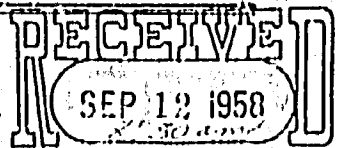


No. 496-2Water Division No. 2

(Blanks to be Filled by the Engineer for the W. R. C.)

District Rapid CreekSTATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

APPLICATION FOR PERMIT To Appropriate Water within the State of South Dakota

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

1. Name of applicant Gunther Fliev
Postoffice address Hermosa, County Custer, State South Dakota

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)
Employment of others
(b) Cash on hand, \$ Adequate (c) Treasury stock, \$ _____
(d) Bonds to be issued, \$ _____ (e) Other resources, \$ GPTE Gov't, Cost Share

2. Name of diversion work Gunther Fliev Water Spreader #41
3. Amount of water claimed 2.62 cfs max. allowable cubic feet per second 543 acre ft.
4. Source of water supply Surface runoff from local water sheds
5. Location of point of diversion 110 rods south and 70 rods east of the Northeast corner of Section 32; T.22N. R.11E, S.11N on both Custer County.

6. Annual period or periods during which water is to be used Anytime flood flow occurs during annual period

7. To be used for:

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

- (a) Number of acres to be irrigated 181 acres.

- (b) Legal subdivisions to be irrigated See attached sheet #1

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

- (c) Statement as to domestic use (giving location, etc.) Will be same as stock watering. Location same as 5 above.

II. Stockwatering, mining, milling, power, fish culture, fire protection, and public recreation:

- (a) Nature of use Stock Water
Name any of the above uses claimed

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

Amount claimed for engine cooling _____

- (c) Location of plant _____

- (d) Method of developing power _____

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

Map No. 491-2

8. Estimated cost of work:

(a) Head Gates, \$ 70.00

(c) Fluming, \$

(d) Canal-earth, \$ 750.00

(b) Pumping plant, \$

Rock, \$ 1500.00

(e) Other structures Reservoir, tube, concrete \$ 3000.00

Total, \$

9. Description of diversion works:

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

A 15" tube through reservoir into supply canal leading to irrigated areas.

II. Dimensions of works:

(a) Dam: Height 18.0 feet; length at bottom 325 feet; length at top 600 feet; thickness at bottom 111 feet; thickness at top 12.0 feet; slope at front water face 4:1; slope at back face 2:1 material used in construction compacted earth

(b) Reservoir: Capacity when filled 128 acre feet. Surface area at highwater mark 26 acres.

DEPTH AT OUTLET-Feet	SURFACE AREA AT EACH DEPTH AT OUTLET-ACRES	ACRE-Feet CAPACITY
13.0	26	128

(c)* Head gate: Width 1.25 feet; height 1.25 feet;

Material 1st Iron

(d) Canal: Total length 2 miles.

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

(Give dimensions where reductions in size are made.)

10. Time required for completion of work _____ years.

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

12. Choice of newspaper for publication of notice of intention to appropriate Need not be advertised - vested right being submitted along with this application.

STATE OF SOUTH DAKOTA

County of Custer

S3.

I, Gunther Flier

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

Gunther Flier

Subscribed and sworn to before me this 10th day of September 1958

L. S. Lane, Jr.

Notary Public (or other qualified officer.)

*Each diversion must have a headgate or measuring device.

