

Considered: _____

WATER PERMIT NO. 1910-2MAP No. 1910-2Name of Applicant FLOYD SIMUNEKPost Office Address Hot Brook Canyon, Box 178-B Hot Springs 57747Amount of Water Claimed 1.30 Total Acres 92.80Source of Water Supply Beaver CreekWater to be used for IRR County CU

About _____ miles _____ of _____.

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved 12-5-84 Subject to _____

F.F.& C.L. Adopted _____ Not Approved _____ Deferred _____

PRIORITY _____ Date Received 11/13/84 Fee 10.50 Remarks _____1/1/1881Corrected Application Received _____ Period of Annual Use 4/1 to 12/31

WATER QUALITY APPROVAL RECEIVED _____ APPROVED/CONDITIONAL (Circle one)

Well Description same as Application YES _____ NO _____ REMARKS _____

not applicable

Diversion Point _____

SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 29 T6S R7E

Land to be Irrigated _____

SW $\frac{1}{4}$ NW $\frac{1}{4}$; W $\frac{1}{2}$ SW $\frac{1}{4}$ And NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 33-T6S-R7E

Well Log: Driller _____ Licensed YES _____ NO _____

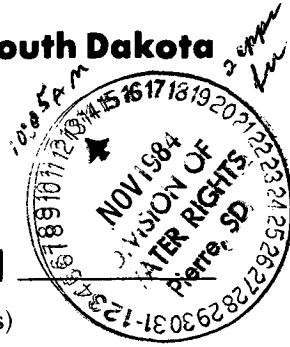
Depth of Well _____ REMARKS _____

Type of Map drawn PREPARED BY Del Brosz PE Reviewed and the Numberassigned on 11/13/84By Betty Westlund
Betty Westlund NRA III

No. <u>1910-2</u>	Hydrologic Unit <u>10120109</u>
Map No. <u>1910-2</u>	Basin <u>UC</u>
Newspaper <u>N/A</u>	

Application For Permit To Appropriate Water Within The State Of South Dakota

Type of Application: Check one or more of the following;



- New ☐ Vested Right ☒ Future Use ☐ **Water Right Filing No. 032-2**
- ☐ Application to amend Permit No. _____ with old priority date retained
- ☐ Change diversion point(s) ☐ Add diversion point(s) ☐ Change acreage ☐ Other ☐
- ☐ Application to: ☐ Change use ☐ Change diversion point(s) ☐ Add diversion point(s)
- ☐ Add Acreage ☐ Increase diversion rate ☐ Other _____ See Permit No. _____
- ☐ Application to: ☐ Use ☐ Transfer water reserved by Future Use Permit No. _____

1. Name of Applicant Floyd Simunek Phone No. _____Post Office Address Hot Brook Canyon, Box 178-B, Hot Springs, SD State 57747
(Street, RR or Box) Zip Code2. Amount of water claimed (c.f.s) 1.3 Total acres irrigated 92.83. Source of Water supply Beaver Creek4. Location of point of diversion N 54° W 1200 ft. from the SE Corner of Section 29, T6S, R7ECounty Custer5. Counties where water will be used Custer6. Annual period during which water is to be used April 1 to December 31

7. 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.
SW1/4 Sec. 33, T6S, R7E	13.2
NW1/4 Sec. 33, T6S, R7E	38.9
SW1/4 Sec. 33, T6S, R7E	23.4
NE1/4 Sec. 33, T6S, R7E	17.3

Land Description	No. Acres Irr.
TOTAL ACRES	92.8

Attach sheet if more space is needed

8. Give a brief description of proposed project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

This is a gravity irrigation system. A main canal moves the water from Beaver Creek to the edge of the field. The main canal releases the water to field laterals. Siphon tubes take the water from the laterals and discharge to field furrows. In accordance with an agreement, dated September 29, 1920, this water right uses the water from this diversion point from the 1st thru the 10th of each month.

NOTE: In an agreement recorded in Bk 8, Misc., page 614 Custer County Register of Deeds Floyd Simunek is allowed to take all the water for the first ten days of a 30 day month and the first 11 days of a 31 day month. Under a judgment dated March 16, 1961 and filed in the Custer County Clerk of Courts Office. The rights between Floyd Simunek and the 7-11 Ranch to water from Beaver Creek have been adjudicated.

