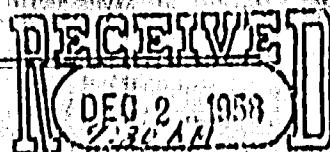


No. 367-1Water Division No. 1

(Blanks to be filled by the Engineer for the W. H. C.)

STATE WATER RESOURCES COMM
PIERRE, SOUTH DAKOTA

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

(NOTE—Draw a line through items not applicable.)

1. Name of applicant David A. Richards in Partnership with E. W. Richards
Postoffice address Faith Rt., Sturgis, County Meade, State South Dakota

I. If a corporation

- (a) Name of same _____
(b) Date and place of incorporation _____
(c) Amount of capital stock _____
(d) Amount paid in _____
(e) Names and addresses of directors _____

(NOTE—A certified copy of articles of incorporation must accompany the application.)

II. Method of accomplishing the work and financial resources of the applicant:

- (a) Method of accomplishing work (Whether by contract, employment of others, or by direct labor)

Direct work done by tractor on place

(b) Cash on hand, \$ _____

(c) Treasury stock, \$ _____

(d) Bonds to be issued, \$ _____

(e) Other resources, \$ _____

2. Name of diversion work Flood water spreader dam

3. Amount of water claimed .15 cfs 0.11 cfs maximum allowable
cubic feet per second

4. Source of water supply Dry draw (approx. 700 acres drainage)

5. Location of point of diversion N.E. 1/4 SW 1/4 of section 11 in Township 14 N
Range 8 E on Meade County.

6. Annual period or periods during which water is to be used March to Sept.

7. To be used for:

- I. Irrigation or domestic use: Gravity, overhead sprinkling or combination system? gravity irrigating for hay

- (a) Number of acres to be irrigated 8 acres.

- (b) Legal subdivisions to be irrigated part of the SW 1/4 Sec. 11 T6N R8E

(NOTE—A list of lands to be irrigated, giving each subdivision and fraction, with acreage thereof, should be written here, or may be appended as a part of this application. Same must also be shown on accompanying map.)

- (c) Statement as to domestic use (giving location, etc.) _____

II. Stockwatering, mining, milling, power, fish culture, fire protection and public recreation:

- (a) Nature of use _____ Name any of the above uses claimed

- (b) Amount of power to be generated _____ horse power

Amount claimed for engine cooling _____

- (c) Location of plant _____

- (d) Method of developing power _____

- (e) Point where water will be returned to stream _____

Estimated cost of work:
(a) Head gates, \$..... (b) Pumping plant, \$.....
(c) Plumbing, \$..... (d) Canal earth, \$.....
(e) Other structures \$..... Rock, \$.....
Total, \$.....

Description of diversion works:

I. Nature of works (Reservoir, dam, ditch, flume, pumping plant, etc.)

a small shallow dam to throw water out on land to irrigate

II. Dimensions of works:

(a) Dam: Height approx 9 feet; length at bottom feet; length at top 240 feet; thickness at bottom approx 2 1/2 feet; thickness at top 12 feet; slope at front water face 3 to 1; slope at back face 2 to 1; material used in construction dirt

(b) Reservoir: Capacity when filled acre feet. area at highwater mark 8 acres.

DEPTH AT OUTLET-Feet	SURFACE AREA AT EACH DEPTH AT OUTLET—ACRES	FEET	ACRE-Feet CAPACITY

(c)* Head gate: Width feet; height feet; Material

(d) Canal: Total length miles.

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER-LINE	GRADE PER MILE
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet

(Give dimensions where reductions in size are made.)

10. Time required for completion of work Completed about 1937 years.
11. Time required for complete application of water to the proposed beneficial use years.
12. Choice of newspaper for publication of notice of intention to appropriate

STATE OF SOUTH DAKOTA

County of Meade

I, E. W. Richards

David Richards, being first duly sworn on my oath depose and say: That my relation to the above described undertaking is that of owner, that I have read the above foregoing statement, examined the map accompanying the same, and that I know of my own personal knowledge that the matters therein stated and shown are true.