#496 Jerry Bloom

NOT TO SCALE

94-6
m33

T25RIIE

T1000

1750' North

Main
Diversion
Dam

Diversion
Point

1220' East

LN
672

2645' South

730' West

Ditch

Ditch

2340' North

190' NE

2630' North

12.0 AC
Surf. Sec. 14

LN
672

17 AC
Sec. 14

1520' North

16 AC
NE 1/4 Sec. 14

LN
672

2150' East

T1000

T401

Ditch

CALE

#496 Jerry Bloom

T25-RIIE
T35-RIIE

Associated
Location Notices

- 594-2
- 617-2
- 617-2

T35RIIE

Ditch

DeRen Peters
DENR
Natural Resources Eng.
Dikro felt
Dec. 1, 1995

Total Acres = 147

56.7
54.4 SW 1/4
30.0 AC
HEL
30 AC
Sec. 14

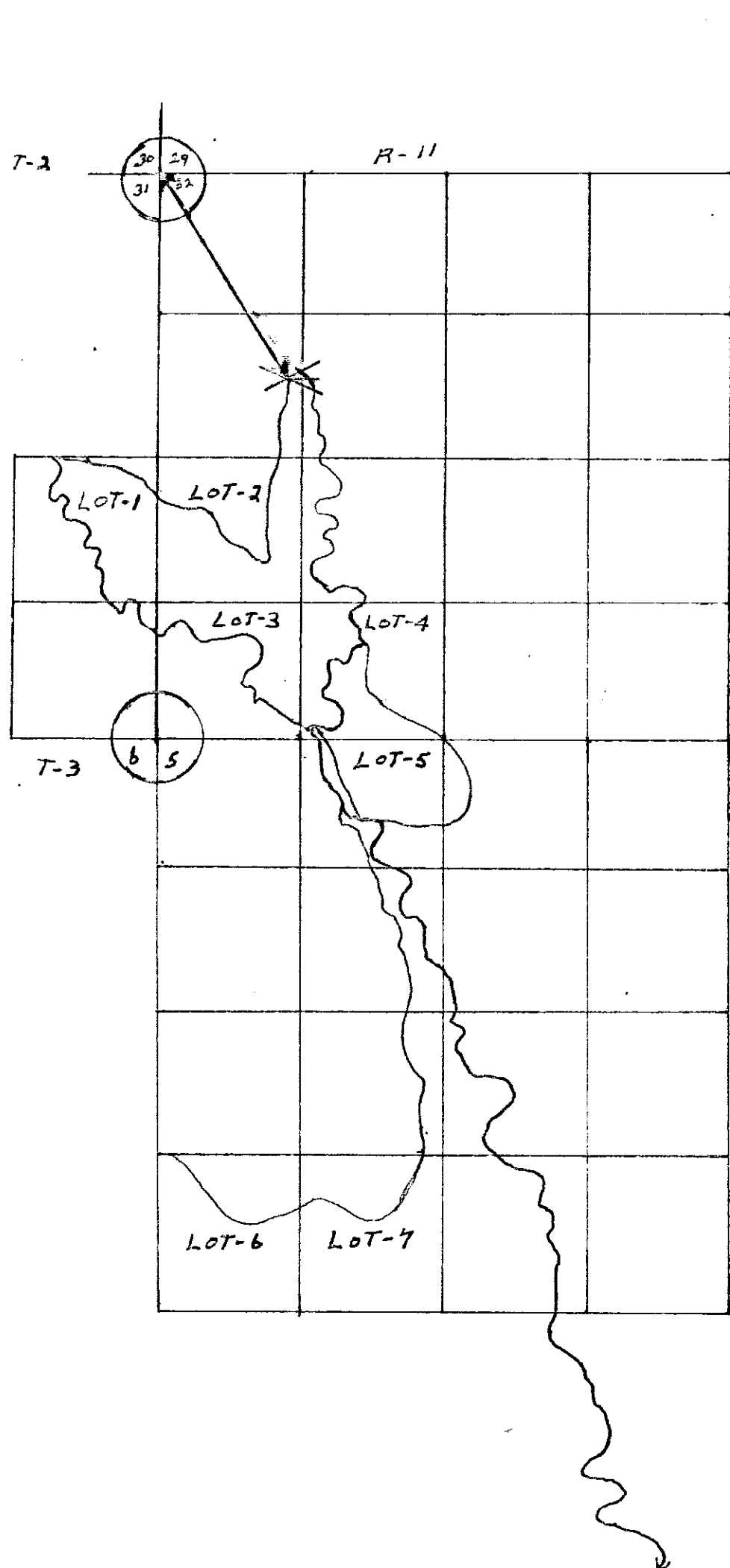
3-11

136-R
L33

T401

Cancel
2834-2

GUNTHER FLIER
WATER SPREADER
NUMBER 1



GUNTHER FLIER WATER SPREADER No. 1					
LOT	LOCATION	SEC	TOWNSHIP	RANGE	ACRES
1	NE 1/4 SE 1/4	31	2-S	11-E	38.0
2	NW 1/4 SW 1/4	32	2-S	11-E	26.0
3	SW 1/4 SW 1/4	32	2-S	11-E	16.0
4	SE 1/4 SW 1/4	32	2-S	11-E	19.0
5	NE 1/4 NW 1/4	5	3-S	11-E	18.0
6	SW 1/4 SW 1/4	5	3-S	11-E	33.0
7	SE 1/4 SW 1/4	5	3-S	11-E	31.0
TOTAL					181.0

GUNTHER FLIER WATER SPREADER NUMBER 1 CUSTER COUNTY SOUTH DAKOTA Scale 4" = 5280'	
U.S. DEPARTMENT OF AGRICULTURE SOIL CONSERVATION SERVICE	
	APPROVED BY..... TITLE.....

Remarks by State Water Resources Commission:

"Vested Right" claimed

The diversion rate limitation of 1 cubic foot per second for each 70 acres irrigated shall not apply to this Dry Draw irrigation diversion during periods of flood flows, when such flows are in excess of the amount of water required to satisfy domestic use requirements and other water rights.

STATE OF SOUTH DAKOTA

County of

Hughes

ss.

Pierre, South Dakota,

October 16, 1958

This is to certify that the foregoing application was received by the Commission at 8:30 o'clock

9 a.m. upon the 12 day of September, 1958

State Water Resources Commission

By:

J. J. Miner

Chief Engineer, Executive Officer

Number of permit

Vested Right
496-1

Date of first receipt of application

September 12, 1958

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

September 29, 1958

Date of receipt of corrected application

October 3, 1958

Date from which applicant may claim right

1937

Approved

October 10, 1958

Recorded in Book

5

Page

43

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 7.5 cfs. 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 October inclusive

Witness my hand this

24

day of

October, 1958

State Water Resources Commission

By:

J. J. Miner

Chief Engineer, Executive Officer

Certificate of Construction Issued

October 24, 1958

Water License Issued

October 24, 1958

Permit No. 496-2Water Division No. 2 Rapid
Creek Water District

Certificate of Completion of Works

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That Gunther Flier

of Hermona, County of Custer, and State of South Dakota, the holder of Vested Right of Permit No. 496-2, issued upon Application

No. 496-2, bearing date of priority of 1937, authorizing the diversion of

2.58 cu. ft. per second of the waters of a dry draw

County of Custer, State of South Dakota, at 110 rods south and 70 rods east of the NE Cor., Sec. 32, T 2 S, R 11 E D&M

for irrigation

purposes, has fully complied with the provisions of the laws of the State of South Dakota relating to proof of completion of the works of diversion set out and described in said Permit; that said works are found in satisfactory condition for diverting and conveying to the place of intended use 2.58 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: NE 1/4 Sec. 31, T 2 S, R 11 E ----- 37 acres

