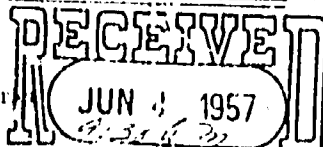


No. 460-2Water Division No. 2 Big River District  
(Blank to be filled by the Engineer for the W. R. C.)  
Special Right

## APPLICATION FOR PERMIT

STATE WATER RESOURCES COMM.  
PIERRE, SOUTH DAKOTA

## To Appropriate Water within the State of South Dakota

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

1. Name of applicant Willard Bloom  
Star Route #2,  
Postoffice address Cotton Wash, County Pennington, State So. Dak.

## I. 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 addresses 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)

Completed

(b) Cash on hand, \$ \_\_\_\_\_

(c) Treasury stock, \$ \_\_\_\_\_

(d) Bonds to be issued, \$ \_\_\_\_\_

(e) Other resources, \$ \_\_\_\_\_

2. Name of diversion work Bloom #1.  
3. Amount of water claimed 8.74 cubic feet per second  
4. Source of water supply South Fork of Cottonwood Creek  
5. Location of point of diversion between a point in the SW $\frac{1}{4}$  NW $\frac{1}{4}$  Sec 7, T.1S, R.17E and a  
T.1S, R.16E.  
point in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  Sec 24, on both bank Pennington County.  
6. Annual period or periods during which water is to be used April to November inclusive  
7. To be used for:

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

(a) Number of acres to be irrigated 605 acres.(b) Legal subdivisions to be irrigated See list109 Ac. in the S $\frac{1}{2}$  NW $\frac{1}{4}$  and N $\frac{1}{2}$  SW $\frac{1}{2}$ , Section 8, T.1S, R.17E173 Ac. in the S $\frac{1}{2}$  Section 7, T.1S, R.17E115 Ac. in the NW $\frac{1}{2}$  and NW $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 18, T.1S, R.17E.192 Ac. in the S $\frac{1}{2}$  N $\frac{1}{2}$  and N $\frac{1}{2}$  S $\frac{1}{2}$ , Sec 13, T.1S, R.16E.16 Ac. in the NW $\frac{1}{4}$  NE $\frac{1}{4}$  Sec 24, T.1S, R.16E.

8. Estimated cost of work:

(a) Head Gates, \$.....

(b) Pumping plant, \$.....

(c) Fluming, \$.....

(d) Canal-earth, \$.....

Block, \$.....

(e) Other structures .....

Total, \$ 500

9. Description of diversion works:

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

II. Dimensions of works:  
Natural spread during flooding with a few minor base grade diversions.

(a) Dam: Height.....feet; length at bottom ..... feet; length at top ..... feet; thickness at bottom ..... feet; thickness at top ..... feet; slope at front water face .....; slope at back face ..... material used in construction .....

(b) Reservoir: Capacity when filled .....acre feet. Surface area at highwater mark.....acres.

| DEPTH AT<br>OUTLET-Feet | SURFACE AREA AT EACH<br>DEPTH AT OUTLET—ACRES | FEET | ACRE-Feet<br>CAPACITY |
|-------------------------|-----------------------------------------------|------|-----------------------|
|                         |                                               |      |                       |
|                         |                                               |      |                       |
|                         |                                               |      |                       |
|                         |                                               |      |                       |
|                         |                                               |      |                       |
|                         |                                               |      |                       |
|                         |                                               |      |                       |
|                         |                                               |      |                       |
|                         |                                               |      |                       |

(c)\* Head gate: Width.....feet; height .....feet; Material .....

(d) Canal: Total length .....miles.

| LOCATION BELOW<br>HEADGATE | DEPTH      | BOTTOM<br>WIDTH | WIDTH AT<br>WATER-LINE | GRADE<br>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 Completed.....years.

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

12. Choice of newspaper for publication of notice of intention to appropriate .....

STATE OF SOUTH DAKOTA

County of ..... } ss.

I, Willard Bloom 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.

Signed

Willard Bloom

Subscribed and sworn to before me this 17th day of June 1957

Albert H. ...  
Notary Public (or other qualified officer.)

\*Each diversion must have a headgate or measuring device.

MD Shadi  
Natural Resources Engineer  
Feb. 12, 1991

18

Feb. 12, 1991

2-41240  
T521

3M 595  
7585

XREF  
MAP  
E-14

15-16

1-182

Remarks by State Water Resources Commission:

"Vested Right" claimed

STATE OF SOUTH DAKOTA  
County of Hughes } ss.

Pierre, South Dakota, June 26, 1957

This is to certify that the foregoing application was received by the Commission at 9:30 o'clock  
9 a.m. upon the 4 day of June, 1957

State Water Resources Commission

By:

J. O. Grimes  
Chief Engineer, Executive Officer

Vested Right  
Number of permit 460-2

Date of first receipt of application June 4, 1957

Date of return to applicant for correction, amendments or changes required as follows: \_\_\_\_\_, 19\_\_\_\_

Date of receipt of corrected application \_\_\_\_\_, 19\_\_\_\_

Date from which applicant may claim right 1900, 19\_\_\_\_

Approved June 26, 1957, Recorded in Book 4 Page 114

This is to certify that we have examined the foregoing application for a permit to appropriate water of the State of South Dakota, and we 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 \_\_\_\_\_

Completed, 19\_\_\_\_

2nd. The whole of said work is to be completed on or before Completed, 19\_\_\_\_

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

Completed, 19\_\_\_\_

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

5th. The prior right of all persons who, by compliance with the laws of the State of South Dakota, 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 8.74 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 Completed, 19\_\_\_\_; said water to be used during the following described annual period:

April to November inclusive

Witness my hand this 26 day of June, 1957

State Water Resources Commission

By:

J. O. Grimes  
Chief Engineer, Executive Officer

Certificate of Construction Issued June 26, 1957

Water License Issued June 26, 1957

## STATE OF SOUTH DAKOTA

## WATER LICENSE No. 460-2 . . . .

WHEREAS, On the 4th day of June A. D. 1957

Willard Bloom

of Canon County of Pennington and State of South Dakota duly made application (No. 460-2) to us for a vested right permit to use 8.74 cubic feet per second of the waters of the South Fork of Cottonwood Creek County of Pennington, State of South Dakota, for irrigation purposes; and

WHEREAS, On the 26th day of June A. D. 1957, vested right Permit No. 460-2 was issued to said applicant, recognizing for the completion of the works of diversion therein described ~~XXXXXX~~ the ~~XXXXXX~~ in 1900 ~~XXXXXX~~ and ~~XXXXXX~~ application to beneficial use of said water ~~XXXXXX~~ in 1900 ~~XXXXXX~~ and,

WHEREAS, On the 4th day of June A. D. 1957, vested right the holder of said permit duly made proof of the completion of adequate works for the diversion of 8.74 cubic feet per second of said waters, as evidenced by our Certificate No. 460-2 dated June 26, 1957 confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use 8.74 cubic feet per second of water, with date of priority of 1900 ~~XXXX~~ and,

WHEREAS, On the 4th day of June A. D. 1957 proof was duly made of the application to beneficial use of 8.74 cubic feet per second of said water; on 605 acres located in the S $\frac{1}{2}$ NW $\frac{1}{4}$  and N $\frac{1}{2}$ SW $\frac{1}{4}$ , Sec. 8; S $\frac{1}{2}$ , Sec. 7; NW $\frac{1}{4}$  and NW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 18 all in T 1 S, R 17 E and the S $\frac{1}{2}$ N $\frac{1}{2}$  and N $\frac{1}{2}$ S $\frac{1}{2}$ , Sec. 13 NW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 24 all in T 1 S, R 16 E.

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 Willard Blinn  
 of Quinn, South Dakota the holder and owner of <sup>vested right</sup> of sale/permit No. 450-2  
 a water right, dating from 1900 to the use of 8.74  
 cubic feet per second of the waters of the South Fork of Cottonwood Creek  
 in the County of Pennington 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 in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
 Sec. 7, T 1 S, R 17 E and a point in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 24, T 1 S, R 16 E  
 and conducted to and upon S $\frac{1}{2}$ NW $\frac{1}{4}$  and N $\frac{1}{2}$ SW $\frac{1}{4}$ , Sec. 8, S $\frac{1}{2}$ , Sec. 7; NW $\frac{1}{4}$  and NW $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
 Sec. 18; all in T 1 S, R 17 E and S $\frac{1}{2}$ N $\frac{1}{2}$  and N $\frac{1}{2}$ S $\frac{1}{2}$ , Sec. 13; NW $\frac{1}{4}$ NE $\frac{1}{4}$  Sec.  
 24 all in T 1 S, R 16 E  
 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 26th day of June A. D. Nineteen  
 Hundred and fifty-seven.

State Water Resources Commission

By:

J. W. GRIMES, Chief Engineer, Executive Officer

STATE OF SOUTH DAKOTA

Water License No. -----

To -----

Source of Supply -----

County -----

Ac't -----

Point of Diversion -----

Place of Use -----

Purpose -----

Date of Priority -----

Recorded -----

in Book ----- of ----- Page -----

Permit No. 460-2Water Division No. 2 Bad River Water District**Certificate of Completion of Works**

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That Willard Bloom

of Quinn, County of Pennington, and State of South Dakota, the holder of Permit No. 460-2, issued upon Application No. 460-2, bearing date of priority of 1900, authorizing the diversion of 8.74 cu. ft. per second of the waters of the South Fork of Cottonwood Creek

County of Pennington, State of South Dakota, at x between a point in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 7, T 1 S, R 17 E and a point in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 24, T 1 S, R 16 E., 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 vested right recognized as in satisfactory condition for diverting and conveying to the place of intended use 8.74 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: S $\frac{1}{2}$ NW $\frac{1}{4}$  and N $\frac{1}{2}$ SW $\frac{1}{4}$ , Sec. 8, T 1 S, R 17 E-----109 acres

S $\frac{1}{2}$ , Sec. 7, T 1 S, R 17 E-----173 acres

NW $\frac{1}{4}$  and NW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 18, T 1 S, R 17 E-----115 acres

S $\frac{1}{2}$ NW $\frac{1}{4}$  and N $\frac{1}{2}$ S $\frac{1}{2}$ , Sec. 13, T 1 S, R 16 E-----192 acres

NW $\frac{1}{4}$ ME $\frac{1}{4}$ , Sec. 24, T 1 S, R 16 E-----16 acres

605 acres

Witness my hand this 26th day of June A. D. 1957

State Water Resources Commission

By:

**J.W.GRIMES,**

Chief Engineer, Executive Officer

June 2, 1977

Don Schmittlein  
U.S. Forest Service  
Wall, South Dakota 57790

Dear Mr. Schmittlein:

This letter is in reference to the telephone conversation May 27, 1977 with Gale Selken in regard to the dam located in Section 15, T1S, R16E.

Upon receiving a complaint from a downstream water right owner, an investigation was made. The location of the dam is such that water is stored in the channel and eventually when the dam is full the water is diverted to another channel.

According to our files the Forest Service does not have a water right for the dam. Water Rights downstream have priority and the rights must be satisfied prior to storage of water by the Forest Service.

The dam must either be removed or a bypass structure must be placed through the dam.

Very truly yours,

JOHN HATCH, Chief Engineer  
Water Rights Commission

JH/bw

Remarks by State Water Resources Commission:

"Vested Right" claimed

STATE OF SOUTH DAKOTA  
County of Hughes } ss.

