

No. 093-2

Office of State Engineer
DOCUMENT FILE

Name: Conger, Charles E.

County: Custer

Date: November 28, 1951

Location: Amphibious Creek
(Beaver Creek)

Incorporated into
Permit No. 1759-2

Water Right. C.L. Conger

273-2

I, Charles L. Conger claim 400 cubic inches of water for agricultural and domestic purposes, to be diverted from the channel of (Amphibious Creek) #b about 200 yards below the North West Corner of South West $\frac{1}{4}$ of Section 33 Town 6 Range 7 East and to be conducted down the Creek on the East side Not exceeding three miles. Located this 28th day of November A.D. 1882

Charles L. Conger.
Locator.

Original filed at 8 P.M. November 28th 1882/ Recorded page 173 Book 4
Locations.

E.H. Wynn, Register of Deeds

STATE OF SOUTH DAKOTA
County of _____
I hereby certify that the foregoing is a
copy of the instrument recorded in Book 4 Page 173
of the records of Charles L. Conger
S.D. and that the above is a true and
correct copy of the original as the same
was filed in my office on the 28th day of
November 1882.
E.H. Wynn

Customer-Identity

See letter March 4, 1938.

1000

COPY. *1759-2*

Water Right. C.L. Conger.

I, Charles L. Conger, claim 400 cubic inches of water for agricultural and domestic purposes, to be diverted from the channel of (Amphibious Creek) about 200 yards below the North West corner of South West 1/4 of Section 33, Town 8, Range 7 East and to be conducted down the Creek on the East side not exceeding three miles. Located this 28th day of November A.D. 1882.

Charles L. Conger, Locator.

Original filed at 8 P.M. November 28th 1882. Recorded page 175 Book 4
Locations.

E.H. Flynn, Register of Deeds.

INCORPORATED INTO
PERMIT NO. 1759-2

WATER RIGHT

Located by

Charles L. Conger

November 28, 1892.

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 which it purports to be, as the same was for record in the office of the State Engineer.

Witness my hand and official seal, given at my office in Pierre, State of South Dakota this 9 day of April 1898

Samuel H. Lea
State Engineer.

By Samuel H. Lea

406 Jennings Ave.
Hot Springs, S. D.
11 April 1961

*Received South Dakota
11-10-61*

Mr. Joe Grimes
Water Resources Commission
Pierre, South Dakota

Dear Joe,

After our telephone conversation the other day, I followed your suggestion and had the enclosed letter prepared, then took it to all the water users on Beaver Creek. The new signers were very willing to sign the request. They all feel that something must be done here and that a survey by your office is the most reasonable solution.

Mr. Bowker would have nothing at all to do with it as he feels that a Court Decision in 1908 takes care of him, and that it is impossible for anyone to make any changes now.

Mr. Schroth, Manager of the 7-11 Ranch, was very pleasant and indicated he would be willing to sign if his attorney thought it advisable. The attorney advised against it.

Mr. Gallentine felt that the recent Court action fulfills his needs and he has no desire for any farther action. He did indicate that he would cooperate in every way.

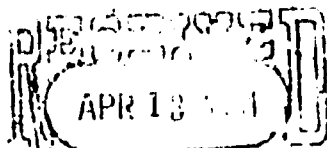
It would be my suggestion that the publicity on this go from your office to both the Custer Chronicle and the Hot Springs Star as both papers cover the area involved.

It has come to my attention that Mr. Bowker has applied for a new diversion or a new location for use of water from Beaver Creek. Could you give me some information on this?

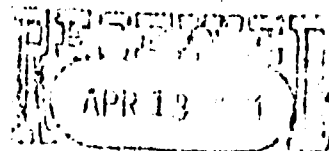
Thank you very much for your cooperation on this matter.

Yours truly,

[Signature]
Dane H. Conger



STATE WATER RESOURCES COMMISSION
PIERRE, SOUTH DAKOTA



STATE WATER RESOURCES COMMISSION
STATE OF SOUTH DAKOTA

TO THE WATER RESOURCES COMMISSION OF THE STATE OF SOUTH DAKOTA:

Pierre, South Dakota.

