

Considered: _____

WATER PERMIT NO. 937-2B

MAP No. Same

Name of Applicant Ham Ranch Inc.

Post Office Address Capota S.D.

Amount of Water Claimed 1.50 Total Acres 105.0

Source of Water Supply Rapid Creek

Water to be used for IRR County Pennington

About _____ miles W of Farmington

PROOF OF PUBLICATION: Received 1st 1-31-85 Not Received _____

APPLICATION: Approved 3-12-85 Subject to _____

F.F.C.C.L. Adopted _____ Not Approved _____ Deferred _____

PRIORITY Date Received 12-17-84 Fee \$50.00 Remarks _____

10-12-67 Application: is for a change in diversion pt. on 937-2

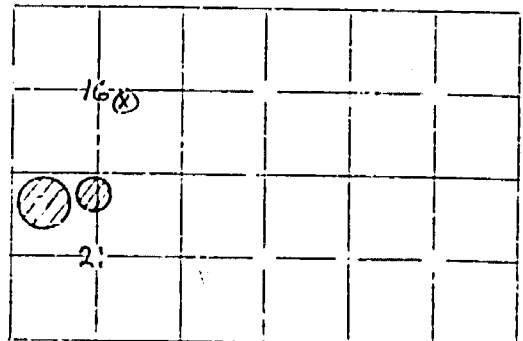
Corrected Application Received _____ Period of Annual Use April 1 to November 1

WATER QUALITY APPROVAL RECEIVED N.A. APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as Application YES _____ NO _____ REMARKS _____

Diversion Point NW⁴ SE⁴ sec. 16 T1S R10E

Land to be Irrigated NW⁴ NW⁴, SW⁴ NW⁴, SE⁴ NW⁴,
NE⁴ NW⁴, NW⁴ NE⁴ all in section 21 T1S-R10E



Well Log: Driller N.A. Licensed YES _____ NO _____

Depth of Well _____ REMARKS _____

Type of Map Revised PREPARED BY Tim Schaal DuxR Reviewed and the Number _____

assigned on 1-2-84 By Kevin C. Larson

Mail to: Water Rights Div.
DWRN, Foss Bldg.
Pierre, SD 57501
(605) 773-3352

No. <u>937-2B</u>	Hydrologic Unit <u>10120110</u>
Map No. <u>937-2B</u>	Basin <u>Upper Cheyenne</u>
Newspaper <u>Rapid City Journal</u>	P.O. Box <u>460</u> <u>Rapid City</u>

Application For Permit To Appropriate Water Within The State Of South Dakota

Type of Application: Check one or more of the following:

- New ☒ Vestea Right ☐ Future Use ☐
- ☒ Application to amend Permit No. 937-2 with old priority date retained
- ☒ Change diversion point(s) ☐ Add diversion point(s) ☐ Change acreage ☐ Other ☐
- ☐ Application to: ☐ Change use ☐ Change diversion point(s) ☐ Add diversion point(s)
- ☐ Add Acreage ☐ Increase diversion rate ☐ Other _____ See Permit No. _____
- ☐ Application to: ☐ Use ☐ Transfer water reserved by Future Use Permit No. _____

1. Name of Applicant Ham Ranch, Inc. Phone No. 362-1929
- Post Office Address 54 Rt. Box 34 Caputa State SD 57725
(Street, R.R. or Box) Zip Code
2. Amount of water claimed (c.f.s.) 1.50 Total acres irrigated 105.0
3. Source of Water supply Rapid Creek and Pactola & Deerfield storage
4. Location of point of diversion 650 feet east of center of Section 16, T1S, R10E
(NW/ SE/)
County Pennington
5. Counties where water will be used Pennington
6. Annual period during which water is to be used April 1st to November 1st
7. List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

Land Description	No. Acres Irr.
NW 1/4 NW 1/4 21-T1S-R10E	32.0
SW 1/4 NW 1/4 "	11.0
SE 1/4 NW 1/4 "	5.0
NE 1/4 NW 1/4 "	34.0

Land Description	No. Acres Irr.
NW 1/4 NE 1/4 21-T1S-R10E	23.0

Attach sheet if more space is needed

8. Give a brief description of proposed project. When available include any preliminary, engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map (see instruction)

STATE OF SOUTH DAKOTA
County of Pennington

I, Carl Ham the applicant, certify that I have read the foregoing application, have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.

Signed Carl Ham for Ham Ranch, Inc.

Subscribed and sworn to before me this 14 day of December 1984

Norman Morgan
Notary Public (or other qualified officer)

WATER PERMIT

The Water Management Board hereby approves Water Permit Application No. 937-2B
Ham Ranch Inc. (Applicant) Capota (Post Office Address)
South Dakota (State) (Zip Code) With the following qualifications.

Low flows as needed for downstream domestic use, including livestock watering, and prior water rights must be by-passed. Unappropriated water is available in Rapid Creek to reasonably satisfy this application only through contract between the Rapid Valley Conservancy District and Bureau of Reclamation covering releases of water from Deerfield and Pactola Reservoirs.

This permit is approved subject to the irrigation water use questionnaire being submitted each year.

Date of first receipt of application December 17, 1984
 Date of return to applicant for correction, amendments or changes required _____, 19____
 Date of receipt of corrected application _____, 19____. Approved March 6, 1985

The Water Management Board hereby approves this Water Permit No. 937-2B authorizing the construction of the water use system and the placing of water to beneficial use as stated in the application and as qualified in the Water Permit approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is October 12, 1967
2. One fifth of the work is to be completed on or before September 6, 1987
3. The whole of said work is to be completed on or before March 6, 1990
4. The time limit for proof of beneficial use of water is _____, 19____
5. The water appropriated shall be used for the purpose of Irrigation
6. 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 unlawfully impaired by this appropriation.
7. The amount of the appropriation herein granted shall not exceed 1.50 cubic feet per second; neither shall it exceed the capacity of the above described water supply system nor shall it exceed the amount of water needed for beneficial uses served. For irrigation purposes said appropriation must be limited to not more than 2 acre feet per acre per year and be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for irrigation on or before _____, 19____; said water to be used during the following described annual period: April 1 to November 1

WATER MANAGEMENT BOARD
 By: John H. Hild Chief Engineer
 Division of Water Rights
 Dept. of Water and Natural Resources
APR 22 1985, 19____

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 937-2B, Ham Ranch, Inc.

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Water Permit Application No. 937-2B, Ham Ranch Inc., Caputa SD.

