

Water Right No. 1728-2  
VESTED RIGHT

1. Considered SEPT. 25 1950
2. Name of Applicant NICK & EUGENE BOGNER
3. Post Office Address DELRIEHS, S.D.
4. Amount of Water Claimed 1.00
5. Source of Water Supply BEEF CREEK
6. Water to be used for IRR. maximum
7. Acres to be irrigated 70.4 acre feet
8. Water to be diverted and used in FALL RIVER County  
about 4 S. 6 miles WEST of DELRIEHS
9. PROOF OF PUBLICATION Received \_\_\_\_\_  
Not Received Thomson Huntress - Delriebs  
APPLICATION Approved 11/15/50  
Subject to \_\_\_\_\_  
Not Approved \_\_\_\_\_  
Action deferred \_\_\_\_\_

Priority Date  
Received 9/8/50 Application Complete yes ☒ no ☐ FEE \_\_\_\_\_  
1920  
1948 Remarks SEC. 3-11-6 & SEC. 6-11-7, PRIORITY, 1920 &  
SEC. 2-11-6 PRIORITY 1948

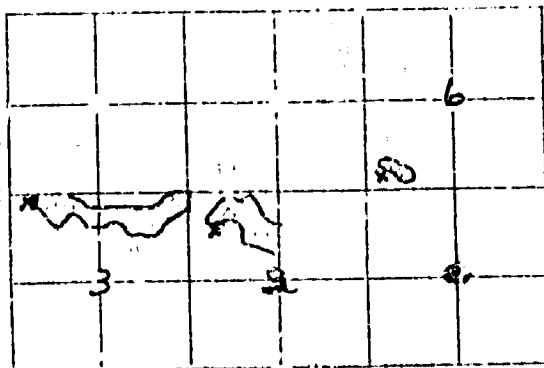
Date information and/or  
fee or corrected Application received \_\_\_\_\_  
Period of Annual use APRIL THRU OCTOBER  
Received yes ☒ no ☐ APPROVED/CONDITIONAL (Circle one)  
W-1 Description same as application yes ☒ no ☐ Remarks \_\_\_\_\_

~~WATER~~  
QUALITY  
N/A

Disapproved \_\_\_\_\_

Returned \_\_\_\_\_

Diversion Point \_\_\_\_\_



NW<sup>4</sup> NW<sup>4</sup> SEC. 3 & NW<sup>4</sup> NW<sup>4</sup>  
SEC. 2, BOTH IN T11S, R6E &  
SW<sup>4</sup> SW<sup>4</sup>, SEC. 6-T11S-R7E  
Lands to be irrigated \_\_\_\_\_  
N<sup>1</sup>/<sub>2</sub> NW<sup>4</sup> & SE<sup>4</sup> NW<sup>4</sup>, SEC. 2. &  
N<sup>1</sup>/<sub>2</sub> N<sup>1</sup>/<sub>2</sub> SEC. 3 BOTH IN T11S-  
R-6E and S<sup>1</sup>/<sub>2</sub> SW<sup>4</sup> SEC. 6-T11S-  
R7E

Remarks \_\_\_\_\_

Driller \_\_\_\_\_ Licensed yes ☒ no ☐

Depth \_\_\_\_\_

~~WELL~~  
LOG  
N/A

MAP Map No. 992-2 Map located in Water Right X Map file \_\_\_\_\_  
Type of Map Revised Prepared by ASCS

+++++

REVIEWED This Application was reviewed within 30 days of date received, accepted as complete. Number assigned and written up for advertisement before the Board on Sept. 25, 1980  
Betty Westlund  
(signed)

+++++

PROTESTS Letters/Petitions in File - yes \_\_\_\_\_ no \_\_\_\_\_ Remarks \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

REMARKS Date  
F.F. & C Final Decision, including F.F. & C of Law were adopted \_\_\_\_\_  
OF LAW, Date  
FINAL Final Decision mailed to parties and/or parties notified that Final Decision  
DECISIONS was adopted \_\_\_\_\_  
ETC. \_\_\_\_\_  
Remarks \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



WATER RIGHT APPLICATION APPROVAL

The Water Management Board hereby approves Water Right Application No. 1728-2

NICK AND EUGENE BOGNER  
(Applicant)

OELRICHS  
(Post Office Address)

SOUTH DAKOTA 57763  
(State)

With the following qualifications.

