

STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 1391A-1

(1) Westside Ditch, Belle Fourche SD was issued Water License No. 1391-1, for validation of a vested right claim to appropriate 10.86 cubic feet of water per second from the Redwater River, Butte County, South Dakota, for irrigation purposes. Vested Water Right No. 1391-1 was validated December 2, 1987 with priority dates of May 28, 1876 and December 10, 1889. Construction of the described water supply system and application of water to beneficial use has been completed and complies with applicable provisions of South Dakota State Law.

A November 7, 2001 inspection of this water use system found the diversion point was not in the location authorized by Water Right No. 1391-1. Pursuant to SDCL 46-5-13.1, the Chief Engineer makes a finding that the change in location of diversion point does not increase the potential for interference with existing water rights.

The investigation also found a reduction in the number of acres being irrigated. As a result, Water Right No. 1391A-1 is being issued to reflect the actual number of acres being irrigated and the amount of water being applied to beneficial use.

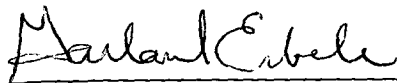
Water Right No. 1391A-1 was transferred to Redwater Land Company, November 2, 2001. The remaining acreage authorized by Water License No. 1391-1 not included on this license has been forfeited for nonuse.

(2) It is certified that the vested right owner is entitled to divert 1.04 cubic feet of water per second for beneficial use. The location of the diversion point is: 2,365 feet east and 1,510 feet north of the southwest corner of Section 25-T8N-R2E (NE ¼ SW ¼).

The location of the irrigated acreage is:

Section 25-T8N-R2E			
SW ¼ SW ¼	1.0 acre	SE ¼ NW ¼	19.2 acres
NE ¼ SW ¼	19.5 acres		
SE ¼ SW ¼	6.0 acres	SW ¼ NE ¼	0.4 acres
NW ¼ SW ¼	3.0 acres		
Total 49.1 acres			

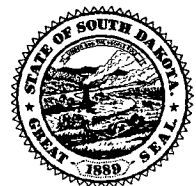
(3) Pursuant to Section 46-5-30.1 Redwater Land Company, Inc., c/o Rod Woodruff, Pres., 1113 5th, Belle Fourche SD 57717 the holder and/or owner of Vested Water Right No. 1391A-1 is issued a license to appropriate 1.04 cubic feet of water per second from the Redwater River with a priority date of May 28, 1876 from the location specified in (2) of this license for irrigation purposes. This license is subject to any limitations, conditions or qualifications listed in Vested Water Right No. 1391A-1 and subject to South Dakota State Law.



GARLAND ERBELE, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

FEB 14 2002

date



Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. _____	(office use only) Hydrologic Unit _____
	Basin _____	
	Newspaper _____	



Application For Permit To Appropriate Water For Irrigation

Type of Application: _____ New X Vested Right _____ Amendment/Correction to Permit No. _____
 (Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.) ADD

DIVERSION POINT OF WEST DITCH

1. Name of Applicant Rod Woodruff Phone 892-2033
 (check one) X Owner _____ Tenant/lessee _____

Mailing Address 1113 5th Avenue Belle Fourche State SD 57717
 (Street, RR, or Box and City) (Zip Code)

2. Amount of water claimed 10.86*CFS or **GPM ***AF Total Acreage
 (*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply RED WATER RIVER

4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) Approx. 2700 ft. east
1450 feet south from NW CORNER OF SEC
36 T8N R2E County Butte

5. County or counties where water will be used Butte

6. Annual period during which water is to be used April thru October

7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
 (Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
NW 1/4 SW 1/4 of SEC 25	84	SEC. 13, 14, 23 & 24	431
T 8N R2E		T 8N, R2E	

8. Give a description of the project. (Attach sheet if more space is needed)

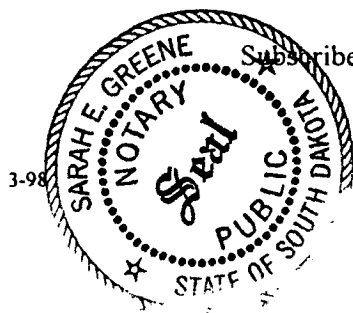
change diversion point of the west ditch
to irrigate the above described land.

