

1. Considered 3-25 1981
2. Name of Applicant DANE H. CONGER
3. Post Office Address BUFFALO GAP, SD 57722
(1 INCHES IN PER ACRE)
4. Amount of Water Claimed 3.9
5. Source of Water Supply BEAVER CREEK
6. Water to be used for IRR
7. Acres to be Irrigated 195.8 maximum
acre feet
8. Water to be diverted and used in FALL RIVER County
about 9 1/2 miles EAST of HOT SPRINGS
9. PROOF OF PUBLICATION Received _____

Not Received _____

APPLICATION

Approved 3/

Subject to _____

Not Approved _____

Action deferred _____

Now Priority
Date 1882
1889

Date Received 1-15-81 Application Complete yes ☒ no ☐ FEE 13.00

Remarks _____

Date information and/or
fee or corrected Application received _____
Period of Annual use APRIL THRU OCTOBER

WATER
QUALITY
N/A

Received yes ☐ no ☐ APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as application yes ☐ no ☐ Remarks _____

Disapproved _____

Returned _____

Diversion Point _____

SE⁴ 32-6S-7E

Lands to be irrigated _____

1 1/2 E SE⁴ SEC. 9-T7S-R 7E

Remarks _____

Driller _____ Licensed yes ☐ no ☐

Depth _____

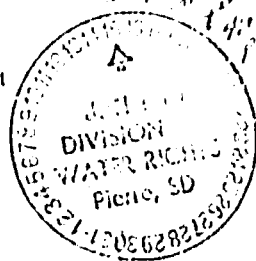
~~WELL
LOG~~

MAP Map No. 1515-2 Map located in Water Right ✓ Map file _____
 Type of Map Drawn Prepared by Wentworth

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 3/25/81.
Wentworth
 (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 _____

No. 1759-2Map No. 1515-2 Water Division No. 2 UPPER CHEYENNE District
(Blank) to be filled by the Engineer for the W. R. C.)

APPLICATION FOR PERMIT

VESTED RIGHT

To Appropriate Water within the State of South Dakota

(NOTE - Draw a line through items not applicable)

1. Name of Applicant Dane H. Conger
 Postoffice address Buffalo Gap State South Dakota
 If a corporation show date and place of incorporation _____
 2. Method of accomplishing work (contract, employment of others, or by direct labor) Existing
 3. Name of diversion work Conger Ranch No. 1 System
 4. Amount of water claimed (cubic feet per second) 3.9
 5. Source of water supply Beaver Creek
 6. Location of point of diversion North 26⁰ West, 1865 ft. from the SE Corner of Section 32, T6S, R7E
 _____ County Fall River
 7. Annual period or periods during which water is to be used April through October
 8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) irrigation
 9. For irrigation use, _____ Total number of acres to be irrigated 195.8

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.
All in Section 9, T7S, R7E			
NW $\frac{1}{4}$	86.2		
SW $\frac{1}{4}$	42.7		
SE $\frac{1}{4}$	66.9		

Attach sheet if more space is needed

10. Time required to complete construction of water supply system Existing years. Additional time required to complete application of water to the proposed beneficial use Existing years.
 11. Choice of newspaper for Notice of Intent to Appropriate Water publication N/A
 12. Principal Features of the Proposed Water Supply System.

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

Dam and headgate on Beaver Creek at indicated diversion point.

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

Main canal - 2.84 miles long

C. Works proposed to apply water to beneficial use.

Existing laterals as shown on attached map plus temporary laterals.

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)
) ss.

County of _____

I, _____ 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 Dane H. CongerSubscribed and sworn to before me this 15th day of January, 1981

Notary Public (or other qualified officer)

SE $\frac{1}{4}$

SW 1/4

T65
T75

NE 1/4

NW 1/4

SW $\frac{1}{4}$

P.B. & Dane Conger
Irrigation Project

Scale: 8 inches = 1 mile

Reference:

Photo BNY-IN-106
BNW 110 23
BNW 110 77
GS Buffalo Gap Quadrangle

Area Irrigated:

NW 1/4, Sec. 3, T15, R7E	112.0 acres
NE 1/4	54.6
SW 1/4	65.7
SE 1/4	121.1
NW 1/4, Sec. 10	1.7
SW 1/4	96.2
SE 1/4	6.4
NW 1/4, Sec. 15	120.2
NE 1/4	83.5
SW 1/4	57.7
Total--	<u>718.1 Acres</u>

Total -- $\frac{57.7}{718.1}$ Acres

Law,
7/11/57

WATER RIGHT APPLICATION APPROVAL

The Water Resources Commission hereby approves Water Right Application No. 1759-2

DANE H. CONGER
(Applicant)

BUFFALO GAP
(Post Office Address)

SOUTH DAKOTA 57722 With the following modifications:
(State)

"VESTED RIGHT" CLAIMED

In recognizing this "Vested Right" the Board authorized use of an undivided $\frac{1}{2}$ interest in the ditch and water as specified in the Smith-Conger Court Case.

