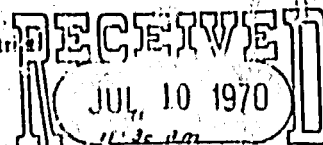


No. 1352-2Map No. _____ Water Division No. 2 SOUTH CHEYENNE RIVER, District
(Blanks to be Filled by the Engineer for the W. R. C.)

Visited Right **APPLICATION FOR PERMIT**

STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

To Appropriate Water within the State of South Dakota

(NOTE--Draw a line through items not applicable)

1. Name of Applicant Lloyd C. Warner
Postoffice address Del Rio, S.D., State South Dakota
If a corporation show date and place of incorporation _____

2. Method of accomplishing work (contract, employment of others, or by direct labor) Already completed

3. Name of diversion work Dehydration Division No. 1

4. Amount of water claimed (cubic feet per second) 1.5 CFS - Not to exceed 375 A.C. per year

5. Source of water supply Surface runoff from drainage of Black Banks Creek

6. Location of point of diversion from S.W. 15 - T. 11.5 - R. 7 E North 50° East
and 24 rods along that bearing County Fall (River)

7. Annual period or periods during which water is to be used when it occurs during annual period

8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) irrigation

9. For irrigation use, Total number of acres to be irrigated 125

State below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

Land Description	No. Acres Irr.	Land Description	No. Acres Irr.
<u>SW 1/4 - SW 1/4 - 15 - 11.5-7E</u>	<u>17</u>		
<u>SE 1/4 - SW 1/4 - 15</u>	<u>30</u>		
<u>SW 1/4 - SE 1/4 - 15</u>	<u>38</u>		
<u>SE 1/4 - SE 1/4 - 15</u>	<u>40</u>		

Attach sheet if more space is needed

10. Time required to complete construction of water supply system Already completed years. Additional time required to complete application of water to the proposed beneficial use _____ years.

11. Choice of newspaper for Notice of Intent to Appropriate Water publication _____

12. Principal Features of the Proposed Water Supply System:

A. Works proposed to divert water from its natural source:

Earth fill 750 ft long, 8 ft high from base of Black Banks Creek.
3/4 upstream and 1/4 downstream slopes

B. Works proposed to transport water to place of use:

Ditch now being used is 1.5 ft deep - 8 ft bottom width constructed
with 1/2 slopes on both sides

C. Works proposed to apply water to beneficial use:

systems of wheels, ditches and headgates

Estimated Total Cost \$ 15,000.00

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map.
(See instructions concerning preparation.)

STATE OF SOUTH DAKOTA

County of Fall River

I, Lloyd C. Warner the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.

Signed Lloyd C. WarnerSubscribed and sworn to before me this 8th day of July, 1970

Notary Public (or other qualified officer)

WATER RIGHT APPLICATION APPROVAL

The Water Resources Commission hereby approves Water Right Application No. 1032-2
LOYD C. WARNER DEL RICHES
 (Applicant) (Post Office Address)
SOUTH DAKOTA With the following modifications:
 (State)

"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.

Date of first receipt of application JULY 10 19 70
 Date of return to applicant for correction, amendments or changes required — 19 —
 Date of receipt of corrected application — 19 —
 Approved SEPTEMBER 9 19 70, Recorded in Book 11 Page 186

WATER RIGHT PERMIT NO 1032-2

The Water Resources Commission hereby grants and issues this Water Right Permit No. 1032-2 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as modified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is 1941
2. The equivalent of at least one-fifth of the work above specified is ~~has been~~ completed —
3. The whole of said work is ~~has been~~ completed —
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is COMPLETED
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 injuriously affected by this appropriation.
7. The amount of the appropriation herein granted shall not exceed 1.78 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, and if for the irrigation purposes said appropriation must be limited to not more than 3 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 actually and beneficially applied for irrigation on or before JUNE 30 19 55; said water to be used during the following described annual period WHEN AVAILABLE

Witness my hand this 28TH day of SEPTEMBER 19 70

WATER RESOURCES COMMISSION

By:

GEO. L. LINDSEY
 Chief Engineer, Executive Officer

Certificate of Construction Issued SEPTEMBER 28 19 70

Water License Issued SEPTEMBER 28 19 70

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 1032-2

(1) WHEREAS, On the 10th day of July A. D. 19 76
Loyd C. Warner

made Water Right Application No. 1032-2 for a permit to use 1.78 cubic feet per second of the waters of a tributary to Black Banks Creek

County of Fall River, State of South Dakota, for irrigation purposes and

(2) WHEREAS, On the 28th day of September A. D. 19 70
Vested Right Permit No. 1032-2, with a date of priority of 1941

was issued to said applicant recognizing for the diversion of said water, ~~and provided for~~ the completion of construction of the water supply system therein described ~~on or before~~ day of Aug 19 and for the application to beneficial use of said water ~~on or before~~ day of Aug 19

and:

(3) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to completion of the construction of the water supply system and is entitled to divert 1.78 cubic feet per second of water for beneficial use and,

(4) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to the application of water to beneficial use of the following extent.

for irrigation of the following land in Section 15, T11S, R7E

<u>SW$\frac{1}{4}$ SW$\frac{1}{4}$</u>	<u>17.0 acres</u>
<u>SE$\frac{1}{4}$ SW$\frac{1}{4}$</u>	<u>30.0 acres</u>
<u>SW$\frac{1}{4}$ SE$\frac{1}{4}$</u>	<u>38.0 acres</u>
<u>SE$\frac{1}{4}$ SE$\frac{1}{4}$</u>	<u>40.0 acres</u>
<u>Total</u>	<u>125.0 acres</u>

(5) 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 Loyd C. Warner

_____ of Oelrichs

the holder _____ and owner _____ of said permit No. 1032-2 a water right, dating from 1941

_____ to use of 1.78 cubic feet per second of the waters

of a tributary of Black Bank Creek

in the County of Fall River and State of South Dakota, or so much thereof as may be necessary for the

purposes hereinbelow mentioned, to be diverted at a point North 50° East, 24 rods from the SW

corner, Section 15, T11S, R7E

and conduct to and upon portions of the S½ S½, Section 15, T11S, R7E

for the purpose of irrigation

Subject to any limitations listed in Water Right Permit No. 1032-2 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota

this 28th day of September A. D.

Nineteen Hundred and Seventy

WATER RESOURCES COMMISSION

By.

Chief Engineer, Executive Officer, J.W. GRILES

Form 15.

Permit No. 1032-2

Water Diversion No. 2 SOUTH CHEYENNE RIVER Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That Loyd C. Warner

the holder

Vested Right / Permit No. 1032-2, issued upon Application No. 1032-2, bearing date of priority of 1941

authorizing the diversion of 1.78 cu. ft. per second of the waters of

Tributary to Black Banks Creek County of Fall River, State of South Dakota at

a point North 50° East, 24 rods from the SW Corner, Section 15, T11S, R7E

for irrigation

purposes, has 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 **recognized as** satisfactory

~~xxxxxxx~~ for diverting and conveying to the place of intended use 1.78 cu. ft. per second of water.

Date September 28, 1970

WATER RESOURCES COMMISSION

By:

J.W. GRIMES, Executive Officer

NOTE:

This Form is supplemental to Form 2, and is to be used when an affidavit pertaining to construction and water use, already completed, is needed.

**AFFIDAVIT OF CONSTRUCTION OF WATER USE
SYSTEM AND APPLICATION OF WATER TO BENEFICIAL USE**

Name of Applicant (Same as Form 2)

Post Office Address

State

If a Corporation show date and place of incorporation

13. Notice of Appropriation (If available)

Date of Posting

Date of Recording

Recording Date

14. Date of start of construction of water supply system

15. Date that water was first applied to beneficial use

16. Name of owner of original water supply system

17. Amount of water originally applied to beneficial use

c. f. s.

18. Present Use of Water

Amount of water now being used

c. f. s.

Date that this amount of water was first used

19. Chronological History of Water Use

Water was first applied to the land soon after completion of construction of the main ditch across Black Banks in the spring of 1942, by the then owner Anthony Truharger. I purchased the place in 1967. Water has been applied every year since 1942. The entire acreage is planted to alfalfa.

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

I, Lloyd C. Warner, the applicant, certify that I have read the foregoing and that the matters therein stated are true.

