

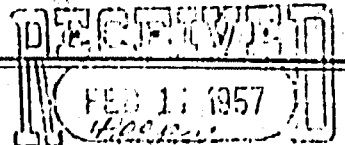
1. Considered March 12, 1957
2. Name of Applicant Stuart Banning # 408-3
3. Post Office Address Redfield, South Dakota
4. Amount of water claimed 1.35-
5. Source of water supply Turtle Creek
6. Water to be used for Irrigation
Acres to be irrigated 95-
7. Water to be diverted and used in Spink County about
 miles of E Edge Redfield.
8. Proof of Publication Received ✓
 Not Received ✓
9. Application Approved ✓
 Subject to
 Not Approved
 Action deferred

10. Remarks:

No. 408-3

Water Division No. 3 James River

(Blanks to be Filled by the Engineer for the W. R. C.)



WATER DIVISION NO. 308-3

APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

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

1. Name of applicant Stuart Benning
 Postoffice address Redfield, County Spink, State So. Dak.

I. If a corporation

- (a) Name of same _____
 (b) Date and place of Incorporation _____
 (c) Amount of capital stock _____
 (d) Amount paid in _____
 (e) Names and addresses of directors _____

(NOTE—A certified copy of articles of incorporation must accompany the application.)

II. Method of accomplishing the work and financial resources of the applicant:

(a) Method of accomplishing work (Whether by contract, employment of others, or by direct labor)

Employment of others & direct labor

- (b) Cash on hand, \$ Sufficient to (c) Treasury stock, \$ _____
accomplish work.
 (d) Bonds to be issued, \$ _____ (e) Other resources, \$ _____

2. Name of diversion work Stuart Benning No. 1.
 3. Amount of water claimed 1.35 cubic feet per second
 4. Source of water supply Turtle Creek
 5. Location of point of diversion 3410.0' N36° 0 5' W to 3014.0' N48° 20' W of S.E.
corner of Section 2, Twp 116, Rge 64 on S. & E. bank of Spink County.
 6. Annual period or periods during which water is to be used April to October inclusive
 7. To be used for:

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

- (a) Number of acres to be irrigated 95 acres. S.E. 1/4 Sec 2, Twp 116, Rge 64.
 (b) Legal subdivisions to be irrigated irregular tracts totaling 95 acres in

(NOTE—A list of lands to be irrigated, giving each subdivision and fraction with acreage thereof, should be written here, or may be appended as a part of this application. Same must also be shown on accompanying map.)

(c) Statement as to domestic use (giving location, etc.) _____

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

- (a) Nature of use _____
 Name any of the above uses claimed
 (b) Amount of power to be generated _____ horse power.
 Amount claimed for engine cooling _____
 (c) Location of plant _____
 (d) Method of developing power _____
 (e) Point where water will be returned to stream _____

8. Estimated cost of work:

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

(b) Pumping plant, \$1500.00

(c) Fluming, \$-----

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

Rock, \$-----

(e) Other structures Sprinkler System \$3500.00

Total, \$5000.00

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-----

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-----years.

12. Choice of newspaper for publication of notice of intention to appropriate-----
Redfield Press-----Redfield, South Dakota

