No. 768-2Water Division No. 2 WHITE RIVER
(Blanks to be filled by the Engineer for the W. R. C.)District STATE 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 Harlan C. Todd & Nellie G. Todd
Postoffice address Martin, County Bennett, 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 Ruff Ditch3. Amount of water claimed 1.7 cubic feet per second4. Source of water supply Lake Creek & tributaries

5. Location of point of diversion S61.2W 100N 1 from the NE corner, Sec. 20, T36N, R37W; N 49W 1420' from the SE corner Sec 24 T36N R37W on Left bank Bennett County.

6. Annual period or periods during which water is to be used April to November

7. To be used for:

I. Irrigation or domestic use: Gravity, overhead sprinkling or combination system? Gravity(a) Number of acres to be irrigated 119.4 _____(b) Legal subdivisions to be irrigated See back page for description.

(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.) SEXXXSXXXX31YACXASXSSXX17WXXYSSXXVXXYACXASX377X29X

II. Stockwatering, milking, milling, power, fish culture, fire 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 Gates, \$-----

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

(e) Other structures -----

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

Rock, \$-----

Total, \$-----

9. Description of diversion works:

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

Ditches and small dikes plus storage dam.

II. Dimensions of works.

(a) Dam: Height 20 feet; length at bottom 300 feet; length at top 12 feet; thickness at bottom 500 feet; thickness at top 21 feet; slope at front water face 3:1; slope at back face -----

material used in construction compacted earth & clay

(b) Reservoir: Capacity when filled 50 acre feet. Surface area at highwater mark 7.9 acres.

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

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

(d) Canal: Total length ----- 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 Completed years.

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

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

Not applicable

STATE OF SOUTH DAKOTA
County of Bennett

I, Harlan C. Todd, 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

Harlan C. Todd

Subscribed and sworn to before me this

24th

day of

May

1961

Mamie B. Long
Notary Public (or other qualified officer.)

Remarks by State Water Resources Commissioner.

"VESTED RIGHT" CLAIMED

THIS PERMIT RECOGNIZES YOUR "VESTED RIGHT" CLAIM AS
PROVIDED IN STATE LAW, WITH THE PRIORITY INDICATED
BASED ON AFFIDAVITS SUBMITTED WITH THE PERMIT

STATE OF SOUTH DAKOTA
County of HUGHES ss.

Pierre, South Dakota, MAY 31, 1962

This is to certify that the foregoing application was received by the Commission at 10:15 o'clock

4 a.m. upon the 25TH day of MAY, 1962

State Water Resources Commission

By:

Burton Jones
Chief Engineer, Executive Officer

Number of permit 768-2

Date of first receipt of application MAY 25, 1962

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 MAY 31, 1962

Approved MAY 31, 1962, Recorded in Book 7 Page 119

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

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 1.7 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 JUNE 30, 1956; said water to be used during the following described annual period:

APRIL TO NOVEMBER
31ST day of MAY, 1962

Witness my hand this

State Water Resources Commission

By:

Lee Jones
Chief Engineer, Executive Officer

Certificate of Construction issued

MAY 31, 1962

Water License issued

MAY 31, 1962

Remarks by the Applicant:

7. To be used for:

I.

(b) Legal subdivisions to be irrigated.

SE $\frac{1}{4}$ SW $\frac{1}{4}$ --10 acres; SW $\frac{1}{4}$ SE $\frac{1}{4}$ --24.0 acres; SW $\frac{1}{4}$ SW $\frac{1}{4}$ --8 acres

SE $\frac{1}{4}$ SE $\frac{1}{4}$ --26 acres; E $\frac{1}{2}$ SE $\frac{1}{4}$ --18.4 acres Sec. 16, T36N, R37W

SE $\frac{1}{4}$ SE $\frac{1}{4}$ --31 acres- Sec. 17; NE $\frac{1}{4}$ SE $\frac{1}{4}$ --2 acres-Sec. 20.

STATE OF SOUTH DAKOTA

WATER LICENSE No. 768-2. . . .

