

Considered: \_\_\_\_\_

WATER PERMIT NO. VR 1521-1

Phone: 375-3675

Name of Applicant: Painter, Inc.

Post Office Address: Box 57, Buffalo, SD 57720

Amount of Water Claimed: <sup>347</sup>~~2.7~~ cfs Total Acres: ~~189~~ 203

Source of Water Supply: dry draws

Water to be used for: irrigation (waterspreading) County: Hartman

About 8 miles SE of Campcrook

PROOF OF PUBLICATION: Received \_\_\_\_\_ Not Received \_\_\_\_\_

APPLICATION: Approved \_\_\_\_\_ Subject to \_\_\_\_\_

F.F.& C/.L. Adopted \_\_\_\_\_ Not Approved \_\_\_\_\_ Deferred \_\_\_\_\_

PRIORITY Date Received: 5/6/91 Fee: <sup>15.0</sup>~~\$50~~ Remarks Vested Right

**Application**

Corrected Application Received 5/1/91 Period of Annual Use March 1 - Oct. 31

WATER QUALITY APPROVAL RECEIVED \_\_\_\_\_ APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as Application YES \_\_\_\_\_ NO \_\_\_\_\_ REMARKS \_\_\_\_\_

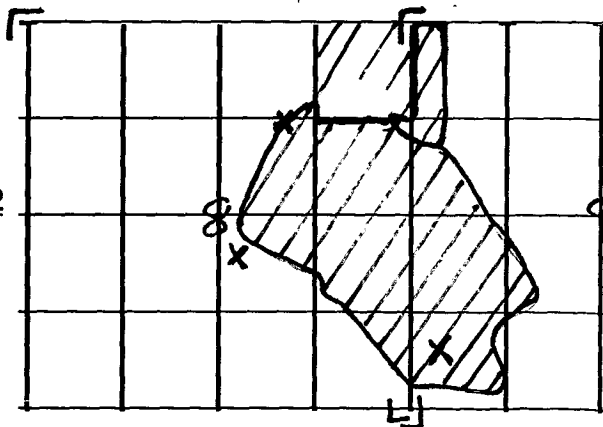
Diversion Point: NW1/4 SE1/4 Section 8, SW1/4

SW1/4 Section 9, T17N, R2E

Land to be Irrigated: SW1/4 NE1/4, <sup>SE 1/4</sup> ~~E 1/2~~ NE1/4, N1/2

SE1/4, SE1/4 SE1/4 Section 8, <sup>W 1/2</sup> ~~SW 1/4~~ NW1/4, N1/2

SW1/4 Section 9, T17N, R2E



Well Log: Driller: \_\_\_\_\_ Licensed YES \_\_\_\_\_ NO \_\_\_\_\_

Depth of Well: \_\_\_\_\_ REMARKS \_\_\_\_\_

Type of Map: ASCS Aerial PREPARED BY: Leroy Mernaugh Reviewed and the Number

Assigned on 5/10/91 By Eric Gronlund

**SOUTH DAKOTA**

**VESTED WATER RIGHT NO. 1521-1 FOR IRRIGATION**

Date of Receipt of Claim May 6, 1991.

Date of Validation October 23, 1991.

The Chief Engineer, on behalf of the Water Management Board validated Vested Water Right Claim No. 1521-1 for irrigation purposes for Painter, Inc., Box 57, Buffalo SD 57720 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 1521-1 authorizes diversion of 3.47 cubic feet of water per second for water spreading irrigation using three small dikes or plugs constructed on dry draws located in the SW 1/4 NE 1/4, NW 1/4 SE 1/4 Section 8 and SW 1/4 SW 1/4 Section 9; all in T17N-R2E to irrigate 243 acres. The lands being irrigated are located in the NE 1/4 NE 1/4, SW 1/4 NE 1/4, SE 1/4 NE 1/4, N 1/2 SE 1/4, SE 1/4 SE 1/4 Section 8, W 1/2 NW 1/4, N 1/2 SW 1/4 Section 9; all in T17N-R2E. The applicable portions of Water Right Filing No. 0190-1 be incorporated into No. 1521-1 and the abandoned portions of Filing No. 0190-1 be cancelled
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. The water is to be used during the following annual period: March 1 - October 31.
3. The priority date of the Vested Water Right is February 5, 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.

**WATER MANAGEMENT BOARD**

By: \_\_\_\_\_

John Hatch  
Chief Engineer, Water Right Division  
Department of Environment and Natural Resources

**FEB 28 1992**

\_\_\_\_\_  
date

STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 1521-1 FOR IRRIGATION

(1) Painter, Inc. of Box 57, Buffalo, SD 57720 made Application No. 1521-1, May 6, 1991 for validation of a vested right claim to appropriate 3.47 cubic feet of water per second from dry draws, Harding County, South Dakota for irrigation purposes. Vested Water Right No. 1521-1 was validated October 23, 1991 with a priority date of February 5, 1904. 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.

