

1. Considered MAY 20, 1976 1359-3
2. Name of Applicant FRANK EYE N. M. WHITNEY
3. Post Office Address RAPID CITY
4. Amount of water claimed .11
5. Source of water supply GROUND WATER (20 DEEP WELL)
6. Water to be used for SUBURBAN HOUSING
- Acres to be irrigated _____
7. Water to be diverted and used in LAWRENCE county
about 16 W. 4 N miles _____ of RAPID CITY
8. Proof of Publication Received 5-3-76
Not Received _____
9. Application Approved _____
Subject to _____
Not Approved _____
Action deferred _____
10. Remarks:

No. 1359-2Map No. 1150-2 Water Division No. 2 RAPID CREEK District
(Blanks to be filled by the Engineer for the W. R. C.)

APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

(NOTE--Draw a line through items not applicable)
AND ENGINEER'S

1. Name of Applicant Frank L.A. Whitney Box 2853
Postoffice address Rapid City, 57701 State So. Dak.
If a corporation show date and place of incorporation _____
2. Method of accomplishing work (contract, employment of others, or by direct labor) _____
3. Name of diversion work WHITNEY DEVELOPMENT
4. Amount of water claimed (cubic feet per second) .11
5. Source of water supply Well
6. Location of point of diversion S W $\frac{1}{4}$ of S W $\frac{1}{4}$ Sec 12, T-2-N R-4-E
Lawrence County, S. D.
County Lawrence
7. Annual period or periods during which water is to be used 12 months
8. Use to be made of water. (irrigation, industrial, municipal, commercial, recreation, etc.) domestic (SUBURBAN RESIDENCE)
9. For irrigation use. Total number of acres to be irrigated _____

List 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.
SW $\frac{1}{4}$ SW $\frac{1}{4}$ sec 12			
T-2-N R-4-E	12		

Attach sheet if more space is needed

10. Time required to complete construction of water supply system 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 Deadwood Pioneer Times
12. Principal Features of the Proposed Water Supply System.

