

Considered: _____

WATER PERMIT NO. 1917-2

MAP No. same

Name of Applicant William L. & Elva F. Miller

Post Office Address RR Buffalo Gap S.D.

Amount of Water Claimed 1.3 cfs Total Acres 90.2

Source of Water Supply Beaver Creek

Water to be used for IRR County Custer

About _____ miles _____ of _____.

PROOF OF PUBLICATION: Received N/A Not Received _____

APPLICATION: Approved _____ Subject to _____

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

PRIORITY _____ Date Received _____ Fee _____ Remarks _____

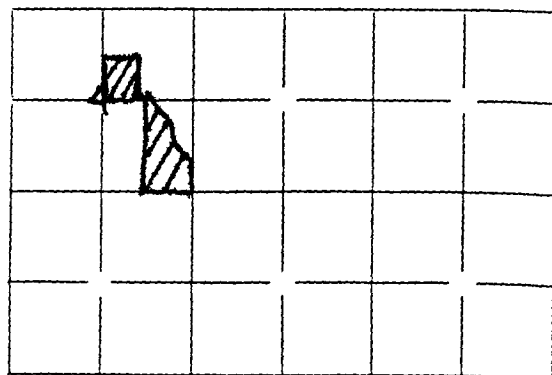
Corrected Application Received _____ Period of Annual Use _____

WATER QUALITY APPROVAL RECEIVED N/A APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as Application YES _____ NO _____ REMARKS _____

Diversion Point SE⁴ SE⁴ sec. 29 T6S-R7E

Land to be Irrigated S² NE⁴, SE² SE⁴ sec. 4 T7S-R7E



Well Log: Driller _____ Licensed YES _____ NO _____

Depth of Well _____ REMARKS _____

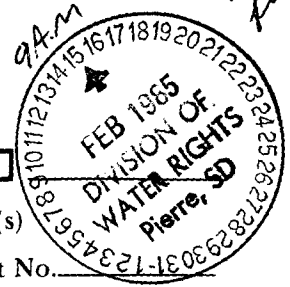
Type of Map Drawn PREPARED BY Del Brosz Reviewed and the Number assigned on 2-22-85 By KC Larson

No. <u>1917-2</u>	Hydrologic Unit <u>10120109</u>
Map No. <u>same</u>	Basin <u>Upper Cheyenne</u>
Newspaper _____	

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 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 William L. & Elna F. Miller Phone No. _____
- Post Office Address Rural Route Buffalo Gap, South Dakota State 57722
(Street, RR or Box) Zip Code
2. Amount of water claimed (c.f.s) 1.3 Total acres irrigated 90.2
3. Source of Water supply Beaver Creek
4. Location of point of diversion N 54° W 1200 ft from the SE Corner of Section 29, T6S, R7E
- _____ County Custer
5. Counties where water will be used Fall River
6. 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.
SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 4, T7S, R7E	34.5
SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 4, T7S, R7E	3.7

Land Description	No. Acres Irr.
NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 4, T7S, R7E	19.4
SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 4, T7S, R7E	32.6
TOTAL	90.2

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. The water flows by canal from Beaver Creek to the fields. The water is allowed to flow from the canal and flood the fields.

In accordance with an agreement, dated September 29, 1920, this water right and the water right held by Paul & Carol Fugier use water from this diversion point from the 11th thru the 20th of each month.

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 Custer)^{ss}

I, William L. & Elna F. Miller 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 William L. Miller
Elna F. Miller

Subscribed and sworn to before me this 14 day of Feb 1985

DEAN J
Notary Public (or other qualified officer)

WATER PERMIT

The Water Management Board hereby approves Water Permit Application No. 1917-2

Elna F. Miller (Applicant) R.R., Buffalo Gap (Post Office Address)
South Dakota (State) 57722 (Zip Code) With the following qualifications.

See VR-1

The applicable portions of Water Right Filing No. 032-2 have been incorporated into this Vested Right No. 1917-2 and the abandoned portions of Filing No. 032-2 are 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:

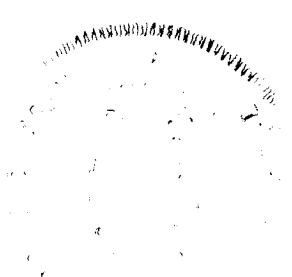
1. The date from which applicant may claim right is _____, 19____.
2. One-fifth of the work is to be completed on or before _____, 19____.
3. The whole of said work is to be completed on or before _____, 19____.
4. The time limit for proof of beneficial use of water is _____, 19____.
5. The water appropriated 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. 1917-2

Elna F. Miller

(applicant)

RR, Buffalo Gap

(post office address)

South Dakota

(state)

57722

(zip code)

Date of receipt of Application February 15, 1985.