NW 1/4 Sec. 32, T 2 S, R 11 E ----- 26 acres

SW 1/4 Sec. 32, T 2 S, R 11 E ----- 16 acres

SE 1/4 Sec. 32, T 2 S, R 11 E ----- 19 acres

NE 1/4 NW 1/4 Sec. 5 T 3 S, R 11 E ----- 18 acres

SW 1/4 Sec. 5, T 3 S, R 11 E ----- 33 acres

SE 1/4 Sec. 5, T 3 S, R 11 E ----- 31 acres

181 acres

Witness my hand this 24th day of October A. D. 1958

State Water Resources Commission

By:

J. W. GRIMES, Chief Engineer, Executive Officer

STATE OF SOUTH DAKOTA

WATER LICENSE No. 496-2

WHEREAS, On the 12th day of September A. D. 1958
Gunther Flier

of Hermosa County of Custer Vested Right and State of
South Dakota duly made application (No. 496-2) to us for a permit to use 2.52
cubic feet per second of the waters of a dry draw
County of Custer, State of South Dakota, for irrigation
purposes; and

WHEREAS, On the 24th day of October A. D. 1958
Vested Right 496-2 was issued to said applicant of 2.58 cubic feet per second recognizing
Permit No. 496-2 for the diversion of said water, and recognizing
completion of the works of diversion therein described in 1937 2.58 cubic feet per second
in 1937 and for the application to beneficial use of said
water in 1937
and,

WHEREAS, On the 12th day of September A. D. 1958
Vested Right the holder of said permit duly made proof of the completion of adequate works for the diversion of 2.58
cubic feet per second of said waters, as evidenced by our Certificate No. 496-2
dated October 24, 1958 confirming the completion of works of sufficient capacity for
diverting and conveying to the place of intended use 2.58 cubic feet per second of water, with date of
priority of 1937 and,

WHEREAS, On the 12th day of September A. D. 1958
proof was duly made of the application to beneficial use of 2.58 cubic feet per second of said water;
on 181 acres located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 31; NW $\frac{1}{4}$ SW $\frac{1}{4}$ and S $\frac{1}{2}$ SW $\frac{1}{4}$ Sec.
32; all in T 2 S, R 11 E; NE $\frac{1}{4}$ NW $\frac{1}{4}$ and S $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 5, T 3 S, R 11 E
more particularly described in Certificate of Completion of Works
No. 496-2

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 Gunther Flier
 of Hermosa, South Dakota the holder... and owner... of said ^{Vested Right} permit No. 496-2
 a water right, dating from 1937 to the use of 2.58
 cubic feet per second of the waters of a dry draw
 In the County of Custer and State of South Dakota, or so much thereof as may be
 necessary for the purposes hereinbelow mentioned, to be diverted at 110 rods south and 70 rods
east of the NE Cor., Sec. 32, T 2 S, R 11 E B1M
 and conducted to and upon NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 31; NW $\frac{1}{4}$ SW $\frac{1}{4}$ and S $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 32; all in
T 2 S, R 11 E; NE $\frac{1}{4}$ NW $\frac{1}{4}$ and S $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 5, T 3 S, R 11 E B1M, more
particularly described in Certificate of Completion of Works No. 496-2
 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 24th day of October A. D. Nineteen
 Hundred and Fifty-eight

State Water Resources Commission

By:

J. W. GRIMES, Chief Engineer, Executive Officer

STATE OF SOUTH DAKOTA

Water License No. -----

To -----

Source of Supply -----

County -----

Am't ----- c. f. s.

Point of Diversion -----

Place of Use -----

Purpose -----

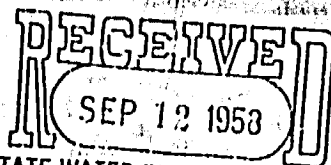
Date of Priority -----

Recorded -----

In Book ----- of ----- Page -----

GUNTHER FLIER WATER SPREADER No. 1					
LOT	LOCATION	SEC	TOWNSHIP	RANGE	ACRES
1	NE $\frac{1}{4}$ SE $\frac{1}{4}$	31	2-S	11-E	38.0
2	NW $\frac{1}{4}$ SW $\frac{1}{4}$	32	2-S	11-E	26.0
3	SW $\frac{1}{4}$ SW $\frac{1}{4}$	32	2-S	11-E	16.0
4	SE $\frac{1}{4}$ SW $\frac{1}{4}$	32	2-S	11-E	19.0
5	NE $\frac{1}{4}$ NW $\frac{1}{4}$	5	3-S	11-E	18.0
6	SW $\frac{1}{4}$ SW $\frac{1}{4}$	5	3-S	11-E	33.0
7	SE $\frac{1}{4}$ SW $\frac{1}{4}$	5	3-S	11-E	31.0
TOTAL					181.0

GUNTHER FLIER WATER SPREADER NUMBER 1 CUSTER County, South DAKOTA Scale 4" = 5280'	
U.S. DEPARTMENT OF AGRICULTURE SOIL CONSERVATION SERVICE	
	Approved by _____ TITLE _____

Location No. 496-2Water Division No. 2Water District Rapid CreekSTATE 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. Gunther Flier, Hermosa, S. D. (th Dakota)

Rancher

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. No

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

Ans. Vested right being submitted along with application for permit to appropriate water - is an old system.

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

Ans. Surface runoff from local watersheds. Pt. of diversion - 110 rods and 70 rods of northwest corner of Section 32; Township 2N; Range 11E, BHM.

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. Length of dam - 600', height - 18.0'. Can convey the required amount desired 543 acre ft. during annual period of use. All works completed.

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. Water is used for irrigation in a water spreader system. See attached sheet 1 for subdivisions and number of acres per subdivision.

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

Ans. Stock watering

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

Ans. 543 acre feet.

