

No. 021-2

Office of State Engineer
DOCUMENT FILE

Name: Bender, Frank et al

County: Crocker

Date: April 15, 1887

Filed: July 6, 1887

Location: Hammer Creek

Witness:

Bender, Frank

Bender, Charles

Water Right. Frank Bender et al. Locators.

The undersigned citizens of the U.S. having complied with the laws and requirements governing the appropriation of water for irrigating purposes, have on this 6th day of July 1887, appropriated from the waters of this Squaw Creek in Custer County, Dakota Territory, Fifteen hundred inches of water same to be taken from said creek at or near the middle of the SW¹/₄ of the NE¹/₄ of Section 16 in Township 3 South of Range 7 East Black Hills Meridian, and thence conveyed by ditch and flume and pipe along and through the SE portion of Section 9 and through the North Half of the SW¹/₄ of Section 10 said Township 3 South of Range 7 East N.H.M.

Altogether a distance of about 1¹/₂ miles as now occupied and claimed by these claimants. We claim the right to build dams and collect the waters of said Squaw Creek at the point above mentioned, as the initial or commencing place of this appropriation and claim said water to be used for agricultural domestic and irrigating purposes. Ditch commenced on 15th day of April 1887.

Attest

A.T. Foy

Frank Bender
Charles Bender

Locators and Claimants

Witnessed by
COUNTY OF CUSTER
This instrument was duly
executed on the 14th day of July
A.D. 1887 at 2 o'clock P.M. and
my name is in book... of
Locators...
J. T. Foy

Witnessed by
J. T. Foy
J. T. Foy

Certified Copy
 Reader, Frank

A. B. 1881/21. 7 o'clock. Y. M. C. B.
 in book...
 of
 1881/21
 1881/21

1881/21
 1881/21
 1881/21

Water Right. Frank Bender et al. Locators.

The undersigned citizens of the U.S. having complied with the laws and requirement governing the appropriation of water for irrigating purposes, have on this 5th day of July 1887, appropriated from the waters of this Squaw Creek in Custer County, Dakota Territory, fifteen hundred inches of water same to be taken from said creek at or near the middle of the NW 1/4 of the NE 1/4 of Section 16 in Township 3 South of Range 7 East Black Hills Meridian, and thence conveyed by ditch and flume and pipe along and through the SE portion of Section 9 and through the North half of the NW 1/4 of Section 10 said Township 3 South of Range 7 East D.M.

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Attest

A.T. Peay

Frank Bender

Charles Bender

Locators and Claimants

Territory of Dakota/
County of Custer) ss.

This instrument of writing was filed for record on the 14th day of July A.D. 1887 at 2 o'clock P.M. and duly recorded in Book 1 of Locations on page 252.

J.W. Elcher, Register of Deeds.

DATE RECORDED

WATER RIGHT.

Located by

Frank Bender

Charles Bender

July 6, 1897.

CUSTER COUNTY.

STATE OF SOUTH DAKOTA
COUNTY OF HUGHES

I hereby certify that the within and foregoing instrument is a true, correct and complete transcript of the instrument upon it purports to be, as the same was filed for record in the office of the State Engineer.

Witness my hand and official seal, done at my office in Pierre, State of South Dakota,

this 4 day of April 1908.

Samuel H. Lee
State Engineer.

By *Samuel H. Lee*

Mr. Callan was in the office on January 11, 1980 and transferred W/R 021-1 to his name.

Mr. Callan has not been able to irrigate for several years due to the fact no water is available. He does plan on irrigating when water becomes available. The diversion point may be changed and if it will be Mr. Callan will come in and make an application for a change of diversion.

Shirley J. Callan 1/11/80

By Petty Westlund, Water Rights Specialist I

NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Rights
Foss Building
Pierre, SD 57501

Date: January 11, 1980

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

S½ SE¼ Sec. 9, SW¼ Sec. 10, 3S-7E

formerly owned by Frank Bender

Minnie Bender Burns

has been transferred to Thomas H. Callan, Keystone Rt., Hermosa, SD 57744

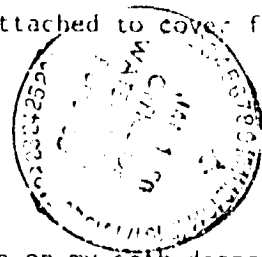
together with any rights to the beneficial use of water thereon as evidenced by

Water Right Permit No. 021-2 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 Office of the Board of Water Management 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 Hughes) ss.
Minnie Bender Burns



I, Thomas H. Callan 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 infor-
mation herein stated is true.

Thomas H. Callan
Minnie Bender Burns
(Signed)

Subscribed and sworn to before me this 11th Day of January, 1980.

