

No. 1461-2
 Map No. 1240-2 Water Division No. 2 RAPID VALLEY 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)

1. Name of Applicant WARREN- LAMB LUMBER CO.
 Postoffice address P.O. Box 779 Rapid City, State So. Dakota 57701
 If a corporation show date and place of incorporation March 5, 1907 Rapid City, So. Dak.
 2. Method of accomplishing work (contract, employment of others, or by direct labor) Direct labor
 3. Name of diversion work From 8/14/1914 State of S o. Dakota Water
 4. Amount of water claimed (cubic feet per second) 3.0 License No. 212-2
 5. Source of water supply Rapid Creek-then thru Cyclone Ditch & Murphy Ditch Approx.
 6. Location of point of diversion 2600' North and 2000' West from S.E. Corner Sec. 8 T.1N R8E
Approx. 1100' North and 1100' West from S.E. Corner Sec. 8, T.1N R8E

County PENNINGTON

7. Annual period or periods during which water is to be used May through October
 8. Use to be made of water. (irrigation, industrial, municipal, commercial, recreation, etc.) Irrig. &/or Indust.-Recreation
 9. For irrigation use, Total number of acres to be irrigated Approx 410 (alternately

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.
Part of Section 14 T1N8E		Part of Section 34 T1N8E	
" " " 15		" " " 35	
" " " 22		SEE ATTACHMENT	
" " " 27			

Attach sheet if more space is needed

10. Time required to complete construction of water supply system 5 years years. Additional time required to complete application of water to the proposed beneficial use 1 year years.
 11. Choice of newspaper for Notice of Intent to Appropriate Water publication Rapid City Journal
 12. Principal Features of the Proposed Water Supply System.

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

Head gates

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

Ditches

C. Works proposed to apply water to beneficial use.

Flooding

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 Pennington

I, R. W. J. Lamb (Warren-Lamb Lbr. Co.) 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 R. W. J. Lamb (Warren-Lamb Lbr. Co.)Subscribed and sworn to before me this 22nd day of September 19 75

Notary Public (or other qualified officer)

By Commission Expires 10/1/76

NOT TO SCALE

IN-8

4-31R

2/16

IN-8

4-31R

Geological Fault

249

NOT TO SCALE

1461-2

Murphy Ranch Division Point
(One division point not marked)

Murphy Ranch Division Point

IN-8

4-31R

IN-8

Cypress Ditch
New Area

Cypress Division Point

~~MAP NO 1461-2~~
APPL NO 1461-2

IN-8

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 1461-2
WARREN-LAMB LUMBER CO. % RICHARD LAMB, Box 779 RAPID CITY
 (Applicant) (Post Office Address)
SOUTH DAKOTA 57701 With the following modifications:

THIS PERMIT CHANGES THE USE AND PLACE OF USE AS AUTHORIZED UNDER PERMIT NO 212-2. PRIORITY FOR THIS PERMIT IS ESTABLISHED UNDER PERMIT NO 212-2. THIS PERMIT REPLACES PERMIT NO 212-2, AND PERMIT NO 212-2 IS HEREBY CANCELLED.

LOW FLOWS AS NEEDED FOR DOWNSTREAM DOMESTIC USE, INCLUDING LIVESTOCK WATERING, AND PRIOR WATER RIGHTS MUST BE BY-PASSED. UNAPPROPRIATED WATER IS AVAILABLE TO REASONABLY SATISFY THIS APPLICATION ONLY THROUGH CONTRACT BETWEEN THE RAPID VALLEY CONSERVANCY DISTRICT AND BUREAU OF RECLAMATION COVERING RELEASES FROM DEERFIELD AND FACTOLA RESERVOIRS.

This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

Date of first receipt of application SEPTEMBER 13 19 76
 Date of return to applicant for correction, amendments or changes required _____, 19 ____
 Date of receipt of corrected application _____, 19 ____
 Approved APRIL 7 19 82, Recorded in Book _____ Page _____

WATER RIGHT PERMIT NO. 1461-2

The Water Rights Commission hereby grants and issues this Water Right Permit No. 1461-2, 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 AUGUST 25 19 14
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before OCTOBER 7 19 34
3. The whole of said work is to be completed on or before APRIL 7 19 87
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is APRIL 7 19 87
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 3.0 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 is actually and beneficially applied for irrigation on or before APRIL 7 19 87; said water to be used during the following described annual period: MAY THRU OCTOBER

Witness my hand this 30TH day of APRIL 19 82

WATER RIGHTS COMMISSION

By:

John Hatch
 Chief Engineer, Executive Officer

Certificate of Construction Issued _____, 19 ____

Water License Issued _____, 19 ____

Permit No. 1461-2 Proposed Lands to be Irrigated

Supplement to Lands Irrigated
under the Rapid Valley Water Co., Inc.
Water Right.

All in T1N, R8E, Sec. 15

SW ¹ / ₄ SW ¹ / ₄	-	36.0 acres
SE ¹ / ₄ SW ¹ / ₄	-	32.8
SW ¹ / ₄ SE ¹ / ₄	-	25.8
SE ¹ / ₄ SE ¹ / ₄	-	11.4
NE ¹ / ₄ SE ¹ / ₄	-	36.6
NN ¹ / ₄ SE ¹ / ₄	-	28.5
NE ¹ / ₄ SW ¹ / ₄	-	40.0
NW ¹ / ₄ SW ¹ / ₄	-	28.0
SE ¹ / ₄ NE ¹ / ₄	-	27.3
SW ¹ / ₄ NE ¹ / ₄	-	37.3
SE ¹ / ₄ NW ¹ / ₄	-	39.4
SW ¹ / ₄ NW ¹ / ₄	-	37.4
NW ¹ / ₄ NW ¹ / ₄	-	31.0
NE ¹ / ₄ NW ¹ / ₄	-	2.0

413.5 acres

New Lands:

All in T1N, R8E, Sec. 22

NE ¹ / ₄ NE ¹ / ₄	-	4.8 acres
NW ¹ / ₄ NE ¹ / ₄	-	20.7
NE ¹ / ₄ SW ¹ / ₄	-	30.0
NW ¹ / ₄ SW ¹ / ₄	-	30.0
NW ¹ / ₄	-	160.0
		<u>245.5</u>

Total - 659 acres

JNV

Permit No. 1461-2

Proposed Lands to be Irrigated

Supplement to Lands irrigated
under the Rapid Valley Water Co., Inc.

Water Right:

All in T1N, R8E, Sec. 15

SW $\frac{1}{4}$ SW $\frac{1}{4}$ - 36.0 acres

SE $\frac{1}{4}$ SW $\frac{1}{4}$ - 32.8

SW $\frac{1}{4}$ SE $\frac{1}{4}$ - 25.8

SE $\frac{1}{4}$ SE $\frac{1}{4}$ - 11.4

NE $\frac{1}{4}$ SE $\frac{1}{4}$ - 36.6

NN $\frac{1}{4}$ SE $\frac{1}{4}$ - 28.5

NE $\frac{1}{4}$ SW $\frac{1}{4}$ - 40.0

NW $\frac{1}{4}$ SW $\frac{1}{4}$ - 28.0

SE $\frac{1}{4}$ NE $\frac{1}{4}$ - 27.3

SW $\frac{1}{4}$ NE $\frac{1}{4}$ - 37.3

SE $\frac{1}{4}$ NW $\frac{1}{4}$ - 39.4

SW $\frac{1}{4}$ NW $\frac{1}{4}$ - 37.4

NW $\frac{1}{4}$ NW $\frac{1}{4}$ - 31.0

NE $\frac{1}{4}$ NW $\frac{1}{4}$ - 2.0

413.5 acres

New Lands:

All in T1N, R8E, Sec. 22

NE $\frac{1}{4}$ NE $\frac{1}{4}$ - 4.8 acres

NN $\frac{1}{4}$ NE $\frac{1}{4}$ - 20.7

NE $\frac{1}{4}$ SW $\frac{1}{4}$ - 30.0

NW $\frac{1}{4}$ SW $\frac{1}{4}$ - 30.0

NW $\frac{1}{4}$ - 160.0

245.5

Total - 659 acres

g9w

Form 6. - Notice of Intent to Appropriate Water

No. 1461-2

Publish first publication, on or before

November 4, 1976

NOTICE OF INTENT TO APPROPRIATE WATER

Pierre, South Dakota 57501

October 29, 1976

Notice is hereby given that Warren-Lamb Lumber Company
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 change the point of diversion and use of water, and
to appropriate for beneficial use 3.0 cubic feet of water per
second of time from ~~the~~ Rapid Creek through the
Cyclone & Murray Ditches, the point of diversion of which ~~is~~ are
to be located in the SW 1/4 NE 1/4 and SE 1/4 SE 1/4

of Section 8, Twp. 1N, Range 8E. Said water to be used
for the purpose of providing irrigation ~~on the following described land~~
on approximately 400 acres in portions of Sections 14, 15, 22, 27,
34 & 35, T1N, R8E

This application No. 1461-2 will be considered by the Water Rights
Commission at the Marvin Hughitt Hotel in Huron, South Dakota,
upon the 17th day of November, 1976 at 10:00 A.M. All
interested persons may appear and be heard.

WATER RIGHTS COMMISSION

By:

BURTON F. JONES, Water Rights Specialist

BFJ/bw

cc: Warren-Lamb Lumber Company, Box 779, Rapid City, SD 57701

Form 8 - Proof of Publication - Notice of
Intent to Appropriate Water

No. _____

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Pennington) ss.

I, Helena M. Bauer hereby
certify that the annexed printed copy of Notice of Intent to Appropriate
Water was taken from the Rapid City Journal

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 Rapid City of _____

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

November 3, 1976

November 10, 1976

Helena M. Bauer
(Signature)

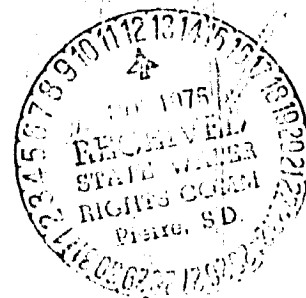
Bookkeeper

(Title)

November 11, 1976

(Date Signed)

Nov. 3, 1976
NOTICE OF INTENT
TO APPROPRIATE WATER
Pierre, South Dakota 57501
October 21, 1976
Notice is hereby given that Warren
Lamb Lumber Company whose post of-
fice 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 change the
point of diversion and use of water, and to
appropriate for beneficial use 3.0 cubic
feet of water per second of flow from
Rapid Creek through the Cyclone &
Murphy Ditches, the points of diversion
of which are to be located in the SW 1/4
NE 1/4 and SE 1/4 of Section 8, Twp.
1N, Range 8E, S 1/2 water to be used for
the purpose of providing irrigation on ap-
proximately 400 acres in portions of Sec-
tions 14, 15, 22, 27, 34 & 35, T1N, R8E.
This application (No. 1461-2) will be con-
sidered by the Water Rights Commission
at the Marvin Huxhly Hotel in Huron,
South Dakota, upon the 17th day of
November, 1976 at 10:00 A.M. All inter-
ested persons may appear and be heard.
WATER RIGHTS COMMISSION
By: BURTON F. JONES,
Water Rights Specialist



11251-2 Warren Semi. Ltr to Ph. 342-2534
By [unclear] I called Rufus Smith and he was
according what Old Hammond & Taylor
actions were during my conversation
with them in December. I said Taylor
thought something could be worked out
between Dr. Murphy's Cyline & the
Corry water to his land.

243
5678

He wanted to know if he could
change it to industrial use later on and
he said it had to be put to
beneficial use within the time limit or
lose it. He could make an application with
the land commission change it to some
irrigation to industrial use.

I do to know we had to investigate
what his application was quite unclear
and we did not have any idea of what it was.

**South Dakota Department of
Water & Natural Resources**
Joe Foss Building
Pierre, South Dakota 57501

March 24, 1982

NOTICE

TO : Persons Interested In Deferred Application No. 1461-2 Warren Lamb
Lumber Co., Pennington County

FROM : John Hatch, Chief Engineer, Water Rights Division *John Hatch*

SUBJECT : Reconsideration of Application No. 1461-2

The Water Management Board will reconsider Water Permit Application No. 1461-2 at 3:00 p.m., April 7, 1982, at Meeting Room #1, Knelp Building at Church and Illinois, Pierre, SD.

This reconsideration hearing will be conducted in accordance with the provisions of SDCL 46-1-1 through 46-1-9, 46-1-12 through 46-1-14, 46-2-9 through 46-2-11, 46-2-13; 46-5-1 through 46-5-8, 46-5-10 through 46-5-22, 46-5-25, 46-5-41, 46-6-3 through 46-6-5, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14 and Board Rules ARSD 74:02:01:01 through 74:02:01:15.

These applications were previously deferred by the Board pending staff investigation. A report on the deferred applications has been prepared by the Water Rights Staff and is available upon request.

After reconsideration of the deferred applications the Board can approve, conditionally approve, defer, or deny all or part of the Applications.

This hearing is an adversary proceeding. Any person has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing. Decisions of the Board may be appealed to the Courts as provided by law.

Any handicapped person wishing to attend this hearing can contact the Water Rights Division, DWR, Joe Foss Building, Pierre, South Dakota, prior to the hearing date for assistance to assure access to the hearing.

S503.wr

Report on Application No. 1461-2
Warren-Lamb Lumber Company
April 1, 1982

This application was deferred at the November 17-18, 1976 hearing of the Water Rights Commission. The application was deferred to obtain additional information on the plans for irrigation, determine existing rights on these lands, determine the legality of transferring the beneficial use from an industrial use to an irrigation use, and to assess the capability of the Rapid Valley Water Company Incorporated Ditch, and Cyclone Ditch to carry the additional water.

Discussion

The plan of irrigation is to irrigate an additional 245.5 acres in Section 22 and to supplement the irrigation of 413.5 acres in Section 15, T-1N, R-8E covered under the existing right of the Rapid Valley Water Company Incorporated (Murphy Ditch). The proposal indicates transferring the water right No. 212-2 for Warren Lamb Lumber Company from an industrial use to an irrigation use. Plans are to transport 1 cfs through the Cyclone Ditch and 2 cfs through the Murphy Ditch for irrigation purposes.

Presently, Mr. Lamb is allowed 4cfs to irrigate the 413.5 acres covered under water right No. 1727-2. With the additional 3 cfs of water, he plans on developing up to 245.5 additional acres in the SW $\frac{1}{4}$ of Section 15 and the W $\frac{1}{2}$ of Section 22.

The reason for no longer using the water for industrial purposes is because, according to Richard Lamb, the business was destroyed in the Rapid City flood of 1972. Rather than losing the water right, he felt that he could beneficially utilize the water on lands owned by him in the Rapid Valley area.

Questions have been raised concerning whether the two ditches would have the capacity to carry the additional water. It would appear to this office that the Murphy Ditch would be able to carry the additional water up to his first existing point of diversion in Section 3 of T-1N, R-8E. Beyond that point there is a constriction caused by culverts through a road. This is according to Harry Richardson of Banner and Associates in Rapid City who has surveyed the ditch.