STATE OF SOUTH DAKOTA) SS
 County of Butte

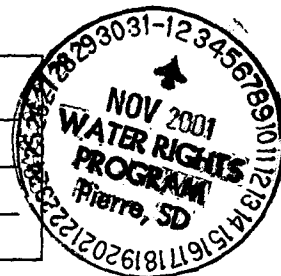
Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Attach map and any other technical information. (see instructions)

I, Rod Woodruff, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Applicant's signature Rod Woodruff
 Subscribed and sworn to before me this 2nd day of October 192001



Sarah E. Greene
 Notary Public signature
 My commission expires 7/5/07



Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	(office use only)
	No. _____ Hydrologic Unit _____
	Basin _____
	Newspaper _____

Application For Permit To Appropriate Water For Irrigation

Type of Application: New X Vested Right Amendment/Correction to Permit No. _____
(Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.) Change of
diversion points from 2700 ft east + 1450 ft south from NW corner of S36 T8N R2E, BHM
to 2827.52 ft N 54' 30' 39" E of NW corner of S36 T8N R2E, BHM.

1. Name of Applicant Redwater Land Company, Inc Phone 605-892-2033
(check one) X Owner Tenant/lessee
Mailing Address 1113 5th Belle Fourche SD 57717 State SD 57717
(Street, RR, or Box and City) (Zip Code)

2. Amount of water claimed 1.04 *CFS or **GPM ***AF Total Acreage 49.1
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Redwater River

4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) Redwater River at a point
2827.52 feet North 54' 30' 39" East of the Northwest corner of S36 T8N R2E, BHM
(See copy of plat) Butte County SD

5. County or counties where water will be used Butte

6. Annual period during which water is to be used April through October

7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
SE 1/4 NW 1/4 25-8-2	19.2	SE 1/4 SW 1/4 25-8-2	6.0
NE 1/4 SW 1/4 25-8-2	19.5	SW 1/4 NE 1/4 25-8-2	8.4
NW 1/4 SW 1/4 25-8-2	3.0		
SW 1/4 SW 1/4 25-8-2	1.0		

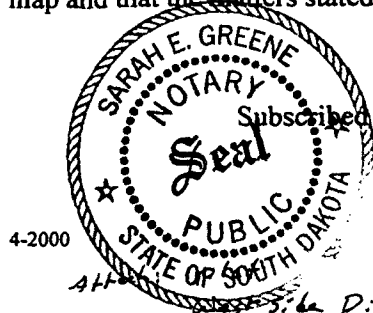
8. Give a description of the project. (Attach sheet if more space is needed)
former diversion point has been destroyed. I propose to move the diversion
point down river to my own property.

STATE OF SOUTH DAKOTA) SS
County of Butte

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Attach map and any other technical information. (see instructions)

I, Red Woodruff, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Applicant's signature Red Woodruff
Subscribed and sworn to before me this 1st day of November 20 01



Sarah Greene
Notary Public signature

my commission expires: 7/5/07

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

No 416957

Pierre, November 5, 2001

RECEIVED OF Redwater Land Company, Inc., 1113 5th ave., Belle Fourche, SD 57717
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. _____