(2) The applicant is entitled to divert 3.47 cubic feet of water per second for beneficial use. The location of the diversion points are: #1 - 1200'N and 500'E of the SW corner (SW 1/4 SW 1/4) Section 9, and #2 - 2050'W and 2350'N of the SE corner (NW 1/4 SE 1/4) Section 8, T17N, R2E.

The location of the irrigated acreage is:

|                     |               |           |
|---------------------|---------------|-----------|
| T17N, R2E Section 8 | NE 1/4 NE 1/4 | 40 Acres  |
|                     | SW 1/4 NE 1/4 | 10 Acres  |
|                     | SE 1/4 NE 1/4 | 40 Acres  |
|                     | NW 1/4 SE 1/4 | 6 Acres   |
|                     | NE 1/4 SE 1/4 | 37 Acres  |
|                     | SE 1/4 SE 1/4 | 5 Acres   |
| Section 9           | SW 1/4 NW 1/4 | 19 Acres  |
|                     | NW 1/4 NW 1/4 | 16 Acres  |
|                     | NW 1/4 SW 1/4 | 39 Acres  |
|                     | NE 1/4 SW 1/4 | 8 Acres   |
|                     | SW 1/4 SW 1/4 | 23 Acres  |
|                     | Total-----    | 243 Acres |

(3) Pursuant to Section 46-5-30.1 Painter, Inc. of Box 57, Buffalo, SD 57720 the holder(s) and/or owner(s) of Vested Water Right No. 1521-1 is issued a license to appropriate 3.47 cubic feet of water per second from dry draws with a priority date of February 5, 1904 from the location specified in (2) of this license. The water is to be used for the purpose of irrigation. This license is subject to any limitations, conditions or qualifications listed in Vested Water Right No. 1521-1 and subject to South Dakota State Law.

  
\_\_\_\_\_  
JOHN HATCH, Chief Engineer  
Water Rights Division  
Department of Environment and  
Natural Resources

FEB 28 1992

(See instructions)

No. 1521-1 Hydrologic Unit 10110201  
Basin Little Missouri  
Newspaper National Center News, Box 107, Buffalo 57720

## Application For Soil/Water Compatibility Permit and Permit To Appropriate Water

- Type of Application: ☐ New ☒ Vested Right ☐ Amend Permit No. \_\_\_\_\_
- ☐ Change Acreage ☐ Change diversion point(s) ☐ Add diversion point(s)
- ☐ Add Acreage ☐ Increase diversion rate ☐ Other \_\_\_\_\_
- Name of Applicant Painter, Inc. Phone No. 375-3675  
Post Office Address Box 57, Buffalo State SD Zip Code 57720  
(Street, RR or Box) (City)
  - Amount of water claimed (c.f.s.) ~~3.47~~ 3.47 Total acres irrigated ~~243~~ 243
  - Source of Water supply dry draws
  - Location of point of diversion #1 = 1200' N & 500' E of SW corner Sec 9-T17N-R2E  
#2 = 2050' W & 2350' N of the SE corner Sec 8-T17N-R2E  
NW 1/4 SE 1/4 Sec 8, SW 1/4 SW 1/4 Sec 9 County Harding
  - Counties where water will be used Harding
  - Annual period during which water is to be used March thru October 31
  - 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 1/4 NE 1/4 Sec 8-T17N-R2E | <u>40</u>      |
| SW 1/4 NE 1/4 "              | <u>10</u>      |
| SE 1/4 NE 1/4 "              | <u>40</u>      |
| NW 1/4 SE 1/4 "              | <u>6</u>       |
| NE 1/4 SE 1/4 "              |                |

| Land Description             | No. Acres Irr. |
|------------------------------|----------------|
| SE 1/4 SE 1/4 Sec 8-T17N-R2E | <u>5</u>       |
| SW 1/4 NW 1/4 Sec 9-T17N-R2E | <u>19</u>      |
| NW 1/4 SW 1/4 "              | <u>39</u>      |
| NE 1/4 SW 1/4 "              | <u>8</u>       |

37 Attach sheet if more space is needed SW 1/4 SW 1/4 " 23  
NW 1/4 NW 1/4 16A Other:

- Type of Irrigation: Gravity: ☒ Towline: \_\_\_\_\_ Center Pivot: \_\_\_\_\_ Gun: \_\_\_\_\_ (Specify) \_\_\_\_\_
- Crops to be Irrigated: Alfalfa, Wheat Grass Hay
- Give a description of proposed project. (Attach sheet if more space is needed)



Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach maps, soils information and any other technical information.