WHEREAS, On the 25th day of May A. D. 1962

Marian C. and Nellie G. Todd

of Martin County of Bennett and State of

South Dakota duly made application (No. 768-2) to us ^{Vested Right} for a permit to use 1.7

cubic feet per second of the waters of Lake Creek and tributaries

County of Bennett, State of South Dakota, for irrigation purposes; and

WHEREAS, On the 31st day of May A. D. 1962

^{Vested Right} Permit No. 768-2 was issued to said applicant for the diversion of said water, ^{recognizing} and providing for the XXXXXXXXXXXX

completion of the works of diversion therein described on or before the XXXXXXXXXXXX day of XXXX

XXXXXX A. D. 19XXXX and for the application to beneficial use of said

water on or before the XXXXXX day of XXXX A. D. 19XXXX and,

WHEREAS, On the 25th day of May A. D. 1962

the holder of said permit duly made proof of the completion of adequate works for the diversion of 1.7

cubic feet per second of said waters, as evidenced by our Certificate No. 768-2

dated May 31, 1962 confirming the completion of works of sufficient capacity for

diverting and conveying to the place of intended use 1.7 cubic feet per second of water, with date of

priority of 1898 and xxx and,

WHEREAS, On the 25th day of May A. D. 1962

proof was duly made of the application to beneficial use of 1.7 cubic feet per second of said water;

for irrigation of 119.4 acres in portions of Section 16, 17

and 20, T36N, R37W

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 Harlan C. and Nellie G. Todd vested right
of Martin the holder and owner of said permit No. 768-2
of 1898 to the use of 1.7
a water right, dating from 1898 to the use of 1.7
cubic feet per second of the waters of Lake Creek and tributaries
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 at a point S61° W 1000' from the
NE corner, and a point N4° W 1420' from the SE corner Section 20, T36N,
R37W Sections
and conducted to and upon portions of 16, 17 and 20, T36N, R37W, more specifically
described in the Certificate of Completion of Works

Irrigation
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,
31st May
this sixty-two day of May A. D. Nineteen
Hundred and sixty-two

State Water Resources Commission

By:

Chief Engineer, Executive Officer
J. W. GRIMES

STATE OF SOUTH DAKOTA

Water License No. _____

To _____

Source of Supply _____

County _____

Am't _____ c. f. s.

Point of Diversion _____

Place of Use _____

Purpose _____

Date of Priority _____

Recorded _____

In Book _____ of _____ Page _____

Permit No. 768-2Water Division No. 2 White River Water District**Certificate of Completion of Works**

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That Harlan C. and Nellie G. Toddof Martin County of Bennett, and State of South Dakota, the holder of Vested Right Permit No. 768-2, issued upon Application No. 768-2, bearing date of priority of 1898, authorizing the diversion of1.7 cu. ft. per second of the water of Lake Creek and tributaries County of Bennett, State of South Dakota, at a point S 61° W 1000' from the NE corner, Sec. 20, T36N, R37W; and a point N 4° W 1420' from the SE corner, Sec. 20, T36N, R37W, for irrigationpurposes, have 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 ~~xxx~~ recognized as ~~xxx~~ satisfactory 1.7 cu. ft.~~xxx~~ for diverting and conveying to the place of intended use 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 T36N, R37WSection 16 SE 1/4 SW 1/4 10.0 acresNW 1/4 SE 1/4 24.0 "SW 1/4 SW 1/4 8.0 "SE 1/4 SE 1/4 26.0 "E 1/2 SE 1/2 18.4 "Section 17 SE 1/4 SE 1/4 31.0 "Section 20 NE 1/4 SE 1/4 2.0 "119.4 "Witness my hand this 31st day of May A. D. 1962

State Water Resources Commission

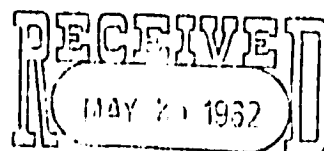
By:

Chief Engineer, Executive Officer
J. W. GRIMES

Location No.

Water Division No.

Water District

STATE 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. Harlan C. Todd & Nellie G. Todd

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. Not previously posted or recorded.

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

Ans. S. 61⁰ 1000' from the NE corner Section 20, T36N R37W and from
Springs in NE 1/4 Sec 20, T 36N R37W

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. Dam as described in the permit approximately 1 1/2 miles of ditches.

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 tracts shown on permit.

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

Ans. Domestic.

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

Ans. 1.7 c.f.s.

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. Original ditch constructed by Arthur Balke (Tuff). Irrigated land
in Section 16 purchased in 1946 and remainder purchased in recent
years up until 1959.

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

Ans. Original ditch from Lake Creek constructed by Arthur Rolfe (Ruff) in 1898. Storage dam constructed in 1947. Irrigation of garden area from spring started in 1895 by Rolfe (Ruff). Water has been used on the acreage shown on application since construction.

