: Garland Erbele, Chief Engineer
Water Rights Program *Garland Erbele*

SUBJECT: Scheduling of Hearing for Declaratory Ruling on the status of Water Right No. 404-2,
Cheyenne River

The October 3rd hearing before the Water Management Board on your petition for declaratory ruling regarding the status of Water Right No. 404-2 has been rescheduled for December 5, 2007 at 10:00 AM, in the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. Notice will be provided to parties if there is a change in the hearing time.

Water Right No. 404-2 appropriates 2.5 cubic feet of water per second from the Cheyenne River to irrigate 180.9 acres in portions of Sections 17 and 18, T7S, R8E in Fall River County.

If you have questions about the hearing, please contact Eric Gronlund at (605) 773-3352.

c: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on November 6, 2007, a true and correct copy of the Notice regarding scheduling of hearing regarding the petition for declaratory ruling on the status of Water Right No. 404-2 dated November 6, 2007, was served upon each of the following by Unites States, first-class mail, postage pre-paid

Russell Wyatt
12818 Pine Haven Road
Hot Springs SD 57747

And inter-office mail:

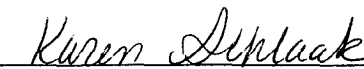
Diane Best, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501



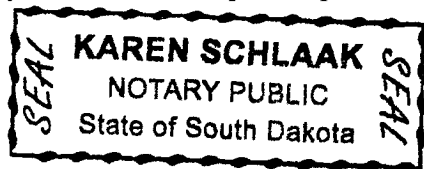
Gail Jacobson
Water Right Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 6th day of November, 2007.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013



Water Right No. 404-2 Russell Wyatt



0 0.05 0.1 0.2 0.3 0.4 0.5 Miles



Aaron R. Tieman
 Aaron R. Tieman
 Natural Resources Project Engineer
 DENR Water Rights Program



Vita

AARON R. TIEMAN

EDUCATION

B.S. Geological Engineering, South Dakota School of Mines and Technology (May, 2003).

CAREER EXPERIENCE

Natural Resources Engineer - SD Dept of Environment and Natural Resources, Water Rights Program: Responsible for monitoring, assessing and regulating water rights activities within the Black Hills region of the State of South Dakota. Review and assess water permit applications. Monitor water use, investigate violation complaints and conduct water permit reviews for licensing.

Field Engineer - Weatherford International, Alaska Operations: Responsible for geophysical well log operations for oilfield support. Supervise and direct operators as to which logging tools to utilize and proper configuration. Familiar with computer software associated with producing down-well logs used for hydrocarbon interpretation. Supervisory position for transporting and handling radioactive materials needed for source logging tools.

MISCELLANEOUS

Provided testimony before the South Dakota Water Management Board for the following water permit applications: Declaratory Ruling on 1178-2 and alternatively 2605-2 Paul Fanning also - Application Nos. 1871-1, 6749-3, 6746-3, 6705-3 and 6718-3.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 13, 2007

NOTICE

TO: Russell Wyatt
12818 Pine Haven Road
Hot Springs SD 57747

FROM: Garland Erbele, Chief Engineer
Water Rights Program *Garland Erbele*

SUBJECT: Board Decision on Declaratory Ruling on the status of Water Right No. 404-2, Cheyenne River

On December 5, 2007, the Water Management Board ruled that Water Right No. 404-2 is a valid water right since it has been maintained as a back-up water supply to irrigate the same acreage authorized by Water Right No. 596-2 from W. G. Draw.

Water Right No. 404-2 appropriates 2.5 cubic feet of water per second from the Cheyenne River to irrigate 180.9 acres in portions of Sections 17 and 18, T7S, R8E Fall River County as set forth in the water right. The use of water shall be in accordance with the conditions to the water right.

This action by the Board does not protect the water right from future periods of nonuse.

