

Water Division No. 2

(Plans to be filled by the Engineer for the W. R. C.)

No. 573-2Little White River

District

FEB 2 1960

9:00 A.M.

STATE WATER RESOURCES COMMISSION

FISHER, 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 Carl A. MichaelPostoffice address Morrison, County Bennett, State Nebraska~~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)

Already Accomplished~~(b) Cash on hand, \$~~~~(c) Treasury stock, \$~~~~(d) Bonds to be issued, \$~~~~(e) Other resources, \$~~2. Name of diversion work G.A. Michael Irrigation Project number 13. Amount of water claimed ok 6.66 maximum allowable
6.66 cubic feet per second or 1697.6 Acre Feet4. Source of water supply Springs and surface runoff from local watershed5. Location of point of diversion See attached sheet #1on both banks Bennett County6. Annual period or periods during which water is to be used Any time flow occurs during annual period

7. To be used for:

I. Irrigation or domestic use: Gravity, overhead sprinkling or combination system: Irrigation, Gravity(a) Number of acres to be irrigated 424.4 acres.(b) Legal subdivisions to be irrigated See attached sheet #2

(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.)~~

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

~~(a) Nature of use~~~~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~~

8. Estimated cost of work:

(a) Head Gate, \$-----

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

(c) Fluming, \$-----

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

Rock, \$-----

(e) Other structures Plugs and tubes \$2000.00

Total, \$-----

9. Description of diversion works:

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

Plugs across channels located within the irrigable area hold up water causing overflow and subirrigation.

II. Dimensions of works:

(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 high water mark ----- acres.

DEPTH AT OUTLET FEET	SURFACE AREA AT EACH DEPTH AT OUTLET--ACRES	VEET	ACRE-FOOT CAPACITY

(c) Head gate: Width ----- feet; height ----- feet;
Material -----

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

LOCATION BELOW HEAD GATE	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 already completed.11. Time required for complete application of water to the proposed beneficial use being applied.12. ~~Choice of newspaper for publication of notice of intention to appropriate~~

STATE OF SOUTH DAKOTA

County of Bennett

35.

I, Carl A. Michael, 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

Carl A. MichaelSubscribed and sworn to before me this 30th day of January 1960.

Notary Public (or other qualified officer.)

Remarks by State Water Resources Commission:

"Vested" Right Claimed: Under South Dakota Water Laws, Chapter 43a, Sections 61.01 to 61.02 (1)(a) & 61.01 to 61.02 recognizes the "vested right claim" since the water was used during the 3-year period prior to July 1, 1955. A record of this right is hereby made in the office of the Water Resources Commission; however, the priority use of water by the "vested right claimant" is junior to other water right holdings on Lake Creek, and the use of water is limited by the water needs of such

STATE OF SOUTH DAKOTA

County of Hughes

Pierre, South Dakota,

April 1

1960

This is to certify that the foregoing application was received by the Commission at 9:00 o'clock

A.m. upon the 2nd day of February, 1960

State Water Resources Commission

By:

Chief Engineer, Executive Officer

Number of permit 573-2

Date of first receipt of application

February 2

1960

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

September

1950

Approved

April 1

1960

Recorded in Book

5

Page

333

(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

19

2nd. The whole of said work is to be completed on or before

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 6.05 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 which water is actually and beneficially applied for irrigation on or before June 30, 1965

whenever available during irrigation season

Witness my hand this

1st

day of

April

1960

State Water Resources Commission

By:

Chief Engineer, Executive Officer

Certificate of Construction Issued

April 1

1960

Water License Issued

April 1

1960

Question #5:

Points of Diversion:

- Point #1-- 53.4 rods North ~~52~~⁵⁸ degrees and ~~59~~⁰⁰ minutes East of the Southwest Corner of Section 23-T36N-R38W.
- Point #2-- 129.8 rods North ~~52~~⁵⁵ degrees and ~~00~~⁵⁰ minutes East of the Southwest Corner of Section 23-T36N-R38W.
- Point #3-- 27.9 rods North 00 degrees and 00 minutes of the Southeast Corner of Section 23-T36N-R38W.
- Point #4-- 89.7 rods North 12 degrees and 00 minutes East of the Southeast Corner of Section 23-T36N-R38W.
- Point #5-- 123.7 rods North 21 degrees and 10 minutes East of the Southeast Corner of Section 23-T36N-R38W.
- Point #6-- 103.0 rods North 57 degrees and 20 minutes East of the Southeast Corner of Section 23-T36N-R38W.

