

1. Considered 3-17 1976 2573.3
2. Name of Applicant WENDELL F. LEBURG
3. Post Office Address CHAMBERLAIN
4. Amount of water claimed 2.75
5. Source of water supply MISSOURI RIVER
6. Water to be used for IRRIGATION

Acres to be irrigated 192

7. Water to be diverted and used in BUFFALO county
about 14 N miles of CHAMBERLAIN

8. Proof of Publication

Received 3-15-76

Not Received _____

9. Application

Approved _____

Subject to _____

Not Approved _____

Action deferred _____

10. Remarks:

Map No. 1942-3 Water Division No. 3 MISSOURI RIVER District 3
 No. 2573-3
 (Blanks to be filled by the Engineer for the W. R. C.)



APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

(NOTE--Draw a line through items not applicable)

1. Name of Applicant Wendell F. Isburg
 Postoffice address N. RthE. Chamberlain, State South Dakota
 If a corporation show date and place of incorporation _____
 2. Method of accomplishing work (contract, employment of others, or by direct labor) Contract
 3. Name of diversion work Isburg Irrigation Project #1
 4. Amount of water claimed (cubic feet per second) 2.75 CFS
 5. Source of water supply Missouri River
 6. Location of point of diversion SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 10; 106-71

 _____ County Buffalo
 7. Annual period or periods during which water is to be used April 1st through September 30th
 8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) Irrigation
 9. For irrigation use, _____ Total number of acres to be irrigated 192

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.	Land Description	No. Acres Irr.
NE $\frac{1}{4}$ SE $\frac{1}{4}$ of S. 10 T106-R71	40	NE $\frac{1}{4}$ SE $\frac{1}{4}$ of S. 3 T106-R71	40
SE $\frac{1}{4}$ NE $\frac{1}{4}$ of S. 10 T106-R71	32		
NE $\frac{1}{4}$ NE $\frac{1}{4}$ of S. 10 T106-R71	40		
SE $\frac{1}{4}$ SE $\frac{1}{4}$ of S. 3 T106-R71	40		

Attach sheet if more space is needed

10. Time required to complete construction of water supply system five years. Additional time required to complete application of water to the proposed beneficial use four years.
 11. Choice of newspaper for Notice of Intent to Appropriate Water publication The Chamberlain Register
 12. Principal Features of the Proposed Water Supply System.

A. Works proposed to divert water from its natural source

Centrifugal Pumps

B. Works proposed to transport water to place of use.

Aluminum and buried plastic pipe

C. Works proposed to apply water to beneficial use.

Traveling Gun Sprinkler
Tow LinesEstimated Total Cost \$ 60,000.00

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map.
 (See instructions concerning preparation.)

STATE OF SOUTH DAKOTA)

County of Buffalo) ss.

I, Wendell F. Isburg the applicant, certify that I have read the foregoing application and 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