Date of first receipt of application JANUARY 15, 19 81

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

Date of receipt of corrected application _____, 19 _____

Approved MARCH 26, 19 81, Recorded in Book 22 Page 107

WATER RIGHT PERMIT NO. 1759-2

The Water Resources Commission hereby grants and issues this Water Right Permit No. 1759-2 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 NOVEMBER 28, 1882
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. (ONE MINERS INCH PER ACRE)
7. The amount of the appropriation herein granted shall not exceed 3.9 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 THIS DATE 9 _____; said water to be used during the following described annual period: APRIL THRU OCTOBER

Witness my hand this 9th day of NOVEMBER, 19 81

WATER RESOURCES COMMISSION

By: John Hatch
Chief Engineer, Executive Officer

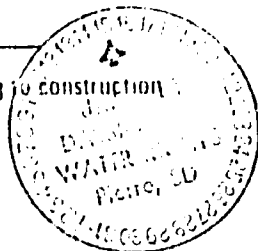
Certificate of Construction Issued NOVEMBER 9, 19 81

Water License Issued NOVEMBER 9, 19 81

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) Dane H. Conger
 Post Office Address Buffalo Gap, State South Dakota
 If a Corporation show date and place of incorporation _____

13. Notice of Appropriation (If available)

Date of Posting November 28, 1882 Date of Recording November 28, 1882

Recording Data B4, Loc. Page 178, Custer County Register of Deeds

14. Date of start of construction of water supply system 1883 1882

15. Date that water was first applied to beneficial use 1883

16. Name of owner of original water supply system Charles L. Conger

17. Amount of water originally applied to beneficial use 2.8 c.f.s.

18. Present Use of Water

Amount of water now being used 2.8 c.f.s.

Date that this amount of water was first used reasonable time after November 28, 1882

19. Chronological History of Water Use

On November 28, 1882, Charles L. Conger dated and filed a water location notice claiming 400 cubic inches of water to be diverted from (Amphibious Creek) and conducted on the east side of creek not exceeding three miles. This is Water Right Location Notice 093-2 of the Water Resources Commission.

In the Court case of Edwin D. Bond and Jennie Bond vs Charles L. Conger, James M. Smith and Frank Allen the "Findings of Facts" and "Conclusion of Law" dated December 12, 1892, included "3. Charles L. Conger made a valid Water Right Location on November 28, 1882;"

In the Court case of Charles L. Conger, et al vs. William H. Sewright et al, the Decree dated April 28, 1909 stated Charles L. Conger is the owner of the NW $\frac{1}{4}$, the W $\frac{1}{2}$ SE $\frac{1}{4}$ and the E $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 9, T7S, R7E and is the owner of a valid water right.

The water has been used for irrigation purposes nearly every year since the system was constructed.

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)
) ss.
 County of _____)

I, _____, the applicant, certify that I have read the foregoing and that the matters therein stated are true:

Signed _____

Subscribed and sworn to before me this 15th day of January, 1981

 (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.

Permit No. 1759-2

Water Diversion No. 2 Upper Cheyenne Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify That Dane H Conger

_____ the holder of
Permit No. 1759-2, issued upon Vested Right Application No. 1759-2, bearing date of priority of November 28,
1882 authorizing the diversion of 3.9 cu. ft. per second of the waters of _____
(one miners inch
Beaver Creek per acre) County of Fall River, State of South Dakota at _____
a point North 26° West, 1865 feet from the SE corner of Section 32,
T6S, R7E

_____ for irrigation

_____ purposes, has _____ complied with the provisions of the laws of the State of South Dakota relating to proof of
completion of the works of diversion set out and described in said Permit; that said works are recognized in ~~XXXXXX~~ satisfactory
condition for diverting and conveying to the place of intended use 3.9 cu. ft. per second of water.

Date November 9, 1931

John Hatch
JOHN HATCH, Chief Engineer
Water Right Division

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 1759-2

(1) WHEREAS, On the 15th day of January A. D. 19 81
Dane H Conger

made Water Right Application No. 1759-2 for a Vested Right 3.9 (one miners inch per acre)
 of Beaver Creek cubic feet per second of the waters

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

(2) WHEREAS, On the 26th day of March A. D. 19 81

Permit No. 1759-2, with a date of priority of November 20, 1882
 was issued to said applicant recognizing for the diversion of said water, and ~~XXXXXX~~ the completion of construction of the water
 supply system therein described ~~XXXXXXXXXX~~ XXXXXX ~~XXXXXXXXXX~~ and for the
 application to beneficial use of said water ~~XXXXXXXXXX~~ XXXXXX ~~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 3.9 cubic feet
 per second of water for beneficial use and, (one miners inch per acre)

(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 acres all in Section 9, T7S, R7E

	Acres
<u>NE 1/4</u>	<u>86.2</u>
<u>SW 1/4</u>	<u>42.7</u>
<u>SE 1/4</u>	<u>66.9</u>
<u>TOTAL</u>	<u>195.8</u>

(5) NOW, THEREFORE. By the virtue of the authority vested in us by the laws of the State of South Dakota, We hereby grant and confirm to Dane H Conger

of Buffalo Gap, SD
the holder S and owner Vested Right of said permit No. 1759-2 a water right, dating from November 28, 1882
(one miners inch per acre) 3.9 cubic feet per second of the waters of Beaver Creek

in the County of Fall River and State of South Dakota, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted at a point North 28° West; 1065 feet from the SE corner of Section 32, T6S, R7E

and conducted to and upon portions of land all in Section 9, T7S, R7E more fully described on the face of this license

for the purpose of irrigation

This Water License No. 1759-2 is based on a Vested Right claim recorded and filed by the Water Management Board.

Subject to any limitations listed in Water Right Permit No. 1759-2 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this 9th day of November 1911
Nineteen Hundred and Eighty-one

WATER MANAGEMENT BOARD

By: John Hatch
Chief Engineer, Executive Officer
JOHN HATCH

RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

No 4 7926

PIERRE, January 15, 1931

RECEIVED OF Dine H Conger, Buffalo Gap, SD 57722

the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit to Appropriate Water No. 1759-2 (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 filling	
Fee for certified copy of	
Fee for Print copy of map	
Fee for Certifying	
Fee for (any other work as provided by law)	
TOTAL	13 00

WATER RIGHTS COMMISSION

By *John Hatch*
Chief Engineer, Executive Officer
JOHN HATCH 99

1759-2

Water Rights Division
605 773-3352

March 3, 1983

Dane Conger
Buffalo Gap,
South Dakota 57722

Dear Mr. Conger:

Enclosed please find the Water Right Location Notice which you left
after the meeting last week.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division

JH:ks

enclosure

11759-2

Water Right Location Notice.

