

No. 0512-2

Office of State Engineer
DOCUMENT FILE

Name: *Hamm, Charles*
Peterson, John
Hammerquist, Peter

County: *Cunningham* "5486

Date: *May 25, 1890*

Location: *Rapid Creek.*

Note: *Later owned by*
Flemingdale Land
and Livestock Co. then
by August Bollman
and A. M. Spencer,
and part by Earl
Hammerquist, son of
Peter Hammerquist

5986

RECEIVED
MAY 10 1890
OFFICE OF THE REGISTER
RAPID CITY, S. DAK.

Notice is hereby given that we the undersigned citizens of the United States, over the age of 21 years and resident of Pennington Co. South Dakota hereby claim by right of prior location and appropriation 2500 inches minere measurements of the water of Rapid Creek, to be diverted from said creek at point of Notice in North West quarter of section 16 in Township 1 south of Range 10 E.B.H.M said water so appropriated to be conducted by Ditch flume or pipe in an Easterly Course over and across the North Half (N2) of said section 16 and thence Easterly over and across Sections 15, 14, and 13 in said Tp 1 S Range 10 East to east line of said Sec. 13 and as much farther as shall be deemed advisable. Said Water to be used for Manufacturing, Mining Milling Irrigating farming Domestic and other useful purposes.

Date of location May 28" 1890

Date of this Notice May 28, 1890

In presence of

A.P. Levis

Charles Hamm

John Peterson

Peter Hammerquist.

Filed for record this 28th day of May A.D. 1890 at 10:50

O'clock A.M. recorded in Book G of Locations Page 537

Lyman Lamb

Register of Deeds

State of South Dakota)
County of Pennington)

Office of Register of Deeds
Rapid City, S. D.

I hereby certify that the above and foregoing is a full, true, correct, and complete transcript of the original record in this office.

Dated this 12th day of May, 1928

M K Steele

Register of Deeds

CERTIFIED COPY

WATER LOCATION

Chas. Hanna

John Petersen

Peter Hammerquist

Pennington County

RH 10 Creek

0572-2

DEPT. OF AGRICULTURE

MAY 19 1928

RECEIVED
MAY 9 1933

A F F I D A V I T

OFFICE OF STATE EXAMINER
PIERRE, S. DAK.

STATE OF SOUTH DAKOTA }
County of Pennington } ss.

Earl M. Hammerquist, being first duly sworn on oath deposes and says: that he is a son of Peter Hammerquist, who from prior to the year 1890 and until June 26, 1910, the date of his death, was the owner of a tract of land in Township One (1), South Range Ten (10), East of the Black Hills Meridian in Pennington County, South Dakota, and that in the year 1890 the said Peter Hammerquist and John Peterson and Charles Hamm made a water and irrigation ditch location on Rapid Creek for the purpose of irrigating said land owned by Peter Hammerquist and adjacent lands, which said location was recorded in the office of the Register of Deeds in Pennington County, South Dakota, on the 26th day of May, 1890 in Book "G" of Location Certificates on page 537. That immediately after making said water and irrigation ditch location the said parties proceeded to construct a dam on Rapid Creek and irrigation ditches and canals. That during part of the period from the year 1890 until this date affiant resided with his father on said land and during the balance of said period affiant resided on adjacent land and farmed the said land or assisted in farming it, and that during all of said period from the year 1890 and until this date affiant has been acquainted with the condition of said land and knows of his own knowledge that that part of said land that could be irrigated by the said irrigation project has been irrigated wherever irrigation was necessary for the crops raised thereon, and that during none of said period has said irrigation project been abandoned.

Earl M. Hammerquist

Subscribed and sworn to before me this 26th day of April, A. D. 1933.

Martha Naylor
Notary Public.

(SEAL)

RECEIVED
MAR 8 1933

OFFICE OF STATE REGISTRAR
PIERRE, S. DAK.

A F F I D A V I T

STATE OF SOUTH DAKOTA }
County of Pennington } ss.

August Bollmann, being first duly sworn on oath deposes and says: that during all of the period between the year 1901 and this date he has resided on land formerly owned by the Farmingdale Land and Livestock Company, and now owned by him and located in Township One (1), South Range Ten (10), East of the Black Hills Meridian in Pennington County, South Dakota. That in the year 1890 Peter Hommerquist, Charles Hamm and John Peterson made a water and irrigation ditch location on Rapid Creek for the purpose of irrigating said land and adjacent lands, which said location was recorded in the office of the Register of Deeds of Pennington County South Dakota on the 28th day of May, 1890. in Book "G" of Location Certificates on page 537. That immediately after making said water and irrigation ditch location the said parties proceeded to construct a dam on Rapid Creek and irrigation ditches and canals, and to use said irrigation project to irrigate said land and adjacent lands, and that affiant knows of his own knowledge that that part of said land which could be irrigated by said irrigation project has been irrigated wherever irrigation was necessary for the crops raised thereon, and that he further knows of his own knowledge that the said irrigation project has at no time been abandoned either by himself or by the said Farmingdale Land and Livestock Company.