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

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

C. Works proposed to apply water to beneficial use.

Estimated Total Cost \$ _____

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

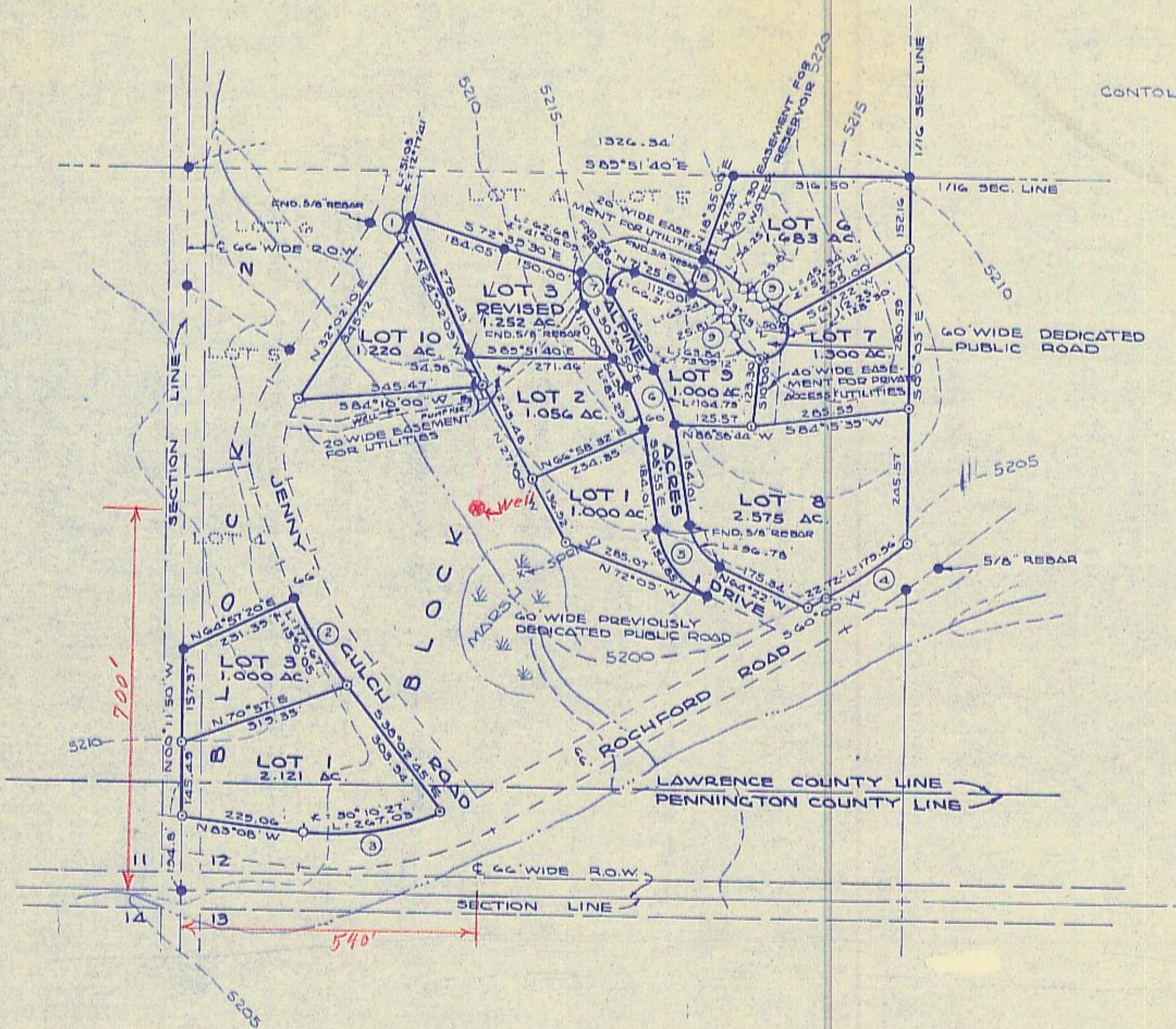
County of LawrenceI, Frank L.A. Whitney, the applicant, certify that I have read the foregoing application, and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary constructionSigned Frank L.A. WhitneySubscribed and sworn to before me this 18th day of March 1951

PRELIMINARY PLAT OF
PLAT OF A PORTION OF ALPINE ACRES ADDITION, INCLUDING:

LOTS 1, 2, 3 REVISED & 6 THRU 10 OF BLOCK 1; AND
LOTS 1 AND 3 OF BLOCK 2; AND
DEDICATED PUBLIC RIGHT-OF-WAY
LOCATED IN
SW $\frac{1}{4}$ OF SW $\frac{1}{4}$ OF SECTION 12, T2N, R4E, BHM,
LAWRENCE COUNTY, SOUTH DAKOTA

FRANCIS - MEADOR - GELLHAUS, INC.

