

1. Considered Nov 13, 1956
2. Name of Applicant Ray and Anna M. Flyger #290-3
3. Post Office Address J. Hurley, S. Dak.
4. Amount of water claimed 4.57 cfs
5. Source of water supply ground water
6. Water to be used for Irrigation
7. Acres to be irrigated 3201
7. Water to be diverted and used in Texas County about
5 miles N of Wadley
8. Proof of Publication Received 1 - instant accepted
Not Received
9. Application Approved
Subject to
Not Approved
Action deferred
10. Remarks:

Partially done

B. Estimated cost of work:

(a) Head Gates, \$.....

(c) Fluming, \$.....

(e) Other structures

(d) Canal-earth, \$.....

(b) Pumping plant, \$ 4000.00

Rock, \$.....

Total, \$ 12000.00

9. Description of diversion works:

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

II. Dimensions of works:

(a) Dam: Height.....feet; length at bottom.....feet; length at top.....feet; thickness at bottom.....feet; thickness at top.....feet; slope at front water face.....; slope at back face.....material used in construction.....

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

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

(c)* Head gate: Width.....feet; height.....feet; Material.....

(d) Canal: Total length.....miles.

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER-LINE	GRADE PER MILE
At.....Mile	feet	feet	feet	feet
At.....Mile	feet	feet	feet	feet
At.....Mile	feet	feet	feet	feet
At.....Mile	feet	feet	feet	feet
At.....Mile	feet	feet	feet	feet
At.....Mile	feet	feet	feet	feet

(Give dimensions where reductions in size are made.)

10. Time required for completion of work.....3.....years.

11. Time required for complete application of water to the proposed beneficial use.....2.....year.

12. Choice of newspaper for publication of notice of intention to appropriate New Era
Sioux Falls, S. D.

STATE OF SOUTH DAKOTA

County of Lincoln } ss.

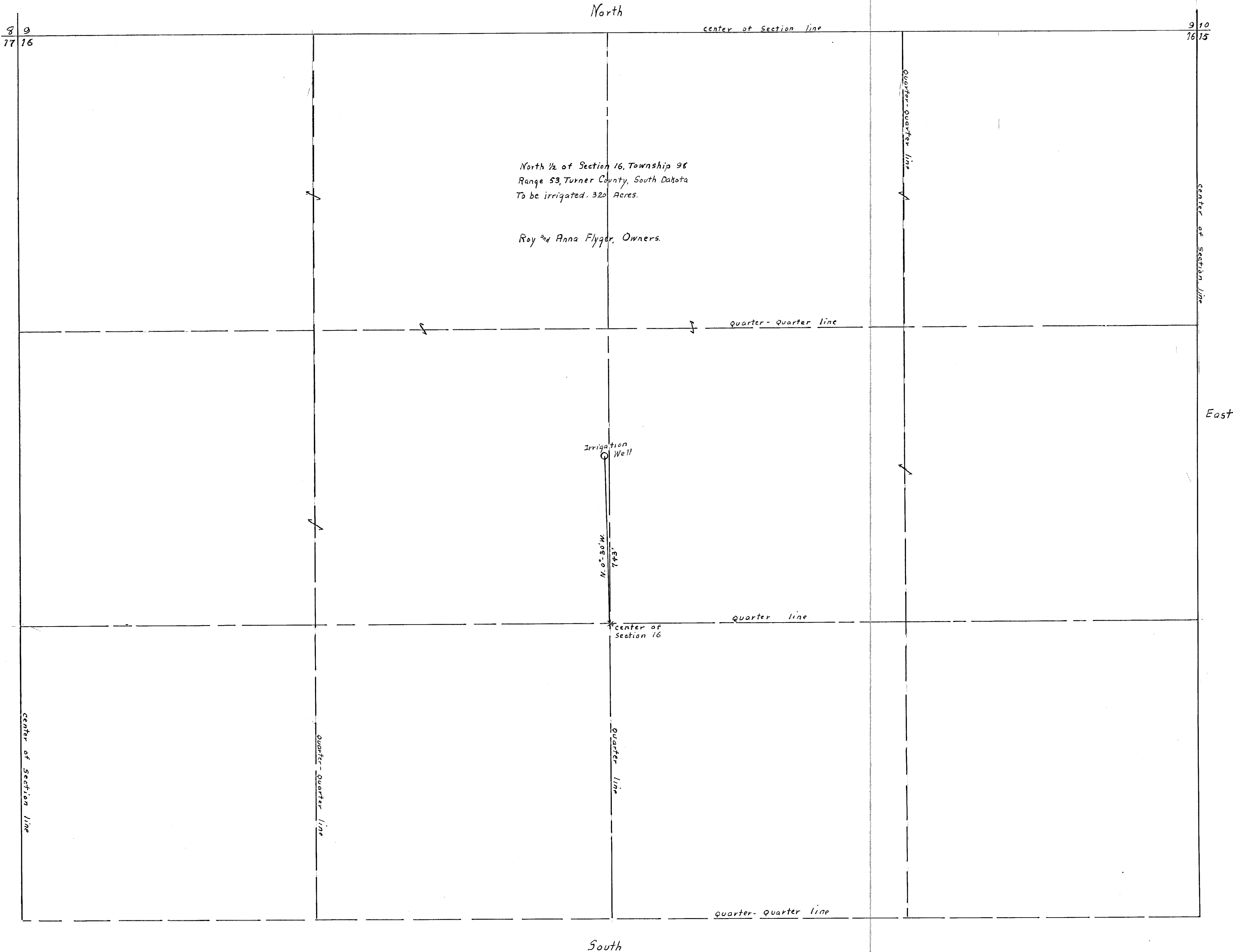
I, Roy Flyger being first duly sworn on my oath depose and say: That my relation to the above described undertaking is that of owner, that I have read the above foregoing statement, examined the map accompanying the same, and that I know of my own personal knowledge that the matters therein stated and shown are true.

Signed

Roy Flyger

Subscribed and sworn to before me this 11th day of Sept 1956

James G. Brown
Notary Public (or other qualified officer.)



North 1/2 of Section 16, Township 98
Range 53, Turner County, South Dakota
To be irrigated. 320 Acres.

Roy and Anna Flyger, Owners.

Irrigation Well

1,542.10 ft.

center of
Section 16

Roy and Anna Flyger Irrigation Project # 4
North 1/2 of Section 16, Township 98-Range 53
Turner County, South Dakota.

I, Ellis V. Nelson, a licensed engineer hereby certify
that I have made a survey of the North 1/2 of Sec-
tion 16, Township 98- Range 53, Turner County, South
Dakota and located a well, for irrigation purposes as
indicated on the above plat.
Dated at Sioux Falls, South Dakota, September 13-1956.

Ellis V. Nelson
Licensed Engineer

Ellis V. Nelson, Civil Engineer
Sioux Falls, South Dakota, Sept. 56

State of South Dakota } ss.
County of Minnehaha }

On this 13th day of September, 1956, before me the
undersigned officer personally appeared Ellis V. Nelson
known to me or satisfactorily proven to be the person
whose name is subscribed to the within certificate and
acknowledged that he executed the same for the purpose
therein contained.

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

Notary Public
Notary Public

Map No. 213-3
(App. No. 290-3)

Remarks by State Water Resources Commission:

STATE OF SOUTH DAKOTA
County of Hughes } ss.