(Sign) Michael C. Todd

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 Bennell

State of South Dakota, on this 24th day of May A. D. 1962

Mary Evelyn Bayless
Mary E. Bayless } Witnesses. Marion B. Long
Stanley Parker

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.

Henry Bitter
Martin Rolfe

Location No. -----	PROOF OF APELICATION 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 -----
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COMMISSION
John Garhart, Spearfish
xxxxxxx
Lester Brue, Parker
Carl Cronin, Gettysburg
Lauren A. Davis, Belle Fourche
Milton E. Fischer, Milbank
Richard Lommen, Harrisburg
Clarence D. Mortenson, Hayes
Dick Fisher, Cresbard

South Dakota

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

J. W. Grimes
Chief Engineer
and
Executive Officer

WATER RESOURCES COMMISSION

STATE OFFICE BUILDING

Phone
224-5911 Ext. 343
Area Code 605

PIERRE, SOUTH DAKOTA 57501

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 then 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.

Permit No.	Name	Priority	Sec.Twp.Rge.	Am't	Purpose
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

DATE MICROFILMED

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

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

December 5, 1986

768-2

Hoyt Todd
650 Embar Lane
Lahabra CA 90631

Dear Mr. Todd:

The 1986 Irrigation Water Use Questionnaire as returned by you was not completed.

Actual irrigation water use for 1986 needs to be reported on the questionnaire. Except for the "Water Used" column, all other information needs to be provided. Please complete the enclosed questionnaire as accurately as possible and return by December 31, 1986.

Very truly yours,

John Hatch
JOHN HATCH, Chief Engineer
Water Rights Division
605 773-3252

JH:ks

enclosures

12-12-86

from information received back from Mr. Todd,
his system is a spreader type and should
not have received a questionnaire.
It has been deleted from questionnaire listing.

Equal Opportunity Employer

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

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

September 21, 1988

NOTICE

Todd Hoyt
650 Ember Lane
Lahabra CA 90631

Dear Mr. Hoyt:

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). 768-2 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*
JOHN HATCH, Chief Engineer
Water Rights Division
605 773-3352



THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPHIC IMAGE APPEARING ON THIS SLIDE OF MICROFILM IS AN ACCURATE REPRODUCTION OF THE ORIGINAL RECORD AND WAS MICROFILMED IN THE REGULAR COURSE OF BUSINESS ACCORDING TO THE PROVISIONS OF SOUTH DAKOTA COMPILED LAW 1-7-4. IT IS FURTHER CERTIFIED THAT THE PHOTOGRAPHIC PROCESS USED FOR MICROFILMING OF THE ABOVE RECORDS WAS IN A MANNER AND ON MICROFILM WHICH MEET THE RECOMMENDED REQUIREMENTS OF THE NATIONAL BUREAU OF STANDARDS FOR PERMANENT MICROPHOTOGRAPHIC REPRODUCTIONS.

REDUCTION 35:1 ROLL NO 1147 DATE MICROFILMED 12-1-88 CAMERA OPERATOR Markus Allen

REPORT ON
VESTED RIGHT CLAIM NO. 768-2
TODD HOYT
OCTOBER 18, 1991

Vested Right Claim No. 768-2 was filed on May 25, 1962 for 1.7 cubic feet of water per second (cfs) to irrigate 119.4 acres located in portions of the SW 1/4 & SE 1/4 of Section 16, SE 1/4 of Section 17 and the SE 1/4 of Section 20 all in T36N-R37N. Vested Right Claim No. 768-2 has a priority date of 1898.

An inspection of Vested Right Claim No. 768-2 was conducted on May 23, 1989 for validation purposes. The system was found to be as described on the Vested Right Claim, except now only 103 acres are being irrigated.

The following lands are being irrigated by Vested Right Claim No. 786-2:

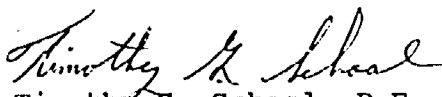
Section 16-T36N-R37N	SE 1/4 SW 1/4--12 Acres
	SW 1/4 SW 1/4-- 5
	SW 1/4 SE 1/4--24
	NE 1/4 SE 1/4--18
	SE 1/4 SE 1/4--13

Section 17-T36N-R37N	SE 1/4 SE 1/4--31
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Total 103 Acres

Conclusion:

1. The project was inspected and found to exist as described, except now only 103 acres are being irrigated.
2. According to the Proof of Application of Water to Beneficial Use the system was constructed during 1898 and water has been put to beneficial use since that time.
3. It is recommended that Vested Right Claim No. 768-2 be validated for 1.47 cfs to irrigate 103 acres.