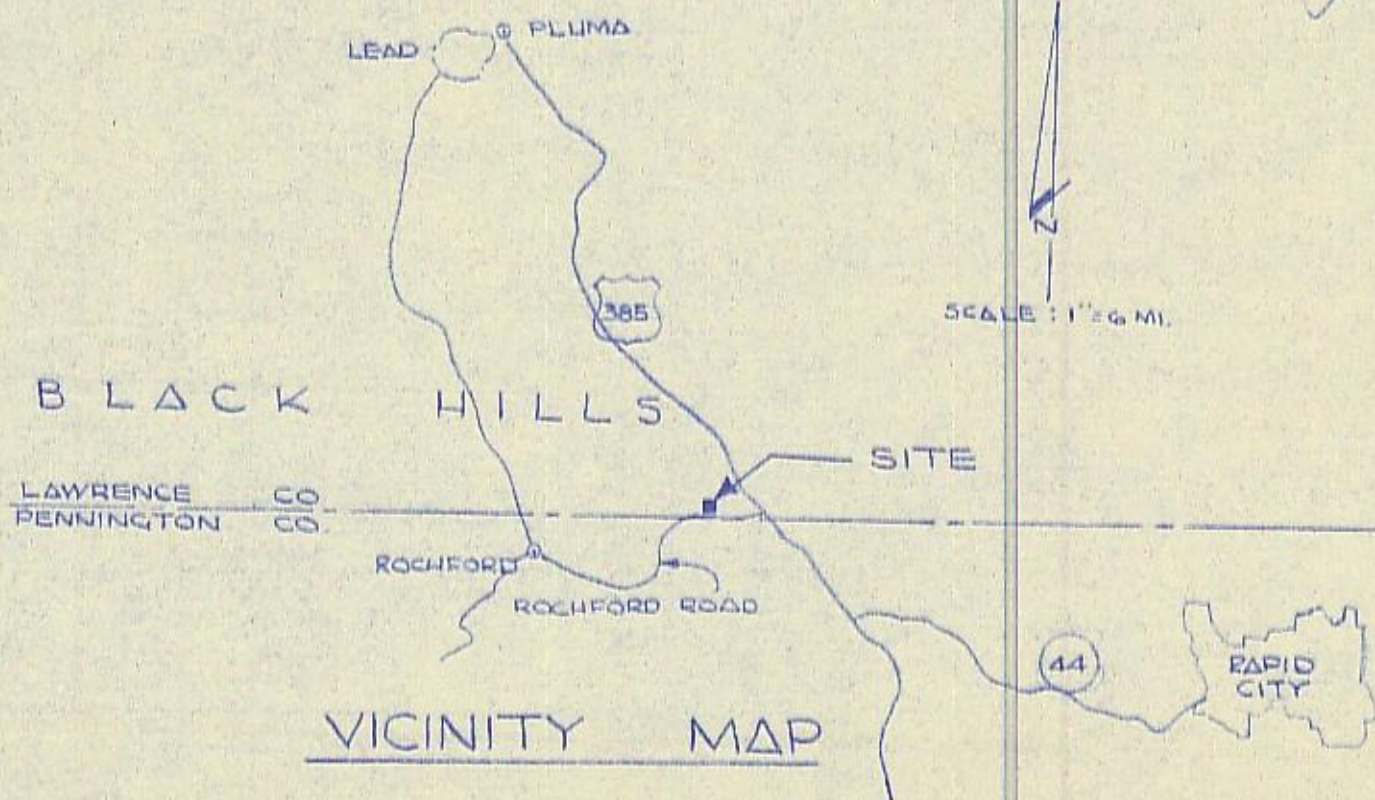
SCALE: 1"=200'
APRIL 29, 1975



SURVEYOR'S CERTIFICATE

THE TOPOGRAPHIC MAP SHOWN HEREON HAS BEEN PREPARED
WITH AN ACCURACY NECESSARY TO PLAN THE SHOWN SUB-
DIVISION AND TO PROPERLY DESIGN FOR RUNOFF AND
DRAINAGE. THE MAP IS NOT INTENDED TO BE USED FOR
ANY PURPOSE EXCEPT AS STATED ABOVE.

DATE: May 13, 1975 BY: James P. Heald
REG. LAND SURVEYOR No. 2199



MAP N° 1150.2
APPL N° 1359.2

AND EVELYN M. WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 1359-2
FRANK L. WHITNEY Box 2853 - RAPID CITY
 (Applicant) (Post Office Address)
SOUTH DAKOTA 57701 With the following modifications:
 (State)

Date of first receipt of application MARCH 18, 19 76
 Date of return to applicant for correction, amendments or changes required —, 19 —
 Date of receipt of corrected application —, 19 —
 Approved MAY 20, 19 76, Recorded in Book 15 Page 69

