

WATER PERMIT NO. 1601-1

Phone: 257-2191

Name of Applicant: Brunner Bros., Inc.

Post Office Address: HCR 76, Box 14, Nisland

Amount of Water Claimed: 0.92 cfs Total Acres: 64.3

Source of Water Supply: Belle Fourche River

Water to be used for: irrigation County: Butte

Location: 3 miles east of Nisland

PRIORITY Date Received: 3-31-94 Fee: \$150

Corrected Application Received: 5-25-94 Period of Annual Use: May 1 - Sept 30

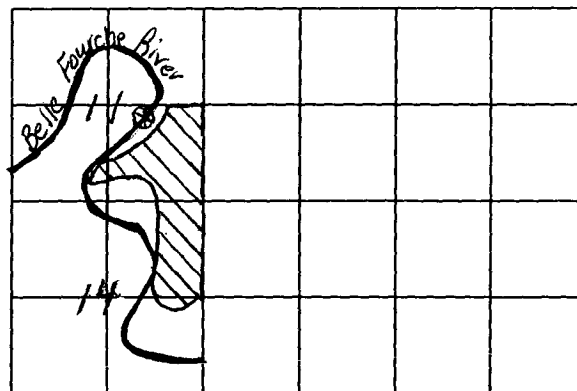
Remarks: Land is under the Belle Fourche Irrigation District - this application is for
supplement irrigation. This permit covers area not included on Water Right No. 429-1.

Diversion Point: N 1/4 SE 1/4 Sec 11-T8N-R5E

Land to be Irrigated: SE 1/4, SE 1/4 SW 1/4

Sec 11 and E 1/2 NE 1/4, NE 1/4 SE 1/4 Sec 14;

all in T8N-R5E



Well Log: Driller: _____ Licensed: YES ____ NO ____

Depth of Well: _____ REMARKS: _____

Type of Map: aerial Prepared By: Thomas Quinn, SCS Reviewed and the Number

Assigned on: 5-26-94 By: Karen Schlaak

**SOUTH DAKOTA
WATER PERMIT NO. 1601-1**

Date of first receipt of application March 31, 1994.

Date of return to applicant for corrections, amendments or changes April 4, 1994.

Date of receipt of corrected application May 25, 1994.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 1601-1 to Brunner Bros., Inc., HCR 76, Box 14, Nisland SD 57762 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 1601-1 appropriates 0.92 cubic feet of water per second (cfs) from the Belle Fourche River located in the NW 1/4 SE 1/4 Section 11 to irrigate 64.3 acres located in the SE 1/4, SE 1/4 SW 1/4 Section 11 and the E 1/2 NE 1/4, NE 1/4 SE 1/4 Section 14; all in T8N-R5E. The same acreage is currently irrigated by water supplied by the Belle Fourche Irrigation District. Combinations of diversion from the Belle Fourche Irrigation District and this permit may not exceed 1.0 cfs for each 70 acres irrigated.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 - September 30.
3. The date from which applicant may claim right is March 31, 1994.
4. The date of approval of Permit No. 1601-1 is July 12, 1994.
5. One-fifth of the construction is to be completed on or before January 12, 1997.
- ~~6. All construction is to be completed on or before July 12, 1999.~~
7. Water is to be put to beneficial use on or before July 12, 2003.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Rehabilitation of the Belle Fourche Irrigation Project and subsequent conservation measures may reduce return flows to the Belle Fourche River. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.
2. Combinations of diversions authorized by Water Right No. 429-1 and this Permit may not exceed 1.0 cfs per 70 acres.
3. This permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: 
John Hatch, Chief Engineer
Water Rights Division
Department of Environment and Natural Resources

AUG 19 1994
date

FORM 2: Application for irrigation in South Dakota

(type or print)

Mail to:
Water Rights Division
Joe Foss Building
523 E Capitol
Pierre SD 57501-3181
605 773-3352

No. 1601-1 Hydrologic Unit 10120202
Basin Belle Fourche River
Newspaper Belle Fourche Bee, Box 400
(office use only)



Application For Soil/Water Compatibility Permit And Permit To Appropriate Water

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

Description of amendment/correction: (i.e. acreage change, change diversion point(s), add diversion point(s), etc.)
Additional acreage + water diversion