The Chief Engineer is recommending APPROVAL of Application No. 937-2B because 1) the proposed diversion can be developed without unlawful impairment of existing rights, 2) the proposed use is a beneficial use and 3) in the public interest with the following qualifications:

Low flows as needed for downstream domestic use, including livestock watering, and prior water rights must be by-passed. Unappropriated water is available in Rapid Creek to reasonably satisfy this application only through contract between the Rapid Valley Conservancy District and Bureau of Reclamation covering releases of water from Deerfield and Pactola Reservoirs.

This permit is approved subject to the irrigation water use questionnaire being submitted each year.

See the attached report for additional information.



JOHN HATCH, Chief Engineer
January 14, 1985

REPORT ON APPLICATION NO. 937-2B

Ham Ranch, Inc.

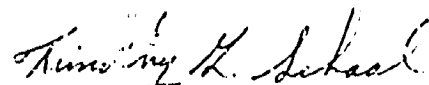
January 3, 1985

Application No. 937-2B requests a change in the diversion point on Rapid Creek from the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 17, T1S, R10E to the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 16, T1S, R10E with a diversion rate of 1.50 cfs to irrigate 105 acres. The source of water will be Rapid Creek and storage from Deerfield and Pactola Reservoirs.

This application reflects a split of ownership of a pumping station for Water Right No. 937-2 between Marsh Hereford Ranch, Inc. and Ham Ranch, Inc., and does not increase the diversion rate or amount of land irrigated authorized by Water Right No. 937-2. Both Marsh Hereford Ranch, Inc. and Ham Ranch, Inc. will maintain an October 12, 1967 priority date.

Conclusion

1. Water is available since there is no increase in diversion rate.
2. Existing Water Rights will not be effected by the change in diversion point.


TIMOTHY G. SCHAAL
Water Resources Engineer

Form 8 - Proof of Publication - Notice of
Intent to Appropriate Water

No. _____

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County _____) ss.

I, Mary K. Garness hereby
certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Rapid City Journal

A newspaper which during the whole time of publication of said notice
herein after stated, has been and is printed and published in the _____
City Rapid City of _____

County of Pennington and State of South Dakota;
that the said notice was published in said newspaper on the following
two dates:

January 21, 1985

January 28, 1985

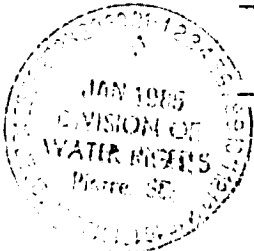
Mary K. Garness
(Signature)

Bookkeeper

(Title)

January 28, 1985

(Date Signed)



Cost of Printing: Ran 8 1/16 inch legal
advertising in the Rapid City Journal
on January 21 & 28 @ \$4.20 per inch =
\$67.72

Ran public notice of application for
water appropriation

WNR-309-7/79
Proof of Publication

Jan 21, 28

L461
DWRB 84 7/73
No. 937-28

NOTICE OF HEARING
ON APPLICATION NO. 937-28
TO APPROPRIATE WATER
AND/OR AMEND WATER
PERMIT OR WATER RIGHTS
NO. 937-2

Notice is hereby given that Ham
Ranch, Incorporated, whose mailing
address is Capota, South Dakota has
made an application for a permit to
change the diversion point on Rapid
Creek from the NW 1/4 of Section 13,
T17N, R10E, S14E of Section 13. This
application does not increase the
diversion rate or the amount of land
irrigated as authorized by Water
Right No. 937-2.

Pursuant to SDCL 46-2A-2 the Chief
Engineer of the Water Rights Divi-
sion recommends approval of Ap-
plication No. 937-28 because 1) will be
no unlawful impairment of existing
rights, 2) is beneficial use of water
and 3) is in the public interest.

This application will be considered
by the Water Management Board at
323 E. Capitol, Foss Building, Room
216, Pierre, South Dakota, March 6,
1985 at 10:00 a.m.

The recommendation of the Chief
Engineer is not final or binding upon
the Board and the Board is authorized
to make a determination on this ap-
plication after it reaches a conclusion
based upon facts presented at the
public hearing. Any interested person
who may be affected by a Board deci-
sion and who intends to participate in
the hearing before the Board and pre-
sent evidence or cross examine
witnesses according to SDCL 1-25,
must file a written petition with
BOTH the Applicant and the Chief
Engineer by February 22, 1985. The
petition may be informal, but must
include a statement describing the
petitioner's interest in the applica-
tion, the reason for the petitioner's
opposition to or support of the ap-
plication, and the signature and mail-
ing address of the petitioner or his
legal counsel if legal counsel is ob-
tained. The applicant need not file a
petition.

This application is made pursuant
to the provisions of SDCL 46-1-1 thru
46-1-9, 46-1-12 thru 46-1-15, 46-2-1, 46-
2-9, 46-2-11, 46-2-13, 46-2-17, 46-5-1 thru
46-5-16, 46-5-21, 46-5-25, 46-5-30, 46-5-
31, 46-2A-1 thru 46-2A-10, 46-2A-12,
and Board Rules ARSD 74:02-01:01
thru 74:02-01:15.

This hearing is an adversary pro-
ceeding. The applicant or any person,
after filing a petition, has the right to
be present or to be represented by a
lawyer. These and other due process
rights will be forfeited if they are not
exercised. Decisions of the Board
may be appealed to the Circuit Court
and the State Supreme Court as pro-
vided by law.

Any person wishing a copy of the
Chief Engineer's recommendation,
further information on this applica-
tion or to assure access to the hearing
by the handicapped can contact the
Water Rights Division, DWRB, Joe
Foss Bldg., Pierre, SD (605 773 3352)
for assistance prior to the hearing
date. The time of the hearing will be
automatically extended for at least
twenty days upon written request of
the applicant or any person who has
filed a petition to oppose or support
the application. The request for ex-
tension must be filed with the Chief
Engineer by February 22, 1985.

DWNR 806-7/83

No. 937-2B

Instruction to Newspaper - Publish first publication of the following Notice on or before January 21, 1985 with 2nd publication 1 week later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 937-2B to Appropriate Water and/or to Amend Water Permit or Water Rights No. 937-2

Notice is hereby given that Ham Ranch, Incorporated whose mailing address is Caputa, South Dakota has made an application for a permit

To change the diversion point on Rapid Creek from the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 17 to the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 16. This application does not increase the diversion rate or the amount of land irrigated as authorized by Water Right No. 937-2.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. 937-2B because 1) ~~unappropriated water is available~~, 2) will be no unlawful impairment of existing rights, 3) is beneficial use of water and 4) is in the public interest.

