

VESTED RIGHT 1774-7
water Right No.

1. Considered: 2-14, 1981
2. Name of Applicant DANE H. CONGER
3. Post Office Address BUFFALO GAP, SD 57720
4. Amount of Water Claimed unlimited 1/2 interest under - Conger - Smith
maximum acre feet 200
5. Source of Water Supply BEAVER CREEK
6. Water to be used for IRR acres to be irrigated 1.21
7. County FALL RIVER about _____ miles _____ of _____
8. PROOF OF PUBLICATION: Received #2 Not Received _____
- APPLICATION: Approved 2/1/82 Subject to _____
- Not Approved _____ Action Deferred _____

PRIORITY
1920

Dated Received 11-24-81 Application complete-yes ☒ no _____ FEE 13.00

Remarks _____

Corrected Application received _____ Period of Annual Use APR - OCT

WATER QUALITY N/A Received yes _____ no _____ APPROVED/CONDITIONAL (Circle one)

with Description same as application-yes _____ no _____ Remarks _____

Disapproved _____ Returned _____

Diversion Point _____
Swift Creek

Land to be irrigated _____
NE 1/4 Sec 4 T20N R10E S10W
NE 1/4 Sec 10: T20N R10E S10W
NE 1/4 Sec 14: T20N R10E S10W
NE 1/4 Sec 18: T20N R10E S10W

NEED FOR _____ Licensed - yes _____ no _____

Division _____

Depth _____

Remarks _____

Water Right No. _____

MAF Map No. 1548-21 Map located in water Right X Map file _____
 Type of Map Drawn & Aerial Prepared by Winterton

REVIEWED This Application was received within 30 days of the date received, accepted as complete, Number assigned and written up for advertisement before the Board on:

12-14-81

Billy 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 was
 DECISIONS adopted _____
 ETC. Remarks _____



No. 1794-2
 Map No. 1548-8 Water Division No. 2 UPPER CHEYENNE District
 Above for Office Use 10120109

APPLICATION FOR PERMIT To Appropriate Water within the State of South Dakota

Check one of the following:

Now Vested Right XX Future Use
 Change in Diversion Additional Diversion
 Change in Acreage Additional Acreage

1. Name of Applicant Dane H. Conger Phone No. 833-6345
 Post Office Address Buffalo Gap State South Dakota 57720
(Street, RR, or Box) (Town) (Zip Code)
 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. 2

4. Amount of water claimed (cubic feet per second) 7.38 5.0

5. Source of water supply Beaver Creek

6. Location of point of diversion North 26° West, 1865 feet from the SE corner of Section 32,
Sec. 32, T6S, R7E.

7. Annual period or periods during which water is to be used April thru October County Fall River
 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 537.3

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.
NE $\frac{1}{4}$ Sec. 9	43.0
E $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 9	23.2
SW $\frac{1}{4}$ Sec. 10	112.5
SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 10	2.8

Land Description	No. Acres Irr.
SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 10	4.2
NW $\frac{1}{4}$ Sec. 15	90.5
NE $\frac{1}{4}$ Sec. 15	72.1
N $\frac{1}{2}$ SW $\frac{1}{4}$ Sec. 15	41.4

NE $\frac{1}{4}$ Sec. 16 118.8 Attach sheet if more space is needed
 10. Time required to complete construction of water supply system complete years. Additional time required years.
 to complete application of water to the proposed beneficial use complete years.

11. Choice of county newspaper for publication of Notice of Intent to Appropriate Water Hot Springs Star
Hot Springs, SD

12. Principal Features of the Proposed Water Supply System.

A. Works proposed to divert water from its natural source.
existing irrigation ditch

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

C. Works proposed to apply water to beneficial use.
ditches and dikes

Estimated Total Cost \$ 5000.00

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

STATE OF SOUTH DAKOTA)
 County of Fall River) ss

I, Dane H. Conger 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. Conger
Anna M. [Signature]
 Notary Public (or other qualified officer)