- Name of Applicant Brunner Bros., Inc. Phone (605) 257-2191
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address HCR 76 Box 14 Nisland State S.D. 57762
(Street, RR, or Box) (City) (Zip Code)
- Amount of water claimed 292 ~~292~~ *CFS or **GPM ***AF Total Acreage 64.3
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout if applicable)
- Source of water supply Belle Fourche River
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) 1400' west + 30' south
of NE corner of SE1/4 Sec. 11-8N-5E. (NW1/4 SE1/4)
County Butte
- County or counties where water will be used Butte
- Annual period during which water is to be used May - Sept. 30
- List below each forty acre subdivision, 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
<u>A SE1/4 NE1/4 SE1/4 Sec. 11-8N-5E</u>	<u>3.0 AC</u>
<u>B NE1/4 SE1/4 NW1/4 SW1/4 SE1/4 11-8N-5E</u>	<u>9.4 AC</u>
<u>C E1/2 NW1/4 SW1/4 SE1/4 11-8N-5E</u>	<u>3.5 AC</u>
<u>D SE1/4 SE1/4 11-8N-5E</u>	<u>35.9 AC</u>

Land Description	Acres
<u>E1/2 E1/2 NE1/4 NE1/4 Sec 14-8N-5E</u>	<u>10.0 AC</u>
<u>F W1/2 SW1/4 SE1/4 NE1/4 14-8N-5E</u>	<u>2.5 AC</u>
<u>G NW1/2 N1/2 N1/2 NE1/4 SE1/4 14-8N-5E</u>	<u>1.0 AC</u>

- Type of Irrigation: Gravity: ☒ Towline: ☐ Center Pivot: ☐ Gun: ☐ Other (Specify): _____
- Crops to be irrigated: Corn, Alfalfa, Barley
- Give a description of the project. (Attach sheet if more space is needed)

Land is under B.F. Irrigation Dist. Application is for supplemental irrigation because Dist. distribution is not adequate in many irrigation seasons when water is in short supply. water seems always available at this point. water would be pumped underground inter-lining irrigation system which is all pipelines.

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

STATE OF SOUTH DAKOTA)

County of Butte)^{SS}

I, Bruce Brunner, 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 representative of the water to be used, and that the matters stated in this application are true and correct.

Signed Brunner Bros. Inc. by Bruce Brunner

Subscribed and sworn to before me this 29th day of April 19 94

Leure Hein

Notary Public

My Comm. expires 4-24-98

RECEIPT

414187

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____, May 25, 19 94

RECEIVED Brunner Bros., Inc. HCR 76 Box 14, Nisland, SD 57762

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

Fee for Application for Permit No. 1601-1 to Appropriate Water, to construct and to put water to beneficial use _____

150 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 _____

(Any Other Work Provided by Law)

Total

150 00

By

Chief Engineer

John H. H. H.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 4, 1994

Bruce Brunner
Brunner Bros., Inc.
HCR 76, Box 14
Nisland SD 57762

Dear Mr. Brunner:

In regard to your water permit application received on March 31, 1994, the following information needs to be clarified in order to process your application.

57 acres of the 70.5 acres you have applied for are already covered by your existing Water Right No. 429-1 (copy enclosed). The remaining 13.5 acres (10 acres in the NE 1/4 NE 1/4 Section 14 and 3.5 acres in the SE 1/4 NE 1/4 Section 14; all in T8N-R5E) are the lands that need to be included on this application. Enclosed is the aerial photo. Please outline the entire area intend to irrigate. If known, please outline the location of the additional 13.5 acres.

Enclosed is the check for \$225.00. The filing fee for 13.5 acres is \$150.00. Upon receipt of the above, further processing of your application will continue. If you have any questions, please contact this office.

Sincerely,

Karen Schlaak
Karen Schlaak
Environmental Scientist
605 773-3352

enclosure



Karen Schlaack
Dept. of Environment & Natural Resources
Joe Foss Building
523 E. Capitol
Pierre, SD 57501-3181

Dear Ms. Schlaack

In reference to your letter of April 4, 1994, we are refiling our application for a water permit.

Mr. Thomas Quinn, our District Conservationist, spent a lot of time on this and as you can see by the enclosed maps, I think he has pretty well defined what we want.