Question 7(I)b.

Legal Subdivisions irrigated:

NW $\frac{1}{4}$ SW $\frac{1}{4}$	of	Section 23---	23.6	Acres
NE $\frac{1}{4}$ SW $\frac{1}{4}$	"	"	26.0	"
SW $\frac{1}{4}$ SW $\frac{1}{4}$	"	"	40.0	"
SE $\frac{1}{4}$ SW $\frac{1}{4}$	"	"	40.0	"
NW $\frac{1}{4}$ SE $\frac{1}{4}$	"	"	28.8	"
NE $\frac{1}{4}$ SE $\frac{1}{4}$	"	"	39.2	"
SW $\frac{1}{4}$ SE $\frac{1}{4}$	"	"	40.0	"
SE $\frac{1}{4}$ SE $\frac{1}{4}$	2A	"	40.0	"
NW $\frac{1}{4}$ NW $\frac{1}{4}$	2A	"	26	1.6
NE $\frac{1}{4}$ NW $\frac{1}{4}$	"	"	20.4	"
NN $\frac{1}{4}$ NE $\frac{1}{4}$	"	"	20.0	"
NE $\frac{1}{4}$ NE $\frac{1}{4}$	"	"	8.8	"
NW $\frac{1}{4}$ SW $\frac{1}{4}$	"	24	34.4	"
NE $\frac{1}{4}$ SW $\frac{1}{4}$	"	"	4.0	"
SW $\frac{1}{4}$ SW $\frac{1}{4}$	"	"	40.0	"
SE $\frac{1}{4}$ SW $\frac{1}{4}$	"	"	17.6	"
Total			424.4	Acres

All above legal subdivisions are located in Township 36 North and Range 38 West.

STATE OF SOUTH DAKOTA

WATER LICENSE No. 573-2

WHEREAS, On the 2nd day of February A. D. 1960

Carl A. Michael

of Herriman County of Cherry and State of Nebraska **vested right** duly made application (No. 573-2) to us for a permit to use 6.06 cubic feet per second of the waters of dry draws & LaCreek County of Bennett, State of South Dakota, for irrigation purposes; and

WHEREAS, On the 1st day of April A. D. 1960

vested right Permit No. 573-2 was issued to said applicant for the diversion of said water, and **recognising** the completion of the works of diversion therein described ~~xxxxxxx~~ ~~xxxxxxx~~ and for the application to beneficial use of said water ~~xxxxxxx~~ ~~xxxxxxx~~ and,

WHEREAS, On the 2nd day of February A. D. 1960

vested right the holder of said permit duly made proof of the completion of adequate works for the diversion of 6.06 cubic feet per second of said waters, as evidenced by our Certificate No. 573-2 dated April 1, 1960 confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use 6.06 cubic feet per second of water, with date of priority of September, 1950 ~~xxxx~~ and,

WHEREAS, On the 2nd day of February A. D. 1960

proof was duly made of the application to beneficial use of 6.06 cubic feet per second of said water; for irrigation on portions of Sections 23, 24 & 26 T 36N R 38W

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 Carl A. Michael
 of Merriman, Nebraska the holder and owner of vested right permit No. 573-2
 a water right, dating from September, 1950 to the use of 6.06
 cubic feet per second of the waters of dry draws and LaCreek
 in the County of Bennett and State of South Dakota, or so much thereof as may be
 necessary for the purposes hereinbelow mentioned, to be diverted xx between a point in the SW¹/₄ SW¹/₄
Section 23 and a point in the SE¹/₄ SW¹/₄ Sec 24, T 36N, R 38W,
 and conducted to and upon portions of Sections 23, 24 & 26, T 36N R 38W, more
specifically described in the Certificate of Completion of Works
 for the purpose of irrigation

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

WITNESS, My hand and seal of our office at Pierre, South Dakota,
 this 1st day of April A. D. Nineteen
 Hundred and sixty

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 _____

Permit No. 573-2-

Water Division No. 2 Little White Water District
River

Certificate of Completion of Works

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That Carl A. Michaelof Merriman, County of Cherry, and State of Nebraska, the holder vested right of Permit No. 573-2, Issued upon ApplicationNo. 573-2, bearing date of priority of September, 1950, authorizing the diversion of 6.06 cu. ft. per second of the waters of dry draws & La creekCounty of Bennett, State of South Dakota between a point in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 23 and a point in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 24, all in T. 36N, R. 30Wfor 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 recognized as satisfactory condition for diverting and conveying to the place of intended use 6.06 cu. ft. per second of water; and that the lands proposed to be irrigated by the use of said water are described as follows,to-wit: all in T. 36N R. 30W