Pierre, South Dakota, September 25, 1956

This is to certify that the foregoing application was received by the Commission at 3:30 o'clock
7 p.m. upon the 12 day of September, 1956

State Water Resources Commission

By:

Jed Rimmer

Chief Engineer, Executive Officer

Number of permit 290-3

Date of first receipt of application September 12, 1956

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 September 12, 1956

Approved February 4, 1957, Recorded in Book 4 Page 124

This is to certify that we have examined the foregoing application for a permit to appropriate water of the State of South Dakota, and we hereby grant the same as stated herein, subject, however, to the following limitations and conditions:

1st. The equivalent of at least one-fifth of the work above specified is to be completed on or before

August 4, 1958

2nd. The whole of said work is to be completed on or before February 4, 1960

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

February 4, 1962

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 4.57 cubic feet per second; neither shall it exceed the capacity of the above described system of diversion works, nor the least amount of water that experience may hereafter indicate as necessary for the production of crops in the exercise of the best husbandry; and further, said appropriation must be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially used for irrigation on or before February 4, 1962; said water to be used during the described annual period:

April to September inclusive

Witness my hand this 10 day of January, 1958

State Water Resources Commission

By:

Jed Rimmer

Chief Engineer, Executive Officer

Certificate of Construction issued NOVEMBER 24, 1970

Water License issued NOVEMBER 24, 1970

Form 2A — Wells (Supplement to Form 2)

9. (Continued)

III. Well Specifications

(a) Hole and casing

Size of drill hole or excavation 30" Depth 36'

Type of casing Steel
(wood, concrete, steel, etc.)

Size of casing 20" Thickness of casing 14 ga

Length of casing 37' If collection gallery, length, size and depth of gallery

(b) Screens

Type of perforated screen Perm water drill

Size of perforated screen 20" 16'
(diameter) (length)

Thickness of gravel pack 5" length of gravel pack 21'

(c) Water Bearing Materials

Distance to water 14 1/2' Character of water bearing materials Coarse

Gravel & Sand

Thickness of water bearing material 21 1/2'

(d) Pump and Motor

Type of pump
(centrifugal, propeller, mixed flow, etc.)

Name of pump, size

Kind of motor
(gasoline, electric, diesel, etc.)

Horsepower, Name of Motor

(e) Complete well

Capacity Not Tested at drawdown of, Estimated cost

(f) Owner of land upon which well is located Proy Trueger

Name Harley S. Dea
Address

(g) Distance to nearest existing wells

On same owner's property rods. On property owned by others 80 rods

STATE OF SOUTH DAKOTA

WATER LICENSE NO. ... 290-3

(1) WHEREAS, On the 12th day of September A. D. 19 56

Roy Flyger

made Water Right Application No. 290-3 for a permit to use 4.57 cubic feet per second of the water of ground water

County of X Turner State of South Dakota, for irrigation

purposes; and

(2) WHEREAS, On the 10th day of January A. D. 19 58

Permit No. 290-3 with a date of priority of September 12, 1956

was issued to said applicant for the diversion of said water, and provided for the completion of construction of the water

supply system therein described on or before the 4th day of February A. D. 19 60 and for the

application to beneficial use of said water on or before the 4th day of February A. D. 19 62

and:

(3) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to completion of the construction of the water supply system and is entitled to divert 3.56 cubic feet per second of water for beneficial use and,

(4) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to the application of water to beneficial use of the following extent,

for irrigating 320 acres in the N $\frac{1}{2}$, Section 16, T98N, R53W

(5) 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 Roy Flyger

of Hurley, S.D.

the holder _____ and owner _____ of said permit No. 290-3 a water right, dating from September 12, 1956

to use of 3.56 cubic feet per second of the waters

of ground water

in the County of Turner and State of South Dakota, or so much thereof as may be necessary for the

purposes hereinbelow mentioned, to be diverted at West well, 1340 feet S. and 3700 Ft. East of NW

Corner of Section 16, T98N, R53W, East well is located 500 feet east of west well.

and conduct to and upon the N $\frac{1}{2}$, Section 16, T98N, R53W

for the purpose of irrigation

Subject to any limitations listed in Water Right Permit No. 290-3 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota

this 24th day of November A. D.

Nineteen Hundred and Seventy

WATER RESOURCES COMMISSION

By:

Chief Engineer, Executive Officer; J. W. GRILES

Form 15.

Permit No. 290-3

Water Diversion No. 3 VERMILION R. Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That Roy Flyger

the holder of

Permit No. 290-3, issued upon Application No. 290-3, bearing date of priority of September 12, 1956

authorizing the diversion of 4.57 cu. ft. per second of the waters of ground water County of Turner, State of South Dakota at West well,

1340 feet S. and 3700 ft. east of NW Corner of Section 16, T98N, R53W.

East well is located 500 feet east of west well

for irrigation

purposes, has 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 found in satisfactory condition for diverting and conveying to the place of intended use 3.56 cu. ft. per second of water.

Date November 24, 1970

WATER RESOURCES COMMISSION

By:

J.W. GRIMES, Executive Officer

(First Publication before October 11, 1956.)

APPROPRIATION OF WATER

Office of State Water Resources Commission,

Pierre, S. Dak., September 25, 1956

Notice is hereby given that Roy and/or Anna M. Flyger whose postoffice address is Hurley S. Dak., has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 4.57 cubic feet of water per second of time from the ground water through the Roy and Anna M. Flyger Irrigation Project #4 the point of diversion of which is to be located on the bank of said stream in the S ¼ of the NW ¼ of Section 16 Twp. 98N Range 53W Said water to be used for the purpose of providing irrigation on the following described land:

N¼, Sec. 16, T 98N, R 53W

and for _____ purposes.

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 13th day of November, 1956, at 2:00 P.M. All interested persons may appear and be heard.

Appropriate action will be taken by the Water Resources Commission after suitable time has elapsed for the consideration of any or all information presented.

State Water Resources Commission

By:

J. W. Gzimes,

Chief Engineer, Executive Officer

cc: Mr. E. J. Bormann, Publisher
The New Era
Parker, South Dakota

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA }
 County Of Turner } ss.

Earl J. Bormann being duly sworn, deposes and says the annexed printed copy of Notice of Intention to Appropriate Water was taken from the _____

THE NEW ERA 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 Parker County of Turner and State of South Dakota; that the said notice was published in said newspaper on the following dates:

Thursday, October 11, 1956

Thursday, October 18, 1956

Thursday, October 25, 1956

Thursday, November 1, 1956

in each and every issue of the full number thereof, the first publication being made on the 11th day of October 1956 and the last publication on the 1st day of November 1956, upon which days or times of publication aforesaid the newspaper was regularly published, and that during the whole time of said publication he was _____ the printer and publisher of the said newspaper.

E. J. Bormann

Subscribed and sworn to before me this 1st day of November A. D. 1956

Notary Public Turner County, S. D.

Notice of Intention to Appropriate
 Water
 APPROPRIATION OF WATER
 290-3

Office of State Water Resources
 Commission Pierre, S. Dak., Sept-
 ember 25, 1956.

