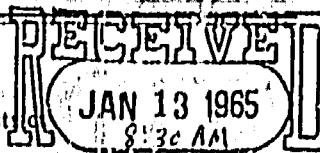


No. 853-2Water Division No. 2 SOUTH CHEYENNE RIVER District
(Blanks to be filled by the Engineer for the W. R. C.)STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

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

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

1. Name of applicant HERBERT J. WASSERBURGER
 Postoffice address ARDMORE, County FALL RIVER, 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)
All Work completed (this application is for a "Vested Right")
 - (b) Cash on hand, \$
 - (c) Treasury stock, \$
 - (d) Bonds to be issued, \$
 - (e) Other resources, \$

2. Name of diversion work Wasserburger Diversion No. 1
2.3 MAXIMUM ALLOWABLE
 3. Amount of water claimed 5 cubic feet per second Not to exceed 3 acre feet per year
 4. Source of water supply Surface water from local watersheds, Duck Creek Drainage
 5. Location of point of diversion From NW Cor. Sec 31-T11S-R4E-BEM. South 30 degrees east
176 rods. (Primary diversion) See remarks of south bank Fall River County.
 6. Annual period or periods during which water is to be used Whenever flow occurs, mainly March to June
 7. To be used for:

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

(a) Number of acres to be irrigated 583 acres.

(b) Legal subdivisions to be irrigated See attached map

(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.) Livestock Water when available.

Location same as No. 5 above.

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

(a) Nature of use Stockwatering when available

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 737-2

8. Estimated cost of work: In excess of \$25,000.00 Construction is complete (vested right)

(a) Head Gates, \$----- (b) Pumping plant, \$-----
(c) Flumming, \$----- (d) Canal-earth, \$----- Rock, \$-----
(e) Other structures \$----- Total, \$-----

9. Description of diversion works:

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

Diversion dam with gravity outlet

II. Dimensions of works.

- (a) Dam: Height 18 feet; length at bottom 70 feet; length at top 450 feet; thickness at bottom 110 feet; thickness at top 10 feet; slope at front water face 3 to 1; slope at back face 2 to 1 material used in construction Earth
- (b) Reservoir: Capacity when filled 0 acre feet. Surface area at highwater mark channel acres.

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

- (c) Head gate: Width Average 12 feet; height 1.5 feet; Material earth
- (d) Canal: Total length 2.0 miles.

LOC. BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER-LINE	GRADE PER MILE
At <u>0 plus 00</u> Mile	<u>1.5</u> feet	<u>10</u> feet	<u>14</u> feet	<u>5.0</u> feet
At <u>8000 ft.</u> mile	<u>1.5</u> feet	<u>10</u> feet	<u>14</u> feet	<u>5.5</u> feet
At <u> </u> Mile	<u> </u> feet	<u> </u> feet	<u> </u> feet	<u> </u> feet
At <u> </u> Mile	<u> </u> feet	<u> </u> feet	<u> </u> feet	<u> </u> feet
At <u> </u> Mile	<u> </u> feet	<u> </u> feet	<u> </u> feet	<u> </u> feet
At <u> </u> Mile	<u> </u> feet	<u> </u> feet	<u> </u> feet	<u> </u> feet

(Give dimensions where reductions in size are made.)

10. Time required for completion of work Already complete years.
11. Time required for complete application of water to the proposed beneficial use (in use) years.
12. Choice of newspaper for publication of notice of intention to appropriate Hot Springs Star, Hot Springs, So. Dak.

STATE OF SOUTH DAKOTA

County of Fall River } ss.

I, Herbert J. Wasserburger, 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 Herbert J. Wasserburger

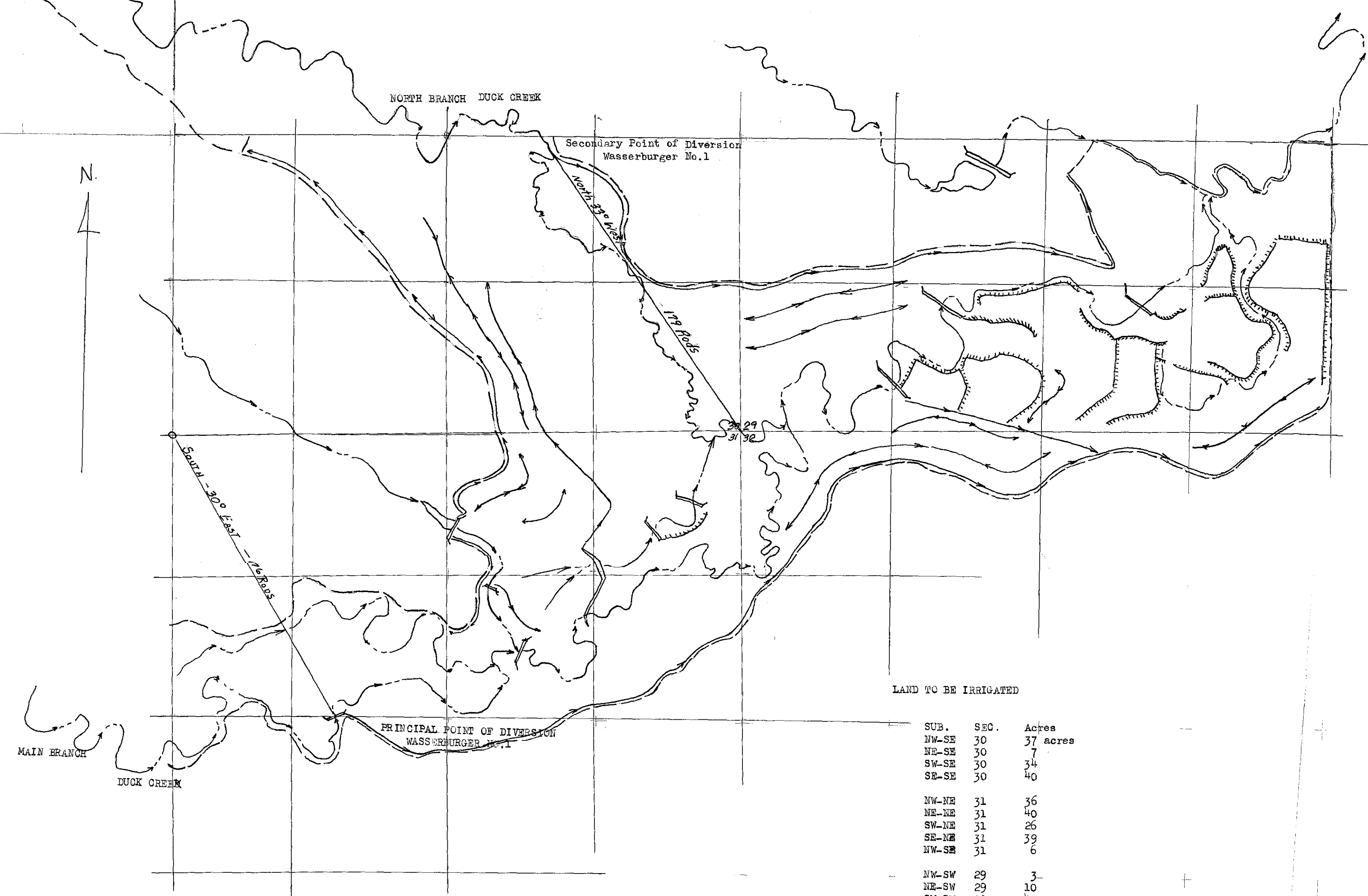
Subscribed and sworn to before me this 9th day of January 1965

Joseph B. D. D.
Notary Public (or other qualified officer.)

*Each diversion must have a headgate or measuring device.

T11S R3E (29, 30, 31, 32) T11S R4E

Blue Portion was Added By:
 Delwin O. Berg, P.E.
 Hydrologist
 8/8/85



LAND TO BE IRRIGATED

SUB.	SEC.	Acres
NW-SE	30	37 acres
NE-SE	30	7
SW-SE	30	34
SE-SE	30	40
NW-NE	31	36
NE-NE	31	40
SW-NE	31	26
SE-NE	31	39
NW-SW	29	3
NE-SW	29	10
SW-SW	29	40
SE-SW	29	40
NW-SE	29	26
NE-SE	29	31
SW-SE	29	40
SE-SE	29	38
NW-NW	32	25
NE-NW	32	14
SW-NW	32	2
NW-NE	32	8
NE-NE	32	5
NE-SW	30	3
NW-SW	30	29
SE-SW	30	4
TOTAL		583 Acres

H. J. WASSERBURGER.

ARDMORE S.D.

WATER USE DEVELOPMENT
 SECTIONS 29, 30, 31, & 32
 T 11 S, R 4 E, B.L.M.

--- CREEK CHANNEL
 --- DITCH
 --- DIKE
 --- BOUNDARY OF IRRIGABLE AREA
 SCALE: Approx. 8" per Mile.

MAP NO 137-2 (APPL NO 853-2)

Remarks by State Water Resources Commission:

"VESTED RIGHT" CLAIMED

STATE OF SOUTH DAKOTA
County of HUGHES ss.

Pierre, South Dakota, APRIL 14, 1965

This is to certify that the foregoing application was received by the Commission at 8:30 o'clock
9 a.m. upon the 13TH day of JANUARY, 1965

State Water Resources Commission

By:

Arthur Jones
Chief Engineer, Executive Officer

Number of permit 853-2

Date of first receipt of application JANUARY 13, 1965

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 1950, 1965

Approved APRIL 14, 1965 Recorded in Book 8 Page 322

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 ~~as soon as possible~~

2nd. The whole of said work is ~~to be~~ completed ~~as soon as possible~~

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

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

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

6th. The amount of the appropriation herein granted shall not exceed 8.3 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 was

and beneficially applied for irrigation on or before JUNE 30, 1955; said water to be used during the following described annual period:

WHenever flow occurs
Witness my hand this 14TH day of APRIL, 1965

State Water Resources Commission

By:

Robert Buines
Chief Engineer, Executive Officer

Certificate of Construction Issued APRIL 14, 1965

Water License Issued APRIL 14, 1965

Remarks by the Applicant:

Primary diversion is from the main channel of Duck Creek. Secondary diversion is North 33 degrees west, 179 rods distant from the S.E. Corner of Section 30, T11S, R1E, BHM on the right bank of the North Branch of Duck Creek.