Pierre, South Dakota, June 26, 1957

This is to certify that the foregoing application was received by the Commission at 9:30 o'clock  
9 a.m. upon the 4 day of June, 1957

State Water Resources Commission

By:

J. O. Grimes  
Chief Engineer, Executive Officer

Vested Right  
Number of permit 460-2

Date of first receipt of application June 4, 1957

Date of return to applicant for correction, amendments or changes required as follows: \_\_\_\_\_, 19\_\_\_\_

Date of receipt of corrected application \_\_\_\_\_, 19\_\_\_\_

Date from which applicant may claim right 1900, 19\_\_\_\_

Approved June 26, 1957, Recorded in Book 4 Page 114

This is to certify that we have examined the foregoing application for a permit to appropriate water of the State of South Dakota, and we 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 \_\_\_\_\_

Completed, 19\_\_\_\_

2nd. The whole of said work is to be completed on or before Completed, 19\_\_\_\_

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

Completed, 19\_\_\_\_

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

5th. The prior right of all persons who, by compliance with the laws of the State of South Dakota, 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 8.74 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 Completed, 19\_\_\_\_; said water to be used during the following described annual period:

April to November inclusive

Witness my hand this 26 day of June, 1957

State Water Resources Commission

By:

J. O. Grimes  
Chief Engineer, Executive Officer

Certificate of Construction Issued June 26, 1957

Water License Issued June 26, 1957

UNITED STATES DEPARTMENT OF AGRICULTURE  
FOREST SERVICE  
Buffalo Gap National Grassland  
Wall, South Dakota 57790



2500  
June 17, 1977



Mr. Hatch, Chief Engineer  
Water Rights Commission  
Department of Natural Resource Development  
Joe Foss Building  
Pierre, SD 57501

Dear Mr. Hatch:

As I explained to Gale Selken on May 27, 1977, the dam was not constructed by the Forest Service. The State Highway Department saved several thousand dollars by diverting the channel when I-90 was constructed, of which I agree. I also thought they had checked or obtained permission.

The Forest Service does not have a water right and has never applied for one because I-90 is the fill for the dam.

I have difficulty understanding the complaint upon letting the dam remain for 3 years after completion. You stated that eventually the water is diverted to another channel. The dam filled the first year and has remained full ever since. Any small amount of water goes through the diversion. I suggest that before the Highway Department goes to all the expense of installing drain devices that a gauging station be installed in the remaining channel for three years to determine if the complainant is being shorted on water. The complainant has complained in the past about excess water from these channels.

I will be in Pierre June 27, 1977, and will discuss this further if you so desire.

Sincerely,

*Donald W. Schmidtlein*

DONALD W. SCHMIDTLEIN  
District Ranger

" " West edge of section 13 = 24590 ac

Run off = 1.81 acre inches per acre.

" " The crest edge of Div. 13 =  $4590 \text{ ac} \times 1.81'' \div 12 = 692 \text{ feet}$

Application per acre =  $796 \text{ A.P.} \div 265 \text{ Ac} = 3.1 \text{ ft} = 37.3 \text{ inches}$

Hotchkiss dam surface area 19.0 Storage 76 A.F.

$$\text{Application per acre} = 720 \div 265 \times 12 = 32.6 \text{ inches}$$

Application per acre =  $798 \div 252 = 3.1 \text{ ft} = \underline{\underline{38.4 \text{ inches}}}$

## Rock Slows

1160-2 Willow Glen by S.H. Camp

12-2-77 Forest Service dam

Watershed 1670 Ac. Slope includes

Coupler 489.

A 2 yr. 2 day 24 hour Rainfall = 2.2 inch

Peak runoff = 222 cfs.

A. 1.0 inch 24 hr Rainfall = 228 cfs peak flow

Are are irrigated below the west edge of Sec 13  
from the watershed above the point is 465 ac of

$(11390 + 510 + 180) =$

the percent irrigated by the 5280 Ac watershed is  
 $265 \div 605 \times 100 = \underline{43.8\%}$  of the total 605 Ac.

The 1670 ac watershed produces:

$1670 \div 5280 \times 100 = \underline{31.6\%}$  of the 43.8%

The actual amount contributed to the irrigation project  
by the 1670 ac watershed above the Forest Service  
dam is:

$.316 \times .438 \times 8.74 \text{ cfs} = \underline{1.21 \text{ cfs}}$

$1.21 \text{ cfs} \times 4320 = 544.5 \text{ gpm}$

The 1.21 cfs is all that the F.S. dam need to be pass  
to satisfy the prior water right

(over)

11392- 1680 Ac 2.920 Acres. Water shed 2.920

2920 Ac will produce 350 t cfs. This will meet the  
activity time 1.2 cfs or the 8.70 cfs for the entire  
Bliss Permit # 460-2.

report are those listed on the license. However the  
U.S.G.S. topographic maps indicate that the area  
irrigated from the west edge of section 13 is more  
nearly 100 acres as compared to the 265 acres  
figured in this calculation.

Leroy J. Mernough

# LOCATION NOTICE-DRY DRAW

Pennington.....  
County

65115.....  
Dry Draw No.

I, USDA, Forest Service....., of  
Name

P. O. Box 265.....57790.....Wall.....Pennington.....  
Address & Zip Code Town County

.....owner....., of the following described land, do hereby notify the Water  
owner or operator

Resources Commission of the State of South Dakota and all others concerned that I am exercising my  
right under SDCL 46.4, as amended for construction of a Dry Draw dam for the purpose  
of .....storing..... flood waters for livestock purposes.  
(storing, diverting, or both)

The following data is presented in compliance with Section 61.0138, as amended:

(1) Dates of

(a) This application .....

(b) Posting at construction site .....

(2) Legal description of the land upon which the dam is located, .. SW... ¼ of the ... NW... ¼ of  
Section ... 14....., Township ... 1 S....., Range ... 16 E.. The dam is located .... 72.... rods  
... S..... and ... 5..... rods ... E..... of the ... NW..... corner of said Section  
(N.S.E.W.) (N.S.E.W.) (NW,NE,SE,SW)  
in the County of..... Pennington.....

The owner of the land is .. USDA, Forest Service..... Wall, SD. 57790.....  
Name Address

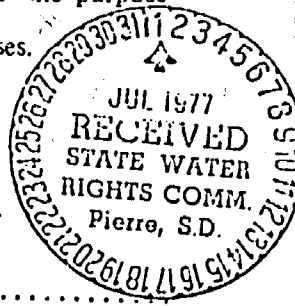
(3) Amount of water claimed for all purposes each year..... 76.0..... acre feet.

(4) Storage capacity of reservoir..... 76.0..... acre feet.

(5) Surface area of reservoir..... 19..... acres.

(6) Size of watershed above dam..... 1440..... acres.

(Over)



Enclosed herewith is one dollar (\$1.00). The Water Resources Commission is requested to file this Location Notice in their official records.

A copy of this Location Notice has been filed (do not record) with the Register of Deeds of ..... Pennington ..... County and has been posted at the structure site in accordance with SDCL 46-4-3, as amended.

USDA, Forest Service  
Owner

by ..... James J. Klein .....  
Locator  
James J. Klein, Eng. Tech, USDA, Forest Service

STATE OF SOUTH DAKOTA

County of. PENNINGTON ..... ss.

On this ..... 28th ..... day of ..... JUNE ..... 19..... 77 ..... before me  
..... F. W. Shelton ..... a ..... NOTARY PUBLIC .....  
(Notary Public or other official having a seal)

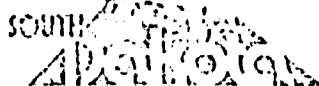
in and for the County and State aforesaid, personally appeared James J. Klein .....  
to me personally known to be the person who executed the foregoing instrument and acknowledged  
that - he executed the same for the purposes therein set forth.

Witness my hand and official seal the day and date above written.

..... F. W. Shelton .....  
Name

(SEAL)

..... NOTARY PUBLIC .....  
Title



# Department of Natural Resource Development

## WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501

Phone 605/224-3151

775

May 15, 1978

TO: Persons Concerned With Willard Bloom Complaint  
FROM: JOHN HATCH, Chief Engineer, Water Rights Commission  
SUBJECT: Willard Bloom Complaint Against the Forest Service Dam  
in Pennington County

The Water Rights Commission will consider the Willard Bloom Complaint at 9:00 a.m., May 26, 1978 at the South Dakota Education Association Auditorium, 411 East Capitol, Pierre, South Dakota.

This hearing will be conducted in accordance with the provisions of SDCL 46-1-1 thru 46-1-8; 46-2-9 thru 46-2-11, 46-2-13; 36-5-1 thru 46-5-8, 46-5-10 thru 46-5-22, 46-5-41 and Commission Rules ARSD 52:01:01:01 thru 52:01:01:13.

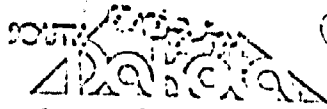
Very truly yours,

A handwritten signature in cursive script, reading "John Hatch", is written over the typed name.

JOHN HATCH, Chief Engineer  
Water Rights Commission

JH/gy

460-2



# Department of Natural Resource Development

## WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501  
Phone 605/773-3151

June 15, 1978

TO: U.S. Forest Service  
Wall, SD 57790

FROM: James Winterton, Water Resources Engineer  
Division of Water Rights  
Department of Natural Resource Development

SUBJECT: Water Rights Commission action relative to the complaint of  
Willard Bloom, holder of Water Right License No 460-2

*The Commission on*

At the May 26, 1978 hearing of the Water Rights Commission, Mr. Willard Bloom and his attorney presented a complaint against the USDA Forest Service, owner of a reservoir located in the NW $\frac{1}{4}$  of Section 14, SE $\frac{1}{4}$  Section 15, T1S, R16E, BHM.

The allegations presented by Mr. Bloom were primarily concerning the low flows of the draw on which the reservoir is situated. Such low flows are utilized by Mr. Bloom's Water Right License No. 460-2 which holds an earlier priority than that of the reservoir for the utilization of water. The Forest Service does hold a location notice on the reservoir for livestock purposes, however, all indications are that the primary interest of the Forest Service in the impoundment is for fish and wildlife purposes. Impoundments for such purposes would require the Forest Service to obtain a water right as provided in Title 46 of the South Dakota Compiled Laws. You will find enclosed the application forms and instruction sheet for obtaining a water permit.

The situation has been investigated by the staff and it was found that not all low flows are being by-passed. Therefore, the Water Rights Commission by the authority provided in the statutes is hereby ordering that all low flows in the quantity provided by Water License No. 460-2 be by-passed in order to meet the needs of the existing appropriative rights. The approved motion was stated by the Water Rights Commission as follows:

"Mr. Wagner MOVED, SECONDED by Mr. Fischer that the Commission recognize Willard Bloom's complaint against the USDA Forest Service as valid; that Mr. Bloom's Water Right License No. 460-2 has priority to the waters of this particular draw, and that the low flows up to 8.74 cfs must be by-passed without entering the reservoir, this being the responsibility of the USDA Forest Service.

June 15, 1978  
Page 2

The Forest Service must submit a proposal to correct this situation to the Water Rights Commission staff for review, and the staff shall supervise the construction of the by-pass. MOTION CARRIED.

Please advise this office of any questions.

Very truly yours,

JAMES WINTERTON  
Water Resources Engineer

JW/gy

encl

LAW OFFICES

KELTON S. LYNN (1946-1974)

HORACE R. JACKSON

DONALD R. SHULTZ

CURTIS D. IRELAND

GENE N. LEBRUN

GREGORY A. EIESLAND

THOMAS G. FRITZ

FRED M. WINKLER

HAVEN L. STUCK

MARVIN D. TRUHE

LYNN, JACKSON, SHULTZ, IRELAND & LEBRUN, P. C.