WATER RIGHT PERMIT NO. 1359-2

The Water Rights Commission hereby grants and issues this Water Right Permit No. 1359-2 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 MARCH 18, 19 76
2. The equivalent of at least one-fifth of the work above specified is ~~not~~ completed ~~on or before~~ —, 19 —
3. The whole of said work is ~~not~~ completed ~~on or before~~ —, 19 —
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is COMPLETED, 19 —
5. The water appropriated shall be used for the purpose of SUBURBAN HOUSING
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 211 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~~ used for suburban housing, 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-twentieth (1/20) 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~~ THIS DATE —, 19 —; said water to be used during the following described annual period: CONTINUOUSLY

Witness my hand this 21ST day of MAY, 19 76

WATER RIGHTS COMMISSION

By:

John H. Hatala
 Chief Engineer, Executive Officer

Certificate of Construction Issued FEBRUARY 2, 19 78

Water License Issued FEBRUARY 2, 19 78

Form 2A - Wells, Dugouts or Water Storage Dams (Supplement to form 2)

12. Principal Features of the Proposed Water Supply System (continued.)

D. Well Information or Estimates

- (1) Drill Hole, Diameter 3 feet, Depth 20 feet
- (2) Casing Type concrete, Diameter 3 feet, Thickness 3 inches
(wood, concrete, steel, etc.)
- (3) Perforated Screen.
- Type _____, Diameter _____, Length _____
- (4) Gravel Pack, Thickness 4 feet, Length of gravel pack 40 feet

E. Dugout Information or Estimates

- (1) Surface dimensions _____, Depth _____

F. Fill out for Either a Well or a Dugout.

- (1) Water Bearing Materials. (Please attach a copy to test well log if available.)

Character of Water bearing materials shale - schist - gravel

Depth to top of water bearing material 8 feet

Depth to bottom of water bearing material 20 feet

Thickness of water bearing material approximately 6 to 12 feet

Depth to water (ground surface to water level) 10 feet

- (2) Distance to nearest existing household or livestock watering wells.

On same owner's property 160 rds. On property owned by others 40 rds.

G. Water Storage Dams.

If the proposed water use system contains one or more water storage dams, please show in the space below, the height, maximum water depth, surface area and storage capacity of each storage dam. The location of each water storage dam should be shown on the water right map.

Frank L. Whitney
Signature of Applicant

Form 15.

Permit No. 1359-2

Water Diversion No. 2 Rapid Creek Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That Frank L. & Evelyn M. Whitney

_____ the holder _____ of
Permit No. 1359-2, issued upon Application No. 1359-2, bearing date of priority of March 18,
1976

_____ authorizing the diversion of .11 cu. ft. per second of the waters of _____
groundwater _____ County of Lawrence, State of South Dakota at _____
a point 700' N & 540' E of the SW corner, Section 18, T2N, R4E.

_____, for suburban housing

purposes, has ^{ve} _____ 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 found in satisfactory
condition for diverting and conveying to the place of intended use .11 cu. ft. per second of water.

Date February 2, 1976

By:

WATER RIGHTS COMMISSION

John Hatch
JOHN HATCH, Chief Engineer

WATER LICENSE NO. 1359-2

(1) WHEREAS, On the 18th day of March A. D. 1976

Frank L. & Evelyn H. Whitney.

made Water Right Application No. 1359-2 for a permit to use .11 cubic feet per second of the waters of groundwater

County of Lawrence, State of South Dakota, for suburban housing purposes; and

(2) WHEREAS, On the 21st day of May A. D. 1976

Permit No. 1359-2, with a date of priority of March 18, 1976 was issued to said applicant for the diversion of said water, and provided for the completion of construction of the water supply system therein described on or before the 21st day of May A. D. 1976 and for the application to beneficial use of said water on or before the 21st day of May A. D. 1976

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 .11 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,

~~water is diverted through a common distribution system for suburban housing use.~~

(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 Frank L. & Evelyn M. Whitney

_____ of Rapid City
the holder _____ and owner _____ of said permit No. 1359-2 a water right, dating from March 18, 1976
_____ to use of .11 cubic feet per second of the waters
of groundwater
in the County of Lawrence and State of South Dakota, or so much thereof as may be necessary for the
purposes hereinbelow mentioned, to be diverted at a point 700'N & 540'E of the SW corner,
Section 12, T2N, R4E

and conduct to ~~and use~~ through a common water distribution system
XXXXXX

for the purpose of suburban housing

Subject to any limitations listed in Water Right Permit No. 1359-2 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this 2nd day of February A. D.
Nineteen Hundred and seventy-eight