NN 31°

LANDS TO BE IRRIGATED:
ALL IN T11S R4E

SECTION 29:

NW ⁴ SW ⁴	3	ACRES
NE ⁴ SW ⁴	10	"
SW ⁴ SW ⁴	40	"
SE ⁴ SW ⁴	40	"
NW ⁴ SE ⁴	26	"
NE ⁴ SE ⁴	31	"
SW ⁴ SE ⁴	40	"
SE ⁴ SE ⁴	38	"

SECTION 31:

NW ⁴ NE ⁴	36	ACRES
NE ⁴ NE ⁴	40	"
SW ⁴ NE ⁴	26	"
SE ⁴ NE ⁴	39	"
NW ⁴ SE ⁴	6	"

SECTION 30

NW ⁴ SE ⁴	37	ACRES
NE ⁴ SE ⁴	7	"
SW ⁴ SE ⁴	34	"
SE ⁴ SE ⁴	40	"
NW ⁴ SW ⁴	3	"
NE ⁴ SW ⁴	29	"
SE ⁴ SW ⁴	4	"

SECTION 32

NW ⁴ NW ⁴	25	ACRES
NE ⁴ NW ⁴	14	"
SW ⁴ NW ⁴	2	"
NW ⁴ NE ⁴	8	"
NE ⁴ NE ⁴	5	"

TOTALS 583 ACRES

STATE OF SOUTH DAKOTA

WATER LICENSE No. 853-2

WHEREAS, On the 13th day of January A. D. 1965
Herbert J. Wasserburger

of Ardmore County of Fall River and State of
South Dakota duly made application (No. 853-2) vested right
to us for permit to use 3.3
cubic feet per second of the waters of Duck Creek
County of Fall River, State of South Dakota, for irrigation
purposes; and

WHEREAS, On the 14th day of April A. D. 1965
recognizing
Vested Right / Permit No. 853-2 was issued to said applicant for the diversion of said water, ~~XXXXXX~~ the
completion of the works of diversion therein described ~~XXXXXX~~
and for the application to beneficial use of said
water ~~XXXXXX~~ and
and,

WHEREAS, On the 13th day of January A. D. 1965
the holder of said permit duly made proof of the completion of adequate works for the diversion of 8.3
cubic feet per second of said waters, as evidenced by our Certificate No. 853-2
dated April 14, 1965 confirming the completion of works of sufficient capacity for
diverting and conveying to the place of intended use 3.3 cubic feet per second of water, with date of
priority of 1950 and,

WHEREAS, On the 13th day of January A. D. 1965
proof was duly made of the application to beneficial use of 8.3 cubic feet per second of said water;
for irrigating 583 acres in portions of Sections 29, 30, 31, and 32, T11S, R4E

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 Herbert J. Wasserburger
of Ardmore Vested Right
the holder and owner of said permit No. 853-2
a water right, dating from 1950 to the use of 8.3
cubic feet per second of the waters of Duck Creek
in the County of Fall River and State of South Dakota, or so much thereof as may be
necessary for the purposes hereinafter mentioned, to be diverted at a point in the NE 1/4, SW 1/4, Section 31,
and a point in the NW 1/4, SE 1/4, Section 30, T11S, R4E
and conducted to and upon portions of Sections 29, 30, 31, and 32, T11S, R4E, 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 sur-
face water.

WITNESS, My hand and seal of our office at Pierre, South Dakota.
this 14th day of April A. D. Nineteen
Hundred and Sixty-Five

State Water Resources Commission

By:

J. W. GRIMES
Chief Engineer, Executive Officer

STATE OF SOUTH DAKOTA

Water License No. _____

Source of Supply _____

County _____

C. F. S. _____

Point of Diversion _____

Point of Use _____

Flow _____

Priority _____

Record _____

Book _____ of _____ Page _____

Permit No. 853-2Water Division No. 2 So. Cheyenne River Water District**Certificate of Completion of Works**

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That Herbert J. Wassarburger

of Ardmore, County of Fall River, and State of South Dakota, the holder of Permit No. 853-2, issued upon Application No. 853-2, bearing date of priority of 1950, authorizing the diversion of 8.3 cu. ft. per second of the waters of Duck Creek

County of Fall River, State of South Dakota, at a point in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 31, and a point in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 30, T11S, R4E, 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 ~~known~~ ^{recognized} satisfactory condition for diverting and conveying to the place of intended use _____ 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 T11S, R4E

Section 29	NW $\frac{1}{4}$ SW $\frac{1}{4}$	3.0 acres	Section 30	NW $\frac{1}{4}$ SE $\frac{1}{4}$	37.0 acres
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	10.0 "		NE $\frac{1}{4}$ SE $\frac{1}{4}$	7.0 "
	SW $\frac{1}{4}$ SW $\frac{1}{4}$	40.0 "		SW $\frac{1}{4}$ SE $\frac{1}{4}$	34.0 "
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	40.0 "		SE $\frac{1}{4}$ SE $\frac{1}{4}$	40.0 "
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	26.0 "		NW $\frac{1}{4}$ SW $\frac{1}{4}$	3.0 "
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	31.0 "		NE $\frac{1}{4}$ SW $\frac{1}{4}$	29.0 "
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	40.0 "		SE $\frac{1}{4}$ SW $\frac{1}{4}$	4.0 "
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	38.0 "	Section 32	NW $\frac{1}{4}$ NW $\frac{1}{4}$	25.0 "
Section 31	NW $\frac{1}{4}$ NE $\frac{1}{4}$	36.0 "		NE $\frac{1}{4}$ NW $\frac{1}{4}$	14.0 "
	NE $\frac{1}{4}$ NE $\frac{1}{4}$	40.0 "		SW $\frac{1}{4}$ NW $\frac{1}{4}$	2.0 "
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	26.0 "		NW $\frac{1}{4}$ NE $\frac{1}{4}$	8.0 "
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	39.0 "		NE $\frac{1}{4}$ NE $\frac{1}{4}$	5.0 "
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	6.0 "	Totals.....		583 "

Witness my hand this 14th day of April A. D. 1965

State Water Resources Commission

By: J. W. GRIMES
Chief Engineer, Executive Officer

STATE OF SOUTH DAKOTA
CERTIFICATE OF APPROPRIATION OF WATER

WHEREAS, On the sixteenth day of February A. D., 1955,
Herbert J. Wasserburger of Ardmore, County of
Fall River and State of South Dakota, filed in this office
a petition setting forth facts concerning the appropriation of the waters of a Dry Draw, a tributary of
Hay Creek and Cheyenne River.

WHEREAS, On the 16th day of February A. D., 1955, ~~proof was duly~~
claim was made for 100 acre feet of water annually of waters of said Dry Draw
~~made on the application to beneficial use of~~ cubic feet per second of said water for irrigat-
ing eighty acres in the in the SW 1/4 SE 1/4 of Sec. 30 and the NW 1/4 of the NE 1/4 of
Sec. 31, all in T 11S and R 4E, Fall River Co.

NOW, THEREFORE, By virtue of the authority vested in me by the laws of the State of South Dakota, I
hereby grant and confirm to Herbert J. Wasserburger of Ardmore,
South Dakota, the holder and owner of Location Notice No. 1018-2,
County, a water right dating from November 5, 1949, to the use of 100 acre ft. annually
cubic feet per second of the waters of a Dry Draw, a tributary of Hay Creek in the County of
Fall River and State of South Dakota, or so much thereof as may be necessary for the
as described in the Location Notice as the NW 1/4 NE 1/4 25--11S-3E
purposes hereinbelow mentioned, to be diverted at the point designated herein, and conducted to and upon lands
in the as described above

livestock and
B. H. M., for the purposes 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 regula-
tions 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 the seal of my office at Pierre, South Dakota,
this 24th day of February A. D., 1955

Dean W. Loucks
DEAN W. LOUCKS, State Engineer.

D&L:RV

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. Herbert J. Wasserburger, Rancher, Ardmore, Fall River County
/ South Dakota

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

Ans.

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

Ans. (Vested right)

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

Ans. Duck Creek Drainage. Principal point of Diversion. South 30 degrees east from
the NW Cor. of Sec. 31-T11S-R4E-BHM, on the south bank of the Main Branch of Duck
Creek. Also see below.

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. Ditch capacity & works are adequate to carry maximum (1749 A.F.) water
allowable during annual period of use. Wasserburger Diversion No. 1 has been in
use since 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. See attached map and listing of acreages Irrigation only

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.

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. Vested right (Application for permit attached)

Secondary diversion is from the North Branch of Duck Creek, North 33 degrees
West, 179 rods distant from the South East Corner of Section 30, T11S, R4E BHM
on the left bank.

Acre to be irrigated as shown on map submitted herewith is partially covered
by a water right as recorded in Book 4 (Miscellaneous) on page 292 thereof and
filed with the Register of Deeds of Fall River County, South Dakota on April
7th, 1908

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

Ans. Whenever flow occurs during annual period, by gravitational means, through a system of ditches and dikes, in the amount available, not to exceed the maximum allowable of 1749 A.F. DIVERSION COMPLETED 1950

(Sign) *William J. ...*

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 Hot Springs, County of Fall River

State of South Dakota, on this 9th day of January A. D. 1965
Della E. ... } Witnesses
Charles ... }
Joseph ... 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

John E. ...

Location No.	
PROOF OF APPLICATION OF WATER TO BENEFICIAL USE	
PETITION OF HOLDER	
Amount of Water	25 c. f. s.
Source	Duck Creek Watershed
County	Fall River
Purpose	Irrigation
Place of Use	Sections 29-30-31-32
T11S-24E-22W, Fall River Co. S. Dak.	
Date of recording	
Received and filed	

Water Rights Division - DWR

File No. 853-2

Conversation or File Documentation

NAME OF PERSON OR FILE: Herbert J. Wasserburger

ADDRESS: Hrdmore, S.D. COUNTY Fall River

DATE: Feb 7, 1985 TELEPHONE _____

RE: Location Notices 1015-2, 1016-2, & 1018-2

COMMENTS:

The above Location Notices were found in the
microfilm file. The notices are the basis for vested
Right 853-2 and should be part of that file

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

4/82

NAME: Delvin H. Gray, P.E.
Hydrologist

LOCATION NOTICE

Fall River County
County

1015-2
Dry Draw Number

Program Year

ACP Farm Serial No.

KNOW ALL MEN BY THESE PRESENTS:

That Herbert J Wasserburger
Whose post office is Ardmore, South Dakota, a citizen of the United State, above the age of 21 years, being in possession of the land covered by the above ACP farm serial number, of which the land upon which the works described below are to be constructed is a part, in Fall River County, South Dakota, availing himself of the right granted him under the provisions of Section 61.0133 South Dakota Code of 1939, has located and claims the right to construct a certain dam across a dry draw situated in the SE 1/4 of the NW 1/4 of Section 31 Township 11 Range 4, and has located and claims the right to construct ditches and flumes for the purpose of directing flood waters from said dam for irrigation of the land first above described and for Live Stock Purposes, and claims the right of way across any land for the purpose of conveying water for said purposes.

Said locator claims for the above purpose 76 acre feet of water annually.

The location of the point of diversion of the reservoir is as follows:

From the SE corner of Sec 31, T11, R4 80 rods north and 140 rods west

The ditch will run in a north easterly direction to and on said land for distance of 6400 feet.