Timothy G. Schaal, P.E.
Natural Resources Engineer

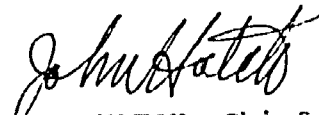
RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF
VESTED WATER RIGHT APPLICATION NO. 768-2, Todd Hoyt

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Environment and Natural Resources concerning validation of Vested Water Right Claim No. 768-2, Todd Hoyt, 650 Ember Lane, Lahabra, CA 90631.

The Chief Engineer is recommending VALIDATION of Claim No. 768-2 for 1.4/ cfs because 1) water has been appropriated as described for irrigation use with a priority date of January 1, 1898, 2) the use has been developed without unlawful impairment of existing rights, 3) the use is a beneficial use and 4) it is in the public interest with the following qualification:

Validation of No. 768-2 is for irrigation of 103 acres in the S1/2 SW1/4, S1/2 SE1/4, NE1/4 SE1/4 Section 16 and the SE1/4 SE1/4 Section 17; all in T36N-R37W.

See report on Claim No. 768-2 for additional information.



JOHN HATCH, Chief Engineer
October 22, 1991



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 22, 1991

NOTICE

TO: Todd Hoyt
650 Ember Lane
Lahabra, CA 90631

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

SUBJECT: Hearing to Consider Validation of Vested Water Right Claim
No. 768-2, Todd Hoyt

A Notice of Intent to Validate Vested Water Right Claim No. 768-2 was published June 8 & 15, 1988 in the Bennett County Booster II. The Division of Water Rights opposed validation of Claim No. 768-2 for purposes of completing an on-site inspection of the claim. The inspection of Claim No. 768-2 was completed on May 23, 1989, by Tim Schaal, staff engineer. A copy of the recommendation of the Chief Engineer and report on the claim are enclosed.

The Water Management Board will consider validation of Claim No. 768-2 at 10:00 am on December 4, 1991, in the Kneip Room, Governor's Inn, 700 West Sioux Ave., Pierre, SD. The agenda time is an estimate.

Pursuant to the findings of the on-site inspection, validation of Claim No. 768-2 is recommended for a diversion rate 1.47 cubic feet of water per second (cfs) from Lake Creek and tributaries to irrigate 103 acres. Following the hearing, the Board is authorized to 1) validate Claim No. 768-2 as recommended for 1.47 cfs to irrigate 103 acres, 2) validate Claim No. 768-2 as licensed prior to the on-site inspection, 3) validate Claim No. 1191-2 based on evidence presented at the public hearing, or 4) defer validation on Claim No. 768-2.

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 for by law.

If you have any questions regarding the validation process, please contact Eric Gronlund at 605 773-3352.

cc: Diane Best, Assistant Attorney General
Fred Cozad, attorney, Martin, SD 57551

CERTIFICATION

I hereby certify that on October 22, 1991 I have personally deposited with the U.S. Mail postage prepaid envelopes containing a Notice of Hearing to Consider Validation of Vested Water Right Claim No. 76.-2, Todd Hoyt addressed as stated below:

Todd Hoyt, 650 Ember Lane, Lahabra, CA 90631.

Fred Cozad, Attorney, Martin, SD 57551.

Sent Inter-office To:

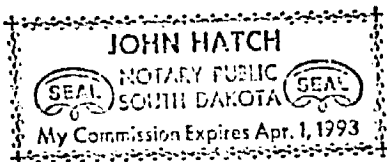
Diane Best, Assistant Attorney General, Capitol Building.

Cheryl F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 23rd day of October, 1991.



John Hatch
Notary Public

Conversation or File Documentation

NAME OF PERSON OR FILE: Raymond Kocer (Tenant)
ADDRESS: Box 388 Martis, SD 57551 COUNTY Bennett
DATE: December 19, 1989 TELEPHONE 685-6680 or 685-6708
RE: Validation of Vested Right Claim No. 768-2

COMMENTS:

On May 23, 1989, I made an investigation of
Vested Right Claim No. 768-2. Mr. Raymond Kocer
(Tenant) accompanied me on the inspection. The
description of the irrigated lands on the original
application and license is wrong. The SE $\frac{1}{4}$ SE $\frac{1}{4}$
and E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 16-T36N-R37W are both listed.