I, C. L. Conger, have this day located the overflow and waste waters from the ditch known as the Books Miller Ditch, running across the Northeast Quarter of Section Four -4- to the half section line. I ~~will~~ ^{do} conduct the water over the Southeast Quarter of Section Four 4- to Section Ten-10- for use on the ground for irrigation purposes. This location is in Town. 7 Range 7 E B.H.M. Oct. 3th 1919.

C. L. Conger

Locator

Filed and recorded April 13th, 1920 at 1 P. M. and recorded in Book 8 Misc, page 279.

E. C. Willoughby, Register.

1759-2



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

Water Rights Division
605 773-3352

February 8, 1983

NOTICE

TO: Dane Conger and John Beard

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

SUBJECT: Reconsideration for amendment of Vested Rights filed by Dave Conger and Clarification of Rights.

A reconsideration hearing for amendment of the previously recognized vested right Nos. 1759-2 and 1794-2 for Dave Conger and clarification of the relationship between these water rights and the water rights of John Beard will be conducted in accordance with the provisions of SDCL 46-1-1 through 46-1-9; 46-2-9 through 46-2-11; 46-5-1 through 46-5-6; 46-5-36, 46-5-37; 46-7-1 through 46-7-2; and Board Rules 74:02:01:19 through 74:02:01:22; 74:02:01:36 through 74:02:01:37.

The hearing will be held on February 24, 1983 at 3:30 pm in Room 216 in the Joe Foss Building 523 E Capitol, Pierre SD.

These vested rights were previously recognized by the Board. A report on this matter has been prepared and is enclosed with this notice.

The Board can take whatever action it deems necessary to clarify and amend the water rights based on the evidence presented at this hearing.

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.

JH:ks

enclosure

Report of the Water Rights
Question between Dane Conger and John Beard
January 1983

John Beard and Dane Conger own a common diversion and ditch from Beaver Creek located near Buffalo Gap. Investigations conducted by the Water Resources Commission during the 1960's established the priorities and actual irrigated acreages of the water rights on Beaver Creek. See the attached map of the present relationship between the two individual's irrigation works.

The 1960's Summary* of irrigation diversion of water from Beaver Creek reveals the following:

December 12, 1892. Date of Referee's report in the case of Edwin D. Bond and Jennie Bond vs. Charles L. Conger, James M. Smith and Frank Allen.

The Court accepted this report without exceptions. The pertinent "Findings for Fact" and "Conclusions of Law" are:

1. James M. Smith made a valid water right location on July 7, 1883;
2. This entitled him to irrigate the W1/2 SW1/4, Section 4, E1/2 SE1/4, Section 5, E1/2 SE1/4, Section 8 and the N1/2 SW1/4, Section 9, all in T7S, R7E;
3. Charles L. Conger made a valid water right location on November 28, 1892;
4. This entitled him to irrigate a 160 acre parcel of land. It is assumed this is the NW1/4 of Section 9, T7S, R7E;
5. Smith and Conger have legal title to the ditch where the ditch passes through land now owned by others;
6. Smith and Conger are now the owners of said water right and ditch, each owning an undivided 1/2 interest therein.

This summary under item number 6 discusses of the undivided 1/2 interest to the ditch. Dane Conger is requesting that the Water Management Board clarify the water rights and each individual's entitlement to the waters of the ditch.

Present Situation

Dane Conger has two "vested" rights:

1. 1759-2 for 3.9 cfs dating from November 26, 1882 to irrigate 195.8 acres from the ditch.
2. 1794-2 for an "undivided 1/2 interest in ditch" dating from 1920 to irrigate 537.3 acres from the same ditch.

John Beard has one "vested" right and one modern water right:

1. The "vested" right is to irrigate 112.4 acres from this ditch dating from July 7, 1883.
2. 1755-2 was obtained for an additional 80 acres dating from February 6, 1981 for no additional water over what would be allocated to the 112.4 acres.

*Division of Water Rights File Titled "Summary of Records Collected by State Water Resources Commission Pertaining to Irrigation Diversions of Water from Beaver Creek in Custer and Fall River Counties - South Dakota".

Originally, the lands irrigated between the two parties were approximately equal. Conger during the 1920's continued to develop additional lands for irrigation from the ditch while approximately 80 acres were abandoned on the property now owned by Beard. This is the 80 acres Beard wished to redevelop. The "undivided one-half interest" in the ditch may still apply, however Conger is capable of utilizing more water than Beard based on acreage developed.

Possible Remedy

Based on acreage; a cfs limitation can be placed on the diversions. Conger would be allowed 3.9 cfs on the 195.8 acres and Beard would be allowed 2.25 cfs on the 112.4 acres which is based on 1-miners inch per acre. During low flow times, when less water is available than can serve both individuals needs, Conger has the first right when irrigating his 195.8 acres and a junior right to Beard when irrigating lands holding the 1920 priority. This could be worked out by each receiving water on a time basis. Based on acreage, they should alternate on a 9 day, 6 day basis. Nine days for Conger, then the next 6 days for Beard. When flows exceed the total 6.2 cfs, Mr. Beard should bypass the additional flows down to Conger to be used on his acreages. Measuring devices such as flumes would be necessary for the monitoring of the diverted waters.

Presently they are alternating on an equal time basis. One party would receive water for 15 days then the other party would receive water the next 15 days. We believe this 9 day 6 day basis will better utilize the flows in Beaver Creek.