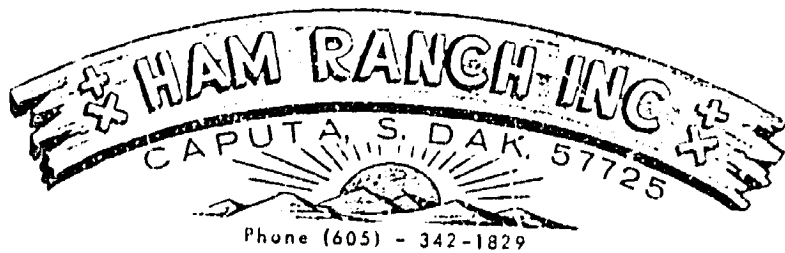
This application will be considered by the Water Management Board at 523 E. Capitol, Foss Building, Room 216, Pierre, South Dakota, March 6 19 85 at 10:00 am.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to make a determination on this application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the Applicant and the Chief Engineer by February 22, 1985. The petition may be informal, but it must include a statement describing the petitioner's interest in the application, the reason for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17, 46-5-1 thru 46-5-16, 46-5-24, 46-5-25, 46-5-30.2, 46-5-31; 46-2A-1 thru 46-2A-10, 46-2A-12; (ground) 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14; (future use) 46-5-38 thru 46-5-40; (transfer lands) 46-5-30.4, 46-5-33 thru 46-5-35; (10,000 AFA) 46-5-20.1, 46-5-8.1; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15; (future use) 74:02:01:24 thru 74:02:01:25; (10,000 AFA) 74:02:01:15:02 thru 74:02:01:15:05.

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWNR, Joe Foss Bldg, Pierre SD (605 773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by February 22, 1985.



To: Water Management Board
From: A. Carl Ham
Subject: Retaining Water Rights



On Aug 11 water was applied to the N² of Sec 21 Township 15 10 E via a water works constructed by Melvin Braasfield. The source was Rapid Creek.

Those witnessing the application were:

Duane C Scott - watermaster
Donna Ham
Keith Ham
Carl Ham
Melvin Braasfield

(over)

Arthur Bracefield
Jerry Hamnerquist.

yours truly,
A. Carl Hamner

RECEIPT

Division of Water Rights
South Dakota Department of Water and Natural Resources

No 4 9852

Pierre, December 13, 1984, 19

RECEIVED OF Ham Ranch Inc, SE Box 34, Capota, SD 57725

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

Fee for Application for Permit No. 337-26 to Appropriate Water, to construct works 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		
Fee for Filing Extension Request		
Fee for Certified Copy of		
Fee for Print Copy of Map		
Fee for Certifying		
Fee for		
(Any Other Work Provided by Law)		
Total	50	00

By John Hatch
Chief Engineer JOHN HATCH (RS)

Water Rights Division
605 773-3352

January 10, 1985

Kent Rasmussen
Equitable Agra-Business
PO Box 266
Rapid City SD 57709

Dear Mr. Rasmussen:

Enclosed is the information you requested on the Water Rights for Ham Ranch, Inc. Water Right No. ~~937~~-2B is the result of a split between Ham Ranch, Inc. and Marsh Hersford Ranch, Inc. Mr. Ham plans on changing his point of diversion on Rapid Creek and adding 2 small center pivots to his land. This change has not been approved by the Water Management Board yet, but should be taken care of at their March meeting.

Our records for the St. Germaine Ditch show the following lands in Section 8 & 9, T1S, R10E under Carl Ham's name:

Field L	22 acres
H	280
O	11
R	65
S	10
W	40

Total 428 acres

If you have any questions on this matter, please contact this office.

Sincerely,

TIMOTHY G. SCHAAL
Water Resources Engineer

TGS:ks
enclosures

WATER RIGHTS DIVISION
(605) 773-3352

February 20, 1985

Gerald E. Marsh
Marsh Hereford Ranch
Caputa, South Dakota 57725

Dear Mr. Marsh:

Enclosed is a copy of Carl Ham's application. According to the SCS figures, the center pivots will cover 105 acres. We will not do anything to your share of the permit until the Water Management Board acts on this. We will then relicense Carl's and you will have the remainder of the original permit.

If you have any questions on this matter please contact this office.

Sincerely,

Timothy G. Schaaf
Water Resources Engineer

TGS:ms
Enc.



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

Water Rights Division
605 773-3352

APR 22 1985

Haw Ranch, Inc.
St Rt, Box 34
Capota SD 57725

Dear Mr. Haw:

Enclosed herewith is your Water Permit No. 937-2B as approved by the Water Management Board authorizing you to construct your water diversion system and the water to beneficial use, not exceeding the limits as specified in said Water Permit No. 937-2B.

Also enclosed is Form 10, Notice of Completion of Works and Application of Water to Beneficial Use, which you are to complete and submit to the Chief Engineer when you have completed the system and/or have put the water to beneficial use. An inspection can then be scheduled so that your Water License may be issued to you, thus completing your acquisition of a Water Right.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division

JH:

ku

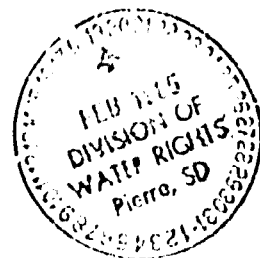
enclosure

PLEASE NOTE: Certain changes can be made in your permit within the five year construction period, usually without affecting the priority date provided an application to amend your permit is made within the five year period-i.e. changes in location or number of diversion points (wells) or location of land to be irrigated. Well locations for wells into the same aquifer can be moved up to 660 feet without application.

Applications to amend a permit after the five year construction period will be assigned a new priority date. Applications to change water sources, to add lands or increase original diversion rates, if approved will usually receive the date of the new application as a priority date regardless of the five year construction period.

WNR-809-5/83

AGREEMENT AND RELEASE



I

PARTIES:

The parties to this agreement are Ham Ranch, Inc., a corporation, (Ham), and Marsh Hereford Ranch, Inc., a corporation, (Marsh), each having principal offices in Pennington County, South Dakota.

II

PURPOSE:

The purpose of this Agreement is to mutually release the other party of all claims, actions, causes of action and demands, of every kind and character, arising out of or connected with those certain Agreements dated September 5, 1968, a copy of which is attached hereto marked Exhibit A and made a part hereof by this reference, and Agreement dated April 6, 1982, a copy of which is attached hereto marked Exhibit B and made a part hereof by this reference, and also to divide the joint water right owned by the parties and identified as permit number 937-2 issued by the state of South Dakota on October 12, 1967.

III

DIVISION OF WATER RIGHT:

The parties agree that Ham will acquire that portion of water right 937-2 with the original priority date to satisfy the South Dakota irrigation water allocation formula for the acreages Ham will be irrigating under his separate system.