WATER RIGHTS COMMISSION

By:

John Hatala
Chief Engineer, Executive Officer

Permit No. 1354-2Water Division 2 Rapid Creek Water District

**REPORT OF EXAMINATION OF WORKS
AND/OR APPLICATION OF WATER TO BENEFICIAL USE**

TO: Water Resources Commission, State Office Building No. 2, Pierre, South Dakota 57501

I have this day made a thorough examination of the water use system constructed by FIENA L. Whitney of Box 2853, Rapid City, S. Dak. 57701 holder of Permit No. 1354-2, bearing date of priority of March 18, 1976 authorizing the diversion of .11 cu. ft. per second of the waters of Ground for Suburban Housing purposes, in Lawrence County.

I have to report on the condition of the same as follows:

The Water Use System consists of,

A. Works used to divert the water:

Pump - Submersible . Pumping 50 gpm

B. Works used to transport water to place of use,

Underground 2" dia. PVC Mains

C. Works used to apply water to beneficial use.

Housing Water Systems. 15 hookupsThe system is in the following condition: GoodThe point of diversion is located 700 ft North and 540 ft East of the SW corner of section 12 T2N R4E BHMThe works are capable of diverting and conveying to the place of use .11 cu. ft. per second of water which is to be used for Suburban Housing

Water has been put to beneficial use to the maximum extent as follows:

comprising a total of _____ acres of land.

Well data:

Depth 20 ft.Date November 29, 1977
Larry J. Menaugh
 (Signature)

RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

No 4 6289

PIERRE, January 4, 1978

RECEIVED OF Frank L. Whitten, Box 2853, Rapid City, S.D. 57701
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. <u>1250-2</u>	}	12.00
Fee for inspecting Beneficial Use, and issuing Water License No. <u>1250-2</u>		
Fee for issuing Location Certificate-Dry Draw, No. _____		
Fee for filing _____		
Fee for certified copy of _____		
Fee for Print copy of map _____		
Fee for Certifying _____		
Fee for _____ (any other work as provided by law)		
TOTAL		12.00

WATER RIGHTS COMMISSION

By J. A. Hatch
Chief Engineer, Executive Officer
JOHN HATCH yb

July 19, 1978

Dear Sirs;

Enclosed is a copy of a bill of sale and conveyance from Frank L. Whitney to the Alpine Acres Water Ass. Inc. A copy has also been filed with Register of Deeds and request that the license number 1359-2 be transferred to this Association. If further forms are necessary please forward to this address:

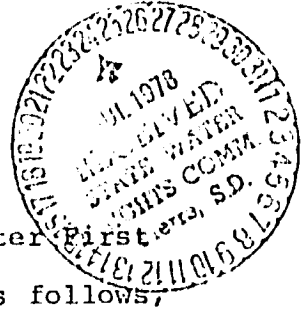
Alpine Acres Water Ass. Inc.
Box 71
Hemlock, S.D.

57759.

Thank you,
Homer O. Severn, Chairman



AGREEMENT OF EASEMENTS
AND CONVEYANCES



WHEREAS, Frank and Evelyn Whitney, hereinafter First Party, are the owners of a tract of land described as follows, to-wit:

Unplatted portion of Block One (1) and Block Two (2) of Alpine Acres Addition located in the Southwest Quarter of Southwest Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$), Section Twelve (12), Township Two North (T2N), Range Four East (R4E), Black Hills Meridian, Lawrence County, South Dakota.