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. Water has been applied whenever available during a (flood period) by means of gravity to the extent of amount of surface runoff from local water sheds.

1937

(Sign)

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 Custer County of Custer

State of South Dakota, on this 10th day of September A. D. 1958

Witnesses.

Notary Public

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.

Ferdinand Kuch
Eecil Peterson

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

GUNTHER FLIER WATER SPREADER No. 1					
LOT	LOCATION	SEC	TOWNSHIP	RANGE	ACRES
1	NE 1/4 SE 1/4	31	2-S	11-E	38.0
2	NW 1/4 SW 1/4	32	2-S	11-E	26.0
3	SW 1/4 SW 1/4	32	2-S	11-E	16.0
4	SE 1/4 SW 1/4	32	2-S	11-E	19.0
5	NE 1/4 NW 1/4	5	3-S	11-E	18.0
6	SW 1/4 SW 1/4	5	3-S	11-E	33.0
7	SE 1/4 SW 1/4	5	3-S	11-E	31.0
TOTAL					181.0

GUNTHER FLIER WATER SPREADER NUMBER 1 CUSTER COUNTY SOUTH DAKOTA Scale 4" = 5280'	
U.S. DEPARTMENT OF AGRICULTURE SOIL CONSERVATION SERVICE	
	Approved by..... TITLE.....

NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Rights Commission
 Foss Building
 Pierre, South Dakota 57501

Date: February 21, 1978

This is to notify you that title to the lands described as follows:

181 acres on portions of Sections 31 and 32 in T2S-R11E

and Section 5, T3S-R11E as described on Permit No. 496-2.

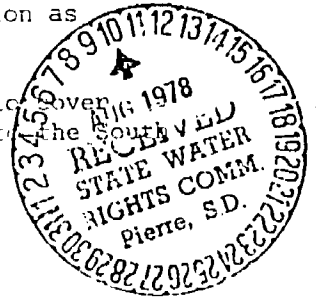
formerly owned by Gunther Flier

has been transferred to Herman Ploom, Hermosa, SD 57744

together with any rights to the beneficial use of water thereon as evidenced by
 Water Right Permit No. 496-2 as provided for in Section 61.0127 of the 1960
 Supplement to the South Dakota Code of 1939.

You are therefore hereby requested to file this "Notice of Transfer of Water
 Permit" in its appropriate file at the Office of Water Rights Commission as
 evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is hereto attached to cover
 filing fees as required under Section 61.0159 of the 1960 Supplement to the
 Dakota Code of 1939..



STATE OF SOUTH DAKOTA)
 County of Pennington) SS.

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

Herman Ploom
 (Signed)

Subscribed and sworn to before me this 9th day of August

19 78.

Marion D. Dool
 (Notary Public)



Department of Water & Natural Resources

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

496--2

July 21, 1988

Jerry Bloom
Box 245
New Underwood, SD 57760

Dear Mr. Bloom:

Enclosed is a partially completed "Notice of Transfer" for use in filing an ownership change on Vested Water Right Claim No. 496-2. Please check over the form and sign in the presence of a notary public. Upon completion of the form, return it to our office with a required filing fee of \$2.50. The vested water right claim will then be transferred to your name.

South Dakota Water Law 46-5-30.3 requires Notice of any sale, grant, lease, conveyance or other transfer of a Water Permit or Water Right to appropriate water to be filed with this office within ninety days.

If you have any questions, please contact us.

Sincerely,

GENNY MCMATH
Natural Resources Analyst
605 773-3352

enclosure



NOTICE OF TRANSFER OF VESTED WATER RIGHT CLAIM

TO: Water Rights
Foss Building
Pierre, SD 57501

Date: 7-22-88

This is to notify you that the title to the lands described as follows:

181 acres - NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 31, W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 32, T2S, R11E and

NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ Section 5, T3S, R11E

formerly owned by Herman Bloom, Hermosa, SD

has been transferred to JERRY Bloom Box 215 NEW UNDERWOOD S.D. 59761
(please include complete mailing address)
together with any rights to the beneficial use of water thereon as evidenced by

Vested Water Right Claim #496-2 as provided for in SDCL 46-5-32 and 46-5-33.

You are therefore hereby requested to file this "Notice of Transfer of Water Permit" in its appropriate file at the Div. of Water Rights, Water Management Board as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is hereto attached to cover filing fees as required under SDCL 46-2-13.

STATE OF SOUTH DAKOTA)
County of Pennington) ss.

I, JERRY 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, and I know of my own personal knowledge that the information herein stated is true.

Jerry Bloom
(Signed)

Subscribed and sworn to before me this 22 Day of July, 1988.

Meri Jo Anderson
(Notary Public)

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

411242

Pierre, August 7, 1952
Jerry Bloom, Box 245, New Underwood, SD 57761

RECEIVED OF

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct works and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>Permit No. 496-2</u>	2	50
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	2 50

By (Signature)
Chief Engineer JOHN HATCHER

No. 496-2

SOUTH Dakota Department of
Water & Natural Resources
Joe Foss Building Water Rights Division
Pierre, South Dakota 57501 Phone (605) 773-3352

August 8, 1988

Jerry Bloom
Box 245
New Underwood, South Dakota 57761

Dear Mr. Bloom:

Enclosed is receipt No. 411342 in the amount of \$ 2.50 which you
paid for transfer of Water Right No. 496-2.

Our records now show you as the owner of this Water Right.

Sincerely,

Maxine Stirling
Secretary

ms/
Enc.