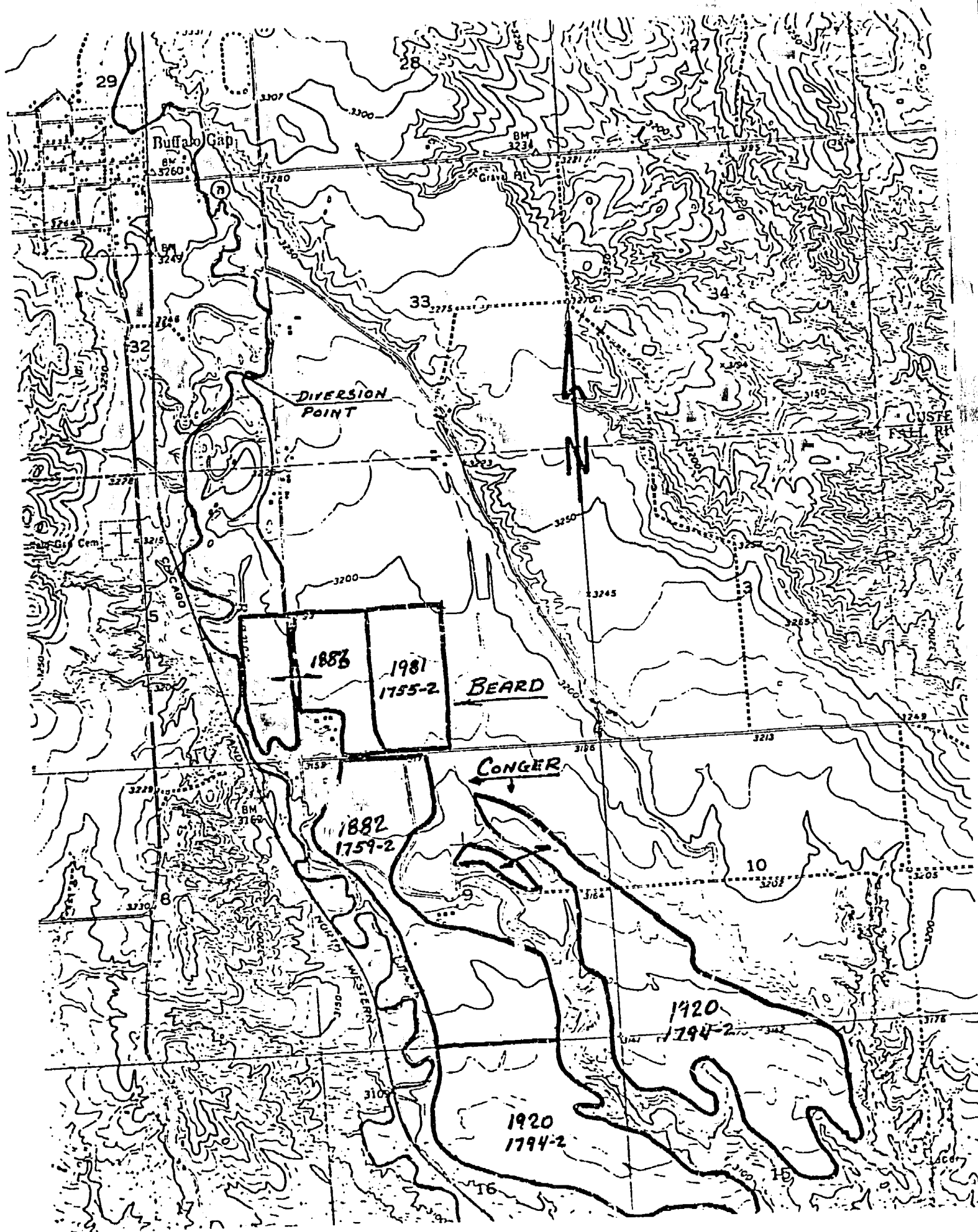
Recommendation

The Water Management Board should amend Water Right No. 1759-2 for Mr. Conger to include reference to the December 12, 1892 Referees' report. Water Right No. 1792-2 for Mr. Conger should be amended to omit the reference to the 1/2 interest and instead include a statement that any excess water of the ditch can be utilized for beneficial use on the acreages up to a maximum of 1 cfs for each 70 acres.

To remedy the conflict of water use, it is suggested that the Board adopt the staff recommendations.

James E. Winterton
Water Resource Engineer

C20301jw.wr



BEARDCONGER

<u>#of Days</u>	<u>Acres</u>	<u>cfs</u>	<u>Ac-Ft</u>	<u>Inches/Acres</u>	<u>#of Days</u>	<u>Acres</u>	<u>cfs</u>	<u>Ac-Ft</u>	<u>Inches/Acres</u>
6	112.4	6.2	73.79	7.88	9	195.8	6.2	107.11	6.58
		5.0	59.50	6.35			5.0	89.26	5.48
		4.0	47.60	5.08			4.0	71.40	4.39
		3.0	35.70	3.81			3.9	69.62	4.29
		2.25	26.78	2.86			3.0	53.55	3.29
		2.0	23.80	2.54			2.0	35.70	2.19
		1.0	11.90	1.27			1.0	17.85	1.10
6	192.4	6.2	73.79	4.60	9	733.1	6.2	107.11	1.75
		5.0	59.50	3.71			5.0	89.26	1.46
		4.0	47.60	2.97			4.0	71.40	1.17
		3.0	35.70	2.23			3.9	69.62	1.13
		2.25	26.78	1.67			3.0	53.55	0.88
		2.0	23.80	1.48			2.0	35.70	0.58
		1.0	11.90	0.74			1.0	17.85	0.29
15	112.4	6.2	184.46	19.69	15	195.8	6.2	184.46	11.31
		5.0	148.76	15.88			5.0	148.76	9.12
		4.0	119.01	12.71			4.0	119.01	7.29
		3.0	89.26	9.53			3.9	116.03	7.10
		2.25	66.94	7.16			3.0	89.26	5.47
		2.0	59.50	6.35			2.0	59.50	3.65
		1.0	29.75	3.18			1.0	29.75	1.82
15	192.4	6.2	184.46	11.5	15	733.1	6.2	184.46	3.02
		5.0	148.76	9.28			5.0	148.76	2.44
		4.0	119.01	7.42			4.0	119.01	1.95
		3.0	89.26	5.57			3.9	116.03	1.90
		2.25	66.94	4.19			3.0	89.26	1.46
		2.0	59.50	3.71			2.0	59.50	0.97
		1.0	29.75	1.86			1.0	29.75	0.49