724 ST. JOE STREET

RAPID CITY, SOUTH DAKOTA 57709

August 16, 1978

POST OFFICE BOX 1377

TELEPHONE 342-2502

AREA CODE 605

South Dakota Department of  
Natural Resources  
Water Rights Commission  
Joe Foss Building  
Pierre, SD 57501



RE: Water Right License No. 460-2 (Willard Bloom)/U.S. Forest Service

Gentlemen:

As you will recall the undersigned represented Willard Bloom at a hearing before the Commission on May 26, 1978 regarding his water right license #460-2. As a result of that hearing, by letter dated June 15, 1978 to the U.S. Forest Service in Wall, South Dakota, the Commission directed the Forest Service that in view of Mr. Bloom's priority, the low flows up to 8.74 CFS must be bypassed without entering the Forest Service dam reservoir, and that the construction of the bypass is the responsibility of the U.S.D.A. Forest Service. The Commission further directed the Forest Service to submit a proposal to correct the situation to the Water Rights Commission staff for review.

As of this date, August 16, 1978, almost three months since the hearing, the Forest Service has failed to either submit a plan for the correction of the water problem or to do any physical work in the construction of a bypass. In fact my client, Willard Bloom, has consulted with a Mr. Roger Williams of the Wall office of the Forest Service and got little or no satisfaction that the Forest Service intended to take any action.

Natural Resources Department

Page 2

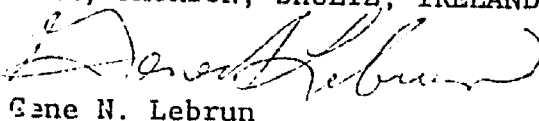
August 16, 1978

I suggest to the Commission that in view of the Forest Service failure to act as directed by the Commission, that a deadline be set for the Forest Service to submit their proposal and then a second deadline be set once that proposal has been reviewed by the Commission staff, for the construction of the bypass.

We would appreciate your immediate attention to this matter.

Sincerely yours,

LYNN, JACKSON, SHULTZ, IRELAND & LEBRUN, P.C.



Gene N. Lebrun

GNL:ls

cc Forest Service  
Wall, SD

Willard Bloom

  
Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501  
Phone 605/773-3151

August 29, 1978

U.S. Forest Service  
Wall, SD 57790

Dear Sirs:

A letter dated June 15, 1978 from this office directed the Forest Service to construct a bypass for low flows of up to 8.74 cfs to meet the needs of the downstream water right of Willard Bloom. It was directed that a proposal be submitted to the Water Rights Commission staff for review. As of this date, this office has not received this proposal for a bypass.

Please be advised that this office wants to review the proposal and see that the bypass is installed by the Forest Service on or before November 15 of this calendar year. If there are any questions or problems with this directive, the Water Rights Commission must be contacted in order to work out other arrangements which would be satisfactory to all concerned.

Please do not hesitate to advise this office of any questions.

Very truly yours,

JOHN HATCH, Chief Engineer  
Water Rights Commission

JH/JW/gy

cc: Willard Bloom  
Gene N. LeBrun

UNITED STATES DEPARTMENT OF AGRICULTURE  
FOREST SERVICE

NEBRASKA NATIONAL FOREST  
270 PINE STREET  
CHADRON, NEBRASKA 69337

IN REPLY REFER TO

2540

August 30, 1978

Mr. James Winterton  
Water Rights Commission  
Joe Foss Building  
Pierre, SD 57501

Dear Mr. Winterton:

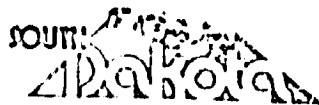
This letter is in response to your letter of June 15, whereby the Commission has requested the Forest Service to submit a proposal to by-pass water claimed by Mr. Bloom.

The dam in question belongs to the State Highway Department. It was constructed by them entirely within the right-of-way for Interstate 90. They have an easement from the Forest Service for highway construction on the site where the dam is located. We suggest you contact them concerning any problems the dam is causing.

Sincerely,

*Lawrence C. Sutton*  
LAWRENCE C. SUTTON  
Forest Supervisor





# Department of Natural Resource Development

## WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501

Phone 605/773-3151

September 7, 1978

Don Anderson  
Office of Right of Way  
Division of Highways  
Dept. of Transportation  
Pierre, SD 57501

Dear Mr. Anderson:

You will find enclosed a copy of a letter from the Forest Service claiming no responsibility for the impoundment located on the Forest Service land and suggesting that the State Highway Dept. be contacted concerning any problems the dam is causing. The reservoir in question is located in the NW $\frac{1}{4}$  of Sec. 14 and SE $\frac{1}{4}$  Section 15, T1S, R16E, BHM.

The impoundment is controlled by a diversion channel located at the inlet. The Water Rights Commission at the May 26th hearings recognized Willard Bloom's complaint as being valid and Mr. Bloom's Water Right License No. 460-2 has priority to the waters of this particular draw. The Commission ordered that the low flows up to 8.74 c.f.s. must be by-passed without entering the reservoir. A proposal must be submitted to the Water Rights Commission staff for review and the staff shall supervise the construction of the by-pass. The Commission also determined that since the impoundment is on Forest Service land, it is the responsibility of the Forest Service for the accomplishment of the work for the by-pass.

This office is requesting verification of whether the Water Rights Commission has determined correctly who holds the responsibility for the completion of the by-pass. Otherwise, it is suggested that something be done to drain the reservoir of its waters.

David Sanford at this hearing of the Water Rights Commission stated that in 1970 the highway was constructed causing an impoundment. He stated that the Forest Service did not file a dry draw location notice until 1977 and only because Mr. Bloom was complaining. Mr. Sanford also stated that the Forest Service has no obligation at all because they did not put the dam in, in the first place. The Forest Service does not want to ruin the natural water flow.

If this is the case, why did the Highway Dept. build the impoundment? Was there some sort of agreement made between the Highway Dept. and the Forest Service?

September 7, 1978

Don Anderson

Page 2

Please advise this office of any comments or questions pertaining to this matter.

Very truly yours,

JAMES WINTERTON

Water Resources Engineer

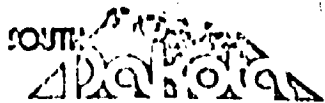
JW/gy

encl

cc: Willard Bloom

Gene H. Lebrun, Attorney

*Lawrence Sutton, Forest Supervisor*



# Department of Natural Resource Development

## WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501  
Phone 605/773-3151

September 7, 1978

Lawrence Sutton  
Forest Supervisor  
USDA, Forest Service  
270 Pine Street  
Chadron, Nebraska 69337

Dear Mr. Sutton:

In reply to your letter dated August 30, 1978 pertaining to the directive from the Water Rights Commission dated June 15, 1978, this office has contacted the State Highway Department as requested. See copy of the letter to Don Anderson enclosed.

At the May 26, 1978 hearing of the Water Rights Commission, Mr. David Sanford representing the Forest Service stated that the dam is planned on being fenced off for wildlife use. If this is the case, a water right would be required for this purpose. A water right for this purpose should have been accomplished prior to the construction of the impoundment. The Forest Service, therefore, presently is not in compliance with the S.D. Water Laws for the utilization of these waters for its intended purposes. If the Forest Service does obtain a water right, a low flow by-pass will be required to meet the needs of downstream water rights and livestock watering purposes. Hereagain, the Forest Service would be considered the owner by the beneficial use to which the waters are utilized on lands owned by them.

It is known that the Forest Service owns the lands upon which the impoundment exists, therefore, it is still the responsibility of the Forest Service for initiating the by-pass construction whether the job be accomplished by the State Highway or themselves.

The other alternative would be to drain the dam completely. As it now stands, the Forest Service is not complying with the S.D. Water Laws and therefore is subject to the penalties described in Title 46 of the Compiled Laws of South Dakota.

A directive from John Hatch, Chief Engineer for the Water Rights Commission gives a deadline date of November 15, 1978 for the completion of the by-pass, a copy of the directive dated August 29, 1978 is enclosed. If this directive is not followed, then certain legal remedies will be pursued.

September 7, 1978  
Lawrence Sutton  
Page 2

Please advise this office of any comments or questions pertaining to this matter.

Very truly yours,

JAMES WINTERTON  
Water Resources Engineer

JW/gy  
encl

cc: Willard Bloom  
Gene N. Lebrun



# Department of Transportation

## Division of Highways

Pierre, South Dakota 57501

Mr. James Winterton  
Water Resources Engineer  
Water Rights Commission  
Joe Foss Building  
Pierre, SD 57501

September 15, 1978



RE: I 90-2(46) 114 Pennington Co.  
Impoundment @ Sta. 144+ Rt.

Dear Mr. Winterton:

The impoundment located in the NW1/4 of Sec. 14 and the SE1/4 of Sec. 15, T1S R16 E BHM was included in the design of this project as a result of discussion between Department Engineers and Forest Service representatives during the projects functional inspection in early June, 1970. This is included in the written report of that meeting, dated June 8, 1970, where the report states that impoundment of water was discussed with general agreement that the impoundment was to be constructed consistent with the Highway Divisions economic interests. This is also consistent with our general practice of designing highway embankments to impound water when desirable from the landowners viewpoint, feasible, and with minimal additional cost to the state. In all cases the Department assumes no responsibility other than for maintenance of the embankment within the right of way.

This project was constructed in accordance with plans approved by the Forest Service and under provisions of their interim letter of consent dated July 27, 1972. These plans show the presence of the impoundment. Upon completion of the project to the satisfaction of the Forest Service, the Department is required to submit plans and recordable deeds to the Federal Highway Administration for its approval. We are presently about to make this submittal. The original plans showed the area of the channel change-but not the impoundment-as a permanent easement. This is contrary to our normal practice and it is our intention to consider it as temporary easement and not include it on the deed. There is no easement of any type for the impoundment area outside the normal right of way limits.

I hope this satisfactorily answers your questions. Please contact this office if further information is needed.

Very truly yours,

OFFICE OF RIGHT OF WAY

Claus C. Kuehl  
Right of Way Engineer

Donald W. Anderson  
Program Engineer

DWA:sm

cc: Rowen  
Sommer  
Kuehl  
Piper

September 19, 1978

Dean Boe, Forest Supervisor  
USDA, Forest Service  
270 Pine Street  
Chadron, Nebraska 69337

Dear Mr. Boe:

This office has been contacted by David Sandford of the Forest Service regarding the November 15, 1978 deadline for completing the by-pass for the waters impounded on Forest Service land located in the NW $\frac{1}{4}$  of Section 14 and SE $\frac{1}{4}$  Section 15, T1S, R16E, B. B.H.M. The discussion centered around delaying the deadline date and whether or not the Forest Service is responsible for constructing the by-pass.

The original notice was sent to the Forest Service on June 15, 1978. Upon such notice, the Forest Service had thirty days to appeal the decision. No such appeal was made, therefore the Commission's decision must stand requiring that a by-pass for low flows of up to 8.74 cfs be constructed.

Forest Service has stated that this office should contact the State Highway Dept. to accomplish this work since they originally constructed the impoundment. For your information, see enclosed letter from the State Highway Dept. This office believes the Forest Service should make the arrangements since the Forest Service owns the land and has claimed the impoundment by filing a location notice. The Forest Service owns the land upon which the impoundment exists therefore they must issue a special permit to whoever does the work upon these lands.

This office does not believe the by-pass would be hard to construct. This will not be a major construction project. It is just a matter of building up the intake in order that the low flows will divert into the outlet channel rather than into the reservoir.

The November 15, 1978 deadline will remain in effect. This office will move the deadline back only if the Forest Service can give adequate written reasons why the work can not be accomplished by this date.