 **Department of
Water & Natural Resources**

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

September 21, 1988

NOTICE

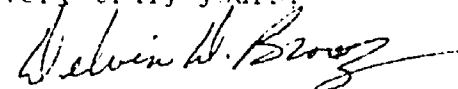
Jerry Bloom
Box 245
New Underwood SD 57761

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). 496-2 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,

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



REISSUED STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 496-2 FOR IRRIGATION

(1) Gunther Flier, Hermosa made Application No. 496-2, for validation of a vested right claim to appropriate 2.58 cubic feet of water per second from a dry draw, Custer County, South Dakota, for irrigation purposes. Vested Water Right No. 496-2 with a priority date of January 1, 1937 was issued for diversion of water with construction of the described water supply system completed and comply with applicable provisions of South Dakota State Law.

February 15, 1996, Vested Water Right No. 496-2 was transferred to Richard D. Rausch.

On October 2, 1996, the Water Management Board validated Vested Water Right No. 496-2. Vested Water Right No. 496-2 is being reissued to reduce the number of acres irrigated and the amount of water claimed to the actual acreage and amount of water applied to beneficial use, based on a September 21, 1995 investigation of the system.

The applicable of Location Notice Nos. 594-2, 617-2, 619-2 and 3275-2 have been incorporated into Vested Water Right No. 496-2.

(2) The vested right owner is entitled to divert 2.10 cubic feet of water per second for beneficial use. The location of the diversion point and associated priority dates are as follows:

	Priority Date
1,220 feet E and 1,950 feet S of the NW corner Sec 32-T2S-R11E (SW 1/4 NW 1/4)	01-01-1937
2,150 feet E and 1,240 feet S of the NW corner Sec 5-T3S-R11E (NE 1/4 NW 1/4)	12-16-1919
1,310 feet E and 2,645 feet S of the NW corner Sec 32-T2S-R11E (NW 1/4 SW 1/4)	04-01-1938
1,390 feet E and 1,500 feet N of the SW corner Sec 32-T2S-R11E (NE 1/4 SW 1/4)	04-01-1938
2,630 feet N and 730 feet W of the SE corner Sec 31-T2S-R11E (NE 1/4 SE 1/4)	04-18-1951

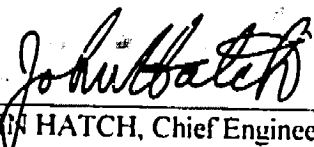
The location of the irrigated acreage is:

Section 31-T2S-R11E	NE 1/4 SE 1/4	19 acres
Section 32-T2S-R11E	NW 1/4 SW 1/4	23 acres
	SW 1/4 SW 1/4	12 acres
	SE 1/4 SW 1/4	17 acres
Section 5-T3S-R11E	NE 1/4 NW 1/4	16 acres
	SW 1/4 SW 1/4	30 acres
	SE 1/4 SW 1/4	30 acres
Total		147 acres

(continued)

Vested Right Water License No. 496-2
Richard R Rausch
Page 2

(3) Pursuant to Section 46-5-30.1 Richard R Rausch, HC 89, Box 257, Hermosa SD 57744 the holder and/or owner of Incorporated Vested Water Right No. 496-2 is issued a license to appropriate 2.10 cubic feet of water per second from dry draws with priority dates and locations 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 Incorporated Vested Water Right No. 496-2 and subject to South Dakota State Law.



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

DEC 26 1996

date



GUNTHER FLIER WATER SPREADER No. 1					
LOT	LOCATION	SEC	TOWNSHIP	RANGE	ACRES
1	NE $\frac{1}{4}$ SE $\frac{1}{4}$	31	2-S	11-E	38.0
2	NW $\frac{1}{4}$ SW $\frac{1}{4}$	32	2-S	11-E	26.0
3	SW $\frac{1}{4}$ SW $\frac{1}{4}$	32	2-S	11-E	16.0
4	SE $\frac{1}{4}$ SW $\frac{1}{4}$	32	2-S	11-E	19.0
5	NE $\frac{1}{4}$ NW $\frac{1}{4}$	5	3-S	11-E	18.0
6	SW $\frac{1}{4}$ SW $\frac{1}{4}$	5	3-S	11-E	33.0
7	SE $\frac{1}{4}$ SW $\frac{1}{4}$	5	3-S	11-E	31.0
TOTAL					181.0

GUNTHER FLIER

WATER SPREADER

NUMBER 1

CUSTER COUNTY SOUTH DAKOTA

Scale 4" = 5280'

U.S. DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

Approved by.....