Said location was made on the 2nd day of November 1949.
Witness my hand and seal this 2nd day of November 1949.

s/Herbert Wasserburger
Locator

Herewith is enclosed one dollar for filing in the State Engineer's Office as required under Section 55.1806 of the South Dakota Code of 1939.

STATE OF SOUTH DAKOTA,)
County of Fall River) SS.

On the 2 day of Nov, 19 49, before me John E. Caylor, a Notary Public in and for the County and State aforesaid, personally appeared Herbert Wasserburger to me personally known to be the person who executed the foregoing instrument and acknowledged that he executed the same for the use and purposes therein set forth.

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

s/ John E. Caylor
Notary Public

My commission expires _____.

I hereby certify that the above is a full, true and correct copy of a Location Notice filed in this office. Original Microfilm copy on Roll # 1.

John Hatch 2-15-85
CHIEF ENGINEER (date)

Fall River County
County

LOCATION NOTICE

1016-2
Dry Draw Number

Program Year

ACP Farm Serial No.

KNOW ALL MEN BY THESE PRESENTS:

That Herbert T Wasserburger
Whose post office is Ardmore, South Dakota, a citizen of the
United State, above the age of 21 years, being in possession of the land covered
by the above ACP farm serial number, of which the land upon which the works
described below are to be constructed is a part, in Fall River County,
South Dakota, availing him self of the right granted him under the
provisions of Section 61.0133 South Dakota Code of 1939, has located and claims
the right to construct a certain dam across a dry draw situated in the NW 1/4
of the SE 1/4 of Section 30 Township 11 Range 4, and has located
and claims the right to construct ditches and flumes for the purpose of directing
flood waters from said dam for irrigation of the land first above described
and for Live Stock Purposes, and claims the right of way across any land for
the purpose of conveying water for said purposes.

Said locator claims for the above purpose 65 acre feet of water
annually.

The location of the point of diversion of the reservoir is as follows:

From the (illegible) corner of sec 30 T11 R4 166 rods south and 95
rods west

The ditch will run in a easterly direction to and
on said land for distance of 5500 feet.

Said location was made on the Nov 2 day of November 19 49.
Witness my hand and seal this Nov 2 day of November 19 49.

s/Herbert Wasserburger
Locator

Herewith is enclosed one dollar for filing in the State Engineer's Office as
required under Section 55.1806 of the South Dakota Code of 1939.

STATE OF SOUTH DAKOTA,)
) SS.
County of Fall River)

On the 2 day of Nov, 19 49, before me John
E. Caylor, a Notary Public in and for the County and State
aforesaid, personally appeared Herbert Wasserburger to me personally
known to be the person who executed the foregoing instrument and acknowledged
that he executed the same for the use and purposes therein set forth.

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

s/John E Caylor
Notary Public

My commission expires .

I hereby certify that the above is a full, true and correct copy of a Location
Notice filed in this office. Original Microfilm copy on Roll # 1.

John Hatch 2-15-85
JOHN HATCH, Chief Engineer (date)

LOCATION NOTICE

1018-2

CountyDry Draw NumberProgram YearACP Farm Serial No.

KNOW ALL MEN BY THESE PRESENTS:

That Herbert J. Wasserburger
 Whose post office is Ardmore, South Dakota, a citizen of the
 United State, above the age of 21 years, being in possession of the land covered
 by the above ACP farm serial number, of which the land upon which the works
 described below are to be constructed is a part, in Fall River County,
 South Dakota, availing him self of the right granted him under the
 provisions of Section 61.0133 South Dakota Code of 1939, has located and claims
 the right to construct a certain dam across a dry draw situated in the NW 1/4
 of the NE 1/4 of Section 25 Township 11 Range 3, and has located
 and claims the right to construct ditches and flumes for the purpose of directing
 flood waters from said dam for irrigation of the land first above described
 and for Live Stock Purposes, and claims the right of way across any land for
 the purpose of conveying water for said purposes.

Said locator claims for the above purpose 100 acre feet of water
 annually.

The location of the point of diversion of the reservoir is as follows:

From the NE corner of Sec 25 T11 E 3 35 rods south and 90 rods west

The ditch will run in a South Easterly direction to and
 on said land for distance of 5500 feet.

Said location was made on the 2nd day of November 19 49.
 Witness my hand and seal this 2nd day of November 19 49.

s/Herbert Wasserburger
 Locator

Herewith is enclosed one dollar for filing in the State Engineer's Office as
 required under Section 55.1806 of the South Dakota Code of 1939.

STATE OF SOUTH DAKOTA,)
) SS.
 County of Fall River)

On the 2 day of Nov, 19 49, before me John
E. Caylor, a Notary Public in and for the County and State
 aforesaid, personally appeared Herbert Wasserburger to me personally
 known to be the person who executed the foregoing instrument and acknowledged
 that he executed the same for the use and purposes therein set forth.

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

s/John E Caylor
 Notary Public

My commission expires .

I hereby certify that the above is a full, true and correct copy of a Location
 Notice filed in this office. Original Microfilm copy on Roll # 1.

John Hatch 2-15-85
 JOHN HATCH, Chief Engineer (date)

1018-2

RECEIVED

FEB 16 1953

OFFICE OF STATE ENGINEER
PIERRE, SOUTH DAKOTA

PETITION FOR A WATER RIGHT

A. J. BLACK, PETITIONER OF THE STATE OF SOUTH DAKOTA

Be it remembered and respectfully petitioned the State Engineer of the State of South Dakota as follows:

1. That to wit the name and holder of water rights under SEC 31, 0131 as hereinafter described.
2. That notices of appropriation were posted on November 2, 1949 and filed for record on November 3, 1949 with the Register of Deeds of Fall River County, South Dakota and recorded in Book 27 of Miscellaneous on pages 62, 629 and 431.
3. That the point at which water is diverted for the use hereinafter described is located at the southeast corner of the NW 1/4 of Section 25 in Township 11 South of Range 4 East of the Black Hills Meridian in Fall River County, South Dakota. That the source of water for said diversion point is runoff from melting snow and heavy rains. Said runoff water is first used as required by the Sooke Ranch, and excess water, if any, is delivered to said diversion point. The petitioner may then use such excess water. No one connected with the Sooke Ranch shall be responsible for any portion of the water system herein described. Petitioner agrees that any water right he may own or hold as herein described is not transferable without the consent of John Sooke of Pierre, South Dakota, or his heirs, successors or assigns.
4. That the beneficial use to which the water has been and will be applied is for livestock watering and for irrigation. That the legal description of the land irrigated is SW 1/4, SE 1/4 of Section 30 and the NW 1/4, NE 1/4 of Section 31, all in Township 11 South of Range 4 East of the Black Hills Meridian in Fall River County, South Dakota.

WHEREFORE, your petitioner prays that a certificate shall be issued to him, signed by the State Engineer, under the seal of his office, granting to said petitioner under the laws of South Dakota the water right above described, which water right shall give your petitioner a right of way through and over the following described lands in Fall River County, South Dakota, for the purpose of conveying water by means of a ditch:

NW 1/4, NE 1/4 and SE 1/4, NE 1/4 of Section 25, Township 11 South, Range 4 East; and NW 1/4, NE 1/4 of Section 30, Township 11 South, Range 4 East of the Black Hills Meridian.

Dated at Ardmore, South Dakota, this 14th day of December, 1944.

Robert J. Wassenhagen
PETITIONER

WITNESSED BY:

Robert J. Wassenhagen

W. C. Wilson

STATE OF SOUTH DAKOTA
COUNTY OF FALL RIVER

} SS.

ROBERT J. WASSENHAGEN, being first duly sworn, deposes and says that he is the petitioner above named; that he has read the above and foregoing Petition and knows the contents thereof, and that the same is true to the best of his knowledge, information and belief.

Robert J. Wassenhagen

Subscribed and sworn to before me this 14th day of December, 1944.

Allen G. Wilson
NOTARY PUBLIC

Water Rights Division - DWR
Conversation or File Documentation

Vested Right
File No. 853-2

NAME OF PERSON OR FILE: Herbert J. & Vincent Wasserburger
ADDRESS: Box 83, Ardmore, SD 57715 COUNTY Fall River
DATE: August 8, 1985 TELEPHONE _____
RE: Inspection of Vested Right 853-2

COMMENTS:

I discussed and rechecked Vested Right 853-2 with
V. Wasserburger on July 24, 1985. It was discovered
that Location Notices 1015-2, 1016-2 and 1018-2 are
the basis for the spreader system
the water license for Vested Right 853-2 should be
reissued and the three Location Notices incorporated.
The priority date should be changed to November 2, 1929.
A third diversion point should be added: S57°W
108 Rods from the NE corner of section 25, T11S, R3E.
The irrigated acres should remain the same.

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: Alvin H. Berg, P.E.
Hydrologist

State of South Dakota

Water License No. 853-2

REISSUANCE OF VESTED RIGHT

(1) Herbert J. Wasserburger

of Box 83, Ardmore, South Dakota was issued Vested Right Water License No. 853-2

made Application No. _____ April 14, 1965 for a ^{right} ~~water permit~~ to appropriate

8.3 cubic feet per second of water from Duck Creek

Fall River County, South Dakota for irrigation purposes.

Vested Right License

Permit No. 853-2, with a priority date of 1950

was ~~approved~~ ^{recognizing} and issued to applicant(s) for diversion of water ~~with~~ construction of the described

water supply system to be completed on or before _____ and for the application to beneficial use of said

water on or before _____.