The Cyclone Ditch may not have the capacity to carry additional water. According to Vince Seaman of the Soil Conservation Service, the ditch is at a point where any additional water provided by this ditch will require some cleanout and channel improvement of the ditch.

Whether or not the ditches would be willing to carry the additional water would have to be decided by the Boards of Directors of the ditches. Some work may be required on the ditches to handle the additional flow unless water can be taken from the ditch at times when the water is not being utilized by others on the ditch.

Recommendation:

It appears that legally, water can be transferred from an industrial use to an irrigation use as long as the industrial use had not previously been abandoned, and a showing can be made that the transfer will not adversely affect existing water rights. The Staff recommendation for this transfer is to approve with the following qualification:

Low flows as needed for downstream domestic use, including livestock watering, and prior water rights must be by-passed. Unappropriated water is available in Rapid Creek to reasonably satisfy this application only through contract between the Rapid Valley Conservancy District and Bureau of Reclamation covering releases from Deerfield and Pactola Reservoirs. The diversion of water from the Rapid Valley Water Company Incorporated Ditch and the Cyclone Ditch is subject to the approval of the Boards of Directors.

Jim Winterton
Water Resources Engineer

No. 1461-2

 **Department of
Water & Natural Resources**

Joe Foss Building Water Rights Division
Pierre, South Dakota 57501

(605) 773-3352

May 3, 1982

Warren-Lamb Lumber Co.
c/o Richard Lamb
Box 779
Rapid City, South Dakota 57701

Dear Mr. Lamb:

Enclosed herewith is your Water Right Permit No. 1461-2 as approved by the Water Management Board, authorizing you to construct your water diversion system and apply the water to beneficial use, not exceeding the limits as specified in said Water Right Permit No. 1461-2.

Also enclosed is FORM 10, Notice of Completion of Works and Application of Water to Beneficial Use, which you are to complete and submit to the Water Management Board when you have completed the system and/or have put the water to beneficial use. The Board can then schedule an inspection so that your Certificate of Construction and/or Water License may be issued to you, thus completing your acquisition of a Water Right.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division

JH: ms

enclosure

P.S. You will note that as this Permit replaces Permit No. 212-2, Permit No. 212-2 is cancelled.

WNR-809-7/79

Forwarding Permit to Appropriate Water

No. 1461-2

NOTICE OF COMPLETION OF WORKS AND/OR
APPLICATION OF WATER TO BENEFICIAL USE

Post Office Pierson City, S.D. 57701
Date February 29, 1984

TO: Water Rights
Joe Foss Building
Pierre, South Dakota 57501

Dear Sirs:

This is to inform you that I have completed the construction of the water diversion system and/or that I have put the water to beneficial use to maximum extent it is going to be used, not exceeding the amounts as specified in Water Right No.

1461-2

Water Right Permit No. 1461-2 states that the diversion system is to be constructed by April 7, 1987, and that the water is put to beneficial use by April 7, 1987.

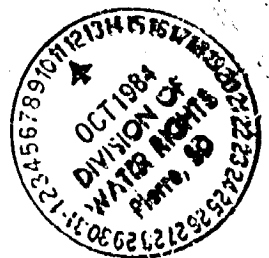
The diversion system was already in place completed on May-Oct 1983. Applying the water to beneficial use was completed on May-Oct 1983.

You may schedule an inspection so that the Certificate of Construction and/or the Water License may be issued, thus completing my acquisition of a water right.

David B. Rant
(Signature)

Harvey Peak Ranch
RR#2 Box 160
Pierson City, SD 57701

WNR-610-7/79
Notice of Completion of Works and/or
Application of Water to Beneficial Use



No. 1461-2

NOTICE OF COMPLETION OF WORKS AND/OR
APPLICATION OF WATER TO BENEFICIAL USE

Post Office Pierre City, S.D. 57701
Date February 29, 1984

TO: Water Rights
Joe Foss Building
Pierre, South Dakota 57501

Dear Sirs:

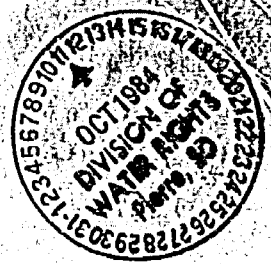
This is to inform you that I have completed the construction of the water diversion system and/or that I have put the water to beneficial use to maximum extent it is going to be used, not exceeding the amounts as specified in Water Right No. 1461-2

Water Right Permit No. 1461-2 states that the diversion system is to be constructed by April 7, 1987, and that the water is put to beneficial use by April 7, 1987.

The diversion system was already in place completed on May-Oct 1983. Applying the water to beneficial use was completed on May-Oct 1983.
You may schedule an inspection so that the Certificate of Construction and/or the Water License may be issued, thus completing my acquisition of a water right.

David B. Raul
(Signature)

Harry Ouk Raul
RR42 Box 160
R. City, SD 57701



No. 1461-2



NOTICE OF COMPLETION OF WORKS AND/OR
APPLICATION OF WATER TO BENEFICIAL USE

Post Office Box 8322 Rapid City, So. Dak
57701

Date May 15 1988

TO: Water Rights
Joe Foss Building
Pierre, South Dakota 57501

Dear Sirs:

This is to inform you that I have completed the construction of the water diversion system and/or that I have put the water to beneficial use to maximum extent it is going to be used, not exceeding the amounts as specified in Water Right No. 1461-2.

Water Right Permit No. 1461-2 states that the diversion system is to be constructed by APRIL 7, 1987, and that the water is put to beneficial use by April 7, 1987.

The diversion system was completed on May 15, 1988. Applying the water to beneficial use was completed on May 15, 1988.

You may schedule an inspection so that the Certificate of Construction and/or the Water License may be issued, thus completing my acquisition of a water right.

WARREN-LANE LUMBER COMPANY

W. L. Lane

(Signature)

WNR-810-7/79

Notice of Completion of Works and/or
Application of Water to Beneficial Use

 **Department of
Water & Natural Resources**

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

March 26, 1986

NOTICE

Warren Lamb Lumber Co.
RR 2, Box 160
Rapid City, SD 57701

Re: Violation of Water Permit No(s). 1461-2 A, 1461-2

Our records indicate that the 1985 Irrigation Questionnaire has not been received for Water Permit No(s). 1461-2 A, 1461-2. The request for the Questionnaire was dated November 13, 1985. The Water Management Board has directed that owners of water permits who have not submitted 1985 Irrigation Questionnaires be given notice of permit violation and of hearing(s) before the Board. The hearing(s) will be held to determine action to be taken by the Board for violation of Water Permit No(s). 1461-2 A, 1461-2 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

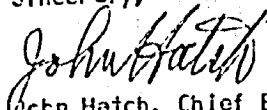
The hearing(s) will be at 2:00 p.m., May 14, 1986, Joe Foss Building, Room 216, Pierre, South Dakota. The hearing(s) will be conducted pursuant to the provisions of SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11, and 46-2-17. These are contested case hearings pursuant to procedures contained in SDCL 1-26.

Following the hearing(s) the Water Management Board can:

1. Suspend Permit No(s). 1461-2 A, 1461-2 until either the 1985 Questionnaire is submitted or for a period of up to one year;
2. Postpone any action;
3. Take no action.

The hearing(s) is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

Sincerely,



John Hatch, Chief Engineer
Water Rights Division
(605) 773-3352

Note: If the questionnaire(s) is received in this office before the May 14 hearing date, you will no longer be in violation of your permit(s) and your name will be deleted from the agenda pertaining to these hearings.