Please advise this office of any questions or comments pertaining to this matter.

Very truly yours,

James Winterton  
Water Resources Engineer

JW:kjw

cc: Roger Williams  
District Ranger  
USDA, Forest Service  
Wall SD 57790

enclosure

460-2

REPORT ON WILLARD BLOOM - PERMIT NO. 460-2  
AND FOREST SERVICE DAM - PENNINGTON CO.  
MARCH 13, 1978

Willard Bloom registered a complaint with the Water Rights Commission stating that a dam located on USDA Forest Service land and originally constructed by the South Dakota Department of Transportation in 1974 is storing water and depriving him (Bloom) of water for his irrigation project on which he has a prior right appropriated to him under Permit Number 460-2.

The Forest Service dam is located 4 miles southeast of Wall SD on the west side of Interstate I-90. An investigation of the complaint was conducted by members of the Water Rights staff and the following information is a result of that investigation (See attached map and Location Notice).

DATA

Permit No. 460-2

appropriates: 8.74 cfs

acreage: 605 acres

location of irrigation: portions of Sections 7, 8, and 18, T1S, R17E;  
and Sections 13 & 24, T1S, R16E.

licensed: June 4, 1957

Vested Rights with priority date of the year 1900.

Forest Service Dam: Location Notice No. 6515

location notice claims: 76.0 acre feet annually

reservoir storage: 76.0 acre feet

surface acres: 19.0 acres

watershed above dam: 1440 acres

use: storing flood water for livestock purposes

filed: July 1, 1977

Mr. Donald Schmidlein of the USDA Forest Service was contacted on January 3, 1978 and he stated that the dam is being used for livestock watering as well as the development of portions of the pond to raise water fowl.

DISCUSSION

Using Soil Conservation Service Criteria, the watershed above the Forest Service dam was determined to be 1,670 acres as taken from USGS topographic maps. The peak run off from a 2 year frequency 24 hour storm is 900 cfs. The peak run off from a 1.0 inch 24 hour storm is 228 cfs.

Mr. Bloom's Permit No. 460-2 appropriated 8.74 cfs to irrigate 605 acres. The watershed on which the dam is located is required to contribute 1.2 cfs of the 8.74 cfs to satisfy the permit (see map for the various tributaries to the permitted acreage). Peak runoff from a one inch storm, as stated above, is 228 cfs. The diversion channel spillway as shown on map is approximately the same elevation as the entrance into the dam. From levels taken on November 16, 1977, low flows from the tributary would enter the diversion channel as well as the dam. Large runoff would be split with approximately 50% entering the diversion channel and 50% entering the storage. Upon filling of the storage, 100% of the runoff would enter the diversion channel.

Using a 1.0 inch 24 hour storm producing runoff of 220 cfs with 114 cfs going into the diversion channel and 114 cfs going into the storage dam, assuming the dam to be empty at the beginning of the storm, it would take 8 hours for the dam to be filled. At this point all water is diverted around the dam through the channel.

The investigation also indicated that there is considerable acreage not being irrigated as shown on the map. This is natural type spreader system in which irrigation occurs only with peak runoffs spreading over the bottom land then recedes back into the channel after the storm is over. There are no control structures in the irrigated area to assist in spreading the water. Spreading the water is based entirely on out of bank flows.

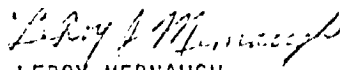
#### CONCLUSION

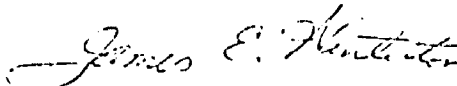
According to the investigation of the area, the dam has a very minimal if any effect on the irrigation of Mr. Bloom. Irrigation of the lands are dependent upon flows far in excess of 8.74 cfs in order to spread over the bottom lands of the tributaries as there are no control structures in the irrigated area.

The dam has been filed as storage for livestock purposes which is a domestic use with preference over irrigation and according to the Forest Service, livestock are watered out of this dam. The percentage of the total water right which is contributed from this tributary is 1.2 cfs.

#### RECOMMENDATION

Because of no significant interference to irrigation being caused by the dam, it is recommended that no action be taken by the Water Rights Commission on Mr. Bloom's complaint.

  
LEROY MERNAUGH  
Water Resources Engineer

  
JAMES E. WINTERTON  
Water Resources Engineer III

## LOCATION NOTICE—DRY DRAW

Pennington.....  
County

65-115  
Dry Draw No.

I, USDA, Forest Service....., of  
Name

P. O. Box 265.....57790.....Wall.....Pennington.....  
Address & Zip Code Town County

.....owner....., of the following described land, do hereby notify the Water  
owner or operator

Resources Commission of the State of South Dakota and all others concerned that I am exercising my  
right under SDCL 46.4, as amended for construction of a Dry Draw dam for the purpose  
of ..... storing ..... flood waters for livestock purposes.  
(storing, diverting, or both)

The following data is presented in compliance with Section 61.0138, as amended:

(1) Dates of

(a) This application .....

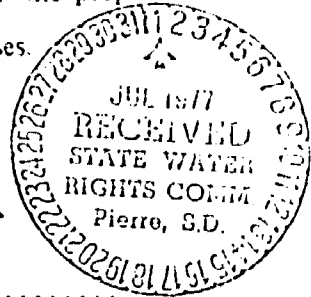
(b) Posting at construction site .....

- (2) Legal description of the land upon which the dam is located, SW 1/4 of the SE 1/4 of  
Section 14, Township 1 S., Range 16 E. The dam is located 72 rods  
S. and 5 rods E. of the NW corner of said Section  
(N.S.E.W.) (N.S.E.W.) (NW,NE,SE,SW)  
in the County of Pennington

The owner of the land is USDA, Forest Service Wall, SD 57790  
Name Address

- (3) Amount of water claimed for all purposes each year. 76.0 acre feet.  
(4) Storage capacity of reservoir 76.0 acre feet.  
(5) Surface area of reservoir 19 acres.  
(6) Size of watershed above dam 111.0 acres.

(Over)



Enclosed herewith is one dollar (\$1.00). The Water Resources Commission is requested to file this Location Notice in their official records.

A copy of this Location Notice has been filed (do not record) with the Register of Deeds of ..... Pennington ..... County and has been posted at the structure site in accordance with SDCL 46-4-3, as amended.

USDA, Forest Service  
Owner

by..... James J. Klein .....  
Locator  
James J. Klein, Eng. Tech, USDA, Forest Service

STATE OF SOUTH DAKOTA  
County of. PENNINGTON ss.

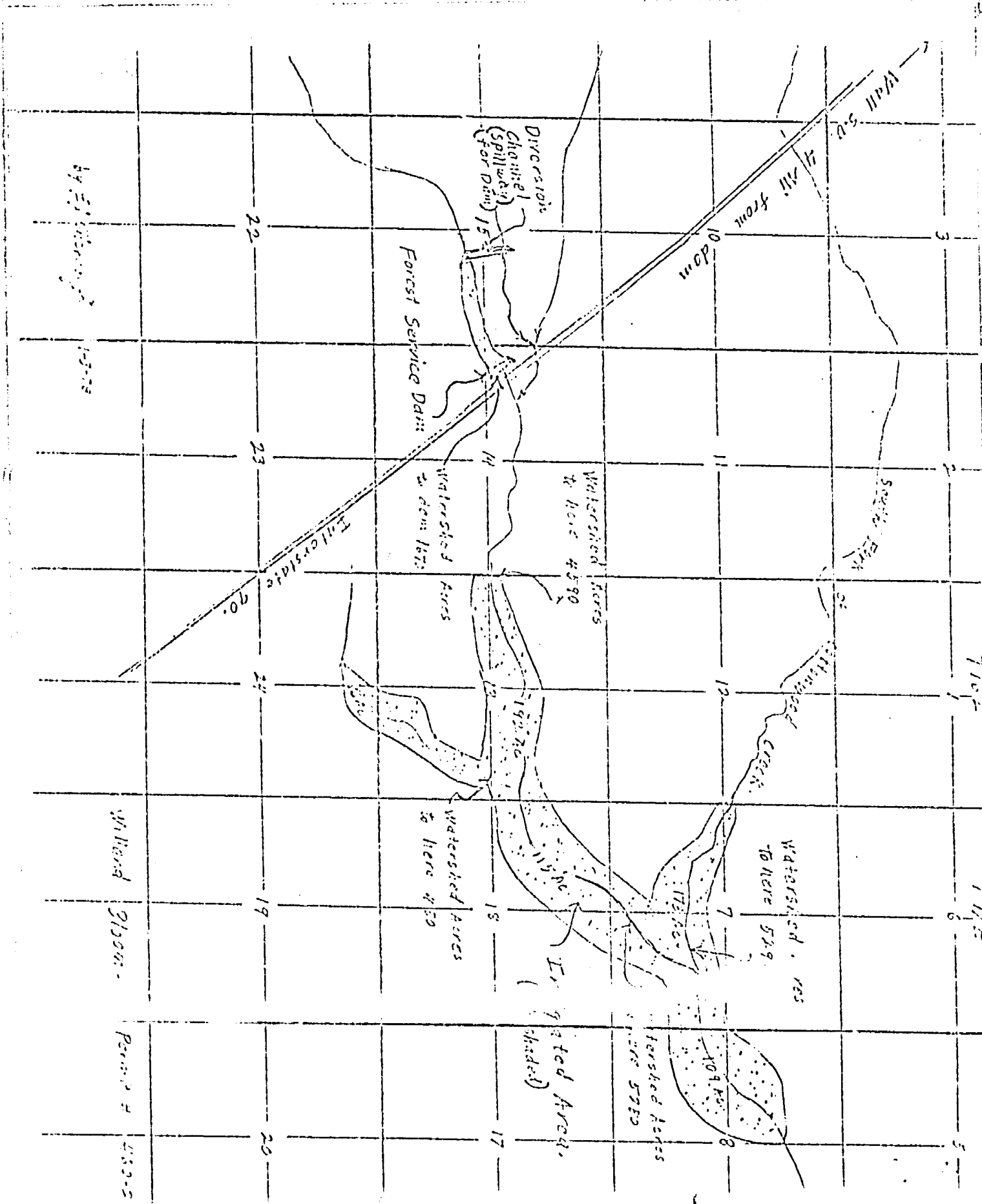
On this 28th day of June, 19 77, before me  
F. W. Sperton, a Notary Public  
(Notary Public or other Official having a seal)

in and for the County and State aforesaid, personally appeared James Klein  
to me personally known to be the person who executed the foregoing instrument and acknowledged that he executed the same for the purposes therein set forth.

Witness my hand and official seal the day and date above written.

(SEAL)

F. W. Sperton  
.....  
Notary Public  
Title



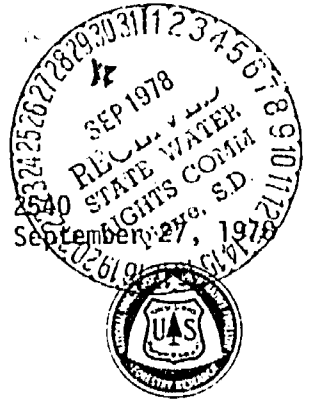
by J. J. [illegible]

Willard 31000-

Permit # 453-5

UNITED STATES DEPARTMENT OF AGRICULTURE  
FOREST SERVICE

Nebraska National Forest  
270 Pine Street  
Chadron, Nebraska 69337



308  
432-  
3367

*Ed. E. 1978  
Will send  
info. Division of Forest  
Service will meet all  
costs.  
Ad 11/16/78*

Mr. James Winterton  
Dept. of Natural Resource Development  
Water Rights Commission  
Joe Foss Building  
Pierre, South Dakota 57501

Dear Mr. Winterton:

This is in response to your letter of September 19, 1978.