Signed Kalbert C. Miller

Subscribed and sworn to before me this 25 day of September 1938

Notary Public
Notary Public (or other qualified officer.)

*Each diversion must have a headgate or measuring device.

Remarks by State Water Resources Commission:

"Vested Right" claimed

The diversion rate limitation of 1 cubic foot per second for each 70 acres irrigated shall not apply to this Dry Draw irrigation diversion during periods of flood flows, when such flows are in excess of the amount of water required to satisfy domestic use requirements and other water rights.

STATE OF SOUTH DAKOTA

County of

Hughes

ss.

Pierre, South Dakota,

December 11, 1958

This is to certify that the foregoing application was received by the Commission at 9:30 o'clock

9 a.m. upon the 2 day of December, 1958

State Water Resources Commission

By:

J. O. Brinner

Chief Engineer, Executive Officer

Number of permit 367-1

Date of first receipt of application

December 2, 1958

Date of return to applicant for correction, amendments or changes required as follows:

December 8, 1958

Date of receipt of corrected application

January 12, 1959

Date from which applicant may claim right

1937

Approved January 17, 1959

Recorded in Book

Page 88

This is to certify that we have examined the foregoing application for a permit to appropriate water of the State of South Dakota, and we hereby grant the same as stated herein, subject, however, to the following limitations and conditions:

1st. The equivalent of at least one-fifth of the work above specified is to be completed on or before

Completed, 1958

2nd. The whole of said work is to be completed on or before

Completed, 1958

3rd. The limit of time for proof of beneficial use of water appropriated in accordance herewith is

Completed, 1958

4th. The water appropriated shall be used for the purpose of

irrigation

5th. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.

6th. The amount of the appropriation herein granted shall not exceed 0.11 cubic feet per second; neither shall it exceed the capacity of the above described system of diversion works, nor the least amount of water that experience may hereafter indicate as necessary for the production of crops in the exercise of the best husbandry; and further, said appropriation must be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for irrigation on or before Completed, 1958; said water to be used during the following described annual period:

March to September inclusive

Witness my hand this

26

day of

January, 1959

State Water Resources Commission

By:

J. O. Brinner

Chief Engineer, Executive Officer

Certificate of Construction issued

January 26, 1959

Water License issued

January 26, 1959

STATE OF SOUTH DAKOTA

WATER LICENSE No....367-1...

WHEREAS, On the 2nd day of December A. D. 1959
David A. Richards in Partnership with E. W. Richards

of Faith Rt., Sturgis County of Meade and State of
South Dakota duly made application (No. 367-1) to us for a Vested Right of 0.15
 cubic feet per second of the waters of a dry draw
 County of Meade, State of South Dakota, for irrigation
 purposes; and

WHEREAS, On the 26th day of January A. D. 1959
Vested Right of 0.11 c.f.s. of recognizing
 Permit No. 367-1 was issued to said applicant... for the diversion ~~of~~ said water, and ~~provision for the~~
 completion of the works of diversion therein described ~~XXXXXX~~ in 1937 ~~XXXXXX~~
~~XXXXXX~~ and ~~XXXXXX~~ the application to beneficial use of said
 water ~~XXXXXX~~ in 1937 ~~XXXXXX~~ ~~XXXXXX~~
 and,

WHEREAS, On the 2nd day of December A. D. 1958
Vested Right
 the holder... of said permit duly made proof of the completion of adequate works for the diversion of 0.15
 cubic feet per second of said waters, as evidenced by our Certificate No. 367-1
 dated January 26, 1959 confirming the completion of works of sufficient capacity for
 diverting and conveying to the place of intended use 0.15 cubic feet per second of water, with date of
 priority of 1937 and, and,

WHEREAS, On the 2nd day of December A. D. 1959
 proof was duly made of the application to beneficial use of 0.11 cubic feet per second of said water;
on 8 acres in part of the SW $\frac{1}{4}$, Sec. 11, T 6 N, R 8 E