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

STATE OF SOUTH DAKOTA)
County of Tall River)^{ss}

I, Floyd Simunek the applicant, certify that I have read the foregoing application, 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 Floyd SimunekSubscribed and sworn to before me this 8th day of November 1984

My Commission Expires: May 1, 1992

Beverly J. Campbell
Notary Public (or other qualified officer)

WATER PERMIT

The Water Management Board hereby approves Water Permit Application No. 1910-2

Floyd Simunek

(Applicant)

Hot Brook Canyon, Box 178-B, Hot Springs

(Post Office Address)

South Dakota

(State)

57747

(Zip Code)

With the following qualifications.

SEE VR -1

The applicable portions of Water Right Filing No. 032-2 have been incorporated into Vested Right No. 1910-2 and the abandoned portions of Water Right Filing No. 032-2 have been cancelled.

Date of first receipt of application _____, 19____.

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

Date of receipt of corrected application _____, 19____. Approved _____, 19____.

The Water Management Board hereby approves this Water Permit No. _____ authorizing the construction of the water use system and the placing of water to beneficial use as stated in the Application and as qualified in the Water Permit approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is _____, 19____.
2. One-fifth of the work is to be completed on or before _____, 19____.
3. The whole of said work is to be completed on or before _____, 19____.
4. The time limit for proof of beneficial use of water is _____, 19____.
5. The water appropriated shall be used for the purpose of _____.
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 unlawfully impaired by this appropriation.
7. The amount of the appropriation herein granted shall not exceed _____ 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. 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 _____, 19____; said water to be used during the following described annual period: _____.

WATER MANAGEMENT BOARD

By: _____
Chief Engineer

Division of Water Rights
Dept. of Water and Natural Resources

_____, 19____

VESTED WATER RIGHT

The Water Management Board hereby recognizes Vested Water Right No. 1910-2

Floyd Simunek
(applicant)

Hot Brook Canyon, Box 178-B, Hot Springs
(post office address)

SD
(state)

57747
(zip code)

Date of receipt of Application November 13, 1984.

Recognized December 5, 1984.

The Water Management Board hereby recognizes the construction of the water use system and the placing of water to beneficial use as stated in the Application and as qualified in the Vested Water Right, subject, however, to the following limitations and conditions:

1. The date from which the applicant may claim right is November 22, ~~19~~ 1881.
2. The whole of said work has been completed and water has been applied to beneficial use as described on Form 2B of this application.
3. The water appropriated is used for the purpose of irrigation.
4. The prior rights 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 unlawfully impaired by this appropriation.
5. The amount of the appropriation hereby recognized shall not exceed _____

1.3 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. 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 has been actually and beneficially applied for irrigation. The water is to be used during the following described annual period April 1st-December 31st.

WATER MANAGEMENT BOARD

By: John Hatch

(Chief Engineer)

JOHN HATCH

Division of Water Rights
Dept. of Water and Natural Resources

DEC 20 1985

19

State of South Dakota

VESTED RIGHT Water License No. 1910-2

(1) Floyd Simunek
of Hot Brook Canyon, Box 178-B, Hot Springs, South Dakota 57747
made Application No. 1910-2, November 13, 1984 for recognition ^{of a Vested Right} ~~for a water permit~~ to appropriate
1.3 cubic feet per second of water from Beaver Creek,
Custer County, South Dakota for irrigation purposes.
Vested Right
~~Permit~~ No. 1910-2, with a priority date of November 22, 1881
was ^{recognized} ~~approved~~ December 5, 1984 and issued to applicant(s) for diversion of water ^{recognizing} ~~with construction~~ of the described
water supply system ~~to be completed on or before~~ and for the application to beneficial use of said
water ~~on or before~~.

and

(2) It is certified that the application has complied with the provisions of South Dakota State Law relating to completion of
the construction of the water supply system and is entitled to divert 1.3 cubic feet per second of water
for beneficial use. The location of the diversion point(s) is N 54°W 1200 feet from the SE Corner of
Section 29, T6S, R7E (DD)