STATE OF SOUTH DAKOTA)  
County of Harding)<sup>ss</sup>

I, Paul L. Painter, the applicant, certify that I have read this application and examined the attached maps, that the water sample, if needed, has been taken by the required procedures and has not been adulterated or tampered with and is truly representative of the water to be used, and that the matters stated in this application are true and correct.

Signed

Paul L. Painter

Subscribed and sworn to before me this 1st day of May 19 91

Wesley Coyle  
Notary Public

**Affidavit of Water Use**Incorporates Water Right  
Filing No. 0190-1

No. \_\_\_\_\_

(Type or Print in Ink)

Note: This Form is supplemental to Form 2 and is to be used when an affidavit pertaining to construction and water use already constructed is needed, primarily with vested right claims.

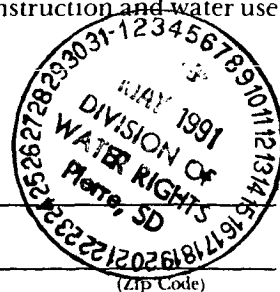
**Affidavit Of Construction Of Water Use System  
And Application Of Water To Beneficial Use**

Name of Applicant (Same as Form 2) Painter, Inc.Post Office Address Box 57, Buffalo SD 57720

(Street, RR or Box)

(State)

(Zip Code)



A. Notice of Appropriation \_\_\_\_\_ Date of Posting \_\_\_\_\_

Date of recording February 5, 1904 Recording date \_\_\_\_\_

Where

Book

Page

B. Date of start of construction of water supply system February 5, 1904C. Date that water was first applied to beneficial use 1905D. Name of owner of original water supply system Jack JacobsE. Amount of water originally applied to beneficial use 20 cfsF. Present Use of Water - Amount of water now being used 20 cfsDate that this water was first used 1905

## G. Chronological History of Water Use

1904 Jack Jacobs constructed the system. Between 1904 and 1920  
other diversion points were added.

1945 Guy Jacobs purchased the property and continued to use the system and  
made improvements to the system.

1978 Painter, Inc. purchased the property and has continued to use the  
system.

Attach to this Form 2B 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 )

ss

County of HARDING )

I, Paul L. Painter, President Painters, Inc. the applicant, certify that I have read the foregoing  
(print or type)  
and that the matters therein stated are true.

Signed

Paul L. Painter

Subscribed and sworn to before me

May 1st1991Wickie Coyle9-14-95

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.

\_\_\_\_\_  
(Print name) 19\_\_\_\_\_\_\_\_\_  
(Print name) 19\_\_\_\_

Little Missouri River Water District # 10110201**Report Of Examination Of Works And/Or Application Of Water To Beneficial Use**

TO: Chief Engineer, Division of Water Rights, DWNR, Foss Bldg., Pierre, SD 57501

I have this day made a thorough examination of the water use system constructed by Painter Inc.  
Box 57, Buffalo, S.Dak. 57720 holder ofPermit No. \_\_\_\_\_, bearing the priority of \_\_\_\_\_ 19\_\_\_\_ authorizing  
the diversion of 2.7 cu. ft. per second of the waters of Dry Draws.  
for Irrigation purposes, in Harding County.

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

## A. Works used to divert the water:

2 - Diversion Dams. Small dams to divert the water from small draws

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

Diversion Ditches and Dikes.

## C. Works used to apply water to beneficial use:

TerracesThe system is in the following condition GoodThe point of diversion is located #1 = 1200' N and 500' E of SW Cor. Sec. 9,  
#2 = 2050' W and 2350' N of SE Cor. Sec 8. T17N R2EThe works are capable of diverting and conveying to the place of use 10 + (est)  
cu. ft. per second of water which is to be used for IrrigationWater has been put to beneficial use to the maximum extent as follows: All in T17N R2E