STATE OF SOUTH DAKOTA

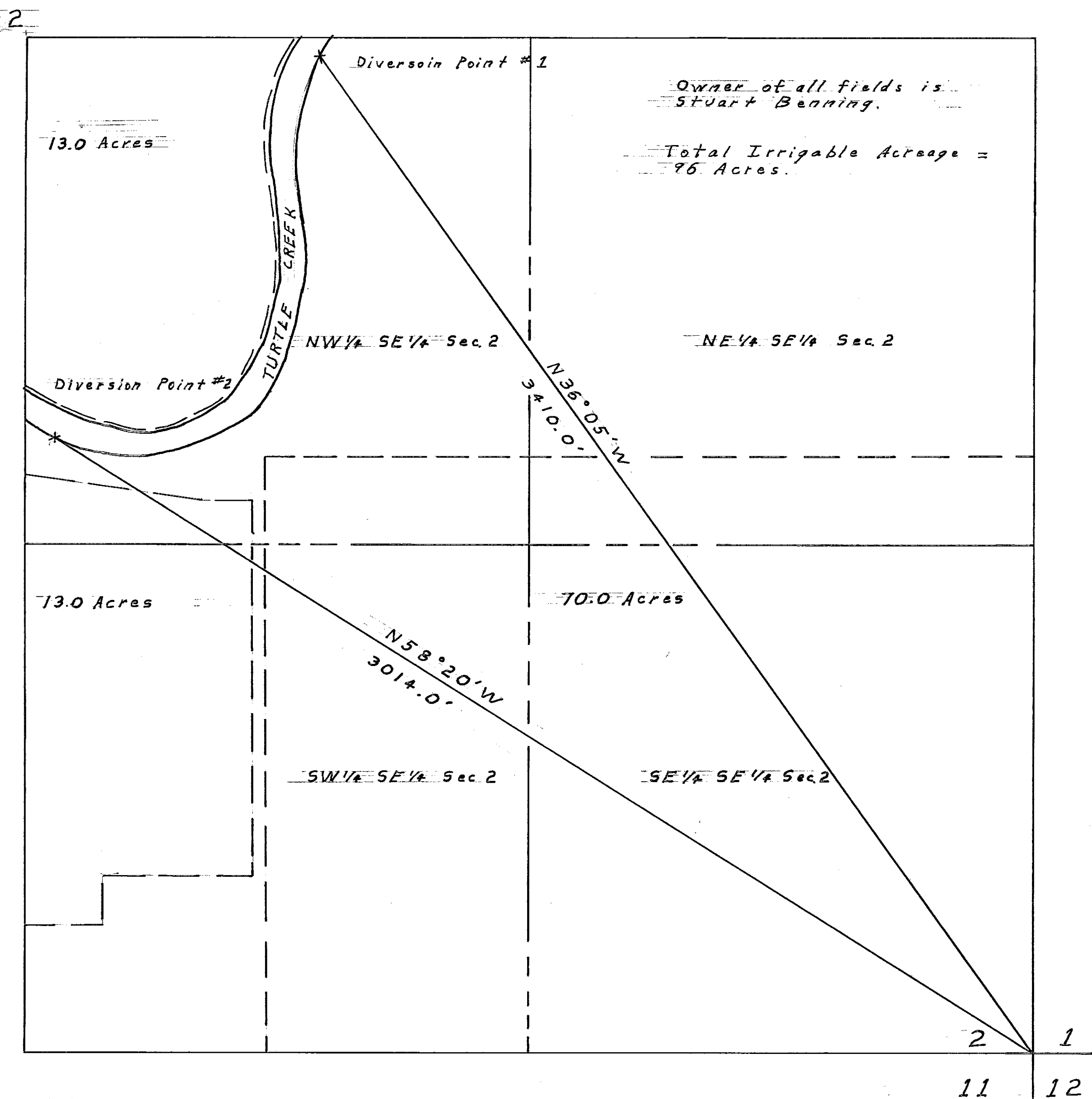
County of Laguer } ss.

I, Stuart Banning, 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 Stuart Banning

Subscribed and sworn to before me this 11th day of January 1957

J. Engstrom
Notary Public (or other qualified officer.)



SURVEYORS CERTIFICATE

I, Bruce H. Kidman, an Ag. Engineer with the S.C.S., do hereby certify that at the request of the owner I have surveyed the lands shown herein and that said survey is in all respects true and correct.
 Dated at Redfield, South Dakota, February 9, 1957.

Bruce H. Kidman

On this 9th day of February 1957, before me, the undersigned officer, personally appeared Bruce H. Kidman 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.

H. T. Haynes
Notary Public

LEGEND
 --- 1/4 Section Line ---
 --- Field Boundary ---

PLAT OF IRRIGATION PROJECT
 #1 SE 1/4 SECTION 2 TOWN-
 SHIP 116 RANGE 64, SPINK COUNTY
 SOUTH DAKOTA, PROPERTY OF
 STUART BENNING.
 SCALE 1 in = 220 ft.

Map No. 308-3
(App'l. No. 408-3)

Remarks by State Water Resources Commission:

STATE OF SOUTH DAKOTA

County of

Hughes } ss.