Marsh will acquire, with the original priority date, the balance of the water right provided in 937-2.

IV

RELEASE AND DISCLAIMER:

Ham releases and disclaims all interest of every kind and character in the property, equipment and other assets of the present irrigation system located at the present point of diversion and releases and disclaims any easement and any right to ingress and egress granted under the attached Agreements.

V

NEW POINT OF DIVERSION:

Marsh agrees not to object to the petition filed by Ham for a change of the point of diversion presently pending before the State Water Management Board.

VI

MUTUAL RELEASE:

The parties mutually release each other of all claims, actions, causes of action and demands, of every kind and character, arising out of or connected with the attached Agreements, Exhibits A and B.

Dated this 17th day of February, 1985.

MARSH HEREFORD RANCH, INC.

BY: Frederic E. Marsh, Sec

HAM RANCH, INC.

BY: William Randolph Zink
Ray C. Cook, Sec.

STATE OF SOUTH DAKOTA)
COUNTY OF PENNINGTON)SS.

On this the _____ day of February, 1985, before me, the undersigned officer, personally appeared _____, a duly authorized officer of MARSH HEREFORD RANCH, INC., and acknowledged that he executed the foregoing Agreement and Release for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

NOTARY PUBLIC

(SEAL)

My Commission Expires: _____

STATE OF SOUTH DAKOTA)
COUNTY OF PENNINGTON)SS.

On this the _____ day of February, 1985, before me, the undersigned officer, personally appeared _____, a duly authorized officer of HAM RANCH, INC., and acknowledged that he executed the foregoing Agreement and Release for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

NOTARY PUBLIC

(SEAL)

My Commission Expires: _____

AGREEMENT

WHEREAS Marsh Hereford Ranch, Inc., a Corporation, and Ham Ranch, Inc., a Corporation, were granted a water right by the State of South Dakota on October 12, 1967, at 8:00 A.M., which is identified as Permit No. 937-2, Water Division No. 2, Rapid Creek District, South Dakota,

WHEREAS, the point of diversion of this water right is situated on real estate owned by the Marsh Hereford Ranch, Inc.,

WHEREAS, water utilized by Ham Ranch, Inc., a corporation, from said point of diversion will need to be conveyed across real estate owned by Marsh Hereford Ranch, Inc.,

WHEREAS, the parties are interested in entering into an agreement whereby they can share the costs involved in connection with the operation and maintenance of said water right,

WHEREAS, Marsh Hereford Ranch, Inc. is willing to grant an easement to Ham Ranch, Inc. for conveyance of water from point of diversion to property of Ham Ranch, Inc.,

NOW THEREFORE, Marsh Hereford Ranch, Inc., a corporation, hereinafter referred to as "Marsh" and Ham Ranch, Inc., a corporation, hereinafter referred to as "Ham", in consideration of the mutual and reciprocal covenants flowing between the parties and in consideration of the payments to be made hereunder and the rights granted hereunder and in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is hereby agreed by the parties as follows:

1. It is understood and agreed by the parties that certain pumps and other diversion facilities will be maintained at the point indicated as pumping station on Exhibit "A", attached hereto and incorporated herein by reference as fully as if set forth at length herein.

2. Marsh hereby grants to Ham an easement for purpose of construction and maintenance of a pipeline for purpose of conveying water from point of diversion on Exhibit "A" to property owned by Ham, said easement to extend twenty (20) feet on each side of the center of the pipeline running across the following described real estate owned by Marsh:

The Southeast Quarter of the Southeast Quarter (SE 1/4 SE 1/4), Section Seventeen (17), Township One (1) South, Range Ten (10) East of the Black Hills Meridian, Pennington County, South Dakota,

which easement shall be for the benefit of the following described real estate which is owned by Ham:

Section Twenty-One (21) of Township One (1) South, Range Ten (10) East of the Black Hills Meridian, Pennington County, South Dakota.

The course of the easement granted will follow the general course shown on attached Exhibit "A", from the pumping station to the point near the Northwest corner of Section Twenty-One (21) where the pipeline enters Ham's property.

3. The parties hereby agree to share all costs of construction and operational costs in connection with the water right and all maintenance of pumping, ditch and diversion facilities in the following proportions:

(a) Initially, each party hereto will bear said costs in direct proportion to the number of acres irrigated by said party, which means that at the outset Marsh will bear fifty-seven per cent (57%) of all of said costs and Ham will bear forty-three per cent (43%) of all of said costs. In the event either party desires to irrigate additional acreage from the system described herein, the initial investment costs and maintenance and repair costs shall be reapportioned to include the added acres, according to the following formula:

(1) The value of permanent pipeline and fixtures (approximately \$ 1200⁰⁰) is to be calculated at one hundred per cent (100%) of initial cost to the parties.

(2) The value of pumps, motors and other similar equipment which originally cost \$ 4000⁰⁰ and which is subject to periodic maintenance or replacement is to be calculated at remaining value, based on said pumps, motors and similar equipment having a usable life of 10 years.

(3) The party bringing additional acres under the system shall reimburse the other party a portion of his original investment cost as set forth in the above formula.

(4) It is understood that the total acreage to be irrigated by all parties hereto by this system shall not exceed four hundred (400) acres.

(b) The annual minimum charge for electricity for this entire system shall be calculated annually and an average cost per kilowatt hour computed. The parties both agree to assist in maintaining accurate records of their usage of electricity and their usage of water, and to make the same available to the other party.

Each party hereto shall be obligated for that portion of the annual minimum electricity charge for the entire system in proportion to the number of acres he has under irrigation during a particular year. In the event that either or both parties fail to use, in any season, his proportionate share of the power included in the annual electric minimum, he shall still be obligated for his portion of the minimum electrical charges, except, if the other party uses more electricity than his portion of the annual electrical minimum, then he shall reimburse the other party for that amount of electricity used in excess of his portion of minimum at a rate per kilowatt hour equal to the lowest power rate in effect. The cost of any electricity used in excess of annual electrical minimum shall be shared proportionately according to usage by each party.

It is understood by the parties that the easement granted hereunder will cease when the water system is no longer in operation or when Ham or successor has failed to use said system for a three (3) year period.

Marsh hereby grants to Ham the right to ingress and egress to the pumps along an established trail or road across Marsh's property, which is located along the north edge of the area proposed to be irrigated by Marsh, or such other reasonably convenient route as may be designated by Marsh from time to time.

It is understood and agreed that Ham will be irrigating approximately but not limited to, 113.9 acres in Section Twenty-One (21) or adjoining lands, of Township One (1) South, Range Ten (10) East of the Black Hills Meridian, Pennington County, South Dakota, and that Marsh will be irrigating approximately but not limited to, 156.5 acres in Section Seventeen (17) and Section Twenty (20) or adjoining lands, of Township One (1) South, Range Ten (10) East of the Black Hills Meridian, Pennington County, South Dakota.

Each party shall promptly pay his share of any costs incurred in connection with the system when due.

In the event either party hereto does any maintenance or pays any operational costs or maintenance costs which are in part or in whole the proper responsibility of the other party, then the party doing the work or incurring the cost shall be entitled to be reimbursed by the responsible party.

In the event of the failure of Ham or its successor to perform any of the covenants herein to be performed by Ham, then Marsh, at its option, may give notice of its intention to declare all easements hereunder forfeited and all interest of Ham in the water system forfeited, and if said deficiencies are not rectified and corrected within thirty (30) days written notice of the aforesaid declaration to Ham, then in that event all easements in favor of Ham and all interest in the water system shall be forfeited.

In the event of the failure of Marsh or its successor to perform any of the covenants herein to be performed by Marsh, then Ham, at its option, may give notice of its intention to declare the interest of Marsh in the water system

forfeited, and of the intention of Ham to continue the water system as its own and to continue to use all easements granted hereunder and if said deficiencies are not rectified and corrected within thirty (30) days written notice of the aforesaid declaration to Ham, then in that event Ham shall have the right to utilize the entire system as long as it maintains the same.

It is understood that the easement granted herein is for the purpose of maintaining the pumping station and a pipeline from the point of diversion in Section Seventeen (17) to the boundary of Ham's property at a point in the Southeast corner of the Southeast Quarter (SE 1/4) of Section Seventeen (17), Township One (1) South, Range Ten (10) East of the Black Hills Meridian, Pennington County, South Dakota.

Dated this 5 day of Sept, 1968.

MARSH HEREFORD RANCH, INC., a Corporation

By: W. L. Marsh
President

HAM RANCH, INC. a Corporation

By: J. Paul Ham
President

STATE OF SOUTH DAKOTA)
COUNTY OF PENNINGTON) SS.

On this the 5 day of September, 1968, before me, the undersigned officer, personally appeared W. L. Marsh, who acknowledged himself to be the President of Marsh Hereford Ranch, Inc., a corporation, and that he, as such President, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as President.

In witness whereof, I hereunto set my hand and official seal.

W. L. Marsh
Notary Public, South Dakota

My Commission Expires:
Oct 1 1971
(SEAL)

STATE OF SOUTH DAKOTA)
) SS.
COUNTY OF PENNINGTON)

On this the 11 day of September, 1968, before me,
the undersigned officer, personally appeared Clarence
who acknowledged himself to be the President of Ham Ranch, Inc., a corporation,
and that he, as such President, being authorized so to do, executed the fore-
going instrument for the purposes therein contained, by signing the name of
the corporation by himself as President.

In witness whereof, I hereunto set my hand and official seal.

Notary Public, South Dakota

My Commission Expires:

April 26, 1971

(SEAL)

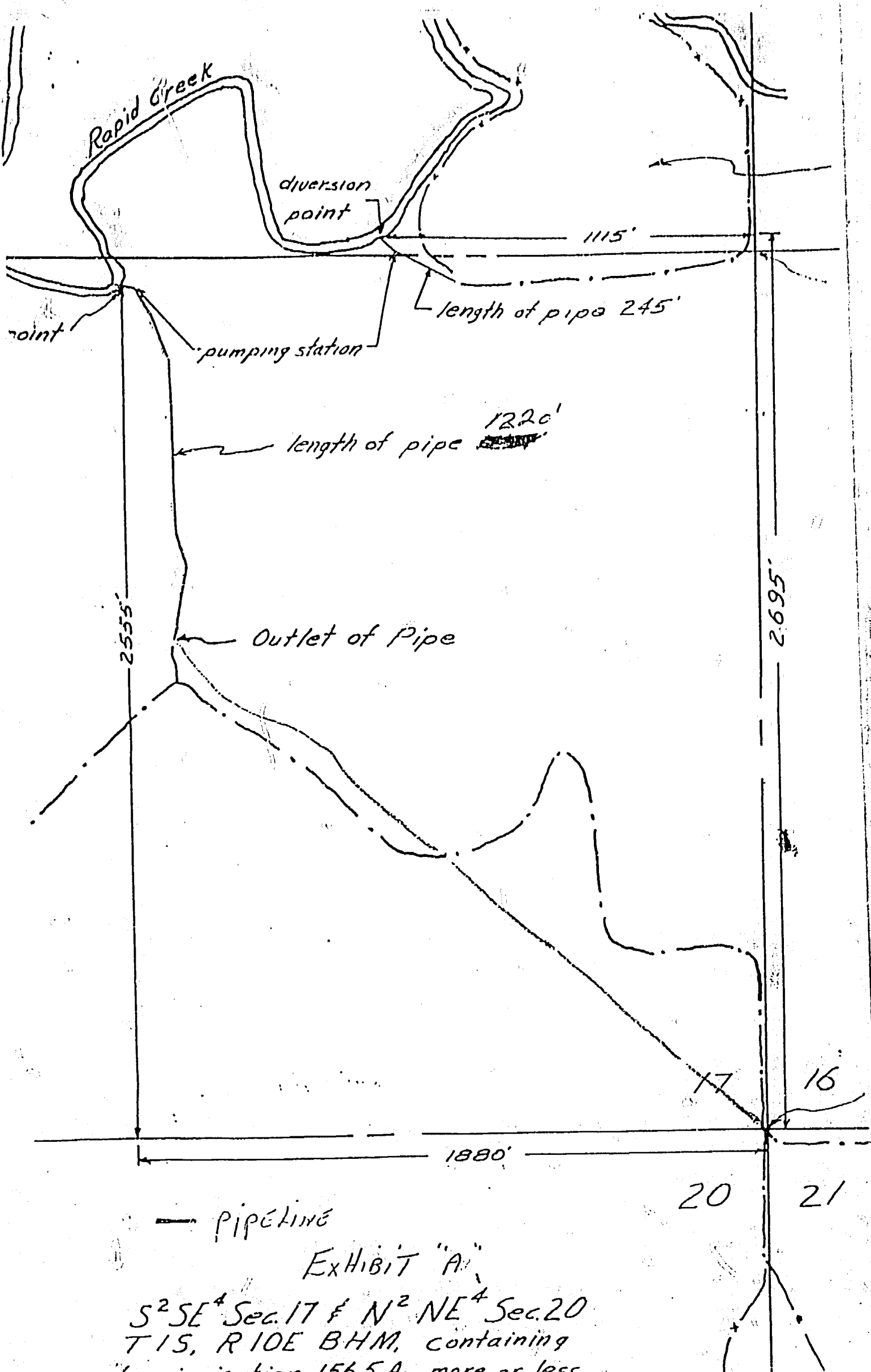


EXHIBIT "A"

S²SE⁴ Sec. 17 & N²NE⁴ Sec. 20
 T 15, R 10E BHM, containing
 for irrigation 156.5 Ac. more or less

AGREEMENT

I

PARTIES:

The parties to this agreement are Marsh Hereford Ranch, Inc., a corporation (Marsh) and Ham Ranch, Inc., a corporation (Ham), each with principal offices in Pennington County, South Dakota.