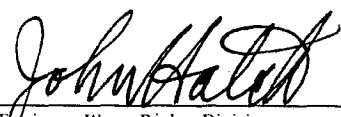
and

(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to the following extent, to irrigate the following land all in T6S-R7E

Section 33	SW¹/₄NW¹/₄	13.2 Acres	(BC)
	NW¹/₄SW¹/₄	38.9 Acres	(CB)
	SW¹/₄SW¹/₄	23.4 Acres	(CC)
	NE¹/₄SW¹/₄	17.3 Acres	(CA)
TOTAL		92.8 ACRES	

(4) Pursuant to §46-5-30.1 Floyd Simunek
of Hot Brook Canyon, Box 178-B, Hot Springs, South Dakota
the holder(s) and/or owner(s) of Vested Right Water Permit No. 1910-2 is issued a license to appropriate water, the right to use 1.3 cubic feet per second of water from Beaver Creek with a priority date of November 22, 1881 from the location specified in (2) of this license. The water to be conducted to and upon lands specified in (3) of this license for the purpose of irrigation

This license is subject to any limitations or qualifications listed in Vested Right Water Permit No. 1910-2 and subject to South Dakota State Law.


Chief Engineer, Water Rights Division
Department of Water and Natural Resources
JOHN HATCH
DEC 20 1985

Permit No. 1910-2Upper Cheyenne Water District**Report Of Examination Of Works And/Or Application Of Water To Beneficial Use**

TO: Chief Engineer, Division of Water Rights, DWNR, Foss Bldg., Pierre, SD 57501

I have this day made a thorough examination of the water use system constructed by Floyd
Simunek of Hot Springs, S.D. holder of
 Permit No. 1910-2, bearing the priority of November 22, 1881 is authorizing
 the diversion of 1.3 cu. ft. per second of the waters of Beaver Creek
 for irrigation purposes, in Custer County.

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

- A. Works used to divert the water: Log & rock dike in the channel of Beaver Creek.
Dike is approximately 100' long and 5' high with a 4' wide opening.
The opening is controlled with wood planks for flow bypass. Dike diverts
the water to a 24" gated cmp at the canal inlet
- B. Works used to transport water to place of use:
Earth canal from the creek to the edge of the field.

- C. Works used to apply water to beneficial use: Pipe outlets in the main canal release
the water to lateral canals. siphon tubes take the water from
the laterals to field furrows.

The system is in the following condition Fair

The point of diversion is located N 54°W 1200 ft from the SE corner of
Section 29, T6S, R7E

The works are capable of diverting and conveying to the place of use 5

cu. ft. per second of water which is to be used for irrigation during the 1st thru the 10th
day each month. 1920 agreement.

Water has been put to beneficial use to the maximum extent as follows: SW²NW² - 13.2 acres,
NW²SW² - 38.9 acres, SW²SW² - 23.4 acres all in Section 33,
T6S, R7E. and NE²SW² - 17.3 acres in Section 33, T6S, R7E

comprising a total of 92.8
~~25.5~~ acres of land and the license should be issued for 13 cfs

Applicable permit qualifications have been complied with ☒ Yes ☐ NoExceptions to compliance are: _____ Date June 18, 1984

Behn D. Broy, P.E.
 (signature)

Affidavit of Water Use

No. _____

(Type or Print in Ink)

Note: This Form is supplemental to Form 2 and is to be used when an affidavit pertaining to construction and water use already constructed is needed, primarily with vested right claims.

**Affidavit Of Construction Of Water Use System
And Application Of Water To Beneficial Use**

Name of Applicant (Same as Form 2) Floyd Simunek

Post Office Address Hot Brook Canyon, Box 178-B, Hot Springs, South Dakota 57747
(Street, RR or Box) (State) (Zip Code)

A. Notice of Appropriation November 22, 1881 Date of Posting _____

Date of recording November 22, 1881 Recording date Custer County 4 153
Where Book Page

B. Date of start of construction of water supply system 1881C. Date that water was first applied to beneficial use 1882D. Name of owner of original water supply system A.D. BondE. Amount of water originally applied to beneficial use 8 cfsF. Present Use of Water - Amount of water now being used 1.3 cfs