Pierre, South Dakota, February 11, 1957

This is to certify that the foregoing application was received by the Commission at 4:00 o'clock

7 p.m. upon the 11 day of February, 1957

State Water Resources Commission

By:

Joe Binner

Chief Engineer, Executive Officer

Number of permit 408-3

Date of first receipt of application February 11, 1957

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 February 11, 1957

Approved March 13, 1957, Recorded in Book 4 Page 30

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 _____

September 13, 1958

2nd. The whole of said work is to be completed on or before March 13, 1960

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

March 13, 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 1.35 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 applied for irrigation on or before March 13, 1962, said water to be used during the following described annual period:

April To October inclusive

Witness my hand this 23 day of March, 1957

State Water Resources Commission

By:

Joe Binner

Chief Engineer, Executive Officer

Certificate of Construction Issued SEPTEMBER 14, 1962

Water License Issued SEPTEMBER 14, 1962

Division No. _____

District _____

PERMIT

to appropriate water from _____

County, South Dakota

Name of applicant _____

Name of diversion works _____

Date of first receipt at Office of State
Water Resources Commission _____

Returned to applicant for Correction _____

Corrected application received _____

Date of Water Right _____

Recorded in Book _____ Page _____

One-fifth of work to be completed _____

Whole work to be completed _____

Final proof of use of water _____

Approved _____

State Water Resources Commission

By: _____

Chief Engineer

STATE OF SOUTH DAKOTA

WATER LICENSE No. 408-3

WHEREAS, On the 11th day of February A. D. 1957
Stuart Benning

of Redfield County of Spink and State of
South Dakota duly made application (No. 408-3) to us for a permit to use 1.35
cubic feet per second of the waters of Turtle Creek
County of Spink, State of South Dakota, for irrigation
purposes; and

WHEREAS, On the 23rd day of March A. D. 1957
Permit No. 408-3 was issued to said applicant for the diversion of said water, and providing for the
completion of the works of diversion therein described on or before the 13th day of
March A. D. 1960 and for the application to beneficial use of said
water on or before the 13th day of March A. D. 1962
and,

WHEREAS, On the 22nd day of August A. D. 1962
the holder of said permit duly made proof of the completion of adequate works for the diversion of 1.35
cubic feet per second of said waters, as evidenced by our Certificate No. 408-3
dated September 14, 1962 confirming the completion of works of sufficient capacity for
diverting and conveying to the place of intended use 1.35 cubic feet per second of water, with date of
priority of February 11, 1957 and.

WHEREAS, On the 22nd day of August A. D. 1962
proof was duly made of the application to beneficial use of 1.35 cubic feet per second of said water;
for irrigating 95 acres in the SE 1/4 Section 2, T116N, R64W

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 Stuart Benning
of Redfield the holder and owner of said permit No. 408-3
a water right, dating from February 11, 1957 to the use of 1.35
cubic feet per second of the waters of Turtle Creek
in the County of Spink and State of South Dakota, or so much thereof as may be
necessray for the purposes hereinbelow mentioned, to be diverted at between points N36°5'W, 3410.6 ft.
and N58°20'W, 3014.0 ft. from the SE corner, Section 2, T116N, R64W
and conducted to and upon 95 acres in the SE 1/4 Section 2, T116N, R64W

for the purpose of irrigation

subject, however, to the laws of the State of South Dakota applicable to a license for the use of the waters of the State, and subject, also to the local or community customs, rules and regulations which have been or may be adopted from time to time by a majority of the users from a common source of supply, canal or lateral from which such water may be taken, when such rules and regulations have for their object the economical use of such water.

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

State Water Resources Commission

By:

Chief Engineer, Executive Officer
J. W. GRIMES

STATE OF SOUTH DAKOTA

Water License No. _____

To _____

Source of Supply _____

County _____

Am't _____ c. f. s.

Point of Diversion _____

Place of Use _____

Purpose _____

Date of Priority _____

Recorded _____

in Book _____ of _____ Page _____

Permit No. 408-3Water Division No. 3 James River Water District**Certificate of Completion of Works**

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That Stuart Benning

of Redfield, County of Spink, and State of South Dakota, the holder of Permit No. 408-3, issued upon Application No. 408-3, bearing date of priority of February 11, 1957, authorizing the diversion of 1.35 cu. ft. per second of the waters of Turtle Creek County of Spink, State of South Dakota, between points N36°5'W, 3410.6 ft. & N58°20'W, 3014.0 ft. from the SE Corner, Section 2, T116N, R64W for irrigation

purposes, has fully complied with the provisions of the laws of the State of South Dakota relating to proof of completion of the works of diversion set out and described in said Permit; that said works are found in satisfactory condition for diverting and conveying to the place of intended use 1.35 cu. ft. per second of water; and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit: 95 acres in the SE 1/4 Section 2, T116N, R64W

Witness my hand this 14th day of September A. D. 19 62

State Water Resources Commission

By:

Chief Engineer, Executive Officer
J. W. GRIMES

Permit No.-----

Water Div. No.-----Water Dist.