II

PURPOSE:

The purpose of this agreement is to amend that certain Agreement between the parties dated September 5, 1968, a copy of which is attached hereto and made a part hereof by this reference. It is further understood that except as amended herein, said Agreement and all of its terms remain in full force and effect.

III

ARBITRATION:

The parties agree that all disputes arising under this agreement and the Agreement dated September 5, 1968, shall be decided by arbitration conducted according to the rules of the American Arbitration Association. The arbitrator shall be selected by mutual agreement of the parties; and in the event the parties are unable to agree, then the arbitrator shall be appointed by the presiding judge of the Seventh Judicial Circuit, State of South Dakota. The parties express a wish that in the event such appointment is made, the judge appoint a person possessing such special knowledge as is appropriate to the given dispute.

IV

INSTALLATION OF SEPARATE PUMPING SYSTEMS:

The parties agree to install separate pumping systems which would include pump, motor, sheaves, belts, check valve,

discharge hose, suction pipes, suction screens, couplers, electric starter equipment and wiring from starter to motor. The parties agree to design each separate pumping system so that the separate pumps may pump together in a compatible manner.

V

DIVISION OF CAPACITY:

The parties agree that the capacity of the diversion works for the carriage of water under their joint water right shall be divided on a 57 percent (Marsh) 43 percent (Ham) basis. To assure that the water is properly divided, the parties agree to cooperate in installing an appropriate weir and in installing separate pumping units with each pump equipped with a flow meter and each pump having a pumping capacity which does not exceed the respective rights of the parties in the capacity of the diversion works as above set forth. It is understood that the excess capacity of the diversion works which is available for Marsh's acquired water shall be the capacity of the pipe which exceeds two thousand four hundred (2,400) gallons per minute (g.p.m.).

VI

INTAKE VALVES:

The parties agree to install at their own expense appropriate intake systems at the diversion point on Rapid Creek and agree to cooperate to assure that said intake systems are compatible.

VII

CAPACITY LIMITATION:

The parties agree that the total capacity of the pipe is limited to three thousand two hundred (3,200) g.p.m. and

that of said amount one thousand thirty-two (1,032) g.p.m. is allocated to Ham and two thousand one hundred sixty-eight (2,168) g.p.m. is allocated to Marsh. Maintenance of the property which will be used jointly (the pipe and the weir) shall be shared by the parties in proportion to their rights in the total capacity of the works.

VIII

AUDIT:

The parties agree that the books of account presently in the possession of Marsh shall be furnished to the accounting firm of Dunmire, Short & Co. so that an audit of the books may be made, and the expenses of such audit shall be shared equally by the parties.

IX

DIVISION OF PROPERTY:

The parties agree to divide in kind the present pumps, motor, sheaves, belts, check valves, discharge hoses, suction hoses, suction screens, couplers, electric starter equipment, pump trailer, safety switch and service loop and such other property as is presently jointly owned. In the event the parties are unable to agree to a division in kind, then such property shall be sold and the proceeds divided on a 57 percent (Marsh) to 43 percent (Ham) basis.

X

MAINTENANCE OF SEPARATE SYSTEMS:

The parties shall each maintain at their own cost their separate pumping systems and shall each pay separately the electric costs attributable to each system.

XI

WITHDRAWAL OF PROTEST:

Ham agrees to withdraw its protest presently pending before the South Dakota Department of Water and Natural Resources

regarding Application No. 1781-2 of Marsh for a water permit.

In the event Ham makes an application for a water permit to use his capacity allocation of one thousand thirty-two (1,032) g.p.m. for use on lands owned by it, then Marsh agrees not to oppose such application.

Dated this 1 day of April, 1982.

MARSH HEREFORD RANCH, INC.

By: Donald E. Marsh

Its: Secretary-Treasurer

HAM RANCH, INC.

By: Q. Carl Ham

Its: Pres.

STATE OF SOUTH DAKOTA :
COUNTY OF PENNINGTON : SS

On this 6 day of April, 1982, before me, the undersigned officer, personally appeared Donald E. Marsh, who acknowledged himself to be the Secretary-Treasurer of MARSH HEREFORD RANCH, INC., a corporation, and that he, as such Secretary-Treasurer being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as Secretary-Treasurer.

In witness whereof I hereunto set my hand and official seal.

Richard M. Mahon
NOTARY PUBLIC

(SEAL)

My Commission Expires: July 21, 1983

STATE OF SOUTH DAKOTA :
COUNTY OF PENNINGTON : SS

On this 6th day of April, 1982, before me, the undersigned officer, personally appeared Q. Carl Ham.

who acknowledged himself to be the President of HAM RANCH,
INC., a corporation, and that he, as such President being
authorized so to do, executed the foregoing instrument for the
purposes therein contained, by signing the name of the corporation
by himself as President.

In witness whereof I hereunto set my hand and official
seal.

Robert M. Wilson
NOTARY PUBLIC

(SEAL)

My Commission Expires: July 21 1983

REPRODUCTION OF ORIGINAL DOCUMENT

DATE OF REPRODUCTION

CAMERA OPERATOR

NOTICE OF COMPLETION OF WORKS AND/OR
APPLICATION OF WATER TO BENEFICIAL USE

Post Office Box 34 Cape H. S. D.

Date 5/35/85

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

Dear Sirs:

This is to inform you that I have completed the construction of the water diversion system and/or that I have put the water to beneficial use to maximum extent it is going to be used, not exceeding the amounts as specified in Water Right No.

9.37 - 30

Water Right Permit No. 937-25 states that the diversion system is to be constructed by diversion, and that the water is put to beneficial use by diversion.

The diversion system was completed on 5/23/85. Applying the water to beneficial use was completed on 5/23/85.

You may schedule an inspection so that the Certificate of Construction and/or the Water License may be issued, thus completing my acquisition of a water right.