The following lands are being irrigated by
Vested Right Claim No. 768-2.

Section 16-T36N-R37N SE $\frac{1}{4}$ SW $\frac{1}{4}$ - 12 Acres

SW $\frac{1}{4}$ SW $\frac{1}{4}$ - 5

SW $\frac{1}{4}$ SE $\frac{1}{4}$ - 24

NE $\frac{1}{4}$ SE $\frac{1}{4}$ - 18

SE $\frac{1}{4}$ SE $\frac{1}{4}$ - 13

Section 17-T36N-R37N SE $\frac{1}{4}$ SE $\frac{1}{4}$ - 31

103 A

Diversion point from Lake Creek is located
725 ft West and 400 ft South of the NE
Corner of Section 20-T36N-R37W (NE $\frac{1}{4}$ NE $\frac{1}{4}$)

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.

NAME: Jim Schaal

SOUTH DAKOTA

VESTED WATER RIGHT NO. 768-2 FOR IRRIGATION

Date of Receipt of Claim May 25, 1962.

Date of Validation December 4, 1991.

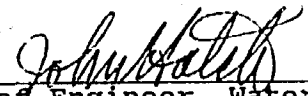
The Chief Engineer, on behalf of the Water Management Board validated Vested Water Right Claim No. 768-2 for irrigation purposes for Todd Hoyt, 650 Ember Lane, Lahabra CA 90631 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 768-2 authorizes diversion of 1.47 cubic feet of water per second from Lake Creek and tributaries at a point in the NE 1/4 NE 1/4 Section 20, to irrigate 103 acres located in portions of the S 1/2 SW 1/4, S 1/2 SE 1/4, NE 1/4 SE 1/4 Section 16, SE 1/4 SE 1/4 Section 17; all in T36N-R37N.
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 - November 31.
3. The priority date of the Vested Water Right is January 1, 1898.
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

Validation of No. 768-2 is for irrigation of 103 acres in the S 1/2 SW 1/4, S 1/2 SE 1/4, NE 1/4 SE 1/4 Section 16 and the SE 1/4 SE 1/4 Section 17; all in T36N-R37W.

WATER MANAGEMENT BOARD

By: 
Chief Engineer, Water Right Division
Department of Environment and Natural Resources

FEB 27 1992
date

STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 768-2 FOR IRRIGATION

(1) Todd Hoyt of 650 Ember Lane, Lahabra, CA 90631 made Application No. 768-2, May 25, 1962 for a vested right claim to appropriate 1.7 cubic feet of water per second from Lake Creek and tributaries, Bennett County, South Dakota for irrigation purposes. Vested Water Right No. 768-2 was validated December 4, 1991 with a priority date of January 1, 1898. 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.

(2) The applicant is entitled to divert 1.47 cubic feet of water per second for beneficial use. The location of the diversion point is 725'W and 400'S of the NE corner of Section 20, T36N, R37W (NE 1/4 NE 1/4)

The location of the irrigated acreage is:

T36N, R37W Section 16	SE 1/4 SW 1/4	12 Acres
	SW 1/4 SW 1/4	5 Acres
	SW 1/4 SE 1/4	24 Acres
	NE 1/4 SE 1/4	18 Acres
	SE 1/4 SE 1/4	13 Acres
Section 17	SE 1/4 SE 1/4	31 Acres
	Total-----	103 Acres

(3) Pursuant to Section 46-5-30.1 Todd Hoyt of 650 Ember Lane, Lahabra, CA 90631 the holder(s) and/or owner(s) of Vested Water Right No. 768-2 is issued a license to appropriate 1.47 cubic feet of water per second from Lake Creek and tributaries with a priority date of January 1, 1898 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. 768-2 and subject to South Dakota State Law.


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

FEB 27 1992



GREAT FACES. GREAT PLACES.

FEB 27 1992

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

768-2

Todd Hoyt
650 Ember Lane
Lahabra, CA 90631

Dear Mr. Hoyt:

The Water Management Board has validated your vested right claim. Enclosed is your Vested Water Right and Water Right License No. 768-2. This validation gives you legal status to your claim.

The diversion rate and the number of acres validated are based on an inspection that was conducted by the Division of Water Rights. If you do not agree with these numbers, please contact us immediately.