**Certificate of
Completion of Works**

Dated ----- 19-----

Stream -----

County -----

Amount -----

Date of priority -----

Recorded in Book -----

of ----- page -----

Permit No. 408-3Water Division No. 3 James River Water District

Certificate of Examination of Works

Report of Examining Engineer

To the State Water Resources Commission, Pierre, South Dakota:

Dear Sirs: I hereby certify that in accordance with your letter of authorization dated _____
 19____, I have this day made a thorough examination of the diversion works constructed by _____
Stuart Beasing of _____
Spink County, South Dakota, holder of Permit No. 408-3, issued
 upon Application No. 408-3, bearing date of priority of Feb. 11, 1957, authorizing the
 diversion of 1.35 cu. ft. per second of the waters of Turtle Creek for Irrigation
 purposes. I have to report on the condition of the same as follows:

The diversion works comprise: one pump, Berkeley, Mod. #500 PE Ser. #52030
Wisconsin VE 25 motor
200' of 6" pipe pumps into ditch 1 1/2 mile

and the system is in the following condition: Good

The point of diversion is located 3110.0' N 36° 5' W + 3014' N 56° 20' W of S.E.
Cor. of Sec 2-116-64 on S. bank

The works are capable of diverting and conveying to the place of use 1.35 cu. ft. per second of water,
 which is to be used for Irrigation

The legal sub-divisions to be irrigated are: SE 1/4 Sec 2-116-64 & irregular tracts
totaling 95 acres.

comprising a total of 95 acres of land.

The domestic use intended comprises _____

The utilization for power, mining, or other beneficial uses comprises: _____

Witness my hand, this 22 day of August 22, A. D. 1962

—SEAL—

William H. McLean
 Examining Engineer.

Permit No.-----

Water Div. No.-----Water Dist.

**Certificate of Examination
of Works**

Dated -----, 19-----

Stream -----

County -----

Amount ----- c. f. s.

Date of Priority -----

Recorded in Book ----- Page -----

Filed in the office of the State Water Resources Commission

this ----- day of ----- A. D., 19-----

State Water Resources Commission

By:

Chief Engineer, Executive Officer

(First Publication before February 15, 1957)**APPROPRIATION OF WATER**

Office of State Water Resources Commission,

Pierre, S. Dak., February 11, 1957

Notice is hereby given that Stuart Penning whose postoffice address is Redfield 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 1.35 cubic feet of water per second of time from ~~the~~ Turtle Creek through the Stuart Penning #1 the point of diversion of which is to be located on the southerly and between two points Westerly bank of said stream in the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 2 Twp. 116 N Range 64 W. Said water to be used for the purpose of providing irrigation on the following described land:

part of the SE $\frac{1}{4}$, Sec 2, T 116 N, R 64 W~~XXXX~~~~XXXXXX~~

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 12th day of March, 1957, 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. Griggs, Chief Engineer, Executive Officer

cc - Mr. Harold Jones, Manager
The Redfield Press
Redfield, South Dakota

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA }
County Spink } ss.Harold D. Jones being duly sworn, deposes and says the annexed printed copy of Notice

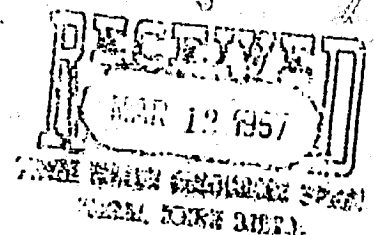
of Intention to Appropriate Water was taken from the -----

Redfield Press a newspaper which during the whole itme of publication of said notice herein after stated, has been and is printed and published 'n theCity of Redfield County of Spink and State of South Dakota;

that the said notice was published in said newspaper on the following dates:

Feb. 14, 21, 28, Mar. 7in each and every issue of the full number thereof, the first publication being made on the 14th day of Feb.1957 and the last publication on the 7th day of March1957, upon which days or times of publication aforesaid the newspaper was regularly published, and that during the whole time of said publication he was Editor the printer and publisher of the said newspaper.Subscribed and sworn to before me this 7th day of March A. D. 1957Margaret E. Jones
Notary Public Spink County, S. D.