Van Buren, Tex.
 (Signature)
 J. C. Carl Kane

WNR-810-7/79
Notice of Completion of Works and/or
Application of Water to Beneficial Use





**Department of
Water & Natural Resources**

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

Division of Water Rights
605 773-3352

No. 937-2B

October 25, 1985

Ham Ranch, Inc.
St Rt, Box 34
Caputa SD 57725

Dear Sir:

The inspection of your water use system and inspection of the extent of the application of water to beneficial use, as developed under your Water Right No. 937-3B has been completed. Your final water right document, the Water License, can now be issued.

Statutes require that we charge a \$50.00 fee for the inspection and issuing of the Water License. Upon receipt of the \$50.00 fee from you, your Water License will be sent to you.

South Dakota Water Law 46-5-30.1 requires that a permit holder may not divert water until this \$50.00 license fee has been paid. Please contact us if you have any questions.

Sincerely,

Karen Schlaak

KAREN SCHLAACK
Administrative Aide

NOTE: On form of payment, please include the number of the water permit.
This insures proper handling of the fee.

Permit No. 937-2BUpper Cheyenne Water District**Report Of Examination Of Works And/Or Application Of Water To Beneficial Use**

TO: Chief Engineer, Division of Water Rights, DWRN, Foss Bldg., Pierre, SD 57501

I have this day made a thorough examination of the water use system constructed by Ham Ranch, Inc._____ of St. Rt. Box 37 Caputa holder ofPermit No. 937-2B, bearing the priority of October 12 19 67 authorizingthe diversion of 1.50 cu. ft. per second of the waters of Rapid Creek, Pactola & Deerfieldfor Irrigation purposes, in Pennington County.

I have to report on the conditions of the same as follows:

A. Works used to divert the water:

Berkeley 8 1/2" centrifugal pump Model No. B32 PBHU.S. Electric 60HP motor ID. No. 9502075-135

B. Works used to transport water to place of use:

5300 ft. 8 inch Buried PVC pipe

C. Works used to apply water to beneficial use:

5 tower & 3 tower Zimmatic Center PivotsThe system is in the following condition GoodThe point of diversion is located 650' east of the center of
Section 16-T15-R10E (NW 1/4 SE 1/4)The works are capable of diverting and conveying to the place of use 1.45cu. ft. per second of water which is to be used for IrrigationWater has been put to beneficial use to the maximum extent as follows: NW 1/4 NW 1/4 - 32 Ac,SW 1/4 NW 1/4 - 11 Ac, SE 1/4 NW 1/4 - 5 Ac,NE 1/4 NW 1/4 - 34 Ac, NW 1/4 NE 1/4 - 23 Ac,all in Section 21-T15-R10Ecomprising a total of 105 acres of land and the license should be issued for 1.45 cfsApplicable permit qualifications have been complied with X Yes NoExceptions to compliance are: _____ Date August 22, 1985Timothy L. Schaal

Signature

LICENSE FOR PERMIT NUMBER 937-2E

1. Legal location of wells: Diversion from Rapid Creek
650 ft. east of center of Section 16-T1S-R10E
dams & structures: (NW $\frac{1}{4}$ SE $\frac{1}{4}$)
2. Well Information: Well Drilling Firm _____
- No. of wells _____ Depth _____
- Casing a) diameter _____ Screen a) type _____
b) length _____ b) length _____
c) type _____ Static Water Level _____
- Pump a) make Berkeley Motor a) make U.S. Elec. Motors
b) model B37PBH b) model no. R-1
c) size 8 $\frac{1}{2}$ " c) horsepower rating 60 HP
d) capacity 650 GPM d) motor efficiency rating _____
e) turbine pump 280 psi
no. of stages _____
- c) ID No. 9502075-135
3. Distribution lines:
a) size of lines 8"
b) type Buried PVC
c) length 5300
4. Dam information:
a) height to crest _____ i) Outlet tubes:
b) height to spillway _____ 1) diameter _____
c) crest width _____ 2) type _____
d) crest length _____ 3) valued (Y/N) _____
e) spillway length _____ 4) valve type _____
f) spillway width _____ 5) location on structure _____
g) approx. storage _____
h) Distribution lines or canals
1) size _____
2) type _____
3) length _____
5. System Type: a) sideroll: b) towline:
1) length _____ feet 1) length _____ feet
2) diameter of pipe _____ 2) make, model & number of sprinklers _____
3) make, model & number of sprinklers _____
4) spacing of sprinklers _____ 3) spacing of sprinklers _____
5) nozzle size _____ 4) nozzle size _____

5. System Type: c) center pivot

- 1) make 2 Zimmatic
- 2) number of towers 5 & 3
- 3) distance between towers _____

- 4) overall length ≈ 1000' & 560'
- 5) End gun (Y/N) Yes Nelson 100'
- 6) high or low pressure high
- 7) make & size of nozzles 5 nozzles / tower
- 8) PSI reading while system is running 70-75
- 9) GPM 650

g) Gun

- 1) make _____
- 2) serial number _____
- 3) nozzle size _____
- 4) capacity (GPM) _____
- 5) PSI _____
- 6) hose size _____
- 7) hose length _____

d) Gate Pipe

- 1) length _____
- 2) diameter _____
- 3) spacing of gates _____

e) Siphons

- 1) number _____
- 2) size _____

f) Portable boom

- 1) make _____
- 2) serial number _____
- 3) nozzle size _____
- 4) capacity (GPM) _____
- 5) PSI _____

h) Hydromatic

- 1) make _____
- 2) model _____
- 3) serial number _____
- 4) length _____
- 5) nozzle size _____
- 6) spacing _____
- 7) PSI _____
- 8) capacity (GPM) _____

YES

NO

Check items

X

1. Soil and water permit lands agree with lands being irrigated and lands listed on permit.

X

2. Special Qualifications to permit being abided by.

X

3. All Structures, wells and lands on map.

REMARKS:

State of South Dakota
Water License No. 937-2B

(1) Ham Ranch, Incorporated
of Star Route, Box 34, Caputa, South Dakota
made Application No. 937-2B, December 17, 1984 for a water permit to appropriate
1.50 cubic feet per second of water from Rapid Creek-storage from Pactola & Deerfield Reservoirs,
Pennington County, South Dakota for irrigation purposes.
Permit No. 937-2B, with a priority date of October 12, 1967
was approved March 6, 1985 and issued to applicant(s) for diversion of water with construction of the described
water supply system to be completed on or before March 6, 1990 and for the application to beneficial use of said
water ~~on or before~~ _____.

Water Permit No. 937-2B as issued to Ham Ranch Incorporated, authorizes a change in
diversion point for lands irrigated in Section 21, T1S, R10E. This land was originally
authorized for irrigation under Water Right No. 937-2 under Marsh Hereford Ranch
Incorporated and Ham Ranch Incorporated with a priority date of October 12, 1967.