NOW, THEREFORE, By the virtue of the authority vested in us by the laws of the State of South Dakota,
We hereby grant and confirm to David A. Richards in partnership with E. W. Richards
of Faith Rte., Sturgis, S.D. the holder and owner of said permit No. 367-1
a water right, dating from 1937 to the use of 0.11
cubic feet per second of the waters of a dry draw
in the County of Meade and State of South Dakota, or so much thereof as may be
necessary for the purposes hereinbelow mentioned, to be diverted at in the NE 1/4, Sec. 11, T. 6 N,
R. 8 E
and conducted to and upon part of the SW 1/4, Sec. 11, T. 6 N, R. 8 E

for the purpose of irrigation

subject, however, to the laws of the State of South Dakota applicable to a license for the use of the waters of the State, and subject, also to the local or community customs, rules and regulations which have been or may be adopted from time to time by a majority of the users from a common source of supply, canal or lateral from which such water may be taken, when such rules and regulations have for their object the economical use of such water.

WITNESS, My hand and seal of our office at Pierre, South Dakota,
this 26th day of January A. D. Nineteen
Hundred and Fifty-nine

State Water Resources Commission

By:

J. W. GRIMES,

Chief Engineer, Executive Officer

STATE OF SOUTH DAKOTA

Water License No. _____

To _____

Source of Supply _____

County _____

Am't _____ c. f. s.

Point of Diversion _____

Place of Use _____

Purpose _____

Date of Priority _____

Recorded _____

in Book _____ of _____ Page _____

Permit No. 367-1

Belle Fourche
 Water Division No. 1 River Water District

Certificate of Completion of Works

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That David A. Richards in Partnership with E. W.Richards

of Faith Route, Sturgis, County of Moade, and State of South Dakota, the holder of Vested Right Permit No. 367-1, Issued upon Application

No. 367-1, bearing date of priority of 1937, authorizing the diversion of

0.11 cu. ft. per second of the waters of a dry draw

County of Moade, State of South Dakota, in the NW 1/4

Sec. 11, T 6 N, R 8 E

for irrigation

purposes, has fully complied with the provisions of the laws of the State of South Dakota relating to proof of completion of the works of diversion set out and described in said Permit; that said works are found in satisfactory condition for diverting and conveying to the place of intended use 0.11 cu. ft.

per second of water; and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit: part of the SW 1/4, Sec. 11, T 6 N, R 8 E 8 acres

Witness my hand this 26th day of January A. D. 1959

State Water Resources Commission

By:

J. W. GRIMES, Chief Engineer, Executive Officer

Location No. 367-1Belle FourcheWater Division No. 1Water

Water District

Proof of Application of Water to Beneficial Use

PETITION OF HOLDER

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

Ans. David and E. W. Richards, Faith Rte. Sturgis, S. Dak.Farming and Ranching occupation

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

Ans. _____

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

Ans. Dam finished about 1937

Ques. 4. State source of water supply and give exact location of point of diversion.

Ans. NE $\frac{1}{4}$, SW $\frac{1}{4}$ section 11 Township 16 Range 8water source from dry draw

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

Ans. The dam is about 9 ft high at highest point, 240 ft long

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

Ans. This spreader dam irrigates with water from 900acres of drainage and a meadow above dam. It is needed for extra hay. Before several stock dams in gravel were installed above in drainage, this spreader dam flooded almost every year.

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

Ans. _____

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

Ans. 15 ft in sec. covering 8 acres

Ques. 9. If you are not the person or representative of the corporation to whom above mentioned permit was originally issued, please state how ownership was acquired by present holder.

Ans. _____

Ques. 10. State when, how, in what amount and to what extent, the water diverted under above mentioned permit has been used.

Ans. flood water flows into dam & spreads out over approx. 8 acres whenever there is enough water flowing from heavy rains. This spreader dam has been used since about 1938 to obtain extra hay especially needed during 1937 drought.

(Sign)

C. W. Richards
David Richards

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Lincoln, County of Meade

State of South Dakota, on this 25

day of September

A. D. 1958

Robert W. Bratton

Witnesses.