Vested Right Water License No. 853-2 Dated April 14, 1965 was issued recognizing the diversion of 8.3 cfs from Duck Creek to irrigate 583 acres. On July 24, 1985 inspection of the system, it was discovered that Location Notice Nos. 1015-2, 1016-2 and 1018-2 were the basis for the spreader system recognized under Vested Right No. 853-2. Based upon this inspection, Location Notice Nos. 1015-2, 1016-2 and 1018-2 are being incorporated into this Vested Right Water License. A third diversion point is recognized and a November 2, 1949 priority date will be retained.

and

(2) It is certified that the application has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 8.3 cubic feet per second of water

for beneficial use. The location of the diversion point(s) is are N33°W 179 rods from the SE

Section 30, S37°E 176 rods from the NW corner Section 31, T11S, R4E and

S57°W 108 rods from the NE corner of Section 25, T11S, R3E

and

(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to the following extent, to irrigate the following acres all in T11S, R4E

<u>Section 29</u>	<u>NW 1/4 SW 1/4</u>	<u>2.0 acres</u>	<u>Section 30</u>	<u>NW 1/4 SE 1/4</u>	<u>37.0 acres</u>
	<u>NE 1/4 SW 1/4</u>	<u>10.0 "</u>		<u>NE 1/4 SE 1/4</u>	<u>7.0 "</u>
	<u>SW 1/4 SW 1/4</u>	<u>40.0 "</u>		<u>SW 1/4 SE 1/4</u>	<u>34.0 "</u>
	<u>SE 1/4 SW 1/4</u>	<u>40.0 "</u>		<u>SE 1/4 SE 1/4</u>	<u>40.0 "</u>
	<u>NW 1/4 SE 1/4</u>	<u>26.0 "</u>		<u>NW 1/4 SW 1/4</u>	<u>3.0 "</u>
	<u>NE 1/4 SE 1/4</u>	<u>31.0 "</u>		<u>NE 1/4 SW 1/4</u>	<u>29.0 "</u>
	<u>SW 1/4 SE 1/4</u>	<u>40.0 "</u>		<u>SE 1/4 SW 1/4</u>	<u>4.0 "</u>
	<u>SE 1/4 SE 1/4</u>	<u>38.0 "</u>	<u>Section 32</u>	<u>NW 1/4 NW 1/4</u>	<u>25.0 "</u>
<u>Section 31</u>	<u>NW 1/4 NE 1/4</u>	<u>36.0 "</u>		<u>NE 1/4 NW 1/4</u>	<u>14.0 "</u>
	<u>NE 1/4 NE 1/4</u>	<u>40.0 "</u>		<u>SW 1/4 NW 1/4</u>	<u>2.0 "</u>
	<u>SW 1/4 NE 1/4</u>	<u>26.0 "</u>		<u>NW 1/4 NE 1/4</u>	<u>8.0 "</u>
	<u>SE 1/4 NE 1/4</u>	<u>39.0 "</u>		<u>NE 1/4 NE 1/4</u>	<u>5.0 "</u>
	<u>NW 1/4 SE 1/4</u>	<u>6.0 "</u>		<u>TOTAL</u>	<u>583 acres</u>

(4) Pursuant to §46-5-30.1 Herbert J. Wasserburger
of Box 83, Ardmore SD 57715
Vested Right
the holder(s) and/or owner(s) of Water Permit No. 853-2 is issued a license to appropriate water, the right to use
8.3 cubic feet per second of water from Duck Creek with a priority date
of November 2, 1949 from the location specified in (2) of this license. The water to be
conducted to and upon lands specified in (3) of this license for the purpose of irrigation

This license is subject to any limitations or qualifications listed in Vested Right 853-2 and subject
to South Dakota State Law.

John H. H. H.
Chief Engineer, Water Rights Division
Department of Water and Natural Resources

DEC 20 1985

LOCATION NOTICE

Fall River County
County

1015-2
Dry Draw Number

Program Year

ACP Farm Serial No.

KNOW ALL MEN BY THESE PRESENTS:

That Herbert J Wasserburger
whose post office is Ardmore, South Dakota, a citizen of the
United State, above the age of 21 years, being in possession of the land covered
by the above ACP farm serial number, of which the land upon which the works
described below are to be constructed is a part, in Fall River County,
South Dakota, availing himself of the right granted him under the
provisions of Section 61.0133 South Dakota Code of 1939, has located and claims
the right to construct a certain dam across a dry draw situated in the SE 1/4
of the NW 1/4 of Section 31 Township 11 Range 4, and has located
and claims the right to construct ditches and flumes for the purpose of directing
flood waters from said dam for irrigation of the land first above described
and for Live Stock Purposes, and claims the right of way across any land for
the purpose of conveying water for said purposes.

Said locator claims for the above purpose 75 acre feet of water
annually.

The location of the point of diversion of the reservoir is as follows:

From the SE corner of Sec 31, T11, R4 80 rods north and 140 rods west

The ditch will run in a north easterly direction to and
on said land for distance of 6400 feet.

Said location was made on the 2nd day of November 1949.
Witness my hand and seal this 2nd day of November 1949.

s/Herbert Wasserburger
Locator

Herewith is enclosed one dollar for filing in the State Engineer's Office as
required under Section 55.1806 of the South Dakota Code of 1939.

STATE OF SOUTH DAKOTA,)
County of Fall River) SS.

On the 2 day of Nov, 19 49, before me John
E. Caylor, a Notary Public in and for the County and State
aforesaid, personally appeared Herbert Wasserburger to me personally
known to be the person who executed the foregoing instrument and acknowledged
that he executed the same for the use and purposes therein set forth.

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

s/ John E. Caylor
Notary Public

My commission expires _____.

I hereby certify that the above is a full, true and correct copy of a Location
Notice filed in this office. Original Microfilm copy on Roll # 1.

John Hatch 2-15-85
CHIEF ENGINEER (date)

L

LOCATION NOTICE

Fall River County
County

1016-2
Dry Draw Number

Program Year

ACP Farm Serial No.

KNOW ALL MEN BY THESE PRESENTS:

That Herbert T Wasserburger
whose post office is Aidmore, South Dakota, a citizen of the
United State, above the age of 21 years, being in possession of the land covered
by the above ACP farm serial number, of which the land upon which the works
described below are to be constructed is a part, in Fall River County,
South Dakota, availing him self of the right granted him under the
provisions of Section 61.0133 South Dakota Code of 1939, has located and claims
the right to construct a certain dam across a dry draw situated in the NW 1/4
of the SE 1/4 of Section 30 Township 11 Range 4, and has located
and claims the right to construct ditches and runes for the purpose of directing
flood waters from said dam for irrigation of the land first above described
and for Live Stock Purposes, and claims the right of way across any land for
the purpose of conveying water for said purposes.

Said locator claims for the above purpose 65 acre feet of water
annually.

The location of the point of diversion of the reservoir is as follows:

From the (illegible) corner of sec 30 T11 R4 166 rods south and 95
rods west

The ditch will run in a easterly direction to and
on said land for distance of 5500 feet.

Said location was made on the Nov 2 day of November 19 49.
Witness my hand and seal this Nov 2 day of November 19 49.

s/Herbert Wasserburger
Locator

Herewith is enclosed one dollar for filing in the State Engineer's Office as
required under Section 55.1806 of the South Dakota Code of 1939.

STATE OF SOUTH DAKOTA.)
) SS.
County of Fall River)

On the 2 day of Nov, 19 49, before me John
E. Caylor, a Notary Public in and for the County and State
aforesaid, personally appeared Herbert Wasserburger to me personally
known to be the person who executed the foregoing instrument and acknowledged
that he executed the same for the use and purposes therein set forth.

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

s/John E Caylor
Notary Public

My commission expires _____.

I hereby certify that the above is a full, true and correct copy of a Location
Notice filed in this office. Original Microfilm copy on Roll # 1.

John Hatch 2-15-85
JOHN HATCH, Chief Engineer (date)

LOCATION NOTICE

1018-2

County

Dry Draw Number

Program Year

ACP Farm Serial No.

KNOW ALL MEN BY THESE PRESENTS:

That Herbert J. Wasserburger
 whose post office is Ardmore, South Dakota, a citizen of the
 United States, above the age of 21 years, being in possession of the land covered
 by the above ACP farm serial number, of which the land upon which the works
 described below are to be constructed is a part, in Fall River County,
 South Dakota, availing him self of the right granted him under the
 provisions of Section 61.0133 South Dakota Code of 1939, has located and claims
 the right to construct a certain dam across a dry draw situated in the NW 1/4
 of the NE 1/4 of Section 25 Township 11 Range 3, and has located
 and claims the right to construct ditches and flumes for the purpose of directing
 flood waters from said dam for irrigation of the land first above described
 and for Live Stock Purposes, and claims the right of way across any land for
 the purpose of conveying water for said purposes.

Said locator claims for the above purpose 100 acre feet of water
 annually.

The location of the point of diversion of the reservoir is as follows:

From the NE corner of Sec 25 T11 E 3 35 rods south and 90 rods west

The ditch will run in a South Easterly direction to and
 on said land for distance of 3500 feet.

Said location was made on the 2nd day of November 19 49.
 Witness my hand and seal this 2nd day of November 19 49.

s/Herbert Wasserburger
 Locator

Herewith is enclosed one dollar for filing in the State Engineer's Office as
 required under Section 55.1806 of the South Dakota Code of 1939.

STATE OF SOUTH DAKOTA,)
) SS.
 County of Fall River)

On the 2 day of Nov, 19 49, before me John
E. Caylor, a Notary Public in and for the County and State
 aforesaid, personally appeared Herbert Wasserburger to me personally
 known to be the person who executed the foregoing instrument and acknowledged
 that he executed the same for the use and purposes therein set forth.

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

s/John E Caylor
 Notary Public

My commission expires _____.

I hereby certify that the above is a full, true and correct copy of a Location
 Notice filed in this office. Original Microfilm copy on Roll 1.

J. H. Hall 2-15-85
 Notary Public (date)

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

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

Water Rights Division
605 773-3352

DEC 20 1985

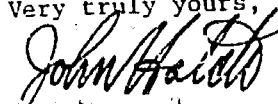
Herbert J Wasserburger
Box 87
Ardmore SD 57715

Dear Mr. Wasserburger:

Enclosed is your Water Right License No. 853-2. The water license has been reissued to the extent of what is actually being used. The relicense is based on a July 24, 1985 inspection of your water use system.

If you have any questions concerning the enclosed Water License, please contact us.

Very truly yours,



JOHN HATFIELD, Chief Engineer
Water Rights Division

JH: ks

enclosure

 **Department of
Water & Natural Resources**

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

853-2
1193-2

September 1, 1988

Wedmore Law Office
Box 2183
Rapid City, SD 57709

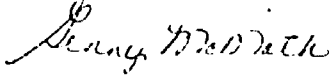
Attention: Marge

Dear Marge:

Enclosed, as we discussed, are copies of Vested Water Right Claim Nos. 853-2 and 1193-2. No. 853-2 is currently listed under the name of Herbert J Wasserburger, and No. 1193-2 is listed under the name of Herbert and Gertrude Wasserburger.

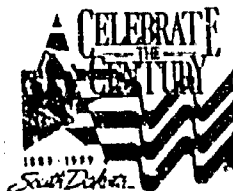
If you have any questions, please contact us.

Sincerely,



GENNY MCMATH
Natural Resources Analyst
605 773-3352

enclosures



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

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

September 21, 1988

NOTICE

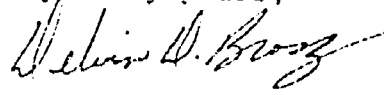
Herbert J Wasserburger
Box 83
Ardmore SD 57715

Dear Mr. Wasserburger:

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). 853-2 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



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

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

December 1, 1988

Vested Water Right
Claim No. 853-2

Herbert J Wasserburger
Box 83
Ardmore SD 57715

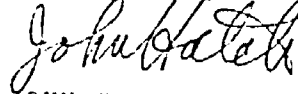
Dear Mr. Wasserburger:

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

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

If we can answer any questions, please contact us.