Notice is hereby given that Roy and/or Anna M. Flyger whose post-office address is Hurley, S. Dak., has made an application in accordance with the provisions of the water laws of South Dakota for a permit for beneficial use of 457 cubic feet of water per second of time from the ground water through the Roy and Anna M. Flyger Irrigation Project No. 4, the point of diversion of which is to be located in the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 16, Twp. 28N., Range 53W.

Said water to be used for the purpose of providing irrigation on the following described land:

S $\frac{1}{2}$ Sec. 6, T. 28N., R. 53W.
 This application will be taken up by the State Water Resources Commission at their offices at Pierre for consideration on the 1st day of November, at 2:00 P.M. All interested persons may appear and be heard. Appropriate action will be taken by the Water Resources Commission after suitable time has elapsed for the consideration of any or all information presented.

State Water Resources Commission
 By: J. W. GRIMES, Chief Engineer,
 Executive Officer.
 (file-Oct. 11, 18, 25, & Nov. 1, 1956)

RECEIVED
 NOV 5 1956

STATE WATER RESOURCES COMM.
 PIERRE, SOUTH DAKOTA

RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

No 4 8682

PIERRE, January 29 1982, 19 82

RECEIVED OF Nerle E. Flyger, RR#1, Box 45R, Hurley, SD 57036

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

Fee for Application for Permit to Appropriate Water No. (examination, processing, recording and filing)		
Fee for Inspecting Construction, and Issuing Cert. of Construction No.		
Fee for Inspecting Beneficial Use, and Issuing Water License No.		
Fee for Issuing Location Certificate-Dry Draw, No.		
Fee for filing		
Fee for certified copy of		
Fee for Print copy of map		
Fee for Certifying		
Fee for transfer of WR 290-3	2	50
(any other work as provided by law)		
TOTAL	2	50

WATER RIGHTS COMMISSION

By *John Hatch*
Chief Engineer, Executive Officer
JOHN HATCH/123

NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Rights
Foss Building
Pierre, SD 57501

Date: _____

This is to notify you that the title to the lands described as follows:

N 1/2 Section 16, T98N, R53W

formerly owned by Roy Flyger, Hurley SD

has been transferred to Merle Flyger, Hurley SD 57036

together with any rights to the beneficial use of water thereon as evidenced by

Water Right Permit No. 290-3 as provided for in SDCL 46-5-32 and 46-5-33.

You are therefore hereby requested to file this "Notice of Transfer of Water Permit" in its appropriate file at the Office of Water Rights, Water Management Board as evidence of the change of ownership.

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

STATE OF SOUTH DAKOTA)
County of Lincoln) ss.

I, Merle E Flyger 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 I know of my own personal knowledge that the information herein stated is true.

Merle E. Flyger
(Signed)

Subscribed and sworn to before me this 27th Day of January, 1982

Heather H. Hildebrand
(Notary Public)

My Commission Expires
3-3-88

South Dakota
Department of
Water & Natural Resources

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

February 8, 1989

MERLE FLYGER
RR #1 BOX 45B
HURLEY, SD 57036

NOTICE

RE: Violation of Requirement to Submit 1988 Irrigation Questionnaire

Our records indicate that the 1988 Irrigation Questionnaire has not been submitted for Permit No(s). 1584-3, 290-3, 165-3. The request for the Questionnaire was dated October 26, 1988. The Water Management Board had directed that owners of water permits who have not submitted the 1988 Irrigation Questionnaire be given notice of hearing to be held by the Board to determine if any action is to be taken concerning the violation.

The hearings will be held at 9:45 am, March 1, 1989 at the Howard Johnson's, Roosevelt Room, I-90 at LaCrosse, Rapid City SD.

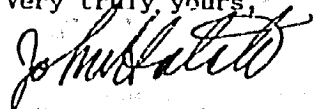
The hearing will be conducted pursuant to the provisions of SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to procedures contained in SDCL 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s). 1584-3, 290-3, 165-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action;
3. Take no action.

The hearing is an adversary proceeding. The permit owner 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.

If the questionnaire is received in this office before the March 1st hearing date, your name will be deleted from the agenda for the hearings.

Very truly yours,



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



Water Rights Division - DWR
Conversation or File Documentation

File No. 165-3

180-3

290-3

1584-3

NAME OF PERSON OR FILE: Curt Adrian

ADDRESS: RR #1 Box 27, Parker, SD 57053 COUNTY

DATE: February 23, 1989 TELEPHONE 297-3575

RE: Permits listed in the name of Merle Flyger

COMMENTS:

Mr. Flyger contacted our office and indicated he did not farm anymore and to contact Curt Adrian for the information for the irrigation questionnaires.

I contacted Mr. Adrian on February 23. He stated he farms the land under Nos. 165-3, 180-3, 290-3 and 1584-3. I indicated to him that we would list him as manager on the permit files so that future irrigation questionnaires would be sent directly to him.

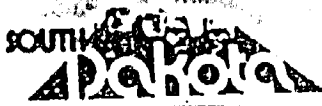
Ownership is as follows:	165-3	Merle Flyger
	180-3	Flyger Life Estate & Craig Flyger
	290-3	Jerry Adrian
	1584-3	Merle Flyger

(Contact Jerry Adrian and send him a transfer form for 290-3)

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:

Jerry Mcmata



Department of Water & Natural Resources

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

March 6, 1989

165-3
190-3
290-3
1584-3

Merle Flyger
RR #1 Box 45
Parker, SD 57053

Dear Mr. Flyger:

I am writing to acknowledge receipt of your 1988 irrigation questionnaires for Water Right Nos. 165-3, 180-3, 290-3 and 1584-3. The information was obtained from Curt Adrian. You may disregard the February 8, 1989, Notice of failure to submit the 1988 irrigation questionnaire. Your questionnaires were received prior to the March Water Management Board meeting and your name was deleted from the agenda pertaining to the hearing.

In response to your recent request, Jerry Adrian has been contacted concerning ownership of Water Right No. 290-3. Curt Adrian's name has been added to Water Right Nos. 165-3, 180-3, 290-3, and 1584-3, as that of manager. Future irrigation questionnaires will be directed to him.

If you have any questions, please contact Genny McMath, at (605) 773-3352.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division

cc: Curt Adrian, RR #1 Box 27, Parker, SD 57053

SOUTH DAKOTA
Department of
Water & Natural Resources

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

#1584-3
180-3
166-3
290-3

February 28, 1989

Curt Adrian, Manager
RR 1, Box 27
Parker, SD 57053

Dear Mr. Adrian:

On October 6, 1988, the Water Management Board adopted rules to implement a 1988 law for application of chemicals through irrigation systems. The rules establish equipment standards, performance standards and installation requirements for irrigation systems that apply chemicals (fertilizers, insecticides, or herbicides) with irrigation water.

You have indicated on your 1988 Water Management Board Irrigation Questionnaire that you do apply chemicals with irrigation water. A copy of the new rules for chemigation are enclosed for your information.

