

Considered: _____

VESTED RIGHT

WATER PERMIT NO. 1320-1

MAP No. 1320-1

Name of Applicant Albert Penn

Post Office Address Box 111 Buffalo 57220

Amount of Water Claimed 0.30 Total Acres 21.00

Source of Water Supply Dry Draw

Water to be used for IRR County _____

About _____ miles _____ of _____

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved 12-5-84 Subject to _____

F.F. & C.L. Adopted _____ Not Approved _____ Deferred _____

PRIORITY _____ Date Received 10/18/84 Fee 10.50 Remarks _____

10/12/1904

Corrected Application Received _____ Period of Annual Use 3/1 to 11/30

WATER QUALITY APPROVAL RECEIVED _____ APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as Application YES _____ NO _____ REMARKS _____
not applicable

Diversion Point _____

SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 35-18N-2E

Land to be Irrigated _____

E $\frac{1}{2}$ NW $\frac{1}{4}$ 35-18N-2E

Well Log: Driller _____ Licensed YES _____ NO _____

Depth of Well _____ REMARKS _____

Type of Map drawn PREPARED BY LeRoy Mernaugh DWNR Reviewed and the Number _____

assigned on 10/23/84 By Betty Westlund

Betty Westlund NRA III

No. 1320-1Map No. 1320-1 Water Division No. 1 Little Missouri District
Above for Office Use 10110201

APPLICATION FOR PERMIT To Appropriate Water within the State of South Dakota

Check one of the following:

New _____ Vested Right X Future Use _____

Change in Diversion _____ Additional Diversion _____

Change in Acreage _____ Additional Acreage _____

1. Name of Applicant Albert Penn Phone No. 375-3691
 Post Office Address Box 111, Buffalo State SD 57220
(Street, RR, or Box) (Town) (Zip Code)
 If a corporation show date and place of incorporation _____

2. Method of accomplishing work (contract, employment of others, or by direct labor) completed

3. Name of diversion work _____

4. Amount of water claimed (cubic feet per second) 0.35. Source of water supply Dry Draw

6. Location of point of diversion 1450' South and 300' East of the NW corner of
Section 35, T18N, R2E

County Harding7. Annual period or periods during which water is to be used March - November8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) irrigation9. For irrigation use, Total number of acres to be irrigated 21

List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

Land Description	No. Acres Irr.
NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec 35, T18N, R2E	16
SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec 35, T18N, R2E	5

Land Description	No. Acres Irr.

Attach sheet if more space is needed

10. Time required to complete construction of water supply system completed years. Additional time required to complete application of water to the proposed beneficial use _____ years.

11. Choice of county newspaper for publication of Notice of Intent to Appropriate Water _____

12. Principal Features of the Proposed Water Supply System.

A. Works proposed to divert water from its natural source.
storage dam

B. Works proposed to transport water to place of use.

irrigation supply ditch

C. Works proposed to apply water to beneficial use.

flood from ditch

Estimated Total Cost \$ _____

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map.
 (see instructions concerning preparation.)

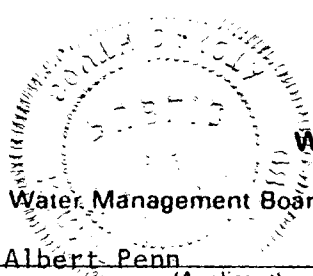
STATE OF SOUTH DAKOTA)

County of HARDING) ss.

I, ALBERT PENN the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.

Signed Albert Penn
Kenneth L. Hays
 Notary Public (or other qualified officer)

Subscribed and sworn to before me this 30 day of Jan., 1984



WATER RIGHT APPLICATION APPROVAL

The Water Management Board hereby approves Water Right Application No. 1320-1

Albert Penn

(Applicant)

Box 111, Buffalo

(Post Office Address)

South Dakota 57220

(State)

With the following qualifications

SEE VR-1

The applicable portions of Water Right Filing No. 035-1 were incorporated into Vested Right No. 1320-1 and the abandoned portions of Filing No. 035-1 have been cancelled.

