

No. 406-1
Belle Fourche
River
 Water Division No. 1 District 1
 (Blank to be filled by the Engineer for the W. R. 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 William Winchell
 Postoffice address Newall, County Butte, 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)

complete

(b) Cash on hand, \$
 (c) Treasury stock, \$
 (d) Bonds to be issued, \$
 (e) Other resources, \$

2. Name of diversion work
 3. Amount of water claimed 19 cubic feet per second
 4. Source of water supply Dry Draw
 5. Location of point of diversion SW 1/4 Sec 8, T. 3, R. 6E
on bank Butte County.
 6. Annual period or periods during which water is to be used April through November
 7. To be used for:

I. Irrigation or domestic use: Gravity, overhead sprinkling or combination system? Gravity

(a) Number of acres to be irrigated 12 acres.

(b) Legal subdivisions to be irrigated SW 1/4 Sec 8, T. 3, R. 6E

(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 Stockwater and irrigation

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

8. Estimated cost of work:

(a) Head Gates, \$.....

(b) Pumping plant, \$.....

(c) Fluming \$.....

(d) Canal-earth, \$.....

Rock, \$.....

(e) Other structures \$.....

Total, \$.....

9. Description of diversion works:

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

1/4 mile ditch 1' deep, 1' wide at bottom, 2' at top, with 1' drop 100 ft. water in ditch 5" deep

II. Dimensions of works:

(a) Dam. Height..... feet; length at bottom feet; length at top feet; thickness at bottom feet; thickness at top feet; slope at front water face; slope at back face material used in construction

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

..... not applicable

STATE OF SOUTH DAKOTA

County of

ss.

I,, 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

William Winchell

Subscribed and sworn to before me this

10

day of

August

19

59

Notary Public (or other qualified officer.)

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,

August 26, 1959

This is to certify that the foregoing application was received by the Commission at 3:00 o'clock

p.m. upon the 10 day of August, 1959

State Water Resources Commission

By:

J. O. Brinner

Chief Engineer, Executive Officer

Number of permit

406-1

Date of first receipt of application

August 10, 1959

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

19

Date of receipt of corrected application

19

Date from which applicant may claim right

1939

1939

19

Approved

August 26, 1959

1959

Recorded in Book

Vested Right

Page

199

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, 19

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

Completed

19

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

Completed, 19

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 0.18 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 1939; said water to be used during the following described annual period:

April to November

Witness my hand this

26

day of

August, 1959

State Water Resources Commission

By:

J. O. Brinner

Chief Engineer, Executive Officer

Certificate of Construction Issued

August 26, 1959

Water License Issued

August 26, 1959

STATE OF SOUTH DAKOTA

WATER LICENSE No. 406-1.

WHEREAS, On the 10th day of August A. D. 1959
William Winchell

of Butte County of Butte and State of
South Dakota duly made application (No. 406-1) to us for a permit to use 0.19
cubic feet per second of the waters of a dry draw
County of Butte, State of South Dakota, for irrigation
purposes; and

WHEREAS, On the 26th day of August A. D. 1959
Vested Right
/ Permit No. 406-1 was issued to said applicant for the diversion of 0.18 cubic feet per second of
~~water~~ and ~~for~~ recognizing
completion of the works of diversion therein described ~~over~~ before ~~the~~ 1939
1939 ~~and~~ and ~~for~~ application to beneficial use of said
water ~~was made~~ before 1939 ~~and~~ and
and,

WHEREAS, On the 10th day of August A. D. 1959
the holder of said permit duly made proof of the completion of adequate works for the diversion of 1.5
cubic feet per second of said waters, as evidenced by our Certificate No. 406-1
dated August 26, 1959 confirming the completion of works of sufficient capacity for
diverting and conveying to the place of intended use 1.5 cubic feet per second of water, with date of
priority of 1939 and, and,

WHEREAS, On the 10th day of August A. D. 1959
proof was duly made of the application to beneficial use of 0.18 cubic feet per second of said water;
on 13 acres located in the SE 1/4, Sec. 8, T 8 N, R 6 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 William Winchell
of Newell, South Dakota the holder and owner of said Vested Right permit No. 406-1
a water right, dating from 1939 to the use of 0.18
cubic feet per second of the waters of a dry draw
in the County of Butte and State of South Dakota, or so much thereof as may be
necessary for the purposes hereinbelow mentioned, to be diverted at in the SE 1/4 Sec. 8, T 8 N
R 6 E
and conducted to and upon the SE 1/4 Sec. 8, T 8 N, R 6 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 August 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. 406-1