Beaver Creek near Buffalo Gap
Mean Monthly Flow (cfs)

Year	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
1938	9.5	10.0	3.9	8.1	8.9	4.33	2.67	1.34	56.6	10.1	9.8	10.0
1939	9.2	10.6	8.8	3.78	1.37	1.54	0.55	1.47	2.42	4.73	5.22	6.9
1940	7.2	9.1	8.5	7.8	4.13	0.61	1.16	1.47	3.65	4.77	8.9	12.0
1941	12.9	11.6	10.3	16.8	5.27	4.43	5.8	4.13	7.3	7.6	8.2	8.3
1942	7.9	7.0	8.0	5.8	9.6	11.0	10.5	12.1	9.9	10.4	11.0	9.9
1943	8.9	7.9	11.1	15.5	11.8	19.3	11.0	3.45	3.91	5.88	7.5	8.8
1944	8.5	9.1	9.7	10.6	11.8	13.4	4.95	0.51	3.46	6.8	10.0	10.9
1945	11.6	9.2	8.1	9.0	3.9	7.04	3.99	4.39	6.05	8.4	7.2	8.6
1946	7.8	8.3	7.36	1.01	8.26	6.65	2.81	2.16	8.7	11.2	9.8	9.4
1947	8.9	7.9	8.2	7.5	4.61	27.1	22.2	6.99	9.0	9.4	10.7	12.2
1948	10.7	9.9	9.3	8.12	3.02	3.28	6.04	4.14	1.77	7.98	8.6	7.9
1949	8.5	8.8	9.3	5.2	2.3	5.72	0.88	0.55	4.03	5.27	3.4	6.94
1950	8.4	10.2	8.6	8.9	6.57	0.77	0.81	3.97	3.44	8.2	10.7	10.5
1951	9.9	10.1	7.89	1.5	0.74	4.50	5.5	3.39	9.1	7.9	10.8	9.4
1952	9.3	9.2	8.75	1.29	3.30	3.84	0.6	0.53	2.02	2.11	6.87	7.7
1953	8.5	10.1	8.26	1.69	7.35	1.41	0.24	1.11	3.24	1.93	3.79	10.9
1954	10.9	9.42	7.23	1.60	2.15	7.79	1.75	7.06	1.87	4.87	6.26	10.7
1955	11.1	9.8	9.3	2.87	0.87	3.3	0.56	18.3	8.22	6.35	9.2	10.4
1956	11.1	11.1	10.5	6.43	1.76	12.27	1.36	0.43	0.47	1.62	5.18	11.9
1957	12.4	10.8	8.38	3.41	9.39	16.6	7.71	2.17	4.12	9.51	12.0	9.3
1958	10.9	11.5	10.5	10.0	4.40	7.12	11.6	4.23	4.81	6.7	8.0	10.9
1959	11.0	9.4	8.0	1.70	0.92	0.67	3.3	1.52	1.55	4.09	9.65	11.2
1960	10.4	9.7	9.0	1.11	0.61	0.69	0.37	0.3	0.37	0.67	4.47	10.3
1961	10.9	9.04	4.34	0.96	0.99	2.41	0.38	0.25	0.96	1.24	6.23	9.77
1962	9.49	10.1	9.59	1.60	2.45	9.99	15.2	2.24	0.81	9.27	11.3	8.42
1963	9.13	8.6	9.25	7.75	5.55	25.9	11.7	3.69	5.84	8.22	11.6	9.54
1964	10.4	11.0	9.07	7.88	1.82	4.53	1.95	0.61	0.68	1.56	8.96	11.3
1965	11.7	11.7	10.6	7.24	9.25	9.63	6.58	2.52	6.55	10.8	10.9	11.7
1966	10.4	12.3	9.05	5.62	1.64	0.44	8.71	3.05	6.95	7.12	8.34	10.8
1967	10.9	10.7	9.86	0.79	3.37	14.4	6.10	3.47	5.86	9.36	9.58	10.5
1968	11.5	11.1	6.23	2.49	2.67	7.78	3.74	1.09	5.29	6.65	9.04	9.05
1969	10.8	10.4	9.0	2.28	0.94	0.72	6.09	2.37	1.07	10.1	8.05	7.71
1970	8.52	9.49	11.3	8.38	5.03	1.77	1.02	1.19	6.08	10.0	7.94	8.2
1971	10.2	13.5	10.6	9.75	9.39	10.3	6.00	0.76	7.07	9.2	11.0	11.1
1972	8.02	9.51	9.11	4.74	4.63	13.3	4.05	3.47	5.99	9.29	9.21	6.98
1973	9.36	11.1	9.41	8.37	4.84	0.83	1.48	2.30	6.39	8.11	7.22	8.65
1974	10.0	11.9	7.51	8.01	2.99	0.39	0.26	0.28	0.60	2.77	7.60	9.21
1975	9.3	9.48	9.73	6.63	2.78	6.37	12.8	3.34	5.75	1.88	5.92	7.16
1976	9.98	10.3	10.1	7.1	4.29	2.62	4.73	7.51	3.53	5.56	7.73	9.6
1977	9.61	9.99	7.23	6.53	4.95	1.84	0.52	4.55	5.43	6.52	12.4	11.3
1978	11.5	9.88	16.1	3.76	7.11	4.61	1.19	1.46	4.64	7.36	9.18	12.5
1979	12.2	11.6	11.5	7.04	1.5	0.0	1.4	12.2	7.64	7.74	11.0	8.77
1980	10.4	11.3	10.8	7.94	1.14	0.71	0.31	0.39	0.58	3.94	11.0	9.06
1981	9.27	10.1	7.46	1.19	4.37	3.30	4.12	7.42	6.86			
Ave.	9.98	10.09	9.14	5.80	4.44	6.29	4.65	3.41	5.54	6.59	8.64	9.69
Median	9.98	10.0	9.05	6.43	3.90	4.33	3.30	2.30	4.64	7.12	8.96	9.60