No. 31
APPROPRIATION OF WATER
 Office of State Water Resources
 Commission
 Pierre, S. Dak., February 11, 1937
 Notice is hereby given that Stuart Benning, whose postoffice address is Redfield, 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 1.33 cubic feet of water per second of time from Turtle Creek through the Stuart Benning No. 1, the point of diversion of which is to be located on the Southern and Eastern banks of said stream between two points in the NW¹ of the SE¹ of Section 2 Twp. 116N Range 64W. Said water to be used for the purpose of providing irrigation on the following described land:
 part of the SE¹ Sec 2, T 116 N, R 64 W
 This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 12th day of March, 1937, 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
 (Feb. 14, 21, 28; Mar. 7)



Water Rights Division
605 773-3352

February 22, 1982

Galen Gillette, Attorney
519 N Main
Redfield SD 57469

Dear Mr. Gillette:

RE: Stuart Benning Dam

Please find enclosed the applications forms for applying for storage on Turtle Creek. Forms 2 and 2A must be completed and returned to this office within 30 days from the date of this letter. Form 2A has a section covering the specifications of the dam which is required to be completed.

If there are any questions, do not hesitate to contact this office.

Very truly yours,

JAMES HINTERTON
Water Resources Engineer

enclosures

Water Rights Division
605 773-3352

March 24, 1982

Galen G Gillette
Gillette & McClure
519 North Main
Redfield SD 57469

Dear Mr. Gillette:

Please find enclosed the instructions and your application for applying for a water right. I do not believe that Mr. Benning would qualify for a "vested" right. His original water right allows him to divert 1.35 cfs of the flows of Turtle Creek to irrigate 55 acres in the SE 1/4 of Section 2, T116N, R64W. This right can be claimed from February 11, 1957. To qualify for a "vested" right, the construction of the works would need to have been completed prior to 1955.

The application as submitted to this office requests the appropriation of a sufficient quantity of water to irrigate additional acreage in Section 11. This additional acreage would require soil-water compatibility approval. Other items needed are indicated on the instructions.

Please advise this office if there are any further questions.

Very truly yours,

JAMES WINTERTON
Water Resources Engineer

JW:ks

enclosures



February 16, 1994

STUART BENNING
BOX 467
REDFIELD SD 57469

NOTICE

RE: Violation of Requirement to Submit 1993 Irrigation Questionnaire

Our records indicate that the 1993 Irrigation Questionnaire has not been submitted for Permit No(s) 408-3. The request for the Questionnaire was dated October 18, 1993. The Water Management Board has directed that owners of water permits who have not submitted the 1993 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning the violation.

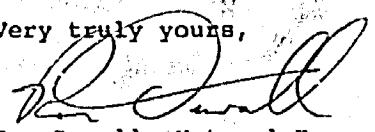
The hearing will be held at 8:45 am, April 6, 1994, at the Golden Hills Resort, 900 Miners Ave, Lead, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to SDCL 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 408-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
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(s) is(are) received in this office on/or before April 1, 1994, your name will be deleted from the Board agenda.

Very truly yours,


Ron Duvall, Natural Resources Engineer IV
Water Rights Division
605 773-3352

408-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☒ Addressee's Address
 2. ☐ Restricted Delivery
- Consult postmaster for fee.

3. Article Addressed to:

STUART BENNING
BOX 467
REDFIELD SD 57469

408-3

4a. Article Number

P 837 692 553

4b. Service Type

- ☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

2-18-94

5. Signature (Addressee)

6. Signature (Agent)

Stuart Benning

8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1991 ☆ U.S.P.O. : 1992-307-530

DOMESTIC RETURN RECEIPT

Thank you for using Return Receipt Service.



408-3

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 18, 1994

408-3

Stuart Benning
Box 467
Redfield, SD 57469

Dear Mr. Benning:

I am writing to acknowledge receipt of your 1993 Irrigation questionnaire. A questionnaire was completed for you based upon our February 18th telephone conversation. You may disregard the February 16, 1994, Notice of Violation of the Requirement to Submit the 1993 Irrigation Questionnaire.