<u>Sec 23</u>	<u>NW $\frac{1}{4}$ SW $\frac{1}{4}$</u>	<u>23.6 acres</u>
	<u>NE $\frac{1}{4}$ SW $\frac{1}{4}$</u>	<u>26.0 acres</u>
	<u>SW $\frac{1}{4}$ SW $\frac{1}{4}$</u>	<u>40.0 acres</u>
	<u>SE $\frac{1}{4}$ SW $\frac{1}{4}$</u>	<u>40.0 acres</u>
	<u>NW $\frac{1}{4}$ SE $\frac{1}{4}$</u>	<u>28.8 acres</u>
	<u>NE $\frac{1}{4}$ SE $\frac{1}{4}$</u>	<u>39.2 acres</u>
	<u>SW $\frac{1}{4}$ SE $\frac{1}{4}$</u>	<u>40.0 acres</u>
	<u>SE $\frac{1}{4}$ SE $\frac{1}{4}$</u>	<u>40.0 acres</u>
<u>Sec 26</u>	<u>NW $\frac{1}{4}$ NW $\frac{1}{4}$</u>	<u>1.6 acres</u>
	<u>NE $\frac{1}{4}$ NW $\frac{1}{4}$</u>	<u>20.4 acres</u>
	<u>NW $\frac{1}{4}$ NE $\frac{1}{4}$</u>	<u>20.0 acres</u>
	<u>NE $\frac{1}{4}$ NE $\frac{1}{4}$</u>	<u>8.8 acres</u>
<u>Sec 24</u>	<u>NW $\frac{1}{4}$ SW $\frac{1}{4}$</u>	<u>34.4 acres</u>
	<u>NE $\frac{1}{4}$ SW $\frac{1}{4}$</u>	<u>4.0 acres</u>
	<u>SW $\frac{1}{4}$ SW $\frac{1}{4}$</u>	<u>40.0 acres</u>
	<u>SE $\frac{1}{4}$ SW $\frac{1}{4}$</u>	<u>17.6 acres</u>

Witness my hand this 1st day of April A. D. 1960

State Water Resources Commission

By:

J.W. GRIMES

Chief Engineer, Executive Officer

Location No.

Water Division No. Water District

Proof of Application of Water to Beneficial Use**PETITION OF HOLDER**

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

Ans. Carl A. Michael, on ranch, occupation-rancher, Merriman, Nebraska

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. Application for Permit to appropriate water being submitted along with Proof of Beneficial Use.

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

Ans. Water is supplied from springs and surface runoff from local watersheds.See sheet #1 for location of points of diversion.

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. System consists of a series of Plugs across channels that pass through irrigable area. These Plugs hold water up causing it to overflow over lands irrigated. Also sugirrigation results. Date of completion was in September of 1950/

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. See sheet #2 for place of use.

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. 6,000 cfs or the equivalent of 1697.2 acre-feet.

Ques. 9. If you are not the person or representative of the corporation to whom above mentioned permit was originally issued, 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 is used when over flow occurs during annual period of use for purpose of irrigating alfalfa land by means of overflow and subirrigation in the amount available at the time to the extent of the max. allowable of 3 Ac. Ft. per Acre for a total of 1697.6 Acre Feet.

(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 Martin County of Bennett

State of South Dakota, on this 30th day of January A. D. 1960

~~Notary Public~~

(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.

Witnesses

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 -----

Question #4:

Points of Diversion:

Point #1-- 53.4 rods North 58 degrees and 00 minutes East of the Southwest Corner of Section 23-T36N-R38W.

Point #2--129.8 rods North 55 degrees and 50 minutes East of the Southwest Corner of Section 23-T36N-R38W.

Point #3--67.9 rods North 00 degrees and 00 minutes of the Southeast Corner of Section 23-T36N-R38W.

Point #4--89.7 rods North 12 degrees and 00 minutes East of the Southeast Corner of Section 23-T36N-R38W.

Point #5-- 123.7 rods North 21 degrees and 10 minutes East of the Southeast Corner of Section 23-T36N-R38W.

Point #6-- 103.0 rods North 57 degrees and 20 minutes East of the Southeast Corner of Section 23-T36N-R38W.