Location: SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 5, T7S, R7E Approximately 1.25 miles below Beard and Conger diversion

1759-2



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501
March 22, 1983

Water Rights Division
605 773-3352

John Beard
Buffalo Gap SD 57722

Dane Conger
Buffalo Gap SD 57722

Gentlemen:

The intent of this letter is to notify you of the decision made by the Water Management Board at their meeting on February 24, 1983, concerning water rights from Beaver Creek in Fall River County held by Dane Conger and John Beard.

Mr. Harris MOVED, SECONDED by Mr. Rylance that because of the original declaration of the undivided one-half interest, it should be left that way except for the excess flood flows. Mr. Conger and Mr. Beard shall alternate the use of the water at the diversion points on a seven day cycle, alternating seasons starting with the first Monday in January. Any excess flood waters are to be diverted to Mr. Conger by Mr. Beard. MOTION CARRIED.

Mr. Arend MOVED, SECONDED by Mr. Rylance that Water Right No. 1759-2 and 1794-2 for Mr. Conger be amended to include a statement of the undivided one-half interest on Water Right No. 1759-2, and omit the reference to the undivided one-half interest on Water Right No. 1794-2 and instead include a statement that any excess water of the ditch can be utilized for beneficial use on the acreages up to a maximum of 1 cfs for each 70 acres. MOTION CARRIED.

If you have any questions concerning this matter, please contact this office.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division

JH:TS:ks

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

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

November 4, 1988

1759-2
1794-2
1854-2

Jim Hollenbeck
Farm Credit Services
PO Box 3130
Rapid City SD 57709

Dear Mr. Hollenbeck:

Enclosed, as you requested are copies of Vested Water Right Claim Nos. 1759-2, 1794-2 and 1854-2. These are currently listed in the name of Dane H. Conger.

If you have any questions, please contact me.

Sincerely,

Genny McMath
GENNY MCMA74
Natural Resources Analyst
605 773-3352

enclosures



1759-2



Dear Sir:

We question the water rights and
amount of water being used on the
Conger Ranch of Buffalo Gap, S.D.

Paul & Carol Hughes

RR1, Box 100

Buffalo Gap, SD 57732

1759-2

September 30, 1988



John Hatch, Chief Engineer
Water Rights Division
Dept. of Water & Natural Resources
Joe Foss Building
Pierre, SD 57501

Re: Validation of Vested Water Right Nos. 1759-2 and 1794-2

Dear Sir:

I would like to have an opportunity to object to the manner in which Vested Water Right Nos. 1759-2 and 1794-2 are being managed at this time. I have concerns about the number of disputes that arise over water useage and what appears to be an attempt by Mr. Conger to oversee the useage of water by other people in the area and to influence the amount of water these people ultimately use.

It is my understanding that a certain amount of water which Mr. Conger has a right to use is designated as "excess water". I am concerned that Mr. Conger may, in fact, be attempting to create a condition where more "excess water" is allowed to flow through the ditch by his contacts with other water users.

I also have some concerns that Mr. Conger may possibly be diverting some of the water for use on lands other than those designated in his Water Right Permits.

I would like to reserve the opportunity to discuss my concerns about these matters with your Department and to be able to object to these Water Rights being validated unless it can be satisfactorily shown that they are being properly used. I would also like some assurance that Mr. Conger's attempts to oversee water useage by others can be regulated so as to ease the situation in this area.

Please contact me and let me know when your Department will be conducting its meetings in Rapid City, South Dakota, so that I can arrange to express my concerns with validating these Water Rights.

Thank you very much.

Yours truly,

Lyda Bowker

Lyda Bowker

1759-2

 **Department of
Water & Natural Resources**
Joc Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

October 11, 1988

Dane Conger
Rt 1, Box 99
Buffalo Gap SD 57722

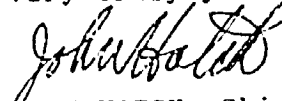
Dear Mr. Conger:

Enclosed are copies of letters received from Lyda Bowker and Paul & Carol Fugier opposing the validation of your Vested Water Right Claim Nos. 1759-2, 1794-2 and 1854-2.

You, Mrs. Bowker and Paul & Carol Fugier will be notified as to the date, time and place of the hearings for validation of your claims. At that time you and the persons opposing your claims will have the opportunity to present evidence as to why or why not the claims should be validated.

If you have any questions or need additional information, please contact us.

Very truly yours,


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

enclosure

cc: Lyda Bowker
Paul & Carol Fugier



1759-2



10-20-88

Dear Sirs,

After further discussion with the Water Resources, Inc., Paul & Carol Lugin rescind our complaint as to the validation of water rights on the Longue Ranch. We understand this does not affect our water rights in any manner.