South Dakota Department of
Water & Natural Resources

Joe Foss Building
623 East Capitol
Pierre, South Dakota 57501-3181
May 26, 1986

Permit No. 1461-2 & 1461A-2

Warren-Lamb Lumber Co.
%Richard Lamb
PO Box 8032
Rapid City SD 57709

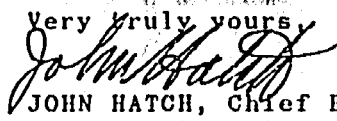
Dear Mr. Lamb:

I am writing to acknowledge receipt of your 1985 Irrigation Questionnaire. A notice was sent to you May 16, 1986 regarding the Board action taken May 14, 1986 to suspend your permit(s) if the 1985 irrigation questionnaire was not received before June 1, 1986.

You may disregard the May 16 notice. With receipt of your 1985 questionnaire(s), your permit(s) will not be suspended.

If you have any questions, please contact us.

Very truly yours,


JOHN HATCH, Chief Engineer
Water Rights Division
605 773-3352

**South Dakota Department of
Water & Natural Resources**
Joe Foss Building
623 East Capitol
Pierre, South Dakota 57501

Division of Water Rights
605 773-3352

No. 1461-2
1461A-2

December 16, 1986

Richard Lamb
PO Box 8032
Rapid City, South Dakota 57709

Dear Mr. Lamb:

Please find enclosed ^{copies} ~~a~~ copy of a Notice of Transfer of Water Permit forms. These forms must be signed by the owner before a notary and returned to this office with a filing fee of \$2.50 for each, total of \$5.00.

Upon receipt of the enclosed forms and the \$2.50 filing fee, ^{for each, total of \$5.00} the permits will be transferred to the proper name. 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.

Please advise if you have any questions.

Sincerely,

Maxine Stirling
Secretary

ms/
Enc.

DWNR-820A-8/83



NO. 1461-2

NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Rights
Foss Building
Pierre, SD 57501

Date: December 15, 1986

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

S1, S1NE1/4, NW1/4 Section 15; N1NE1/4, N1SW1/4, NW1/4, Section 22, T1N-R8E

formerly owned by Warren Lamb Lumber Co. (a corporation)

has been transferred to Warren Lamb Lumber Co. (a partnership) 190 Bear Gulch Dr.
Portola Valley, CA 94025
(please include complete mailing address)
together with any rights to the beneficial use of water thereon as evidenced by

Water Right Permit No. 1461-2 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 Div. of Water Rights, Water Management Board 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 California)
SANTA CLARA) ss.
County of SANTA CLARA)

I, C. Theodore Lamb being first duly sworn on my oath depose and say: (and managing partner)
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.

Warren Lamb Lumber Co.

by: C. Theodore Lamb Managing Partner
(Signed)

Subscribed and sworn to before me this 24th day of December, 1986



Betty A. Souders
(Notary Public)

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

A10672

Pierre, December 29, 1986

RECEIVED OF Warren Lamb Lumber Co., 100 Bear Gulch Dr., Portola Valley CA 94025

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 for Permit No. 1461-2

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

2 50

By

Chief Engineer

JOHN HATCH

ks

South Dakota

Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3151

WATER RIGHTS DIVISION
(605) 773-3352

No. 1461-2
1461A-2

December 31, 1986

Warren Lamb Lumber Company
190 Bear Gulch Drive
Portola Valley, California 94025

Dear Sir:

Enclosed are receipt Nos. 410671 and 410672 in the amount of \$2.50 each which you paid for Water Right Nos. 1461-2 and 1461A-2.

Our records now show Warren Lamb Lumber Company (a partnership) as owner of these Water Rights.

Sincerely,

Maxine Stirling
Secretary

ms/
Enc.

1461-2

Bangs, McCullen, Butler, Foye & Simmons

Lawyers

818 St. Joe Street

Mailing Address P.O. Box 2670

Rapid City, South Dakota 57709

605-343-1040

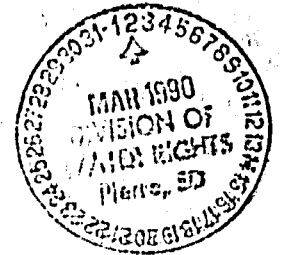
Telecopier 605-343-1503

George A. Bangs
W.A. McCullen (1943-1987)
Joseph M. Butler
Thomas F. Foye
Thomas E. Simmons
Ronald E. Clabaugh
Charles L. Riter

Allen C. Nelson
James P. Hurley
Michael M. Hickey
Mark F. Marshall
Terry L. Hofer
Rebecca A. McMahon
Patrick K. Duffy

March 1, 1990

Dept. of Water & Natural Resources
Water Rights Division
523 E. Capitol
Foss Building
Pierre, SD 57501



Re: David S. Lamb

Gentlemen:

Referencing our client above named, enclosed please find two Notices of Transfer of Water Permit. Also enclosed is our firm check in the amount of \$5.00 to cover the cost of filing these Notices in the appropriate files at the Division of Water rights, Water Management Board, as evidence of change of ownership of property described on the Notices.

Thank you.

Sincerely,

BANGS, McCULLEN, BUTLER, FOYE & SIMMONS

Terry L. Hofer
Terry L. Hofer

TLH:gb
Encl.
cc: David S. Lamb



No. 1461-2

NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Rights
Foss Building
Pierre, SD 57501

Date: February 28, 1990

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

The $S\frac{1}{2}$, $S\frac{1}{2}NE\frac{1}{4}$, and $NW\frac{1}{4}$ of Section 15; and the $N\frac{1}{2}NE\frac{1}{4}$, $N\frac{1}{2}SW\frac{1}{4}$, and $NW\frac{1}{4}$ of Section 22, T1N, R8E Black Hills Meridian, Pennington County, South Dakota,

formerly owned by Warren Lamb Lumber Company, a general partnership, has been transferred to David S. Lamb, Route 2, Box 160, Rapid City, South Dakota 57701, together with any rights to the beneficial use of water thereon as evidenced by Water Right Permit No. 1461-2 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 Division of Water Rights, Water Management Board 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(4).

STATE OF SOUTH DAKOTA:

SS.

COUNTY OF PENNINGTON :

I, David S. Lamb, being first duly sworn, on oath depose and state:

That my relation to the above-described undertaking is that of Owner, that I have read the above and foregoing statement, and I know of my own personal knowledge that the information herein stated is true.

David S. Lamb
DAVID S. LAMB

Subscribed and sworn to before me this 28th day of February, 1990.

Frederick A. Beard
Notary Public, South Dakota

My commission expires: 10/23/92

(SEAL)

South Dakota Department of
Water & Natural Resources

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

March 29, 1990

No. 1461-2
1461A-2

Terry L Hofer, Attorney
PO Box 2670
Rapid City SD 57709

Dear Mr. Hofer:

Enclosed are receipts in the amount of \$2.50 each which you paid for the transfer of Water Permit Nos. 1461-2 and 1461A-2.

Our records now show David S. Lamb as the owner of these Water Permits.

Sincerely,

Karen Schlaak

KAREN SCHLAAK
Senior Secretary
Water Rights Division
605 773-3352

enclosure

cc: David S. Lamb



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

December 1, 1992

1461-2
1461A-2

David Lamb
RR 2 Box 160
Rapid City, SD 57701

Dear Mr. Lamb:

I am writing to acknowledge receipt of your letter concerning withdrawal of Application No. 2214-2. As we understand your letter, you have requested the Water Management Board to withdraw this application from further consideration when it meets December 2, 1992, here in Pierre. You will need to submit a new application, if you want the Water Management Board to consider additional proposals.