August Bollmann

Subscribed and sworn to before me this 26th day of April, A. D. 1933.

Mantla Norby
Notary Public.

(SEAL)

RECEIVED

MAY 4 1933

OFFICE OF STATE ENGINEER
PIERRE, S. DAK.

A F F I D A V I T

STATE OF SOUTH DAKOTA }
County of Pennington } ss.

Charles Hamm, being first duly sworn on oath deposes and says: that between the years 1890 and 1903 inclusive, he was a part owner and the general manager of the Farmingdale Land and Livestock Company, a corporation, which owned the land in Sections Fourteen (14), Twenty three (23), and Twenty four (24), Township One (1), South Range Ten (10). East of the Black Hills Meridian, now owned by A. M. Spencer and August Bollmann; and that during all of said time he lived on and farmed said land. That in the year 1890 he and Peter Hammerquist and John Peterson made a water and irrigation ditch location on said Rapid Creek for the purpose of irrigating this and adjacent land, and that he and said Peter Hammerquist and John Peterson immediately proceeded to construct a dam on Rapid Creek and irrigation canals and flumes for the purpose of irrigating said land, and that said irrigation system thus constructed was used by him, and that he knows of his own knowledge, that all of the land then owned by the Farmingdale Land and Livestock Company which could be irrigated by said irrigation system was irrigated by it every year between the years 1890 and 1903 inclusive.

Charles Hamm

Subscribed and sworn to before me this 6th day of May, A. D. 1933.

Martha Norberg
Notary Public.

(SEAL)

MEMORANDUM

to

WATER USERS IN RAPID VALLEY

Date June 14, 1939

To All Rapid Valley Ditch Companies:

Water users of Rapid Valley are well aware of the fact that the present normal supply of water is inadequate to furnish amounts that would be desirable for irrigation purposes, and that later priorities do not get the waters which they would use if it were available.

For this reason it is important that each company use only its appropriated amount, or such portion thereof that is available after passing prior appropriated amounts, and that any remaining supply be passed at the point of diversion to users next in priority.

In order that this may be possible there should be substantial headgates at all points of diversion and these should be in good working condition.

You are hereby instructed to give this matter your special attention at this time and have headgates in good working condition in the next twenty days, or if for any reason this is not possible to so notify this office stating reasons why these instructions cannot be complied with.

Authority - Section 51.0143 of the 1939 Code Revision or
Section 5239 Revised Code 1919.

State Engineer.

Hammerquist Ditch Co.
Charles Hammerquist
Farmingdale, South Dakota

August 28, 1953

*W.D. Pratt
7-20-53 512-2*

Calvin Vaudrey
Water Commissioner
Rapid Valley Water Conservancy District
Office, United States Geological Survey
Rapid City, South Dakota

Re: Rapid Valley Water
Conservancy District

Dear Mr. Vaudrey:

This is in confirmation of our telephone conversation relative to the water right and proposed application of Gordon Steele for the use of water for irrigation from Rapid Creek. The old water right in question in our files is No. 0512-2 and is in the name of Charles Hamm, John Peterson and Peter Hammerquist and claims 2500 miners inches.

I would suggest that in the absence of clarification and information as to any rights existing in connection with the above old water right that Mr. Steele make application for a new permit for the use of water for a sprinkling system and that he include in the application a statement to the effect that the said application will not in any way make void or detract from any rights that may exist by virtue of the original water right dated May 28 1890 and subsequent use thereof. I would further suggest that it might be worth while for Mr. Steele to employ the services of an Attorney in drawing up such statement.

In this way and if the application is granted, Mr. Steele would have a clear and concise right to the use of certain waters from the date of the granting of the permit. He would also avoid a long and tedious and difficult investigation and study that would be necessary to establish the old right, none of the provision of which, however, would be lost by virtue of the new application.

Sincerely,

DEAN W. LOUCKS
State Engineer

DWL:RW

RAPID VALLEY WATER CONSERVANCY DISTRICT
Office, United States Geological Survey
Water Resources Branch
Rapid City, South Dakota
August 23, 1953

RECEIVED
AUG 24 1953

Dean W. Loucks
State Engineer
Capital Building
Pierre, South Dakota

OFFICE OF STATE ENGINEER
PIERRE, S. DAK.

Dear Mr. Loucks;

Gordon Steele has been trying to determine the validity of the water right on his farm located about 3 miles east of Caputa, South Dakota on Rapid Creek. This property previously owned by Orrin Lawrence was served by the Hammerquist Ditch which was owned by the Farmingdale Canal and Development Company Incorporated. You have had some correspondence concerning this water right. After discussing this matter with Mr. Steele and Jack Huntington, who operates the place for Mr. Steele, several questions and uncertainties have arisen which I hope you will be able to give your opinion or suggestions as to procedures for them to follow.