The questionnaire was completed and on file in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Division
(605) 773-3352



408-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 16, 2002

NOTICE

TO: STUART BENNING, BOX 467, REDFIELD, SD 57469

FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2001 Irrigation Questionnaire(s)

Our records indicate that the 2001 Irrigation Questionnaire has not been submitted for Permit No(s) 408-3. The request for the Questionnaire was dated October 12, 2001. The Water Management Board has directed that owners of water permits who have not submitted the 2001 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

The hearing will be held at 10:00 am, March 13, 2002, in the Visitor Center (west bank of Capitol Lake), 650 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 408-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
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(s) is(are) received in this office on/or before March 8, 2002, your name will be deleted from the Board agenda. If you have any questions or need assistance with completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

Note: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

STUART BENNING
BOX 467
REDFIELD SD 57469

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

STUART BERNING

B. Date of Delivery

1-17-02

C. Signature

C. Signature 

☐ Agent☐ Addressee

D. Is delivery address different from item 1?

☒ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

☒ Certified Mail

☐ Registered☐ Insured Mail

☐ Return Receipt for Merchandise

4. Restricted Delivery? (Extra)

☐ Yes

7001 2510 0004 4797 5507



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 23, 2002

408-3

Stuart Benning
Box 467
Redfield, SD 57469

Dear Mr. Benning:

I am writing to acknowledge receipt of your 2001 irrigation questionnaire. You may disregard the January 16, 2002, "Notice" concerning reporting requirements for Water Right No. 408-3.

I completed a questionnaire for you based on our January 23rd telephone conversation. The form will indicate that you did not irrigate in 2001 due to ample rainfall in your area.

The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

Thank you for calling and if you have any questions, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352



408-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 24, 2006

NOTICE

TO: STUART BENNING, BOX 467, REDFIELD, SD 57469

FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2005 Irrigation Questionnaire(s)

Our records indicate that the 2005 Irrigation Questionnaire has not been submitted for Permit No(s) 408-3. The request for the Questionnaire was dated October 28, 2005. The Water Management Board has directed that owners of water permits who have not submitted the 2005 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

The hearing will be held at 10:30 am, March 2, 2006, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 408-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
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(s) is(are) received in this office on/or before **February 24, 2006**, your name will be deleted from the Board agenda. If you have any questions or need assistance with completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

Note: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



Track & Confirm

Current Status

You entered 2303 2160 0000 0799 4015

Your item was delivered at 12:22 pm on January 25, 2006 in REDFIELD, SD 57469. The item was signed for by S BENNING.

[Shipment Details >](#)

Notification Options

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Enter label number:

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U.S. Postal Service™ Signature Confirmation™ Receipt

SIGNATURE CONFIRMATION NUMBER:
2303 2160 0000 0799 4015

STUART BENNING
BOX 467
REDFIELD SD 57469

Waiver of Signature ☐ YES ☐ NO

Postmark
Here

POSTAL CUSTOMER:

Keep this receipt. For Inquiries:
Access internet web site at
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(See Reverse)

PS Form 153, May 2002



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 30, 2006

408-3

Stuart Benning
Box 467
Redfield SD 57469

Dear Mr. Benning:

I am writing to acknowledge receipt of your 2005 irrigation questionnaire. I completed a questionnaire for you based on your January 27th telephone conversation with Ron Duvall.

You may disregard the January 24, 2006, "Notice" concerning reporting requirements for Water Right No. 408-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

Ron indicated you may be selling the land soon and wanted a "Notice of Transfer of Ownership" form to give to the new owner. Enclosed is a partially completed form to be used for this purpose. The new owner will need to complete the form and return it to our office with a required filing fee of \$2.50. The check or money order can be made payable to the Water Rights Program.

I am also enclosing excerpts of our Water Laws and Water Management Board Rules dealing with abandonment and/or forfeiture and legal excuse for not irrigating. Water use is a requirement for maintaining a water right. This information may be important to the new owner.