GENTLEMEN:

The undersigned being persons using and entitled to use the waters of Beaver Creek, in Custer County, South Dakota, for irrigation, domestic and stock watering purposes, do hereby respectfully request an investigation and determination by your commission of all water rights arising from the waters of said creek.

That said waters are being diverted for irrigation purposes under various claimed water rights and that a disagreement exists between the parties using the same as to their various rights under claimed water rights of domestic, stock watering and irrigation purposes.

That the persons interested or claiming to be interested under water rights to the waters of said Beaver Creek, so far as known to the undersigned are the following named persons:

P. B. Conger,	Buffalo Gap, S. D.	P. C. Butler Ranch, Inc.	Hot Springs, S. D.
Howard Gallentine	" " " "	Albert Miller,	Buffalo Gap, S. D.
James Bowker,	" " " "	Wm. Miller,	" " " "
H. F. Nolan,	" " " "	Cecil Harmon,	" " " "

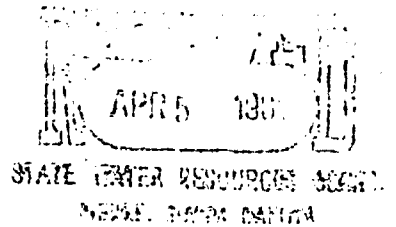
Dated at Buffalo Gap, South Dakota, April 5, 1961.

P. B. Conger
Cecil Harmon
H. F. Nolan

Albert Miller
Wm. Miller

043-2, 406 Jennings Ave.
Chic. Springs S. D.
4 April 1961

Mr. Burton Jones
Water Resources Commission
Pierre, South Dakota



Dear Burt,

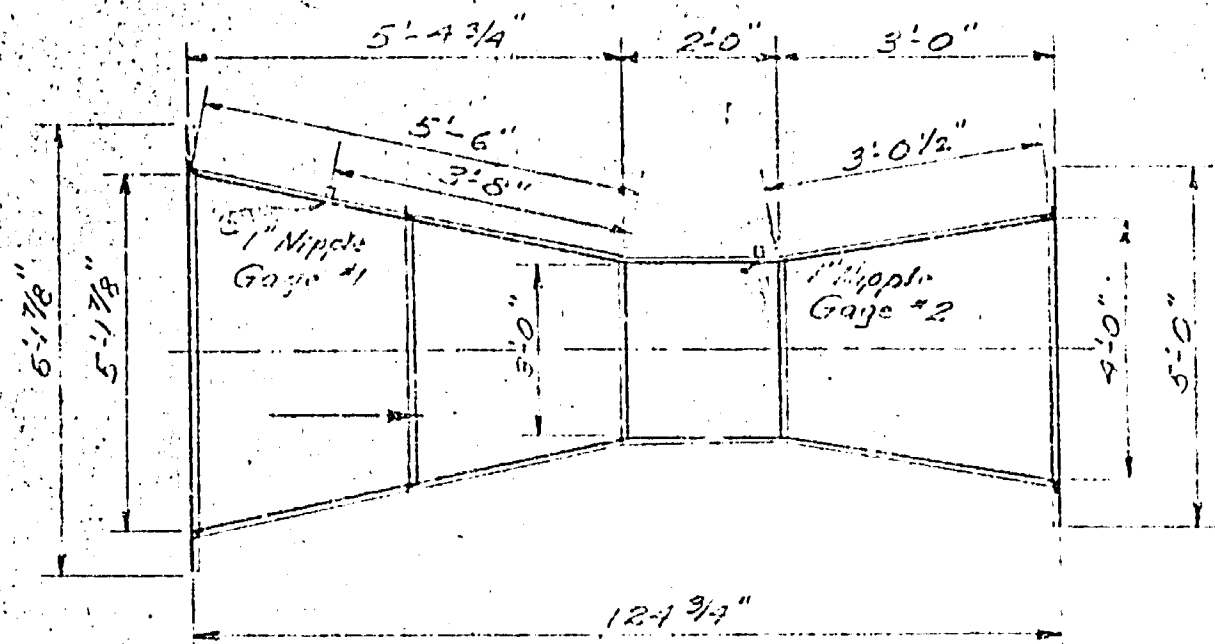
Please find enclosed sketch of Parshall measuring flume. Would like to know if this meets with the approval of the Commission for use under the irrigating conditions we have out here. It is my understanding that the State Law requires such a device at the point of diversion.