50 00

Fee for Filing Transfer Form _____

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

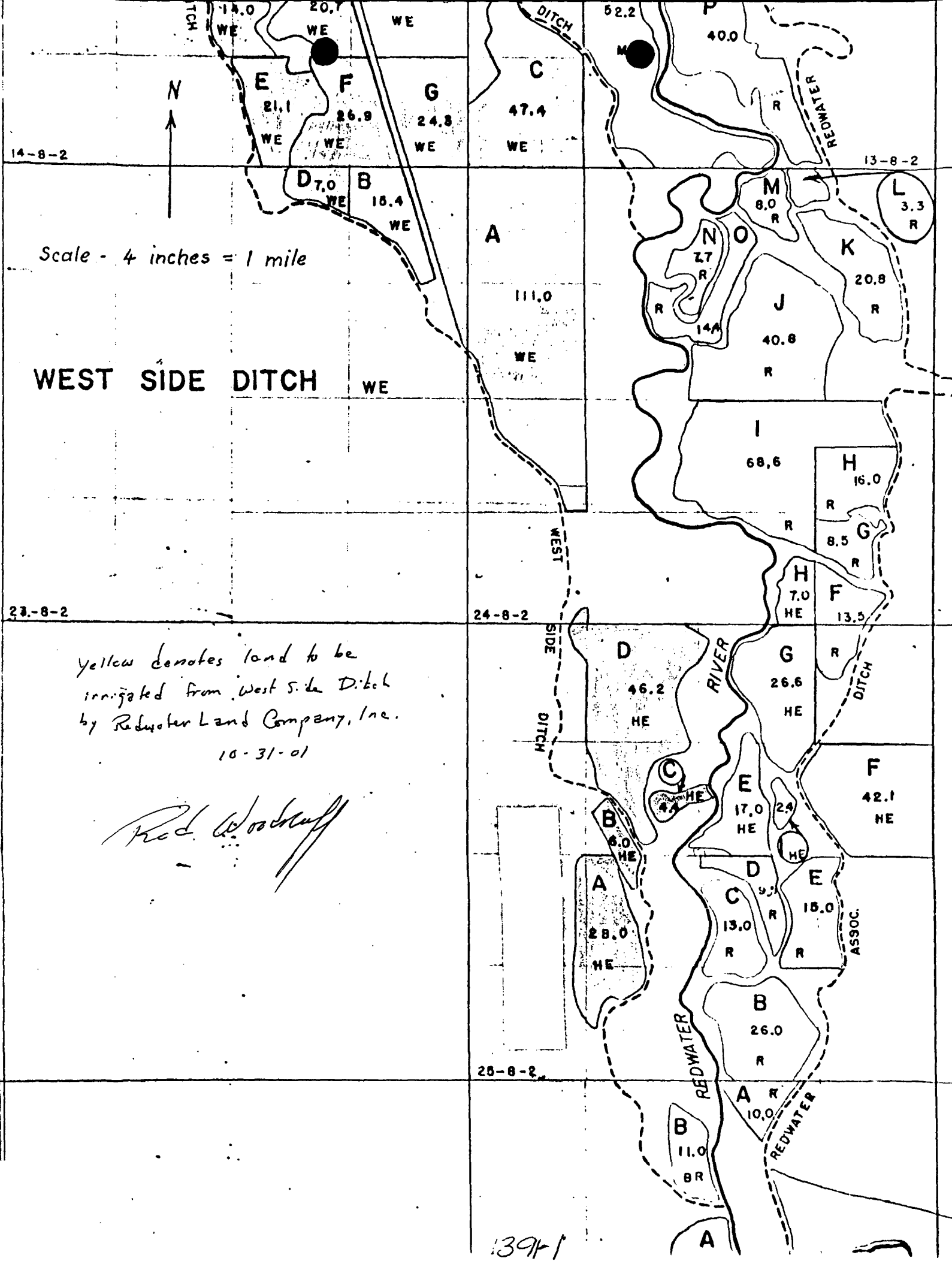
Total

100 00

By

Chief Engineer

David E. Erbe
gm



MAP OF DIVERSION POINT
LOCATED IN THE SW1/4 OF SECTION 25, T8N,
R2E, B.H.M., BUTTE COUNTY, SOUTH DAKOTA

N E 1/4

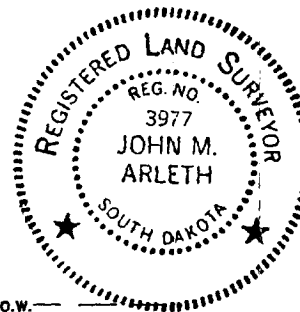
S E 1/4

SECTION 25



DIVERSION POINT

BANK EDGE OF
REDWATER RIVER



SURVEYOR'S CERTIFICATE

I, JOHN M. ARLETH, R.L.S. 3977, DEADWOOD, SD, DO HEREBY CERTIFY
THAT THE PROPERTY SHOWN HEREON WAS SURVEYED AND STAKED UNDER
MY SUPERVISION AND THAT ALL DIMENSIONS ARE TRUE AND CORRECT TO
THE BEST OF MY KNOWLEDGE AND BELIEF. DATED THIS 29 DAY OF
AUGUST 2001

JOHN M. ARLETH, R.L.S. 3977



**ARLETH &
ASSOCIATES**
382 MAIN STREET
DEADWOOD, SD 57732
605-578-1637

PROJECT:
DIVERSION POINT
MAP
JOB NO. 5491

DATE: AUGUST 30, 2001
SCALE: 1" = 500'
DRAWN BY: T. VIG
APPROVED: JMA
DWG: 5491-1.DWG

1391A-1



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 5, 2001

Rod Woodruff
1113 5th Ave
Belle Fourche SD 57717

Dear Mr. Woodruff:

Thank you for submitting the *Application for a Permit to Appropriate Water* to change the location of the diversion point for the Westside Ditch's vested water right on the Redwater River. A copy of Vested Water Right No. 1391-1 is enclosed. Several items need to be clarified and submitted in order to complete the application.

Since this application proposes to change the diversion point on Vested Water Right No. 1391-1 issued to Westside Ditch, we believe they should be the applicant. Enclosed is another application form to be completed and signed by the Ditch President.

The application indicates that the entire 10.86 cubic feet of water per second and 515 irrigated acres that are listed on the vested water right will be served by this new diversion point. I should point out that there is documentation in the file that in 1993, Billy Norman indicated the Ditch Company served 450.6 acres.

