

0437.1
No. 200852

Office of State Engineer
DOCUMENT FILE

Name: *Paver, Clarence S.*

Date: *June 22, 1880*

County: *Lawrence*

Location: *Higgins Gulch.*

Note: *Assigned to
Federal Land
Bank of Omaha,
ret. - Jan. 20, 1938*

Cancelled *2/4/82*

~~RECEIVED~~

Cancelled
2-4-82
WMB

September 18, 1961

Mr. Louis Thomson
 Spearfish, S. Dak.

Dear Mr. Thomson:

Reference is made to your recent letter regarding existing water rights of Section 6, T 6N, R 2E.

We have checked our files, and find we do not have enough information to determine whether or not you have a valid water right. It appears that portions of this land may be covered under the old Wells ditch.

One of the staff members of the Water Resources Commission will be in the area in the near future and will contact you relative to this matter. It would be very helpful if you could have a copy of the abstract on the land available at the time of this visit.

Sincerely,

BURTON F. JONES
 Water Right Specialist

BFJ:mf

A search of records in office of Water Resources Commission
 prior was made but no water rights were found which
 apply to Mr. Thomson's land. We will have a
 dog down filing - probably 1997 - with specific description will
 be done in future. Thomson.

We were so informed orally on 10-12-61

h.1.13

No. 6437-1

July 19, 1943

Mr. Clinton G. Richards
States Attorney
Deadwood, South Dakota

Re: Water Appropriation # 200852
Clarence A. Pascoe

Dear Mr. Richards:

I am writing further relative to the above water right of Clarence Pascoe and in reply to your inquiry of July 17th just received.

It will be noted that the water right in question as indicated by the number is an old water appropriation established prior to the passage of our present water code of 1907. Therefore, there would be no publication of notice as provided by SDG 61.0124.

No further water permit applications have been made by Mr. Pascoe to my knowledge. Certain action was taken by Mr. Pascoe in 1937 at which time this office was requested to issue a certificate of appropriation of water upon the proof of Mr. Pascoe, as filed in this office, that 250 miners inches of water had been used when available since 1878 under his water right. The intention was, I believe, to establish that such right had not been abandoned by non-use. As previously stated, such a certificate was issued on the basis of the proof filed. I cannot see how this certificate would, however, in any way alter the rights as they existed in the original appropriation made June 22, 1880.

You do not give the description of the land which is owned by each of the three parties. I am therefore unable to determine whether or not the land described in the above proof is part or all of the land in question. In the proof Mr. Pascoe gives as the land on which the water has been used and the number of acres in each subdivision which has actually been irrigated by said water as follows: NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 5, 29 acres; SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 5, 25 acres; SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 6, 20 acres - all in T 7 N, R 2 E. B. H. N.

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Page 2 - cont.
Mr. Clinton G. Richards

July 19, 1943
Re: Water Appropriation
200852
Clarence S. Pascoe

If you would care to furnish this office with a copy of the location certificate which may be found in the files of Lawrence County and also a copy of the "Certificate of Appropriation" and a description of the lands in question, we would be glad to assist you further in the interpretation of the right.

Very truly yours,

Dean W. Loucks
State Engineer

DWL:ab

Location No. 5437-1

Water Division No. _____

Water District. _____

Form of Application of Water to Beneficial Use

Petition of Holder

Ques. 1. State your name, residence, occupation and postoffice address.

Ans. George S. Paxcoe, Farmer residing on the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 6
T. 6 N. 1. E. Spearfish, S. D. P. O.

Ques. 2. If acting in behalf of a corporation, state its name, principal place of business (if a foreign corporation, give name and postoffice of statutory agent,) your position with reference to same, and your authority for appearing in its behalf.

Ques. 3. State date of posting and date of recording notice of appropriation.

Ans. June 22, 1880 for both

Ques. 4. State source of water, supply and describe location of point of diversion.

Ans. Higgins Gulch, Lawrence County, S. Dak, diversion ditch on the line of the
between sections six and seven Township six, north Range 2 East B. H. N.

Ques. 5. Describe your works of diversion giving length and height of each dam and state amount of water they are capable of conveying from point of diversion to place of use, and give name of canal or ditch or other works by which water is conducted to such place of use, and date of completion of same.

Ans. no dams, diverted right from the creek bed to ditch, ditch capable of

carrying 250 miners inches to place of use, known as Wells ditch 1878

Ques. 6. State for what purpose water is used and describe place of use. (If for irrigation, name each subdivision in which used, and number of acres in each subdivision that have ACTUALLY been irrigated with said water.)

Ans. For irrigation purposes as follows: NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 5 20 acres;

SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 5 25 acres; NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 6 none acres; SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 6 30 acres

acres, all in T. 6 N. R. 2 E. B. H. N. Lawrence Co., S. D.

Ques. 7. If for other than irrigation use, state how applied, amount of horse power generated, etc.

Ans. none

Ques. 8. What is the minimum amount of water required for the use specified above?

Ans. 250 miners inches

Ques. 9. If you are not a person or representative of the corporation to whom above mentioned

permit was originally issued, please state how ownership was acquired by present holder.

Ans. _____

DATE MICROFILMED

SERIALS SECTION

Ans. since 1873, by ditch, full 350 miners inches when water available.

(Sign) Clarence S. Pascoe

I believe him to be the person he represents himself to be, and that said testimony was subscribed and

sworn to before me, at my office in Spokane, Lawrence, County, Id.

State of South Dakota, on this 22nd day of December, 1937.

Flarens vägle
M. Drunkel

Witnesses.