WHEREAS, Alpine Acres Water Association, Inc. hereinafter Second Party, is a non-profit corporation the shareholders of which are the owners of the following described real estate, to-wit:

Lots One (1) through Ten (10) of Block One (1) and Lots One (1) through Six (6) of Block Two (2) of Alpine Acres Addition located in the Southwest Quarter of Southwest Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$), Section Twelve (12), Township Two North (T2N), Range Four East (R4E), Black Hills Meridian, Lawrence County, South Dakota.

WHEREAS, there is on the land of First Party above-described, a certain well, pump, electric meter, water lines and other similar equipment used in connection therewith, belonging to First Party;

WHEREAS, First Party is the licensee named in Water License Number 863-1 granted by the Water Resources Commission of South Dakota on the 30th day of September, 1969 for irrigation purposes and water License Number 1359-2 granted by the Water Rights Commission on the 2nd day of February, 1978; First Party is, prior to the execution of this Agreement, also entitled to all water available from such licenses;

Now, therefore, KNOW ALL MEN BY THESE PRESENTS:

That First Party in consideration of the sum of One Dollar (\$1.00) in hand paid by Second Party, the receipt and sufficiency of which is hereby acknowledged, and other good and valuable consideration, and subject to the conditions hereinafter set forth, does by these presents GRANT, SELL, AND CONVEY unto Second Party, that certain well, pump, electric meter, water lines and other equipment used in connection therewith, and, further,

GRANT, SELL, AND CONVEY unto Second Party an easement on, in, over, and across only so much of First Party's land as above-described as is reasonably necessary for the purposes of maintaining and repairing said well, pump, electric meter, water lines and other equipment used in connection therewith, to include access to drill an additional well or wells if necessary to continue the supply of water at its present level; said easement, as to access upon First Party's land may be limited, at the discretion of First Party to a defined access route or routes from time to time and further;

GRANT, SELL, TRANSFER, ASSIGN AND CONVEY unto Second Party any and all of First Party's right, title and interest in and to water License Number 1359-2 for suburban housing and, in addition thereto, the first right to any and all water produced or becoming available from that certain well referred to above to the extent that the same is used solely and exclusively for domestic purposes, including ordinary household, home lawn, home gardening, and other similar non-commercial uses;

First Party herein specifically reserves the right to use any and all water not necessary to supply Second Party with water for the uses specified herein and may use such water for any purpose including irrigation of the meadow land owned by First Party and located on and immediately adjacent to the land owned by First Party above-described;

The herein grant, sale and conveyance is conditioned further by the following:

1. That said grant, sale, transfer, assignment and conveyance, except as referred to in the preceding paragraphs as they relate to the transfer of Water License Number 1359-2 for suburban housing from First Party to Second Party, shall specifically exclude any and all other governmental, private, or other right, license or entitlement to take, obtain, produce, pump, extract or otherwise acquire surface, sub-surface or percolating or other water which First Party may have acquired either by purchase, use, solicitation, application or other acquisition prior to the date of this conveyance. This condition shall specifically exclude from the grant, sale, transfer, assignment and conveyance Water License Number 863-1 dated the 30th day of September, 1968 for irrigation purposes as well as the entitlements extending to First Party therefrom and all such license rights and other rights shall remain in First Party.

2. That this grant and conveyance shall not have any effect whatsoever upon First Party's right, title, interest or entitlement to monies and or other consideration now outstanding and unsatisfied as a result of certain contracts entered into between First Party herein and other parties prior to the execution of the herein document and which pertain primarily to the sale by First Party of certain portions of the above-described real estate or other real estate immediately adjacent thereto; this condition shall be specifically applicable to any unpaid amounts or contract balances resulting from the sale of any of the real estate above-described which was sold to shareholders of Second Party;
3. That the Second Party herein shall maintain and repair and keep in a good and workable condition the well, pump, electric meter, water lines and other equipment used in connection therewith, and in a manner such that a supply of water equal to that produced on the date of the execution of this Agreement which is recognized to be sufficient to supply the reasonable uses granted to Second Party as well as those reserved to Second Party, and that all such work be done without cost or expense to First Party, except to the extent that First Party is or may become a shareholder of Second Party and thereby be assessed a proportional share of such expenses. Further, that Second Party accomplish any and all such maintenance and repair and other work in a manner such that it not result in any leakage or seepage or otherwise in injury to the land and/or premises of the First Party herein.