Would it be possible for you to reproduce the large plat of the Butler Ranch irrigation project. Their right for 500 acres seems to be questionable as to the number of acres under irrigation. Will pay the fee as soon as you send the plat and let me know what it is.

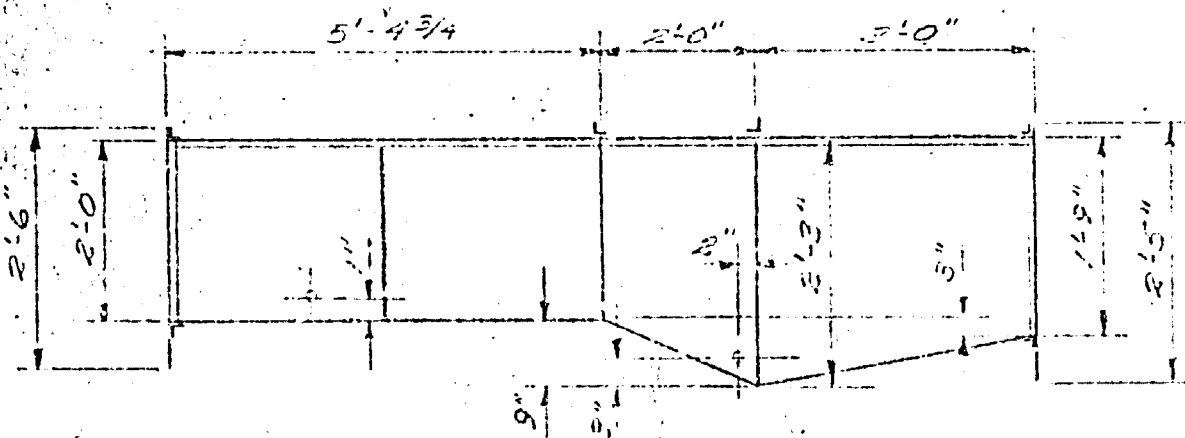
Hope to receive the copy of Hallentine Abstract in a few days.

Thank you very much for your cooperation in these matters.

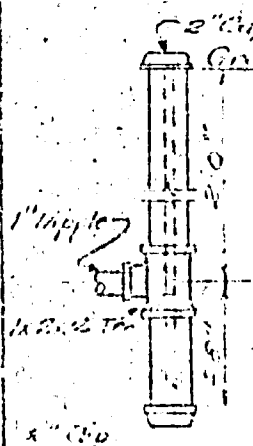
Yours Truly
Aime H. Cooper



PLAN



ELEVATION



Notes:

- Use 10ga black steel throughout
- Use 1x1x 3/16 & for:
 - Along top of flume
 - Frame both ends.
 - Vertical Stiffener on inlet end
 - Cross Braces at throat & Inlet section
- Drill out for 1" nipple at Gage Sta's.
- Give entire unit one coat asphalt paint

Parshall Measuring Flume
1 to 30 cfs

CRH

TO THE WATER RESOURCES COMMISSION OF THE STATE OF SOUTH DAKOTA,
PIERRE, SOUTH DAKOTA.

GENTLEMEN:

The undersigned, being one of the persons using and entitled to use water from Beaver Creek, in Custer County, South Dakota, for irrigation, domestic and stock watering purposes, hereby respectfully requests an investigation and determination by your commission of all water rights arising from the waters of said creek.