Question 6.

Legal Subdivisions irrigated:

NW 1/4	of Section 23	23.6 Acres	
NE 1/4	"	26.0	"
SW 1/4	"	40.0	"
SE 1/4	"	40.0	"
NW 1/4	"	28.6	"
NE 1/4	"	39.2	"
SW 1/4	"	40.0	"
SE 1/4	"	40.0	"
NW 1/4	"	26	1.6
NE 1/4	"	20.4	"
NW 1/4	"	20.0	"
NE 1/4	"	8.6	"
NW 1/4	"	24	34.4
NE 1/4	"	4.0	"
SW 1/4	"	40.0	"
SE 1/4	"	17.6	"

Total 424.4 Acres

All above legal subdivisions are located in Township 36 North and Range 38 West.

COMMISSION
John Garhart, Spearfish
~~XXXXXXXXXXXX~~
Lester Brue, Parker
Carl Cronin, Gettysburg
Lauren A. Davis, Belle Fourche
Milton E. Fieher, Milbank
Richard Lommen, Harrisburg
Clarence D. Mortenson, Hayes
Dick Fisher, Cresbard

South Dako. .

WATER RESOURCES COMMISSION

STATE OFFICE BUILDING
PIERRE, SOUTH DAKOTA 57501

265-2; 573-2; 767-2; 768-2
and US. 2-2

J. W. Grimes
Chief Engineer
and
Executive Officer

Phone
224-5911 Ext. 343
Area Code 605

September 5, 1967

Mr. John D. Umberger, Regional Engineer
Fish and Wildlife Service
1006 West Lake Street
Minneapolis, Minnesota 55408

Re: EH-WR-LaCreek

Dear Mr. Umberger:

This is in answer to your request for a list of water right filings in the White River Water District and above the LaCreek Wildlife Refuge. This summer we have undertaken an investigation of our water right filings in Water Division #2 which includes the White River and its tributaries. For the White River Water District, this investigation is now about three-fourths completed and should be finished by the middle of December. After its completion, we will be able to give you a much better list of valid water rights than we can at this time. In our investigation we are cancelling all those water rights that have been forfeited and all those where no construction has taken place. We would hope that we can defer sending you the list of filings until this investigation is completed.

The following is a list of the current water rights on file for the watershed above the La Creek Refuge.

<u>Permit</u> <u>No.</u>	<u>Name</u>	<u>Priority</u>	<u>Sec.Twp.Rge.</u>	<u>Am't</u>	<u>Purpose</u>
265-2	Cedar Creek Ranch	5/20/33	25 36 37 30 36 36	4.45	Irr.
573-2	Carl A. Mickeel	Sept. 1950	23/24/26-36-38	6.06	Irr.
767-2	R.H. & R.M. Johnson	1898	21 36 37	2.59	Irr.
768-2	H.C. & Nellie Todd	1898	16/17/20-36-37	1.70	Irr.

Mr. John Umberger

Page 2.

September 5, 1967

Our investigation has indicated that the above are valid rights and have been in continuous use. It is our understanding that the owner of the Cedar Creek Ranch, Mr. Gene Brown, has made an arrangement with the Department of Interior concerning withdrawals of water from Lake Creek. Mr. Brown is currently in the process of furnishing this office with a copy of this agreement which will be incorporated in his water right file.

The Mickeel filing is the only one junior to the Refuge but covers only the use of flood waters for waterspreading from Dry Draws.

The Johnson and Todd filings have been perfected under the Vested Right portion of the South Dakota water laws and the priority is based upon an old irrigation Location Notice filed in 1898.

Please feel free to call upon us if this office can be of any further assistance.

Sincerely,

RICHARD SCHMOYER
Water Rights Specialist
Water Resources Commission

RS/bw



Department of Water & Natural Resources

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

September 21, 1988

NOTICE

Carl A. Michael
HC 61, Box 10
Merriman NE 69218

Dear Mr. Michael:

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). 573-2 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
JOHN HATCH, Chief Engineer
Water Rights Division

605 773-3352



NOTICE OF TRANSFER OF OWNERSHIP



TO: Chief Engineer
Water Rights Division, DWR
523 East Capitol
Pierre, SD 57501-3181

Date: _____
573-2

I/We request that Vested Right Claim Water-Permit/Right No. 573-2

formerly owned by: Carl A. Micheel

be transferred to: (name & address) Micheel Bros.