We are asking for an extension in the November 15, 1978, deadline for resolving the issue at hand. There are a number of points which need clarification before we can go ahead with selection of an alternative. Upon the selection of an alternative based on this clarification, it is possible that any work that may be necessary could not be completed by November 15. Therefore we are asking for an extension until May 15, 1979.

Following are some key points we feel need clarification:

- A. The report of March 13, 1978, prepared by LeRoy Mernaugh and James Winterton contains the following information:
1. The watershed on which the dam is located is required to contribute 1.2 cfs of the 8.74 cfs to satisfy the permit.
  2. The dam has a very minimal if any effect on the irrigation of Mr. Bloom.
  3. The dam has been filed as storage for livestock purposes which is a domestic use with preference over irrigation.
  4. The conclusion of this report is a recommendation that no action be taken.

Since that time the Forest Service has been directed to divert 8.74 cfs. This appears contrary to the engineering report.

- B. The minutes of the Water Rights Commission meeting of May 25 and 26, 1978, contain additional information which doesn't appear to be in harmony with the directive to bypass 8.74 cfs. This includes the following:

1. The channel only produces 1.2 cfs.
2. "Prior to the time that the dam was put in Mr. Bloom stated that he got 2/3 the amount of water that he is getting now."

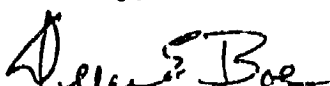
Mr. James Winterton - Page 2

- C. The letter of September 19 mentions that there was a 30 day right of appeal. We have no written record of having received notification of a 30 day right of appeal.
- D. Jim Lees, Range and Wildlife Staff Officer for the Forest, appeared at the Water Rights Commission meeting on September 14, 1978. We understood from that meeting that relief from the November 15 date would be granted and a rehearing scheduled.

You can be assured that we fully understand the need to resolve this issue in an equitable manner. We intend to meet our obligations as expeditiously as we reasonably can.

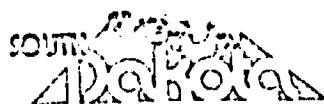
We appreciate this opportunity to respond and are looking forward to a logical and equitable solution.

Sincerely,

  
DEEN E. BOE  
Forest Supervisor

*Munday*  
*Manning*

4460-2



# Department of Natural Resource Development

## WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501  
Phone 605/773-3151

October 12 1978

Dean Boe, Forest Supervisor  
USDA, Forest Service  
270 Pine Street  
Chadron, NE 69337

Dear Mr. Boe:

The meeting with Willard Bloom and representatives of the Forest Service and this office October 11, 1978 resulted with an agreement that the work necessary to remedy the by pass problem would be very minimal. The Forest Service indicated that they had very little interest in the impoundment and therefore would not object to placing a small concrete wall in the channel at the inlet to allow low flows to be diverted around the impoundment.

The Forest Service agreed to construct a concrete retaining wall not over 1.7 feet above the bottom of the channel or 0.6 feet below the top of the fence post located in the channel. The length of the wall would be approximately 20 feet.

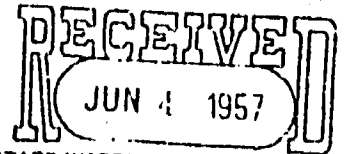
Please advise this office of any questions or comments.

Very truly yours,

JOHN HATCH, Chief Engineer  
Water Rights Commission

JH/gy

cc: Willard Bloom, Quinn, SD  
Roger Williams, District Manager, USDA Forest Service, Wall, SD

Location No. 460-2Water Division No. 2 Red River Water DistrictSTATE WATER RESOURCES COMM.  
PIERRE, SOUTH DAKOTA**Proof of Application of Water to Beneficial Use****PETITION OF HOLDER**

Ques. 1. State your name, residence, occupation and postoffice address.

Ans. Willard Bloom, RancherQuinn, South Dakota

Ques. 2. If acting in behalf of a corporation, state its name, principal place of business (if a foreign corporation, give name and postoffice of statutory agent,) your position with reference to same, and your authority for appearing in its behalf.

Ans. \_\_\_\_\_

Ques. 3. State date of posting and date of recording notice of appropriation.

Ans. \_\_\_\_\_

Ques. 4. State source of water supply and give exact location of point of diversion.

Ans. Between a point in the SW $\frac{1}{4}$  NW $\frac{1}{4}$ , Sec. 7, T.1S, R.17E, and a point in the NE $\frac{1}{4}$  NW $\frac{1}{4}$ , Sec 24, T.1S, R.16E on the South Fork of Cottonwood Creek

Ques. 5. Describe your works of diversion giving length and height of each dam and state amount of water they are capable of conveying from point of diversion to place of use, and give name of canal or ditch or other works by which water is conducted to such place of use, and date of completion of same.

Ans. Natural spread over creek bottom of entire flow of creek with only minor construction which is incidental.

Ques. 6. State for what purpose water is used and describe place of use. (If for irrigation, name each subdivision in which used, and number of acres in each subdivision that have ACTUALLY been irrigated with said water.)

Ans. Irrigation of 109 Ac. in the S $\frac{1}{2}$  NW $\frac{1}{4}$  And N $\frac{1}{2}$  SW $\frac{1}{4}$ , Sec 8, T.1S, R.17E., 173 Ac. in the S $\frac{1}{2}$  Sec. 7, T.1S, R.17E., 115 Ac. in the NW $\frac{1}{4}$  and NW $\frac{1}{4}$  NE $\frac{1}{4}$  Sec. 18, T.1S, R.17E., 192 Ac. in the S $\frac{1}{2}$  N $\frac{1}{2}$  and N $\frac{1}{2}$  S $\frac{1}{2}$  Sec. 13, T.1S, R.16E., and 16 Ac. in the NW $\frac{1}{4}$  NE $\frac{1}{4}$  Sec. 24, T.1S, R.16E.

Ques. 7. If for other than irrigation purpose, state how applied, amount of horse power generated, etc.

Ans. \_\_\_\_\_

Ques. 8. What is the minimum amount of water required for the use specified above?

Ans. 8.74

Ques. 9. If you are not the person or representative of the corporation to whom above mentioned permit was originally issued, please state how ownership was acquired by present holder.

Ans. \_\_\_\_\_

Ques. 10. State when, how, in what amount and to what extent, the water diverted under above mentioned permit has been used.

Ans. 605 acres of meadow has been flooded since 1900 by natural  
spreading of entire flow of creek.

(Sign) Willard B. Brown

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in PIERRE, County of Hughes

State of South Dakota, on this 4<sup>TH</sup> day of June A. D. 1917

Witnesses. Allen A. Walker

I, the undersigned, do hereby certify that I am a duly qualified elector residing in the immediate vicinity of the diversion works designated in the foregoing testimony, that I have no interest in the works, water or land above described, that I have read the foregoing testimony and that I know of my own personal knowledge that the matters therein stated are true.

Location No. -----

**PROOF OF APPLICATION OF  
WATER TO BENEFICIAL USE**

**PETITION OF HOLDER**

Amount of Water ----- c. f. s.

Source -----

County -----

Purpose -----

Place of Use -----

Date of recording -----

Received and filed -----

---

**OVERSIZE  
DOCUMENT IS  
SUPPLEMENTARY  
TO MICROFILM FILE**

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

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

September 21, 1988

**NOTICE**

Willard Bloom  
St Rt 2, Box 1  
Wail SD 57790

Dear Mr. Bloom:

I am writing to notify you that pursuant to the Notice of Intent to Validate Vested Water Right Claims dated June 20, 1988 that I intend to oppose validation of your water right claim No(s). 460-2, 461-2 until a field inspection has been completed. The claim has either never been inspected or an inspection was conducted so long ago that a new inspection is needed. An inspection is needed to determine the current state of your vested water right claim.

A staff member from the Division of Water Rights will be contacting you and scheduling an inspection of your water project. If we can answer any questions, please contact us.

Very truly yours,

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



**SOUTH DAKOTA Department of  
Water & Natural Resources**

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

December 1, 1988

Vested Water Right  
Claim No. 460-2 461-2

Willard Bloom  
St Rt 2, Box 1  
Wall SD 57790

Dear Mr. Bloom:

Enclosed is a copy of a letter received from the U.S. Department of Interior, Bureau of Reclamation. The Bureau of Reclamation is opposing those vested water right claims in Fennington, Perkins, Butte and Fall River counties which have never been investigated by the Division of Water Rights. Earlier, you received a letter stating that I was opposing your claim until an investigation can be completed.

After the investigation has been completed, you and the Bureau of Reclamation will be notified as to the date, place and time of the hearing on your vested water right claim. At that time all parties of record will have an opportunity to testify on the validation.

If we can answer any questions, please contact us

Very truly yours,



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

cc: Bruce Laymon, Bureau of Reclamation



Water Rights Division - DWR  
Conversation or File Documentation

File No. 460-2

NAME OF PERSON OR FILE: Willard, T. L.

ADDRESS: \_\_\_\_\_ COUNTY Pennington

DATE: 8-13-90 TELEPHONE \_\_\_\_\_

RE: vested Right claim cancellation

COMMENTS:

On July 31, 1990 I met with Mr. Willard

Blumen and his wife req. Vested Right Claim No 460-2

Mr. Blumen stated that he did not know he had this

right claim. I said we have to cancel this claim

because it had not been used for over 3 yrs. He said

that was ok.

It cannot be abandonment

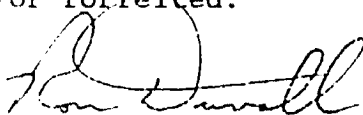
File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

~~46~~ 460-2

RECOMMENDATION OF CHIEF ENGINEER  
FOR VESTED WATER RIGHT CLAIM NO. 460-2, WILLARD BLOOM

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Vested Water Right Claim No. 460-2.

The Chief Engineer is recommending cancellation of the above Vested Water Right Claim because an inspection by Rassoul Ahadi, July 31, 1990, found the land was not being irrigated. The claim has been abandoned and/or forfeited.



RON DUVALL, Natural Resources Engineer IV  
for JOHN HATCH, Chief Engineer  
August 22, 1990

460-2



# Department of Water & Natural Resources

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

August 22, 1990

## NOTICE OF CANCELLATION

TO: Willard Bloom, St Rt 2 Box 1, Wall, SD 57790  
Richard Bronl, Bureau of Reclamation, Box 226,  
Newell, SD 57760

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

SUBJECT: Cancellation of Vested Water Right Claim No. 460-2

The Water Management Board will consider cancellation of Vested Water Right Claim No. 460-2 at 10:00 am, October 3, 1990, Brule Co. Courthouse, Community Room, 300 S Courtland, Chamberlain, SD.

The hearing(s) will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-7; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

The Chief Engineer of the Water Rights Division is recommending cancellation of Vested Water Right Claim No. 460-2 due to abandonment and/or forfeiture.

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Vested Water Right Claim No. 460-2 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by Vested Water Right Claim No. 460-2. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by September 21, 1990. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained. The Board may consider any abandoned or forfeited water to be available for appropriation subject to the provisions of SDCL 46-1, 46-2, 46-2A and 46-5.

460-2

These hearings are adversary proceedings. Any party 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 State Supreme Court as provided by law.

Further information on the proposed cancellation or to assure access to the hearing by the handicapped can be obtained by contacting the Water Rights Division, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) for assistance prior to the hearing. The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting held December 5-6, 1990, in Rapid City, SD. Any request for extension must be filed with the Chief Engineer by September 21, 1990.