Signed

Subscribed and sworn to before me this

day of

1970

(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.

Robert Hammon
Hugh Miller

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

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

September 21, 1988

NOTICE

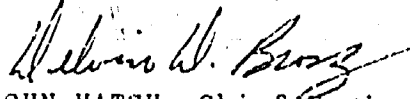
Lloyd C. Warner
Oelrichs SD 57763

Dear Mr. Warner:

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). 1032-2 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



SOUTH

Department of Water & Natural Resources

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

December 1, 1988

Vested Water Right
Claim No. 1032-2

Loyd C. Warner
Oelrichs SD 57763

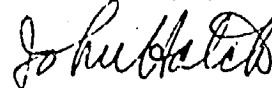
Dear Mr. Warner:

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 Layman, Bureau of Reclamation



South Dakota
Department of
Water & Natural Resources

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

March 23, 1990

1032-2

NOTICE

TO: Lloyd Warner
OELRICHS, SD 57763

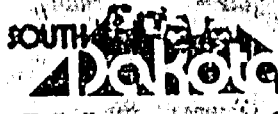
FROM: *for Delores D. Brosz*
JOHN HATCH, CHIEF ENGINEER
Water Rights Division
(605) 773-3352

SUBJECT: Low Water Levels in Angostura Reservoir

The water level in Angostura Reservoir on March 6, 1990 was at 3171.1 feet above mean sea level (msl). This is approximately 16 feet below the full elevation of 3187.2 msl. The present estimates are that the Angostura Irrigation District will be able to deliver less than 50% of full service water to project lands during the 1990 irrigation season. We are contacting you to advise you of the actions we have taken due to the low water situation in Angostura Reservoir. Junior Water Right owners above Angostura have been ordered not to use water until Angostura fills.

Since your Water Right No. 1032-2 has a priority date that is senior to the April 11, 1941 priority for Angostura Irrigation Water Right No. 579-2, your permit is not directly affected by the Junior Priority Order. However, I am requesting that all Senior Water Right holders comply with any qualifications and limitations as stated on their water right. With the existing low runoff conditions, we expect to monitor all water rights above Angostura Reservoir.

I want to thank all Water Right Holders above Angostura for the cooperation that we have received up to this time. If you have any questions, please contact Del Brosz (605 773-3352).



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3101

April 26, 1990

1032-2

Dave Dunbar
HC 46 Box A 48
Oelrichs, SD 57763

Dear Mr. Dunbar:

Enclosed is a partially completed "Notice of Transfer" form for use in filing an ownership change on Vested Water Right Claim No. 1032-2. The vested water right claim is currently listed in the name of Lloyd Warner.

Please check over the form and sign in the presence of a notary public. Upon completion, return the form to our office with a required filing fee of \$2.50.

South Dakota Water Law 46-5-30.3 requires Notice of any sale, grant, lease, conveyance or other transfer of a water permit or water right to appropriate water to be filed with this office within ninety days.

Also enclosed is a copy of our March 23, 1990 Notice sent to Mr. Warner. The Notice concerns low water levels in Angostura Reservoir and how they relate to Vested Water Right Claim No. 1032-2.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Natural Resources Analyst
(605) 773-3352

enclosures

NOTICE OF TRANSFER OF OWNERSHIP

No. 1032-2

TO: Chief Engineer
Water Rights Division, DWR
523 East Capitol
Pierre, SD 57501-3181

Date: 5-14-90

I/We request that Vested Water Right Claim No. 1032-2

formerly owned by: Lloyd Warner

be transferred to: (name & address) David M. Dunbar
HC46 Box A48, Oelrichs, S.D. 57263 (telephone No.) 605-535-2701

Title to the following described land(s)/property has been transferred as described above:
S $\frac{1}{2}$ SW $\frac{1}{4}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$ Section 15, T11S, R7E (125 acres)

I/We understand that the validity of Vested Water Right Claim No. 1032-2 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 at the Division of Water Rights, as evidence of the change of ownership.

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

STATE OF SOUTH DAKOTA)

County of _____)

I/We David M. Dunbar 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 that I know of my own personal knowledge that the information herein stated is true.