Harold C. Miller, Jr.
Notary Public

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

Case O. Peterson
Richard G. Lythwa

Location No.-----

PROOF OF APPLICATION OF
WATER TO BENEFICIAL USE

PETITION OF HOLDER

Amount of Water ----- c. f. s.

Source -----

County -----

Purpose -----

Place of Use -----

Date of recording -----

Received and filed -----

OVERSIZE

DOCUMENT IS

SUPPLEMENTARY

TO MICROFILM FILE

 **Department of
Water & Natural Resources**

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

September 21, 1988

NOTICE

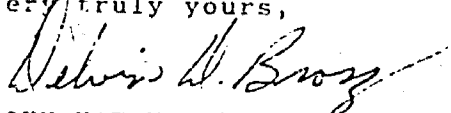
David A. & E.W. Richards
HC 77, Box 278
Sturgis SD 57785

Dear Sirs:

I am writing to notify you that pursuant to the Notice of Intent to Validate Vested Water Right Claims dated June 20, 1988 that I intend to oppose validation of your water right claim No(s). 367-1 until a field inspection has been completed. The claim has either never been inspected or an inspection was conducted so long ago that a new inspection is needed. An inspection is needed to determine the current state of your vested water right claim.

A staff member from the Division of Water Rights will be contacting you and scheduling an inspection of your water project. If we can answer any questions, please contact us.

Very truly yours,


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



Conversation or File Documentation

NAME OF PERSON OR FILE: David RichardsADDRESS: HC 77 Box 278 Sturgis, SD 57785 COUNTY MeadeDATE: 5-17-89 TELEPHONE 347-5163RE: Validation of Vested Right No. 367-1

COMMENTS:

On this date, I inspected this V.R. with Mr. Richardson. The diversion dike has been constructed and does spread water over an 8 acre area. There are no ditches. The water simply runs around both ends of the short dike spreading water over the area. V.R. No. 367-1 should be validated as licensed.

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.

4/82

NAME: James W. Wentz

367-1

SOUTH DAKOTA

VESTED WATER RIGHT NO. 367-1 FOR IRRIGATION

Date of Receipt of Claim December 2, 1958.

Date of Validation September 30, 1992.

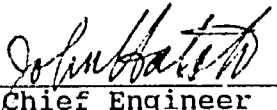
The Water Management Board validated Vested Water Right Claim No. 367-1 for irrigation purposes for David A. and E.W. Richards, HC 77, Box 278, Sturgis, SD, 57785 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 367-1 appropriates 0.11 cubic feet per second of water from a dry draw to irrigate 8 acres. The point of diversion is located in the NE1/4 SW1/4 Section 11, T6N, R8E. The irrigated lands are located in the E1/2 SW1/4 Section 11, T6N, R8E.
2. The appropriation may not exceed the amount of water needed for beneficial use for irrigation. The appropriation may not exceed 3 acre feet per irrigated acre per year. Water is to be used during the following annual period: March 1 to September 30.
3. The priority date of the Vested Water Right is January 1, 1937.
4. The water use system has been constructed and water has been applied to beneficial use.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

The diversion rate limitation of 1 cubic foot per second for each 70 acres irrigated shall not apply to this dry draw irrigation diversion during periods of flood flows, when such flows are in excess of the amount of water required to satisfy domestic use requirements and other water rights.

WATER MANAGEMENT BOARD

By: 
Chief Engineer

MAR 5 1993

date

Division of Water Rights
Dept. of Environment and Natural Resources

367-1



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

MAR 5 1993

David A. and E.W. Richards
HC 77, Box 278
Sturgis SD 57785

Dear Sirs:

The Water Management Board has validated the enclosed Vested Water Right No. 367-1. This validation gives legal status to the claim and is the final document for your vested right.