Water Division No. _____ Water District _____

Certificate of Completion of Works

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That William Winchell

of Newell, County of Butte, and State of South Dakota, the holder of Vested Right Permit No. 406-1, issued upon Application No. 406-1, bearing date of priority of 1939, authorizing the diversion of 0.18 cu. ft. per second of the waters of a dry draw County of Butte, State of South Dakota, x in the SW 1/4 Sec. 8, T 8 N, R 6 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 Vested Right Permit; that said works are found in satisfactory condition for diverting and conveying to the place of intended use 1.5 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: SW 1/4 Sec. 8, T 8 N, R 6 E 13 acres

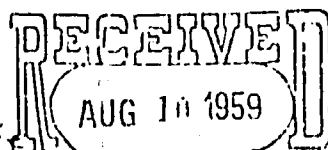
Witness my hand this 26th day of August A. D. 19 59

State Water Resources Commission

By:

J. W. GRIMES,

Chief Engineer, Executive Officer

Location No. 406-1Water Division No. 1Belle Fourche
River Water District STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

Proof of Application of Water to Beneficial Use

PETITION OF HOLDER

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

Ans. William Winchell

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. August 10, 1959

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

Ans. Dry Draw-SW 1/4 SE 1/4 Section 8, T 2N, R 6E

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. A dike 30' long 2' wide and 2' high with 1/4 miles of ditches capable
of carrying 1.5 c.f.s.

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. _____

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. 1.5 c.f.s.

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. Water has been used for irrigation of 13 acres continuously from 1939
when water has been available.

(Sign)

William Winchell

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 Pierre, County of Hughes

State of South Dakota, on this

10

day of

August

A. D. 19

59

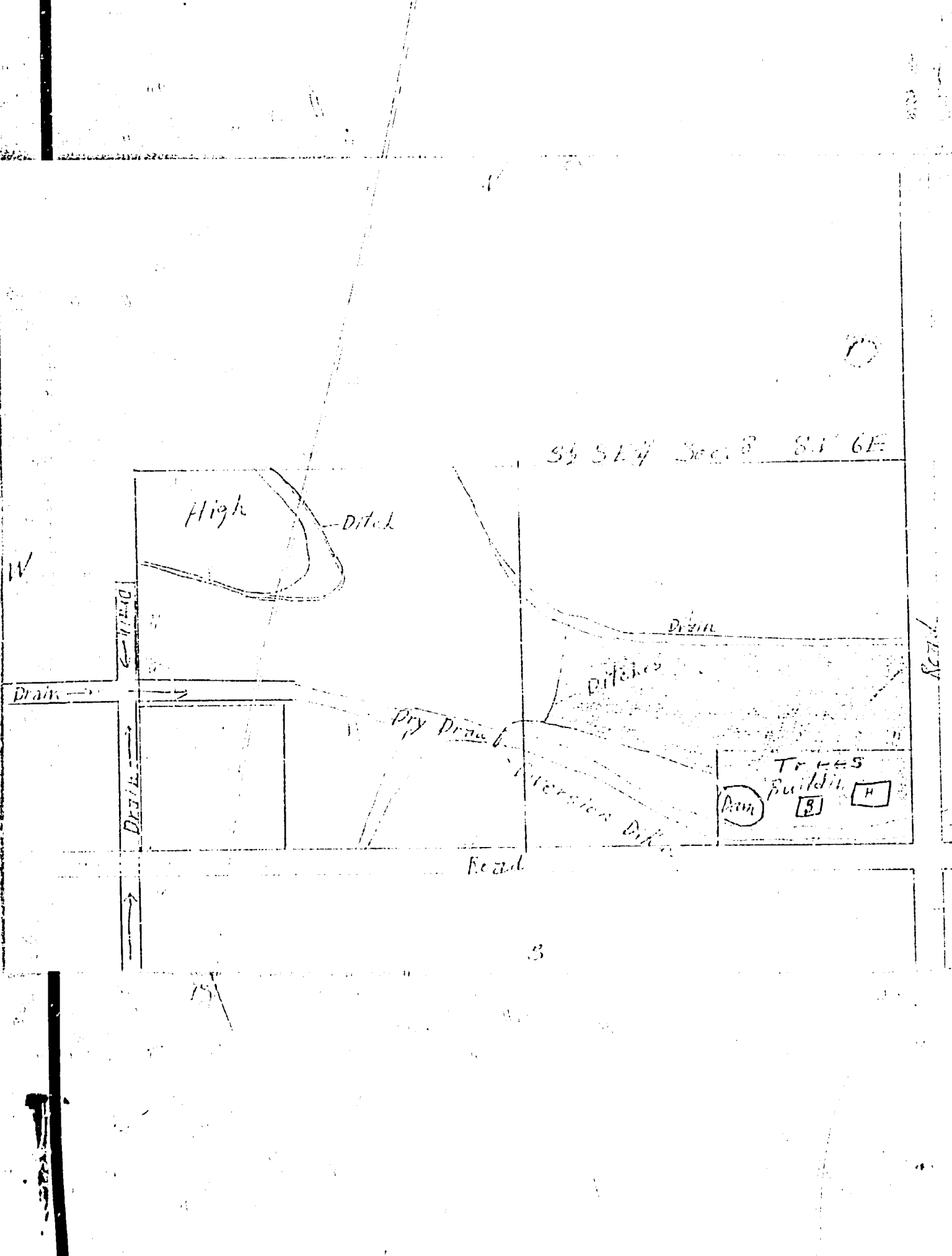
Witnesses.