Please note: Cancellation of this claim does not prohibit you from making a new application for this project in the future.

Water Rights Division - DWR  
Conversation or File Documentation

File No. VRC 462-2  
VRC 460-2

NAME OF PERSON OR FILE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ COUNTY \_\_\_\_\_

DATE: \_\_\_\_\_ TELEPHONE \_\_\_\_\_

RE: remediation notice for United Right Claim Nos. 460-2  
462-2

COMMENTS: the remediation notice sent to Mrs. Bloom  
for VRC 460-2 and VRC 462-2 was mis-sent  
to Merrill (instead of his correct address at  
home)

I called the Forest Service and the  
Indian by Xela motion and told them  
the United Right Claimers would be  
scheduled for cancellation at our  
next work meeting due to improper  
action.

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

4/82

NAME: Lenny McMath

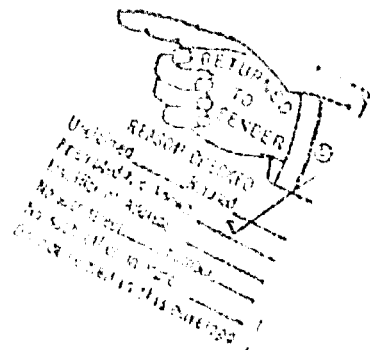
*South Dakota*

**DEPARTMENT OF WATER & NATURAL RESOURCES**

Joe Foss Building

523 East Capitol

Pierre South Dakota 57501-3181



Willard Bloom  
St Rt 2, Box 1  
Newell SD 57790

460-2

SEP 7 1990

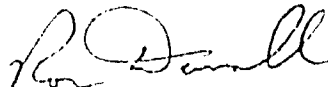
460-2

RECOMMENDATION OF CHIEF ENGINEER

FOR VESTED WATER RIGHT CLAIM NO. 460-2, WILLARD BLOOM

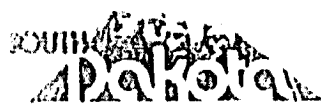
Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Vested Water Right Claim No. 460-2.

The Chief Engineer is recommending cancellation of the above Vested Water Right Claim because an inspection by Rassool Ahadi, July 31, 1990, found the land was not being irrigated. The claim has been abandoned and/or forfeited.



RON DUVALL, Natural Resources Engineer IV  
for JOHN HATCH, Chief Engineer  
October 31, 1990

460-2



## Department of Water & Natural Resources

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

October 31, 1990

### NOTICE OF CANCELLATION

TO: Willard Bloom, St Rt 2 Box 1, Wall, SD 57790  
Bruce Laymon, Bureau of Reclamation, Box 226,  
Newell, SD 57760

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

A handwritten signature in dark ink, appearing to read "Ron Duvall".

SUBJECT: Cancellation of Vested Water Right Claim No. 460-2

The Water Management Board will consider cancellation of Vested Water Right Claim No. 460-2 at 9:00 am, December 5, 1990, Deerfield Room, Hilton Inn, 445 Mt Rushmore Road, Rapid City, SD.

The hearing(s) will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-7; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

The Chief Engineer of the Water Rights Division is recommending cancellation of Vested Water Right Claim No. 460-2 due to abandonment and/or forfeiture.

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Vested Water Right Claim No. 460-2 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by Vested Water Right Claim No. 460-2. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by November 23, 1990. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained. The Board may consider any abandoned or forfeited water to be available for appropriation subject to the provisions of SDCL 46-1, 46-2, 46-2A and 46-5.

These hearings are adversary proceedings. Any party 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 State Supreme Court as provided by law.

Further information on the proposed cancellation or to assure access to the hearing by the handicapped can be obtained by contacting the Water Rights Division, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) for assistance prior to the hearing. The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting held February 27-28 1991, in Pierre, SD. Any request for extension must be filed with the Chief Engineer by November 13, 1990.

Please note: Cancellation of this claim does not prohibit you from making a new application for this project in the future.

Well I.D. <sup>460-2</sup>  
Nov. 6, 1990

Dept. of Water & Nat. Resources  
Joe Goss Building  
523 East Capital  
Pierre S.D.

In regard to Water Right Rights  
I don't want to lose any  
Water rights  
as we use water on Joe A. of Kay  
Land.

yours truly  
William D. Bloom  
S.D. 2 Box 1  
Well I.D. 57790



460-2

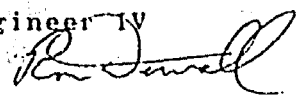
 **Department of  
Water & Natural Resources**  
Joe Foss Building  
523 East Capitol  
Pierre, South Dakota 57501-3181

November 13, 1990

NOTICE

TO: Willard Bloom, St Rt 2 Box 1, Wall, SD 57790  
Bruce Laymon, Bureau of Reclamation, Box 226,  
Newell, SD 57760

FROM: Ron Duvall, Natural Resources Engineer IV  
for John Hatch, Chief Engineer  
Water Rights Division  
(605) 773-3352



SUBJECT: Inspection of Vested Water Right Claim No. 460-2

Mr. Bloom, pursuant to your letter of November 7, 1990, the cancellation consideration of Vested Water Right Claim No. 460-2 scheduled for December 5, 1990, has been delayed.

The vested right claim was scheduled for cancellation consideration based on your conversation with Rassool Ahadi, staff engineer, on July 31, 1990. According to the conversation, Mr. Ahadi understood the land was not irrigated for at least a period of three years. SDCL 46-5-37 notes that a person who fails to beneficially use appropriated water for a period of three years or longer may lose their right to the use of the water.

You stated in your November 7, 1990 letter that you do not want to lose any water rights since you are using water on 200 acres of hay land. Vested Water Right Claim No. 460-2 will need to be reinspected to identify if the 200 acres you are irrigating are covered by No. 460-2.

After an inspection has been completed, the vested water right claim will either be rescheduled for cancellation consideration or will be validated for the acreage being irrigated. You will be contacted to schedule an inspection. If you have any questions, please contact Rassool Ahadi, (605) 773-3352.

460-2

Bangs, McCullen, Butler, Foye & Simmons

Lawyers

George A. Bangs  
W. A. McCullen (1913-1987)  
Joseph M. Butler  
Thomas H. Foye  
Thomas E. Simmons  
Ronald E. Clabaugh  
Charles L. Riter  
Allen G. Nelson  
James P. Hurley

818 St. Joe Street  
Mailing Address P. O. Box 2670  
Rapid City, South Dakota 57709  
605-343-1040  
Telecopier 605-343-1503

Michael M. Hickey  
Mark F. Marshall  
Terry L. Hofer  
Rebecca A. McMahon  
Patrick K. Duffy  
Rodney W. Schlauger  
Matthew V. Ressegieu

November 13, 1990

Recycled Paper 

John Hatch, Chief Engineer  
Department of Water and Natural Resources  
Joe Foss Building  
523 East Capitol  
Pierre, SD 57501-3181

Re: Willard Bloom

Dear Sir:

Our office represents Bud Bloom (Willard) in connection with vested water right number 460-2. This is to advise you that Mr. Bloom opposes the cancellation of this right and wishes to participate in the hearing which is scheduled for December 5, 1990, at 9:00 a.m., in the Hilton Inn on Mount Rushmore Road in Rapid City.

Sincerely,

BANGS, MCCULLEN, BUTLER, FOYE & SIMMONS

*Joe*

Joseph M. Butler

JMB:ljf  
cc: Willard Bloom



460-2

 **Department of  
Water & Natural Resources**

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

November 16, 1990

460-2

Joseph M Butler  
BANGS, MCCULLEN, BUTLER, FOYE & SIMMONS  
818 St Joe Street  
PO Box 2670  
Rapid City, SD 57709-2670

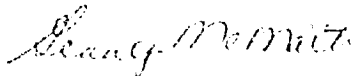
Dear Mr. Butler:

Enclosed is a copy of our November 13, 1990, Notice sent to Willard Bloom and the Bureau of Reclamation which notified them the cancellation consideration of Vested Water Right Claim No. 460-2 has been delayed. This notice was sent in response to a November 6, 1990 letter received from Mr. Bloom.

On November 15, 1990, you spoke with Rassool Ahadi, Staff Engineer, concerning our intent to conduct an inspection of the area described in the Vested Right Claim. You and Mr. Bloom will be notified when the inspection will be conducted.

If you have any questions, please contact us.

Sincerely,



Genny McMath  
Natural Resources Analyst  
Water Rights Division  
(605) 773-3352

enclosure

460-2

File No. VR# 460-2

Water Rights Division - DWR  
Conversation or File Documentation

NAME OF PERSON OR FILE: Willard Bloom

ADDRESS: St. RL 2, Box 1, Wall, SD 57790

COUNTY: Pennington

DATE: 2-12-91 TELEPHONE:

RE: Vested Right Claim Inspection

COMMENTS:

On February 8, 1991, accompanied by Mr. Willard Bloom, his son Mr. Jim Bloom, and Norma Job, Engineer with the Division of Water Rights, I inspected the area claimed under Vested Right No. 460-2. Vested Right No. 460-2 was licensed on June 26, 1957 for irrigation of 605 acres in Pennington County. The inspection showed that approximately 270 acres of land is being irrigated whenever water is available. The accompanied map shows the acreage. The diversion points are located along the South Fork of Cottonwood Creek. The land is irrigated whenever flow in the creek is high enough to overflow and cover the land.

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

*M. Rassool Ahadi*

M. RASSOOL AHADI  
Natural Resources Engineer II  
DWRN, Water Rights Division

*South Dakota*

460-2

GREAT FACES. GREAT PLACES.

DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3181

August 28, 1992

NOTICE

TO: Willard Bloom  
Rt 2, Box 1  
Wall SD 57790

FROM: John Hatch, Chief Engineer  
Water Rights Division  
605 773-3352

*John Hatch*

SUBJECT: Hearing to Consider Validation of Recognized Vested Right Claim No. 460-2

A Notice of intent to validate Claim No. 460-2 was published on June 23 and 30, 1988 in the Rapid City Journal. The Water Rights Division opposed validation of No. 460-2 for purposes of completing an on-site inspection of the claim. The inspection of Claim No. 460-2 was completed on February 8, 1991, by Rassool Ahadi and Norma Job staff engineers. The inspection found that the number of acres being irrigated has been reduced from 605 acres to 270 acres. The diversion rate is to be reduced, accordingly, from 8.74 cubic feet of water per second (cfs) to 3.85 cfs. This reduced diversion rate is based on the statutory application rate of 1 cfs per 70 acres (270 acres/70 = 3.85 cfs).

The Water Management Board will consider validation of Claim No. 460-2 at 10:00 am, September 30, 1992, in the Floyd Matthews Training Center, Joe Foss Building, 523 E Capitol, Pierre SD. The agenda time is an estimate. The actual time of the hearing may be later than 10:00 am due to prior agenda items.

Pursuant to the findings of the on-site inspection, validation of Claim No. 460-2 is recommended for a diversion rate of 8.74 cfs from 3.85 to irrigate 270 acres. Following the hearing, the Board is authorized to 1) validate the claim as recommended for 270 acres and 3.85 cfs, 2) validate the claim as licensed prior to the on-site inspection, 3) validate the claim based on evidence presented at the public hearing, or 4) defer validation of the claim. Applicable provisions of the published notice of intent to validate Claim No. 460-2 will still apply at this hearing. A copy of the June 23 and 30, 1988, publication is available upon request.