Subscribed and sworn to before me this 23 day of November, 1981



71.4 P

14.8A

42.7A

66.9A

James C. Mitchell
State Survey Engineer

2-01-51
2-01-51
2-01-51

175 R7E

-not to scale-

15-T7-R7

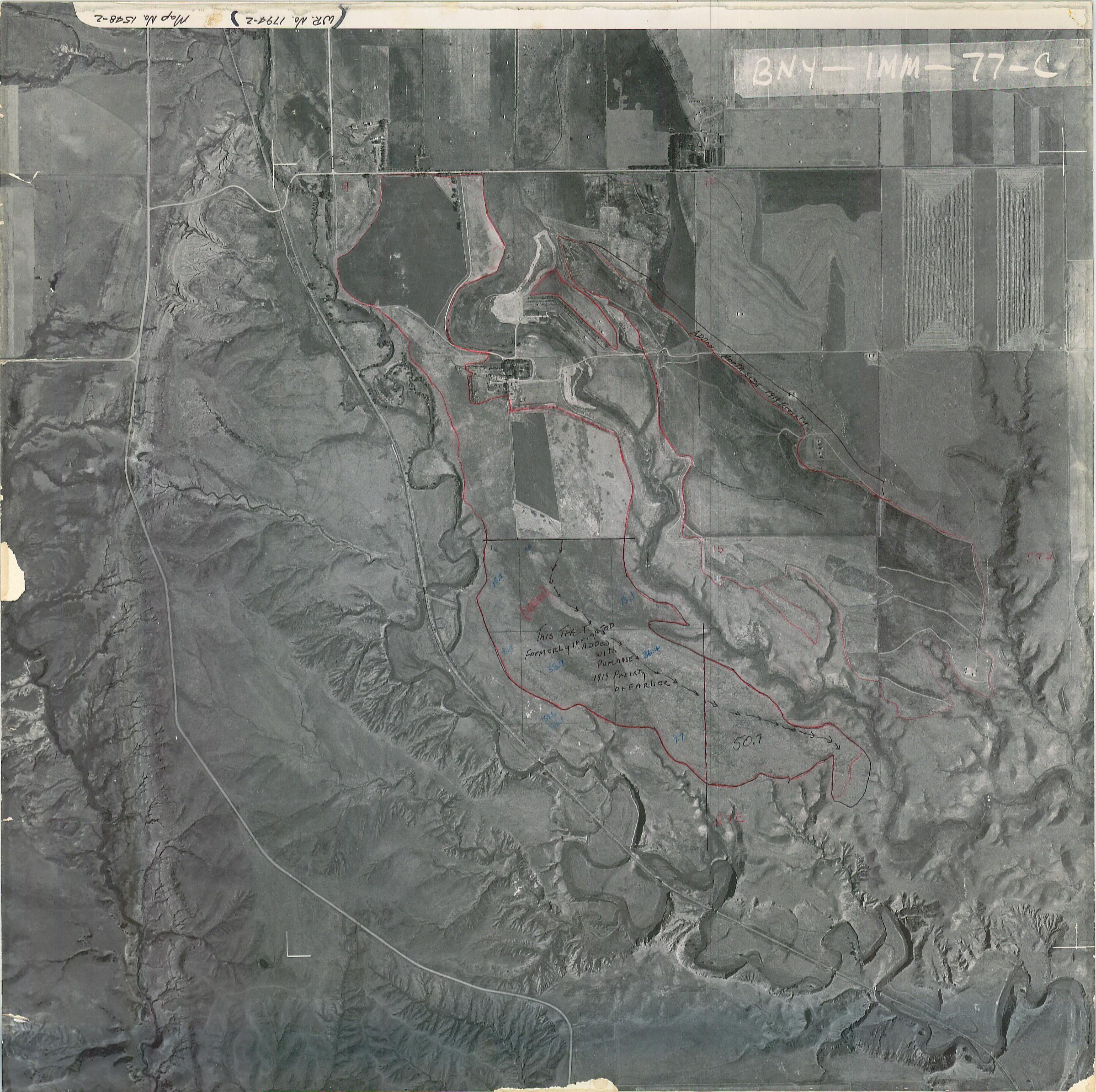
16-T7-R7

10-T7-R7

9-T7-R7

BNY-1MM-77-C

WR. No. 1794-2 Map No. 1548-2



WATER RIGHT APPLICATION APPROVAL

The Water Management Board hereby approves Water Right Application No. 1794 2

Dane H. Conger

Buffalo Gap

(Post Office Address)

(Applicant)
South Dakota

57720

(State)

With the following qualifications.