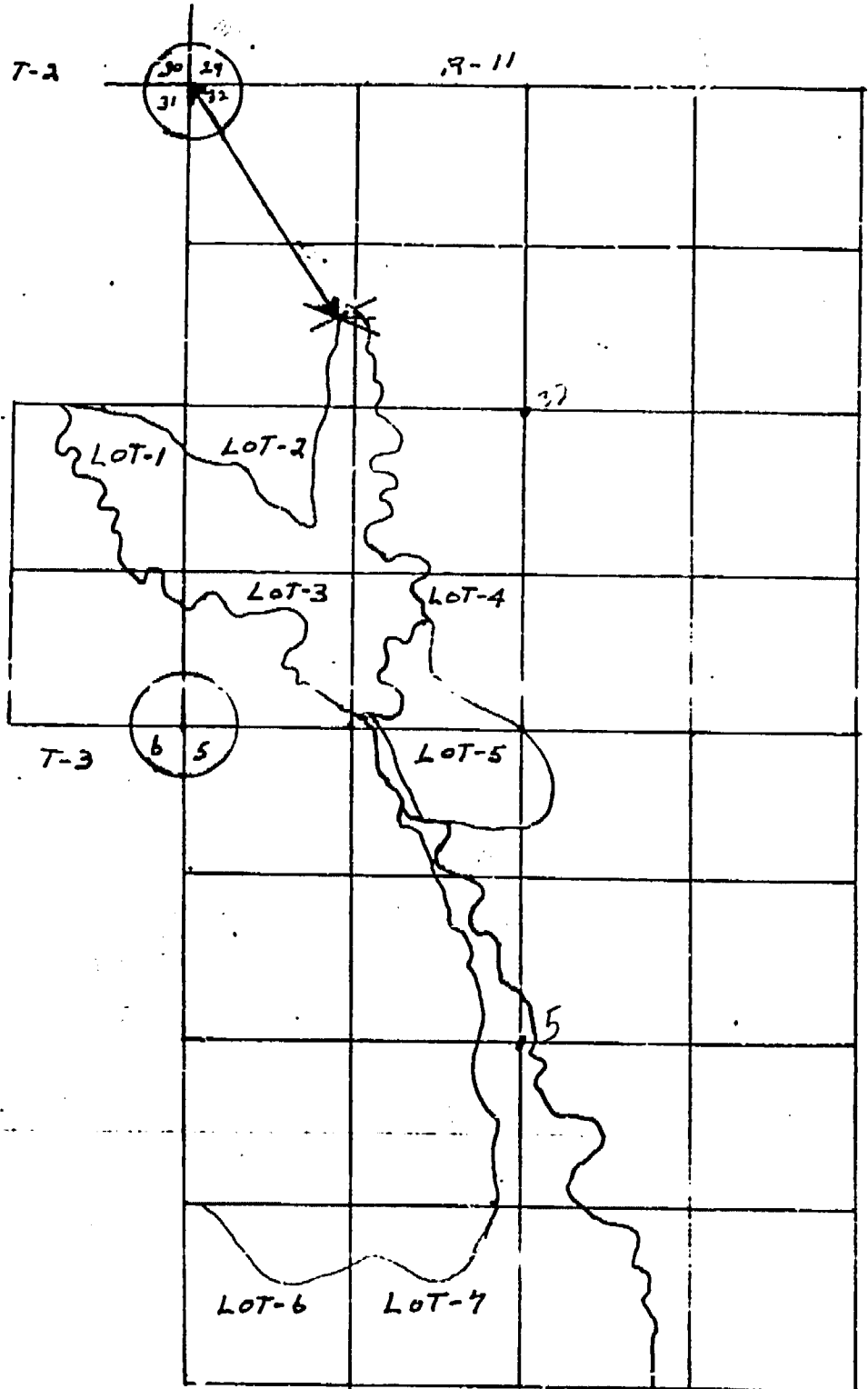
TITLE.....

Appl. 496-2-

71

T-2

9-11



T-3

LOT-6

LOT-7

Report for Validation of Water License No. 496-2

Upper Cheyenne - Water District

October 26, 1995

Richard R. Rausch
HC 89 Box 257
Hermosa, SD 57744

Water License No. 496-2 requires validation of the vested right claim for the appropriation of 2.58 cubic feet of water per second from surface runoff to irrigate 181 acres. The construction date for the system originally applied for was 1937.

An inspection of Water License 496-2 revealed a diversion point located in the SW 1/4 NW 1/4 Sec. 32 T2S-R11E (1220 feet west and 1950 feet south of the NW corner Sec. 32 T2S-R11E) as indicated in the application. In addition, there are several diversion points associated with location notices which need to be incorporated into vested water right 496-2. Table 2 outlines these location notices and the corresponding diversion point legal description and acres. The locations are also shown on the map of the project.

Table 2. List of Location Notices to be Incorporated with the Vested Water License 496-2.

Location Notice No.	Diversion Point	Distance From Section Corner	Acres	Priority Date
LN594-2	NE1/4 NW1/4 SEC. 5 T3S-R11E	2150' East & 1240' South of the NW corner Section 5 T3S-R11E	60	Dec 16, 1919
LN617-2	NW1/4 SW1/4 SEC. 32 T2S-R11E	1310' East & 2645' South of the NW corner Section 32 T2S-R11E	10	April 1, 1938
LN619-2	NE1/4 SE 1/4 SEC. 31 ³² T2S-R11E SW	1340' East & 1500' North of the SW corner Section 32 T2S-R11E	33	April 1, 1938
LN3275-2	NE 1/4 SE 1/4 SEC. 31 T2S-R11E	2630' North & 730' West of the SE corner Section 31 T2S-R11E	36	April 8, 1941

The works are capable of diverting and conveying to the place of use 2.10 cu. ft. per second of water which is to be used for irrigation and stock watering purposes. Water has been put to beneficial use to the maximum extent as shown in Table 1. The system is in fair condition.

The inspection revealed a reduction in acreage from the time of application from 181 acres to 147 acres diverting 2.10 cfs as detailed in the Table 1.

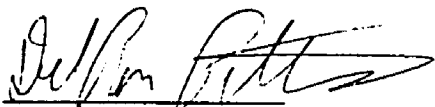
Table 1. Lands applied for under Water License No. 496-2.

<u>1/4, 1/4 all in T2S-R11E</u>	ACRES IN APPLICATION	PRESENT ACRES IRRIGATED
NE1/4 SE1/4 SEC. 31	38	19
NW1/4 SW1/4 SEC. 32	26	23.0
SW1/4 SW1/4 SEC. 32	16	12.0
SE1/4 SW1/4 SEC. 32	19	17.0
<u>1/4, 1/4 all in T3S-R11E</u>		
NE1/4 NW1/4 SEC. 5	18	16
SW1/4 SW1/4 SEC. 5	33	30
SE1/4 SW1/4 SEC. 5	31	30
TOTAL	<u>181</u>	<u>147.0 acres @ 2.10 cfs</u>

The water is utilized for stock watering and irrigation via a water spreading system of 147 acres located in the NE 1/4 SE 1/4 Section 31, and SW 1/4 Section 32, in T2S-R11E and the NE1/4 NW1/4 Section 5 and the S 1/2 SW1/4 Section 5, in T3S-R11E.

