

LOCATION NOTICE

#567-2

KNOW ALL MEN BY THESE PRESENTS:

THAT Timothy Downen whose post office is Fairburn South Dakota, a citizen of the United States, above the age of 21 years, being in possession of the following described land, to-wit: SE 1/4 NE 1/4 section 83 township 4.5 range 7E B. H. M. in Custer County, South Dakota. Said lands comprising Desert Entry No. _____ Lano District, availing him self of the right granted him under the provisions of Section 31 of Chapter 15th of the Session Laws of South Dakota of 1907, has located and claims the right to construct a certain dam across a dry draw situated in the SE 1/4 of the NE 1/4 section 83 township 4.5 range 7E B. H. M. 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 claims the right of way across any land for the purpose of conveying said waters for said purpose.

Said locator claims for this above purpose 1/2 cubic feet of water per second during the following described annual periods whole of each year inclusive each year.

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

From the _____

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

Said location was made on the 30 day of September 1915

Witness my hand and seal this 30 day of September 1915

Timothy Downen

Locator.

State of South Dakota,

County of Custer

ss.

On the 30 day of September 1915, before me M. D. Brainard

_____, a notary public in and for the County and State aforesaid, personally appeared Timothy Downen to me personally known to be the person who executed the foregoing instrument and acknowledged that he executed the same for the uses and purposes therein set forth.

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

M. D. Brainard

Notary Public.

Pierre, South Dakota, Oct. 18, 1915

This is to certify that the foregoing location notice was received at this office at 9 o'clock 9 M., upon the 2 day of October 1915, and after examination it was filed for record

Homer M. Derr

State Engineer.

Memo: File Doc. on 567-2

From: DelRon Peters

Land Owner: Maynard Downen

Date: June 20, 1995

Address: Box 11 Fairburn SD 57738

Phone: (605) 255-4115

Lands.: S1/2 NE 1/4 Section 23 T4S-R7E

Dam Location: SE 1/4 NE 1/4 Section 23 T4S-R7E

Dam Ht.: 25 ft.

Dam length: 180 ft

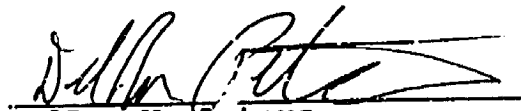
Crest Width: 15 ft.

Depth: 6ft.

Storage Capacity: 1/3 acre-ft

Name on Location Notice: Timothy Downen

Comments: Dam is present but no lands irrigated. Cancel lands off.



DelRon V. Peters

**Natural Resources Engineer
DENR, Water Rights Program**

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
WATER RIGHTS PROGRAM

July 24, 1996

**Subject: Change in use of a irrigation diversion dam for Location Notice No. 567-2,
Maynard Downen.**

An inspection of Location Notice No. 567-2 found that the cancellation of the irrigation portion of location notice and retaining the stockwater portion for stockwater only does not impair other water rights or domestic use. SDCL 46-5-31.1 provides that a diversion dam may be utilized for stock watering if permitted irrigation use from a storage dam is abandoned or forfeited without application or publication of a notice of hearing if no diversion is made from the stock dam and does not increase the potential for impairment with existing water rights.

Location Notice No. 567-2 has a priority date of October 2, 1915 and is located in the SE 1/4 NE 1/4 Section 23 T4S-R7E.

No adverse effects or interference with existing water rights are expected. The change in use of the dam covered by Location Notice No. 567-2 with a October 2, 1915 priority date can be approved.



DelRon Peters
Natural Resources Engineer
Water Rights Program



8-7-96

John Hatch, Chief Engineer
Water Rights Program
Dept. of Environment and Natural Resources



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Maynard Downen
Box 11
Fairburn SD 57738

Dear Mr. Downen:

On June 20, 1995, DelRon Peters, engineer with our office investigated Location Notice No. 567-2. The investigation found that the dry draw dam located in the SE 1/4 NE 1/4 Section 23-T4S-R7E was no longer used for irrigation but for stockwatering purposes only. The location notice needs to be transferred to your name and then the location notice will be reissued for stockwatering purposes.