Currently, you are the holder of Water Permit Nos. 1461-2 and 1461A-2. Water Permit No. 1461-2 authorizes the irrigation of 603 acres located in W1/2, S1/2 NE1/4 and SE1/4 of Section 15 and the NW1/4, N1/2 NE1/4 and N1/2 SW1/4 of Section 22 all in T1N-R8E. Water for irrigation is from Rapid Creek with a diversion rate of 1.00 cfs at the Cyclone Ditch headgate located in SE1/4 SE1/4 of Section 8 and a diversion rate of 1.25 cfs at the Murphy Ditch headgate located in SW1/4 of Section 9 all in T1N-R8E. Water Permit No. 1461A-2 authorizes irrigation of 56 acres located in the NW1/4 of Section 15 with a diversion rate of 0.75 cfs directly from Rapid Creek with the diversion point located in NW1/4 NW1/4 of Section 15 all in T1N-R8E.

The qualifications placed on Permit Nos. 1461-2 and 1461A-2 when they were approved, require irrigation water to be obtained through a contract with the Rapid Valley Water Conservancy District. You have not complied with the requirement to contract for stored water. Without a contract, irrigation of the land described in Nos. 1461-2 and 1461A-2 is not authorized. Nor do these water permits authorize irrigating of the additional 75.5 acres or use of

any combination of the three diversion points for irrigating all of the land as requested by Application No. 2214-2.

If you have any questions, please contact Mark Rath, (605) 773-3352.

Very Truly Yours,

A handwritten signature in dark ink, appearing to read "J. Hatch", written in a cursive style.

John Hatch, Chief Engineer
Division of Water Rights



1461-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

December 20, 1993

1461-2
1461A-2

David S Lamb
4555 E 53rd Street
Rapid City, SD 57701

Dear Mr. Lamb:

I am contacting you in regard to your 1993 irrigation questionnaires for Water Permit Nos. 1461-2 and 1461A-2.

Water Management Board Rule 74:02:01:14.02 states that all irrigation permit owners except water spreading permit owners shall submit completed irrigation questionnaires on the forms mailed to them each year by the chief engineer. With the information you included on your questionnaires, it is not possible for us to calculate how much water you used during 1993.

You will need to make an estimate of how many days and hours per day you pumped for each of the months. If the days, hours per day and the pump rate is known, the amount of water used can be completed and filled in by our office. I realize obtaining this information may be difficult, but without the information the forms can not be considered complete.

I am enclosing two blank irrigation questionnaire forms. Please complete and return them to our office by January 14, 1994. I have also enclosed a postage paid envelope for convenience in returning them.

If you have any questions, please contact me at (605) 773-3352.

Sincerely,

Genny McMath

Genny McMath
Natural Resources Analyst
Water Rights Division

PLEASE FILL OUT AND RETURN
BEFORE DECEMBER 17, 1993

OCTOBER 1993 WATER MANAGEMENT BOARD IRRIGATION QUESTIONNAIRE

1461-2
DAVID S. LAMB
RR 2 BOX 160
RAPID CITY
SD 57701

PERUC

1. SURFACE WATER ☒ GROUNDWATER ☐
2. Did you irrigate during 1993? Yes ☒ No ☐
(if no, please include reason(s) in comment section)
3. Number of acres irrigated in 1993 about 650
4. Has your system been constructed? Yes ☒ No ☐
5. Are chemicals, including fertilizer, applied through your irrigation system? Yes ☐ No ☒



Telephone No. _____

Type of Power	No. of acres irrigated
1. Electric	<u>about 300</u>
2. Gravity	<u>" 650</u>
3. Gasoline	
4. Nat. Gas pipeline	
5. Diesel	<u>about 750</u>
6. Propane	
7. Other	
Type of System	
1. Hand moved sprinklers	
2. Portable booms	
3. Center pivots (# of)	
4. Gated pipes	
5. Sidewheels	
6. Towlines	
7. Big gun	
8. Siphons	
9. Flood	
10. Other	

Owner or address change, if any: _____

Month	# days pumped	Average # hours per day	Average pump rate (gpm)	Acres of Crop Irrigated & Estimated Water Use			
				Crop	Acres	Water Used	Water Used
April	<u>16</u>	<u>16</u>		<u>Alfalfa</u>	<u>650</u>	<u>11</u>	
May	<u>"</u>			<u>"</u>	<u>"</u>	<u>"</u>	
June	<u>"</u>			<u>"</u>	<u>"</u>	<u>"</u>	
July	<u>"</u>			<u>"</u>	<u>"</u>	<u>"</u>	
August	<u>11</u>			<u>"</u>	<u>"</u>	<u>"</u>	
Sept.	<u>"</u>			<u>"</u>	<u>"</u>	<u>"</u>	
Oct.	<u>"</u>			<u>"</u>	<u>"</u>	<u>"</u>	
Other Months	<u>"</u>			<u>"</u>	<u>"</u>	<u>"</u>	

COMMENTS:

Division helped access the water rights in spring and other very difficult in irrigation and distribution.

Complete & return to:
Water Rights Division
Joe Foss Building
523 E Capitol
Pierre SD 57501-3181
(605) 773-3352

Harney Peak Ranch



4555 Reservoir Road, Rapid City, SD 57703-9637 (605) 393-0093 Fax (605) 393-0044

December 2, 2004

Notes For the South Dakota 2004 Irrigation Report Form:

Water Rights 1461-2 and 1461A-2

Note: The figures used in this form do not include irrigation water usage from other water rights and sources that are not reported on this form. Some figures may be estimated or approximate.

The complex and integrated conservation delivery, storage, distribution, and reuse systems in use on the Harney Peak Ranch result in the intermingling of water from a number of different water rights in uses on the property in some cases.

Recent irrigation studies by independent private water engineering firms have indicated that there are some discrepancies between the acres historically irrigated on the Harney Peak Ranch and the legal descriptions recorded in the water rights records currently in use to define those areas.

The nature of these discrepancies would tend to suggest that they are based upon recording errors or omissions when the figures were entered in recent efforts to refine the water records.

It is possible that these discrepancies might have caused the acreages used in these annual reports to be inaccurate in some cases.

1461-2



4555 Reservoir Road, Rapid City, SD 57703-9637 (605) 393-0093 Fax (605) 393-0044

November 18, 2005

Notes For the South Dakota 2005 Irrigation Report Form:

Water Rights 1461-2 and 1461A-2

Note: The figures used in this form do not include irrigation water usage from other water rights and sources that are not reported on this form. Some figures may be estimated or approximate.

The complex and integrated conservation delivery, storage, distribution, and reuse systems in use on the Harney Peak Ranch result in the intermingling of water from a number of different water rights in uses on the property in some cases.

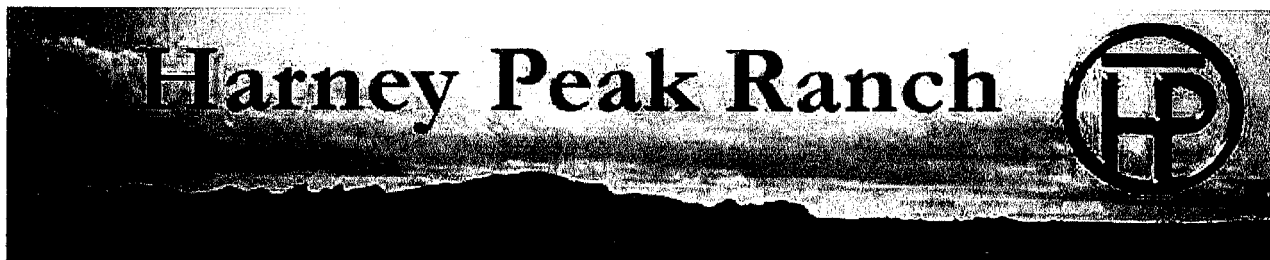
Recent irrigation studies by independent private water engineering firms have indicated that there are some discrepancies between the acres historically irrigated on the Harney Peak Ranch and the legal descriptions recorded in the water rights records currently in use to define those areas.