The new standards include:

- * a check valve between the irrigation pump and the point of chemical injection;
- * a vacuum relief valve on top of the pipeline between the irrigation pump and the irrigation pipeline check valve;
- * a low-pressure drain on the bottom of the pipeline between the irrigation pump and the irrigation pipeline check valve;
- * a chemical injection line check valve between the chemical injection pump and the point at which the chemical is injected into the irrigation line; a second check valve is required if the chemical injection pump is not a positive displacement pump;
- * an interlock system which ensures that the chemical injection pump will stop whenever the irrigation pump stops;
- * an inspection port between the irrigation pump and the check valve on the irrigation line;

February 28, 1989
Adrian
page 2

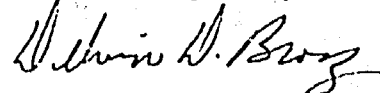
Each of these equipment requirements are discussed more thoroughly in Sections 74:02:09:05 through 74:02:09:10 of the enclosed rules. Appendix A contains diagrams of the arrangements of these anti-pollution devices.

The equipment must be installed according to the manufacturer's specifications, calibrated, and maintained in good working condition. All chemical product labels must be followed and warning signs must be posted. These rules also require reporting of all spills, accidents, and system malfunctions. A 24-hour telephone number is provided.

The chemigation rules contain notification and record keeping requirements. Prior to using chemigation, notification must be given to the Chief Engineer on the enclosed Form 1C. Information that must be provided in this notification includes the water permit or right number, the name, address, and telephone number of the water permit or right holder and of the system operator, and the legal description of the lands on which the system is located. A record of the name, quantity, dates and hours of each chemical applied must be provided to the Chief Engineer on Form 2C. A copy of this form is also enclosed for your information. It will be mailed with the annual irrigation questionnaire and must be returned with the questionnaire by the date specified.

If you have any questions regarding these rules or need additional copies of the forms, please contact Susan Bowar, Water Rights Engineer (605-773-3352).

Very truly yours,


for JOHN HATCH, Chief Engineer
Water Rights Division



Department of Water & Natural Resources

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

February 24, 1989

290-3

Jerry Adrian
RR #3 Box 106
Sioux Falls, SD 57103

Dear Mr. Adrian:

Merle Flyger has notified our office that you now own the land covered under Water Right No. 290-3. Enclosed is a partially completed "Notice of Transfer" for use in filing an ownership change. Please check over the form and sign in the presence of a notary public. Upon completion of the form, return it to our office with a required filing fee of \$2.50. The water right will then be transferred to your name.

South Dakota Water Law 46-5-30.3 requires Notice of any sale, grant, lease, conveyance or other transfer of a Water Permit or Water Right to appropriate water to be filed with this office within ninety days.

If you have any questions, please contact me.

Sincerely,

GENNY MCMATH
Natural Resources Analyst
605 773-3352

enclosure



Department of Water & Natural Resources

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

May 16, 1989

Second Notice
Water Right No. 290-3

Jerry Adrian
RR #3 Box 106
Sioux Falls, SD 57103

Dear Mr. Adrian:

On February 24, 1989, notice was sent to you concerning the transfer of Water Right No. 290-3 in the name of Merle Flyger which covers irrigation of 320 acres in the N 1/2 Section 16, T98N, R53W. To date, we have not heard from you on this matter.

A transfer form was previously sent to you, enclosed is an additional form. Please sign, have notarized and return the form to this office with the required filing fee of \$2.50. The water right can then be transferred to your name. If you are not the present owner of the land covered under this Water Right, please notify this office. It is very important that ownership records be kept current. South Dakota Water Law 46-5-30.3 requires Notice of any sale, grant, lease, conveyance or other transfer of a Water Permit or Water Right to appropriate water to be filed with this office within ninety days.

If you have any questions, please contact Genny McMath, (605) 773-3352.

Very truly yours,

DELVIN D. BROSZ, P.E.
Hydrologist
for John Hatch, Chief Engineer
Water Rights Division

enclosure



SENDER: Complete Item 1 Put your address in Item 1. It must be legible and correct. Failure to do this may prevent mail from being delivered to you.		2 Select additional services you desire, and complete Items 3 and 4.	
3 Select additional services you desire.		4 Complete Item 4.	
1. ☒ Registered Mail ☐ Insured Mail ☐ Signature Required ☐ Restricted Delivery		3. ☐ Signature Required ☐ Insured Mail	
5 Address of Recipient Jerry Pearson Rt 3, Box 106 Boone Falls 57005-1103		6 Zip Code 57005	
7 Signature of Recipient X <i>[Signature]</i>		8 Signature of Sender X <i>[Signature]</i>	
9 Date of Delivery 1/11/87		10 Domestic Return Receipt	

PS Form 3811, Feb. 1986

SOUTH DAKOTA
Department of
Water & Natural Resources

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

July 13, 1989

290-3

Jerry Adrian
RR #3 Box 106
Sioux Falls, SD 57103

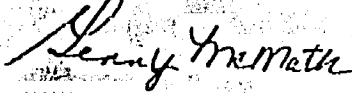
Dear Mr. Adrian:

In response to our July 13th telephone conversation, enclosed is a partially completed "Notice of Transfer" for use in filing an ownership change on Water Right No. 290-3. The water right is currently listed in the name of Merle Flyger.

Please complete the form and sign in the presence of a notary public. Upon completion, return the transfer form to our office with a required filing fee of \$2.50.

If you have any questions, please contact me.

Sincerely,



GENNY MCMATH
Natural Resources Analyst
(605) 773-3352

enclosure





Department of Water & Natural Resources

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

July 19, 1989

290-3

Jerry Adrian
RR #3 Box 106
Sioux Falls, SD 57103

Dear Mr. Adrian:

Enclosed is the "Notice of Transfer" you submitted for use in making an ownership change on Water Right No. 290-3. Before we can file the transfer, the form needs to be completed, signed and notarized.

If you have any questions, please contact me.

Sincerely,

GENNY MCMATH
Natural Resources Analyst
(605) 773-3352

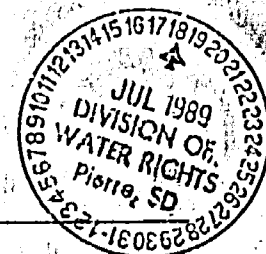
enclosure



NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Rights
Foss Building
Pierre, SD 57501

Date: _____



This is to notify you that the title to the lands described as follows:

N 1/2 Section 16, T98N, R53W

formerly owned by

Merle Flyger

has been transferred to Jerry Adrian, RR #3 Box 106, Sioux Falls, SD 57103

(please include complete mailing address)

together with any rights to the beneficial use of water thereon as evidenced by

Water Right Permit No. 290-3 as provided for in SDCL 46-5-32 and 46-5-33.

You are therefore hereby requested to file this "Notice of Transfer of Water Permit" in its appropriate file at the Div. of Water Rights, Water Management Board as evidence of the change of ownership.

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

STATE OF SOUTH DAKOTA)

) ss.

County of Minnehaha

I, Jerry Adrian 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 I know of my own personal knowledge that the information herein stated is true.

Jerry Adrian
(Signed)

Subscribed and sworn to before me this 28 Day of July, 1989

J.A. BAILEY
Notary Public, S.D.
My Commission Expires
5-22-94
(Notary Public)

J.A. Bailey



RECEIPT

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

Pierre, _____

July 19, 1989

RECEIVED OF Jerry Adrian, RR #3 Box 103, Sioux Falls, SD 57103

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. _____

Fee for Filing Transfer Form Water Right No. 290-3 _____

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

2 50

By John Hatch
Chief Engineer John Hatch/jmr

South Dakota Department of
Water & Natural Resources

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

August 28, 1989

No. 290-3

Jerry Adrian
RR 3, Box 106
Sioux Falls SD 57103

Dear Mr. Adrian:

Enclosed is the receipt in the amount of \$2.50 which you paid for the transfer of Water Permit No. 290-3.