The original water permit #429-1, for some reason was chopped in pieces on this parcel of property. Mr. Quinn has defined the originals and also the new permit acres we are requesting. We are merely trying to cover the remaining acres on this parcel of land.

The entire parcel is outlined in red and then Mr. Quinn has defined each acreage within the parcel. I hope this will help.

I am enclosing a check for \$150 for 64.3 acres. Please advise if this is incorrect.

Sincerely,

Bruce Brunner

Bruce Brunner
Brunner Bros., Inc.
HCR 76 Box 14
Nisland, SD 57762

Report on Water Permit Application No. 1601-1
Brunner Brothers
June 6, 1994

Background

Water Permit Application No. 1601-1 requests to appropriate 0.92 cubic feet of water per second (cfs) from the Belle Fourche River. The diversion point will be located in the NW1/4 SE1/4 Section 11, T8N-R5E, in Butte County. Water will be used to irrigate 64.3 acres located in the SE1/4, SE1/4 SW1/4 Section 11, and the E1/2 NE1/4, NE1/4 SE1/4 Section 14, all in T8N-R5E.

Discussion

Water Permit Application No. 1601-1 is for irrigation of acreage that was not included when Water Right No. 429-1 was issued. Water Right No. 429-1, for Brunner Brothers is authorized to divert 1.43 cfs from the Belle Fourche River for irrigation of 106 acres located in the SE1/4, SE1/4 SW1/4, and NE1/4 Section 11 and NE1/4 Section 14, all in T8N-R5E.

The area listed in Water Right No. 429-1 and Water Permit Application No. 1601-1 is included in the Belle Fourche Irrigation Project. Water from the Belle Fourche River is for supplemental irrigation water since water from the Project is not adequate during water shortage periods.

~~The combined diversion rates from the Project and Belle Fourche River should not exceed the statutory limitation of 1.0 cfs for irrigation of each 70 acres.~~

There are 27 water rights/permits between the proposed diversion point for Water Permit Application No. 1601-1, and the USGS gauging station near Sturgis, for a total diversion rate of 62.4 cfs. Data from the gauging station at this point show that 50% of the time flow exceeds 70.0 cfs.

Return flows from the Belle Fourche Irrigation Project have supplied enough water to meet the needs of the water rights below the confluence of Owl Creek and the Belle Fourche River. However, an on-going rehabilitation program of the Belle Fourche Irrigation Project and subsequent conservation measures may reduce return flows to the Belle Fourche River.

Conclusion

1. Flows in this reach of the Belle Fourche River are mainly dependent on irrigation return flows.
2. Rehabilitation of the Belle Fourche Irrigation Project and subsequent conservation measures may reduce return flows to the Belle Fourche River. If flows in this reach of the Belle

Fourche River fall below what is needed, shutoff orders may need to be issued.

3. If Water Permit Application No. 1601-1 is approved, it should be approved with the following qualifications:
 - A) Irrigation questionnaire should be submitted annually.
 - B) Water should be by-passed for downstream senior water rights and domestic water use.
4. If Water Permit Application No. 1601-1 is approved, it should be incorporated with Water Right No. 429-1.



M. Rassool Ahadi
Natural Resources Engineer III

Approved By:



Delvin D. Brosz, P.E.
Natural Resources Engineer IV

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 1601-1, Brunner Brothers, 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 Water Permit Application No. 1601-1, Brunner Brothers, Inc., c/o Bruce Brunner, HCR 76 Box 14, Nisland, SD 57762.

The Chief Engineer is recommending APPROVAL of Application No. 1601-1 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) in the public interest with the following qualifications:

1. Rehabilitation of the Belle Fourche Irrigation Project and subsequent conservation measures may reduce return flows to the Belle Fourche River. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.
2. Combinations of diversions authorized by Water Right No. 429-1 and this Permit may not exceed 1.0 cfs per 70 acres.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.