Subscribed and sworn to before me this

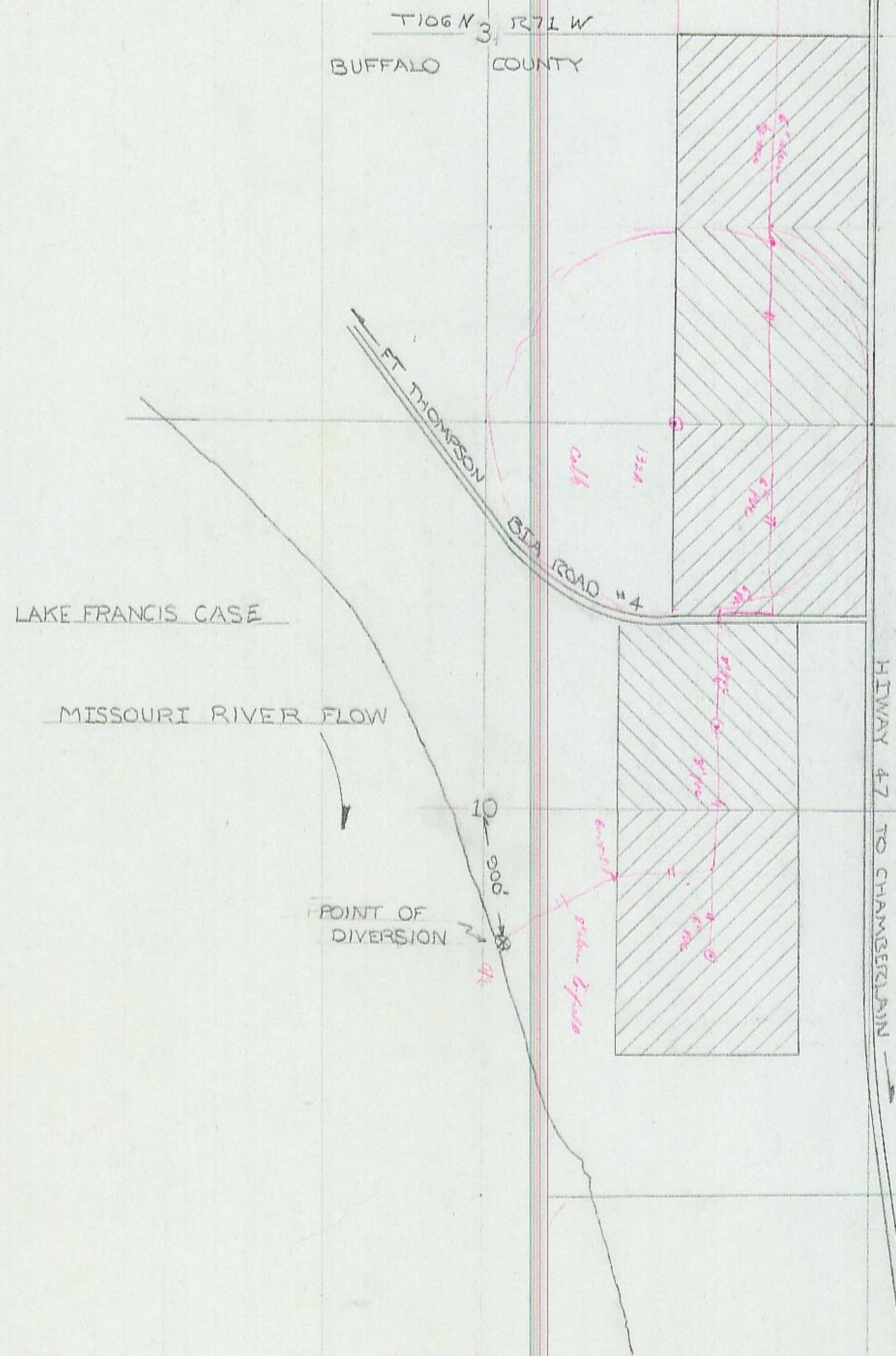
29th

day of

January1976

Notary Public (or other qualified officer)

By Commission Expires: 12-22-83



LAND TO BE IRRIGATED	
WENDELL ISBURG, OWNER	
DESCRIPTION	ACRES
SE 1/4 SEC. 10 T106-R71	40
SE 1/4, NE 1/4, SEC. 10, T106-R71	32
NE 1/4, NE 1/4, SEC. 10, T106-R71	40
SE 1/4, SE 1/4, SEC. 3, T106-R71	40
NE 1/4, SE 1/4, SEC. 3, T106-R71	40
TOTAL	192

SURVEYOR'S CERTIFICATE

I, R.V. Summerside, Registered Land Surveyor, State of South Dakota, do hereby certify that, at the direction of Wendell F. Isburg, I have surveyed the tract of land as shown, and that the above drawn Plat is a reasonably accurate description of the land of the proposed irrigation project. In witness whereof I have set my hand and seal this 24th day of February, 1976, A.D.