First I'll give a little background on their water right which you may or may not be familiar. The original filing (Vol. 6 Location Certificate Records page 537) was made May 28, 1890 by Charles Karm, John Peterson and Oscar Hammerquist claiming 2500 minor's inches, with the point of diversion located in the NE¹/₄, section 16, T1N, R10E. The articles of incorporation of the company evidently were not filed with the Secretary of State and they cannot be located. There was 800 shares of stock created with the Orrin Lawrence place holding 79 shares. Mr. Steele has no shares in his possession and no mention is made of it in his abstract. In 1933 three affidavits were filed with the State Engineer according to Raymond Lunds notes, stating that the ditch has not been abandoned up to that time. It is questionable if any affidavit can be obtained to the effect that it has not been abandoned or to establish use since that time.

If the water right of this company is valid even though the corporation is non-existent then there is nothing to establish provided the old ditch system is used. However, to renovate the old ditch system, the flumes and reconstruct a dam and diversion works may cost between \$5,000 and \$10,000 dollars. This expenditure could not be justified unless the validity of this old right is ironclad without any possible loss through court action. The ditches and flumes on the Lawrence place show no evidence of use for a number of years and if there are attempts to exercise this priority there may be considerable objection and undoubtedly tested in court. This ditch would have priority prior to Iowa, Brennon Lockhart and other ditch extensions that are now regularly diverting water. Mr. Steele expressed his concern of the possibility of being forced into court if these ditches were forced to shut down in his favor. He said he could not afford this action and wants to avoid it if at all possible.

Mr. Steele appears to be the only landowner under the Hammerquist Ditch that is interested in activating this right. Since the cost of renovating the old system seems prohibitive he has thought of making application for a change of point of diversion and irrigate from a sprinkler system or to pump directly into the ditch on each side of the creek and eliminate the long flume that now branches the creek. If he has to advertise this change there is bound to be considerable objection from upstream ditches. He has approximately 100 acres of land that would be irrigated.

Pago - 2 - Dean W. Loucks

Another problem that may arise if the old water right is activated is the fact that several below his place that was served by this ditch now have pumping rights which, according to Mr. Huntington, are very recent which if true, they have, in effect abandoned the old water right as far as their holdings are concerned.

The other possibility, probably the most economical for Mr. Steele, would be to file for a new water right and abandon the other along with the old ditch. This would result in little or no objection as far as I can determine, but the right would be rather inferior. There does appear to be ample supply of water under normal conditions to satisfy right in this area primarily from return flow of the upper ditches diversions. The most recent rights have had good supplies of water.

Do you believe that they should proceed with the old water right and attempt to activate it, and chance litigation, or would much be lost by abandonment.

I hope that this can be answered without too much consideration. This year seems to find everyone very concerned over their rights and how to gain them to the best advantage. I may call you Wednesday after you have had a chance to look this over. They seem to be impatient to find out this information. I would appreciate being corrected on any assumptions that I may have made here that is not in accord with your thinking.

Sincerely yours

Calvin Vandrey

Calvin Vandrey
Water Commissioner

RECEIVED

AUG 24 1953

OFFICE OF STATE ENGINEER
PIERRE, S. DAK.

SOUTH DAKOTA

VESTED WATER RIGHT NO. 2063-2 FOR IRRIGATION

Date of Receipt of Claim August 25, 1988.

Date of Validation December 8, 1988.

The Water Management Board validated Vested Water Right Claim No. 2063-2 for irrigation purposes for Melvin Brassfield, P.O. Box 24, Caputa, SD 57725 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 2063-2 appropriates 1.2 cubic feet of water per second from Rapid Creek to irrigate 60 acres. The Rapid Creek diversion points and the irrigated acres are located in the NE1/4, Section 16 T1S-R10E. The applicable portions of Water Right Filing No. 0512-2 and Water Right Nos. 400-2 and 401-2 were incorporated into Vested Water Right No. 2063-2 with the abandoned or forfeited portions of No. 0512-2 cancelled..

2. The appropriation may not exceed the amount of water needed for beneficial use for irrigation. The appropriation may not exceed 3 acre feet per acre per year and may not exceed one-seventieth (1/70) cubic feet of water per second for each acre of irrigated land. The water is to be used during the following annual period: April 1 - November 15.

3. The priority date of the Vested Water Right is May 28, 1890.

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

1. That Vested Water Right NO. 2063-2 is subject to domestic use rights. Diversion of natural flow water under Water Right No. 2063-2 is contingent upon supplies being available first to domestic users.
2. This permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: _____


Chief Engineer

JUN 13 1989

date

Division of Water Rights
Dept. of Water and Natural Resources