JOHN HATCH, Chief Engineer
June 13, 1994



**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.**

June 16, 1994

Bruce Brunner
Brunner Brothers, Inc.
HCR 76 Box 14
Nisland, SD 57762

Dear Mr. Brunner:

Water Permit Application No. 1601-1 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Belle Fourche Bee printed at Belle Fourche, SD (Ph # 605-892-2528). 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 prior to publication 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 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. The newspaper has been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

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.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 16, 1994

Belle Fourche Bee
Box 400
Belle Fourche, SD 57717-0400

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 1601-1 to be published twice. Please publish the first notice on June 25, 1994, 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 Brunner Brothers, Inc., HCR 76 Box 14, Nisland, SD 57762 (Ph # 605-257-2191).

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. No action may be taken on the permit application until proof of publication has been received.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

FIRST TRANSMITTAL NOTICE

TO: Eric Gronlund
Water Rights Division
Joe Foss Building
Pierre SD 57501-3181

No. _____

Date _____

We are in receipt of your letter of _____ enclosing Notice of Hearing to Appropriate Water by Application No. _____ 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 June 25, 1994, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 1601-1 to Appropriate Water

Notice is given that Brunner Brothers, Inc., HCR 76 Box 14, Nisland, SD 57762 has filed an application for a water permit to appropriate 0.92 cubic feet of water per second (cfs) from the Belle Fourche River located in the NW 1/4 SE 1/4 Section 11 to irrigate 64.3 acres located in the SE 1/4, SE 1/4 SW 1/4 Section 11 and the E 1/2 NE 1/4, NE 1/4 SE 1/4 Section 14; all in T8N-R5E. The same acreage is currently irrigated by water supplied by the Belle Fourche Irrigation District. Combinations of diversion from the Belle Fourche Irrigation District and this application, if approved, may not exceed 1.0 cfs for each 70 acres irrigated.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1601-1 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and chief engineer. The applicant must file a petition if contesting 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 July 12, 1994.

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. Contact Eric Gronlund at the above Water Rights Division address to request copies of information pertaining to this application. Russell L. Stone, Acting Secretary, Department of Environment and Natural Resources.

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA
COUNTY OF BUTTE

Mary Ellen Koch, being duly sworn, says:
That the Belle Fourche Bee is, and during all the times
hereinafter mentioned was, a legal weekly newspaper as
defined in SDCL 17-2-2, as amended, published at Belle
Fourche, Butte County, South Dakota, by Allison
Publishing Inc.; that affiant is, and during all times was, an
employee of the publisher of such newspaper and has
personal knowledge of the facts stated in this affidavit; that
the notice, order or advertisement, a printed copy of which
is attached, was published in said newspaper for three
successive issues, bearing the following dates:

<u>June 26</u>	<u>1994</u>	_____	199
<u>July 2</u>	<u>1994</u>	_____	199
_____	199	_____	199
_____	199	_____	199
_____	199	_____	199

that the full amount of the fee charged for publishing the
same, to-wit, the sum of \$ _____, inures
solely to the benefit of the publisher of said newspaper;
that no agreement or understanding for the division of the
fee has been made with any person, and that no part of
the fee has been agreed to be paid to any other person.

Mary Ellen Koch

Subscribed and sworn to before me this
8 day of July A.D. 1994

Jaye S. Kennedy
Notary Public

County of Butte, South Dakota

Notary Public, Butte County, So. Dak.
My Commission Expires Sept. 23, 1998
(SEAL)



NOTICE OF APPLICATION NO. 1601-1 to

Appropriate Water

Notice is given that Brunner
Brothers, Inc., HCR 76, Box 14,
Nisland, SD 57762 has filed an ap-
plication for a water permit to ap-
propriate 0.92 cubic feet of water per
second (cfs) from the Belle Fourche
River located in the NW 1/4 SE 1/4
Section 11 to irrigate 64.3 acres lo-
cated in the SE 1/4, SE 1/4 SW 1/4
Section 11 and the E 1/2 NE 1/4, NE
1/4 SE 1/4 Section 14; all in T8N-
R5E. The same acreage is currently
irrigated by water supplied by the
Belle Fourche Irrigation District.
Combinations of diversion from the
Belle Fourche Irrigation District and
this application, if approved, may
not exceed 1.0 cfs for each 70 acres
irrigated.