Very truly yours,



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

cc: Bruce Laymon, Bureau of Reclamation



Conversation or File Documentation

NAME OF PERSON OR FILE: Herbert J. WasserburgerADDRESS: Box 83, Ardmore, SD 57715COUNTY Fall RiverDATE: June 8, 1989

TELEPHONE _____

RE: Validation of Vested Right Claim No. 853-2

COMMENTS:

I discussed this claim with Vincent Wasserburger on May 30, 1989. I had previously inspected this system in August, 1985. Mr. Wasserburger stated that nothing had changed since the 1985 inspection.

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

4/82

NAME: Delwin D. Bragg, P.E.
Hydrologist



Department of Water & Natural Resources

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

May 11, 1989

1193-2, 853-2

NOTICE

TO: Herbert Wasserburger
Box 83
Ardmore, SD 57715

FROM: JOHN HATCH, CHIEF ENGINEER
Water Rights Division
(605)773-3352

SUBJECT: Shut Off Order for Junior Water Rights Upstream of
Angostura Irrigation District

Effective May 19, 1989, you are ordered to cease diversions of water under Water Right Nos. 853-2 and 1193-2. The priority date for your water rights is junior to the April 11, 1941 priority date for Angostura Irrigation District Water Right No. 579-2.

The Angostura Irrigation District's water supply is as follows:

May 2, 1989	24,673 acre feet available for irrigation at elevation 3173.4 ft. msl
-------------	--

The Irrigation District needs 45,000 acre feet per year for irrigation.

One fill of Angostura reservoir is authorized per year. The District has agreed to allow junior priority irrigation upstream, if the reservoir fills to elevation 3,183.7 ft. msl, 3.5 feet below full elevation (3187.2 ft msl). If the reservoir fills to 3,183.7 ft. msl, the shutoff order will be rescinded. Any releases by the District for irrigation will be included in the 3183.7 ft. msl. calculation.

If you have any questions, please contact Jim Winterton (605 773-3352).



L

 **Department of
Water & Natural Resources**

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

March 19, 1990

1193-2
853-2

NOTICE

TO: Herbert Wasserburger
Box 83
Ardmore, SD 57715

FROM: JOHN HATCH, CHIEF ENGINEER
Water Rights Division
(605)773-3352

John Hatch

SUBJECT: Shut Off Order for Junior Water Rights Upstream of
Angostura Irrigation District

This is a follow-up notice to the May 10, 1990 notice that you received ordering you to cease diversion of water under Water Right Nos. 853-2 and 1193-2. You are reminded that the order is still in effect and will remain in effect until Angostura Reservoir has filled. The May 10, 1989 order stated that the order was effective until the reservoir had reached an elevation of 3183.7 feet above mean sea level (msl). This has been changed and the order will remain in effect until the reservoir has reached the full elevation of 3187.2 msl. On March 6, 1990 the reservoir elevation was 3171.1 msl.

All water rights above Angostura Reservoir will be monitored until the reservoir has filled. I am asking for your cooperation in complying with this order. The Water Management Board can suspend any water right that does not comply. The option also exists in that a water use control area can be established to enforce compliance.

If you have any questions, please contact Del Brosz (605) 773-3352).

 **Department of
Water & Natural Resources**
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3781

March 14, 1991

853-2
2115-2

NOTICE

TO: Herbert J. Wasserburger
Box 83
Ardmore, SD 57715

FROM: *for* JOHN HATCH, CHIEF ENGINEER
Water Rights Division
(605) 773-3352

Delvin D. Brosz

SUBJECT: Reminder of Shut Off Order for Junior Water
Rights Upstream of Angostura Reservoir

This is a reminder that the March 19, 1990 notice you received ordering you to cease diversion under your water right is still in effect and will remain in effect until Angostura Reservoir has filled. The elevation of Angostura Reservoir when full is 3187.2 feet above mean sea level (msl). On February 27, 1991 the reservoir elevation was 3170.25 msl.

All water rights above Angostura Reservoir will be monitored until the reservoir has filled. I am again asking for your cooperation in complying with this order.

If you have any questions, please contact Mark Rath or Del Brosz (605) 773-3352.

South Dakota

GREAT FACES. GREAT PLACES.

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING

523 EAST CAPITOL

PIERRE SOUTH DAKOTA 57501-3181

May 20, 1991

853-2
2115-2

RESCISSION OF SHUTOFF ORDER

TO: Herbert J. Wasserburger
Box 83
Ardmore, SD 57715

FROM: *for* JOHN HATCH, CHIEF ENGINEER *Delvin D. Brosz*
Water Rights Division
(605) 773-3352

SUBJECT: Rescission of Shut Off Order for Junior Water
Rights Upstream of Angostura Reservoir for 1991
Irrigation Season.

The recent rains in the Upper Cheyenne River Basin have provided large inflows for Angostura Reservoir. Now that Angostura Reservoir has filled, the shutoff order for all junior water rights upstream of the reservoir is rescinded for the 1991 irrigation season.

If you have any questions, please contact Mark Rath or Del Brosz (605) 773-3352.

1002

CERTIFICATION

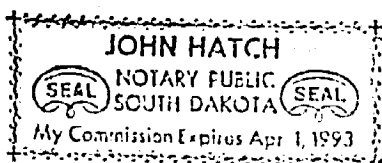
I hereby certify that on March 25, 1992, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 25, 1992, regarding Shut Off Order for Junior Water Right Holders Upstream of the Angostura Irrigation District addressed as stated on the attached list:

Cheryl F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
COUNTY OF HUGHES) SS

Sworn to, before me, this 26th day of March, 1992.



John Hatch
Notary Public



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

March 25, 1992

392-2
(853-2)
2115-2

NOTICE

TO: VINCENT M WASSERBURGER
BOX 83
ARDMORE, SD 57715

FROM: JOHN HATCH, CHIEF ENGINEER
Water Rights Division
(605) 773-3352

SUBJECT: Shut Off Order for Junior Water Right Holders Upstream
of the Angostura Irrigation District.

Please be advised that effective immediately no diversions of water will be allowed under your Water Right Nos. 392-2, 853-2, 2115-2 which are junior in priority to Water Right No. US579-2 held by the US Bureau of Reclamation for the Angostura Irrigation District.

On March 20, 1992 the water elevation in Angostura Reservoir was 4.4 feet and 19,164 acre feet below full. Reservoir storage levels will be closely monitored. If inflows increase such that the reservoir will fill, this shut off order will be rescinded at that time.

All water rights above Angostura Reservoir will be monitored until the reservoir has filled. I am asking for your cooperation in complying with this order.

If you have any questions, please contact Del Brosz or Mark Rath, Division of Water Rights, 523 E Capitol Ave, Pierre, SD 57501. Phone (605) 773-3352.

PERMIT NO	FIRST NAME	LAST NAME	ADDRESS 1	ADDRESS 2	CITY	STATE	ZIPCODE	PERMID	PERMIT
657 2		A & T CATTLE CO	TCM LANDERS	ST RT	HOT SPRINGS	SD	57141		
702 2	RICHARD	ANDERSON	A ELLIS ANDERSON	BOX 59 BOX 18	FICKMONT	SD	57135		
1011 2	JOHN R	ANDERSON		BOX 59 BOX 20	FICKMONT	SD	57135		
114 2		R & H RANCH INC	R F CHILDERS	PO BOX 723	FICKMONT	SD	57135		
521 2		PAUL EPUS		BOX 417	FICKMONT	SD	57135		
1005 2	LESTER I	BARLEY		BOX 740	FICKMONT	SD	57135		
1001 2	NICK/MICHAEL	BOONER	ANICK BOONER JR	HC 45 BOX 24	OFERICHS	SD	57161	1731 2	
155 2		GRAINERS INDIAN SCHOOL			HOT SPRINGS	SD	57147		
652 2	WAYNE F	CHILDERS		BOX 59 BOX 14	FICKMONT	SD	57135		
610 2	V L	CHILDERS		BOX 723	FICKMONT	SD	57135		
651 2	OSCAR	COFF			OFERICHS	SD	57161		
1004 2	JIM	DECKRING		SR 1 BOX 130	LUSK	WY	82225		
502 2	HAROLD F	DUNSON		BOX 59 BOX 54	FICKMONT	SD	57135	1410 2	
2052 2	LEROY/BERNIE	DUNSON		HC 44 BOX 249	PRYO	SD	57174		
1005 2	DAVID M	DUNSON		PR BOX 37	OFERICHS	SD	57161		
704 2		HAIR BROTHERS, INC.	CARL P HAIR, PRES	BOX 40 BOX 5	OFERICHS	SD	57161	1695 2	
121 2	HERMAN	HEE		BOX 141	FICKMONT	SD	57135		
510 2	HAROLD E	HELMAN		BOX 409	FICKMONT	SD	57135		
1010 2	LEDA R	HENDERSON	ATV 955	STATE INDIAN RESERV	EAS TEXAS	TX	76103		
1000 2	JOHN W	HENRY		BOX 270	APIKONE	SD	57115		
115 2	BENNY C	HOLMSTADT		LEWIS ROAD	FICKMONT	SD	57135		
1501 2		HU RANCH INC	SD CORPORATION	BOX 59 BOX 102	FICKMONT	SD	57135		
150 2	HAROLD D	HUNTER		BOX D	APIKONE	SD	57115		
1041 2	JAMES/PATRICIA	JOHNSTON		HC 48 BOX 7	LAKESIDE	NE	68051		
10170 2	JIM	KANE		BOX 124	PRYO	SD	57174		
701 2	CAPI	KANOFF	ATV 207	PLANT HOTEL	CHADRON	NE	69317		
1006 2	JOHN W	KOTTER		BOX 715	FICKMONT	SD	57135		
900 2	A J	LANDERS	STAR CATTLE CO	BOX 150 BOX 52	HOT SPRINGS	SD	57147		
1010 2	R L/ALLEN	LAMPSON		BOX 150	TIOGA	ND	58552		
610 2	MELVIN	LUFF			HOT SPRINGS	SD	57147		
11005 2	JOHN D/ZACK	MANF	(ESTATE)	PR 41 BOX 1190	HOT SPRINGS	SD	57147		
11447 2	KENNETH	MARTINSON		BOX 364	FICKMONT	SD	57135		
105 2	ADOLPH W	MELAIN		BOX 164	OFERICHS	SD	57161		
610 2	PAUL L	MEFFERT, JR		BOX 48 BOX 22	PRYO	SD	57174		
1021 2	A J	NELSON		PROBES STAGE	WILLES CITY	NE	50301		
1015 2		PETERSON & SON, INC		BOX 59 BOX 16	FICKMONT	SD	57135		
1010 2	PAUL A JEAN	TEFFY	A NORRIS TEFFY	BOX 52 BOX 136	HOT SPRINGS	SD	571479601		
1710 2	MELVIN	TORTER		WIO RT BOX 17	FICKMONT	SD	57135		
711 2	DONALD	TUTMAN		BOX 104	OFERICHS	SD	57161	2013 2	
1010 2	LENN	WEASER		HC 44 BOX 44	OFERICHS	SD	57161		
100 2	EDWARD/MARION	WEUTER		BOX 59 BOX 60	FICKMONT	SD	57135	1705 2	
101 2	CHARLES/MARIE	WEINOLDS		BOX 59 BOX 28	FICKMONT	SD	57135	201 2	
600 2	OLIVER W	WIMBY		BOX 175	OFERICHS	SD	57161		
710 2	VERNON	SCHROFF		ST RT BOX 155	HOT SPRINGS	SD	57147	1100 2	
1000 2		SEGER RANCH INC		BOX 95	OFERICHS	SD	57161	611 2	1001 2
100 2	BERNARD D	SIMONS		BOX 351	FICKMONT	SD	57135		
1710 2	ROBERT/MARR	TUBBS		BOX 363	FICKMONT	SD	57135		
1010 2		WAR BONNET RANCH LTD	BOX 132	105 E 5TH ST	APIKONE	SD	57115		
102 2	VINCENT M	WASSERFELDER		BOX 43	APIKONE	SD	57115	053 2	2015 2