If you are the only remaining irrigator from the Westside Ditch, the water right may be transferred to you. If this is the case, enclosed is a notice of transfer of ownership form to be completed. Also, the application should then reflect the actual number of acres you irrigate and the planned pump rate from the river.

Enclosed is the map submitted with the application and a copy of the map for No. 1391-1. On one or both of these maps, please outline the lands you will be irrigating. Item No. 7 of the application will also need to have a breakdown of these acres. The enclosed vested water right shows the various breakdown (by quarter-quarter) for all the acres being irrigated when the water license was issued in 1988.

The required application/licensing filing fee will be \$100.00. If you have questions on completing this application, please contact Mark Rath at (605) 773-4270.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
(605) 773-3352

enclosures

REDWATER LAND COMPANY, INC.

1113 Fifth Avenue
Belle Fourche, South Dakota 57717
Telephone (605) 892-2033
Facsimile (605) 892-4995

Rod Woodruff, President

October 31, 2001

Department of Environment and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

Attn: Mark D. Rath

605.773.4270

Re: West Side Ditch
irrigation water rights

Gentlemen and Ms. Schlaak:

Thank you for your help with the applications and process to continue irrigation on my property. This process has been made necessary by a combination of factors, including the previous diversion points' surrounding landowners having bulldozed the West Side Ditch which crossed his property and much of the land previously irrigated by West Side Ditch has become residential development no longer in cropland use. The residents in small platted lots are not motivated to invest in the diversion gate and ditch maintenance.

I believe the ditch was bulldozed in 1999. I've not spoken with anyone willing to participate in financing continuation of the ditch. The West Side Ditch organization is defunct, and former officers I've spoken with are unaware of the location of any West Side Ditch records, such as minutes.