Conclusions

1. The project consists of a diversion dam diverting water to a gravity water spreading system.
2. The system was inspected and found to exist with a reduction in the number of acres irrigated to 147.0 acres at 2.10 cfs.
3. Water has been used when available since the time that the system was constructed.
4. The priority date for this vested water right claim should be January 1, 1937 for 2.10 cfs.
5. No increase in the diversion rate or the number of acres irrigated is authorized by the vested right application.



DelRon V. Peters
Natural Resources Engineer
DENR

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 496-2



Date: FEBRUARY 9, 1996

I/We request that Water Permit No. 496-2

formerly owned by: Jerry Bloom Box 245 New Underwood

be transferred to: Richard Rausch HCR 89 Box 257 Hermosa, SD 57744

Telephone No. (605) 255-4270

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

NE 1/4 SE 1/4 SEC 31 and SW 1/4 Section 32 T2S-R11E; NE 1/4 NW 1/4 and the SW 1/4 Section 5 T3S-R11E.

I/We understand that the validity of Water Permit No. 496-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

A fee of Two Dollars and Fifty Cents (\$2.50) is attached to cover the filing fees as required under SDCL 46-2-13.

STATE OF SOUTH DAKOTA)

County of Pennington)

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

Richard Rausch
(Signed)

Subscribed and sworn to before me this 9th day of February, 19 96.

Steve White
(Notary Public)

My Commission Expires 5-4-97

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

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

RECEIPT

Division of Water Rights

414787

South Dakota Department of Environment and Natural Resources

Pierre, _____ February 15, 19 96

RECEIVED OF Richard Rausch, HCR 89, Box 257, Hermosa, SD 57744

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>Vested Water Right Claim No. 496-2</u>	2	50
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)		
Total	2	50

By John Hitchcock
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

NOTICE

TO: Richard D. Rausch
HC 89 Box 257
Hermosa SD 57744

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

SUBJECT: Hearing to Consider Validation of Recognized Vested Right Claim No. 496-2

A Notice of Intent to validate Claim No. 496-2 was published on June 22 and 29, 1988 in the Custer County Chronicle. The Water Rights Program opposed validation of No. 496-2 for purposes of completing an on-site investigation of the claim. The investigation of Claim No. 496-2 was completed on September 21, 1995, by DelRon Peters, staff engineer. The investigation found that the number of acres being irrigated has been reduced from 181 acres to 147 acres. The diversion rate is to be reduced, accordingly, from 2.58 cubic feet of water per second (cfs) to 2.10 cfs. This reduced diversion rate is based on the statutory application rate of 1 cfs per 70 acres (147 acres/70 = 2.10 cfs).

The Water Management Board will consider validation of Claim No. 496-2 at 10:00 am, October 2, 1996, 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 investigation, validation of Claim No. 496-2 is recommended for a diversion rate of 2.10 cfs from dry draws to irrigate 147 acres. Following the hearing, the Board is authorized to 1) validate the claim as recommended for 147 acres and 2.10 cfs, 2) validate the claim as licensed prior to the on-site investigation, 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. 496-2 will still apply at this hearing. A copy of the June 22 and 29, 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. Contact Eric Gronlund by September 20, 1996 at the above Water Rights Program address to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

c: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on August 30, 1996, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated August 30, 1996, regarding Hearing to Consider Validation of Recognized Vested Right Claim Nos. 496-2 and 510-2, addressed as stated below:

V.R.C. #496-2: Richard D. Rausch, HC 89, Box 257, Hermosa, SD 57744.

V.R.C. #510-2: Wesley Harrison, HC 83, Hermosa, SD 57744.

Copies of the above described Notices were sent Inter-office to:

Diane Best, Assistant Attorney General, Capitol Building.

Karen Schlaak

Karen Schlaak
Environmental Scientist

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 3rd day of September, 1996



John Hatch

Notary Public

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

DEC 26 1996

Richard R Rausch
HIC 89, Box 257
Hermosa SD 57744

Dear Mr. Rausch:

The Water Management Board has validated the enclosed Vested Water Right No. 496-2. 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. The applicable of Location Notice Nos. ~~549-2~~, 617-2, 619-2 and 3275-2 have been incorporated into Vested Water Right No. 496-2. *594-2*

Also, enclosed is Location Notice Water License No. 618-2 and the receipts for the transfer of the location notices and water right to your name.

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

Very truly yours,

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

enclosures

SOUTH DAKOTA

VESTED WATER RIGHT NO. 496-2 FOR IRRIGATION

Date of Receipt of Claim September 12, 1958.

Date of Validation October 2, 1996.