|                                                                             |                                                                            |                                                                           |
|-----------------------------------------------------------------------------|----------------------------------------------------------------------------|---------------------------------------------------------------------------|
| <u>NE<math>\frac{1}{4}</math>NE<math>\frac{1}{4}</math> Sec. 8 = 10 Ac.</u> | <u>NE<math>\frac{1}{4}</math>SE<math>\frac{1}{4}</math> Sec 8 = 37 Ac.</u> | <u>NE<math>\frac{1}{4}</math>SW<math>\frac{1}{4}</math> Sec. 9 = 8 Ac</u> |
| <u>SW<math>\frac{1}{4}</math>NE<math>\frac{1}{4}</math> " 8 = 10 Ac.</u>    | <u>SE<math>\frac{1}{4}</math>SE<math>\frac{1}{4}</math> " 8 = 5 Ac.</u>    | <u>SW<math>\frac{1}{4}</math>NW<math>\frac{1}{4}</math> " 9 = 23 Ac.</u>  |
| <u>SE<math>\frac{1}{4}</math>NE<math>\frac{1}{4}</math> " 8 = 39 Ac.</u>    | <u>SW<math>\frac{1}{4}</math>NW<math>\frac{1}{4}</math> " 9 = 12 Ac.</u>   |                                                                           |
| <u>NW<math>\frac{1}{4}</math>SE<math>\frac{1}{4}</math> " 8 = 6 Ac.</u>     | <u>NW<math>\frac{1}{4}</math>SW<math>\frac{1}{4}</math> " 9 = 39 Ac.</u>   |                                                                           |

comprising a total of 189 acres of land and the license should be issued for 2.7 cfsApplicable permit qualifications have been complied with X Yes \_\_\_\_\_ NoExceptions to compliance are: \_\_\_\_\_ Date October 13, 1983

LeRoy J. Mernaugh  
(signature)

# RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

412662

Pierre, \_\_\_\_\_ May 6, 1991

RECEIVED OF Painter, Inc., Box 57, Buffalo, SD 57720

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

|                                                                                                                                    |       |       |
|------------------------------------------------------------------------------------------------------------------------------------|-------|-------|
| Fee for Application for Permit No. <u>1521-1</u> to Appropriate Water, to construct works and to put water to beneficial use _____ | 15    | 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. _____                                |       |       |
| 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 | 15 00 |

By John Hatch  
Chief Engineer

R 2 E



#0190-1

VRC #1521-1

Additional claim to VRC #1521-1

Painter Inc.

Office Copy

#0190-1

Dam Pointe

A1 54.9  
Irr from  
#0190-1

10. Ac  
18.3

SE 1/4 NE 1/4  
39 Ac.

Paul Painter

Contour Dikes  
For Flood Irr.

16.0 ac

7.0 ac

SW 1/4 NW 1/4

12 Ac.

NE 1/4 SE 1/4  
37 Ac

NW 1/4 SW 1/4  
39 Ac

#1 Pt of Div. 1700' N &  
500' E of SW Cor  
SEC. 9, T17N R2E  
230 Ac. Watershed

NE 1/4 SW 1/4

8 Ac.

5 Ac.

Hillside Water

Porcupine Draw

SW 1/4 SW 1/4  
12.5  
23 Ac.

Paul

Culvert

#2 Pt of Div.  
2050' W and  
2350' N of SE  
Cor SEC. 8  
T17N R2E  
230 Ac.  
Watershed

Map Scale 8" = 1 mile

1" = 660'

Map by [signature]



Painters, Inc Box 57, Buffalo, S.D

Dam In 1954 - Replacement for first dam.

Storage 135 A.F

1050 Ac- Watershed

Height 25 ft. -

Freeboard, Water depth, 18 ft

top width 16 ft

24 CMP/Hd Gate

Length. 500'-

$$3:1 + 2:1$$

SAC. = 19.

0270-1

9-13-83

Dev down only. Lift high to divert water out of dry ~~low~~.  
No tube or any appearance

046-1

9-13-83

Dam 100 ft long. 5 ft high. Diverts water out of stream.  
No tubes. 8 ft top 3:1 ss.

9-13-63

043-1

Dam 10' top 3:1 - 2:1, 250' long, 20' high

12" CMP. Flow dam at base bed. This slows the water down to allow more time for the water to infiltrate the soil  
Spillway 30' wide Freeboard 4.0'

Down used mostly for 1st Cropping

Dom 600' below above dom dist w/ky out of channel

use

2

12-5-84  
made this list  
Jpm

# Painter Inc.

- # 272-1  
cancell  
SW $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , Lot 3, E $\frac{1}{2}$ NW $\frac{1}{4}$ , Lots 1+2  
Pt of Div. NW $\frac{1}{4}$ SW $\frac{1}{4}$  - 7. T20N R3E 2.6 cfs (1910)
- # 273-1  
cancell  
SW $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , Lot 3, E $\frac{1}{2}$ NW $\frac{1}{4}$ , Lots 1+2  
Pt Sec 7, T20N R3E  
Pt of Div. SE $\frac{1}{4}$ SW $\frac{1}{4}$  Sec 6, T20N R3E 2.6 cfs (1908)
- # 297-1  
license  
N $\frac{1}{2}$ NE $\frac{1}{4}$  Sec. 12, S $\frac{1}{2}$ SE $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ ,  
Sec. 1, T20N R2E  
Pt of Div = SE $\frac{1}{4}$ SE $\frac{1}{4}$  Sec. 1, T20N R2E 320 A.P. (1910)
- # 403-1  
license  
Lot 3, NE $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec 7, T20N R3E  
Pt. of Div. NW $\frac{1}{4}$ SE $\frac{1}{4}$  Sec. 7, T20N R3E 2.0 cfs (1911)
- # 404-1  
license  
Lot 1, 2, E $\frac{1}{2}$ NW $\frac{1}{4}$  Sec. 7, T20N R3E  
Pt of Div NW $\frac{1}{4}$ SE $\frac{1}{4}$  Sec. 7, T20N R3E 2.0 cfs (1911)