Pursuant to SDCL 46-2A-2, the
Chief Engineer recommends AP-
PROVAL of Application No. 1601-1
because 1) unappropriated water is
available, 2) existing rights will be
not unlawfully impaired, 3) it is a
beneficial use of water, and 4) it is in
the public interest. In accordance
with SDCL 46-2A-23, the chief en-
gineer will act on the application, as
recommended, unless a petition is
filed opposing the application or the
applicant files a petition contesting
the chief engineer's recommenda-
tion. If a petition opposing the appli-
cation or contesting the recommen-
dation is filed, then a hearing will be
scheduled and the Water Manage-
ment Board will consider the appli-
cation. Notice of the hearing will be
given to the applicant and any per-
son filing a petition.

Any person interesting in oppos-
ing or supporting this application or
recommendation must file a written
petition with BOTH the applicant
and chief engineer. The applicant
must file a petition of contesting the
chief engineer's recommendation.
The Chief Engineer's address is
"Water Rights Division, Foss Build-
ing, 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 July 12, 1994.

The petition may be informal,
but must include a statement de-
scribing the petitioner's interest in
the application, the petitioner's rea-
sons 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. Contact Eric
Gronlund at the above Water Rights
Division address to request copies of
information pertaining to this appli-
cation. Russell L. Stone, Acting Sec-
retary, Department of Environment
and Natural Resources

B2t6/25-7/2



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

AUG 19 1994

Bruce Brunner
Brunner Bros., Inc.
HCR 76 Box 14
Nisland, SD 57762

Dear Mr. Brunner:

Enclosed is Water Permit No. 1601-1 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Also enclosed is Form 10, Notice of Completion of Works and Application of Water to Beneficial Use, which you are to complete and submit to the Chief Engineer when you have completed the system and/or have put the water to beneficial use. An inspection can then be scheduled so that the Water License may be issued, thus completing your acquisition of a Water Right.

Very truly yours,

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

enclosures

PLEASE NOTE: Certain changes can be made in your permit within the five year construction period, usually without affecting the priority date provided an application to amend your permit is made within the five year period - i.e. changes in location or number of diversion points (wells) or location of land to be irrigated. Well locations for wells into the same aquifer can be moved up to 660 feet without application.

Applications to amend a permit after the five year construction period will be assigned a new priority date. Applications to change water sources, to add lands or increase original diversion rates, if approved will usually receive the date of the new application as a priority date regardless of the five year construction period.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

November 30, 2000

1601-1

Brunner Brothers, Inc.
HCR 76 Box 14
Nisland SD 57762

Dear Sirs:

On July 22, 1999 the investigation of your water use system, including the extent of application of water to beneficial use, as developed under Water Permit No. 1601-1, was completed by Mark Rath, a staff engineer with our program. Your final water right document, the water license, can now be issued.

State law require that we charge a \$50.00 fee for the investigation and issuance of the water license. Upon receipt of the \$50.00 fee from you, we will complete processing your water license. ~~The check or money order for the fee should be made payable to the "Water Rights Program".~~

Your licensed water right will be similar to a property right that can not be lost as long as the water use continues and you abide by the permit requirements.

If you have any questions regarding the water permit, investigation of your water use system or payment of the fee, please contact Genny McMath with our program at (605) 773-3352.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program

RECEIPT
Water Rights Program
South Dakota Department of Environment and Natural Resources

Nº 416704

Pierre, December 5, 2000, _____

RECEIVED OF Brunner Bros., Inc., HC 76 Box 14, Nisland SD 57762
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 _____

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. W 1601-1

50 00

Fee for Filing Transfer Form _____

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

50 00

By _____
Chief Engineer

Harland Erbele

KS

Permit No. 1601-1

Belle Fourche River - Water District

Other permit/license(s) associated with project: 429-1

Contact Person & Address: **Gary Brunner, HC 76 Box 14, Nisland SD**

Report Of Examination Of Works

On, **July 22, 1999**, I made a thorough examination of the water use system constructed by **Brunner Brothers** of **Nisland SD** holder of Water Right No. **429-1**, bearing the priority of **October 13, 1959** authorizing the diversion of **1.43** cu. ft. per second and Water Permit No. **1601-1**, bearing the priority of **March 31, 1994** authorizing the diversion of **0.92** cu. ft. per second of the waters of **surface water from the Belle Fourche River** for **irrigation** purposes, in **Butte** County.