Thank you for calling and if you have any questions, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352



408-3
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 1, 2006

408-3

Stuart Benning
927 E 3rd St Apt 8
Redfield SD 57469-1423

Dear Mr. Benning:

Enclosed is a "Notice" dated October 20, 2006 concerning the 2006 irrigation questionnaire. The notice was originally mailed to Box 467, Redfield SD. The post office notified us that your address has changed and I will update our records accordingly.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352

enclosures

NOTICE OF TRANSFER OF OWNERSHIP

RECEIVED

JAN 29 2007

WATER RIGHTS
PROGRAM

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

No. 408-3

Date: 1-29-07

I/We request that Water Right No. 408-3

formerly owned by: Stuart Benning

be transferred to: (name & address) Timber Creek Land and Cattle LLC
3969 E. Palomar Dr Tucson, AZ 85711

Telephone No. 520-323-0285

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

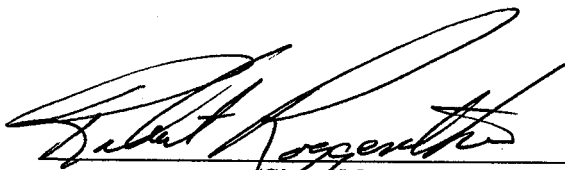
95 acres in the SE 1/4 Section 2, T116N, R64W

I/We understand that the validity of Water Right No. 408-3 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 required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

I/We Robert Rogenthen, the new owner, certify that the above information is true and correct.


(Signed by new owner)

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

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date Jan 29, 20 07

RECEIVED OF Robert Roggenthen, 3969 E Palomar Dr, Tucson AZ 85711

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	2.50	
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>Water Right No. 408-3</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	2.50

No.

2886

By

Arland Erbele

Chief Engineer

(RS)



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 30, 2007

408-3

Robert Roggenthen
Timber Creek Land & Cattle LLC
3969 E Palmomar Dr
Tucson AZ 85711

Dear Mr. Roggenthen:

I am writing acknowledge receipt of the "Notice of Transfer of Ownership" form and filing fee you submitted on **January 29th**. The transfer has been completed. The water right formerly held by Stuart Benning is now listed in the name of "Timber Creek Land and Cattle LLC.

Enclosed is your Receipt No. 02886 in the amount of \$2.50. You may keep this for your records.

If I can answer any questions for you, please contact me.

Sincerely,

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

enclosure

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

PAID

MAR 15 2019

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

MAR 15 2019

WATER RIGHTS
PROGRAMWater Right/Permit No. 408-3Date: 3-10-19Ck# 4028I/We request that Water Right/Permit No. 408-3 formerly owned by:Timber Creek Land & Cattle LLC be transferred to:

New Owner Name: Dustin or Dawn Schmidt
Address: 17238 387th Ave
City, State, Zip: Redfield SD 57469 Telephone No. 605-460-3853

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

95 acres in SE 1/4 Section 2 - T116N - R64W

☒ I understand that the validity of Water Right/Permit No. 408-3 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

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

A fee of Fifty Dollars (\$50.00) is included to cover the filing fee as required by SDCL 46-2-13.

I, Dustin Schmidt, Dawn Schmidt, the new owner, certify that the above information is true and correct.

Dawn Schmidt
Dustin Schmidt
(signed by new owner)

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

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date March 15, 2019

RECEIVED OF Dustin or Dawn Schmidt 17238 387th Ave Redfield SD 57469

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>408-3</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____	50	00
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	

No. **09092**

By

Jeanne Goodman
Chief Engineer
17th



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 20, 2019

408-3

Dustin or Dawn Schmidt
17238 387th Ave
Redfield SD 57469

Dear Mr. & Mrs. Schmidt:

I am writing to acknowledge receipt of the transfer form and filing fee you submitted for changing ownership on Water Right No. 408-3.

The ownership change has been completed. Water Right No. 408-3 formerly held by Timber Creek Land & Cattle LLC is now listed in your names.

For informational purposes, each year we send out an irrigation questionnaire for reporting annual water use. Enclosed are the 2017 and 2018 questionnaires submitted by Timber Creek Land & Cattle. This will give you an idea of what type of information to keep track of during the season. The questionnaires are typically mailed out in October and are due back by the first of December.

Enclosed for your records is Receipt No. 09092 in the amount of \$50 which you paid for filing the ownership change. I included a copy of the water right for your records as well.

If you have any questions, please contact me.

Sincerely,

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

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

enclosures