" VESTED RIGHT " CLAIMED

Date of first receipt of application SEPTEMBER 8, 1980

Date of return to applicant for correction, amendments or changes required \_\_\_\_\_, 19\_\_\_\_

Date of receipt of corrected application \_\_\_\_\_, 19\_\_\_\_

Approved SEPTEMBER 25, 1980 Recorded In Book 21 Page 272

WATER RIGHT PERMIT NO. 1728-2

The Water Management Board hereby grants and issues this Water Right Permit No. 1728-2 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as qualified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is 1920 & 1948
2. The equivalent of at least one-fifth of the work above specified is ~~to be~~ completed ~~on or before~~ 19
3. The whole of said work is ~~to be~~ 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 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 1.00 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 irrigation purposes said appropriation must be limited to not more than 2 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 THIS DATE, 19; said water to be used during the following described annual period: APRIL THRU OCTOBER

Witness my hand this 29th day of SEPTEMBER, 1980

THE WATER MANAGEMENT BOARD

By: John Hatch

Chief Engineer, Water Rights

Certificate of Construction Issued SEPTEMBER 29, 1980

Water License Issued SEPTEMBER 29, 1980

## 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) Nick & Eugene Bogner

Post Office Address Delrichs, State S.D. 57263

If a Corporation show date and place of incorporation \_\_\_\_\_

## 13. Notice of Appropriation (If available)

Date of Posting \_\_\_\_\_ Date of Recording \_\_\_\_\_

Recording Data \_\_\_\_\_

14. Date of start of construction of water supply system 3-11-6 and 6-11-7 year 1920 2-11-6 year 1948

15. Date that water was first applied to beneficial use 3-11-6 and 6-11-7 year 1920 2-11-6 year 1948

16. Name of owner of original water supply system Nick Bogner

17. Amount of water originally applied to beneficial use 1 1/2 c. f. s.

18. Present Use of Water Irrigation

Amount of water now being used 1 1/2 c. f. s.

Date that this amount of water was first used 3-11-6 - 6-11-7 year 1920 2-11-6 year 1948

## 19. Chronological History of Water Use

1/2 Sec. 3-11-6 was purchased By my father in July - 1 - 1919 - was Fixed for water spreading that fall and has been maintained and workable water system.

SE 1/4 of SW 1/4 Sec. 6-11-7 purchased Sept. 7 - 1911 by my father Fixed for water spreading in 1920

NW 1/4 2-11-6 purchased Aug. 28 - 1948 - spreading built in the fall of 1948 - All are workable systems.

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 Fall River ) ss.

I, Nick Bogner, the applicant, certify that I have read the foregoing and that the matters therein stated are true.

Signed Nick Bogner

Subscribed and sworn to before me this 4th day of September, 1980

Clara M. Clay  
(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.

Nick Bogner

Permit No 1728-2

Water Diversion No. 3 Upper Cheyenne Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify That Nick and Eugene Bogner

vested right the holder S of  
Permit No. 1728-2 issued upon Application No. 1728-2, bearing date of priority of 1920 and  
1948 authorizing the diversion of 1.00 cu. ft. per second of the waters of  
Beef Creek County of Fall River, State of South Dakota XX  
in NW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 3 and NW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 2, both in T11S, R6E and SW $\frac{1}{4}$  SW $\frac{1}{4}$ , Sec. 6,  
T11S, R7E  
for Irrigation

purpose, have 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;  
condition for diverting and conveying to the place of intended use 1.00 cu. ft. per second of water.

Date September 29, 1980

John Hatch  
JOHN HATCH, Chief Engineer  
Water Rights Division

**WATER LICENSE NO. 1728-2**

(1) WHEREAS, On the 8th day of September A. D. 19 80

Nick and Eugene Bogner

made Water Right Application No. 1728-2 for a <sup>Vested Right</sup> permit to use 1.00 cubic feet per second of the waters of Beef Creek <sup>W. V.</sup>

County of Fall River, State of South Dakota, for Irrigation

purposes; and

(2) WHEREAS, On the 25th day of September A. D. 1980

Permit No. 1728-2, with a date of priority of 1920 and 1948

Permit No. \_\_\_\_\_, with a date of priority of \_\_\_\_\_, recognizes  
was issued to said applicant \_\_\_\_\_ for the diversion of said water, and ~~XXXXXX~~/the completion of construction of the water  
supply system therein described ~~XXXXXXXXXX~~ ~~XXXXX~~ ~~XXXXXX~~ and for the  
application to beneficial use of said water ~~XXXXXXXXXXXX~~ ~~XXXXX~~ ~~XXXXXXXXXX~~

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 1.00 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:

**to irrigate the following lands:**

| Priority date of 1920                       | Priority date of 1948                       |
|---------------------------------------------|---------------------------------------------|
| Section 5, T11S, R7E-                       | Section 2, T11S, R6E -                      |
| SW $\frac{1}{4}$ SW $\frac{1}{4}$ 2.3 acres | NW $\frac{1}{4}$ NW $\frac{1}{4}$ 4.1 acres |
| SE $\frac{1}{4}$ SW $\frac{1}{4}$ 4.6 "     | NE $\frac{1}{4}$ NW $\frac{1}{4}$ 11.0 "    |
| Section 3, T11S, R6E-                       | SE $\frac{1}{4}$ NW $\frac{1}{4}$ 4.2 "     |
| NW $\frac{1}{4}$ NW $\frac{1}{4}$ 3.5 "     |                                             |
| NE $\frac{1}{4}$ NW $\frac{1}{4}$ 12.4 "    | TOTAL ACRES 70.4                            |
| NW $\frac{1}{4}$ NE $\frac{1}{4}$ 13.0 "    |                                             |
| NE $\frac{1}{4}$ NE $\frac{1}{4}$ 14.1 "    |                                             |

(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 Nick and Eugene Bogner

\_\_\_\_\_ of Oelrichs, SD  
the holder 9 and owner 5 of said Vested Right permit No. 1728-2 a water right, dating from 1920 and 1948  
\_\_\_\_\_ to use of 1.00 cubic feet per second of the waters  
of Deef Creek

in the County of Fall River and State of South Dakota, or so much thereof as may be necessary for the  
purpose hereinbelow mentioned, to be diverted but In NW 1/4 NW 1/4 Sec. 3 and NW 1/4 NW 1/4 Sec. 2, both in T11S,  
R6E, and SW 1/4 SW 1/4 Sec. 6, T11S, R7E

and conducted to and upon portions of land in Section 6, T11S, R7E and Sections 2 and 3  
T11S, R7E, more fully described on the face of this license

for the purpose of Irrigation

**This Water License No. 1728-2 is based on a Vested Right claim recorded and filed by the Water Management Board.**

Subject to any limitations listed in Water Vested Right Permit No. 1728-2 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota  
this 29th day of September A. D.  
Nineteen Hundred and Eighty

WATER MANAGEMENT BOARD

By:

John Hatch  
Chief Engineer, Executive Officer **JOHN HATCH**

RECEIPT  
WATER RIGHTS COMMISSION  
State of South Dakota

No 4 7691

September 16, 1980

PIERRE,

RECEIVED OF Nick & Eugene Rouner, Helrichs, SD 57752  
the following amount in fees for services rendered as provided for by law:

|                                                                                                                |       |
|----------------------------------------------------------------------------------------------------------------|-------|
| Fee for Application for Permit to Appropriate Water No. 1728-2 (examination, processing, recording and filing) | 8.00  |
| Fee for inspecting Construction, and issuing Cert. of Construction No.                                         | 2.50  |
| Fee for inspecting Beneficial Use, and issuing Water License No.                                               | 2.50  |
| 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                                                                                                          | 15.00 |

WATER RIGHTS COMMISSION

By (W.R. Helrich)  
Chief Engineer, Executive Officer

Dec 27- 1980



To whom this may concern  
Subject - vested water rights.  
Since my living in Fall River County  
year of 1929

living on the same place  
on 1-11-6

water systems have been  
kept in workable condition  
this includes

Sec 3 - township 11 range 6  
6-11-7 since 1948

2-11-6 and 7-11-7

Mrs. Rose F. Bogner  
Celucks Sodak 57763

Water License No 1728-2

 **Department of  
Water & Natural Resources**

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

September 21, 1988

NOTICE

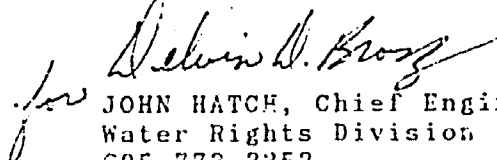
Nick & Eugene Bogner  
Oelrichs SD 57763

Dear Mr. Bogner:

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) 1728-2, 1734-2 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,

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



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

Joe Foss Building  
523 East Capitol  
Pierre, South Dakota 57501-2181

December 1, 1988

Vested Water Right  
Claim No. 1728-2  
1734-2

Nick & Eugene Bogner  
Oelrichs SD 57763

Dear Mr. Bogner:

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.

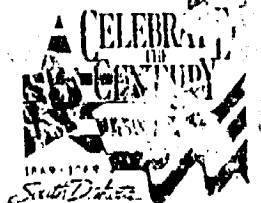
If we can answer any questions, please contact us.

Very truly yours,



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

cc: Bruce Laymon, Bureau of Reclamation



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

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

March 23, 1990

NOTICE

1728-2

TO: Nick/Eugene Bogner  
HCR 46 BOX 24  
OELRICHS, SD 57763

FROM: *for Del 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. 1728-2 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).

File No. 1728-2  
1734-2

Water Rights Division -DENR  
Conversation or File Documentation

NAME OF PERSON OR FILE: Nick and Eugene Bogner

ADDRESS: Delrichs, SD COUNTY: Fall River

DATE: 6/6/91 TELEPHONE: 535-2981

RE: Vested Right Claim Inspection.