WATER RIGHTS DIVISION

(605) 773-3352

December 8, 1983

Painter Incorporated  
Box 57  
Buffalo, South Dakota 57720

ATTENTION: Paul Painter

Dear Mr. Painter:

This is a follow up of our telephone conversation on December 6, 1983. I am enclosing a topographic map of the area in Section 8, 9 and 17, T17N, R2E. On this I have plotted the area to be irrigated and the diversion points as indicated in old Water Right Filings Nos. 0189-1, 0190-1 & 0335-1. I also indicated that these filings are not located in the area you are now irrigating. None of the diversion points are being used and only a small acreage is irrigated under #0190-1. Therefore all three of these filings are subject to cancellation by the Water Management Board.

In order for you to comply with the South Dakota Water Law you will need to file for a Permit. The area you are irrigating can qualify for a Vested Right if construction of the system was completed before March 18, 1957. If it was constructed after this date you will need to file for an Irrigation Permit.

I am enclosing two completed copies of Form 2, "Application for Permit", and a map of the area. Please check these over and make any changes necessary to make them as correct as possible. If there are no corrections on the map you may keep it for your use. If there are corrections please return it along with your application forms so that we can correct our office copy.

If you qualify for a Vested Right then complete Form 2B, "Affidavit of Water Use". Be sure to fill out this form to the best of your knowledge as it establishes your priority date. Then sign all forms and have notarized and return to this office with a check for \$10.50 to cover cost of filing and the Water License, as indicated in the enclosed Vested Right Instruction Sheet.

If your system does not qualify for a Vested Right then you will follow the enclosed Instruction sheet for an Application for Water Permit. You will need to submit the Form 2's with a check for \$275.00 to cover the cost of filing for the 189 acres. It will also require Soil/Water Compatibility as indicated in paragraph 6 of the Instruction Sheet.

You may keep the copies of Water Right Filings Nos. 0189-1 and 0190-1 and 0335-1 along with the topographic map.

If you have any questions regarding the matter please feel free to contact this office.

Sincerely,

LeRoy J. Mernaugh  
Water Resources Engineer

Water Rights Division  
605 773-3352

December 6, 1984

Painter Inc.  
Box 57  
Buffalo SD 57720

Dear Mr. Painter:

On July 17, 1984 I talked with you about your Vested Right for the area in Section 8 & 9, T17N, R2E. It was decided to incorporate Water Right Filing No. 0190-1 into the Vested Right. You indicated you lost the application forms I sent to you. I am enclosing a new set of completed forms to you.

Please check over all of the forms and make any corrections necessary. Then sign all forms where shown and have them notarized and return all forms to this office with a check for \$10.50 to cover the cost of filing and Water License as indicated in the enclosed Vested Right instruction sheet.

If you do not make any correction on the Water Right map that is enclosed you may keep it for your use. If you do make corrections on the map, please return it along with the forms in order that we may correct our office copy. You may keep the copy of Water Right Filing No. 0190-1.

Also on July 17, of this year I made the final inspection of your irrigation systems in Section 1, T20N, R2E and Section 7, T20N, R3E. These were Location Notices and are handled differently than the Water Right Filings. With Location Notices you will need only to transfer the Location Notices to Painter Inc. and then the Water License will be issued to you. You will be receiving information on these in the near future. For Water Right Filings you need to submit an application for a Vested Right which we are doing here for Water Right Filing No. 0190-1.

If you have any questions regarding the matter, please feel free to contact this office.

Sincerely,

LEROY J MERNAUGH  
Water Resources Engineer

LJM:ks

enclosures



DEPARTMENT OF WATER & NATURAL RESOURCES

Joe Foss Building  
523 East Capitol  
Pierre, South Dakota 57501-3181

April 5, 1991

Painter, Inc.  
Box 57  
Buffalo SD 57720

Dear Sir:

On December 6, 1984, you were sent applications forms for a permit to appropriate water based on an inspection of Water Right Filing No. 0190-1 by LeRoy Mernaugh, an engineer with this office. This inspection showed that your system was not developed as originally permitted. This application is necessary to obtain a permit which will reflect your water use. To date, we have not received a response from you regarding this vested right application.