853-2

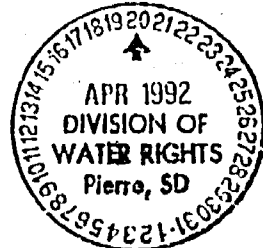
LAW FIRM OF
LESLIE JAMES ENGLAND

LESLIE J. ENGLAND
(ALSO ADMITTED IN COLORADO)

SUITE 102, RUSHMORE PROFESSIONAL BUILDING
731 ST. JOSEPH STREET
RAPID CITY, SOUTH DAKOTA 57701

TELEPHONE (605) 341-7600
FAX (605) 341-7321

April 17, 1992



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

Re: Wasserburger Water Permit Nos. 392-2, (853-2), 2115-2; Angostura
Shut Off Order

Dear John:

On behalf of the Wasserburger ranch, this acknowledges your Shut Off Order until it appears that Angostura Reservoir will fill. Since water needs on the ranch are critical, please advise as soon as possible, when it appears based upon precipitation and run-off that Angostura will fill. Even a small amount of water as soon as possible will benefit Wasserburger's irrigation use.

Thank you for your kind attention to this matter.

Yours very truly,

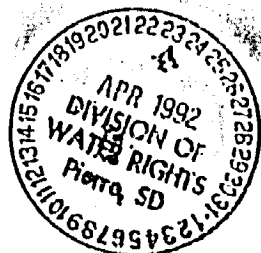
Leslie J. England

LJE/kmr

cc: Vincent M. Wasserburger
E. Dallas Wasserburger

853-2

April 18, 1992



Mr. Del Brong
Water Rights Division
533 E Capital Ave
Pierre S.D. 57501

Subject: Shut off order on Permit No.
392-2, 853-2, 2115-2

Dear Del:

We will comply with your order.
Please advise us as soon as possible
when the order is lifted. Even a
small amount of water will help
our hay crop.

Thank you for any help

Yours truly

Vincent Wambacher

Box 83

Hidmore SD 57715

SOUTH DAKOTA

VESTED WATER RIGHT NO. 853-2 FOR IRRIGATION

Date of Receipt of Claim January 13, 1965.

Date of Validation May 26, 1992.

The Water Management Board validated Vested Water Right Claim No. 853-2 for irrigation purposes for Herbert J Wasserburger, Box 83, Ardmore SD 57715 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 853-2 appropriates 8.3 cubic feet of water per second from Duck Creek located in the NW 1/4 NE 1/4 Section 25, NW 1/4 SE 1/4 Section 30, NE 1/4 SW 1/4 Section 31 to irrigate 583 acres located in the SW 1/4, SE 1/4 Section 29; SE 1/4, N 1/2 SW 1/4, SE 1/4 SW 1/4 Section 30; NE 1/4, NW 1/4 SE 1/4 Section 31; N 1/2 NW 1/4, SW 1/4 NW 1/4, N 1/2 NE 1/4 Section 32; all in T11S-R4E.
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 November 2, 1949.
4. The water use system has been constructed and water has been applied to beneficial use.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

By: John H. Hatt JUL 1 1992
Chief Engineer date

Division of Water Rights
Dept. of Environment and Natural Resources



853-2

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

JUL 1 1992

Herbert J Wasserburger
Box 83
Ardmore SD 57715

Dear Mr. Wasserburger:

The Water Management Board has validated the enclosed Vested Water Right No. 853-2. This validation gives legal status to the claim and is the final document for your vested right.

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



853-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 12, 1993

392-2
(853-2)
2115-2

NOTICE

TO: VINCENT M WASSERBURGER
BOX 83
ARDMORE, SD 57715

FROM: *for* JOHN HATCH, CHIEF ENGINEER
Water Rights Division
(605) 773-3352

Delvin D. Brosz

SUBJECT: Shutoff Order for Junior Water Right Holders Upstream
of the Angostura Irrigation District.

Effective immediately no diversions of water under your Water Right Nos. 392-2, 853-2 and 2115-2 are authorized. Your water rights are junior in priority to the US Bureau of Reclamation Water Right No. 579-2, April 11, 1941 priority date. The Bureau of Reclamation water right for the Angostura Irrigation District allows one annual fill of the reservoir.

The amount of water required for one annual fill of Angostura Reservoir as of January 1, 1993 was 45,402 acre feet. On March 9, 1993 the water elevation in Angostura Reservoir was 10.2 feet and 41,305 acre feet below full. Reservoir storage levels will be closely monitored. If inflows increase and the reservoir will fill, this shutoff order will be rescinded. Any 1993 irrigation releases from the reservoir will be included in the inflow calculations.

All water rights above Angostura Reservoir will be monitored until the reservoir has filled. I am asking for your cooperation in complying with this order.

If you have any questions, please contact Del Brosz or Mark Rath, Division of Water Rights, 523 E Capitol Ave, Pierre, SD 57501. Phone (605) 773-3352.

cc: US Bureau of Reclamation
Angostura Irrigation District

853-2

CERTIFICATION

I hereby certify that on March 12, 1993, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 12, 1993, regarding Shutoff Order for Junior Water Right Holders Upstream of the Angostura Irrigation District addressed as stated below, and on the attached:

Copy Sent To:

Bruce Laymon, U.S. Bureau of Reclamation, Belle Fourche Projects Office, P.O. Box 226, Newell, SD 57760.

Joseph Kramer, Manager, Angostura Irrigation District, P.O. Box 346, Oral, SD 57766.

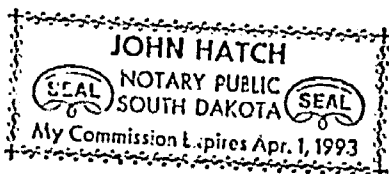
Cheryl F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
COUNTY OF HUGHES) SS

Sworn to, before me, this 15th day of March, 1993.

John Hatch
Notary Public





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

April 14, 1993

392-2
853-2
2115-2

RESCISSION OF SHUTOFF ORDER

TO: VINCENT M WASSERBURGER
BOX 83
ARDMORE, SD 57715

FROM: JOHN HATCH, CHIEF ENGINEER
Water Rights Division
(605) 773-3352

SUBJECT: Rescission of the Shutoff Order for Junior Water Right Holders Upstream of the Angostura Irrigation District for the 1993 Irrigation Season.

Recent wet conditions in the Upper Cheyenne River Basin have provided large inflows and the Angostura Reservoir is expected to fill shortly. The shutoff order for all junior water rights upstream of the reservoir is rescinded for the 1993 irrigation season.

If you have any questions, please contact Del Brosz or Mark Rath, Division of Water Rights, 523 E Capitol Ave, Pierre, SD 57501. Phone (605) 773-3352.

cc: US Bureau of Reclamation
Angostura Irrigation District

853-2



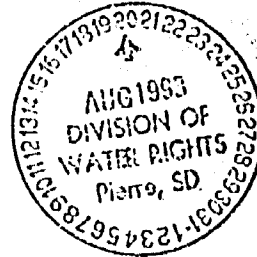
United States Department of the Interior

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



WTR 4.10
BF-430

AUG 18 1993



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

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

Dear Mr. Hatch,

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

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

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

Sincerely,

Bruce M. Layton
Bruce M. Layton
Project Manager

Project Manager
Irrigation District

Office 5766

E. Winterton, Project Manager
Fourche Irrigation District

Office 57760

REDUCTION RATIO

ROLL NUMBER

DATE MICROFILMED

CAMERA OPERATOR SIGNATURE



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 15, 1995

392-2
853-2
2115-2

NOTICE

TO: VINCENT M WASSERBURGER
HC 48 BOX 226
ARDMORE, SD 57715

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

SUBJECT: Shutoff Order for Junior Water Right Holders
Upstream of the Angostura Irrigation District.

Effective immediately no diversions of water under your Water Right Nos. 392-2, 853-2 and 2115-2 are authorized. Your water right is junior in priority to the US Bureau of Reclamation Water Right No. US579-2 (April 11, 1941 priority date). Water Right No. US579-2 allows one annual fill of the reservoir.

On March 14, 1995, the water elevation in Angostura Reservoir was 7 feet and 30,000 acre feet below full. The Division of Water Rights, in cooperation with the Bureau of Reclamation, will closely monitor the reservoir storage level. If inflows increase and the reservoir will fill, this shutoff order will be rescinded. Any 1994 irrigation releases from the reservoir will be included in the inflow calculations.

The Division of Water Rights will monitor all water rights above Angostura Reservoir until the reservoir has filled. I am asking for your cooperation in complying with this order.

If you have any questions, please contact Del Brosz or Rassool Ahadi, Division of Water Rights, 523 E. Capitol Ave, Pierre, SD 57501. Phone (605) 773-3352.

cc: US Bureau of Reclamation
Angostura Irrigation District



853-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 26, 1995

392-2

853-2

2115-2

RESCISSION OF SHUTOFF ORDER

TO: VINCENT M WASSERBURGER
HC 48 BOX 226
ARDMORE, SD 57715

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

SUBJECT: Rescission of the Shutoff Order for Junior Water Right Holders Upstream of the Angostura Reservoir for 1995 Irrigation Season.

Recent wet conditions in the Upper Cheyenne River Basin have provided large inflows and the Angostura Reservoir is expected to fill shortly. The shutoff order for all junior water rights upstream of the reservoir is rescinded for the 1995 irrigation season.