COMMENTS: On June 4, 1991, Accompanied by Mr. Nick Bogner, view over the area claimed under Vested Right Claim Nos. 1728-2 and 1734-2. Except for one of the plugs (small dam) the irrigation system seemed to be in good condition. The land seemed to be the same as shown on the original map submitted with the applications.

\*\* Recommend validation of Vested Right Claim Nos. 1728-2 and 1734-2.

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  
Natural Resources Engineer III  
DENR, Water Rights Division

SOUTH DAKOTA

VESTED WATER RIGHT NO. 1728-2 FOR IRRIGATION

Date of Receipt of Claim September 8, 1980.

Date of Validation May 6, 1992.

The Water Management Board validated Vested Water Right Claim No. 1728-2 for irrigation purposes for Nick and Eugene Bogner, HC 46, Box 24, Oelrichs SD 57763 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 1728-2 appropriates 1.0 cubic feet of water per second (cfs) from Beef Creek located in the NW 1/4 NW 1/4 Section 2, NW 1/4 NW 1/4 Section 3; all in T11S-R6E and the SW 1/4 SW 1/4 Section 6-T11S-R7E to irrigate 70.4 acres. The location of the irrigated land is the S 1/2 SW 1/4 Section 6-T11S-R7E, N 1/2 NW 1/4, N 1/2 NE 1/4 Section 3, N 1/2 NW 1/4, SE 1/4 NW 1/4 Section 2; all in T11S-R6E.
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: April 1 - October 31.
3. The priority dates of the Vested Water Right are:  
0.71 cfs - January 1, 1920  
0.29 cfs - January 1, 1948
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.

WATER MANAGEMENT BOARD

By: John H. Hutton  
Chief Engineer

JUL 1 1992

date

Division of Water Rights  
Dept. of Environment and Natural Resources



JUL 1 1992

1728-2

DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

Nick & Eugene Bogner  
Hc 46, Box 24  
Oelrichs SD 57753

Dear Sirs:

The Water Management Board has validated the enclosed Vested Water Right Nos. 1728-2 and 1734-2. These validations give legal status to the claims and are the final document for your vested rights.

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,

A handwritten signature in cursive script, appearing to read "John Hatch".

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

enclosure

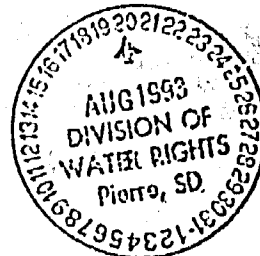
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WTR 4.10  
BF-430

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

AUG 18 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: Dr. 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



(top)

Heading S.W.

Sec. 9 - T-11 - R-7

SW  $\frac{1}{4}$  SW  $\frac{1}{4}$

FEB. 1981

Picture  
taken  
by Michael  
Bogner.



Mark  
Dunbar  
land.

FEB. 1981

Beet Creek  
structure

Map # 992-2



App. # 1728-2



Map prepared by  
 Richard E. Miller  
 Program Assistant  
 Fall River County ASCS

9/4/80

one of three pages

11-6

MAP No. 992-2 / APPL 1728-2 1/2

NOT TO SCALE

10-7

31.8

101A

11.4

11.1

13.3

11.1

13

17.9

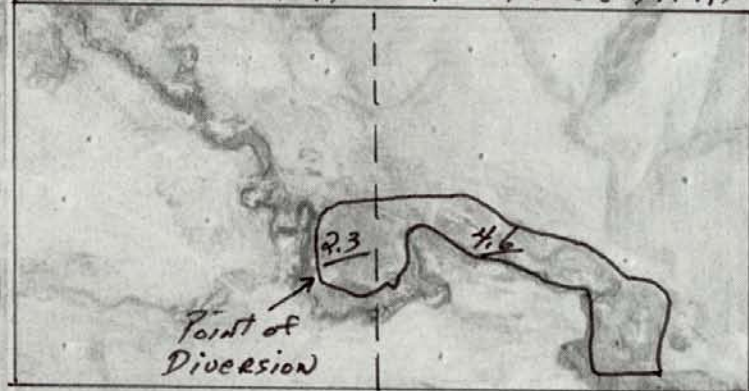
6

Map prepared by  
Richard E. Miller  
Program Assistant  
Fall River County AGS

9/4/80

11-7

SW 1/4 SW 1/4 Sec 6 T11R7 SE 1/4 SW 1/4 Sec 6 T11R7



Points of Diversion

NW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>Sec 3 T11 R6 NE<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>Sec 3 T11 R6

10-6 NW<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>Sec 3 T11 R6 NE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>Sec 3 T11 R6



Map prepared by  
Richard E. Miller  
Program Assistant  
Fall River County ASCS

9/4/80

11-6