That said waters are being diverted for irrigation purposes above the lands of the undersigned and that he is being deprived of his right to sufficient water for necessary domestic and stockwatering purposes, and being deprived of his right to water for irrigation purposes under his long standing water right.

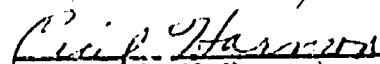
That the persons interested in said determination so far as known to the undersigned are

P. B. Conger,	Buffalo Gap, S. D.	7-11 Ranch, Buffalo Gap, S.D
Howard Gallentine,	Buffalo Gap, S. D.	Albert Miller, Buffalo Gap, S.D
James Bowker	Buffalo Gap, S. D.	Wm. Miller, Buffalo Gap, S.D.
W. F. Nolan,	Buffalo Gap, S. D.	Cecil Harmon, Buffalo Gap, S. D.

Dated at Buffalo Gap, S. D. this 15th day of October, 1960.



(P. B. Conger)
Buffalo Gap, South Dakota.



(Cecil Harmon)
Buffalo Gap, South Dakota

093-2

February 17, 1943

Mr. F. B. Conger
Buffalo Gap, South Dakota

Dear Mr. Conger:

This will acknowledge receipt of your letter of February 15th, making inquiry relative to the water right of C. L. Conger, filed in 1882 in Custer County.

The only information which we find in our records, is a certified copy of a right of Charles L. Conger, claiming 400 cu. inches of water from Amphibious Creek. According to the document, the original was filed at 8:00 P.M., November 28th, 1882, and recorded on page 178 of Book 4 in the Register of Deeds office in Custer County.

Very truly yours,

Dean W. Loucks
State Engineer

DWL/ef

043
Buffalo Gap, S. Dak.
Feb - 15 - 1943

State Engineer
Pierre South Dakota

Dear Sir,

Would you kindly
let me know if the State Records
show any transfer or
assignment of the C. R. Conger
water right which was
filed in 1882 in Crook
County -

Yours very truly
P. B. Conger

July 30, 1952

P. B. Conger
Buffalo Gap, S. Dak.

Re: Water Permits 093-2
& No. 316-2

Dear Mr. Conger:

This is in reply to your letter of July 25, 1952 in which you request that we let you know how many acres of land can be irrigated on the Butler ranch in Custer County from Beaver Creek according to their water right.

In referring to Water Right No. 316-2 which is now in the name of the South Dakota Investment Company, the quantity of water granted is 4 cu. ft. per second from Beaver Creek appropriated in July 31, 1880 by Water Right No. 027-2 and an additional 4 cu. ft. per second from Beaver Creek of the water appropriated September 30, 1881 by Water Right No. 026-2. The number of acres to be irrigated as given on the application is 560 acres as shown on a map accompanying the application.

Without going into the matter which, as you know, is quite involved I would not know what your priority is. We have an old Water Right No. 093-2 dated November 28, 1882. We hope that this information will be helpful to you and if there is anything else that we can look up or help you with, I would be glad to hear further.

Yours very truly,

DEAN W. DICKS
State Engineer

WDL:25

Check

Buffalo Gap, So. Dak.
July 25 - 1952

State Engineer
Pierre
So. Dakota

RECEIVED
JUL 26 1952

OFFICE OF STATE ENGINEER
PIERRE, S. DAK.

Dear sir,

Kindly let me know how many acres of land can be irrigated on the Butler ranch in Beadle County on Beaver Creek according to their water right. I have been told that they have the right to irrigate 70 acres. Since they had their water right brought up to date - they have used practically all the water in Beaver Creek all summer.

I have not had any water for irrigation all summer.

They also run the water

into the town of Buffalo
Dak for irrigation purposes
I do not object to this when
the water right owners are not
in need of the water - but
it surely has not some
right to me when I pay high
taxes on irrigated land
and do not have the use
of the water.

Thanking you for any
information on this matter
I am
Yours very respectfully
J. B. Conger.

RECEIVED

JUL 26 1952

OFFICE OF STATE ENGINEER
PIERRE, S. DAK.