Date that this water was first used _____

G. Chronological History of Water Use

The water right was filed by A.D. Bond in 1881
 The water right was transferred to W. A. Brooks in 1887
 The water right was transferred to Joseph & Anna Brunschmid in 1887
 The water right was transferred to Christian & Cora Lollich in 1907
 The water right was transferred to Charles Pengra in 1909
 The water right was transferred to W. H. Schneider in 1934
 The water right was transferred to H. D. & A. M. Gallentine in 1960
 The water right was transferred to Alvin Merchen in ?
 The water right was transferred to Floyd Simunek in 1976

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, Floyd Simunek the applicant, certify that I have read the foregoing
(print or type)
 and that the matters therein stated are true.

Signed X

Floyd SimunekSubscribed and sworn to before me November 8th, 19 88My Commission Expires: May 1, 1992.Beverly J. Campbell
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.

(Print name) 19_____
(Print name) 19

Water Right

022-2

I the undersigned claim 400 min ers inches of water on Beaver Creek Custer Co. D.T. about one mile below Bolands House to be diverted from its course on the East side of said creek, to be carried one and one half miles down East side of said stream and used for Agricultural and Domestic purposes.

A.D. Bond
Locator.

The original of foregoing instrument was filed for recd at 10.30 A.M.
Nov. 22, 1881 and recorded on page 153 Book 4 Locations.

E.H. Flynn
Regis ter of Deeds

STATE OF SOUTH DAKOTA,
County of Custer.

I hereby certify that the foregoing is a true
copy of an instrument, recorded in book 4 Rec
page 153 of the records of Custer County,
S. D. and that the above is a true copy of the
filing thereon. In witness whereof I have here-
unto set my hand and affixed my official seal
this 1 day of Aug 1886
Henry D. Flynn
Register of Deeds

Deputy Reg
Bond, C. D.

WATER RIGHTS DIVISION
(605) 773-3352

July 26, 1984

Floyd Simunek
Hot Brook Canyon, Box 178B
Hot Springs, South Dakota 57747

Dear Mr. Simunek:

I have completed all of the necessary forms for your vested right to use water for irrigation from Beaver Creek.

Would you please examine the forms and correct anything that is in error. Then, please sign the forms in the presence of a notary where indicated. The forms should then be returned to our office with a check for \$10.50. This will cover the cost of the filing fee and the water license.

Upon recognition of the vested right by the Water Management Board, Water Right Filing 032-2 will be incorporated into your Water Right.

I have enclosed a map of your project. If there are no changes you may keep it for your files. If you have changes please indicate them on the map and return it with the forms. We will then correct our office copy. You may keep the copy of Water Right Filing 032-2.

Any other Water Right Filings that would duplicate your vested right will be cancelled. You will be receiving notices for the ones that will be cancelled.

If you have any questions, please feel free to contact me.

Sincerely,

Delvin D. Brosz, P.E.
Hydrologist

DDB:ms
Enc.

RECEIPT

Division of Water Rights

No 4 9818 -

South Dakota Department of Water and Natural Resources

Pierre, November 13, 1984

RECEIVED OF Floyd Simunek, Hot Brook Canyon Box 178-B, Hot Springs, SD 57747

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

Fee for Application for Permit No. <u>1910-2</u> to Appropriate Water, to construct works and to put water to beneficial use _____	8	00
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>1910-2</u> _____	2	50
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	10 50

By

Chief Engineer

John Hatch
JOHN HATCH, 

INVESTIGATION REPORT

BEAVER CREEK NEAR BUFFALO GAP, SOUTH DAKOTA

January 22, 1985

1. July 31, 1880 - Water Right Filing 027-2

G. C. Boland notifies the public that he claims 200 inches, miners measurement of the water of Beaver Creek, said water right being located about 300 yards below the mouth of Buffalo Gap.

September 30, 1881 - Water Right Filing 028-2

G. C. Boland, L. B. Reno, Jabez Brandham claim a water right about 1/2 mile below Clark's Ranch and about 1 mile above Boland's Ranch. Claim 800 inches, miners measurement, to be carried by ditch and flume to certain tracts of land about 2 miles below residence of G. C. Boland and to any intermediate point upon said route.