"VESTED RIGHT" CLAIMED

~~IT IS RECOMMENDED THAT THE "VESTED RIGHT" BE GRANTED AUTHORIZING THE
OF AN UNDIVIDED 1/2 INTEREST IN THE DITCH AND WATER APPROPRIATION
IN THE SMITH-CONGER COURT CASE GRANTED THAT THE STOCK BE
GRANTED~~

Any excess water of the Smith-Conger ditch not utilized by the two undivided one-half interests can be utilized on these acreages up to a maximum of 1 cfs for each 70 acres.

Date of first receipt of application NOVEMBER 24, 1981

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

Date of receipt of corrected application _____, 19____

Approved FEBRUARY 4, 1982, Recorded in Book 22 Page 344

WATER RIGHT PERMIT NO. 1794-2

The Water Management Board hereby grants and issues this Water Right Permit No. 1794-2 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, 19____
2. The equivalent of at least one-fifth of the work above specified is ~~to be completed on or before~~ 19____, 19____
3. The whole of said work is ~~to be completed on or before~~ 19____, 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 5.00 CFS ~~AS SPECIFIED IN THE~~ AS SPECIFIED IN THE ~~INTEREST IN THE DITCH AND WATER~~ INTEREST IN THE DITCH AND WATER ~~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~~ 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 JUNE 30, 1985; said water to be used during the following described

annual period APRIL THRU OCTOBER

Witness my hand this 17TH day of MARCH, 1982

THE WATER MANAGEMENT BOARD

By John H. Hester
Chief Engineer Water Rights

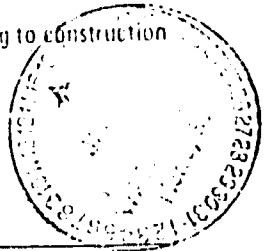
Certificate of Construction Issued MARCH 17, 1982

Water License Issued MARCH 17, 1982

No. 1794-2

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 October 8, 1919 Date of Recording April 13, 1920
 Recording Data Book 8, Misc. Page 379
14. Date of start of construction of water supply system 1919
15. Date that water was first applied to beneficial use 1920
16. Name of owner of original water supply system Charles Lee Conger
17. Amount of water originally applied to beneficial use 5 c. f. s.
18. Present Use of Water
 Amount of water now being used 5 c. f. s.
 Date that this amount of water was first used 1920

19. Chronological History of Water Use

System was started by Charles Lee Conger in about 1920 and was completed within a reasonable period of time, and has been used on a near continuous basis since that time.

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 Butte) ss.

I, Dane H. Conger, the applicant, certify that I have read the foregoing and that the matters therein stated are true.

Signed

Dane H. Conger

Subscribed and sworn to before me this 1st day of March, 1920

Wm. Woodward
 (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.

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 1794-2.

(1) WHEREAS, On the 24th day of November A. D. 1981
Dane H. Conger

made Water Right Application No. 1794-2 Vested Right 5.00 (changed to $\frac{1}{2}$ interest in ditch & water) cubic feet per second of the waters of Beaver Creek

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

(2) WHEREAS, On the 4th day of February A. D. 1982
 Permit No. 1794-2 with a date of priority of 1920

Vested
Right

was issued to said applicant recognizing for the diversion of said water, and provided for the completion of construction of the water supply system therein described on or before the day of A. D. 1982 and for the application to beneficial use of said water on or before the 30th day of June A. D. 1985

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 $\frac{1}{2}$ interest in the ditch & water as specified in the Smith-Conger Court Case cubic feet per second of water for beneficial use and.