W. E. Dickey
Rotary Public

My Commission Expires February 16, 1954

I, the undersigned, do hereby certify, that I am a duly qualified elector residing in the immediate vicinity of the diversion works designated in the foregoing testimony, that I have no interest in the works, water or 'land above described, that I have read the foregoing testimony and that I know of my own personal knowledge that the matters therein stated are true.

going testimony and that I know of my own
vue.

Chas. W. Rogers
Chas. R. Cooper.

Location No. 2

Proof of Application of Water in
Beneficial Use.

PETITION OF HOLDER

Amount of water second feet

Source

County

Purpose

Place of use

Date of recording

Received and filed

OFFICE OF
CLINTON G. RICHARDS
ATTORNEY AT LAW
DEADWOOD, SOUTH DAKOTA

July 21, 1943.

0437-1
RECEIVED
OFFICE OF THE ENGINEER
PIERRE, S. D.

Hon. Dean W. Loucks,
State Engineer,
Pierre, South Dakota.

Re: Water Appropriation No. 200852,
Clarence S. Pascoe.

My dear Mr. Loucks:

Your letter of July 19th regarding the above matter is duly received. I have checked the description mentioned in your letter. It appears that there is a mistake in the description, your letter stating that the property is in Township Seven North, whereas I believe the correct description is Township Six North. At least that is the description that we have in the matter and likewise which appears in the assignment of the Certificate of Appropriation to the Federal Land Bank, Mortgage, copy of which I have obtained from the Belle Fourche loan office. Aside from this, the descriptions check out alright, but all of the water is claimed for land now owned by Mr. Pascoe apparently. The land owned by Lawrence County is located north of that owned by Mr. Pascoe and described as follows:

The Northwest Quarter (NW $\frac{1}{4}$) of Sec. 5, T. 6 North, R. 2 East. Water has been used on this tract, the ditch coming through the property owned by Mr. Pascoe and onto the property owned by Lawrence County. The water has also been used on the property now being purchased from Lawrence County by Mark Boice. The diversion dam is located, I believe, in the Northeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section Seven. The dam is not much of a dam, just a log thrown in the stream, which is moved from time to time. At the source of this diversion, however, there is another ditch, which runs out to the east and has been used to irrigate part of the following described land:

The Northeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section Seven; North Half of the Northwest Quarter (N $\frac{1}{2}$ NW $\frac{1}{4}$) of Section Eight; all in Township 6 North, Range 2 East.

The only Water Location Notice or other instruments of record in this county that we can find are the old location notices filed before 1900. I am enclosing you copy of these notices from the abstract we have. The Jonathan H. Wells named as a co-locator in the certificate secured patent for the property now being bought by Mark Boice from Lawrence County in August, 1883. There is no question but that he made this location with the intention of using his portion of the water on the land that he afterward patented, and the ditch shows that he did use it.

I will appreciate your giving me what information you may have in mind regarding the possible rights of these three persons here with the information now at hand. If there is any further information you would like, I will be glad to procure it and send it to you. We appreciate your assistance in this matter very much.

Very truly yours,

Clinton G. Richards

CGR:RL

0437-1

"Water Right,

Location Certificate.

By

Dated April 15th, 1878

Joseph Wells and
J. M. Wells,

Filed May 17th, 1880

Book 8 Page 624

Recites; This is to Certify, that we Joseph Wells and J. M. Wells, Citizens of the United States, have this day claimed One hundred and forty Miners inches of the water in what is known as Higgins Gulch, in Lawrence County, D.T. We claim the same for Irrigating purposes and have this day complied with the law, in turning the said water out of its Natural Channel and conducting the same through our ditch.

Signed; Joseph Wells

J. M. Wells

Water Right Higgins Gulch,

Amended Certificate.

By

Dated _____

Joseph Wells and
Jonathan M. Wells.

Filed June 22nd, 1880

Book 14 Page 59

Recites; That we the undersigned Citizens of the United States and residents of the County of Lawrence and Territory of Dakota, Claim by right of location and appropriation for irrigation, or any other useful or beneficial purposes to which the same can be applied a certain Water Right described as follows, to-wit:- Two hundred and fifty (250) inches, Miners Measurement of the Waters of Higgins Gulch, about 3 miles West of the Town of Spearfish. We claim the right to divert said Waters from its Natural Channel and Convey the same wherever it may be required.

This Certificate is filed in lieu of the original Certificate heretofore filed in the office of the Register of Deeds of said County and destroyed in the Deadwood fire Sept. 26th, 1879. And also for the purpose of correcting an error in a recent location Certificate of said Water Right filed in the Office of the Register of Deeds of said County and recorded in Book 8 page 624, wherein the amount of Water claimed is 140 instead of 250 inches.

Signed: Joseph Wells

Jonathan M. Wells

0437-1

ASSIGNMENT

Federal Land Bank of
Omaha, Nebraska

Certificate No. 200852
Lawrence, County, S. D.

Gentlemen:

For value received, I hereby assign unto the Federal Land Bank of ~~Nebraska~~ ^{Nebraska}, Certificate of Appropriation of Water dated December 22, 1937 for the appropriation of 250 miner's inches of water for irrigating 7 $\frac{1}{4}$ acres in the Northwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section Five (5); the Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section Five (5); the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section Six (6), the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section Six (6), all in Township Six (6) North of Range Two (2) East of the Black Hills Meridian, Lawrence County, S. Dak.

Said Certificate is dated and signed on the 3rd day of January, 1938 by Dean W. Loucks, State Engineer.

Witnesses:

M. F. Drinkall
W. E. Leisley

Clarence Pascoe

This is to certify that the above assignment has been filed in the office of the State Engineer at Pierre, South Dakota, with other documents pertaining to water right No. 200852, Clarence S. Pascoe, and assigned to the Federal Land Bank of Omaha, Nebraska, on the 20th day of January, 1938.

Dean W. Loucks
State Engineer.