The above two water right filings are the basis for Water Right 316-2. Water Right 316-2 allows a diversion of 8 cfs to irrigate 560 acres. The priority dates apply as follows: July 31, 1880 - 4 cfs and September 30, 1881 - 4 cfs. I have discussed Water Right 316-2 with the present landowner, Frank Schroth, 7-11 Ranch, Incorporated. Mr. Schroth stated that he probably is irrigating less than 560 acres. I informed him that I would make a re-inspection of his Water Right to determine the actual acreage being irrigated. I plan to do this during the summer of 1985.

2. November 19, 1881 - Water Right Filing 032-2

A. D. Bond claims 400 miners inches of water on Beaver Creek about 1 mile below Boland's house, to be diverted from its course on the east side of the creek, to be carried 1½ miles down east side and used for agricultural and domestic purposes.

3. November 28, 1882 - Water Right Filing 093-2

Charles L. Conger claims 400 cubic inches of water to be diverted from the channel of (Amphibious Creek) about 200 yards below the NW Corner of SW¼ of Section 33, T6S, R7E and to be conducted on the east side of creek, not exceeding 3 miles.

This Water Right Filing is the basis for Vested Right 1759-2. Vested Right 1759-2 allows a diversion of 3.9 cfs to irrigate 195.8 acres and is authorized use of an undivided 1/2 interest in the ditch and water with Vested Right 1854-2. The 1/2 interest is from a Referee's Report, December 12, 1892, in the case of E. D. Bond and J. Bond vs C. L. Conger, J. M. Smith and F. Allen.

4. July 7, 1883 - Water Right Filing 0412-2

James M. Smith claims 500 inches of Beaver Creek, to be diverted about 300 yards south and west from the dwelling house now occupied by Brunschmid and Brooks and 2½ miles from Buffalo Gap.

This Water Right Filing is the basis for Vested Right 1854-2. Vested Right 1854-2 allows a diversion of 2.25 cfs to irrigate 112.40 acres and is authorized use of an undivided 1/2 interest in the ditch and water with Vested Right 1759-2. The 1/2 interest is from a Referee's Report, December 12, 1892, in the case of E. D. Bond and J. Bond vs C. L. Conger, J. M. Smith and F. Allen.

5. November 12, 1886 - Water Right Filing 0657-2

Issacher Schofield claims 10,000 inches of water from Beaver Creek to be taken out at a point on the SE Corner of NW $\frac{1}{4}$ of Section 29.

This Water Right Filing is the basis for Vested Right 1894-2. Vested Right 1894-2 allows a diversion of 1.3 cfs to irrigate 89.4 acres. On March 29, 1948, Mr. W. F. Nolan who was the owner of Water Right Filing 0657-2 at that time, stated that he would continue to use the water only at flood stages and at such times as it is not being otherwise used. Vested Right 1894-2 is therefore limited to excess waters.

6. June 29, 1887 - Water Right Filings 032-2

A. D. Bond, gives warranty deed to W. A. Brooks, for \$1.00 for a 1/2 interest in a certain water right described as follows: Said Water Right is on Beaver Creek about 400 yards easterly from the Railroad Depot at Buffalo Gap.

W. A. Brooks gives a warranty deed to A. D. Bond for \$1.00 for a 1/2 interest in a certain water right described as follows: said Water Right is on Beaver Creek about 400 yards easterly from the Railroad Depot at Buffalo Gap.

Wm. A. Brooks gives warranty deed to Joseph Brunschmid for a 1/4 interest in a certain water right; said water right is on Beaver Creek about 400 yards easterly from the Railroad Depot at Buffalo Gap.

This exchange of water rights relates to Item 2 - Water Right Filing No. 032-2 located by A. D. Bond. The exchange of Water Rights by the above three persons are the basis for the following Vested Rights:

Vested Right 1892-2,	Lyda Bowker (A.D. Bond)
Vested Right 1910-2,	Floyd Simunek (J. Brunschmid)
—	Vivian Rhoades (J. Brunschmid)
—	Paul & Carol Fugier (W. A. Brooks)
—	William L. Miller (W. A. Brooks)

Lyda Bowker and Floyd Simunek have submitted Vested Right Applications and these were recognized by the Water Management Board. Vested Right Application forms have been forwarded to Vivian Rhoades, Paul and Carol Fugier and William L. Miller. At this time, these forms have not been returned to the Division of Water Rights.