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

For irrigating the following described land in T7S, R7E

Section 9 NE $\frac{1}{4}$	43.0	acres
E $\frac{1}{2}$ SE $\frac{1}{4}$	23.2	"
Section 10 SW $\frac{1}{4}$	112.5	"
SW $\frac{1}{4}$ NW $\frac{1}{4}$	2.8	"
SW $\frac{1}{4}$ SE $\frac{1}{4}$	4.2	"
Section 15 NW $\frac{1}{4}$	90.5	"
NE $\frac{1}{4}$	72.1	"
N $\frac{1}{2}$ SW $\frac{1}{4}$	41.4	"
Section 16 NE $\frac{1}{4}$	118.6	"
S $\frac{1}{2}$ NW $\frac{1}{4}$	21.4	"
NE $\frac{1}{4}$ SE $\frac{1}{4}$	7.4	"
TOTAL 537.3 acres		

(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 Darv H. Conger

of Buffalo Gap
the holder Vested Right and owner 1794-2 of said permit No. 1920
undivided 1/2 interest in ditch & water before described
to use of the ditch & water of the waters

98-
3-17-82
of Beaver 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 at a point N 26°W, 1665 feet from the SE corner,
Section 32, T6N, R7E

and conducted to and upon portions of Sections 9, 10, 15 & 16, T7S, R7E described
on the fact of this License

for the purpose of irrigation

Subject to any limitations listed in Water Right Permit No. 1794-2 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this 17th day of March A. D.
Nineteen Hundred and Eighty-two

WATER MANAGEMENT BOARD

By:

John Hatch
Chief Engineer, Executive Officer
JOHN HATCH

Permit No. 1794-2

Water Diversion No. 2 Upper Cheyenne Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That Dane H Conger

Vested
Right

JH
3-17-82

_____ the holder _____ of
Permit No. 1794-2, issued upon Application No. 1794-2, bearing date of priority of 1920
undivided 1/2 interest in the ditch and water as specified in the Smith-Conger
authorizing the diversion of _____ of the waters of _____ Court Case
_____ County of Fall River, State of South Dakota at
a poin N 26°W, 1865' from the SE corner, 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 as satisfactory
~~certified~~ for diverting and conveying to the place of intended use the water specified above

Date March 17, 1982

John Hatch
JOHN HATCH, Chief Engineer
Water Rights Division

RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

No 4 7925

PIERRE, January 15, 1931

RECEIVED OF R. M. Dane & Co. 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. 1794-2 (examination, processing, recording and filing) -----	3	00
Fee for inspecting Construction and Issuing Cert. of Construction No. 1794-2 -----	2	50
Fee for inspecting Beneficial Use, and issuing Water License No. 1794-2 -----	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	17	00

WATER RIGHTS COMMISSION

By *C. E. Hatch*
Chief Engineer, Executive Officer
C. E. HATCH

1794-2



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: Dave 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; 46-5-35, 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

1794-2

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, 1892 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.