The Water Management Board validated Vested Water Right Claim No. 496-2 for irrigation purposes for Richard R Rausch, HC 89 Box 257, Hermosa SD 57744 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 496-2 appropriates 2.10 cubic feet of water per second from a diversion dam located in the SW 1/4 NW 1/4 Section 32-T2S-R11E. The 147 acres irrigated are located in the NE 1/4 SE 1/4 Section 31, W 1/2 SW 1/4, SE 1/4 SW 1/4 Section 32; all in T2S-R11E and the NE 1/4 NW 1/4, S 1/2 SW 1/4 Section 5; all in T3S-R11E.
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 - October 31.
3. The priority date of the Vested Water Right is January 1, 1937.
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

DEC 26 1996

date



496-2

RECEIVED

FEB 16 2021

WATER RIGHTS
PROGRAM

**COSTELLO, PORTER, HILL, HEISTERKAMP,
BUSHNELL & CARPENTER, LLP**

ATTORNEYS AT LAW

KENNETH L. HEISTERKAMP
GENE R. BUSHNELL
EDWARD C. CARPENTER
DONALD A. PORTER
JOSEPH R. LUX
HEATHER LAMMERS BOGARD*
JESS M. PEKARSKI

200 SECURITY BUILDING
704 ST. JOSEPH STREET
MAILING ADDRESS P. O. BOX 290
RAPID CITY, SD 57709

Telephone: (605) 343-2410
Fax: (605) 343-4262

PHILLIP R. STILES
JONATHAN P. MCCOY*
MICHAEL F. STEVE*
KRISTEN E. BASHAM
REECE R. WEBER

J.M. COSTELLO
1923-2007

WILLIAM G. PORTER
1926-2004

*Also available at Spearfish office
115 N. 7th Street, Suite 3
Spearfish, SD 57783

+ Also admitted in North Dakota

* Also admitted in Wyoming

*Also admitted in Nebraska

February 10, 2021

PMB 2020
DENR – Water Rights Program
523 E. Capitol Ave.
Pierre, SD 57501-3182

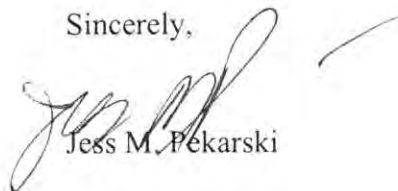
Re: Notice of Transfer of Ownership
Our File No. 212083

To Whom It May Concern:

Please find enclosed Notice of Transfers of Ownership and a check in the amount of \$100.00 for the filing fees.

Thank you for your attention to this matter and please do not hesitate to contact our office with any questions or concerns.

Sincerely,



Jess M. Pekarski

JMP/arb
Enclosures

496-2

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date February 16, 2021

RECEIVED OF Costello Porter Hill Heisterkamp Bushnell & Carpenter LLP PO Box 290 Rapid City SD 57709

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	\$
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$
Fee to retain Future Use Permit No. _____ after period of seven years.	\$
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	\$
Fee for Filing Transfer Form <u>496-2</u>	\$50.00
Fee for _____	\$
Fee for Issuing New Well Driller's License No. _____	\$
Fee for Renewal of Well Driller's License No. _____	\$
Fee for Issuing Well Pump Installer's License No. _____	\$
Fee for Renewal of Well Pump Installer's License No. _____	\$
(Any Other Work Provided by Law) TOTAL	\$50.00

By Eric Gronlund
Chief Engineer
EG

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

PAID

FEB 16 2021

Ck# 079435

Mail to: PMB 2020
DENR - Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182

RECEIVED

FEB 16 2021

WATER RIGHTS
PROGRAM

Water Right/Permit No. 496-2

Date: February 2021

I/We request that Water Right/Permit No. 496-2 formerly owned by:
Richard Rausch be transferred to:

New Owner Name: Jacob Rausch and Melanie Rausch
Address: 16080 Lower Spring Creek Road
City, State, Zip Hermosa SD 57544 Telephone No.

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

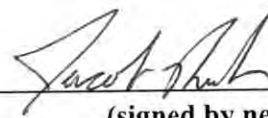
See Attached Exhibit A

- ☒ I understand that the validity of Water Right/Permit No. 496-2 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

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

A fee of Fifty Dollars (\$50.00) is included to cover the filing fee as required by SDCL 46-2-13.

I, Jacob Rausch, the new owner, certify that the above information is true and correct.



(signed by new owner)

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

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

EXHIBIT A

Township 2 South, Range 11 East of the Black Hills Meridian, Custer County, South Dakota:

Section 19: S1/2SE1/4

Section 28: N1/2NE1/4; SW1/4NE1/4; SE1/4NE1/4; E1/2NW1/4; W1/2NW1/4; SW1/4;
NE1/4SE1/4; W1/2SE1/4; SE1/4SE1/4

Section 29: SE1/4; E1/2SW1/4NE1/4; E1/2NE1/4

Section 30: NE1/4

Section 31: NE1/4SE1/4

Section 32: NE1/4; W1/2; SE1/4

Township 3 South, Range 11 East of the Black Hills Meridian, Custer County, South Dakota:

Section 4: SW1/4NW1/4; SW1/4; W1/2SE1/4

Section 5: All

Section 6: NE1/4

Section 8: E1/2NE1/4; NW1/4NE1/4

Section 9: W1/2NW1/4

Township 2 South, Range 11 East of the Black Hills Meridian, Pennington County, South Dakota:

Section 19: PT SE1/4SE1/4



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 22, 2021

496-2
LN618-2

Jacob & Melanie Rausch
16080 Lower Spring Creek Rd
Hermosa SD 57744

Dear Mr. & Mrs. Rausch:

I am writing to acknowledge receipt of the transfer forms and filing fees submitted on your behalf for changing ownership on Location Notice No. 618-2 and Vested Water Right No. 496-2.

The ownership changes have been completed. Nos. LN618-2 and 496-2 formerly held by Richard Rausch are now listed in your names.

The receipts for the filing fees are being sent by copy of this letter to the law firm who paid the fees. If I can answer any questions for you, please let me know.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us

c: Jess M Pekarski w/ Costello, Porter, Hill, Heisterkamp, Bushnell & Carpenter, LLP