

699A-3

RECEIVED

JUN 24 2005

WATER RIGHTS
PROGRAM

ATT:

Genny Mc Math

I have retained
the part of the
property that lies
west of firesteel
Creek in the NW 1/4
of Sec 24-103-60

H. P. Bosworth
220 W. Gale Rd
Milledale S.P.
57301

996-9159

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Tom Bosworth, 220 N Gale Rd, Mitchell SD 57301

DATE: June 29, 2005

RE: Ownership of land

COMMENTS:

I spoke with Mr. Bosworth concerning the source of water he would be using for irrigating the land he owns on the west side of Firesteel Creek. He indicated that he would only be using the creek. The land along the James River is now owned by Mary Puetz.

He explained that the acreage that can be irrigated on the west side of the creek is closer to 35 acres than the 48 acres listed in the water right. He will make notations on the map I sent to him and requested that we update his water right accordingly.

I had originally thought that all of his land was in CRP through 2013 (he made that notation on his 2000 irrigation questionnaire). He explained that not all the land is in CRP and he irrigates a small portion of it. I told him that with regard to the annual irrigation questionnaire, I would add him back to the mailing list because he needed to report his water use each year.

July 5, 2005:

Mr. Bosworth called back to say he had reviewed the map I sent to him and decided to keep the acreage described rather than reducing them as we originally discussed. Since some of the land is in CRP, we may want to take a look at the acreage that can be irrigated and perhaps modify the license after it comes out of CRP.



Genny McMath
Environmental Scientist



June 29, 2005

699A-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

699-3

H T Bosworth
220 N Gale Rd
Mitchell SD 57301

Dear Mr. Bosworth:

Thank you for visiting with me about the ownership change for Water Right No. 699-3. I have received the ownership information you submitted including your letter indicating you retained ownership of the land west of Firesteel Creek.

The water right will be divided and reissued to reflect separate ownership. Prior to reissuing the water right, I wanted to send you a map showing the areas I believe you own and the areas Ms. Puetz owns.

Please review the map and let me know if the areas I marked appear to be correct as far as ownership is concerned. If everything is correct, you may keep the enclosed map. If you have changes to make, go ahead and edit the map and return it to me with the necessary corrections.