Charles B. Brown

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.

Thurmon A. Lewis

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 -----	



36 SE 1/4 Sec 8 S 1 6 E

High

Ditch

W

Drain

Drain

Drain

Pry Drain

Drain

Ditch

Division Ditch

Road

Trees

Buildings

Dam

9

10

3

South Dakota
Department of
Water & Natural Resources
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

September 21, 1988

NOTICE

Vernon & Viola Lyons
PR 1, Box 11
Newell SD 57760

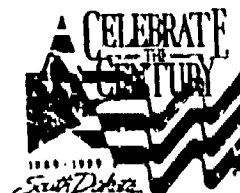
Dear Mr. & Mrs. Lyons:

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). 406-1 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,

Delvin D. Brog
for JOHN HATCH, Chief Engineer
Water Rights Division
605 773-3352



**SOUTH Dakota Department of
Water & Natural Resources**

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

December 1, 1988

Vested Water Right
Claim No. 405-1

Vernon & Viola Lyons
RR 1, Box 11
Newell SD 57760

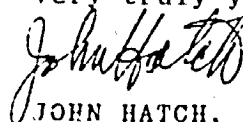
Dear Mr. & Mrs. Lyons:

Enclosed is a copy of a letter received from the U.S. Department of Interior, Bureau of Reclamation. The Bureau of Reclamation is opposing those vested water right claims in Pennington, Perkins, Butte and Fall River counties which have never been investigated by the Division of Water Rights. Earlier, you received a letter stating that I was opposing your claim until an investigation can be completed.

After the investigation has been completed, you and the Bureau of Reclamation will be notified as to the date, place and time of the hearing on your vested water right claim. At that time all parties of record will have an opportunity to testify on the validation.

If we can answer any questions, please contact us.

Very truly yours,



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

cc: Bruce Laymon, Bureau of Reclamation



Water Rights Division - DWR
Conversation or File Documentation

File No. 406-1

NAME OF PERSON OR FILE: Vernon + Viola Lyons

ADDRESS: RR1 Box 11, Newell, S.D. 57760 COUNTY Butte

DATE: 5-23-89 TELEPHONE 456-2512

RE: Vested Right Inspection

COMMENTS: On Wednesday, April 19, 1989, Vested Right No 406-1

was inspected. Accompanied by Mr. Vernon Lyons + his son

the area was inspected. The land being irrigated seemed to be

the same as the map on the microfiche (406-1).

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: MS Shadi

 **Department of
Water & Natural Resources**

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

May 25, 1989

406-1

Vernon & Viola Lyons
RR #1 Box 11
Newell, SD 57760

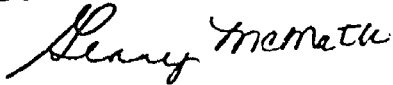
Dear Mr. & Mrs. Lyons:

I am contacting you in reference to ownership of Vested Water Right Claim No. 406-1. The vested right claim (inspected in April, 1989) is still listed in the name of William Winchell. Our understanding is that you own the land described in the vested water right claim.

Enclosed is a partially completed "Notice of Transfer" for use in filing an ownership change on Vested Water Right Claim No. 406-1. Please check over the form and sign in the presence of a notary public. Upon completion of the form, return it to our office with a required filing fee of \$2.50.

If you have any questions, please contact me.

Sincerely,



GENNY MCMATH
Natural Resources Analyst
605 773-3352

enclosure





NO. 406-1

NOTICE OF TRANSFER OF WATER

10: Water Rights
Foss Building
Pierre, SD 57501

Date: 9th Jul 89

This is to notify you that the title to the lands described as follows:

13 acres - SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 8, T8N, R6E

formerly owned by William Winchell

has been transferred to VERNON A. LYONS RRI Box 11 Newell, S.D. 57760
(please include complete mailing address)
together with any rights to the beneficial use of water thereon as evidenced by

Water Right Permit No. 406-1 as provided for in SDCL 46-5-32 and 46-5-33.