The nature of these discrepancies would tend to suggest that they are based upon recording errors or omissions when the figures were entered in recent efforts to refine the water records. Harney Peak Ranch re-submitted maps to the SD DENR Water Rights Division in 2005 with the same lands identified as have always been submitted over the years to identify irrigated lands. To date, the SD DENR irrigated acreage corrections have not been made, to the extent that we have been informed.

SD DENR Water Rights authorities were to meet with David Lamb, owner of Harney Peak Ranch, in 2005 to mark specific boundaries with Global Positioning Equipment as well. This has not yet taken place.

It is possible that these discrepancies might have caused the acreages used in these annual reports or other Rapid Valley water rights activity to be inaccurate.

David S. Lamb
Harney Peak Ranch



4555 Reservoir Road, Rapid City, SD 57703-9637 (605) 393-0093 Fax (605) 393-0044

November 30, 2006

Notes For the South Dakota 2006 Irrigation Report Form:

Water Rights 1461-2 and 1461A-2

RECEIVED

DEC - 5 2006

**WATER RIGHTS
PROGRAM**

Note: The figures used in this form do not include irrigation water usage from other water rights and sources that are not reported on this form. Some figures may be estimated or approximate.

The complex and integrated conservation delivery, storage, distribution, and reuse systems in use on the Harney Peak Ranch result in the intermingling of water from a number of different water rights in uses on the property in some cases.

Recent irrigation studies by independent private water engineering firms have indicated that there are some discrepancies between the acres historically irrigated on the Harney Peak Ranch and the legal descriptions recorded in the water rights records currently in use to define those areas.

The nature of these discrepancies would tend to suggest that they are based upon recording errors or omissions when the figures were entered in recent efforts to refine the water records. Harney Peak Ranch re-submitted maps to the SD DENR Water Rights Division in 2005 with the same lands identified as have always been submitted over the years to identify irrigated lands. To date, the SD DENR irrigated acreage corrections have not been made, to the extent that we have been informed.

SD DENR Water Rights authorities were to meet with David Lamb, owner of Harney Peak Ranch, in 2005 to mark specific boundaries with Global Positioning Equipment as well. This has not, to our knowledge, taken place.

It is possible that these discrepancies might have caused the acreages used in these annual reports or other Rapid Valley water rights activity to be inaccurate.

David S. Lamb

Harney Peak Ranch

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Water Permit No. 1461-2, David Lamb

ADDRESS: 4555 Reservoir Road, Rapid City SD 57703 COUNTY: Pennington County

DATE: March 10, 2011 TELEPHONE:

RE: 58 acre transfer under Water Permit No. 2655-2

Parties in the matter of Application No. 2655-2 filed by the city of Rapid City stipulated to a number of conditions to the issuance of the water permit. The application transfers a portion of the Cyclone Ditch Company stockholder/landowner's use of Rapid creek natural flows appropriated under Vested Water Right No. 1736-2 to municipal use. Specifically involved in the transfer are 58 acres located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ located north of the Cyclone Ditch and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 22, T1N, R8E. These acres are also listed on Water Permit No 1461-2 held by Mr. David Lamb for irrigation of these same acres.

As part of settlement, Mr. Lamb through his counsel agreed that these 58 acres will not be irrigated under Water Permit No. 1461-2 or any other permit or license currently describing said land. This was a precondition to the issuance of the permit by the Chief Engineer. The Chief Engineer that the preconditions were met and proceeded to issue Permit No. 2655-2.

The 58 acres located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ located north of the Cyclone Ditch and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 22, T1N, R8E are no longer to be irrigated from Rapid Creek.

The letters from Mr. Lamb's counsel and Rapid Valley Conservancy District are being attached the administrative record for Permit No. 1461-2.

NAME: _____

LAW OFFICES OF
BENNETT, MAIN & GUBBRUD
A PROFESSIONAL CORPORATION
618 STATE STREET
BELLE FOURCHE, SOUTH DAKOTA 57717-1489
TEL (605) 892-2011
FAX (605) 892-4084
EMAIL: bellelaw@bellelaw.com

MAX MAIN*
DWIGHT A. GUBBRUD*
JOHN W. WALLACE
*LICENSED IN SOUTH DAKOTA AND WYOMING

EST. 1908

RETIRED
DONN BENNETT

RECEIVED
NOV 24 2010
WATER RIGHTS
PROGRAM

November 23, 2010
Via Mail and Email

Diane Best, Assistant Attorney General
Office of the Attorney General
300 N. Dakota Ave., #403
Sioux Falls, SD 57104

Rights Program, DENR
Attn: Garland Erbele
Joe Foss Building
523 E. Capitol
Pierre, SD 57501-3181

City of Rapid City
c/o Robert Ellis, P.E.
300 6th Street
Rapid City, SD 57701

**RE: In the Matter of the Application of the City of Rapid City to Transfer a
Portion Cyclone Ditch Rapid Creek Natural Flows -
Application 2655-2; Our File No. 4600.0012010.**

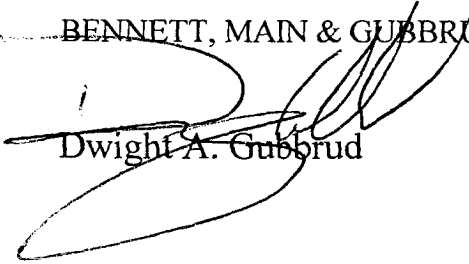
Dear Diane, Mr. Erbele and Mr. Ellis:

The Rapid Valley Water Conservancy District proposes additional conditions for Water Permit Application No. 2655-2 submitted by the City of Rapid City. For your information, I have attached the additional conditions.

I am also providing a copy of this letter to Cyclone Ditch Company.

Sincerely,

BENNETT, MAIN & GUBBRUD, P.C.


Dwight A. Gubbrud

DAG/njo
Enc.

cc: client (w/ Enc.)
Cyclone Ditch Company
c/o Bill Kinghorn, Pres.
5768 Sparrow Hawk Tr.
Rapid City, SD 57703

PROPOSED CONDITIONS FOR WATER PERMIT
APPLICATION NO. 2655-2,
CITY OF RAPID CITY

1. The 58 acres from which this water permit is being transferred is legally described as that part of the SW1/4NW1/4 located north of the Cyclone Ditch and NW1/4NW1/4 of Section 22, Township 1 North, Range 8 East, B.H.M., Pennington County, South Dakota. This transfer will not be approved until and unless the applicant files an agreement from David Lamb that this 58 acres will not be irrigated under Water Permit No. 1461-2 or any other permit or license currently describing said land. SDCL 46-5-34.1. This agreement must be binding upon Mr. Lamb and future owners of the 58 acres.
2. This permit may not be transferred until or unless consent to the transfer is received/obtained from the Cyclone Ditch Company, owner of Water Right 1736-2.