HC 61, Box 10, Morrigan, NE 69213 (telephone No.) 685-6348

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

SW $\frac{1}{4}$ & SE $\frac{1}{4}$ Sec 23, SW $\frac{1}{4}$ Sec 24 and N $\frac{1}{2}$ NW $\frac{1}{4}$ & N $\frac{1}{2}$ NE $\frac{1}{4}$ Sec 26-T36N-R38W

I/We understand that the validity of Vested Right Claim Water-Permit/Right No. 573-2 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 at the Division of Water Rights, 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 Benneet)

I/We Leon Micheel 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.

Michael Bros
By Leon Micheel
(Signed)

Subscribed and sworn to before me this 21st day of December, 19 99.

My commission expires: 3/11/93

Luella Cozad
(Notary Public)

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 water right. A water right may be lost for three reasons:

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



Department of Water & Natural Resources

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

January 2, 1990

573-2

Leon Micheel
Micheel Brothers
HC 61 Box 10
Merriman, NE 69218

Dear Mr. Micheel:

The "Notice of Transfer" you submitted for filing an ownership change with Vested Water Right Claim No. 573-2 has been received. The form was completed properly, however, can not be recorded without a required filing fee of \$2.50.

Please remit \$2.50 as soon as possible. We can proceed with filing the ownership change upon receipt of the fee.

If you have any questions, please contact me.

Sincerely,

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

GENNY MCMATH
Natural Resources Analyst
(605) 773-3352

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

412019

Pierre, January 9, 1990

RECEIVED OF Michael Brothers, HC 61 Box 10, Harriman, NE 69213

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 _____ Vested Water Right Claim No. 573-2	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 John Hatch/mra
Chief Engineer John Hatch/mra

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

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

January 12, 1990

573-2

Micheel Brothers
HC 61 Box 10
Merriman, NE 69216

Dear Sirs:

Enclosed is Receipt No. 412019 in the amount of \$2.50 which you paid for transfer of Vested Water Right Claim No. 573-2.

Our records now reflect you as the owner of this Vested Water Right Claim.

Sincerely,

Marie R. Arthur

MARIE R. ARTHUR
Secretary
Water Rights Division
(605) 773-3352

enclosure



Conversation or File Documentation

NAME OF PERSON OR FILE: Carl A. MicheelADDRESS: HC 61, Box 10 Merriman Neb. 69218 COUNTY BennettDATE: December 13, 1989 TELEPHONE _____RE: Validation of Vested Right Claim No. 573-2

COMMENTS:

On May 23, 1989, I made an investigation of Vested Right Claim No. 573-2. The project appeared to be as described on the original application and license, with the exception that it was licensed for 424.4 acres of land. The 424.4 acres included the area flooded by the dams. Vested Right Claim No. 573-2 should be validated for 411.20 acres of irrigated land. The project is now owned by Micheel Bros., I sent them a transfer form to change the ownership.

NW ¹ / ₄ SW ¹ / ₄ 23-T36N-R38W - 23.6 Acres	NW ¹ / ₄ NW ¹ / ₄ 26-T36N-R38W - 1.6 Ac.
NE ¹ / ₄ SW ¹ / ₄ " - 26	NE ¹ / ₄ NW ¹ / ₄ " - 20.4
SW ¹ / ₄ SW ¹ / ₄ " - 32	NW ¹ / ₄ NE ¹ / ₄ " - 20
SE ¹ / ₄ SW ¹ / ₄ " - 3.5	NE ¹ / ₄ NE ¹ / ₄ " - 8.8
NW ¹ / ₄ SE ¹ / ₄ " - 28.8	NW ¹ / ₄ SW ¹ / ₄ 24-T36N-R38W - 34.4
NE ¹ / ₄ SE ¹ / ₄ " - 39	NE ¹ / ₄ SW ¹ / ₄ " - 4
SW ¹ / ₄ SE ¹ / ₄ " - 40	SW ¹ / ₄ SW ¹ / ₄ " - 40
SE ¹ / ₄ SE ¹ / ₄ " - 40	SE ¹ / ₄ SW ¹ / ₄ " - 17.6
Total 411.20 Acres	

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.



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

January 24, 1992

NOTICE

TO: Micheel Bros.
HC 61, Box 10
Merriman NE 69218

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

SUBJECT: Hearing to Consider Validation of Recognized Vested Right Claim No. 573-2,
Micheel Bros.

A Notice of Intent to validate Claim No. 573-2 was published on June 8 and 15, 1988 in the Bennett County Booster II. The Water Rights Division opposed validation of No. 573-2 for purposes of completing on on-site inspection of the claim. The inspection of Claim No. 573-2 was completed on May 23, 1989, by Tim Schaal, staff engineer. The inspection found that the number of acres being irrigated has been reduced from 424.4 acres to 411.2 acres due to portions of the acreage being flooded by dams. The diversion rate is to be reduced, accordingly, from 6.06 cubic feet of water per second (cfs) to 5.87 cfs. This reduced diversion rate is based on the statutory application rate of 1 cfs per 70 acres ($411.2 \text{ acres} / 70 = 5.87 \text{ cfs}$).

The Water Management Board will consider validation of Claim No. 573-2 at 10:00 am, March 4, 1992, Floyd Matthew Training Center in the 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. 573-2 is recommended for a diversion rate of 5.87 cfs from Lake Creek and dry draws to irrigate 411.2 acres. Following the hearing, the Board is authorized to 1) validate the claim as recommended for 411.2 acres and 5.87 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. 573-2 will still apply at this hearing. A copy of the June 8 and 15, 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 January 24, 1992 I have personally deposited with the U.S. Mail postage prepaid envelopes containing a Notice of Hearing to Consider Validation of Recognized Vested Right Claim No. 573-2, Micheel Bros. addressed as stated below:

Micheel Bros., HC 61, Box 10, Merriman, NE 69218.

Copy Sent Inter-office To:

Diane Best, Assistant Attorney General, Capitol Building.

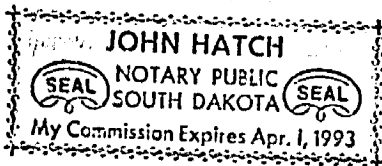
Cheryl A. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 27th day of January, 1992.

John Hatch
Notary Public



SOUTH DAKOTA

VESTED WATER RIGHT NO. 573-2 FOR IRRIGATION

Date of Receipt of Claim February 2, 1960.

Date of Validation March 4, 1992.

The Water Management Board validated Vested Water Right Claim No. 573-2 for irrigation purposes for Micheel Bros., HC 61, Box 10, Merriman NE 69218 with the following limitations, conditions and qualifications:

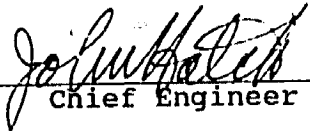
1. Vested Water Right No. 573-2 appropriates 5.87 cubic feet of water of water from Lake Creek and dry draws to irrigate 411.2 acres. The points of diversion are located between the SW 1/4 SW 1/4 Section 23 and the SE 1/4 SW 1/4 Section 24; all in T36N-R38W. The land irrigated is located in the S 1/2 Section 23; N 1/2 NW 1/4, N 1/2 NE 1/4 Section 26; SW 1/4 Section 24; all in T36N-R38W.
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: January 1 - December 31.
3. The priority date of the Vested Water Right is September 1, 1950.
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.

QUALIFICATION

The priority use of water by the vested right claimant is junior to other water right holdings on Lake creek, and the use of water is limited by the water needs of such prior water right holdings.

WATER MANAGEMENT BOARD

By: _____


Chief Engineer

MAY 12 1992

date

Division of Water Rights
Dept. of Environment and Natural Resources

STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 573-2 FOR IRRIGATION

(1) Micheel Brothers of HC 61, Box 10, Merriman, NE 69218 made Application No. 573-2, February 2, 1960 for validation of a vested right claim to appropriate 6.06 cubic feet of water per second from Lake Creek and dry draws, Bennett County, South Dakota for irrigation purposes. Vested Water Right No. 573-2 was validated March 4, 1992 with a priority date of September 1, 1950. 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.

Based upon a May 23, 1989, inspection of the water use system, Vested Water Right Claim No. 573-2 was validated for the acreage and diversion rate actually being used. The water license is being issued to correspond with the validation.

(2) The applicant is entitled to divert 5.87 cubic feet of water per second for beneficial use. The location of the diversion points are between points in the SW 1/4 SW 1/4 Section 23 and the SE 1/4 SW 1/4 Section 24, T36N, R38W.