Sincerely,
Paul & Carol Lugin

1759-2

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

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

July 5, 1989

NOTICE

TO: Dane Conger
Rt 1, Box 9C
Buffalo Gap SD 57722

Mrs. Lyda Bowker
Buffalo Gap SD 57722

FROM: John Hatch, Chief Engineer
Water Rights Division
605 773-3352



SUBJECT: Validation of Vested Right Claim Nos. 1759-2 and
1794-2, Dane Conger

The Water Management Board will consider Validation of Vested Right Claim Nos. 1759-2 and 1794-2 at 10:00 am, July 26, 1989 at the Hilton Inn, Deerfield Room, 445 Mt. Rushmore Road, Rapid City SD. The agenda time is an estimate. The actual time of hearing may be later than 10:00 am due to prior agenda items.

These hearings are being held because Mrs. Lyda Bowker opposes validation of Vested Right Claim Nos. 1759-2 and 1794-2. The hearings are adversary proceedings. Any person having filed a petition and the Vested Right Claim holder have the right to be represented by a lawyer. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

The applicable provisions of the Notice of Intent to Validate Vested Water Right Claims published in the Custer County Chronicle, Custer SD on June 22 and 29, 1988 will still apply at this hearing.

The Chief Engineer is recommending validation of Vested Right Claim Nos. 1759-2 and 1794-2 as filed.

cc: John Hatch, Assistant Attorney General



CERTIFICATION

I hereby certify that on July 5, 1989 I have personally deposited with the U.S. Mail postage prepaid envelopes containing a Notice of Validation of Vested Right Claim Nos. 1759-2 and 1794-2 addressed as follows:

Dane Conger
Rt 1, Box 99
Buffalo Gap SD 57722

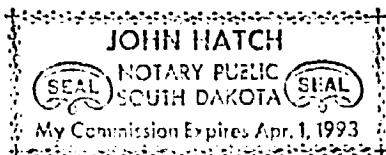
Mrs. Lyda Bowker
Buffalo Gap SD 57722

Karen Schlaak
KAREN SCHLAACK
Senior Secretary

STATE OF SOUTH DAKOTA)
COUNTY OF HUGHES) SS

Sworn to, before me, this 5th day of July, 1989.

John Hatch
Notary Public



Water Rights Division - DWNR
Conversation or File Documentation

File No. 1759-2
1798-2

NAME OF PERSON OR FILE: Dane Conger
ADDRESS: Rt 1, Box 99, Buffalo Gap, SD 57722 COUNTY Custer & Fall River
DATE: July 6, 1989 TELEPHONE _____
RE: Validation of Vested Right Claim Nos. 1759-2 & 1798-2

COMMENTS:

I discussed these with Mr. Conger on June 28, 1989. He stated that the systems still operate as filed. I also viewed the delivery canals to the ~~fields~~ irrigated fields and also some of the irrigated fields. I also examined aerial photos in the ASCS office. Division of Water Rights staff has viewed these systems a number of times over the last several years. The claims have been constructed and are used as described in the filing.
Mrs. Lyda Bower is opposing the validation. I tried to contact her several times and have not been able to make contact. I don't know the real reason for her opposition.

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.

NAME: Delvin H. Brown, P.E.
Hydrologist

SOUTH DAKOTA

VALIDATION OF VESTED WATER RIGHT CLAIM NO. 1759-2 FOR IRRIGATION

Date Claim Accepted For Filing January 15, 1981.

Date of Validation July 26, 1989.

Pursuant to SDCL 46-2A-17 the Water Management Board validated Vested Water Right Claim Permit No. 1759-2 for irrigation purposes for Dane H. Conger, Route 1, Box 99, Buffalo Gap, South Dakota 57722 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 1759-2 appropriates 3.90 cubic feet of water per second from Beaver Creek to irrigate 195.8 acres. The diversion point is located in the NE 1/4 SE 1/4, Section 32, T6S, R7E and the irrigated acres are located in the NW 1/4, SW 1/4, and SE 1/4, Section 9, T7S, R7E.

2. The appropriation may not exceed the amount of water needed for beneficial use for irrigation. The appropriation may not exceed 3 acre feet per acre per year and may not exceed one-seventieth (1/70) cubic feet of water per second for each acre of irrigated land. The water is to be used during the following annual period: April 1 - October 31.

3. The priority date of the Vested Water Right is November 28, 1882.

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.

Vested Water Right No. 1759-2 is authorized use of an undivided 1/2 interest in the ditch and water as specified in the Smith-Conger Court Case.

WATER MANAGEMENT BOARD

By: John H. Talbot
Chief Engineer
Division of Water Rights
Dept. of Water and Natural Resources

SEP 12 1989

date

 **Department of
Water & Natural Resources**

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

SEP 12 1989

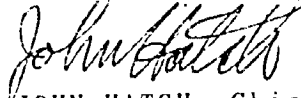
Dane H Conger
Rt 1, Box 99
Buffalo Gap SD 57722

Dear Mr. Conger:

The Water Management Board has validated the enclosed Vested Water Right Nos. 1759-2 and 1794-2. These validations give legal status to the claims and are the final documents for your vested rights.

As long as you use the water beneficially, as stated in the validations, State Water Laws provide that you have a continuing right to use the water.