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

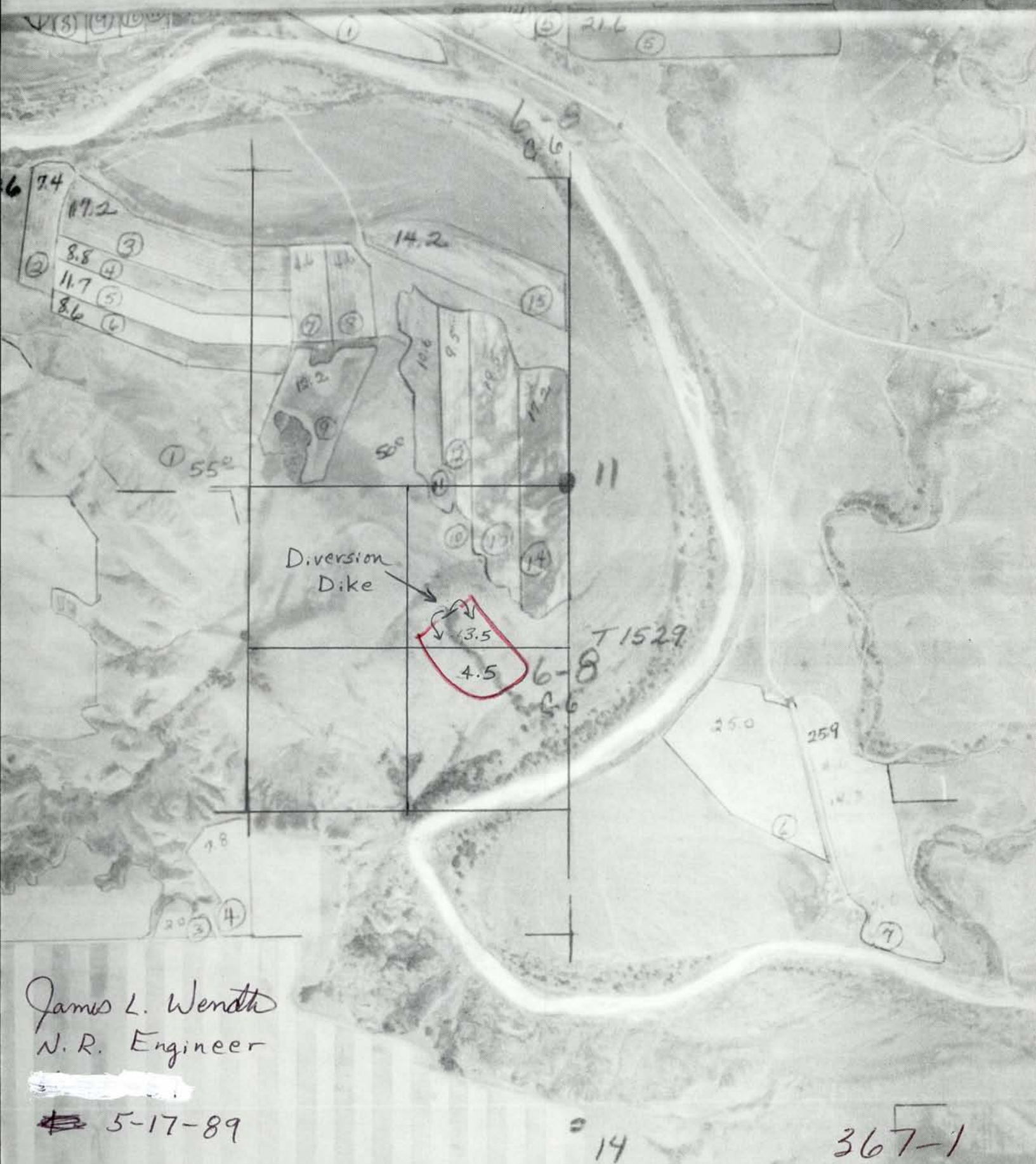
Very truly yours,

A handwritten signature in dark ink, appearing to read 'John Hatch', is written over a faint, larger version of the same signature.