The herein grant, sale and conveyance shall in regard to all provisions thereof, create a covenant running with the land in perpetuity and shall be binding upon the heirs, assigns and representatives of First Party and Second Party from the date of execution hereof chereafter.

IN WITNESS WHEREOF, the parties hereto enter their signatures and appropriate seal of authority.

FIRST PARTY:

Frank Whitney
Frank Whitney

Evelyn Whitney
Evelyn Whitney

SECOND PARTY:

By James D. [Signature]

Its: [Signature]

ATTEST:

Georgia M. Helms
Secretary

(CORPORATE SEAL)

RECEIPT

WATER RIGHTS COMMISSION
State of South Dakota

NO 4 6551

PIERRE, October 16, 1978

RECEIVED OF Frank L. Whitney, Box 2053, Rapid City, SD 57701
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 fee of Permit No. 1359-3</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 plh

NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Rights Commission
Foss Building
Pierre, SD 57501

Date: October 16, 1978

the well, pump, meter, water lines & other equipment on
This is to notify you that ~~title to the lands described as follows:~~

Section 12, T2N-R4E(The lots are in the names of individual owners)formerly owned by Frank and Evelyn M. Whitneyhas been transferred to Alpine Acres Water Ass'n Inc., Box 41, Nemo, SD 57759

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

Water Right Permit No. 1359-2 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 Water Rights Commission 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.

Me, Frank & Evelyn M. Whitney 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.

Frank & Evelyn M. Whitney
(Signed)

Subscribed and sworn to before me this 16th Day of October 1978.

John H. Haddock
(Notary Public)
Water Rights Specialist

Publish first publication, on or before May 6, 1976NOTICE
INTENT TO APPROPRIATE WATER

Pierre, South Dakota 57501

April 9, 1976**Frank L. Whitney**

Notice is hereby given that

whose post office address is Rapid City, South Dakota, has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use.11 cubic feet of water per second of time from ~~the~~ ground water through theWhitney Development, the point of diversion of which is to be located in theSW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 12, Twp. 2N, Range 4E. Said water to be used for the purposeof providing irrigation ~~portions of~~ portions ofsupplies for a suburban housing development

This application No. 1359-2 will be considered by the Water Rights Commission at their office at Pierre upon the 20th day of May, 1976 at 1:00 P. M. All interested persons may appear and be heard.

WATER RESOURCES COMMISSION

By:

BURTON F. JONES
Water Rights Specialist

BFJ/bw

cc:

Frank L. Whitney, Box 2853, Rapid City, S.D. 57701

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Lawrence) ss.

I, James W. Keith hereby
certify that the annexed printed copy of Notice of Intent to Appropriate
Water was taken from the Madison River Times

A newspaper which during the whole time of publication of said notice
herein after stated, has been and is printed and published in the _____

City Lead of Lead
County of Lawrence and State of South Dakota;
that the said notice was published in said newspaper on the following
two dates:

April 13, 1976

April 20, 1976

James W. Keith
(Signature)

Publisher
(Title)

4-29-76
(Date Signed)

Notice is hereby given that Frank L. Whitney whose post office address is Rapid City, South Dakota has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 1.1 cubic feet of water per second of time from ground water through the Whitney Development, the point of diversion of which is to be located in the SW1/4SW1/4 of Section 12, Twp. 2N, Range 4E. Said water to be used for the purpose of providing portions of supplies for a suburban housing development.
This application No. 1559-2 will be considered by the Water Rights Commission at their office at Pierre upon the 20th day of May, 1976, at 1:00 p.m. All interested persons may appear and be heard.

NOTICE INTENT TO
APPROPRIATE WATER
Pierre, S.D. 57501
April 9, 1976

Water Resource Commission
By: S. E. Fulton, F. Jones
Water Rights Specialist
April 13 & 20