RAPID CITY

Thomas H. Foye
 Thomas E. Simmons
 Charles L. Riter
 Allen G. Nelson
 James P. Hurley
 Michael M. Hickey
 Terry L. Hofer
 Rod Schlauger
 Daniel F. Duffy
 Jeffrey G. Hurd
 John H. Raforth
 Terry G. Westergaard
 Steven R. Nolan
 Gregory J. Erlandson
 Eric J. Pickar
 Sarah E. Baron Houy
 Chad A. Williams
 Kirsten M. Taggart

SIoux FALLS

John P. Mullen
 Brian K. Kirby
 Victoria M. Duehr
 Patrick J. Knecht
 Thomas J. Von Wald
 David A. Grennan

*Attorneys also admitted in
 Nebraska, North Dakota,
 Iowa, Minnesota and Missouri*



BANGS McCULLEN

— LAW FIRM —

Reply to Rapid City Office

Writer's email address: criter@bangsmccullen.com

November 30, 2010

Diane Best, Assistant Attorney General
 Office of the Attorney General
 300 N. Dakota Ave., #403
 Sioux Falls, SD 57104
 Via E-Mail: diane.best@state.sd.us

Rights Program, DENR
 Attn: Garland Erbele
 Joe Foss Building
 523 E. Capitol
 Pierre, SD 57501-3181
 Via E-Mail: garland.erbele@state.sd.us

City of Rapid City
 c/o Robert Ellis, P.E.
 300 6th Street
 Rapid City, SD 57701
 Via E-Mail: Robert.Ellis@rcgov.org

Dwight A. Gubbrud
 Bennett, Main & Gubbrud, P.C.
 618 State Street
 Belle Fourche, SD 57717
 Via E-Mail: Dwight@belelaw.com

Re: In the Matter of the Application of the City of Rapid City to
 Transfer a Portion Cyclone Ditch Rapid Creek Natural Flows –
 Application 2655-2

Dear Diane and Gentlemen:

This is to advise you that David S. Lamb has no objections to the additional conditions proposed by Dwight A. Gubbrud in his November 23, 2010 letter, concerning Water Application 2655-2, submitted by the City of Rapid City.

However, Mr. Lamb wishes to add two additional conditions of his own to the issuance of permit. They are that:

1. The limitation on irrigation proposed in the Rapid Valley Conservancy District additional conditions would not limit or prohibit Mr. Lamb in any way from transporting water over and across the 58 acres, from one parcel of property to another parcel of property. In other words, Mr. Lamb can continue to use ditches, canals and arterials that now exist on the property for transferring water across that property as he has done in the past. This would not include Mr. Lamb irrigating the 58 acres.

RAPID CITY

First Interstate Gateway
 333 West Boulevard
 Suite 400
 P.O. Box 2670
 Rapid City, South Dakota
 57709-2670
 P. (605) 343-1040
 F. (605) 343-1503

SIoux FALLS

Doral Centre Building
 101 W. 69th Street
 Suite 200
 P.O. Box 88208
 Sioux Falls, South Dakota
 57109-8208
 P. (605) 339-6800
 F. (605) 339-6801

November 30, 2010

Page 2

2. Mr. Lamb intends to sell and donate 80 acres of property, which includes the 58 acres discussed in number 1 above, to the Rapid City School District No. 51-4. If, for any reason, the sale/gift is not completed on or before May 1, 2010, then Mr. Lamb withdraws his consent and all agreements pertaining to this matter.

If you have any questions about this, please let me know right away.

Thank you.

Very truly yours,

BANGS, MCCULLEN, BUTLER,
FOYE & SIMMONS, L.L.P.

A handwritten signature in black ink, appearing to read "Charles L. Riter". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Charles L. Riter

CLR:sb

cc: Cyclone Ditch Company
c/o Bill Kinghorn, President
5768 Sparrow Hawk Trail
Rapid City, SD 57703

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 2586-2, RAPID)
VALLEY SANITARY DISTRICT)

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND FINAL DECISION

FINDINGS OF FACT

1. This is an application to transfer Vested Water Right No. 1727-2, held by Rapid Valley Water Company, to Rapid Valley Sanitary District.

2. Vested Water Right No. 1727-2 authorizes the irrigation of 368 acres of the David Lamb property. The Vested Water Right has a priority of April 6, 1878.

3. The application proposes to transfer this Vested Water Right and an annual volume of 867 acre feet of water from irrigation use by the Water Company to municipal, common distribution system, rural water system, suburban housing and domestic uses by the Sanitary District.

4. The source of water for the proposed transfer is natural flows of Rapid Creek, when available, through Murphy Ditch. No part of the right proposed to be transferred includes stored water or stored water releases from Deerfield-Pactola Reservoirs.

5. The Rapid Valley Sanitary District seeks to upgrade a facility built in the 1960s so that it may treat up to two million gallons of water per day at a facility on Rapid Creek.

6. The diversion rate which may, under statute, be transferred must be calculated based on water beneficially used.

7. The first step is to determine carriage loss. The Rapid Valley Water Company holds Vested Water Rights Nos. 1727-2, 2239-2, 2240-2, 2241-2 and 2242-2. Water subject to these rights flows in the ditch maintained by Rapid Valley and is shared by users as needed. There is, however, a loss of water in the ditch to the carriage system. The actual loss has been calculated at eleven percent.

8. The diversion rate which may be transferred therefore must be reduced by eleven percent to 5.05 cfs.

9. Next to be calculated is the actual use of water for crops. This is accomplished by means of a water budget which tracks historical water supply available to the ranch, the consumptive water use of the crops, the precipitation contribution and the return flows to Rapid Creek.

10. The amount of water consumed by the crops was determined by use of the Modified Blaney-Criddle method, adjusted for elevation. The method utilizes historical climatic data, crop type and elevation to calculate the volume of water

consumed by the crop on a monthly basis. The crops at issue in this controversy are alfalfa and hay.

11. The potential consumptive use as determined by use of the Modified Blaney-Criddle method is then compared to the water that was actually available for the crops use based on historical ditch diversions, transportation losses, irrigation efficiency and the total acreage irrigated annually from the ditch. The actual use of water on a monthly basis is then calculated.

12. For this proposed transfer, the average amount of water calculated to have been consumed by the crop is 563.6 acre feet of water annually.

13. A substantially higher amount of water was diverted than was utilized by the crop. The portion of the water historically diverted to the property but not utilized by the crop was returned to Rapid Creek either as direct surface runoff from the field or underground percolation through the alluvium. The amount of return flow was calculated at 303.5 acre feet annually.

14. The amount of water proposed to be transferred to Rapid Valley Sanitary District and diverted at its intake is 867 acre feet annually, the sum of 563.6 acre feet of water utilized by the crops and the return flow of 303.5.

15. The table set forth immediately below sets forth the monthly and annual volume limitations which are justified by the calculations identified above:

Month	Volume Limitations (ac-ft)
April	42
May	105
June	118
July	158
Aug	199
Sept	147
Oct	98
Total	867

16. The Board next considers the rights of downstream water users who historically have used the water returned by the irrigation activities to Rapid Creek. It is proposed that the same amount of water which historically had been returned to Rapid Creek through the irrigation activities will now be returned to Rapid Creek through the Rapid City Waste Water System.

17. The mechanism by which this is proposed to be accomplished is as follows: the Rapid Valley Sanitary District presently contracts with Rapid City to treat the Sanitary District's effluent at the City's sewage treatment facility. Rapid City has, by Resolution of its governing body, committed to continue to discharge the Sanitary District's treated effluent to Rapid Creek downstream of the proposed project. The

Board finds that, because the amount of water to be released in this process is the same as has been returned to Rapid Creek by the irrigation activities, the process will adequately protect the rights of existing downstream water users.

18. The Board also finds that if, in the future, the Rapid Valley Sanitary District, through the City of Rapid City, stops returning effluent to Rapid Creek in quantities sufficient to protect the rights of downstream users to the extent that they were protected before the transfer approved today, then the diversion proposed by this water permit is required to be recalculated to reflect this condition and the permit may otherwise be amended.