Our records now show you as the owner of this Water Permit.

Sincerely,

Karen Schlaak

KAREN SCHLAACK
Senior Secretary
605 773-3352

enclosure



FILE DOCUMENTATION FOR WATER RIGHT NO. 290-3

Water License No. 290-3, with a priority date of September 12, 1956 authorizes diversion of 3.56 cfs from two wells located in the NE ¼ Section 16 to irrigate 320 acres in the N ½ Section 16, T98N, R53W.

- **December 23, 2015** – the NE ¼ (Tract 2) Section 16, T98N, R53W was transferred from Jerry Adrian to Tony Brown, Brown Land, 26983 Sundowner Ave., Sioux Falls SD 57106
- **December 24, 2015** – the NW ¼ (Tract 1) Section 16, T98N, R53W was transferred from Jerry Adrian to Scott Vannorsdel, 28888 455th Ave, Viborg SD 57070

Water Right No. 290-3 was divided and reissued to reflect separate ownership.

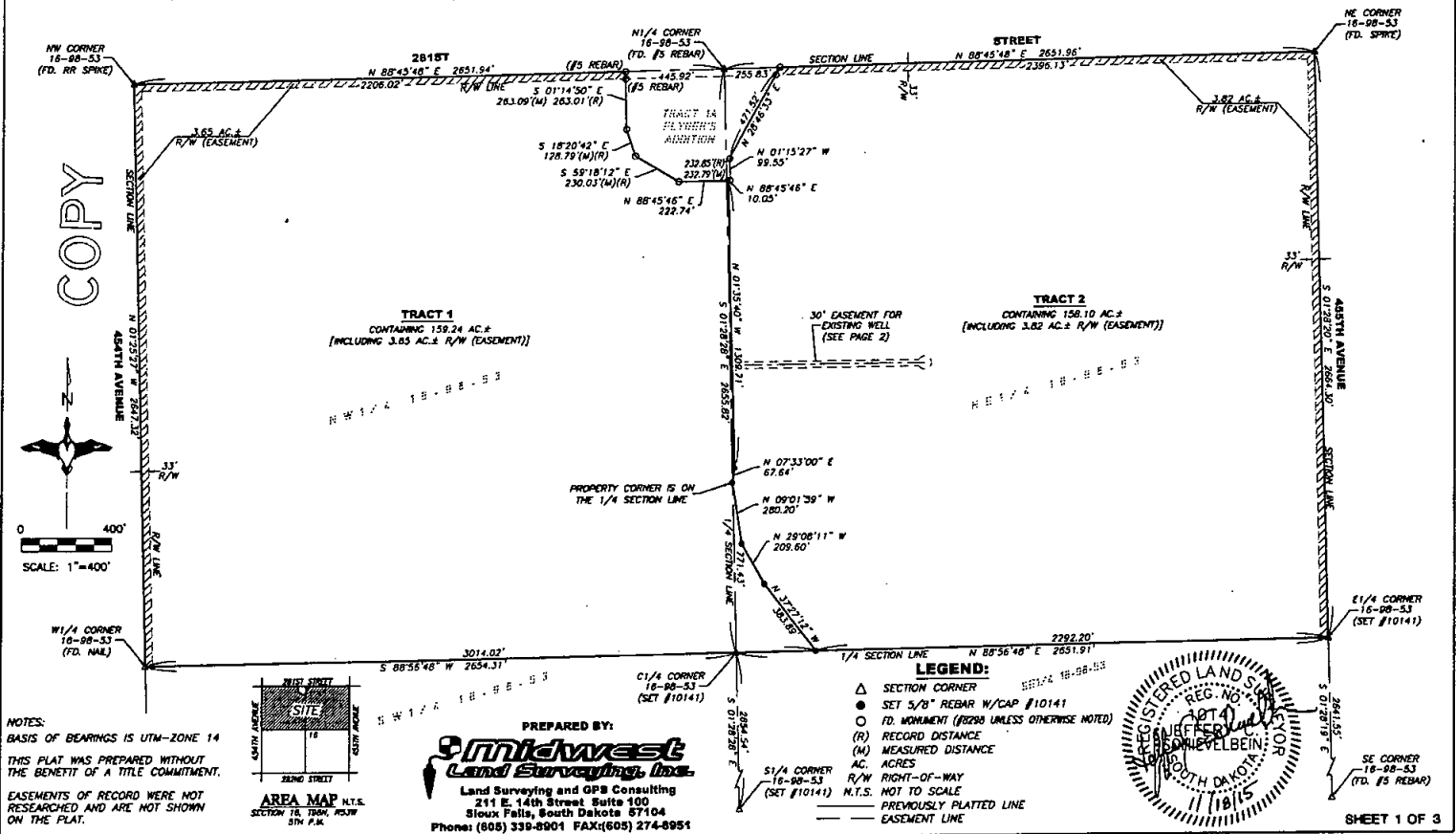
No. 290A-3 was issued to Tony Brown, Brown Land

No. 290B-3 was issued to Scott Vannorsdel

- With reference to No. 290B-3, the paperwork included a copy of the “Declaration of Well Easement” filed with the Turner County Register of Deeds. The easement states the owner of the NW ¼ (Tract 1) has a permanent right and continued access to the well in the E ½ NE ¼ (Tract 2).