You are therefore hereby requested to file this "Notice of Transfer of Water Permit" in its appropriate file at the Div. of Water Rights, Water Management Board as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is hereto attached to cover filing fees as required under SDCL 46-2-13.

STATE OF SOUTH DAKOTA)
County of Butte) ss.

I, Vernon A. Lyons 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, and I know of my own personal knowledge that the information herein stated is true.

Vernon A. Lyons
(Signed)

Subscribed and sworn to before me this 1st Day of August, 1989.

Alice D. Helmer
(Notary Public)

My Commission Expires
2-5-95

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

411866

Pierre, August 23, 1959

RECEIVED OF Vernon Lyons, RR #1 Box 11, 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 works 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 Water Right No. 406-1

Fee for Filing Extension Request _____

Fee for Copy of _____

Print Copy of Map _____

Fee for Certifying _____

Fee for _____
(Any Other Work Provided by Law)

Total

2 50

2 50

By John Hatch
Chief Engineer John Hatch/nra

SOUTH DAKOTA
Department of
Water & Natural Resources

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

August 28, 1989

No. 406-1

Vernon A Lyons
RR 1, Box 11
Newell SD 57760

Dear Mr. Lyons:

Enclosed is the receipt in the amount of \$2.50 which you paid for the transfer of Water Permit No. 406-1.

Our records now show you as the owner of this Water Permit.

Sincerely,

Karen Schlaak

KAREN SCHLAACK
Senior Secretary
605 773-3352

enclosure



 **Department of
Water & Natural Resources**

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3191

March 28, 1991

Vernon Lyons
RR 1, Box 11
Newell SD 57760

Dear Mr. Lyons:

The Water Management Board has validated the enclosed Vested Water Right No. 406-1. This validation gives legal status to the claim and is the final document for your vested right.

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

Very truly yours,



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

enclosure

SOUTH DAKOTA

VALIDATION OF VESTED WATER RIGHT CLAIM NO. 406-1 FOR IRRIGATION

Date Claim Accepted For Filing August 10, 1959.

Date of Validation September 27, 1989.

Pursuant to SDCL 46-2A-17 the Water Management Board validated Vested Water Right Claim Permit No. 406-1 for irrigation purposes for Vernon Lyons, Rural Route 1, Box 11, Newell, South Dakota 57760 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 406-1 appropriates 0.18 cubic feet of water per second from a dry draw to irrigate 13 acres. The diversion point is located in the SW 1/4 SE 1/4 and the irrigated acres are located in the SE 1/4 SE 1/4, all in Section 8, T8N, R6E.
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 year for each acre of irrigated land. The water is to be used during the following annual period: April 1 - November 30.
3. The priority date of the Vested Water Right is January 1, 1939.
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 Blatter
Chief Engineer
Division of Water Rights
Dept. of Water and Natural Resources

MAR 28 1991

date

406-1



United States Department of the Interior



BUREAU OF RECLAMATION

Great Plains Region

Belle Fourche Projects Office

P.O. Box 226

Newell, South Dakota 57760-0226

Abstract

WTR 4.10

BF-430

AUG 18 1993



Mr. John Hatch, Chief Engineer
Water Rights Division
South Dakota Department of Water and Natural Resources
527 E. Capitol
Pierre SD 57501-3181

Subject: Vested Water Right Claims in Western South Dakota (Your Letter
Dated April 20, 1993) (Water Rights)

Dear Mr. Hatch,

We have reviewed the vested water right claims located in Perkins, Pennington, Fall River, and Butte Counties as listed in your letter dated April 20, 1993. We have also discussed these rights with contract water users. We appreciate the assistance of your staff in providing documentation of inspections and validation proceedings for specific claims as we requested.

We are satisfied with all of the actions taken by the board. Our intent in opposing validation of the water rights was to assure that all of the rights were reviewed prior to validation. That review has been completed by your staff. Thank you for notifying us of the board's actions and extending the opportunity to reconsider the actions if it would have been deemed necessary. We understand that future notification will be made in advance of board actions.

If we can be of further assistance, please contact Craig Kjar or me at (601) 456-2525.

Sincerely,

Bruce M. Laynon
Project Manager

cc. Mr. Joe Kramer, Manager
Angostura Irrigation District
PO Box 346
Oral SD 57766

Mr. James E. Winterton, Project Manager
Belle Fourche Irrigation District
PO Box 225
Newell SD 57760