If you have questions regarding the Board's action, please contact Eric Gronlund at (605) 773-3352.

c: Diane Best, Assistant Attorney General

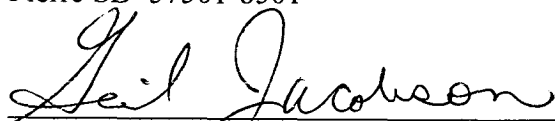
CERTIFICATION

I hereby certify that on December 13, 2007, a true and correct copy of the Notice regarding scheduling of hearing regarding the Water Management Board's decision on the declaratory ruling on the status of Water Right No. 404-2 dated December 13, 2007, was served upon each of the following by United States, first-class mail, postage pre-paid

Russell Wyatt
12818 Pine Haven Road
Hot Springs SD 57747

And inter-office mail:

Diane Best, Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre SD 57501-8501



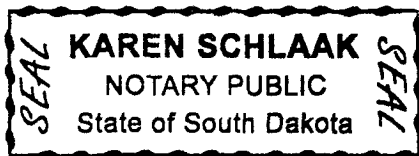
Gail Jacobson
Water Right Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 13th day of December, 2007.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013





404-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 3, 2013

404-2
596-2

Russell Wyatt
12818 Pine Haven Rd
Hot Springs SD 57747

Dear Mr. Wyatt:

Thank you for calling to let us know an ownership change is needed for water rights listed in your name. I have included a copy of the water rights. Both cover basically the same land with Water Right No. 404-2 authorizing diversion from the Cheyenne River and Water Right No. 596-2 authorizing diversion from a dry draw.

Enclosed are partially completed Notice of Transfer of Ownership forms for filing ownership changes. The new owner(s) will need to complete and sign the forms. Upon completion, return them to our office with a required filing fee of \$50.00 each (total of \$100). The check or money order for the fee can be made payable to the Water Rights Program.

If you have any questions, please let me know. I am also including a postage paid envelope for use in returning the completed forms and filing fees to our office.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

Genny McMath
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

enclosures

RECEIVED

JUL 11 2013

WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 404-2

Date: 7-7-2013

I/We request that Water Right No. 404-2

formerly owned by: Russell Wyatt, 12818 Pine Haven Rd, Hot Springs SD 57747

be transferred to: (name & address) Russell Sanders

14331 East 0-01 Road

0-01 SD 57766

Telephone No. 605 424-2795

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

180.9 acres - W 1/2 NW 1/4, SE 1/4 NW 1/4, SW 1/4 NE 1/4 Section 17; NE 1/4 Section 18, T7S, R8E

I/We understand that the validity of Water Right No. 404-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

I/We Russell Sanders, the new owner, certify that the above information is true and correct.


(Signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 7/11, 20 13

RECEIVED OF Russe Sanders 14331 E Oral Rd Oral SD 57766

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>404-2</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____	50	00
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No. 06371

By James Goodman
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 12, 2013

404-2
596-2

Russell Sanders
14331 E Oral Rd
Oral SD 57766

Dear Mr. Sanders:

I am writing to acknowledge receipt of the ownership change and filing fee you submitted for Water Right No. 404-2. The water right authorizes irrigation of land in portions of Section 17 and 18, T7S, R8E from the Cheyenne River. The ownership change has been completed. Water Right No. 404-2 formerly held by Russell Wyatt is now listed in your name.

Irrigators in South Dakota are required to submit an irrigation questionnaire on an annual basis to report water use. For informational purposes, I am including a copy of a past irrigation questionnaire for No. 404-2 to give you an idea of what type of information to keep track of during the irrigation season. The actual form you will need to complete and return to us will be directed to you in October.

Thank you for the notation on the transfer form for Water Right No. 596-2. No. 596-2 authorizes diversion of water from a dry draw to irrigate the same acreage as Water Right No. 404-2. Based on the notation you placed on the transfer form, Water Right No. 596-2 will be scheduled for cancellation consideration at the next Water Management Board meeting which will be held in October, 2013. You will be notified of the time, date and place of the hearing once it is scheduled.

Enclosed is your Receipt No. 06371 in the amount of \$50 which you paid for filing the ownership change on Water Right No. 404-2. If you have any questions, please give me a call.

Sincerely,

Genny McMath
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

enclosures