Enclosed is another set of partially completed application forms. Please review the application and affidavit of water use forms. Make any changes that may be necessary. The forms need to be signed and notarized. The filing fee for a vested right application is \$15.00.

Obtaining water permits that accurately reflect your water use ultimately benefits you by protecting your right to use water. Except for domestic use, any water user without a water right is not entitled to receive protection in the event of interference by a new or future user who has a water right.

Pursuant to South Dakota Codified Laws 46-1-15, 46-5-9, 46-5-10 and 46-2-18, you must have a water permit prior to using water.

Please respond by completing the application forms or contacting me by June 1, 1991.

Sincerely,

Eric Gronlund  
Water Rights Division  
Phone: (605) 773-3352

enclosures

File No. 1521-1

Water Rights Division -DENR  
Conversation or File Documentation

NAME OF PERSON OR FILE: Paul Painter

ADDRESS: Box 57, Buffalo, SD 57720

COUNTY: Harding

DATE: May 20, 1991

TELEPHONE: 375-3675

RE: Vested Right Application No. 1521-1

COMMENTS: I contacted Mr. Painter today regarding his vested right claim application. I told him that he had already had a claim for the 10 acres located in the NE1/4 NE1/4 Section 8, T17N-R2E, under Water Right Filing No. 0190-1, and he did not need to include those acres in the application. I told him that I will delete the 10 acres from the application, he said that was O.K.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.



M. RASSOOL AHADI  
Natural Resources Engineer III  
DENR, Water Rights Division

File No. 1521-1

Water Rights Division -DENR  
Conversation or File Documentation

NAME OF PERSON OR FILE: Paul Painter

ADDRESS: Box 57, Buffalo, SD 57720

COUNTY: Harding

DATE: 6/25/91

TELEPHONE: 375-3675

RE: Vested Right Claim No. 1521-1

COMMENTS: On Tuesday June 18, 1991, I visited with Mr. Joe Painter, applicant's son, regarding Vested Right Claim No. 1521-1. The applicant, Mr. Paul Painter, claims irrigation of 189 acres, from two dry draws, with a priority date of 1905. Mr. Joe Painter stated that they irrigate more land than shown in the application and on the map. The additional land is located in the NW1/4 NW1/4 (16.0 acres), SW1/4 NW1/4 (7.0 acres) all in Section 9, T17N-R2E; SE1/4 NE1/4 Section 8, T17N-R2E (1.0 acres), for a total additional acreage of 24 acres ( see the map). I told Mr. Joe Painter that I will correct the application to reflect the change.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.



M. RASSOOL AHADI

Natural Resources Engineer III  
DENR, Water Rights Division

Water Rights Division - DWNR  
Conversation File Documentation

NAME OF PERSON OR FILE: Painter, Inc.

ADDRESS: Buffalo, SD 57720

COUNTY:

DATE: 6/27/91

TELEPHONE: 375-3675

RE: Vested Right Claim No. 1521-1

300-1-1-10118

COMMENTS:

I called and got ahold of Mrs. Painter, the mom of Joe Painter about their vested right claim. I told her and she relayed the message to Joe Painter by radio that the 40 acre parcel of land in the NE1/4 NE1/4 of Section 8, T17N, R2E covered by location notice filing No. 0190-1 should be included in their recent submitted Vested Right Claim No. 1521-1. I told them that we would put down the statutory limit of 1 cfs per 70 acres, however, since this is waterspreading they would not be limited to this during flooding. Mr. Painter through translating by Mrs. Painter over the radio stated that this was fine with him.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: Eric S. Threlkeld

**Report on Vested Water Right Application No. 1521-1**  
**Painter, Inc.**  
**July 29, 1991**

**Background**

Vested Water Right Application No. 1521-1 requests validation of a claim to appropriate 3.47 cubic feet of water per second (cfs) for waterspreading irrigation using three small dikes or plugs constructed on dry draws. The diversion points are located in the SW1/4 NE1/4, NW1/4 SE1/4, Section 8, and SW1/4 SW1/4 Section 9, all in T17N-R2E, in Harding County. The water will be used to irrigate 243 acres located in the NE1/4 NE1/4, SW1/4 NE1/4, SE1/4 NE1/4, N1/2 SE1/4, SE1/4 SE1/4 Section 8; W1/2 NW1/4, and N1/2 SW1/4 Section 9, all in T17N-R2E. The applicant is claiming a priority date of February 5, 1904. Validation of Application No. 1521-1 will not authorize any storage of water.