Date of first receipt of application _____, 19____

Date of return to applicant for correction, amendments or changes required _____, 19____

Date of receipt of corrected application _____, 19____

Approved _____, 19____, Recorded in Book _____ Page _____

WATER RIGHT PERMIT NO. _____

The Water Management Board hereby grants and issues this Water Right Permit No. _____ authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as qualified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is _____, 19____
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before _____, 19____
3. The whole of said work is to be completed on or before _____, 19____
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is _____, 19____
5. The water appropriated shall be used for the purpose of _____

6. 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.

7. The amount of the appropriation herein granted shall not exceed _____ cubic feet per second; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for beneficial uses served, and if for irrigation purposes said appropriation must be limited to not more than 2 acre feet per acre per year and 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 _____, 19____; said water to be used during the following described annual period: _____

Witness my hand this _____ day of _____, 19____

THE WATER MANAGEMENT BOARD

By: _____
Chief Engineer, Water Rights

Certificate of Construction Issued _____, 19____

Water License Issued _____, 19____

VESTED WATER RIGHT

The Water Management Board hereby recognizes Vested Water Right No. 1320-1

Albert Penn

(applicant)

Box 111Buffalo

(post office address)

South Dakota 57220

(state)

(zip code)

Date of receipt of Application October 18, 1984.

Recognized December 5, 19 84.

The Water Management Board hereby recognizes the construction of the water use system and the placing of water to beneficial use as stated in the Application and as qualified in the Vested Water Right, subject, however, to the following limitations and conditions:

1. The date from which the applicant may claim right is October 12, 19 04.

2. The whole of said work has been completed and water has been applied to beneficial use as described on Form 2B of this application.

3. The water appropriated is used for the purpose of Irrigation.

The prior rights 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 unlawfully impaired by this appropriation.

5. The amount of the appropriation hereby recognized shall not exceed _____

0.3 cubic feet per second; neither shall it exceed the capacity of the above described water supply system nor shall it exceed the amount of water needed for beneficial uses served. For irrigation purposes said appropriation must be limited to not more than 2 acre feet per acre per year and 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 has been actually and beneficially applied for irrigation. The water is to be used during the following described annual period March 1 to November 30.

WATER MANAGEMENT BOARD

By: John Hatch

(Chief Engineer) JOHN HATCH

Division of Water Rights
Dept. of Water and Natural Resources

January 4, 19 85.

State of South Dakota

VESTED RIGHT Water License No. 1320-1

(1) Albert Penn
of Box 111, Buffalo, South Dakota 57220
made Application No. 1320-1, October 18, 1984 for recognition of ~~for a water permit~~ **/a Vested Right** to appropriate
0.3 cubic feet per second of water from a dry draw,
Harding County, South Dakota for Irrigation purposes.
Vested Right
~~Permit~~ No. 1320-1, with a priority date of October 12, 1904
recognized December 5, 1984 and issued to applicant(s) for diversion of water ~~with~~ **/recognizing** construction of the described
water supply system ~~to be completed on or before~~ and ~~for~~ the application to beneficial use of said
water ~~on or before~~.

and

(2) It is certified that the application has complied with the provisions of South Dakota State Law relating to completion of
the construction of the water supply system and is entitled to divert 0.3 cubic feet per second of water
for beneficial use. The location of the diversion point(s) is 1450'S and 300'E of the NW Corner of
Section 35, T18N, R2E, (BC)

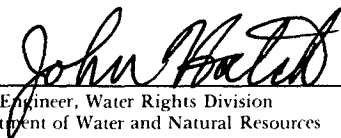
and

(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to the following extent, ~~to irrigate the following land all in T18N, R2E~~

Section 35	NE1/4NW1/4	16 Acres	(BA)
	SE1/4NW1/4	5 Acres	(BD)
TOTAL		21 ACRES	

(4) Pursuant to §46-5-30.1 Albert Penn
of Box 111, Buffalo, South Dakota 57720
the holder(s) and/or owner(s) of Vested Right Water Permit No. 1320-1 is issued a license to appropriate water, the right to use
0.3 cubic feet per second of water from a dry draw with a priority date
of October 12, 1904 from the location specified in (2) of this license. The water to be
conducted to and upon lands specified in (3) of this license for the purpose of irrigation

This license is subject to any limitations or qualifications listed in Vested Right Water Permit No. 1320-1 and subject
to South Dakota State Law.