If you have any questions, please contact Del Brosz or Rassool Ahadi, Division of Water Rights, 523 E. Capitol Ave., Pierre, SD 57501.

cc: US Bureau of Reclamation
Angostura Irrigation District

L



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 30, 2004

NOTICE OF SHUTOFF ORDER

TO: HERBERT WASSERBURGER
HC 48 BOX 83
ARDMORE SD 57735

FROM: GARLAND ERBELE, Chief Engineer
Water Rights Program

SUBJECT: Shutoff Order for Junior Priority Date Water Rights Upstream of
Angostura Dam

Shutoff Order for Water Right Nos. 2115-2, 853-2

To protect the US Bureau of Reclamation's Water Right No. US579-2 for Angostura Reservoir with a senior priority date of April 11, 1941, the Bureau of Reclamation has asked that we issue shutoff orders for junior water right holders. Effective immediately no diversions of water from the Cheyenne River and tributaries by holders of junior water rights upstream of Angostura Dam will be allowed. On April 30, 2004, the water elevation in Angostura Reservoir was 3179.1 feet, a little over 8 feet below the full elevation of 3187.2 feet. Current storage is at 96,912 acre-feet, about 33,850 acre-feet below full and inflows are only about 38 acre-feet per day.

The Angostura Reservoir storage level will be closely monitored and if the Cheyenne River flows upstream of dam increase such that the reservoir will fill, this shutoff order will be rescinded at that time. If conditions do not improve, this order will remain in effect until December 31, 2004.

I am asking for your cooperation in complying with this shutoff order. If you have any questions, please contact Mark Rath or Don Stroup with the Water Rights Program at (605) 773-3352. Thank you.



853-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 15, 2005

NOTICE OF SHUTOFF ORDER

TO: HERBERT WASSERBURGER
HC 48 BOX 83
ARDMORE SD 57735

FROM: GARLAND ERBELE, Chief Engineer
Water Rights Program

SUBJECT: Shutoff Order for Junior Priority Date Water Rights Upstream of
Angostura Dam

Shutoff Order for Water Right Nos. 2115-2, 853-2

To protect the US Bureau of Reclamation's Water Right No. US579-2 for Angostura Reservoir with a senior priority date of April 11, 1941, the Bureau of Reclamation has asked that we issue shutoff orders for junior water right holders. Effective immediately no diversions of water from the Cheyenne River and tributaries by holders of junior water rights upstream of Angostura Dam will be allowed. On March 8, 2005, the water elevation in Angostura Reservoir was 3169.5 feet, almost 18-feet below the full elevation of 3187.2 feet. Storage is at 65,521 acre-feet, about 73,240 acre-feet below full and inflows are 14.9 acre-feet per day.

The Angostura Reservoir storage level will be closely monitored and if the Cheyenne River flows upstream of the dam increase such that the reservoir will fill, this shutoff order will be rescinded at that time. If conditions do not improve, this order will remain in effect until the end of the calendar year.

I am asking for your cooperation in complying with this shutoff order. If you have any questions, please contact Mark Rath or Don Stroup with the Water Rights Program at (605) 773-3352. Thank you.

853-2



United States Department of the Interior



IN REPLY REFER TO:

DK-700
PRJ 13.00

BUREAU OF RECLAMATION
Dakotas Area Office
Rapid City Field Office
515 9th St., Room 101
Rapid City, South Dakota 57701

FEB 24 2006

RECEIVED
FEB 27 2006
WATER RIGHTS
PROGRAM

Mr. Garland Erbele
Chief Engineer
Water Rights Division
South Dakota Department of Environment and Natural Resources
523 E. Capitol
Pierre, South Dakota 57501-3181

Subject: Request for Junior Water Rights Shut Off Order - Angostura Reservoir, South Dakota

Dear Mr. Erbele:

We request that the State of South Dakota's Department of Environment and Natural Resources Water Rights Division issue shut off orders to junior water right holders on the Cheyenne River above Angostura Reservoir.

Angostura Reservoir is presently at elevation 3169.90, which is a little over 17 feet down from full (top of conservation or full is at elevation 3187.2). On February 24, 2005, the storage in Angostura Reservoir is about 60,000 acre-feet, which is 63,000 acre-feet from full. If the spring weather continues to be dry, the water right at Angostura will not be satisfied.

If you have questions, please contact Curt Anderson or me at 605-394-9757.

Sincerely,

For Jeffrey L. Nettleton
Rapid City Field Office Manager

cc: Ms. Sue Lowry
Administrator
Interstate Streams Division
Wyoming State Engineer's Office
Herschler Building 4E
Cheyenne, WY 82002

Mr. Mick Jenniges
Manager
Angostura Irrigation District
P.O. Box 346
Oral, SD 57766



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 10, 2006

NOTICE OF SHUTOFF ORDER

TO: HERBERT WASSERBURGER
HC 48 BOX 83
ARDMORE SD 57735

FROM: GARLAND ERBELE, Chief Engineer
Water Rights Program

SUBJECT: Shutoff Order for Junior Priority Date Water Rights Upstream of
Angostura Dam

Shutoff Order for Water Right Nos. 2115-2, 853-2

To protect the US Bureau of Reclamation's Water Right No. US579-2 for Angostura Reservoir with a senior priority date of April 11, 1941, the Bureau of Reclamation has asked that we issue shutoff orders for junior water right holders. Effective immediately no diversions of water from the Cheyenne River and tributaries by holders of junior water rights upstream of Angostura Dam will be allowed. On March 7, 2006, the water elevation in Angostura Reservoir was 3170.3-feet, almost 17-feet below the full elevation of 3187.2-feet. Storage is at 64,524 acre-feet, about 74,237 acre-feet below full. Angostura Reservoir is not expected to fill with the current low inflows.

The Angostura Reservoir storage level will be closely monitored and if the Cheyenne River flows upstream of the dam increase such that the reservoir will fill, this shutoff order will be rescinded at that time. If conditions do not improve, this order will remain in effect until the end of the calendar year.

I am asking for your cooperation in complying with this shutoff order. If you have any questions, please contact Mark Rath or Don Stroup with the Water Rights Program at (605) 773-3352. Thank you.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 9, 2007

NOTICE OF SHUTOFF ORDER

TO: HERBERT WASSERBURGER
HC 48 BOX 83
ARDMORE, SD 57735

FROM: GARLAND ERBELE, Chief Engineer
Water Rights Program

SUBJECT: Shutoff Order for Junior Priority Date Water Rights Upstream of
Angostura Dam

Shutoff Order for Water Right Nos. 2115-2 853-2

To protect the US Bureau of Reclamation's Water Right No. US579-2 for Angostura Reservoir with a senior priority date of April 11, 1941, the Bureau of Reclamation has asked that we issue shutoff orders for junior water right holders. Effective immediately no diversions of water from the Cheyenne River and tributaries by holders of junior water rights upstream of Angostura Dam will be allowed. On March 9, 2007, the water elevation in Angostura Reservoir was 3166.9-feet, 20.3-feet below the full elevation of 3187.2-feet. Storage is at 51652 acre-feet, about 87109 acre-feet below full. Angostura Reservoir is not expected to fill with the current low inflows.

The Angostura Reservoir storage level will be closely monitored and if the Cheyenne River flows upstream of the dam increase such that the reservoir will fill, this shutoff order will be rescinded at that time. If conditions do not improve, this order will remain in effect until the end of the calendar year.

I am asking for your cooperation in complying with this shutoff order. If you have any questions, please contact Mark Rath at (605) 773-3352 or Aaron Tieman at (605) 394-2229 with the Water Rights Program. Thank you.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 19, 2008

NOTICE OF SHUTOFF ORDER

TO: HERBERT WASSERBURGER
30131 CASCADE RD
ARDMORE SD 57735

FROM: GARLAND ERBELE, Chief Engineer
Water Rights Program

SUBJECT: Shutoff Order for Junior Priority Date Water Rights Upstream of
Angostura Dam

Shutoff Order for Water Right Nos. 2115-2, 853-2

The US Bureau of Reclamation holds Water Right No. US579-2 for Angostura Reservoir with a senior priority date of April 11, 1941. To protect this right, the Bureau of Reclamation has asked that we issue shutoff orders for junior water right holders. Effective immediately no diversions of water from the Cheyenne River and tributaries by holders of water rights junior to the priority date of April 11, 1941 upstream of Angostura Dam will be allowed. On March 17, 2008, the water elevation in Angostura Reservoir was 3168.8-feet, 18.4-feet below the full elevation of 3187.2-feet. Storage is at 56785 acre-feet, about 66263 acre-feet below full. Angostura Reservoir is not expected to fill with the current low inflows.

The Angostura Reservoir storage level will be closely monitored and if the Cheyenne River flows upstream of the dam increase such that the reservoir will fill, this shutoff order will be rescinded at that time. If conditions do not improve, this order will remain in effect until the end of the calendar year.

I am asking for your cooperation in complying with this shutoff order. If you have any questions, please contact Mark Rath at (605) 773-3352 or Aaron Tieman at (605) 394-2229 with the Water Rights Program. Thank you.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 19, 2009

NOTICE OF SHUTOFF ORDER

TO:

HERBERT J WASSERBURGER
29999 CASCADE RD
ARDMORE SD 57715

FROM:

GARLAND ERBELE, Chief Engineer
Water Rights Program

SUBJECT: Shutoff Order for Junior Priority Date Water Rights Upstream of
Angostura Dam

Shutoff Order for Water Right Nos. 853-2, 2115-2

The US Bureau of Reclamation holds Water Right No. US579-2 for Angostura Reservoir with a senior priority date of April 11, 1941. To protect this right, the Bureau of Reclamation has asked that we issue shutoff orders for junior water right holders. Effective immediately no diversions of water from the Cheyenne River and tributaries by holders of water rights junior to the priority date of April 11, 1941 upstream of Angostura Dam will be allowed. On March 18, 2009, the water elevation in Angostura Reservoir was 3176.7-feet, 10.5-feet below the full elevation of 3187.2-feet. Storage is at 80792 acre-feet, about 42256 acre-feet below full. Angostura Reservoir is not expected to fill with the current low inflows.

The Angostura Reservoir storage level will be closely monitored and if the Cheyenne River flows upstream of the dam increase such that the reservoir will fill, this shutoff order will be rescinded at that time. If conditions do not improve, this order will remain in effect until the end of the calendar year.

I am asking for your cooperation in complying with this shutoff order. If you have any questions, please contact Mark Rath at (605) 773-3352 or Aaron Tieman at (605) 394-2229 with the Water Rights Program. Thank you.