The system is in the following condition **good**. The point of diversion is located **From the NE corner of Sec 11 T8N-R5E; 2650 ft South and 1340 ft West** with a longitude of **-103.47148** and a latitude of **44.66916**. The works are capable of diverting and conveying to the place of use **2.67** 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:

Land located in Section 11 T8N-R5E:

NW1/4 SE1/4 - 10 ac

NE1/4 SE1/4 - 25 ac

SE1/4 SE1/4 - 36 ac

SW1/4 SE1/4 - 23 ac

SE1/4 SW1/4 - 4 ac

Land located in Section 14 T8N-R5E:

NE1/4 SE1/4 - 1 ac

SE1/4 NE1/4 - 34 ac

NE1/4 NE1/4 - 37 ac

comprising a total of **170** acres of land and the license should be issued for **2.35** cfs.

Review of Permit Qualifications And Regulations:

- 1) Special qualifications to permit being abided by **yes**
- 2) All structures, wells and lands on map **yes**
- 3) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period **yes**
- 4) Exceptions to compliance are: **none**

Report On the Specifics of the System

Diversion Point Information:

Pump\ Motor:

- | | |
|-------------------------------------|-----------------------------------|
| 1) Pump Make <u>Cornell</u> | 2) Pump Model <u>5RB64B4-3</u> |
| 3) Capacity <u>1200</u> GPM | 4) Motor Make <u>John Deere</u> |
| 5) Motor Model No. <u>4239TFDO1</u> | 6) Horsepower rating <u>55</u> hp |

Distribution System:

- 1) Type PVC 2) Size 10 inches 3) Length 1500 feet

System Type:

Gated Pipe:

- 1) Length 4000 feet 2) Diameter 10 inches

Chemigation:

- 1) Does chemigate no

COMMENTS: none



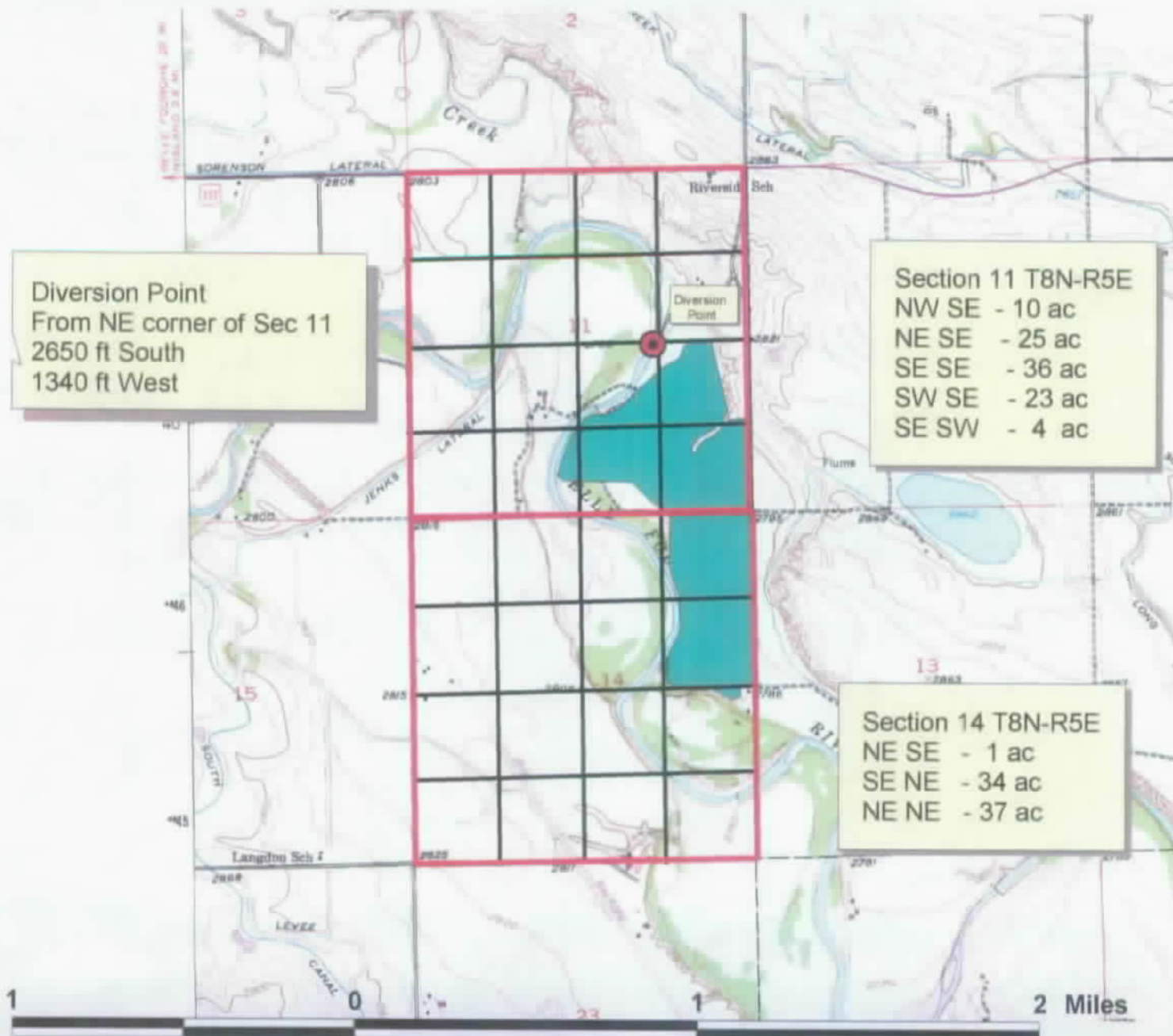
Mark D. Rath

Natural Resources Engineering Specialist
DENR, Water Rights Program

11/16/2000

Date

No. 1601-1



Mark Rath
Mark Rath
Natural Resources Engineering Specialist
11-16-2000

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 1601-1

(1) Brunner Bros., HCR 76 Box 14, Nisland SD 57762 made Application No. 1601-1, March 31, 1994 for a water permit to divert 0.92 cubic feet of water per second (cfs) from the Belle Fourche River, Butte County, South Dakota for irrigation purposes. Permit No. 1601-1, with a priority date of March 31, 1994 was approved July 12, 1994 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before July 12, 1999 and for the application to beneficial use of said water on or before July 12, 2003.

Water Right No. 429-1 with a priority date of October 13, 1959 authorized 1.43 cfs from the Belle Fourche River to irrigate 106 acres. The applicable portions of Water Right No. 429-1 are incorporated into No. 1601-1.

(2) It is certified that the permit holder 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 2.35 cubic feet of water per second for beneficial use. The location of the diversion point is 2,650 feet south and 1,340 feet west from the northeast corner of Section 11-T8N-R5E (NW ¼ SE ¼).

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate the following land:

Section 11-T8N-R5E			
NW ¼ SE ¼	10 acres	NE ¼ SE ¼	25 acres
SE ¼ SE ¼	36 acres	SW ¼ SE ¼	23 acres
SE ¼ SW ¼	4 acres		
Section 14-T8N-R5E			
NE ¼ SE ¼	1 acre	SE ¼ NE ¼	34 acres
NE ¼ NE ¼	37 acres		
Total 170 acres			

(4) Pursuant to South Dakota Water Law 46-5-30.1 Brunner Bros., HCR 76 Box 14, Nisland SD 57762 the holder and/or owner of Incorporated Water Right No. 1601-1 is issued a license to appropriate water, the right to use 2.35 cubic feet of water per second from the Belle Fourche River with priority dates of October 13, 1959 (1.43 cfs) and March 31, 1994 (0.92 cfs) 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 Incorporated Water Right No. 1601-1 and subject to South Dakota State Law.



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

MAY 09 2001

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

MAY 09 2001

1601-1

Gary Brunner
Brunner Bros.
HCR 76 Box 14
Nisland, SD 57762

Dear Mr. Brunner:

Enclosed is Water License No. 1601-1. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 416704 in the amount of \$50.00 which you paid for the investigation and issuance of the Water License.

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

NOTE: The applicable portions of No. 429-1 are incorporated into Water License No. 1601-1.