The location of the irrigated acreage is:

NW 1/4 SW 1/4	23-T36N-R38W	23.6 Acres
NE 1/4 SW 1/4	"	26 Acres
SW 1/4 SW 1/4	"	32 Acres
SE 1/4 SW 1/4	"	35 Acres
NW 1/4 SE 1/4	"	28.8 Acres
NE 1/4 SE 1/4	"	39 Acres
SW 1/4 SE 1/4	"	40 Acres
SE 1/4 SE 1/4	"	40 Acres
NW 1/4 NW 1/4	26-T36N-R38W	1.6 Acres
NE 1/4 NW 1/4	"	20.4 Acres
NW 1/4 NE 1/4	"	20 Acres
NE 1/4 NE 1/4	"	8.8 Acres
NW 1/4 SW 1/4	24-T36N-R38W	34.4 Acres
NE 1/4 SW 1/4	"	4 Acres
SW 1/4 SW 1/4	"	40 Acres
SE 1/4 SW 1/4	"	17.6 Acres
Total-----		411.20 Acres

(3) Pursuant to Section 46-5-30.1 Micheel Brothers of HC 61, Box 10, Merriman, NE 69213 the holder(s) and/or owner(s) of Vested Water Right No. 573-2 is issued a license to appropriate 5.87 cubic feet of water per second from Lake Creek and dry draws with a priority date of September 1, 1950 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. 573-2 and subject to South Dakota State Law.



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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

MAY 12 1992

Micheel Bros.
HC 61, Box 10
Merriman NE 69213

Dear Sirs:

The Water Management Board has validated the enclosed Vested Water Right No. 573-2. 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.

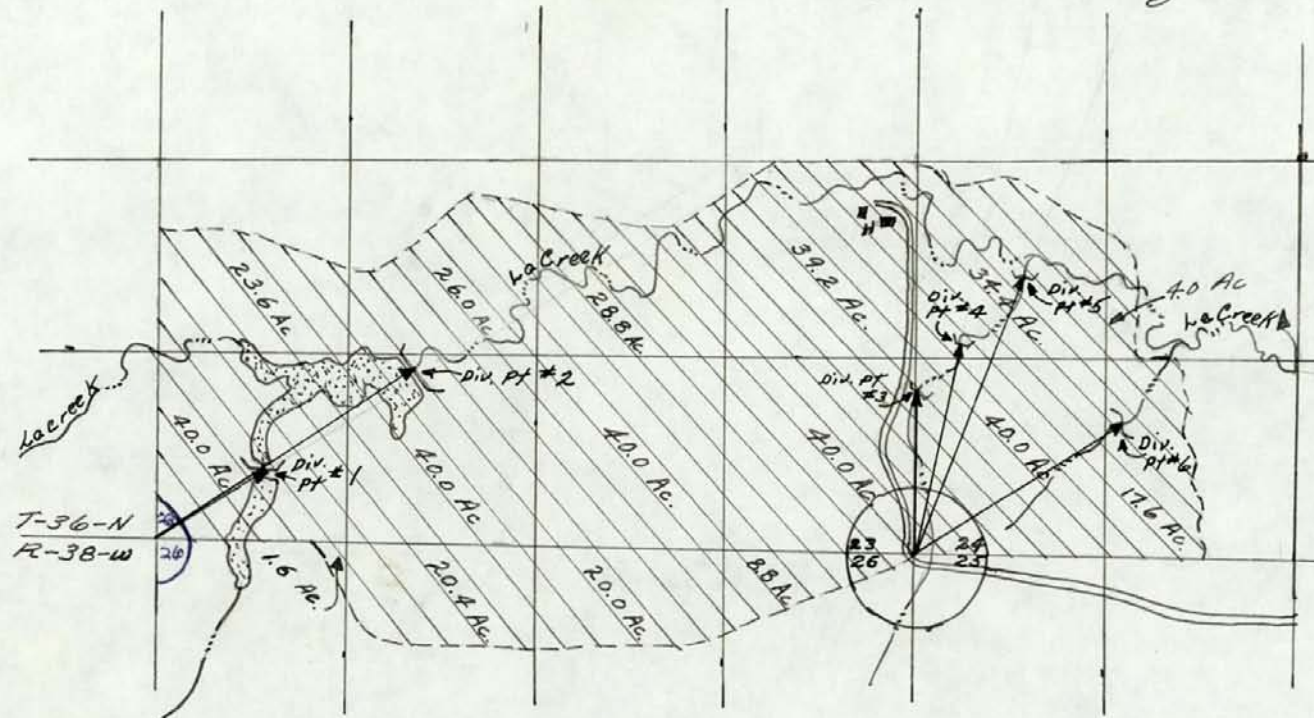
As long as you use the water beneficially, as stated in the validation, State Water Laws provide that you have a continuing right to use the water.