Paul W. Hermann
(Notary Public)

RECEIPT

WATER RIGHTS COMMISSION
State of South Dakota

No 4 7212

PIERRE, _____, 19__

RECEIVED OF T.H. Callan, Hermosa, SD 57704
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit to Appropriate Water No. _____ (examination, processing, recording and filing) _____		
Fee for inspecting Construction, and issuing Cert. of Construction No. _____		
Fee for inspecting Beneficial Use, and issuing Water License No. _____		
Fee for issuing Location Certificate-Dry Draw, No. _____		
Fee for filing <u>transfer of water right No. 221-2</u>	2	50
Fee for certified copy of _____		
Fee for Print copy of map _____		
Fee for Certifying _____		
Fee for _____ (any other work as provided by law)		
TOTAL	2	50

WATER RIGHTS COMMISSION

By John Hatch
Chief Engineer, Executive Officer
JOHN HATCH (ey)

Affidavit of Water Use

No. 021-2

(Type or Print in Ink)

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



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

Mrs. Helen Callan & Minnie Bender Burns

Name of Applicant (Same as Form 2) _____

Post Office Address RT 1, box 41, Hermosa SD 57744
Street RR or box State Zip codeA. Notice of Appropriation 021-2 Date of Posting April 15, 1887Date of recording July 14, 1887 Recording date Custer 4 352
Where Book PageB. Date of start of construction of water supply system April 15, 1887C. Date that water was first applied to beneficial use 10 OCTOBER 1887 (APRIL)D. Name of owner of original water supply system Frank Bender & Charles BenderE. Amount of water originally applied to beneficial use 1500 miners inches (30 cfs)F. Present Use of Water - Amount of water now being used 1 cfs (SUMMER 1984) - 70 A.C.C.Date that this water was last used INTERMITTENTLY SINCE APRIL 1887

G. Chronological History of Water Use

THE IRRIGATION SYSTEM WAS ESTABLISHED IN APRIL 1887 AND WAS CONTINUOUSLY USED UNTIL DROUGHT FORCED EVALUATION OF THE WATER SYSTEM. IN ABOUT 1924, IRRIGATION WAS DISCONTINUED WHEN DRY YEARS FORCED DRAINAGE OF DEEP WELL IN 1941 (CREEK DRY). IRRIGATION INTERMITTENT UNTIL EARLY 1970'S. WATER FLOW INTERMITTENT 1967-1970 AVERAGE FLOW 100 CFS. IN THE YEARS BETWEEN 1941-1964 WE HAVE IRRIGATED APPROXIMATELY 14/15 YEARS, WATER PERMITTING.

Attach to this Form 2B any copies of notices, postings, filings, publications, affidavits, or other records that apply. You may also attach any written statement by you, or by others, that you deem pertinent.

State of South Dakota _____

County of CUSTER

I, HELEN M. CALLAN / MINNIE B. BURNS the applicant, certify that I have read the foregoing and that the matters therein stated are true.

Signed Helen M. CallanSubscribed and sworn to before me OCT 23, 1984

Roberta A. Bechard
Notary Public or other qualified officer

I, the undersigned do hereby certify that I know about the water use system described above, that I have read the foregoing, and that the matters therein stated are true.

John R. Church 10-23-84
Notary Public or other qualified officer
John R. Church 10-23-84

No. 021-2

Office of State Engineer
DOCUMENT FILE

Name: Bender, Frank et al

County: Crocker

Date: April 15, 1887

Filed: July 6, 1887

Location: Gunn Creek

Witness:

Bender, Frank

Bender, Charles

Water Right. Frank Bender et al. Locators.

The undersigned citizens of the U.S. having complied with the laws and requirements governing the appropriation of water for irrigating purposes, have on this 6th day of July 1887, appropriated from the waters of this Squaw Creek in Custer County, Dakota Territory, Fifteen hundred inches of water same to be taken from said creek at or near the middle of the SW¹/₄ of the NE¹/₄ of Section 16 in Township 3 South of Range 7 East Black Hills Meridian, and thence conveyed by ditch and flume and pipe along and through the SE portion of Section 9 and through the North Half of the SW¹/₄ of Section 10 said Township 3 South of Range 7 East N.H.M.

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Attest

A.T. Foy

Frank Bender
Charles Bender

Locators and Claimants

Witnessed by
COUNTY OF CUSTER
This instrument of 1887 was
before me on the 14th day of July
A.D. 1887 at 2 o'clock P.M. and
my room is in book... of
Locators...
J. T. Foy

Witnessed by
J. T. Foy
J. T. Foy

Authenticated Copy
Beader, Frank

A. B. 1881/21. 7 o'clock. Y. M. C. C.
of
Beader, Frank
J. Z. P. 1881/21

Beader, Frank
J. Z. P. 1881/21

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A.T. Peay

Frank Bender

Charles Bender

Locators and Claimants

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County of Gustav) ss.