RECEIVED

DEC - 2 2010

WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 853-2

Date: NOV 29, 2010

I/We request that Vested Water Right No. 853-2

formerly owned by: Herbert J Wasserburger

be transferred to: (name & address) Martin W Wasserburger + E. Dallas Wasserburger
30131 Cascade Rd
Ardmore SD 57135 Telephone No. 605-459-2431

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

583 acres - S 1/2 Section 29, S 1/2 Section 30, NE 1/4 and NW 1/4 SE 1/4 Section 31,

N 1/2 NW 1/4, SW 1/4 NW 1/4 and N 1/2 NE 1/4 Section 32, T11S, R4E

I/We understand that the validity of Vested Water Right No. 853-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

Martin W Wasserburger

I/We E. Dallas Wasserburger, the new owner, certify that the above information is true and correct.

Martin W. Wasserburger
(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 12/2, 2010

RECEIVED OF MX Ranch LLC 30131 Cascade Rd Ardmore SD 57735

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50 00	
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>853-2</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No.

04686

By

Garland Erbe
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 18, 2010

Martin Wasserburger
30131 Cascade Rd
Ardmore SD 57735

RE: Location Notice No. 31-2, Water Right No. 392-2 and Vested Water Right Nos. 853-2 and 2115-2

Dear Mr. Wasserburger:

I am writing to acknowledge receipt of the "Notice of Transfer of Ownership" forms and filing fees you submitted for the above water rights.

The ownership changes have been completed. The above listed water rights are now listed as follows:

- LN 31-2: Martin W Wasserburger & E Dallas Wasserburger et al;
- 392-2: Martin W Wasserburger
- 853-2: Martin W Wasserburger & E Dallas Wasserburger
- 2115-2: Martin W Wasserburger & E Dallas Wasserburger

Enclosed for your records are Receipt Nos. 04685, 04586, 04687 and 04688 in the amounts of \$50.00 each. If you have any questions, please contact me.

Sincerely,

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

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

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

March 06, 2013

NOTICE OF SHUTOFF ORDER

TO: MARTIN W & E DALLAS WASSERBURGER
30131 CASCADE RD
ARDMORE SD 57735

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

SUBJECT: Shutoff Order for Junior Priority Date Water Rights Upstream of
Angostura Dam

**Shutoff Order for
Water Right Nos. 2115-2(853-2)392-2**

The US Bureau of Reclamation holds Water Right No. US579-2 for Angostura Reservoir with a senior priority date of April 11, 1941. To protect this right, the Bureau of Reclamation has asked that we issue shutoff orders for junior water right holders. Effective immediately no diversions of water from the Cheyenne River and tributaries by holders of water rights junior to the priority date of April 11, 1941 upstream of Angostura Dam will be allowed. On March 05, 2013, the water elevation in Angostura Reservoir was 3176.8-feet, 10.4-feet below the full elevation of 3187.2-feet. Storage is at 81068 acre-feet, about 41980 acre-feet below full. Angostura Reservoir is not expected to fill with the current low inflows.

The Angostura Reservoir storage level will be closely monitored and if the Cheyenne River flows upstream of the dam increase such that the reservoir will fill, this shutoff order will be rescinded at that time. If conditions do not improve, this order will remain in effect until the end of the calendar year.

I am asking for your cooperation in complying with this shutoff order. If you have any questions, please contact Mark Rath at (605) 773-3352 or Aaron Tieman at (605) 394-2229 with the Water Rights Program. Thank you.

CERTIFICATION

I hereby certify that on March 6, 2013, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated March 6, 2013 regarding shut-off orders addressed as stated below:

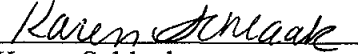
LAST_NAME	FIRST_NAME	ADDRESS2	CITY	STATE	ZIP
INDIAN CREEK CATTLE LLP		32296 190TH ST	SLEEPY EYE	MN	56085
INDIAN CREEK LAND & CATTLE LLC		PO BOX 538	EDGEMONT	SD	57735
WEINREIS BROTHERS		230908 HIGHLAND RD	SCOTTSBLUFF	NE	69361
SEGER RANCH INC		RR 1 BOX 100A1	HOT SPRINGS	SD	57747
REUTTER	EDWARD/WANDA	HCR 59 BOX 90	EDGEMONT	SD	57735
WASSERBURGER	MARTIN W & E DALLAS	30131 CASCADE RD	ARDMORE	SD	57735
HALD BROTHERS INC		30195 HIGHWAY 385	OELRICHS	SD	57763
GCC DACOTAH INC		PO DRAWER 360	RAPID CITY	SD	57709
FALKENBURG	JOE/NANCY	PO BOX 69	EDGEMONT	SD	57735
ANDERSEN	DONALD J/LYNDA J	10194 ARGENTINE RD	BURDOCK	SD	57735
ANDERSEN	KEITH	27360 S FLAT TOP RD	EDGEMONT	SD	57735
ANDERSON	DALE & JEANETTE	1401 TOMPKINS ST	RAPID CITY	SD	57701
B & H RANCH INC		900 W 7TH ST	CHADRON	NE	69337
BACHAND	DOUG & LORI	HC 48 BOX 248	PROVO	SD	57774
BALL BROS		BOX 527	EDGEMONT	SD	57735
BIRDSALL	JIM OR SHERYL	28086 ANGOSTURA RD	HOT SPRINGS	SD	57747
BOGNER	NICK/EUGENE	HC 46 BOX 24	OELRICHS	SD	57763
BOGNER	NICK/MICHAEL	29599 BLACK BANKS RD	OELRICHS	SD	57763
BRAINERD INDIAN SCHOOL		PO BOX 7038	RAPID CITY	SD	57709
CHILDERS	V L	900 W 7TH ST	CHADRON	NE	69337
COPE	OSCAR	PO BOX 147	OELRICHS	SD	57763
COPE RANCH		14160 SHIRK CREEK RD	OELRICHS	SD	57763
DUNBAR	DAVID M	HC 46 BOX 48A	OELRICHS	SD	57763
HENDERSON	DORA R	11507 HWY 471	EDGEMONT	SD	57735
HINESLEY	TED AND GAIL	103 W AVE A	BISMARCK	ND	58501
HOLLENBECK	HENRY C	665 OAK ST	EDGEMONT	SD	57735
HOLLENBECK	MARK J	27772 ELBOW CANYON RD	EDGEMONT	SD	57735
HOLLENBECK	PAT OR TAMMY	665 OAK ST	EDGEMONT	SD	57735
HU RANCH INC		28469 OLD HWY18	EDGEMONT	SD	57735
HUBER	GAYLE & LINDA	28797 LENNON SCHOOL RD	OELRICHS	SD	57763
HUNTER	ROSS J	30068 HAT CREEK RD	EDGEMONT	SD	57735
KOLLER	JOHN W	PO BOX 715	EDGEMONT	SD	57735
LANDERS	A J	BOX 159B HCR 52	HOT SPRINGS	SD	57747
LANDERS LIVESTOCK CO INC		29088 ASH CREEK RD	HOT SPRINGS	SD	57747
MANKE LAND & CATTLE CO LLC		PO BOX 599	EDGEMONT	SD	57735
MARTINSON	KENNETH	BOX 361	EDGEMONT	SD	57735
NELSON	A J	503 S CENTER AVE	MILES CITY	MT	59301
PETERSON & SON INC		27389 BURDOCK LOOP	BURDOCK	SD	57735
PORTER	EVERETT	10413 MOSS AGATE RD	EDGEMONT	SD	57735
PUTNAM	DONALD	BOX 188	OELRICHS	SD	57763
PUTNAM RANCH INC	DONALD	BOX 188	OELRICHS	SD	57763
QUINTO LTD		PO BOX 69	EDGEMONT	SD	57735
ROMEY	JOHN R OR TRACY	29773 HARD SCRABBLE RD	OELRICHS	SD	57763
SCHNOSE	ROBERT A & KIMBERLY L	29037 OLD HWY 79	OELRICHS	SD	57763

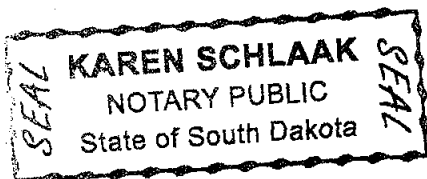
SCHNOSE	VERNON	12685 MAITLAND RD	HOT SPRINGS	SD	57747
SEABECK	DORIS SEABECK &	2533 PARK AVE	LARAMIE	WY	82070
SIMONS	THOMAS	BOX 381	EDGEMONT	SD	57735
TUBBS LAND & CATTLE LLC	BERNARD D	10891 RIVER RD	EDGEMONT	SD	57735
WALKER	FRED S & CYNTHIA K	30301 CASCADE RD	ARDMORE	SD	57735
WYOMING DAKOTA RAILROAD	WAYNE F	120 S 6TH ST - 9TH FLOOR	MINNEAPOLIS	MN	55402
PROPERTIES INC					


 Gail Jacobson
 Secretary/Water Rights

STATE OF SOUTH DAKOTA)
) SS
 COUNTY OF HUGHES)

Sworn to, before me, this 6th day of March, 2013.


 Karen Schlaak
 Notary Public
 My Commission expires April 1, 2013



NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

RECEIVED
NOV 20 2013
WATER RIGHTS
PROGRAM

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

Water Right/Permit No. 853-2

Date: _____

I/We request that Water Right/Permit No. 853-2 formerly owned by:
Martin W. Wasserburger and E. Dallas Wasserburger be transferred to:

New Owner Name: A & O Farming and Harvesting
Address: 14199 South Dakota Highway 40
City, State, Zip Hermosa SD 57744 Telephone No. (605) 390-4804

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

583 acres - S1/2 Section 29; S1/2 Section 30; NE1/4 and NW1/4SE1/4 Section 31; N1/2NW1/4, SW1/4NW1/4, and N1/2NE1/4 Section 32, T11S, R4E

☒ I understand that the validity of Water Right/Permit No. 853-2 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, A & O FARMING & HARVESTING, the new owner, certify that the above information is true and correct.

Gregory L. Neugebauer
(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 11/20, 20 13

RECEIVED OF Pennington Title 725 Kansas City St Rapid City SD 57701

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>853-2</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____	50	00
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No. **06490**

By

Jeane Goodman
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 17, 2013

LN31-2
392-2
853-2
2115-2

Mark A Neugebauer
A & O Farming & Harvesting
14199 SD Hwy 40
Hermosa SD 57744

Dear Mr. Neugebauer:

I am writing to acknowledge receipt of the transfer forms and filing fees submitted for changing ownership on Location Notice No. 31-2, Water Right No. 392-2 and Vested Water Right Nos. 853-2 and 2115-2.

The ownership changes have been completed. All of the above listed water rights, formerly held by Martin and Dallas Wasserburger are now listed in the name of "A & O Farming and Harvesting" in care of Mark A, Greg O and Jennifer L Neugebauer.

The receipts for the filing fees are being forwarded by copy of this letter to Pennington Title in Rapid City.

Sincerely,

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

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

c: Pennington Title, 725 Kansas City St, Rapid City SD w/receipts