This hearing is an adversary proceeding. You have 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.

cc: Diane Best, Assistant Attorney General

## CERTIFICATION

I hereby certify that on August 28, 1992, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated August 28, 1992, regarding Hearing to Consider Validation of Recognized Vested Right claims addressed as stated below:

V.R. Claim #334-1: Nancy L. Collins, Todd J. Collins and Randy  
Chamack, HC 75, Box 280, Sturgis, SD 57785.

V.R. Claim #352-1: Lyle D. Weiss, HCR 71, Box 39, Faith, SD 57626.

V.R. Claim #380-1: Walter C. Miller, HC 75, Box 14, Sturgis, SD 57785.

U.R. Claim #391-3: Arthur Bieber, RR 1, Box 87, Java, SD 57452.

V.R. Claim #564-1: John Miller, Star Rt. 1, Box 5A, Red Owl, SD 57777.

V.R. Claim #572-1: Wilbur Bachand, Faith Rt., Sturgis, SD 57735.

V.R. Claim #610-1: Lillie Holst, Box 377, Newell, SD 57760.

U.R. Claim #746-1: Rick Soelzer, P.O. Box 196, Piedmont, SD 57769.

V.R. Claim #746-1: Angenetta Schemmel, 801 2nd Ave. SE, Pipestone, MN 56164.

V.R. Claim #460-2: Willard Bloom, Rt 2, Box 1, Wall, SD 57790.

V.R. Claim #523-2: William Beaudette, Horse Creek Campground, HC 33,  
Box 2800, Rapid City, SD 57702.

V.R. Claim 44794-1: Thomas M. Tobin and Larry Lovett, Box 1766,  
Abbeville, SD 57401.

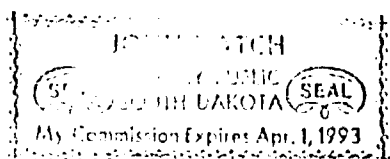
A copy of the above listed Notices was sent Inter-office C.:

Wm. H. Rorer     Assistant Attorney General, Capitol Building.

Cheryl F. Frost  
Secretary

STATE OF SOUTH DAKOTA )  
 ) ss  
COUNTY OF HUGHES )

Storn to, before me, this 9<sup>th</sup> day of September, 1992.



John Hatch  
(Notary Public

460-2



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

October 2, 1992

**NOTICE**

TO: Willard Bloom  
Rt 2 Box 1  
Wall, SD 57790

Jim Bloom  
2946 Country Club Drive  
Rapid City, SD 57702

FROM: John Hatch, Chief Engineer  
Water Rights Division  
(605) 773-3352

SUBJ: Preparation of Findings of Fact, Conclusions of Law and  
Final Decision

The Water Management Board has directed Harold Deering, the Board's attorney, to prepare proposed Findings of Fact, conclusions of Law and a Final Decision on validation of Vested Right Claim No. 460-2. The Board will consider the proposed Findings, Conclusions and Final Decision at 1:00 pm, December 2, 1992, Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, SD. The agenda time is an estimate. The actual time of consideration may be delayed due to prior agenda items.

The Board has requested that a copy of the proposed Findings, Conclusions and Final Decision be mailed to each Board member and the above parties by November 12, 1992. Any comments pertaining to the proposed Findings, Conclusions and Decision are to be mailed to each Board member and the above parties by November 23, 1992.

The public hearing was completed September 30, 1992. No additional testimony will be received on December 2, 1992.

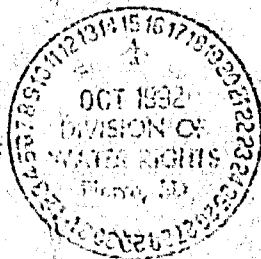
cc: Harold Deering, Assistant Attorney General  
John Guhin, Deputy Attorney General  
Diane Best, Assistant Attorney General

### CERTIFICATION

Oct 12 1932  
Water Rights Division 460-2  
John Hated Chief Engineer

I am writing in regards  
to the water Management  
Board meeting held Sept 30<sup>th</sup>  
1932  
pertaining to water claim  
no 460-2 I would like  
a copy of minutes of this  
meeting. Thank you

Sincerely  
Willard Bloomer  
H/C 47 Box 1  
Wall. S.D.  
5-7790



460-2



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3181

October 16, 1992

Willard Bloom  
HC 47, Box 1  
Wall, SD 57790

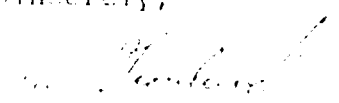
Dear Mr. Bloom:

I am writing in regards to your request for a copy of the minutes from the September 30, 1992 and October 1, 1992 Water Management Board meeting. The minutes of this meeting will not be finalized until the Board approves them at their December 2, 1992 meeting. After that meeting I will send you a copy of the portion of the minutes that pertain to validation of recognized Vested Right No. 460-2.

Prior to the December 2, 1992, you will be receiving a copy of the proposed Findings of Fact, Conclusions of Law and Final Decision on validation of Vested Right Claim No. 460-2. You will then have an opportunity to comment on the proposed Findings if you so choose.

If you have any questions, please feel free to contact me.

Sincerely,

  
Eric Gronlund  
Water Rights Division  
(605) 773-3352

## STATE OF SOUTH DAKOTA

## BEFORE THE WATER MANAGEMENT BOARD

|                              |   |                        |
|------------------------------|---|------------------------|
| IN THE MATTER OF THE         | ) |                        |
| VALIDATION OF VESTED WATER   | ) |                        |
| RIGHT APPLICATION NO. 460-2, | ) | FINDINGS OF FACT,      |
| WILLARD BLOOM                | ) | CONCLUSIONS OF LAW AND |
|                              |   | FINAL DECISION         |

## FINDINGS OF FACT

## I

This is an application to validate a vested water right for 8.74 cfs to irrigate 605 acres from the South Fork of Cottonwood Creek in Pennington County, with a priority date of January 1, 1900. The application was advertised in 1988, and the Division of Water Rights filed a petition in opposition to the application for the purpose of conducting an inspection of the claimed right.

## II

An inspection was made on February 8, 1991. Based upon field observations and conversations concerning the lands irrigated with Jim Bloom, son of the applicant, at the time of the inspection, it was determined that the maximum acreage under irrigation at that time or which could be irrigated was 270 acres.

## III

The South Fork of Cottonwood Creek is a dry draw, with flows dependent on precipitation. The diversion works consist of some small plugs in the dry draw which allows flood irrigation through a water spreading system. The number of acres which can be irrigated by the system varies with the amount of precipitation received.

## IV

The Board finds that 270 acres have been regularly irrigated when water is available based the comments made by Jim Bloom at the time of the inspection, based upon the observation of the vegetation that exists at the site, and based upon the topography of the area. There was a clear difference between vegetation which had been subject to irrigation and that which had not. The topography is such that the balance of the acres claimed are too high to be irrigated by the system without leveling.

## V

The Board finds it is reasonable to allow 1.0 cfs for each 70 acres of irrigation, and that the total required diversion to irrigate 270 acres is 3.85 cfs. There is no control structure which would prevent a diversion at a greater rate in the event of flooding.

## VI

The Board finds that the applicant utilized water for irrigation from the water spreading system at least at the rates set out above when such water was actually available because of the way in which the irrigation system is set up. There are no flow records for this creek.

## VII

No evidence was presented as to any other existing water rights downstream from the diversion point. There is water available for this use when there is sufficient precipitation.

CONCLUSIONS OF LAW

I

The Board has jurisdiction of this matter.

II

The amount of water appropriated for irrigation use since the claimed priority date of January 1, 1900 is 3.85 cfs, and the acreage irrigated is 270 acres.

III

The use has been developed without unlawful impairment of existing rights.

IV

The use for irrigation is a beneficial use.

V

The use is in the public interest.

FINAL DECISION

The Application for a Vested Water Right is validated for 3.85 cfs to irrigate 270 acres from the South Fork of Cottonwood Creek in Pennington County.

Dated this 11<sup>th</sup> day of December, 1992.

BY THE BOARD

Francis E. Brink  
Chairman

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

## NOTICE

Jim Bloom  
2946 Country Club Drive  
Rapid City, SD 57702

FROM: John Hatch, Chief Engineer  
Water Rights Division  
605 773-3357

John W. Felt

cc: Harold Deering, Assistant Attorney General  
John Guhin, Deputy Attorney General  
Diane Best, Assistant Attorney General

Merry Christmas-

I have just got a copy of the winter  
 edition of the "Dade Claim" also I  
 have a copy of the document by the  
 same name. In the document the original  
 is that nobody else would be allowed  
 to mine on the right side of the  
 river and then to me, thanks J. Brown





460-2

DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3181

December 24, 1992

Jim Bloom  
2946 Country Club Drive  
Rapid City, SD 57702

RE: Vested Right Claim No. 460-2

Dear Mr. Bloom:

Enclosed please find a copy of the section of the minutes that includes the summary of the Board's action on Vested Right Claim No. 460-2. We do not have the Board's discussion regarding your father's water rights in the minutes. If you would like a transcript of that portion of the meeting, please contact the court reporter at the following address:

Lynne Ormesher  
Capital Reporting Service  
201 North Euclid Avenue  
Pierre, SD 57501  
Telephone No. (605)224-7611

If you have any questions, please feel free to call.

Sincerely,

*Jaci R. Konop*

Jaci R. Konop  
Senior Secretary  
Water Rights Division  
(605)773-3352

Enclosure

## STATE OF SOUTH DAKOTA

### VESTED RIGHT WATER LICENSE NO. 460-2 FOR IRRIGATION

(1) Willard Bloom of RR #2 Box 1, Wall, SD 57790, made Application No. 460-2, June 4, 1957 for validation of a vested right claim to appropriate 8.74 cubic feet of water per second from the South Fork of Cottonwood Creek, Pennington County, South Dakota, for irrigation purposes. Vested Water Right No. 460-2 was validated December 2, 1992 with a priority date of January 1, 1900. Construction of the described water supply system and application of water to beneficial use has been completed and complies with applicable provisions of South Dakota State Law.

The original water license issued on June 26, 1957 described irrigation of 605 acres in portions of Sections 7, 8, & 18, T1S, R17E and portions of Sections 13 & 24, T1S, R16E. A field inspection conducted of the water use system found a total of 270 acres still being irrigated. Based upon the inspection and subsequent validation of the vested right claim, the license is being reissued to the extent of what is actually being irrigated.

(2) The vested right owner is entitled to divert 3.85 cubic feet of water per second for beneficial use. The location of the diversion points are: between points in the SW 1/4 NW 1/4 Section 7, T1S, R17E and the NW 1/4 SW 1/4 Section 13, T1S, R16E.