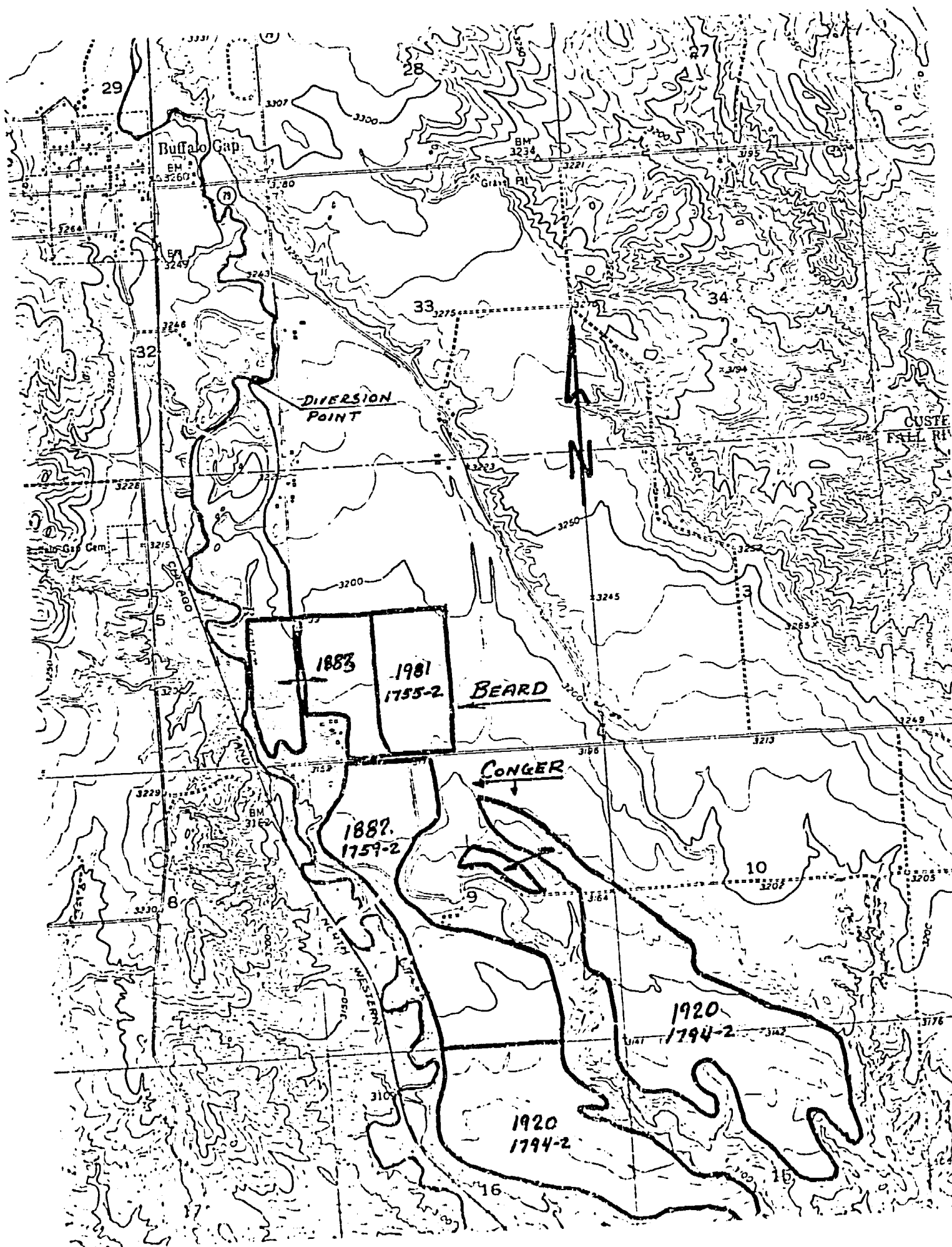
Recommendation

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. 1797-2 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

G20301Jw.wr



BEARD

<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
		5.0	59.50	6.35
		4.0	47.60	5.08
		3.0	35.70	3.81
		2.25	26.78	2.86
		2.0	23.80	2.54
		1.0	11.90	1.27
6	192.4	6.2	73.79	4.60
		5.0	59.50	3.71
		4.0	47.60	2.97
		3.0	35.70	2.23
		2.25	26.78	1.67
		2.0	23.80	1.48
		1.0	11.90	0.74
15	112.4	6.2	184.46	19.69
		5.0	148.76	15.88
		4.0	119.01	12.71
		3.0	89.26	9.53
		2.25	66.94	7.16
		2.0	59.50	6.35
		1.0	29.75	3.18
15	192.4	6.2	184.46	11.5
		5.0	148.76	9.28
		4.0	119.01	7.42
		3.0	89.26	5.57
		2.25	66.94	4.19
		2.0	59.50	3.71
		1.0	29.75	1.86