R.V. Summerside
REGISTERED LAND SURVEYOR

WATER APPROPRIATION MAP		
SCALE: 8" = 1 MILE	APPROVED BY:	DRAWN BY: JK
DATE: 2 FEB 76		REVISED:
WENDELL F ISBURG		
		DRAWING NUMBER

MAP NO 1942-3 (APPL NO 2573-3)

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 2573-3WENDELL F. ISBURG
(Applicant)N. RTE, CHAMBERLAIN
(Post Office Address)SOUTH DAKOTA 57325
(State)

With the following modifications:

IN CONSIDERING WATER RIGHT APPLICATIONS ON INDIAN LANDS THAT MAY BE CLAIMED ON INDIAN TREATY BASIS, IT IS THE POLICY OF THE COMMISSION THAT THIS PERMIT IS APPROVED IN ADDITION TO ANY WATER RIGHTS WHICH MAY ACCRUE ON INDIAN LANDS.

Date of first receipt of application FEBRUARY 26, 19 76Date of return to applicant for correction, amendments or changes required —, 19 —Date of receipt of corrected application —, 19 —Approved MARCH 17, 19 76, Recorded in Book 14 Page 350WATER RIGHT PERMIT NO. 2573-3

The Water Rights Commission hereby grants and issues this Water Right Permit No. 2573-3 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as modified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which a applicant may claim right is FEBRUARY 26, 19 76
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before SEPTEMBER 17, 19 78
3. The whole of said work is to be completed on or before MARCH 17, 19 81
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is MARCH 17, 19 85
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 injuriously affected by this appropriation.

7. The amount of the appropriation herein granted shall not exceed 2.75 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, and if for the irrigation purposes said appropriation must be limited to not more than 3 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 MARCH 17, 19 85; said water to be used during the following described annual period: APRIL 1 THRU SEPTEMBER 30

Witness my hand this 23RD day of MARCH, 19 76

WATER RIGHTS COMMISSION

By:

John H. H. H.
Chief Engineer, Executive Officer

Certificate of Construction Issued —, 19 —Water License Issued —, 19 —

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

No. 2573-3

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Brown) ss.

I, E. J. Buckingham, Jr. hereby

certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Chamberlain River

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 of Chamberlain

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

March 4, 1976

March 11, 1976

E. J. Buckingham, Jr.
(Signature)

Public
(Title)

March 11, 1976
(Date Signed)

NOTICE
INTENT TO APPROPRIATE
WATER
Pierre, South Dakota, 57501
February 26, 1976
Notice is hereby given that
Wendell F. Isburg whose post
office address is Chamberlain,
South Dakota, has made an
application in accordance with
the provisions of the water laws
of South Dakota for a permit to
appropriate for beneficial use
2.75 cubic feet of water per
second of time from the
Missouri River through the
Isburg Irrigation Project #1, the
point of diversion of which is to
be located in the NW 1/4 SE 1/4
of Section 10, Twp. 106N, Range
71W. Said water to be used for
the purpose of providing
irrigation on portions of the
following described land:
NE 1/4 SE 1/4 E 1/2 NE 1/4,
Section 10; E 1/2 SE 1/4 Section
3, T 106N, R 71W.
This application No. 2573-3
will be considered by the Water
Rights Commission at their
office at Pierre upon the 17th
day of March, 1976, at 1 p.m. All
interested persons may appear
and be heard.
WATER RESOURCES
COMMISSION
By: Burton F. Jones
Water Rights Specialist
(March 4 - 11)



No. 2573-3

Publish first publication, on or before March 4, 1976

NOTICE
INTENT TO APPROPRIATE WATER

Pierre, South Dakota 57501

February 26, 1976

Notice is hereby given that Wendell F. Isburg
whose post office address is Chamberlain, South Dakota, has made an application in accordance
with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use
2.75 cubic feet of water per second of time from the Missouri River through the
Isburg Irrigation Project #1, the point of diversion of which is to be located in the _____

NW 1/4 SE 1/4

or Section 10, Twp. 106N, Range 71W. Said water to be used for the purpose
of providing irrigation on the following described land:

NE 1/4 SE 1/4, E 1/2 NE 1/4, Section 10; E 1/2 SE 1/4 Section 3, T106N, R71W

This application No. 2573-3 will be considered by the Water Rights Commission at their office at
Pierre upon the 17th day of March, 1976, at 1:00 P.M. All interested
persons may appear and be heard.