The location of the irrigated acreage is:

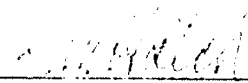
|           |            |               |            |
|-----------|------------|---------------|------------|
| T1S, R16E | Section 13 | SW 1/4 NE 1/4 | 3.0 acres  |
|           |            | SE 1/4 NE 1/4 | 4.8 acres  |
|           |            | SE 1/4 NW 1/4 | 0.5 acres  |
|           |            | NW 1/4 SW 1/4 | 5.2 acres  |
|           |            | NE 1/4 SW 1/4 | 8.9 acres  |
|           |            | NW 1/4 SE 1/4 | 18.0 acres |
|           |            | NE 1/4 SE 1/4 | 1.7 acres  |
| T1S, R17E | Section 7  | NW 1/4 SW 1/4 | 9.5 acres  |
|           |            | NE 1/4 SW 1/4 | 22.8 acres |
|           |            | SE 1/4 SW 1/4 | 1.0 acres  |
|           |            | NW 1/4 SE 1/4 | 25.5 acres |
|           |            | NE 1/4 SE 1/4 | 39.1 acres |
|           |            | SW 1/4 SE 1/4 | 22.0 acres |
|           |            | SE 1/4 SE 1/4 | 1.4 acres  |
|           | Section 8  | SW 1/4 NW 1/4 | 11.2 acres |
|           |            | SE 1/4 NW 1/4 | 39.0 acres |
|           |            | NW 1/4 SW 1/4 | 24.0 acres |
|           |            | NE 1/4 SW 1/4 | 16.2 acres |
|           | Section 18 | NW 1/4 NW 1/4 | 0.8 acres  |
|           |            | NE 1/4 NW 1/4 | 3.4 acres  |
|           |            | SW 1/4 NW 1/4 | 10.0 acres |
|           |            | NW 1/4 NE 1/4 | 2.0 acres  |
| Total     |            | 270.0 acres   |            |

Vested Right Water License No. 460-2

Willard Bloom

Page 2

(3) Pursuant to Section 46-5-30.1 Willard Bloom of RR #2 Box 1, Wall, SD 57790 the holder and/or owner of Vested Water Right No. 460-2 is issued a license to appropriate 3.85 cubic feet of water per second from the South Fork of Cottonwood Creek with a priority date of January 1, 1900 from the location specified in (2) of this license. The water is to be used for the purpose of irrigation. This license is subject to any limitations, conditions or qualifications listed in Vested Water Right No. 460-2 and subject to South Dakota State Law.

 JUN 11 1993

JOHN HATCH, Chief Engineer

Water Rights Division

Department of Environment and Natural Resources

460-2

SOUTH DAKOTA

VESTED WATER RIGHT NO. 460-2 FOR IRRIGATION

Date of Receipt of Claim June 4, 1957.

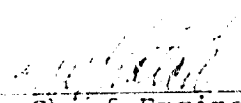
Date of Validation December 2, 1992.

The Water Management Board validated Vested Water Right Claim No. 460-2 for irrigation purposes for Willard Bloom, Rt. 2, Box 1, Wall, SD, 57790 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 460-2 appropriates 3.85 cubic feet per second of water from the south fork of Cottonwood Creek to irrigate 270 acres. The points of diversion are located between the SW1/4 NW1/4 Section 7, T1S, R17E and the NW1/4 SW1/4 Section 13, T1S, R16E. The irrigated lands are located in the S1/2 SW1/4 Section 7; S1/2 NW1/4, N1/2 SW1/4 Section 8; SW1/4 NW1/4, N1/2 NW1/4, NW1/4 NE1/4 Section 18; all in T1S, R17E; S1/2 NE1/4, SE1/4 NW1/4 and N1/2 S1/2 Section 13; all in T1S, R16E.
2. The appropriation may not exceed the amount of water needed for beneficial use for irrigation. The appropriation may not exceed 3 acre feet per irrigated acre per year. Water is to be used during the following annual period: April 1 to November 30.
3. The priority date of the Vested Water Right is January 1, 1900.
4. The water use system has been constructed and water has been applied to beneficial use.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

By:

  
Chief Engineer

JUN 11 1993

date

Division of Water Rights  
Dept. of Environment and Natural Resources

460-2



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

JUN 11 1993

Willard Bloom  
Rt. 2, Box 1  
Wall SD 57790

Dear Mr. Bloom:

The Water Management Board has validated the enclosed Vested Water Right No. 460-2. This validation gives legal status to the claim and is the final document for your vested right. Enclosed is the reissued water license which reflects the acreage and diversion rate as validated by the Board.

As long as you use the water beneficially, as stated in the validation, State Water Laws provide that you have a continuing right to use the water.

Very truly yours,

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

enclosure

460-2



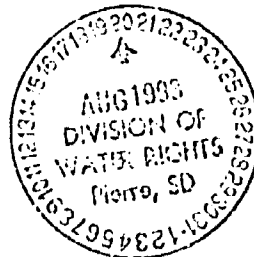
# United States Department of the Interior

## BUREAU OF RECLAMATION

Great Plains Region  
Belle Fourche Projects Office  
P.O. Box 226  
Newell, South Dakota 57760-0226

WTR 4.10  
BF-430

AUG 18 1993



Mr. John Hatch, Chief Engineer  
Water Rights Division  
South Dakota Department of Water and Natural Resources  
523 E. Capitol  
Pierre SD 57501-3181

Subject: Vested Water Right Claims in Western South Dakota (Your Letter  
Dated April 20, 1993) (Water Rights)

Dear Mr. Hatch,

We have reviewed the vested water right claims located in Perkins, Pennington, Fall River, and Butte Counties as listed in your letter dated April 20, 1993. We have also discussed these rights with contract water users. We appreciate the assistance of your staff in providing documentation of inspections and validation proceedings for specific claims as we requested.

We are satisfied with all of the actions taken by the board. Our intent in opposing validation of the water rights was to assure that all of the rights were reviewed prior to validation. That review has been completed by your staff. Thank you for notifying us of the board's actions and extending the opportunity to reconsider the actions if it would have been deemed necessary. We understand that future notification will be made in advance of board actions.

If we can be of further assistance, please contact Craig Kjar or me at (605) 456-2695.

Sincerely,

Bruce M. Laymon  
Project Manager

cc: Mr. Joe Kramer, Manager  
Angostura Irrigation District  
PO Box 346  
Oral SD 57766

Mr. James E. Winterton, Project Manager  
Belle Fourche Irrigation District  
PO Box 225  
Newell SD 57760

460-2

460A-2

460B-2

## WATER RIGHTS PROGRAM FILE DOCUMENTATION

NAME OF PERSON OR FILE: Lenora Ruland

ADDRESS: 19580 239<sup>th</sup> St, Wall, SD 57790 COUNTY: Pennington

DATE: July 23, 1998 TELEPHONE: 605 386-2164

RE: transfer and division of 460-2 – ownership of land

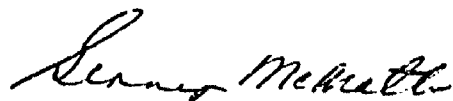
### COMMENTS:

Vested Water Right No. 460-2 is being divided and reissued as No. 460A-2 and 460B-2 to reflect separate ownership. The original license described diversion of 3.85 cfs from the South Fork of Cottonwood Creek to irrigate 270 acres in portions of Section 13, T1S, R16E and Sections 7, 8, & 18, T1S, R17E.

Jim Bloom completed a transfer of ownership on June 16, 1998 for 145.7 acres. On July 22, 1998 Lenora & Larry Ruland filed a transfer for 122.9 acres. A small 1.4 acre portion in the SE ¼ SE ¼ Section 7, T1S, R17E was not included with either of the transfers. On July 23, 1998, I contacted Mrs. Ruland concerning the acreage and she indicated that whole quarter is owned by someone else and should not be included in their license. It was my understanding from our conversation that the 1.4 acres is not irrigated.

### CONCLUSION:

The 1.4 acres in the SE ¼ SE ¼ Section 7 will be deleted from the area described in Vested Water Right Nos. 460A-2 and 460B-2. A water spreading type system is utilized and the 1.4 acres may or may not receive water. Omission of the acreage from the licenses does not prohibit the water rights holders from utilizing the system as it was constructed, nor does it adversely impair their water rights.



Genny McMath  
Environmental Scientist

## SOUTH DAKOTA

### REISSUED VESTED WATER RIGHT NO. 460-2 FOR IRRIGATION

Date of Receipt of Claim June 4, 1957.

Date of Validation December 2, 1992.

The Water Management Board validated Vested Water Right Claim No. 460-2 for irrigation purposes for Willard Bloom, Wall, SD with the following limitations, conditions and qualifications:

The original vested right validation issued June 11, 1993 contained an error in the legal description of the acreage irrigated. The vested right is being reissued to correct the error.

1. Vested Water Right No. 460-2 appropriates 3.85 cubic feet of water per second from the South Fork of Cottonwood Creek to irrigate 270 acres. The points of diversion are located between the SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  Section 7, T1S, R17E and the NW  $\frac{1}{4}$  SW  $\frac{1}{4}$  Section 13, T1S, R16E. The irrigated land is located in the S  $\frac{1}{2}$  Section 7; S  $\frac{1}{2}$  NW  $\frac{1}{4}$ , N  $\frac{1}{2}$  SW  $\frac{1}{4}$  Section 8; SW  $\frac{1}{4}$  NW  $\frac{1}{4}$ , N  $\frac{1}{2}$  NW  $\frac{1}{4}$ , NW  $\frac{1}{4}$  NE  $\frac{1}{4}$  Section 18; all in T1S, R17E; S  $\frac{1}{2}$  NE  $\frac{1}{4}$ , SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  and N  $\frac{1}{2}$  S  $\frac{1}{2}$  Section 13, T1S, R16E.
2. The appropriation may not exceed the amount of water needed for beneficial use for irrigation. The appropriation may not exceed 3 acre feet per irrigated acre per year. The water is to be used during the following annual period: April 1 to November 30.
3. The priority date of the Vested Water Right is January 1, 1900.
4. The water use system has been constructed and water has been applied to beneficial use.
5. Water Rights obtained in compliance with the laws of the State of South Dakota must not be unlawfully impaired by this appropriation.

#### WATER MANAGEMENT BOARD

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

SEP 8 1996  
date



## ATTACHMENT TO VESTED WATER RIGHT 460-2

Ownership changes were filed on June 16 and July 22, 1998 for land described in Vested Water Right No. 460-2. The vested right has been divided and reissued to reflect separate ownership as follows:

**Vested Water Right No. 460A-2, Jim and/or Maggie Bloom** – authorizing diversion of 2.08 cfs from the South Fork of Cottonwood Creek to irrigate 145.7 acres in Section 7, Section 8 and Section 18, T1S, R17E (described below);

| Section 7, T1S, R17E |            | Section 8, T1S, R17E |            | Section 18, T1S, R17E |            |
|----------------------|------------|----------------------|------------|-----------------------|------------|
| NE ¼ SE ¼            | 39.1 acres | SW ¼ NW ¼            | 11.2 acres | NW ¼ NW ¼             | 0.8 acres  |
|                      |            | SE ¼ NW ¼            | 39.0 acres | NE ¼ NW ¼             | 3.4 acres  |
|                      |            | NW ¼ SW ¼            | 24.0 acres | SW ¼ NW ¼             | 10.0 acres |
|                      |            | NE ¼ SW ¼            | 16.2 acres | NW ¼ NE ¼             | 2.0 acres  |
| Total - 145.7 acres  |            |                      |            |                       |            |

**Vested Water Right No. 460B-2, Lenora J or Larry Ruland** – authorizing diversion of 1.77 cfs from the South Fork of Cottonwood Creek to irrigate 122.9 acres in Section 13, T1S, R16E and Section 7, T1S, R17E (described below);

| Section 13, T1S, R16E |           |           |            | Section 7, T1S, R17E |            |
|-----------------------|-----------|-----------|------------|----------------------|------------|
| SW ¼ NE ¼             | 3.0 acres | NW ¼ SW ¼ | 5.2 acres  | NW ¼ SW ¼            | 9.5 acres  |
| SE ¼ NE ¼             | 4.8 acres | NE ¼ SW ¼ | 8.9 acres  | NE ¼ SW ¼            | 22.8 acres |
| SE ¼ NW ¼             | 0.5 acres | NW ¼ SE ¼ | 18.0 acres | SE ¼ SW ¼            | 1.0 acre   |
|                       |           | NE ¼ SE ¼ | 1.7 acres  | NW ¼ SE ¼            | 25.5 acres |
|                       |           |           |            | SW ¼ SE ¼            | 22.0 acres |
| Total - 122.9 acres   |           |           |            |                      |            |