Chief Engineer, Water Rights Division
Department of Water and Natural Resources
JOHN HATCH
December 21, 1984

D. Well Information

- (1) Drill Hole, Diameter _____, Depth _____
- (2) Casing, Type _____, Diameter _____, Thickness _____
(wood, concrete, steel, etc)
- (3) Screen, Type _____, Diameter _____, Length _____
- (4) Gravel Pack, Thickness _____, Length of gravel pack _____

E. Dugout Information or Estimates

- (1) Surface dimensions, _____, Depth _____

F. Fill out for Either a Well or a Dugout.

- (1) Water Bearing Materials. (Attach a copy of test well log)

Depth to top of water bearing material _____

Depth to bottom of water bearing material _____

Depth to water (ground surface to water level) _____

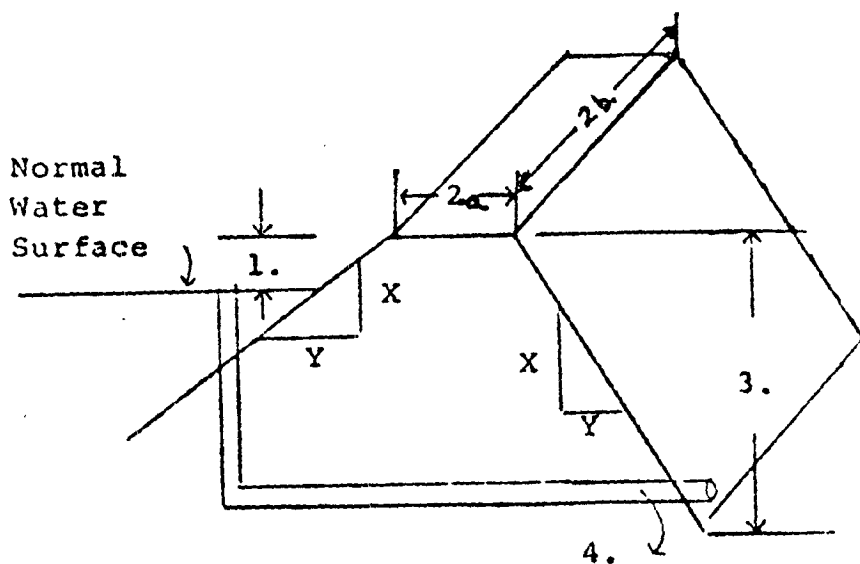
- (2) Distance to nearest existing household or livestock watering well

On same owner's property _____ rds

On property owned by others _____ rds.

G. Water Storage Dams

If the proposed water use system contains one or more water storage dams, please show in the space below, the height, length, maximum water depth, surface area, drainage area, storage capacity, dam slope, dimensions, location and size of outlet works, of each storage dam. The location of each water storage dam should be shown on the water right map.



1. Freeboard _____ 4 feet
- 2a Crest width _____ b. length _____
3. Height of Dam _____ 16
4. Outlet dimensions:
Pipe diameter _____ 18" CMP/hd gate
Spillway width _____ 50 feet
- X & Y slope:
Upstream _____ 3:1
Downstream _____ 2:1
- Surface area of impoundment
_____ 5. acres
- Drainage area above dam
_____ 500 acres
- storage 20 acre feet

Albert Penn

NOTE: This Form is supplemental to Form 2, and is to be used when an affidavit pertaining to construction and water use, already completed, is needed.

**AFFIDAVIT OF CONSTRUCTION OF WATER USE
SYSTEM AND APPLICATION OF WATER TO BENEFICIAL USE**

Name of Applicant (Same as Form 2) Albert Penn

Post Office Address Box 111 Buffalo, State SD 57720

If a Corporation show date and place of incorporation _____

13. Notice of Appropriation (If available) information from Water Right Filing No. 035-1

Date of Posting October 12, 1904 Date of Recording October 12, 1904

Recording Data _____

14. Date of start of construction of water supply system 1904

15. Date that water was first applied to beneficial use 1905

16. Name of owner of original water supply system John Bingham

17. Amount of water originally applied to beneficial use 10 c. f. s.

18. Present Use of Water

Amount of water now being used 10 c. f. s.