PLAT OF TRACT 1 AND TRACT 2 OF JEROME FIVE'S ADDITION

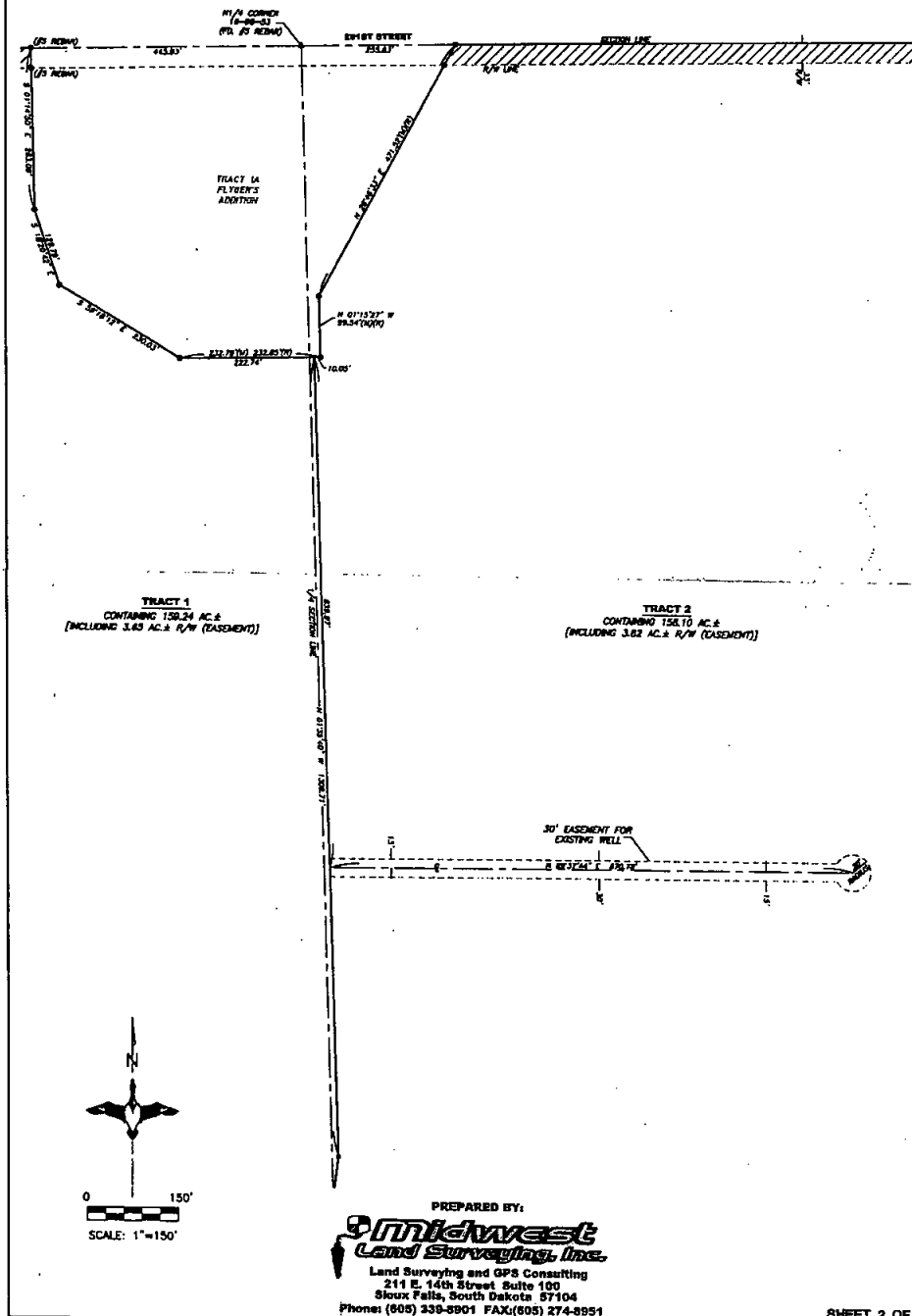
IN THE NORTH HALF OF SECTION 16, TOWNSHIP 98 NORTH, RANGE 53 WEST OF THE 5TH PRINCIPAL MERIDIAN, TURNER COUNTY, SOUTH DAKOTA.



PLAT OF TRACT 1 AND TRACT 2 OF JEROME FIVE'S ADDITION

IN THE NORTH HALF OF SECTION 16, TOWNSHIP 98 NORTH, RANGE 53 WEST
OF THE 5TH PRINCIPAL MERIDIAN, TURNER COUNTY, SOUTH DAKOTA.

COPY



PLAT OF TRACT 1 AND TRACT 2 OF JEROME FIVE'S ADDITION

IN THE NORTH HALF OF SECTION 16, TOWNSHIP 98 NORTH, RANGE 53 WEST
OF THE 5TH PRINCIPAL MERIDIAN, TURNER COUNTY, SOUTH DAKOTA.

COPY

SURVEYOR'S CERTIFICATE

I, Jeffery C. Schivelbein, of Midwest Land Surveying, Inc., a Registered Land Surveyor in the State of South Dakota, do hereby state that I did, on or before this date, survey a portion of the North Half Section 16, Township 98 North, Range 53 West of the 5th Principal Meridian, Turner County, South Dakota, and platted the same into Tract 1 and Tract 2 of Jerome Five's Addition in the North Half of Section 16, Township 98 North, Range 53 West of the 5th Principal Meridian, Turner County, South Dakota, as shown on the foregoing PLAT.

The same shall be known and described as TRACT 1 AND TRACT 2 OF JEROME FIVE'S ADDITION IN THE NORTH HALF OF SECTION 16, TOWNSHIP 98 NORTH, RANGE 53 WEST OF THE 5TH PRINCIPAL MERIDIAN, TURNER COUNTY, SOUTH DAKOTA.

I further certify that the above PLAT correctly represents the same, is true and correct and that it was made at the request of the owners.

Dated this 18th day of November 2015

Jeffery C. Schivelbein
Jeffery C. Schivelbein, Registered Land Surveyor No. 10141



OWNER'S CERTIFICATE

We, the undersigned, do hereby certify that we are the owners of all land included in the above plat and that said plat has been made at our request and in accordance with our instructions for the purposes of transfer, and that the development of this land shall conform to all existing applicable zoning, subdivision and erosion and sediment control regulations.

We hereby dedicate to the public for public use forever, the streets, roads, alleys, ports and public grounds, if any, as shown on said plat, including all sewers, culverts, bridges, water distribution lines, sidewalks and other improvements on or under the streets, roads, alleys, ports and public grounds whether such improvements are shown or not. We also hereby grant easements to run with the land for water, drainage, sewer, gas, electric, telephone, cable television, or other public utility lines or services, under, on or over those strips of land designated hereon as easements.

Dated this 21st day of November 2015

Dr. Lorin B. Adelman
Jerome Five Limited Partnership

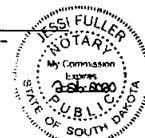
RE GENERAL PARTNER No Seal on Document

State of SD
County of Custer

On this 27th day of Nov 2015, before me, the undersigned officer, personally appeared *Dr. Lorin B. Adelman*, who acknowledged themselves to be the GENERAL PARTNER Jerome Five Limited Partnership; and that they, as such GENERAL PARTNER, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the Partnership by themselves as GENERAL PARTNER.

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

James Fuller
Notary Public - State of South Dakota
My Commission Expires 3-26-2020



TOWNSHIP ACCEPTANCE OF ROAD DEDICATION

I hereby certify that the Board of Supervisors of Township 98 North, Range 53 West of the 5th Principal Meridian, Turner County, South Dakota, on an official meeting conducted on the 2nd day of Dec 2015, accepted the roads indicated on the plat of TRACT 1 AND TRACT 2 OF JEROME FIVE'S ADDITION IN THE NORTH HALF OF SECTION 16, TOWNSHIP 98 NORTH, RANGE 53 WEST OF THE 5TH PRINCIPAL MERIDIAN, TURNER COUNTY, SOUTH DAKOTA.

No Seal on Document

Superior: Roger Peterson
Turner County, South Dakota

COUNTY PLANNING AND ZONING DIRECTOR'S CERTIFICATE

I, Planning and Zoning Director, of Turner County, do hereby certify that this plat has been reviewed by me or my authorized agent and has been approved.

Approved this 2nd day of Dec 2015

F. Duppel
PLANNING AND ZONING DIRECTOR
Turner County, South Dakota

COUNTY AUDITOR CERTIFICATE

I, County Auditor of Turner County, South Dakota, do hereby certify that the above certificate of approval is true and correct including the payments thereon.

Dated this 2nd day of Dec 2015

Dr. Lorin B. Adelman
COUNTY AUDITOR
Turner County, South Dakota

DIRECTOR OF EQUALIZATION

I, the Director of Equalization of Turner County, South Dakota, do hereby certify that a copy of the above and foregoing described plat has been filed in my office.