Water License No. 937-2 was reissued to delete the portion of land irrigated by
Ham Ranch Incorporated, now authorized under No. 937-2B.

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 1.45 cubic feet per second of water
for beneficial use. The location of the diversion point(s) is 650' east of the center of Section 16,
T1S, R10E (NW 1/4)

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 lands all in T1S-R10E

Section 21	SW ¹ / ₄ NW ¹ / ₄	32 Acres
	SE ¹ / ₄ NW ¹ / ₄	11 Acres
	SE ¹ / ₄ NE ¹ / ₄	5 Acres
	NE ¹ / ₄ NW ¹ / ₄	34 Acres
	NW ¹ / ₄ NE ¹ / ₄	23 Acres
	total	105 ACRES

(4) Pursuant to §16-5-30.1 Ham Ranch Incorporated

of Star Route, Box 34, Caputa, South Dakota 57725

the holder(s) and/or owner(s) of Water Permit No. 937-2B is issued a license to appropriate water, the right to use 1.45 cubic feet per second of water from Rapid Creek, storage from Pactola & / Deerfield Reservoirs with a priority date of October 12, 1967 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 Water Permit No. 937-2B and subject to South Dakota State Law.


Chief Engineer, Water Rights Division
Department of Water and Natural Resources

JOHN HATCH

FEB 9 1988

RECEIPT

Division of Water Rights

No 410241

South Dakota Department of Water and Natural Resources

Pierre, November 18, 1985

RECEIVED OF Ham Ranch, Inc., SR, Box 34, Caputa, SD 57725

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct works and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	50 00

By

Chief Engineer

John Hatch
JOHN HATCH (1985)



**Department of
Water & Natural Resources**

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

WATER RIGHTS DIVISION
Phone (605) 773-3352

No. 937-2B

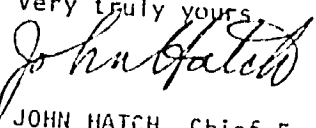
FEB 9 1988

Ham Ranch Incorporated
Star Route, Box 34
Caputa, South Dakota 57725

Dear Mr. Ham:

Enclosed herewith is, Water License No. 937-2B. This is the final water right document completing your process of obtaining a water right.

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

Very truly yours,


JOHN HATCH, Chief Engineer
Water Rights Division

JH:MS

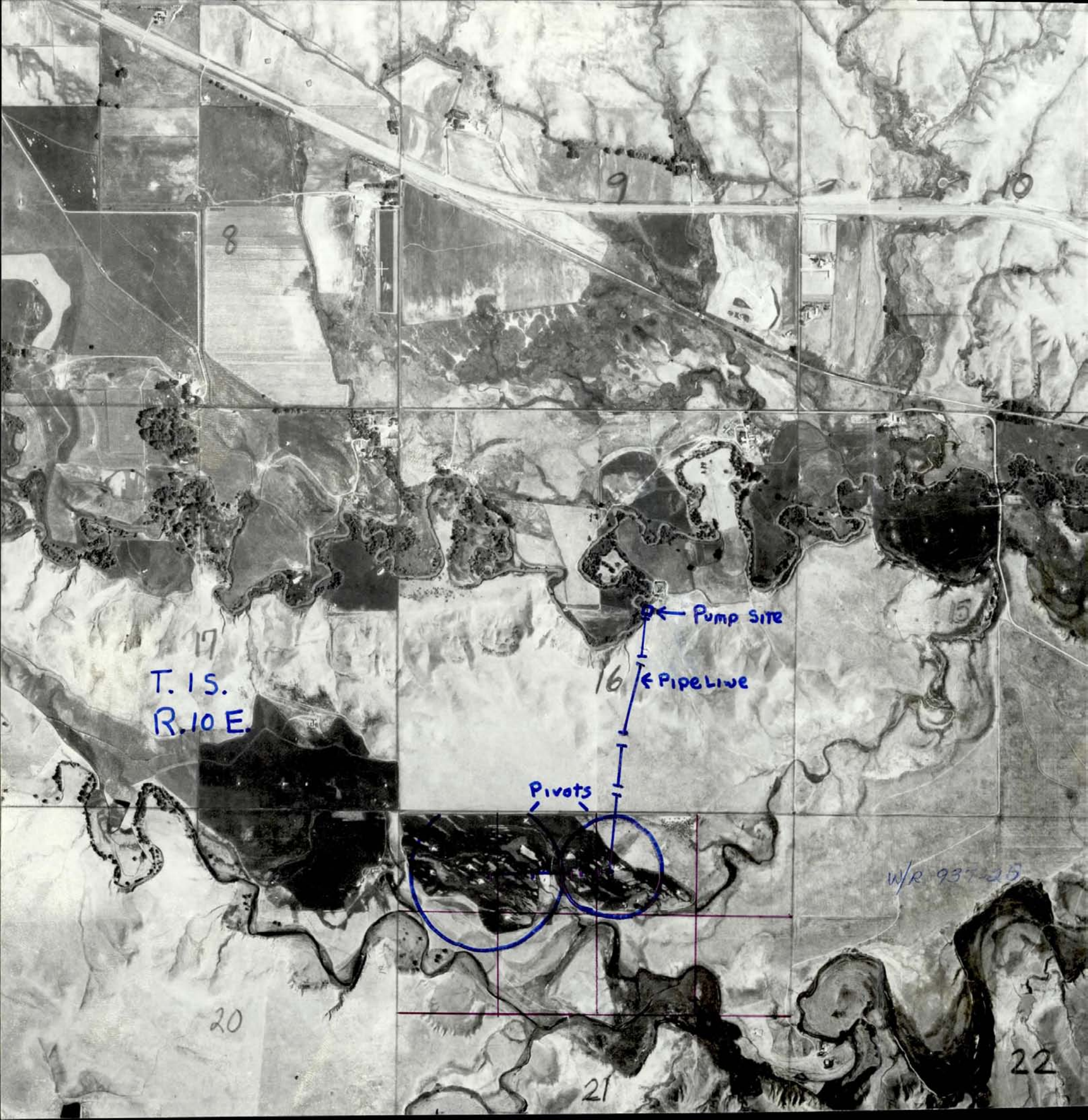
Enclosures

WNR-817 3/83
Transmittal of Water License



Timothy K. Schaaf
November 30, 1984

App. # 937-2B



17
T. 15.
R. 10 E.

9

10

8

16

5

20

21

22

Pump Site

Pipeline

Pivots

W/R 937-25