Date that this amount of water was first used 1905

19. Chronological History of Water Use

1910 - small check dams put in creek to turn water on to flats

1952 - larger dam with pipe and ditch put in creek to store water and divert it to larger area

1952 - smaller check dams repaired

Attach to this Form 28. any copies of notices, postings, filings, publications, affidavits, or other records that apply. You may also attach any written statement by you, or by others, that you deem pertinent.

STATE OF SOUTH DAKOTA)

County of HARDING) ss.

I, ALBERT PENN, the applicant, certify that I have read the foregoing and that the matters therein stated are true.

Signed Albert Penn

Subscribed and sworn to before me this 30 day of Jan, 1984

Hermit Loftsgaard
(Notary Public - or other qualified Officer)

I, the undersigned do hereby certify that I know about the water use system described above that I have read the foregoing and that the matters therein stated are true.

Permit No. 1320-1

Water Division 1 Little Missouri River Water District

**REPORT OF EXAMINATION OF WORKS
AND/OR APPLICATION OF WATER TO BENEFICIAL USE**

TO: WATER RIGHTS, WATER MANAGEMENT BOARD / FOSS BLDG., PIERRE, SOUTH DAKOTA 57501

I have this day made a thorough examination of the water use system constructed by Albert Penn
_____ of Box III, Buffalo, S.D. 57720 holder _____
of Permit No. 1320-1, bearing date of priority of OCTOBER 12, 1904
authorizing the diversion of 0.3 cu. ft. per second of the waters of a dry draw
for Irrigation purposes, in Harding County.

I have to report on the condition of the same as follows:

The Water Use System consists of,

A. Works used to divert the water:

Storage Dam with 18" cnp with Head gate

B. Works used to transport water to place of use.

Diversion Ditch

C. Works used to apply water to beneficial use.

Ditch from which water is flooded onto the land

The system is in the following condition: Fair

The point of diversion is located 1450 ft S and 300 ft E of the NW
Corner of Sec. 35, T18N R2E

The works are capable of diverting and conveying to the place of use 10
cu. ft. per second of water which is to be used for Irrigation

Water has been put to beneficial use to the maximum extent as follows: All in Sec. 35 T18N R2E

NE $\frac{1}{4}$ NW $\frac{1}{4}$ - 16 Ac.
SE $\frac{1}{4}$ NW $\frac{1}{4}$ - 5 Ac

comprising a total of 21 acres of land.

Dam information:
same as on form
WNR-802 AO-7/79

Licenses for $21 \div 70 = .3$ cfs.

The applicable portions of water Right Dilling No. 035-1 will be incorporated into this Vested Right Water License

Date August 17, 1983

Leroy J. Mernaugh
(Signature)

put copy of license into
filing

RECEIPT

Division of Water Rights

No 4 9804

South Dakota Department of Water and Natural Resources

Pierre, October 18, 1984

RECEIVED OF Albert Penn, Box 111, Buffalo, SD 57220

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

Fee for Application for Permit No. 1320-1 to Appropriate Water, to construct works and to put water to beneficial use	8	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. 1320-1	2	50
Fee for Filing Transfer Form		
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	10 50

By John Hatch
Chief Engineer JOHN HATCH

035-1

Albert. Make up V/R after
Inspection

(State of S.D. owns W 80 Rods)
see. Ow Atlas.

Pre-Emption of Right of Way and Location of Water.

To Whom These Presents May Concern, Know ye, that I John Bingham, of the County of Butte, in the State of South Dakota, a citizen of the United States, do hereby declare and publish as a legal notice to all the world, that I claim and have a valid right to the occupation, possession and enjoyment of all and singular, all that tract or parcel of land lying and being in the County of Butte, in the State of South Dakota, for the exclusive right of way for the purpose of constructing a flume or water ditch from Butte Creek stream to the part of Section 35 in Township 18 N of Range 2 E. B.H.M. more particularly described as follows: Commencing at a dam located 4 chains east of the SW corner of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 35 in Township 18 N Range 2 E.B.H.M. and a ditch from said dam to and upon the W $\frac{1}{2}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ NW $\frac{1}{4}$ Section 35 in said Township 18 N Range 2 E. B.H.M.