**Conclusions**

1. The project is a water spreading system. It was inspected and found to exist as described.
2. Water has been put to beneficial use since the system was constructed.
3. No other water rights/permits exist on the dry draws.
4. The small dams (plugs) are not intended to store any water and validation of this application does not authorize any storage of water.
5. If Vested Right Claim No. 1521-1 is validated, the priority date should be February 5, 1904.
6. If Vested Water Right Claim No. 1521-1 is validated, Water Right Filing No. 0190-1 should be cancelled.

*MR Ahadi*

M. RASSOOL AHADI  
Natural Resources Engineer III

Approved By:

*Delvin D. Brosz*

DELVIN D. BROSZ, P.E.  
Natural Resources Engineer IV

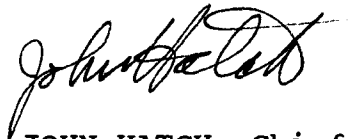
RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED WATER

RIGHT APPLICATION NO. 1521-1, Painter, Inc.

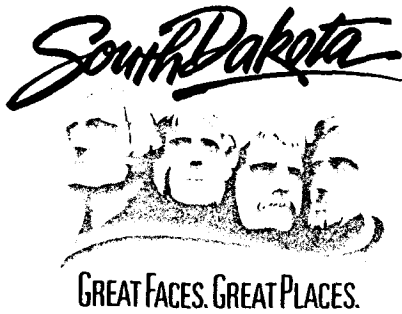
Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Environment and Natural Resources concerning Validation of Vested Water Right Application No. 1521-1, Painter, Inc., Box 57, Buffalo, SD 57720.

The Chief Engineer is recommending VALIDATION of Application No. 1521-1 for 3.47 cfs (no storage authorized) and that the applicable portions of Water Right Filing No. 0190-1 be incorporated into No. 1521-1 and the abandoned portions of Filing No. 0190-1 be cancelled because 1) water has been appropriated as described for irrigation use with a priority date of February 5, 1904, 2) the use has been developed without unlawful impairment of existing rights, 3) the use is a beneficial use and 4) it is in the public interest.

See report on application for additional information.

A handwritten signature in black ink, appearing to read "John Hatch", with a stylized flourish at the end.

JOHN HATCH, Chief Engineer  
August 23, 1991



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

NOTE: TO BE SURE OF PUBLICATION ON  
THE CORRECT DATES, CONTACT THE  
NEWSPAPER RIGHT AWAY.

September 13, 1991

Paul L. Painter  
Painter, Inc.  
Box 57  
Buffalo, SD 57720

Dear Mr. Painter:

Your Application No. 1521-1 for a vested water right claim has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of your claim has been sent to the Publisher of the National Center News printed at Buffalo, SD. For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice and notify this office, if you have any corrections or questions.

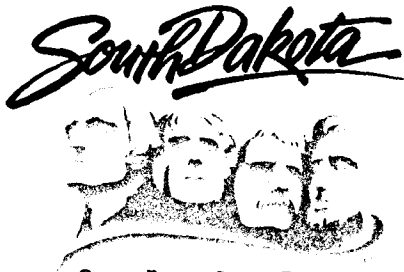
Be sure to contact the above newspaper to authorize publication of your notice of hearing to validate a vested right and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. We must receive Proof of Publication before the application can be considered.

Sincerely,

*Eric Gronlund*  
Eric Gronlund  
Natural Resources Engineer  
605 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.



September 13, 1991

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

National Center News  
Box 107  
Buffalo, SD 57720

ATTN: Legal Publications:

Enclosed is a Notice of Hearing to Validate Vested Right Application No. 1521-1 to be published twice. Please publish the notice on September 25, 1991, with the second publication 7 days later.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is Painter, Inc., Box 57, Buffalo, SD 57720.

A copy of BOTH publications must be SENT to the WATER RIGHTS DIVISION. IMMEDIATELY return the FIRST publication with the FIRST Transmittal form on the bottom of this page. The first copy is needed to check the publication for errors so any corrections can be made in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. The permit application cannot be considered until proof of publication has been received.

Sincerely,

Eric Gronlund  
Natural Resources Engineer  
605 773-3352

enclosures

-----CUT HERE-----  
FIRST TRANSMITTAL NOTICE

TO: ATTN: Eric Gronlund  
Water Rights Division  
523 E Capitol  
Pierre SD 57501-3181

Date \_\_\_\_\_  
We are in receipt of your letter of \_\_\_\_\_ enclosing Notice of Hearing to  
Validate A Vested Right Application which was first published in our issue  
of \_\_\_\_\_. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name \_\_\_\_\_

Newspaper \_\_\_\_\_

Instruction to Newspaper - Publish first Notice on September 25, 1991, with the second publication 7 days later. The applicant is responsible for payment.