September, 1920 - Agreement that owners, heirs and assigns of the Brooks, Bond and Brunschmid water right will divide the water, diverted at their common diversion point, on a 1/3 basis from April 1 to December 31, as follows:

Pengro (this now is Floyd Simunek) and Busteed (this now is Vivian Rhoades) are entitled to take all of the water for the first 10 days of a 30 day month and the first eleven days of 31 day month, (I was informed that presently Simunek gets the water for the first 10 days and Rhoades receives the water during the 31st day of a month);

Mildred F. Miller (this now is Paul & Carol Fugier and William L. Miller) is entitled to take all of the water for the next ten days of the month;

Charles Smith (this now is Lyda Bowker) is entitled to take all of the water for the last ten days of the month.

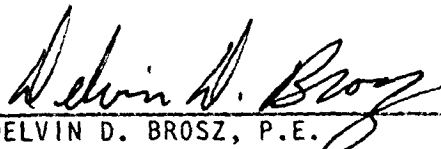
It is understood between the parties that this agreement in no way combines or modifies their respective ownership in and to the individual water rights. Each is to pay a 1/3 cost in repair and maintenance of the dam and main ditch. This agreement to stand unless the parties herinafter, by agreement, make different arrangements.

7. Other Water Rights on Beaver Creek

Water Right 1755 - allows irrigation of 78 acres with water from Vested Right 1854-2 (no additional appropriation of water) with a priority date of February 6, 1981.

Vested Right 1794-2 - any excess water not utilized by the two undivided one-half interests in Vested Right 1759-2 and 1854-2 can be utilized on these acreages up to a maximum of 1 cfs from each 70 acres. The application was for 537.3 acres. The priority date is 1920.

These are all of the Water Rights that are presently active between the diversion point for Water Right 316-2 and where Beaver Creek empties into the Cheyenne River. All other Water Right Filings that have been abandoned have been cancelled or are in the process of being cancelled.



DELVIN D. BROSZ, P.E.
Hydrologist

FARRELL, FARRELL & GINSBACH

LAWYERS

441 NORTH RIVER STREET
HOT SPRINGS, SOUTH DAKOTA 57747

Martin P. Farrell
Jane M. Farrell
Patrick M. Ginsbach

(605) 745-5161



September 17, 1984

John Hatch
Water Rights Division
Joe Foss Building
523 E. Capital
Pierre, SD 57501-3181

RE: Cancellation of Water Right Filing #046-2
Cancellation of Water Right Filing #0446-2
Floyd Simunek Vested Right Application under Water Right Filing #032-2

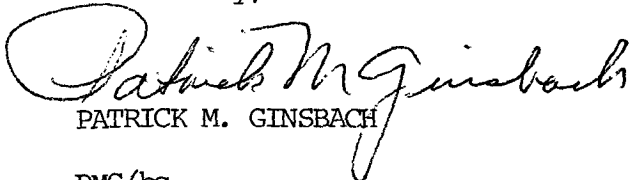
Dear Mr. Hatch:

I am in receipt of your letter dated September 10, 1984, and have had an opportunity to review the same with my client Floyd Simunek. Mr. Simunek has no objection to the cancellation of Filing #046-2 and #0446-2. In regard to Water Right Filing #032-2 I have penciled in, in red ink, the corrections on the Application for Permit and the Affidavit of Construction of Water Use System that you had sent to the Simunek. If you'd redo these documents to include these corrections and then send them to me my client will execute them and return them to your office.

If you will notice in Paragraph 8 of the Application for Permit I made two notes concerning the private agreement which my client is operating under for the diversion of water from Beaver Creek and a Judgment that was filed in the Custer County Clerk of Courts Office adjudicating the water rights between my client and an upstream neighbor. When I had spoken with Mr. Brosz about these two matters he had indicated that it might be appropriate to note these on one of these documents and so I made the notes.