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

enclosure

NOT TO SCALE



367-1



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
denr.sd.gov

April 9, 2013

440-1
367-1
1076-1

Jon S & Breanna Millar
20042 145th Ave
Sturgis SD 57785

Dear Mr. & Mrs. Millar:

I am writing to acknowledge receipt of the transfer form and filing fee for changing ownership on Water Right No. 440-1. The ownership change has been completed. Water Right No. 440-1 formerly held by David Richards is now listed in your names.

During the transfer process for No. 440-1, I found two other water rights held by Mr. Richards which authorize irrigation of land you may now own. Enclosed are copies of Water Right No. 1076-1 and Vested Water Right No. 367-1 for your review. If you now own the land described in each of these, they should be transferred to you as well. I have included partially completed Notice of Transfer of Ownership forms for filing the ownership changes. If you only own portions of each one, please edit the forms according. Upon completion, please sign and return them to our office with a required filing fee of \$50.00 each (total of \$100). The check or money order for the fee can be made payable to the Water Rights Program.

I would like to take this opportunity to go over a couple issues relative to these water rights. With reference to Water Right No. 440-1 from the Belle Fourche River, each year you will be receiving an irrigation questionnaire for reporting annual water use. I am enclosing a sample copy of the annual irrigation questionnaire to give you an idea of what type of information to keep track of during the season. Questionnaires are not required for the other two water rights since they are for water spreading systems.

Lastly, water rights for irrigation can be lost if they are not used. Under South Dakota Water Law, water must be placed to beneficial use for the purpose it was appropriated at least once every three years in order to maintain a water right. This three year period may be waived if legal excuse exists for the years of nonuse. Enclosed are excerpts of the water right laws and Water Management Board Rules dealing with these issues.

continued

Page 2

April 9, 2013

Jon S & Breanna Millar

The only enclosed documents you need to return are the transfer forms along with the appropriate filing fees. The remaining enclosures you may keep for your records. If you have any questions, please give me a call.

Sincerely,

A handwritten signature in cursive script that reads "Genny McMath".

Genny McMath

Water Rights Program

(605) 773-3352

email: genny.mcmath@state.sd.us

enclosures

RECEIVED

MAY - 6 2013

WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 367-1

Date: 5-3-13

I/We request that Vested Water Right No. 367-1

formerly owned by: David Richards

be transferred to: (name & address) Jon L Millar & Breanna S Millar
20042 145th Ave, Sturgis SD 57785

Telephone No. 605 347-2855

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

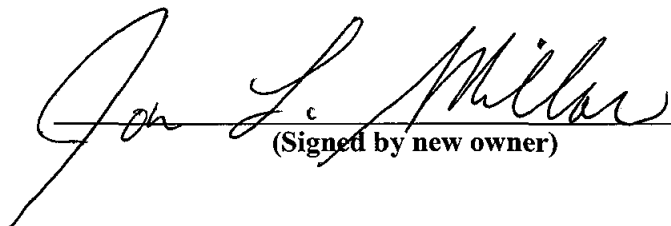
8 acres - E ½ SW ¼ Section 11, T6N, R8E

I/We understand that the validity of Vested Water Right No. 376-1 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 Fifty Dollars (\$50.00) 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 Jon L. Millar, the new owner, certify that the above information is true and correct.


(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.

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 5/6, 20 13

RECEIVED OF Jon Millar 20042 145th Ave Sturgis SD 57785

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. _____		
Fee for Filing Transfer Form <u>367-1</u>		
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	50 00

No. 06326

By *James Anderson*
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 7, 2013

367-1
1076-1

Jon L & Breanna S Millar
20042 145th Ave
Sturgis SD 57785

Dear Mr. & Mrs. Millar:

I am writing to acknowledge receipt of the transfer forms and filing fees submitted for changing ownership on Vested Water Right No. 367-1 and Water Right No. 1076-1.

The ownership changes have been completed. Both water rights formerly held by David Richards are now listed in your names.

Enclosed for your records are Receipt Nos. 06326 and 06327 in the amount of \$50 each. If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Genny McMath".

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

enclosures