Very truly yours,

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

enclosure

C. A. Michael Irrigation Project #1



Scale - 4" = 1 mile

All above described lands owned by

LOCATION OF LANDS				
Location	Sec.	Twp	Range	Acres
NW ⁴ SW ⁴	23	36-N	38-W	23.6
NE ⁴ SW ⁴	23	36-N	38-W	26.0
SW ⁴ SW ⁴	23	36-N	38-W	40.0
SE ⁴ SW ⁴	23	36-N	38-W	40.0
NW ⁴ SE ⁴	23	36-N	38-W	28.8
NE ⁴ SE ⁴	23	36-N	38-W	39.2
SW ⁴ SE ⁴	23	36-N	38-W	40.0
SE ⁴ SE ⁴	23	36-N	38-W	40.0
NW ⁴ NW ⁴	26	36-N	38-W	1.6
NE ⁴ NW ⁴	26	36-N	38-W	20.4
NW ⁴ NE ⁴	26	36-N	38-W	20.0
NE ⁴ NE ⁴	26	36-N	38-W	8.8
NW ⁴ SW ⁴	24	36-N	38-W	34.4
NE ⁴ SW ⁴	24	36-N	38-W	4.0
SW ⁴ SW ⁴	24	36-N	38-W	40.0
SE ⁴ SW ⁴	24	36-N	38-W	17.6
Total				424.4

Legend:

- Public Road
- Intermittent Stream
- Irrigable Area

No Map #. V/R

(Appl.

#573-2)

Buckles, Ranch 23 4m 410 / Michael Bing

NE 1/4 SW 1/4
140 AC

Not Irrigated

471410 701-1000 B
T1321

36-38

T132

36-48
D12

Bennett
Co.

Application No. 573-2
Timothy M. Schaal
December 13, 1989

Bennett 2204R
D/2



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 7, 2007

573-2

John Markus
HC 78 Box 33
Crookston NE 69212

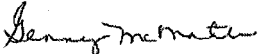
Dear Mr. Markus:

Thank you for contacting us regarding the ownership change for Vested Water Right No. 573-2. Enclosed is a copy for your records.

Also enclosed is a partially completed Notice of Transfer of Ownership form for filing an ownership change. Please review the form and complete as needed. Upon completion, please sign the form and return it to our office with a required filing fee of \$2.50. The check or money order for the fee can be made payable to the Water Rights Program.

We have several other water rights on file in your name that you receive annual irrigation questionnaires for. Information in the file for Vested Water Right No. 573-2 indicates that the irrigation system is a water spreading system. Irrigation questionnaires are not required for spreader systems. However, if you will be changing the system to utilize a pump, let me know and I will add a questionnaire to your packet in October when we mail out the annual forms.

Sincerely,


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

RECEIVED
AUG 15 2007
WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 573-2

Date: 8-13-07

I/We request that Vested Water Right No. 573-2

formerly owned by: Micheel Brothers

be transferred to: (name & address)

John + Cathy MARKUS
HC 78 Box 33
CROOKSTON Ne. 69212 Telephone No. 1-605-429-3233

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

**411.2 acres – S ½ Section 23, N ½ NW ¼, and N ½ NE ¼ Section 26, SW ¼ Section 24, all in T36N,
R38W, Bennett County**

I/We understand that the validity of Vested Water Right No. 573-2 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 required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

I/We John Markus, the new owner, certify that the above information is true and
Cathy Markus correct.

John Markus Cathy Markus
(Signed by new owner)

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

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 8/15, 2007

RECEIVED OF John Markus HC 78 Box 33 Crookston NE 69212

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>573-2</u>	2	50
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)		
TOTAL	2	50

No.

03130

By

Leland Erbe
Chief Engineer

sig



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 15, 2007

573-2

John & Cathy Markus
HC 78 Box 33
Crookston NE 69212

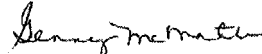
Dear Mr. & Mrs. Markus:

I am writing to acknowledge receipt of the ownership change and the filing fee you submitted for Vested Water Right No. 573-2. The transfer has been completed. The vested water right formerly held by Micheel Brothers is now listed in your names.

Enclosed is your Receipt No. 03130 in the amount of \$2.50 which you paid for filing the ownership change. You may keep this for your records.

If I can answer any questions for you, please contact me.

Sincerely,


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