January 7, 1932

P. B. Conger,
Buffalo Gap,
S. Dak.

Dear Sir:-

Your inquiry of the 5th inst. is just received.

We enclose:

- (a) Instructions to Applicants for "State Water Rights".
- (b) Triplicate blank application forms.
- (c) The customary letter of transmittal.

You ask whether Sprague and Stewart, and several others, have "State" water rights. Our files disclose that:

- (1) Messrs. Boland, Humphries, Wilson, Reno jointly claimed 1500 miners inches on Beaver Creek under date of Dec. 20, 1881.
- (2) On March 1, 1909, Mr. W. H. Sewright swore to an affidavit claiming 1/3 interest in the "Boland-Reno" water right. The file number is 64-2.
- (3) During January, 1931, Miss Queena Stewart verbally vouched for the information that water right #64-2 belonged at that time to Mrs. Velma Manninsh as real estate owner, saying that the Sprague Ranch Co. were operating the ranch.
- (4) During February 1909 Harrie M. Sprague applied for 11 cubic feet per second on a dry draw in T. 5 S, R. 7 E., (According to Surveyor Hartgering).
- (5) In 1883 James Smith and Frank Allen claimed 500 inches on Beaver Creek; and in 1883 J. M. Smith claimed 500 miners inches on Beaver Creek. These two claims are not "State Water Rights" so far as we may determine.

So far as we can tell these are the only ones of the names that you mention that have any papers filed in this office to indicate that they have a "State Water Right". It is quite possible that others of them have a valid right by transfer of which we have no record. Likewise, this is by no means all of the water rights on Beaver Creek.

It is true that some of the rights and claims listed above may or may not be valid depending on compliance with the general water right law, especially as to beneficial use, continuity of use, transfer of real estate, and filing notice of transfer of real estate.

We trust the above information will be helpful to you.

Very truly yours,

Rapid City, S. Dak.
319 Quincy St.
Oct. 16-1931.

State Engineer,
Pierre, S. Dak.

RECEIVED
OCT 18 1931

OFFICE OF STATE ENGINEER
PIERRE, S. DAK.

Dear Sir,

I am in receipt of your letter today. I know these water rights are very complicated and realize your position, but we have some neighbors who are always telling us about the "records," and accounts of records they get from the State Engineer so I that I best look into some of the matters myself. Also - at the Court House in Custer, they assure me I must go to your office.

I will, however, get all the records I am interested in at Custer (Co. Seat of Custer Co., where these rights are located, and

read up the suggested sections of
the S. Dak. laws.

Do I, however, understand
you correctly when I in-
terpretate your letter to mean
that you cannot tell whether
the C. & C. Conger water right is
recorded? I do not have the exact
location but it is in the very
southern portion of Custer Co. upon
~~Butte River Co.~~ Beaver Creek.

I have correspondence with
the St. Engineer showing ^{that my father} ~~showing~~ had
started to make it a record at
Pierre, but nothing which
shows definitely that the record was ^{complete} filed.
I want our right in unques-
tionable shape - then I will find
out my law to know whether
I can or cannot do anything
about the mis-use of water above
us.

As soon as I gather all I can
here, I shall come there, and I
will drop you a line in
advance -

Very truly -
Carrie C. Conger.

093

Rapid City, S. Dak.
319 Quincy St.
Oct. 13 - 1931.

State Engineer,
Pierre, S. Dak.

RECEIVED
OCT 16 1931

OFFICE OF STATE ENGINEER,
PIERRE, S. DAK.

Dear Sir:

Will you please send me a list of the irrigation rights in Custer and Fall River Co. taken out of Beaver Creek? I would like to know what lands they cover, and also, where can I find out how much water they are entitled to, and how can I stop them from taking all of the water.

My father, Chas. A. Long, located a water claim in

1882 - and it has been used
every year since ~~then~~ ¹⁸⁸⁴.