I also claim and have a valid right to the enjoyment and use of 2000 inches of water from said stream for irrigating purposes to be conveyed through such flume or water ditch to said tract of land, together, with all the singular, the hereditaments and appurtenances thereunto belonging or in anywise appertaining.

Witness my hand and seal this 12 day of October A. D. 1904.

John Bingham.

Notice posted on Stream October 12, 1904.

Ditch commenced at stream Oct. 12, 1904.

State of South Dakota,)
as
County of Butte.)

On this 12 day of October 1904, before me a U S Commissioner, in and for the County and State aforesaid, personally appeared John Bingham to me personally known to be the person who executed the foregoing written instrument and acknowledged that he executed the same for the uses and purposes therein set forth. Witness my hand and official seal, the day and date above written.

SOUTH Dakota Department of
Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

WATER RIGHTS DIVISION
(605) 773-3352

January 4, 1985

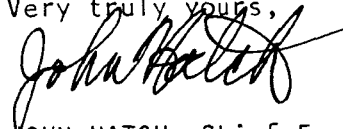
Albert Penn
Box 111
Buffalo, South Dakota 57220

Dear Mr. Penn:

Enclosed herewith are your Vested Right Permit, Water License No. 1320-1.
This Water License is the final water right document completing your
process of obtaining a vested water right.

As long as you use the water beneficially, as stated in the Water License,
the State Water Laws provide that you have a continuing right to use
the water.

Very truly yours,



JOHN HATCH, Chief Engineer
Water Rights Division

JH: ms

enclosures

The applicable portions of Water Right Filing No. 035-1 were incorporated
into Vested Right No. 1320-1 and the abandoned portions of Filing No. 035-1
have been cancelled.

SOUTH DAKOTA

VESTED WATER RIGHT NO. 1320-1 FOR IRRIGATION

Date of Receipt of Claim October 18, 1984.

Date of Validation September 27, 1989.

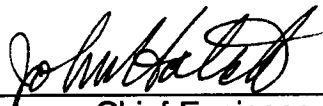
The Water Management Board validated Vested Water Right Claim No. 1320-1 for irrigation purposes for Albert Penn, Box 111, Buffalo SD 57720 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 1320-1 appropriates 0.30 cubic feet of water per second from a dry draw to irrigate 21 acres. The point of diversion is located in the SW1/4 NW1/4 and the irrigated acreage is in the E1/2 NW1/4; all in section 35-T18N-R2E.
2. The appropriation may not exceed the amount of water needed for beneficial use for irrigation. The appropriation may not exceed 3 acre feet per irrigated acre per year. Water is to be used during the following annual period: March 1 - November 30.
3. The priority date of the Vested Water Right is October 12, 1904.
4. The water use system has been constructed and water has been applied to beneficial use.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

The applicable portions of Water Right Filing No. 035-1 were incorporated into Vested Right No. 1320-1 and the abandoned portions of Filing No. 035-1 have been cancelled.

WATER MANAGEMENT BOARD

By: 
Chief Engineer

MAR 11 1993

date

Division of Water Rights
Dept. of Environment and Natural Resources



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

MAR 11 1993

1320-1

Albert Penn
Box 111
Buffalo SD 57720

Dear Mr. Penn:

The Water Management Board has validated the enclosed Vested Water Right No. 1320-1. This validation gives legal status to the claim and is the final document for your vested right.

As long as you use the water beneficially, as stated in the validation, State Water Laws provide that you have a continuing right to use the water.

Very truly yours,

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

enclosure

T18N R2E

27 26

34 35

26

35

18" CMP / Hd Gate

1450'

NE $\frac{1}{4}$ NW $\frac{1}{4}$ - 16 Ac

Flood Irr

SE $\frac{1}{4}$ NW $\frac{1}{4}$
5 Ac.

300'

35

Albert Penn.

Harding County

Scale = 8" = 1 mile

1" = 660'

Map by
LJ Mernough