I own land on both sides of the proposed diversion point. Water will be pumped into the West Side Ditch at a point in the 28 acre field and will travel the ditch north to service the remaining acreages to be irrigated.

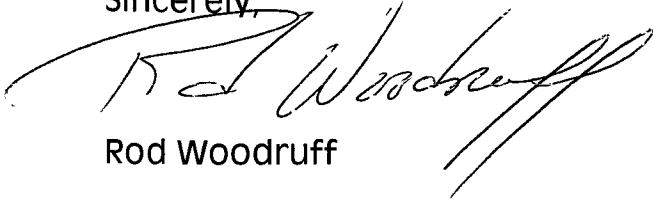
I have applied for transfer of 1.04 cfs for the 49.1 remaining acres I intend to irrigate. West Ditch had a total of 10.86 for 515 acres. The 1.04 cfs is my computation of a pro-rata rate.



The enclosed applications and attachments are forwarded for review for appropriate action. Please call if further information is desired. I also enclose a \$100 check for an application/licensing fee.

Thanks again for all your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Rod Woodruff", with a large, sweeping flourish extending from the end of the name.

Rod Woodruff

enc: NOTICE OF TRANSFER OF OWNERSHIP
Application For Permit To Appropriate Water For Irrigation
Plat locating new diversion point
map of West Side Ditch 1391-1 showing the 49.1 acres
Check # 1223 for \$100

Water Rights Division - DENR

Conversation or File Documentation

Name of Person: Rod Woodruff, Redwater Land Company

File No. 1391-1 (West Side Ditch Company)

Address: 1113 5th, Belle Fourche SD 57717 **County:** Butte

Date: November 7, 2001 **Telephone:** 605-892-2033

RE: Status of No. 1391-1

Comments:

I met with Rod Woodruff concerning the status of irrigation on West Side Ditch under Vested Water Right No. 1391-1. Mr. Woodruff originally contacted me on January 10, 2000, concerning the West Side Ditch water right and a request for a change of diversion point for that water right from the Redwater River. During our conversation, Mr. Woodruff indicated that West Side ditch had been recently filled in between the headgate on Redwater River and his property (photos #1 & #2).



Photo #1- Ditch plug in West Side Ditch located in NW 1/4 Sec 36 T8N-R2E. (11-7-01)



Photo #2 – Ditch abandoned, old ditch channel was located below cow in photo. (11-7-01)

He told me that he would like to move the diversion point and pump the ditch water directly from the Redwater River near his property into the ditch to allow for continued irrigation along the rest of the ditch. Since that time, he made an application for a change in the diversion point, Mr. Woodruff also told me he had contacted the other landowners who were authorized irrigation from West Side Ditch about continuing irrigation. He said nobody was interested in maintaining the ditch and continuing irrigation from it.

I toured the ditch to check the condition of the ditch itself. I found the ditch to be in disrepair with places where the ditch had been filled in from Mr. Woodruff's property located in the W 1/2 of Section 25 T8N-R2E to the end of the ditch (Photos #3, #4, #5 & #6). This portion of the ditch does not look capable of carrying irrigation water without major rehabilitation.



Photo #3 Breached ditch, no indication of recent use.



Photo #4 Ditch full of trees and vegetative growth, no indication of recent use.



Photo #5 Ditch filled in and landscaping occurring by local homeowner.



Photo #6 Ditch plugged with gravel.

Since the ditch was plugged in about 1999 between the headgate and the irrigated land, the remainder of land is not capable of being irrigated from the ditch, I would recommend Vested Water Right No. 1391-1 be reduced from 515 acres to the 49.1 acres of Mr. Woodruff's land located in NE $\frac{1}{4}$, NW $\frac{1}{4}$, and SW $\frac{1}{4}$ of Section 25 T8N-R2E. I would also recommend allowing for the change of the location of the diversion point from Section 36 to Section 25 T8N-R2E, administratively, as allowed in SDCL 46-5-13.1. The authorized diversion rate should be reduced from 10.86 cfs to the pro-rata share of 1.04 cfs for the 49.1 acres. The vested water right should be transferred to the Redwater Land Company, Inc.