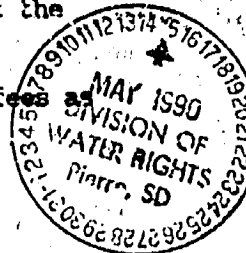
David M. Dunbar
(Signed)

Subscribed and sworn to before me this 14 day of May, 1990.

Deborah E. Trout
(Notary Public)
Comm. Expires 5/27/97

NOTE: Water permits may be cancelled for nonconstruction within the five year construction period. Once a water permit is developed and the water used, the permit becomes a water 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

Division of Water Rights

South Dakota Department of Water and Natural Resources

Pierre, May 15

19 90

RECEIVED OF David Dunbar, HC 46 Box A48 Oelrichs, SD 57763

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 Vested Water Right Claim No. 1032-2 2 50

Fee for Filing Extension Request _____

Fee for Certified Copy of _____

Fee for Print Copy of Map _____

Fee for Certifying _____

Fee for _____

(Any Other Work Provided by Law)

Total

2 50

By J. H. Hatcher
Chief Engineer

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

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

May 16, 1990

No. 1032-2

David M. Dunbar
HC 46, Box A48
Oelrichs, SD 57763

Dear Mr. Dunbar:

Enclosed is a receipt in the amount of \$2.50 which you paid for the transfer of Vested Water Right Claim No. 1032-2.

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

Sincerely,

Karen Schlaak

KAREN SCHLAACK
Senior Secretary
Water Rights Division
605 773-3352

enclosure

L

File No. 1032-2

Water Rights Division -DENR
Conversation or File Documentation

NAME OF PERSON OR FILE: Dave Dunbar

ADDRESS: Oelrichs, SD COUNTY: Fall River

DATE: 6/7/91 TELEPHONE: 535-2701

RE: Vested Right Claim Inspection

COMMENTS: On June 4, 1991, I visited with Dave Dunbar and he accompanied me to the area. The irrigation system seemed to be in working condition. Mr. Dunbar stated that when water is available, in a normal year, he irrigates the acreage outlined on the aerial photo. In a year like this year he could irrigate the whole 125 acres.

Recommend validation of Vested Right Claim No. 1032-2.

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.

M. Rassool Ahadi

M. RASSOOL AHADI

Natural Resources Engineer III
DENR, Water Rights Division

SOUTH DAKOTA

VESTED WATER RIGHT NO. 1032-2 FOR IRRIGATION

Date of Receipt of Claim July 10, 1970.

Date of Validation May 26, 1992.

The Water Management Board validated Vested Water Right Claim No. 1032-2 for irrigation purposes for David M. Dunbar, HC 46, Box A48, Oelrichs SD 57763 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 1032-2 appropriates 1.78 cubic feet of water per second from a tributary of Black Banks Creek located in the SW 1/4 SW 1/4 Section 15 to irrigate 125 acres located in the S 1/2 SW 1/4, S 1/2 SE 1/4 Section 15; all in T11S-R7E.
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: January 1 - December 31.
3. The priority date of the Vested Water Right is January 1, 1941.
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.

QUALIFICATION

The diversion rate limitation of 1 cubic feet 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: John Hatch
Chief Engineer

JUL 1 1992

date

Division of Water Rights
Dept. of Environment and Natural Resources



1032-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

JUL 1 1992

David M Dunbar
HC 46, Box A48
Oelrichs SD 57763

Dear Mr. Dunbar:

The Water Management Board has validated the enclosed Vested Water Right No. 1032-2. 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



United States Department of the Interior

BUREAU OF RECLAMATION

Great Plains Region

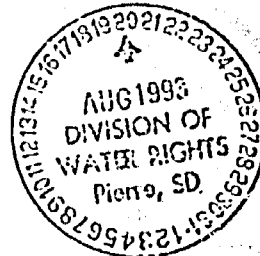
Belle Fourche Projects Office

P.O. Box 226

Newell, South Dakota 57760-0226

WTR 4.19
BF-430

AUG 13 1993



Mr. John Hatch, Chief Engineer
Water Rights Division
South Dakota Department of Water and Natural Resources
523 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 (605) 456-2695.

Sincerely,

Bruce M. Laymon
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

1032-6

NOT TO SCALE

6k

69-2

U16

131.9

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T 769

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T 772

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