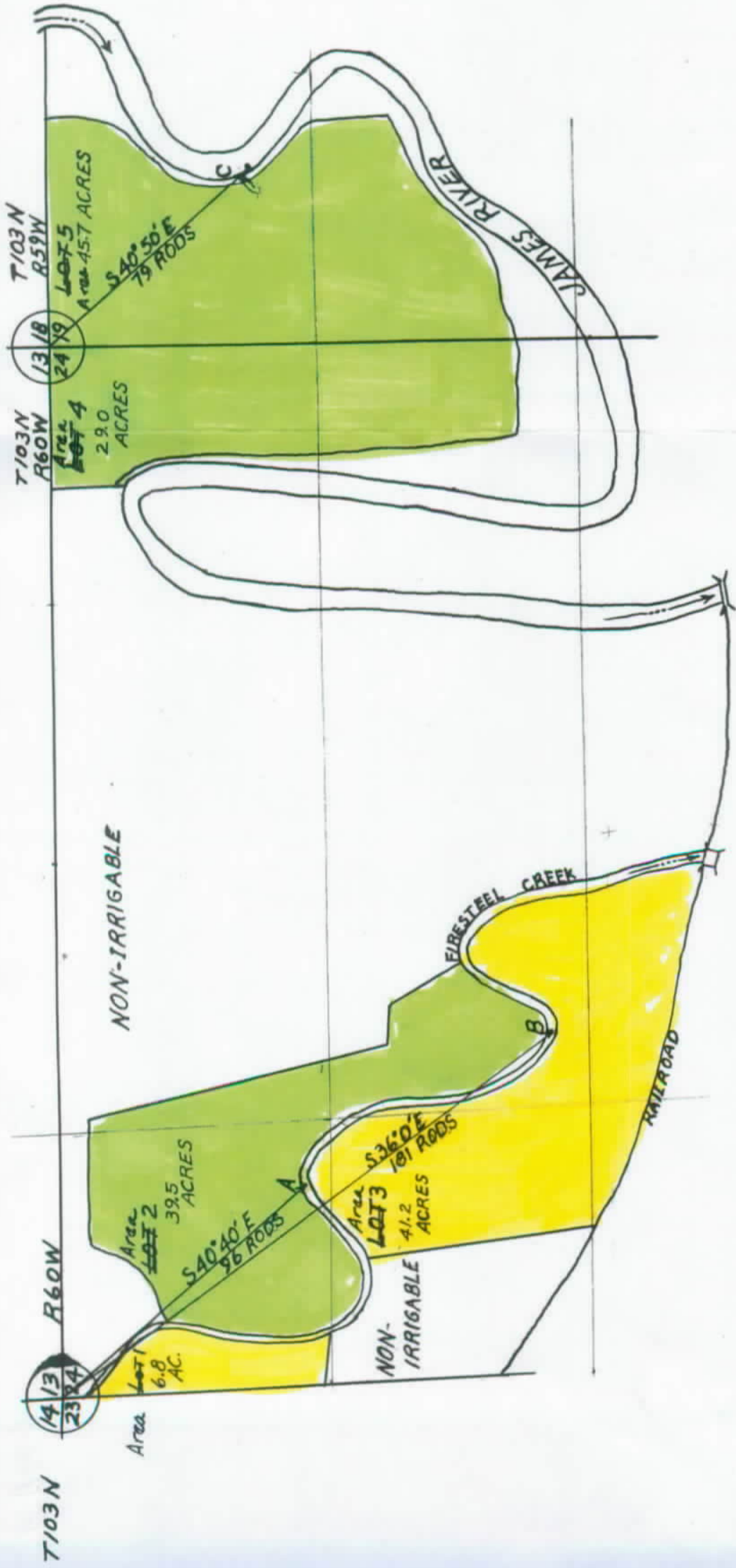
The water right will be divided and reissued as "699A-3 – H T Bosworth" and 699B-3 – Mary K Puetz". The diversion rate applied to each will be a prorated amount based on the number of acres each of you own.

Thank you in advance for your help.

Sincerely,

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

enclosure



Water Right No. 699-3 authorizes diversion of 2.32 cubic feet of water per second (cfs) from Firesteel Creek and the James River to irrigate 162.2 acres.

Diversion points:

Firesteel Creek: between points $S40^{\circ}40'E$, 96 rods and $S36^{\circ}0'E$, 181 rods from the NW corner Section 24, T103N, R60W (meaning between points in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 24);

James River: $S40^{\circ}50'E$, 79 rods from the NW corner of Section 19, T103N, R59W (NW $\frac{1}{4}$ NW $\frac{1}{4}$)

Irrigated land: SEE COLORED AREA ----->

The colored areas on the map are my interpretation of how the land has been divided up between Mr. Bosworth (yellow areas) and Ms. Puetz (green areas). If the water right is divided according to the areas marked, the following would reflect the separate water rights:

No. 699A-3: H T Bosworth, diversion of 0.69 cfs from Firesteel Creek to irrigate 48 acres in Lots 1 and 3, Section 24, T103N, R60W;

No. 699B-3: Mary K Puetz, diversion of 1.63 cfs from Firesteel Creek and the James River to irrigate 114.2 acres in Lots 2 & 4, Section 24, T103N, R60W and Lot 5 Section 19, T103N, R59W.

AL C. BOSWORTH - OWNER				
AL C. BOSWORTH IRRIGATION PROJECT NO. 1				
Description	LOCATION	SEC.	TOWNSHIP	ACRES
NW $\frac{1}{4}$ NW $\frac{1}{4}$	Area LOT 1	24	103 N	6.8
N $\frac{1}{2}$ SE $\frac{1}{4}$ of NW $\frac{1}{4}$	Area LOT 2	24	103 N	39.5
S $\frac{1}{2}$ NW $\frac{1}{4}$ & N $\frac{1}{2}$ SW $\frac{1}{4}$	Area LOT 3	24	103 N	41.2
E $\frac{1}{2}$ NE $\frac{1}{4}$	Area LOT 4	24	103 N	29.0
W $\frac{1}{2}$ NW $\frac{1}{4}$	Area LOT 5	19	103 N	45.7
TOTAL				162.2



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JUL 08 2005

699A-3

H T Bosworth
220 Gale Rd
Mitchell SD 57301

Dear Mr. Bosworth:

Enclosed is your Water License No. 699A-3. Water Right No. 699-3 was divided and reissued to reflect separate ownership.

Your water right includes a qualification concerning submission of the annual irrigation questionnaire. Previously, it was our understanding that all of your land was in Conservation Reserve Program through 2013. During a recent phone conversation with Genny McMath, you indicated a portion of your land was not in the program and was being irrigated. A notation has been made to your water right and you will begin to receive the irrigation questionnaire for reporting purposes starting in the fall of 2005.

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.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

enclosure

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 699A-3
DIVISION OF NO. 699-3 INTO 699A-3 AND 699B-3

(1) Al C Bosworth, Mitchell, SD was issued Water License No. 699-3, November 7, 1969 for a water right to divert 2.32 cubic feet of water per second (cfs) from the James River and Firesteel Creek, Davison and Hanson Counties, South Dakota for irrigation purposes. Water License No. 699-3, with a priority date of March 2, 1960 was issued to the applicant for diversion of water with construction of the described water supply system completed and the application to beneficial use of water completed.

On May 4, 1977, Water Right No. 699-3 was transferred to Harry T Bosworth. On June 24, 2005, an ownership change was filed on a portion of land covered under the water right. The water right is now being divided and reissued to reflect separate ownership.

- **No. 699A-3, H T Bosworth** authorizing diversion of 0.69 cfs from Firesteel Creek to irrigate 48 acres in Lots 1 and 3 of Section 24, T103N, R60W, Davison County.
- **No. 699B-3, Mary K Puetz** authorizing diversion of 1.63 cfs from the James River and Firesteel Creek to irrigate 114.2 acres in Lots 2 and 4 in Section 24, T103N, R60W, Davison County and Lot 5 in Section 19, T103N, R59W, Hanson County.

(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, H T Bosworth, 220 Gale Rd, Mitchell SD 57301 the holder and/or owner of Water Right No. 699A-3 is issued a license, bearing a priority date of March 2, 1960 to appropriate 0.69 cubic feet of water per second from Firesteel Creek to irrigate 48 acres.

The diversion point located on **Firesteel Creek** is between points S40°40'E, 96 rods (NW ¼ NW ¼) and S36°E, 181 rods from the NW corner Section 24 (SW ¼ NW ¼) all in T103N, R60W.

The acres authorized for irrigation are as follows:

Section 24, T103N, R60W	Lot 1	6.8 acres
	Lot 3	41.2 acres
		48.0 acres

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 699-3 including the following qualification:

- This water right is subject to the Irrigation Water Use Questionnaire being submitted each year.

Garland Erbele
Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JUL 08 2005
date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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PIERRE SOUTH DAKOTA 57501-3182
www.denr.sd.gov

October 24, 2013

699A-3

H T Bosworth
220 N Gale Rd
Mitchell SD 57301

Dear Mr. Bosworth:

I am writing in regard to the irrigation questionnaire you submitted for Water Right No. 699A-3.

On the forms you indicated your land will be enrolled in the Conservation Reserve Program through 2029. South Dakota water law allows this practice while retaining water rights if the following criteria as discussed in SDCL 46-5-37.2 are met:

- Exceptions to forfeiture for nonuse. The provisions of § 46-5-37 notwithstanding, no water right or permit may be forfeited for nonuse if land authorized for irrigation by a permit or right is placed under an acreage reserve or production quota program or otherwise withdrawn from use as required for participation in any federal program, if:
 1. the water source is not fully appropriated;
 2. if the withdrawal from use does not prevent approval of new permits from the same source, and;
 3. if the appropriated water has been applied to beneficial irrigation use prior to participation in a federal program.

Beginning in 2014, we will hold up on mailing the annual irrigation questionnaire to you until the land comes out of CRP and is again eligible for irrigation. If any changes occur prior to 2029 such as address or ownership changes, please notify our office. If you have any questions, please contact me.

Sincerely,

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