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Charles Bender

July 6, 1897.

CUSTER COUNTY.

STATE OF SOUTH DAKOTA
COUNTY OF HUGHES

I hereby certify that the within and foregoing instrument is a true, correct and complete transcript of the instrument upon it purports to be, as the same was filed for record in the office of the State Engineer.

Witness my hand and official seal, done at my office in Pierre, State of South Dakota,

this 4 day of April 1908.

Samuel H. Lee
State Engineer.

By *Samuel H. Lee*

Mr. Callan was in the office on January 11, 1980 and transferred W/R 021-1 to his name.

Mr. Callan has not been able to irrigate for several years due to the fact no water is available. He does plan on irrigating when water becomes available. The diversion point may be changed and if it will be Mr. Callan will come in and make an application for a change of diversion.

Shirley J. Callan 1/11/80

By Petty Westlund, Water Rights Specialist I

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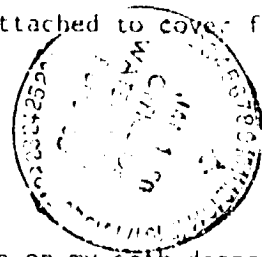
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Water Right Permit No. 021-2 as provided for in SDCL 46-5-32 and 46-5-33.

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STATE OF SOUTH DAKOTA)
County of Hughes) ss.
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Minnie Bender Burns
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Paul W. Hermann
(Notary Public)

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Fee for issuing Location Certificate-Dry Draw, No. _____		
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Fee for certified copy of _____		
Fee for Print copy of map _____		
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WATER RIGHTS COMMISSION

By John Hatch
Chief Engineer, Executive Officer
JOHN HATCH (ey)

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No. 021-2

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State of South Dakota _____

County of CUSTER

I, HELEN M. CALLAN / MINNIE B. BURNS the applicant, certify that I have read the foregoing and that the matters therein stated are true.

Signed Helen M. Callan, Minnie B. BurnsSubscribed and sworn to before me OCT 23, 1984

Patricia A. Bechard
Notary Public or other qualified officer

I, the undersigned do hereby certify that I know about the water use system described above, that I have read the foregoing, and that the matters therein stated are true.

John R. Church 10-23-84
Notary Public or other qualified officer
Patricia A. Bechard

WATER PERMIT

The Water Management Board hereby approves Water Permit Application No. 1900-2
Mrs. Helen Callan and Minnie Bender Burns RT. 1 Box 41 Hermosa
(Applicant) (Post Office Address)
South Dakota 57744 With the following qualifications.
(State) (Zip Code)

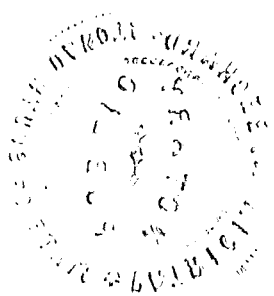
No diversions may be made unless there is a flow of at least 2.5 cubic feet per second * in Grace Coolidge Creek for downstream domestic use, during diversion, at the lower end of the Lintz property in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 3, T3S, R7E.
 This permit is approved subject to the irrigation water use questionnaire being submitted each year.
 That approval of Permit No. 1900-2 recognizes and incorporates the applicable portions of Water Right Filing No. 021-2 into Permit No. 1900-2 and cancels the abandoned portions of Water Right Filing No. 021-2.

* See Recommendation of Chief Engineer

Date of first receipt of application September 26, 1984.
 Date of return to applicant for correction, amendments or changes required —, 19—.
 Date of receipt of corrected application —, 19—. Approved May 15, 1985.

The Water Management Board hereby approves this Water Permit No. 1900-2 authorizing the construction of the water use system and the placing of water to beneficial use as stated in the Application and as qualified in the Water Permit approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is April 15, 1987.
2. One-fifth of the work is to be completed on or before —, 19—.
3. The whole of said work is ~~to be completed on or before~~ —, 19—.
4. The time limit for proof of beneficial use of water is —, 19—.
5. The water appropriated shall be used for the purpose of Irrigation.
6. 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 unlawfully impaired by this appropriation.
7. The amount of the appropriation herein granted shall not exceed 0.94 cubic feet per second; neither shall it exceed the capacity of the above described water supply system nor shall it exceed the amount of water needed for beneficial uses served. For irrigation purposes said appropriation must be limited to not more than 2 acre feet per acre per year and 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 —, 19—; said water to be used during the following described annual period: April 1 to October 31, 19—.



WATER MANAGEMENT BOARD
 By: John H. Hatcher
Chief Engineer
 Division of Water Rights
 Dept. of Water and Natural Resources
NOV 19 1985, 19—