There is only one claim
I can find - that of Brenner
located in 1881 earlier. While
my father lived we had no
trouble about water, but there
are two dams above ours and
now that my brother, a young
man, Peter B. Conger, is upon
our old place the older
men keep the water from
him.

There are Scurrights above us.
They will occasionally turn
water to my brother. A man
by the name of Chas Sprague
gets water from the same
dam with Scurrights, and as
near as I can tell from old
records - holds the Brenner
water right.

The other dam is held by
J. B. Miller and Chas Conger.
It was formerly owned by Joe;

Brunchelid & Wm Brooks. I find in Custer Brunchelid record of location but nothing in Brooks name. Miller has what is supposed to be Brooks right, and is somewhat unreliable about water. Now if Brooks has no recorded right, and it is not transferred to Miller does he really have a right to the water?

Bond and Smith - Jim Smith used from our ditch but I find no location except in my fathers name. What is necessary to complete a "water right", aside from the location, working the ditch and keeping water in it?

This year my bro. got no water until after Aug. 20th. Now his crops are coming on. Corn came up - the pastures and alfalfa came to. I have been away for a

five or six years and did not know that these men were keeping the water but I want to be sure the right is legal - and then find out how to stop them.

There is plenty of water for much more land than is under irrigation, and I should like to see it arranged so as many as possible could profit by it, but we do not have one thing upon our land this year and I am beginning now to see if I can avoid this again. It cost money and I have very little now.

One man - Griffis who is now upon the Chas. Sprague place has an enormous dam. I would have to ask my bro. to tell how much it holds - and he stored - or ran water into it all summer and never used the water. When his ditch was full - instead of turning

3/ it back into the creek he
ran it out of the flume
into a low place. He all
saw and know this -

Where can I get copies of
the laws, and are there
laws against wasting water?

Kindly let me hear from
you at your earliest con-
venience

I may be able to get to
Pierre some week end as
I teach here in Rapid and
if I do, I shall call upon
you, and see if our right
is recorded there, and what
steps may be necessary.

Yours Truly -
Carrie D. Conger.

RECEIVED

OCT 18 1937

OFFICE OF STATE ENGINEER
PIERRE, S. DAK.

October 15, 1931

Carrie D. Conger,
319 Quincy St.
Rapid City, S. Dak.

Dear Miss Conger:-

Your inquiry of the 13th inst., in re irrigation matters, is duly received.

First; we may say that we are unable to furnish a thoroughly accurate and reliable list of valid water rights on any particular stream, mainly for two reasons (1) many of the applicants for appropriation of water have not complied with the law in "proving up" and/or completing the formal steps toward securing a water license; in numerous cases land has been sold, probated, or otherwise disposed of, without filing proper record in the Office of State Engineer according to law, and (2) our office records of water rights contain literally hundreds of so-called "territorial water claims", perhaps valid in court actions, to say nothing of hundreds of "State Water Rights" applied for under the 1907 enabling act, all of which claims and rights have been filed alphabetically since the Office of State Engineer was created in 1907. To arrange all of these according to counties and streams, bringing all records down to date, would be a lengthy task, one which our limited personnel and time will not readily permit. Even if such records were re-classified as mentioned in preceding sentence, the question of legality would still attach to a large percentage of them.

Second; we may say that it is quite impossible for our office to state (as you request) what "lands they cover", for the principal reason that the law as to placeminent applies to each acre or fraction thereof that has not received water, unless the land owner applies to the State Engineer for transfer of the water to other acreage and receives approval for such transfer. (Section 48, Chapter 130, Laws 1907)

You write that you "may be able to get to Pierre some week end". Perhaps at such time we may better and more fully explain some of the lesser questions raised by your letter. In the meantime you may find it convenient to consult Section 8220, et seq., entitled "WATER AND WATER RIGHTS" found on page 1604 of the Compiled Laws of South Dakota, Volume 2, Issue of 1909.

Very truly yours,

E. F. Madeliff
Meeting Engineer

193-11

Chas. John Berg, State Engineer