WATER RESOURCES COMMISSION

By:

BURTON F. JONES
Water Rights Specialist

BFJ/bw

cc: Wendell F. Isburg
North Route
Chamberlain, SD 57325

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
CROW CREEK AGENCY
FORT THOMPSON, SOUTH DAKOTA
57339

March 10, 1976

I hereby certify that WENDELL F. ISBURG is listed
on the CROW CREEK SIOUX MEMBERSHIP roll, dated
October 3, 1962, an official record of this office,
as being of 1/4 degree CROW CREEK SIOUX Indian blood, and
with Roll No. 816 Enrollment No. 342-U00590.
According to Aberdeen Area Census Roll.

Wilson Gillette
Acting Superintendent

2573.3



United States Department of the Interior
OFFICE OF THE SOLICITOR

ROOM 211 - FEDERAL BUILDING
P.O. BOX 549
ABERDEEN, SOUTH DAKOTA 57101

March 18, 1976

RECEIVED

MAR 19 1976

DEPT. OF THE INTERIOR
RESOURCE DEVELOPMENT

Mr. Burton F. Jones
Water Rights Specialist
Water Rights Commission
Pierre, South Dakota 57501

Dear Mr. Jones:

The Area Director, Bureau of Indian Affairs, has advised that on March 17, 1976, at 1 p.m., a Hearing will be held by the Water Rights Commission at their office at Pierre, South Dakota, on the application of Wendell F. Isburg, of Chamberlain, South Dakota, for a permit to appropriate for beneficial use 2.75 cubic feet of water per second of time from the Missouri River through the Isburg Irrigation Project #1, the point of diversion being in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 10, T.106 N R. 71 W. for the purpose of irrigation.

This letter will serve as our written objection to such application for permit to appropriate ground water from within the boundaries of the Crow Creek Indian Reservation. The issuance of such permit would be contrary to established law, which declares that the State lacks jurisdiction with respect to the adjudication of the waters of, or the lands within, the exterior boundaries of an Indian Reservation. See 25 U.S.C.A. Sec 381; Winters v. United States, 207 U.S. 564, 28 S. Ct. 207; United States v. Powers, 94 F. 2d 783; United States v. McIntire, 101 F. 2d 650; and United States v. Alexander, 313 F. 2d 359.

In filing this objection to the issuance of such proposed permit and in writing this letter to you, we do not waive our right to challenge the State's jurisdiction by legal action or otherwise, and merely intend to call the State's attention to the fact that the State lacks jurisdiction in this matter.

Very truly yours,

Wallace G. Dunker
Wallace G. Dunker
Field Solicitor

cc: Office of the Area Director
Superintendent, Crow Creek Agency
Mr. Parnell Hagen, Area Soil Conservationist, B.I.A.
Mr. Wendell F. Isburg, North Route, Chamberlain, SD 57323



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

DEPARTMENT OF NATURAL RESOURCE DEVELOPMENT

DIVISION OF WATER RIGHTS

JOE FOSS BUILDING

PIERRE, SOUTH DAKOTA 57501

TO: Water Resources Commission
State Office Building No. 2
Pierre, South Dakota 57501Post Office Chamberlain S.D.
Date Nov 25, 1977

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 the maximum extent it is going to be used, not exceeding the amounts as specified in Water Right Permit No. 2513-3.

Water Right Permit No. 2513-3 states that the diversion system is to be constructed by U-17, 19 81 and that the water is to be put to beneficial use by U-17, 19 85.

The diversion system was completed on May 15, 19 76. Applying the water to beneficial use was completed on _____, 19 ____.

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.

Wendell L. Blum
(Signature)



2573-3

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

DEC 4 1992

2573A-3

Wendell F. Isburg
N St Rt 61
Chamberlain, SD 57325

Dear Mr. Isburg:

Enclosed is Water License No. 2573A-3 and Receipt No. 413514 for \$50.00 which was assessed for an inspection and issuance of the license. Water License No. 2573A-3 is the final document which completes the process of obtaining a water right.

As long as you use the water beneficially, as stated in the 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 Division
(605) 773-3352

enclosures

NOTE: The applicable portions of Water Permit No. 2573-3 are incorporated into this Water License No. 2573A-3.