Enclosed is a *Notice of Transfer* form for use in filing an ownership change for Location Notice Nos. 567-2. Please check the form for accuracy and it signed and notarized. Return the form to our office with a required filing fee of \$2.50 each.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak
Water Rights Program
605 773-3352

enclosure

NOTICE OF TRANSFER OF OWNERSHIP

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



Location Notice No. 567-2

Date: Oct. 3, 1996

I/We request that Location Notice No. 567-2

formerly owned by: Timothy Downen

be transferred to: (name & address) MAYNARD Downen Box 11

FAIRBURN SD 57728 Telephone No. 255-4115

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

dry draw dam - SE 1/4 NE 1/4 Section 23-T4S-R7E

I/We understand that the validity of Location Notice No. 567-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

STATE OF SOUTH DAKOTA)

County of PENNINGTON)

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

Maynard Downen
(Signed)

Subscribed and sworn to before me this 3 day of October, 19 96.

Bruce C. Jensen
(Notary Public) COMMISSION EXPIRES 10/10/97

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

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

RECEIPT

415139

Division of Water Rights

South Dakota Department of Environment and Natural Resources

October 7, 19 96

Pierre.

RECEIVED OF Maynard Downen, Box 11, Fairburn SD 57738
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct
and to put water to beneficial use _____

Fee for Application for Permit No. _____ to Appropriate Water, for Future
Use _____

Fee to retain Future Use Permit No. _____ after period of seven years.

Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water
License No. _____

Fee for Filing Transfer Form LH No. 567-2

Fee for Filing Extension Request _____

Fee for _____

2 50

(Any Other Work Provided by Law)

Total

2 50

By

[Signature]
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

APR 7 1997

Maynard Downen
Box 11
Fairburn SD 57738

Dear Mr. Downen:

Enclosed is Location Notice Water License No. 567-2 and Receipt No. 415059 for \$2.50 which was assessed for the transfer of the location notice water license.

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

Very truly yours,

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

enclosure

STATE OF SOUTH DAKOTA

LOCATION NOTICE WATER LICENSE NO. 567-2

(1) Timothy Downen, Fairburn SD located and filed Location Notice No. 567-2, October 2, 1915 for a right to store water from a dry draw, Custer County, South Dakota, for irrigation and livestock purposes. Location Notice No. 567-2 with a priority date of October 2, 1915 was located and filed by the applicant for diversion of water and construction of the described water supply system. The system was completed and the water placed to beneficial use.

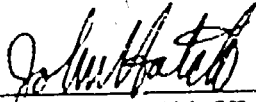
October 7, 1996, Location Notice No. 567-2 was transferred to Maynard Downen.

An investigation of Location No. 567-2 found the irrigation use from the permitted storage dam had been abandoned and/or forfeited. Pursuant to 46-5-31.1, stock watering may be added as a water use to the license provided no diversion is made from the dam. The Chief Engineer makes a finding that adding stock watering use to the license will not be impair existing water rights.

(2) It is certified that the applicant 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 store 1/3 acre feet of water for beneficial use. The location of the diversion point is SE 1/4 NE 1/4 Section 23-T4S-R7E

(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use for stock watering purposes.

(4) Pursuant to South Dakota Water Law 46-5-30.1 Maynard Downen, Box 11, Fairburn SD 57738 the holder and/or owner of Location Notice No. 567-2 is issued a license to appropriate water, the right to store 1/3 acre feet of water from a dry draw with a priority date of October 2, 1915 from the location specified in (2) of this license, for the purpose of stock watering. This license is subject to any limitations or qualifications listed in Location Notice No. 567-2 and subject to South Dakota State Law.


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

APR 7 1997

date



LN 567-2

T4S-R7E

NOT TO SCALE

Hy-Way 795

4-7

T638

dam is gone LN566

2181R

H22

old Wagon Trail

LN567-2

23

T938

T589

4-7

29.6 296

22

LN 567-2