Mr. Woodruff indicated he would be pumping water directly from the Redwater River into the ditch on his property in order to convey the water to the rest of his irrigated land. I requested that he place a ditch plug in the ditch at a point where it exits his property. This would eliminate water leaving his property in the ditch.

Mark D Rath
Natural Resources Engineering Specialist

Water Rights Program - DENR

Conversation or File Documentation

Name of Person: *Redwater Land Company, Inc. (Rod Woodruff)* **File No.** *1391-1*
Address: *113 5th, Belle Fourche, SD 57717* **County:** *Butte*
Date: *11-21-2001* **Telephone:** *605-892-2033*
RE: *Remaining irrigated acres from the former West Side Ditch*

Comments:

The irrigation will be reduced back from a diversion rate of 10.86 cfs and 515 acres to 1.04 cfs and 49.1 acres. The diversion rate is the pro-rata share of the validated 10.86 cfs.

The location of the remaining 49.1 acres are:

All land in Section 25 T8N-R2E:

<i>SE ¼ NW ¼ - 19.2 ac</i>	<i>NE ¼ SW ¼ - 19.5 ac</i>	<i>NW ¼ SW ¼ - 3.0 ac</i>
<i>SW ¼ SW ¼ - 1.0 ac</i>	<i>SE ¼ SW ¼ - 6.0 ac</i>	<i>SW ¼ NE ¼ - 0.4 ac</i>



Mark D Rath
Natural Resources Engineering Specialist



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

FEB 14 2002

1391-1
1391A-1

Redwater Land Company, Inc.
c/o Rod Woodruff, Pres.
1113 5th
Belle Fourche SD 57717

Dear Mr. Woodruff:

Enclosed is Vested Right Water License No. 1391A-1 and receipt for payment of the Notice of Transfer fee. Since it was determined that the *Application for Permit to Appropriate Water for Irrigation* submitted November 2, 2001 was not required, the \$100 application/license filing fee will be refunded to you. You should receive the refund within a couple of weeks.

The remaining acreage authorized by License No. 1391-1 not included on this license has been forfeited for nonuse.

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

enclosures

Water Rights Program - File Documentation

NAME: Redwater Land Company

ADDRESS: Belle Fourche SD

DATE: 2-14-2002 **COUNTY:** BU

RE: New application

COMMENTS:

After staff consideration, it was determined that Redwater Land Company would not be required to make a new *Application for Permit to Appropriate Water for Irrigation* for the lands they irrigate from the former West Side Ditch. The application/license filing fee would be refunded.

Instead, Water Right No. 1391A-1 would be issued to reflect the actual number of acres being irrigated and the amount of water being applied to beneficial use.

The remaining acreage authorized by Water License 1391-1 not included on No. 1391A-1 has been forfeited for nonuse.



Karen Schlaak
Environmental Scientist

PAYMENT REQUEST FORM

PAYEE: Redwater Land Company Inc.
% Rod Woodruff, Pres.
1113 5th
Belle Fourche, SD 57717

FROM: Water Rights Program
523 E. Capitol
Pierre, SD 57501-3181

DESCRIPTION OF SERVICE, PRODUCE OR TRANSFER

Refund of \$100.00 application/license filing fee.
Application for Permit to Appropriate Water for Irrigation was
determined to not be required.

AMOUNT: \$100.00

FUNDING SOURCE:

GENERAL: X

FEDERAL:

COMMENTS:

AUTHORIZATION:

Armand Cibile

2/14/02

I declare and affirm under the penalties of perjury that this claim is
in all things, true and correct. I further agree to comply with the
provisions of the Civil Rights Act of 1964 and regulations issued
thereunder relating to nondiscrimination in federal assisted programs.