If you have any questions please feel free to contact me.

Yours Truly,


PATRICK M. GINSBACH

PMG/bc

cc: Floyd Simunek
Rt. 1 Box 178B
Hot Springs, SD 57747

Enclosures

September 24, 1984

Patrick M. Ginsbach
Attorney
441 North River Street
Hot Springs, South Dakota 57747

Dear Mr. Ginsbach:

Enclosed are the corrected documents for signature by your client, Floyd Simunek. Please return to this office with the filing fee of \$10.50 which covers the filing and water license.

If you have any questions, please feel free to contact me.

Sincerely,

Delvin D. Brosz, P.E.
Hydrologist

DDB:ms
Enc.

cc: Floyd Simunek



No. 1910-2

Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

WATER RIGHTS DIVISION
(605) 773-3352

DEC 20 1985

Floyd Simunek
Hot Brook Canyon, Box 178-B
Hot Springs, South Dakota 57747

Dear Mr. Simunek:

Enclosed herewith are your Vested Right Permit, Water License No. 1910-2.
This Water License is the final water right document completing your
process of obtaining a vested water right.

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

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division

JH:ms

enclosures

The applicable portions of Water Right Filing No. 032-2 have been incorporated
into Vested Right No. 1910-2 and the abandoned portions of Water Right Filing
No. 032-2 have been cancelled.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

JUN 29 1992

Floyd Simunek
Hot Brook Canyon
Box 178-B
Hot Springs SD 57747

Dear Mr. Simunek:

The Water Management Board has validated the enclosed Vested Water Right No. 1910-2. This validation gives legal status to the claim and is the final document for your vested right.

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,

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

enclosure

SOUTH DAKOTA

VESTED WATER RIGHT NO. 1910-2 FOR IRRIGATION

Date of Receipt of Claim November 13, 1984.

Date of Validation May 6, 1992.

The Water Management Board validated Vested Water Right Claim No. 1910-2 for irrigation purposes for Floyd Simunek, Hot Brook Canyon, Box 178-B, Hot Springs SD 57747 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 1910-2 appropriates 1.3 cubic feet of water per second from Beaver Creek located in the SE 1/4 SE 1/4 Section 29 to irrigate 92.8 acres located in the SW 1/4 NW 1/4, W 1/2 SW 1/4, NE 1/4 SW 1/4 Section 33; all in T6S-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 irrigated acre per year. Water is to be used during the following annual period: April 1 - December 31.
3. The priority date of the Vested Water Right is November 22, 1881.
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.

QUALIFICATION

The applicable portions of Water Right Filing No. 032-2 have been incorporated into Vested Right No. 1910-2 and the abandoned portions of Water Right Filing No. 032-2 have been cancelled.

WATER MANAGEMENT BOARD

By: 
Chief Engineer

JUN 29 1992

date

Division of Water Rights
Dept. of Environment and Natural Resources



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

GREAT FACES. GREAT PLACES.

August 27, 1992

Darlene Simunek
Box 178B
Hot Brook Canyon
Hot Springs, SD 57747

Dear Mrs. Simunek:

I am writing in regard to our phone conversation in which you requested that I send you a copy of any water rights held by Floyd Simunek. Enclosed are Vested Right No. 1910-2 and Water Permit No. 1929-2

Vested Right No. 1910-2 appropriates 1.3 cubic feet of water per second (cfs) from Beaver Creek to irrigate 92.8 acres with a priority claim date of November 22, 1881.

Water Permit No. 1929-2 appropriates .10 cfs from a 560 feet deep well to provide water for commercial use by the Ponderosa Camping/Sportsman Bait Shop. This permit has a priority date of May 1, 1985.

If I may be of further assistance, please feel free to contact me.

Sincerely,

Eric Gronlund
Eric Gronlund
Water Rights Division
605 773-3352

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 15, 1995

Darlene Simunek
Box 178 B
Hot Springs, SD 57747

Dear Mrs. Simunek:

Enclosed, as you requested, are copies of Water Permit Nos. 1929-2 & 1929A-2 and Vested Water Right No. 1910-2. All are currently listed in the name of Floyd Simunek or Floyd & Steve Simunek.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Division
(605) 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 24, 2002

1910-2

Kelly Simunek
PO Box 870
Hot Springs SD 57747-0870

Dear Mr. Simunek:

Don Stroup with our program, indicated he spoke with you concerning Vested Water Right No. 1910-2. His understanding was that you now owned the land.