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



768-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 6, 1994

768-2

Frad Cozad
Box E
Martin, SD 57551

Dear Mr. Cozad:

Enclosed, as we discussed, is a "Notice of Transfer of Ownership" form for use in filing an ownership change on Vested Right No. 768-2, Hoyt Todd.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads 'Genny McMath'.

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

enclosure

7-108-2

FREDRIC R. COZAD
Attorney at Law
Phone (605) 685 6424
P O Box E
Martin, South Dakota 57551-0110
August 11, 1994



Chief Engineer
Water Rights Division, DENR
523 E. Capitol
Pierre, SD 57501-3181

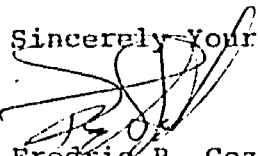
Re: Todd, Water Right #758-2

Dear Sir or Madam:

We have visited concerning this matter several times on the telephone. The Todd family has held the above water right for many, many years. After the parents passed away, ownership of the land was vested in the two sons, Hoyt H. Todd and Harry V. Todd. A few years back some handling in connection with the validation of this right was accomplished, and at that point one of the brothers, Hoyt H. Todd, was looking after the family business, and your office started carrying the name of the water right in Hoyt H. Todd. Recently in a family transfer, full ownership of the Bennett County land became vested in Harry V. Todd and his wife, Sara C. Todd; the title being vested in a trust that they had established.

I called your office to determine the procedure in arranging things so the ownership of the water right was the same as the ownership of the land where the water right was used. You sent me a form to accomplish this. We have completed, the Todds have signed, and I am enclosing the Notice of Transfer of Ownership. Also am enclosing a check in the amount of \$2.50 to take care of the filing fee.

I assume that in the regular course of time we will be receiving confirmation from your office of the fact that this handling has been completed.

Sincerely Yours,

Fredric R. Cozad

FRC/lc
Encs

CC: Harry V. Todd

No. 768-2

Date: 8-11-94

formerly owned by: Hoyt Todd aka Hoyt H. Todd aka Todd Hoyt

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

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

South Dakota Department of Environment and Natural Resources

414251

Pierre, August 16, 19 94

RECEIVED OF Fredric R Cozad, Attorney at Law, Box E, Martin, SD 57551-0110
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>V. Water Right No. 768-2</u>	2	50
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	2 50

By John W. Hark
Chief Engineer



768-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

August 17, 1994

No. 768-2

Fredric R. Cozad
Attorney at Law
Box E
Martin, SD 57551-0110

Dear Mr. Cozad:

Enclosed is a receipt in the amount of \$2.50 which you paid for the transfer of Water Right No. 768-2.

Our records now show Harry V. and Sarah C. Todd as the owners of Water Right No. 768-2.

Sincerely,

Cheryl F. Frost
Secretary
Water Rights Division
(605) 773-3352

enclosure

c: Harry V. and Sara C. Todd

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 768-2
Date: October 1, 2004

I/We request that Vested Water Right No. 768-2

formerly owned by: Harry V Todd & Sara C Todd as trustees of the Todd 1981 Trust

be transferred to: (name & address) South Dakota Department of Game, Fish and Parks;
523 East Capitol Avenue; Pierre, SD 57501

Telephone No. 605-773-3718

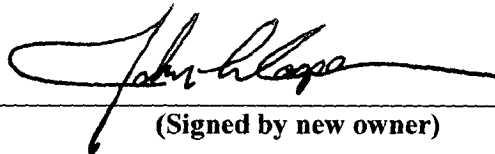
Title to the following described land(s)/property has been transferred as described above:

119.4 acres – portions of the S ½ Section 16; SE ¼ SE ¼ Section 17; NE ¼ SE ¼ Section 20,
all in T36N, R37W

I/We understand that the validity of Vested Water Right No. 768-2 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.

I/We, South Dakota Department of Game, Fish & Parks, 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.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 5, 2004

768-2

John Cooper, Secretary
SD Department of G, F & P
523 E Capitol
Pierre SD 57501

Dear Secretary Cooper:

The "Notice of Transfer of Ownership" form for changing ownership of Vested Water Right No. 768-2 has been received. The transfer has been completed.

The vested right, formerly held by "Harry V Todd & Sara C Todd as Trustees of the Todd 1981 Trust" is now listed in the name of the "South Dakota Department of Game, Fish & Parks".

As long as water is beneficially applied to use as outlined in the vested right, state water laws provide that you have a continuing right to the use of the water.

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

c: Leslie Petersen, G, F & P

NOT TO SCALE

768-2