CONGER

<u>#of Days</u>	<u>Acres</u>	<u>cfs</u>	<u>Ac-Ft</u>	<u>Inches/Acres</u>
9	195.8	6.2	107.11	6.58
		5.0	89.26	5.48
		4.0	71.40	4.39
		3.9	69.62	4.29
		3.0	53.55	3.29
		2.0	35.70	2.19
		1.0	17.85	1.10
9	733.1	6.2	107.11	1.75
		5.0	89.26	1.46
		4.0	71.40	1.17
		3.9	69.62	1.13
		3.0	53.55	0.88
		2.0	35.70	0.58
		1.0	17.85	0.29
15	195.8	6.2	184.46	11.31
		5.0	148.76	9.12
		4.0	119.01	7.29
		3.9	116.03	7.10
		3.0	89.26	5.47
		2.0	59.50	3.65
		1.0	29.75	1.82
15	733.1	6.2	184.46	3.02
		5.0	148.76	2.44
		4.0	119.01	1.95
		3.9	116.03	1.90
		3.0	89.26	1.46
		2.0	59.50	0.97
		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	8.9	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	10.0	11.8	13.4	4.95	0.51	3.46	6.8	10.0	10.9
1945	11.6	9.2	8.4	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	27.9	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	8.9	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	0.69	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	3.1	1.93	3.79	10.9
1954	10.9	9.42	7.23	1.60	2.16	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	2.27	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	0.84	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: SE½ SE½ Section 5, T7S, R7E Approximately 1.25 miles below Beard and
Conger diversion

1794-2



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. Harms 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. 1753-2, 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 MCMATH
Natural Resources Analyst
605 773-3352

enclosures



1794-2



Dear Sirs:

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

Paul & Carol Fugere

RR1, Box 110

Buffalo Gap, SD 57722

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,

A handwritten signature in cursive script, appearing to read "Lydia Bowker".

Lydia Bowker

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

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

enclosure

cc: Lyda Bowker
Paul & Carol Fugier



1794-2



10-20-08

Dear Sirs,

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

Sincerely,
Paul & Carol Zuger

 **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 99
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 Hawk, 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:

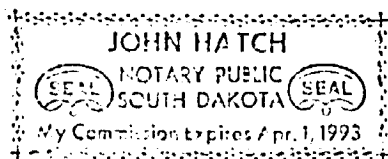
Dane Conger
Rt 1, Box 99
Buffalo Gap SD 57722

Mrs. Lyda Bowker
Buffalo Gap SD 57722

Karen Schlaak
KAREN SCHLAAK
Senior Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

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



John Hatch
Notary Public

Water Rights Division - DWR
Conversation or File Documentation

File No. 1759-2
1792-2

NAME OF PERSON OR FILE: Dane Conger

ADDRESS: Rt 1, Box 99, Butte's Gap, SD 57722 COUNTY Custer & Fall River

DATE: July 6, 1989 TELEPHONE _____

RE: Validation of vested Right Claim Nos. 1759-2 & 1792-2

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 ~~canals~~ 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: William H. Brown, P.E.
Hydrologist

SOUTH DAKOTA

VALIDATION OF VESTED WATER RIGHT CLAIM NO. 1794-2 FOR IRRIGATION

Date Claim Accepted For Filing November 24, 1981.

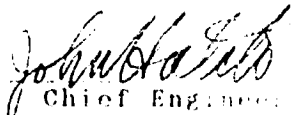
Date of Validation July 26, 1989.

Pursuant to SDCL 46-2A-17 the Water Management Board validated Vested Water Right Claim Permit No. 1794-2 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. 1794-2 appropriates 5.00 cubic feet of water per second from Beaver Creek to irrigate 537.3 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 NE 1/4, E 1/2 SE 1/4, Section 9; SW 1/4, SW 1/4 NW 1/4, SW 1/4 SE 1/4, Section 10; NW 1/4, NE 1/4, N 1/2 SW 1/4, Section 15; NE 1/4, E 1/2 NW 1/4, NE 1/4 SE 1/4, Section 16; all in 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 January 1, 1920.
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:


Chief Engineer

Division of Water Rights

Dept. of Water and Natural Resources

SEP 12 1989

date

1794-2

 **Department of
Water & Natural Resources**

Joe Fess 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



 **Department of
Water & Natural Resources**

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3131

November 21, 1990

1759-2
1794-2

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

Dear Mr. Dewell:

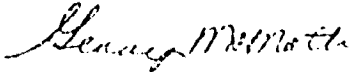
Enclosed, as you requested, are copies of the following documents pertaining to Vested Water Right Nos. 1759-2 and 1794-2:

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 Bowker
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
Natural Resources Analyst
(605) 773-3352

enclosures



April 28, 2005

1794-2
**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