Enclosed is a partially completed Notice of Transfer of Ownership form for use in filing an ownership change. Please complete the form and return it to our office with a required filing fee of \$2.50. The check or money order for the fee can be made payable to the Water Rights Program.

I have included a copy of the vested right for your review. You can keep the copy for your records. If you have any questions, please give me a call.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 18, 2003

No. 1910-2

Kelly Simunek
PO Box 870
Hot Springs SD 57747-0870

Dear Mr. Simunek:

I am writing as a reminder that we have not received the *Notice of Transfer of Ownership* form for use in filing an ownership change on Vested Water Right No. 1910-2. The vested water right is currently listed in the name of Floyd Simunek.

In the event you no longer have the original form, enclosed is another partially completed *Notice of Transfer of Ownership* form. Please review and complete the form, making any necessary corrections or additions. The form should be signed by the new owner and returned to our office with a required filing fee of \$2.50. The check or money order can be made payable to the "Water Rights Program".

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 31, 2005

1910-2

Bob Baker
13536 S Hwy 16
Rapid City SD 57702

Dear Mr. Baker:

I am contacting you in regard to ownership of land described in Vested Water Right No. 1910-2. It is our understanding that you now own the land described in the vested right.

Enclosed is a partially completed Notice of Transfer of Ownership form for filing an ownership change. Please review the form and make any necessary corrections. Upon completion, please sign the form and return it to our office with a required filing fee of \$2.50. The check or money order for the fee can be made payable to the Water Rights Program.

I have included a copy for your review. If you have any questions concerning the vested right or completion of the transfer form, please contact me.

Sincerely,

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

enclosures

NOTICE OF TRANSFER OF OWNERSHIP

To: Chief Engineer
Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

No. 1910-2

Date: 4-21-05

I/We request that Vested Water Right No. 1910-2

formerly owned by: Floyd Simunek

be transferred to: (name & address) Robert K BAKER
13536 S. Hwy 16 Rapid City, S.D. 57702
Telephone No. 348-8378

Title to the following described land(s)/property has been transferred as described above:

92.8 acres in the SW ¼ NW ¼, W ½ SW ¼, NE ¼ SW ¼ Section 33, T6S, R7E

I/We understand that the validity of Vested Water Right No. 1910-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

I/We Robert K. Baker, the new owner, certify that the above information is true and correct.

Robert K Baker
(Signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.

RECEIVED

APR 25 2005

**WATER RIGHTS
PROGRAM**

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date APRIL 25, 20 05

RECEIVED OF Robert Baker, 13536 S Hwy 16, Rapid City SD 57702

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use		
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>191C-2</u>		2 50
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	2.50

No.

002035

By

Darland Eide

Chief Engineer

gm



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 26, 2005

1910-2

Robert K Baker
13536 S Hwy 16
Rapid City SD 57702

Dear Mr. Baker:

I am writing to acknowledge receipt of the "Notice of Transfer of Ownership" form and filing fee you submitted for transferring Vested Water Right No. 1910-2. The transfer has been completed. The vested water right formerly listed in the name of Floyd Simunek is now listed in your name.

Enclosed is your Receipt No. 002085 in the amount of \$2.50 which you paid for filing the ownership change. You may keep this for your records.

Sincerely,

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

enclosure



BUFFALO GAP

Floyd Simunek
Hot Springs, S.D.

32 T6S R7E

33 T6S R7E

SW⁴ NW⁴
13.2 acres

NW⁴ SW⁴
38.9 acres

NE⁴ SW⁴
17.3 acres

SW⁴ SW⁴
23.4 acres

CUSTER COUNTY
FALL RIVER COUNTY

5 T7S R7E

4 T7S R7E

Map Prepared By:
Delvin D. Borg, P.E.
Hydrologist
Division of Water Rights

A/M # 1910-2

8 T7S R7E

9 T7S R7E