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

July 9, 2002

1601-1

Brian Stombaugh
HC 76 Box 6
Newell, SD 57760

Dear Mr. Stombaugh:

Thank you for contacting our office about the ownership change for Water Right No. 1601-1. The water right, currently listed in the name of Brunner Brothers, authorizes diversion of water from the Belle Fourche River for irrigation of 170 acres.

Enclosed is a partially completed Notice of Transfer of Ownership form for use in filing the ownership change. Please review the form and complete as needed. Upon completion, please sign the form and return it to our office with a required filing fee of \$2.50. The check or money order for the fee can be made payable to the Water Rights Program.

Also enclosed is a copy of the water right, map and the investigation report. You may keep these for your records.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

Enclosures

NOTICE OF TRANSFER OF OWNERSHIP

To: Chief Engineer
Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

RECEIVED

SEP 20 2002

WATER RIGHTS
PROGRAM

No. 1601-1

Date: 9-16-02

I/We request that Water Right No. 1601-1

formerly owned by: Brunner Brothers, HCR 76 Box 14, Nisland, SD 57762

be transferred to: (name & address) NMR Petrophysics, Inc - Brian
Stambaugh, HCR 76 Box 6, Newell, SD 57760
Telephone No. 281 468 7755

Title to the following described land(s)/property has been transferred as described above:

170 acres - SE 1/4 and SE 1/4 SW 1/4 Section 11; NE 1/4 SE 1/4, E 1/2 NE 1/4 Section 14, all in T8N, R5E

I/We understand that the validity of Water Right No. 1601-1 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

I/We Brian Stambaugh, the new owner, certify that the above information is true and correct.

Brian J. Stambaugh
(Signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

September 5, 2002

1601-1

Brian Stombaugh
HC 76 Box 6
Newell, SD 57760

Dear Mr. Stombaugh:

I am writing as a reminder that we have not yet received the Notice of Transfer of Ownership form from you for Water Right No. 1601-1. The water right, currently listed in the name of Brunner Brothers, authorizes diversion of water from the Belle Fourche River for irrigation of 170 acres in portions of Section 11 and 14, T8N, R5E.

In the event you no longer have the original form, I am sending an additional one out to you. Please review the form and complete as needed. Upon completion, please sign the form and return it to our office with a required filing fee of \$2.50. The check or money order for the fee can be made payable to the Water Rights Program.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

enclosure

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date September 20, 20 02

RECEIVED OF NMR Petrophysics Inc., Briar Stambaugh, HCR 76 Box 6, Newell SD 57760

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		
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 <u>1601-1</u>	2	50
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	2.50

No. **000293**

By Darland Elbe
Chief Engineer *gm*



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 23, 2002

1601-1

NMR Petrophysics Inc
Brian Stambaugh
HC 76 Box 6
Newell, SD 57760

Dear Mr. Stambaugh:

I am writing to acknowledge receipt of the Notice of Transfer of Ownership form and filing fee you submitted for changing ownership of Water Right No. 1601-1. The transfer has been completed. The water right, formerly listed in the name of Brunner Brothers is now listed in the name of NMR Petrophysics Inc.

Enclosed is your Receipt No. 000293 in the amount of \$2.50. You may keep this for your records.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

enclosure

MAY 1994
DIVISION OF
WATER RIGHTS
Pierre, SD



1601-1



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

November 3, 2008

1601-1

Brian Stambaugh
NMR Petrophysics Inc
2103 River Bend Way
Kingwood TX 77345-2149

Dear Mr. Stambaugh:

Enclosed is a "Notice" dated October 24, 2008 concerning the 2008 irrigation questionnaire. The notice was originally mailed to 3923 Oak Garden, Kingwood TX. The post office notified us that your address has changed and I will update our records accordingly.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

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**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

October 20, 2010

1601-1

Brian Stambaugh
NMR Petrophysics Inc
18871 Dillinger Rd
Newell SD 57760 5825

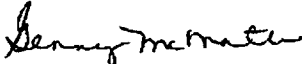
Dear Mr. Stambaugh:

Enclosed is a "Notice" dated October 15, 2010 concerning the 2010 irrigation questionnaire.

The notice was originally mailed to 2103 River Bend Way, Kingwood TX. The post office notified us that your address has changed and I will update our records accordingly.

If you have any questions, please contact me.

Sincerely,


Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

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