Very truly yours,



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

enclosure



SOUTH
**Department of
Water & Natural Resources**

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

November 21, 1990

1759-2
1794-2

Kenneth Dewell
Dewell Law Office
PO Box 292
Hot Springs, SD 57747

Dear Mr. Dewell:

Enclosed, as you requested, are copies of the following documents pertaining to Vested Water Right Nos. 1759-2 and 1794-2:

1. Notice of Hearing for Validation of Vested Right Claim Nos. 1759-2 and 1794-2 dated July 5, 1989 sent to Dane Conger and Mrs. Lyda Bowler
2. Validated Vested Water Right No. 1794-2
3. Validated Vested Water Right No. 1759-2
4. Letter dated September 12, 1989 to Dane Conger forwarding the validated vested rights to him

These were the only documents in the file dated from July, 1989 to the present. You indicated during our phone conversation that you already had documents prior to that date.

If you have any questions or need additional information, please contact me.

Sincerely,

Genny McMath

Genny McMath
Natural Resources Analyst
(605) 773-3352

enclosures



April 28, 2005

1759-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

1759-2
1794-2
1854-2

Thomas D Conger
Conger Partnership
HC 56 Box 99
Buffalo Gap, SD 57722

Dear Mr. Conger:

I am writing in regard to Vested Water Right Nos. 1759-2, 1794-2 and Partial Vested Water Right No. 1854-2. Currently, these are listed in the name of Dane Conger – Conger Ranch. It is our understanding that these water rights should be listed in your name. In order to change the name on a water right, an ownership change must be filed with the water right.

Enclosed are partially completed Notice of Transfer of Ownership forms for filing an ownership change. Please review the forms and complete as needed. Upon completion, please sign and return them to our office with a required filing fee of \$2.50 each (total of \$7.50). The check or money order for the fee can be made payable to the Water Rights Program.

If you have any questions or if you wish the water rights to remain in Dane's name, please let us know.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

enclosures

9 T7S R7E

FIELD AG

71.4 AC

AD

14.8

BEAVER

CREEK

FIELD AG

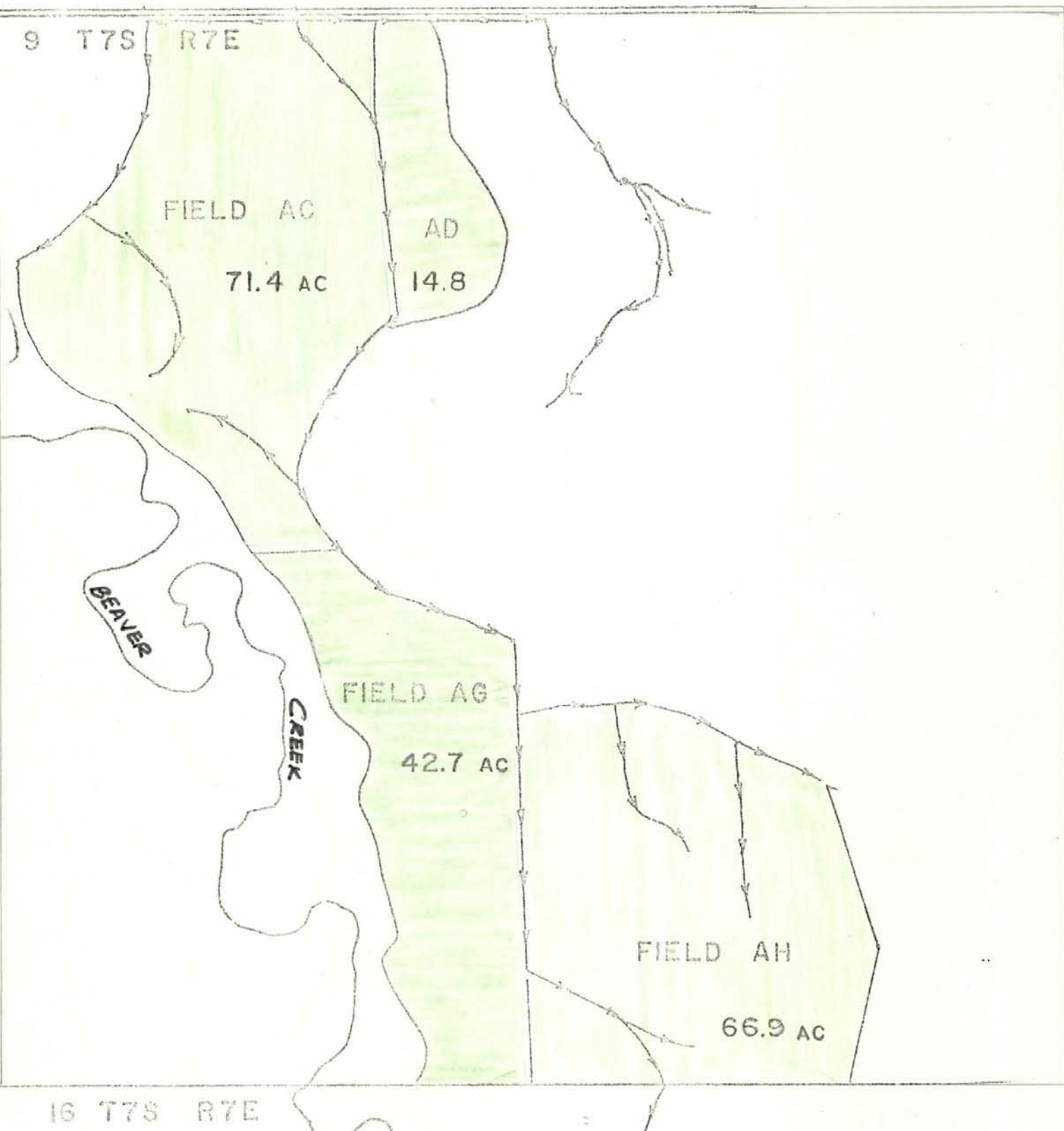
42.7 AC

FIELD AH

66.9 AC

16 T7S R7E

~~Map # 1515~~ 2 v/R Appl 1759-2



Map 1515-2 Appl. v/R 1759-2