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NOTICE OF HEARING To Validate  
Vested Water Right Application No. 1521-1 to Appropriate Water

Notice is given that Painter, Inc., Box 57, Buffalo, SD 57720 has filed an application to validate a vested water right claim appropriating 3.47 cubic feet of water per second for waterspreading irrigation using three small dikes or plugs constructed on dry draws located in the SW 1/4 NE 1/4, NW 1/4 SE 1/4 Section 8 and SW 1/4 SW 1/4 Section 9; all in T17N, R2E to irrigate 243 acres. The lands being irrigated are located in the NE 1/4 NE 1/4, SW 1/4 NE 1/4, SE 1/4 NE 1/4, N 1/2 SE 1/4, SE 1/4 SE 1/4 Section 8, W 1/2 NW 1/4, N 1/2 SW 1/4 Section 9; all in T17N, R2E.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 1521-1 for 3.47 cfs (no storage authorized) and that the applicable portions of Water Right Filing No. 0190-1 be incorporated into No. 1521-1 and the abandoned portions of Filing No. 0190-1 be cancelled because 1) water has been appropriated as described for irrigation with a priority date of February 5, 1904, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) it is in the public interest. Unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Water Management Board will NOT CONDUCT a HEARING to consider this application and the chief engineer will issue the vested water right application as recommended. Petitions filed in support of the application will NOT require the Board to hear the application.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by October 15, 1991. The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

For purposes of publishing 1) the notice of hearing on Application No. 1521-1 and 2) the chief engineer's recommendation, a meeting at the Division of Water Rights office to hear this application is scheduled for October 23, 1991, at 9:00 am in Room 413, Joe Foss Building, 523 E Capitol, Pierre SD. If this application is opposed or the recommendation is contested, the October 23, 1991, hearing date will be rescheduled for a regularly scheduled Board meeting. Notice of the time and place of the rescheduled hearing before the Board will be given by First Class Mail to the applicant and persons filing petitions. Anyone not filing a petition, but interested in attending the hearing, may contact the Division of Water Rights to confirm a hearing date and location. The October 23, 1991, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by October 15, 1991.

If a hearing is held, the Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve the validation, 2) approve the validation with qualifications, 3) defer, or 4) deny validation of the application based on the facts presented at the public hearing. Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact the Water Rights Division to request copies of information pertaining to this application or to assure access to the hearing by the handicapped.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16;  
46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14,  
46-2A-15, 46-2A-18; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25,  
46-5-30.2, 46-5-30.4, 46-5-31, 46-5-49; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15;  
74:02:01:19 thru 74:02:01:22.

## PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )  
County Harding ) ss.



I, LaVerne E. Helms, Bus. Mgr.

certify that the attached printed Notice was taken  
from the Nation's Center News

A newspaper which during the whole time of publication of  
said notice herein after stated, has been and is printed and  
published in the Town

of Buffalo

County of Harding and State of South Dakota;  
that the said notice was published in said newspaper on the  
following two dates:

September 25, 1991

October 2, 1991

LaVerne E. Helms  
(Signature)

Bus. Mgr.  
(Title)

10-3-91

(Date Signed)

Cost of Printing: \_\_\_\_\_

155 lines x .222 - \$34.41

155 lines x .222 x .80 27.53

Total \$61.94

# 153 NOTICE OF HEARING TO VALIDATE

Vested Water Right  
Application No. 1521-1

To Appropriate Water

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Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 1521-1 for 3.47 cfs (no storage authorized) and that the applicable portions of Water Right Filing No. 0190-1 be incorporated into No. 1521-1 and the abandoned portions of Filing No. 0190-1 be canceled because 1) water has been appropriated as described for irrigation with a priority date of February 5, 1904, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) it is in the public interest. Unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Water Management Board will NOT CONDUCT a HEARING to consider this application and the chief engineer will issue the vested water right application as recommended. Petitions filed in support of the application will NOT require the Board to hear the application.

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statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

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This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-2-1 thru 46-2-3.1, 46-2-11 thru 46-2-13, 46-2-17, 46-2A-7 thru 46-2A-12,

46-2A-14, 46-2A-15, 46-2A-18; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31, 46-5-49; and Board Rules ARSD b74:02:01:01 thru 74:02:01:15; p74:02:01:19 thru 74:02:01:22. c9:25, 10-2



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

GREAT FACES. GREAT PLACES.

FEB 28 1992

1521-1

Painter, Inc.  
Box 57  
Buffalo, SD 57720

Dear Sirs:

Enclosed are your Validated Vested Water Right and Water License No. 1521-1. 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,

A handwritten signature in cursive script that reads "John Hatch".

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

enclosures