20. Some controversy has arisen with regard to the application of SDCL 46-5-34.1. This statute provides generally that lands which had an irrigation right transferred from them pursuant to this section cannot qualify for another irrigation right from any other water source. Mr. Lamb has two existing water permits other than that at issue here which cover some of the same irrigated land. These two water permits have a priority of August 5, 1914, and provide for supplemental irrigation from Rapid Creek to the land irrigated by the 1878 right at issue and to other land. Because the 1914 water rights

predate SDCL 46-5-34.1, that statute does not affect their validity.

21. After considering the submissions of the Division, the Board makes three additional Findings regarding the overlapping irrigation rights.

22. This transfer involves 25 acres historically irrigated in SW1/4 SW1/4 Section 10, T1N, R8E and 343 acres historically irrigated in Section 15, R8E, T1N, for a total of 368 acres. The irrigation right transferred in this proceeding has historically overlapped with two water permits (Water Permit Nos. 1461-2 and 1461A-2).

23. Water Permit Nos. 1461-2 and 1461A-2 originated with a 1914 permit for use at the Warren Lamb Lumber Co. mill. Subsequently, in 1976 the Lambs sought authority to change the use of the 1914 water right to provide irrigation for various property including 413.5 acres in Section 15, R8E, T1N. The change in use was approved. Of those 413.5 acres in Section 15, 334 acres are involved in this transfer.

24. To the extent that Water Permit Nos. 1461-2 and 1461A-2 applied to the same property (334 acres in Section 15) as the water right sought to be transferred here, the combined use from all three rights is necessarily constrained by SDCL 46-5-6 which limits the maximum annual volume of water for each

irrigated acre. In 1976 when the transfer of use occurred and the water rights coverage doubled up, SDCL 46-5-6 provided that the maximum annual volume for each acre of irrigated land was 3 acre feet per acre. Thus, the beneficial use of water for all permits combined for the 334 acres had been capped at 3 acre feet for approximately 30 years; there can be no claim to continuous use or other legal claim to a greater quantity now. This application seeks to transfer 867 acre feet to the Sanitary District or 2.36 acre feet per acre for the 368 acres involved. This leaves the irrigation of 334 acres of the Lamb property in Section 15 with a maximum volume limitation of .64 acre feet per year once the 2.36 acre feet has been transferred from the property. This was explained at the hearing and no objections were made.

25. The District intends to phase in the proposed transfer over approximately 6 years. During this 6-year time period, Mr. Lamb will phase out irrigating his hay land through a lease back agreement with the District.

26. To ensure that the monthly amount of water diverted does not exceed the monthly allowable volume limitation, the permit should contain an appropriate qualification, by month, setting forth a monthly volume limitation as set forth in the Final Decision.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter.
2. The Applicant's request for a change in use can be made without detriment to or impairment of existing rights when developed as set forth in the Findings, especially Findings 16-18, and when accomplished as set forth in the Final Decision.
3. The uses proposed by the Sanitary District are beneficial uses and the proposed change is in the public interest.
4. The priority date of April 6, 1878, which is the priority date of Vested Water Right No. 1727-2, is retained for the transferred water right.
5. The diversion rate to be transferred is 5.05 cfs.
6. Additional information may be made available to the Board with regard to seepage rates, hydrology, the matters referred to in Findings 16-18 or other matters within the jurisdiction of the Board which may require adjustment of monthly or total annual volume for diversion rates authorized by this permit. Therefore, the Board should retain jurisdiction to make these and other appropriate adjustments to the permit.
7. Water Permit Nos. 1461-2 and 1461A-2 have priority dates of August 5, 1914. The operation of SDCL 46-5-34.1 was not intended to, and does not, affect these water rights.

8. SDCL 46-5-34.1 prohibits the granting of any new water permit applications for irrigation of the land transferred in this transfer after the date of the approval of this permit.

9. As set forth in the foregoing Findings of Fact, the irrigation right sought to be transferred in this proceeding has historically overlapped with two other water permits (Water Permit Nos. 1461-2 and 1461A-2) for 34 acres in Section 15. Like any other water rights for irrigation, the 334 acres were limited by the water use restrictions in SDCL 46-5-6 which limits the maximum annual volume of water for each irrigated acre. This Board concludes that the maximum annual volume for each acre of irrigated land involved in this matter has historically been 3 acre feet per acre and pertained to the combined use for all three of the water permits applying to the 334 acres. Because the beneficial use of water for all these permits has been capped at 3 acre feet for many years for the 334 acres, there can be no claim to continuous use or other legal claim to a greater quantity now. Thus, the total combined volume allowed by law for all these permits is still capped by the total volume limitation of 3 acre feet per acre annually. After subtracting the 2.36 acre feet per acre involved in this transfer that is now severed from the property for use by Rapid

Valley Sanitary District, this leaves .64 acre feet per acre annually for the 334 acres in Section 15.

10. Approval of this application approves only the transfer of natural flow water and does not include any rights to stored irrigation water.

11. The amount of water requested to be transferred, 867 acre feet annually, is reasonable.

FINAL DECISION

The Application for Water Permit No. 2586-2 is approved subject to the following qualifications:

1. Permit No. 2586-2 is limited to a diversion rate of 5.05 cfs for a total annual volume of 867 acre feet. The Rapid Valley Sanitary District shall measure diversions at the Lamb property farm turnouts located on Murphy Ditch and diversion at the District's water treatment plant. The total monthly diversion shall not exceed the amount listed in the following table:

Month	Volume Limitations (ac-ft)
April	42
May	105
June	118
July	158
Aug	199
Sept	147
Oct	98
Total	867

2. The Rapid Valley Sanitary District shall report to the Chief Engineer annually the amount of water withdraw each month at the Lamb property turnouts located on Murphy Ditch and diversion at the District's water treatment plant.

3. Permit No. 2586-2 authorizes diversion of only natural flow water by the Rapid Valley Sanitary District and does not include any right to stored irrigation water available under contract from Pactola Reservoir and Deerfield Reservoir.

4. The Water Management Board retains jurisdiction of Permit No. 2586-2 in the event that additional information shows that changes need to be made in the monthly or total annual volumes authorized by Permit No. 2586-2, or that other changes are required.

5. Diversion under Permit No. 2586-2 may not interfere with existing water rights in effect prior to approval of Permit No. 2586-2 or any domestic rights.

6. The amount of water with an April 6, 1878 priority date which may be appropriated under Vested Water Right No. 1727-2 is reduced by 5.05 cfs.

7. Upon termination of the lease back agreement, the 368 acres of Harney Peak Ranch property owned by David Lamb, which has been historically irrigated under the Vested Water Right No. 1727-2, located in portions of SW1/4 SW1/4 Section 10 and

1461-2

RECEIVED

APR 16 2013

DEPT OF ENVIRONMENT & NATURAL
RESOURCES - RAPID CITY

April 15, 2013

To: State of South Dakota
Department of Environment and Natural Resources

The Cyclone Ditch Company will convey the 1914 Warren Lamb water right,
permit numbers 1461-2 and 1461A-2.

Sincerely,

Cyclone Ditch Co.
by Bill Kinghorn
president

1461-2



DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov



1461-2
1461A-2

AUG 28 2014

David S Lamb
4555 Reservoir Rd
Rapid City SD 57703

Dear Mr. Lamb:

Enclosed is your Water License No. 1461A-2. This is the final water right document completing your process of obtaining a Water Right.

Included with your license is a map prepared by the staff engineer who conducted the field investigation. Also enclosed is Receipt No. 06924 in the amount of \$50 which you paid for the investigation and issuance of the water license.

Upon licensing, the applicable portions of Water Permit No. 1461-2 were incorporated into No. 1461A-2. As long as you use the water beneficially, as stated in the Water License, State Water Laws provide that you have a continuing right to use the water.

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures