



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 E. CAPITOL AVE  
PIERRE SD 57501-3182  
danr.sd.gov

March 23, 2022

**NOTICE**

TO: Dobesh Ranches LLC – Frank Dobesh  
18449 Dobesh Ranch Road  
Belle Fourche SD 57717

FROM: Eric Gronlund, Chief Engineer *Eric Gronlund*  
SD DANR, Water Rights Program

SUBJECT: Schedule Hearing to consider removing qualification on Vested Water Right Nos. 1258A-1 and 1258B-1 requiring use of a flow meter

Vested Water Right Nos. 1258A-1 and 1258B-1 both authorize use of water from the Belle Fourche River to irrigate a total of 574 acres located in portions of sections 17 through 21; sections 28 and 29; all in T9N-R1E. The original Vested Water Right No. 1258-1 was approved by the Water Management Board in 1982 following a contested case hearing. The recognized vested right was issued with the following qualification requiring metering of water use.

All pumping under this right shall be through water flow meters that indicate the gallons per minute flowing through the meter plus a totalizer. The beginning and end of season pumping figures are to be sent to the Water Rights Program.

In 1989, the vested right went through a validation process involving public notice and was validated by the Water Management Board. Enclosed is a document prepared by Mark Rath, dated February 28, 2022, with a more detailed history concerning Vested Water Right Nos. 1258A-1 and 1258B-1.

The Chief Engineer has reviewed the file and is recommending REMOVAL of the metering qualification as it is not necessary to ensure compliance with provisions of Vested Water Right Nos. 1258A-1 and 1258B-1. Further, the Chief Engineer recommends the remaining qualifications on the vested water rights remain in place.

The Water Management Board will consider the recommendation to remove the metering qualification on Vested Water Right Nos. 1258A-1 and 1258B-1 at 9:30 AM Central Time, May 4, 2022, in the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. The agenda time is an estimate and may be delayed as a result of prior agenda items.

Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Agriculture and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by direct mail to you, and the applicable date to give notice to the Chief Engineer is April 4, 2022. However, since this particular matter is for the Board to consider removal of a qualification and not a monetary controversy in excess of \$2,500.00 or termination of a property right, the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

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

c: Ann Mines Bailey, Assistant Attorney General

## Water Rights Program - DANR

### File Documentation for No. 1258-1, 1258A-1 & 1258B-1

County: Butte

Phone: 605-210-2036

Name of Person: Dobesh Ranches LLC – Frank Dobesh

Address: 18449 Dobesh Ranch Road, Belle Fourche SD 57717

Date: February 28, 2022

RE: Metering Qualification on Vested Water Right Nos. 1258A-1 and 1258B-1.

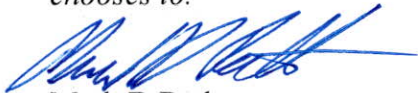
#### Comments:

*On February 25, 2022, I returned a telephone call to Frank Dobesh. Mr. Dobesh was concerned that when Vested Right No 1258-1 was split into two vested water rights based upon priority date, Vested Water Right License Nos. 1258A-1 and 1258B-1, the vested rights were issued with metering qualifications. He said that they were on the original water permit No. 1258-1 when the permit was issued in the early 1980's and it contained the metering qualification. But in the late 1980's when Water Rights staff engineer Rassool Ahadi was out doing an investigation prior to the vested water right being validated, Mr. Ahadi indicated the metering requirement wasn't needed. When Mr. Dobesh received Validated Vested Water Right License No. 1258-1, the qualification was not on the document. I told Mr. Dobesh I would check our files and get back in touch with him.*

*I reviewed the water right files for Nos. 1258-1, 1258A-1, and 1258B-1, along with the Water Management Board minutes from the July 28, 1982, hearing and the July 26, 1989 hearing. The Water Management Board approved Recognized Vested Water Right No. 1258-1 with a metering qualification in 1982 following a contested hearing. In 1989, Recognized Vested Water Right No. 1258-1 was validated by the Water Management Board. There was no indication in the water right files or the Water Management Board minutes for hearing to validate Vested Water Right No. 1258-1 that the Water Management Board removed the original metering qualification from the vested water right. When No. 1258-1 was split into 1258A-1 and 1258B-1, the vested water rights were issued with the original metering qualification.*

*After discussing the issue with Eric Gronlund, the Chief Engineer, it was decided the metering qualifications on Vested Water Right Nos. 1258A-1 and 1258B-1 were no longer needed. The Chief Engineer determined the Water Rights Program would schedule a hearing before the Water Management Board and request the metering qualification be removed from Vested Water Right Nos. 1258A-1 and 1258B-1.*

*On February 28, 2022, I called Frank Dobesh, informed him what I found during my file review and discussed with him our remedy to try to remove the metering qualifications from the two vested water rights. He was agreeable. I informed him he would be contacted concerning the scheduling of the issue before the Water Management Board and he could participate in the hearing if he chooses to.*



Mark D Rath

Natural Resources Engineer III

SD DANR-Water Rights Program

CERTIFICATION

The undersigned hereby certifies under the penalty of perjury that a true and correct copy of a Notice of Hearing dated March 23, 2022, regarding notice to consider amendment to qualification on Vested Water Right Nos. 1258A-1 and 1258B-1, was served upon the following by enclosing the same in envelopes with first class postage prepaid and affixed thereto, and depositing said envelopes in the United States mail on March 23, 2022.

Dobesh Ranches LLC – Frank Dobesh  
18449 Dobesh Ranch Road  
Belle Fourche SD 57717

Above also Sent Inter-office to:

Ann Mines Bailey, Assistant Attorney General  
1302 East Highway 14, Suite 1  
Pierre SD 57501-8501

Eric Gronlund  
Water Rights Program, DANR

STATE OF SOUTH DAKOTA )  
                                              ) SS  
COUNTY OF HUGHES            )

Sworn to, before me, this 23<sup>rd</sup> day of March, 2022.

Karen Schlaak  
Notary Public  
My Commission expires April 1, 2025