Dated this 2nd Day of Dec 2015

Fay Duppel
DIRECTOR OF EQUALIZATION
Turner County, South Dakota

TREASURER

I, the Treasurer of Turner County, South Dakota, do hereby certify that all taxes which are due upon any land shown in the above plat, as shown by the records of my office, have been paid in full.

Dated this 2nd Day of December 2015

Madys Anderson
TREASURER
Turner County, South Dakota

REGISTER OF DEEDS

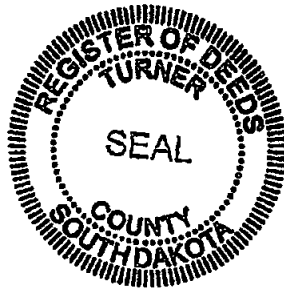
Filed for record this 2nd day of December

2:00 o'clock P.M. and recorded in Book 9

Tommy Ann Freeman Deputy
REGISTER OF DEEDS
Turner County, South Dakota

PREPARED BY:

Midwest
Land Surveying, Inc.
Land Surveying and GPS Consulting
211 E. 14th Street Suite 100
Sioux Falls, South Dakota 57104
Phone: (605) 339-9901 FAX: (605) 274-6951



Filed for Record - Turner County SD

Filed On 12/04/2015 11:00 AM
Document# R 077444 Type:MISC-DECWE
Book 50 of MISC
Page 763 # of Pages: 5

By Carol J. Viet
Carol J Viet, Register of Deeds 90851
Fee \$ 30.00

Return To:
CADWELL, SANFORD, DEIBERT & GARRY LLP
ATTN: KRISTI LABER -PO BOX 2498
SIOUX FALLS SD 57101

This instrument prepared by:
Kristi M. Laber
CADWELL, SANFORD, DEIBERT & GARRY, LLP
200 East 10th Street, Suite 200
Sioux Falls, South Dakota 57104
Telephone: (605) 336-0828

DECLARATION OF WELL EASEMENT

This Declaration of Well Easement (hereinafter referred to as the "Declaration") is made this 3rd day of December, 2015, by The Jerome Five Limited Partnership, a South Dakota limited partnership, of 27219 - 473rd Avenue, Sioux Falls, South Dakota 57108 (hereinafter referred to as the "Partnership").

A. The Partnership is the owner of certain real estate located in Turner County, South Dakota and legally described as:

Tract 2 of Jerome Five's Addition in the North Half (N $\frac{1}{2}$) of Section Sixteen (16), Township Ninety-Eight (98) North, Range Fifty-three (53) West of the 5th P.M., Turner County, South Dakota,

(hereinafter referred to as the "Tract 2"); and

B. The Partnership is the owner of certain real estate located in Turner County, South Dakota and legally described as:

Tract 1 of Jerome Five's Addition in the North Half (N $\frac{1}{2}$) of Section Sixteen (16), Township Ninety-Eight (98) North, Range Fifty-three (53) West of the 5th P.M., Turner County, South Dakota,

(hereinafter referred to as "Tract 1"). Tract 1 and Tract 2 are sometimes collectively referred to herein as "Tracts"; and

C. The water well that provides water to Tract 1 is located on Tract 2. Such well shall hereinafter be referred to as the "Well", which shall include the well pump, well accessories, distribution piping, meters, power lines, equipment, materials and such other facilities as may be necessary to maintain the well, any right of use of the water pumped out of

Alpha ☒
Paid ☒
Num ☒
Margin ☒
Trans ☒
Scan ☒
Seal ☒
Comp ☒
Comp ☒
Micro ☒
Comp ☒

the Well recognized by any governmental authority or simply by rights of land ownership interest, and any equipment for use of the water and well; and

D. The purpose of this Declaration is to provide water from the Well to Tract 1 and to declare use and costs of maintenance of the Well; and

E. It is the Partnership's intent that the benefits and burdens created under this Declaration shall run with the land and be binding on all subsequent owners of the Tracts, all upon the terms and conditions hereinafter provided;

NOW, THEREFORE, the Partnership declares as follows:

1. *Well License.* There are two Wells located on Tract 2, the Well serving Tract 1 (referred to herein as the Well) and a second well serving Tract 2 (the "East Well"). The Well is located to the West of the East Well. The Well and the East Well on the date of this Declaration are operated under a single Water Rights Permit No. 290-3 (the "License"). The License shall be split between the Well and the East Well and two permits issued.
2. *Grant of Easement.* The Partnership, in its capacity as owner of Tract 2 ("Grantor"), grants to the Partnership, in its capacity as owner of Tract 1 ("Grantee"), the permanent right, privilege and authority to continued use of and the right to draw water from the Well along with a permanent easement to and right of access over, across, under, and upon: (i) that thirty foot (30') wide strip of land (extending fifteen feet (15') on either side of any distribution piping and equipment used in conjunction with the Well) commencing at the Well and running to Tract 1; and (ii) that area extending thirty feet (30') from all sides of the Well (collectively referred to herein as the "Easement Area") for the purpose of the operation, maintenance, repair, replacement, and reconstruction of the Well and the distribution piping, meters or other equipment. The Easement Area is more specifically shown on Exhibit "A" attached hereto.
3. *Cost of Maintenance*
 - (a) Grantee shall be solely responsible for the installation, maintenance, and repair of the Well. Grantee shall further be responsible for the cost of any excavation, digging, or trenching necessary for its use of the Well. Grantee shall reasonably restore the surface of the Easement Area to its condition prior to any maintenance, repair, excavation, digging, or trenching of the Easement Area for purposes of exercising its right herein. Unless an emergency would require immediate repairs and maintenance, Grantee shall provide Grantor reasonable advance notice of any repairs or maintenance which may be necessary or required to the Well in the Easement Area.

- (b) Grantee shall be responsible for all costs of operation, maintenance, repair, replacement, and reconstruction of the Well from time to time, excepting only any repairs or replacements made necessary by an intentional or negligent act of Grantor (which in such event such costs shall be solely that of Grantor). The Well shall have its own separate meter to measure the electricity consumption directly from the Well to Tract 1 and billing by the utility company shall be made directly to Grantee for Grantee's payment thereof. Grantee shall be responsible for all costs related to, and for performance of, any water quality sampling and water use reporting required by the State of South Dakota.
4. *Preserving the Easement Area.* Grantor agrees that no structure or obstruction shall be erected or permitted, or any trees planted on or within the Easement Area, and that it will not change the ground elevation thereof without the written consent of Grantee, or perform any act which would interfere or endanger the Well or Grantee's use thereof.
5. *Usage.* Grantee shall have exclusive use of the Well. No water from the Well shall be furnished to Grantor or any other persons or property without Grantee's prior written approval. If at anytime water usage from the Well and East Well is restricted for any reason so that the use of one well reduces the ability to use the other well, Grantor and Grantee shall alternate days of use. If such restriction commences on an even number day of the month, Tract 2 shall have the first day of use. If such restriction commences on an odd number day of the month, Tract 1 shall have the first day of use and the Owners shall alternate days thereafter. If use of the Well is restricted so as not to permit use of the wells on alternating days, use of the Well by Grantee and use of the East Well by Grantor shall be divided equally. If separate use restrictions are placed on the Well and East Well, such separate use restrictions shall be followed and no division of use under this Paragraph 5 shall apply.
6. *Duration; Running With the Land.* This easement is perpetual, touches and concerns the Tracts, runs with such land, and is binding upon all heirs, successors, assigns and occupants of the Tracts.
7. *No Public Dedication.* Nothing contained in this Declaration shall, or is intended to, constitute a gift or dedication of any portion of Tract 2 to the public or for the benefit or use of the general public or for any public purpose whatsoever.
8. *Construction.* In the construction of this Declaration, the use of the neuter shall include the feminine and the masculine, and the use of the singular shall include the plural.
9. *Indemnity.* Grantee, and its successors and assigns, shall protect, defend and indemnify Grantor from and against all loss, costs, damage and expenses occasioned by, or arising out of, any accident or other occurrence, causing or

inflicting injury or damage to any person or property, happening or done in, upon or about the Easement Area due directly or indirectly to the use thereof, or any part thereof by Grantee or any person claiming through or under Grantee.

10. **Enforceability.** Unenforceability of any provision contained in this Declaration shall not effect or impair the validity of any other provision of this Declaration.
11. **Legal Compliance.** Grantee shall comply with all applicable federal, state, and local laws and ordinances in exercise of their rights in this Declaration.

IN WITNESS WHEREOF, the Partnership has made this Declaration as of the date and year first written above.

THE JEROME FIVE LIMITED PARTNERSHIP.

No Seal on Document

Sonja Adrian
By: Sonja Adrian
Its: General Partner

STATE OF SOUTH DAKOTA)
 : ss
COUNTY OF MINNEHAHA)

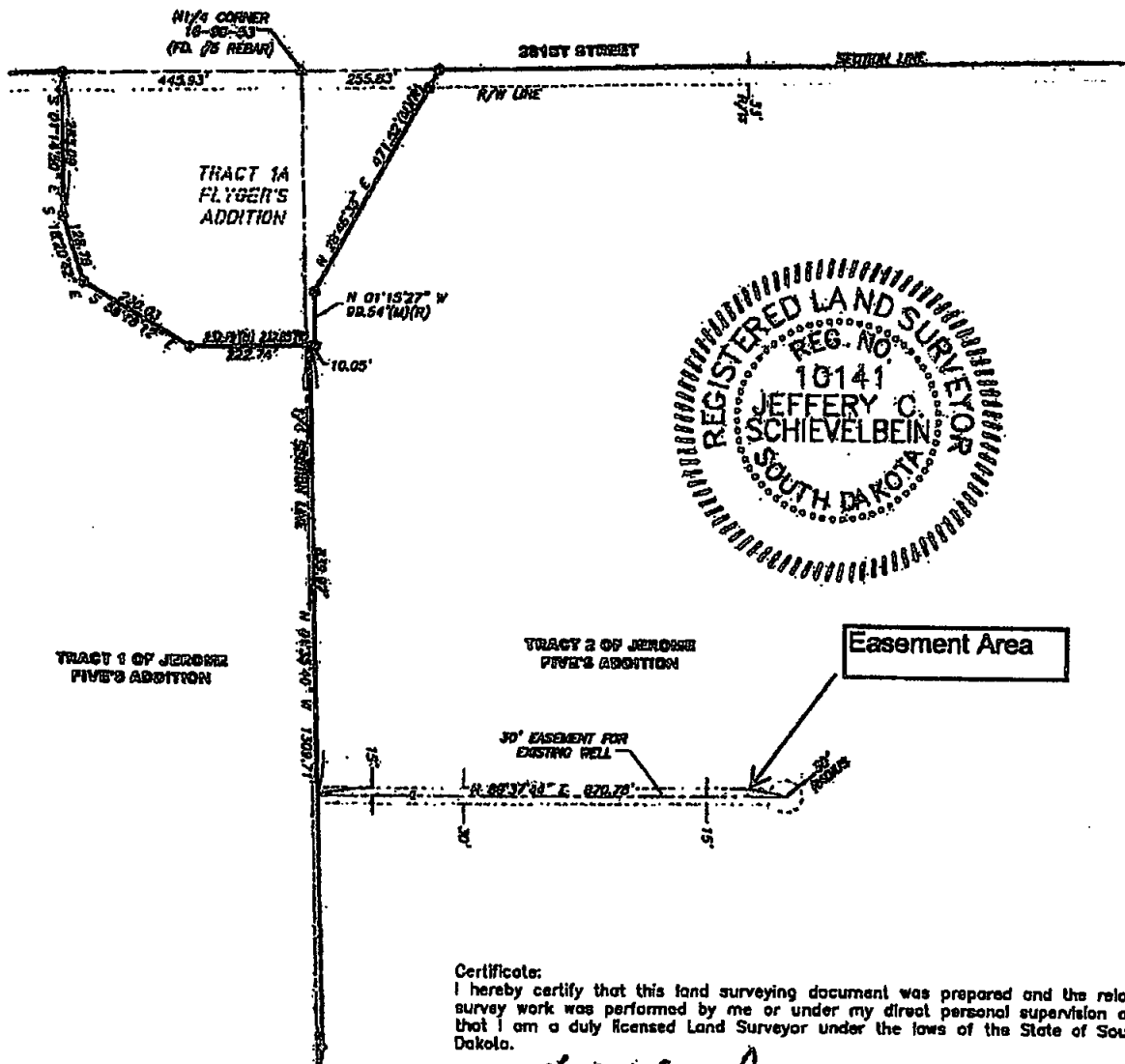
I, Carri Bossert, a Notary Public, hereby certify that on the 12 day of March, 2015, personally appeared before me Sonja Adrian and declared that she, as general partner of THE JEROME FIVE LIMITED PARTNERSHIP, and being authorized so to do, acknowledged that she executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Carri Bossert
NOTARY PUBLIC – SOUTH DAKOTA
My Commission Expires: 07-02-18

EASEMENT EXHIBIT A



Certificate:

I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws of the State of South Dakota.

Jeffery C. Schievelbein

11/24/2015

Jeffery C. Schievelbein
 License number 10141

Date

Pages or sheets covered by this set: 1

LEGAL DESCRIPTION:

TRACT 2 OF JEROME FIVE'S ADDITION IN THE NORTH HALF OF SECTION 16, TOWNSHIP 98 NORTH, RANGE 53 WEST OF THE 5TH PRINCIPAL MERIDIAN, TURNER COUNTY, SOUTH DAKOTA.

NOTES:

1. BASIS OF BEARINGS IS UTM-ZONE 14

LEGEND:

- Δ SECTION CORNER
- SET 5/8" REBAR W/CAP #10141
- PD. MONUMENT
- (R) RECORD DISTANCE
- (M) MEASURED DISTANCE
- AC. ACRES
- R/W RIGHT-OF-WAY
- N.T.S. NOT TO SCALE
- PREVIOUSLY PLATTED LINE
- - - EASEMENT LINE

PREPARED BY:

Midwest
Land Surveying, Inc.

Land Surveying and GPS Consulting
 211 E. 14th Street Suite 100
 Sioux Falls, South Dakota 57104
 Phone: (605) 339-8901 FAX: (605) 274-8951

DRAWN BY:
 AJK

APPROVED BY:
 JCS

DATE:
 11/19/15

PROJECT NO
 15-680

SHEET
 1 OF 1