Recognized March 6, 1985.

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, 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 to December 31st.

WATER MANAGEMENT BOARD

By: John Hatfield

(Chief Engineer)

Division of Water Rights
Dept. of Water and Natural Resources

DEC 20 1985

, 1985.

State of South Dakota
Water License No. 1917-2

(1) Elna F. Miller
of RR, Buffalo Gap, South Dakota
made Application No. 1917-2, February 15, 1985 for recognition ~~for a water permit~~ /of a Vested Right to appropriate
1.3 cubic feet per second of water from Beaver Creek,
Fall River County, South Dakota for irrigation purposes.
Vested Right
~~Permit~~ No. 1917-2, with a priority date of November 22, 1881
recognized March 6, 1985 and issued to applicant(s) for diversion of water ~~with~~ /recognizing 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 N54°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 lands all in T7S, R7E

Section 4	SW $\frac{1}{4}$ NE $\frac{1}{4}$	34.5 Acres	(AC)
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	3.7 Acres	(AD)
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	19.4 Acres	(DA)
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	32.6 Acres	(DD)
	TOTAL	90.2 ACRES	

(4) Pursuant to §46-5-30.1 Elna F. Miller
of RR, Buffalo Gap, South Dakota
the holder(s) and/or owner(s) of Vested Right 1917-2
Water Permit No. 1917-2 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 1917-2
Water Permit No. 1917-2 and subject
to South Dakota State Law.


Chief Engineer, Water Rights Division
Department of Water and Natural Resources

JOHN HATCH

DEC 20 1985

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) William L. & Elna F. Miller

Post Office Address Rural Route Buffalo Gap, South Dakota 57722
(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 1.3Date that this water was first used 1881

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 Mildred Miller in 1908

The water right was transferred to William L. Miller in 1936

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 Custer) ^{ss}

I, William L. & Elna F. Miller the applicant, certify that I have read the foregoing
(print or type)
 and that the matters therein stated are true.

Signed Elna F. Miller
Wm L. MillerSubscribed and sworn to before me Feb 14, 1985[Signature]
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____

Permit No. 1917-2Upper 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 William L. F. Elna F. Miller of Buffalo Gap, S.D. holder of Permit No. 1917-2, bearing the priority of November 22, 1881 authorizing the diversion of 1.3 cu. ft. per second of the waters of Beaver Creek for irrigation purposes, in Fall River 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
that is controlled with wood planks for flow bypass. Dike diverts the
water to a 24" cnp with headgate at canal inlet.
- B. Works used to transport water to place of use:
unlined earth canal from creek to fields.
- C. Works used to apply water to beneficial use: Flood irrigation. Main canal has pipe
outlets that allow the water to flow onto the fields and flood
the land.

The system is in the following condition FairThe point of diversion is located N 54° W 1200 ft from the SE corner of
section 29, T6S, R7EThe works are capable of diverting and conveying to the place of use 5cu. ft. per second of water which is to be used for irrigation during the 11th thru the 20th
of each month. 1920 agreement.Water has been put to beneficial use to the maximum extent as follows: SW & NE 1/4 - 37.5 acres,
SE & NE 1/4 - 3.7 acres, NE & SE 1/4 - 19.4 acres, SE & SE 1/4 - 32.6 acres
all in Section 2, T7S, R7Ecomprising a total of 90.2 acres of land and the license should be issued for 1.3 cfsApplicable permit qualifications have been complied with ☒ Yes ☐ NoExceptions to compliance are: _____ Date June 18, 1982

Delwin D. Burg, P.E.
 (signature)

Water Right

032-2

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 reqrd at 10.30 A.M. Nov. 22, 1881 and recorded on page 153 Book 4 Locations.

E.H. Flynn
Regis ter of Deeds

NOTARY PUBLIC
George W. Flynn
I hereby certify that the foregoing is a
copy of an instrument, recorded in Book 4 Loc
page 153 of the records of Custer County
D. T. and that the above is a true and correct
copy of the same. In witness whereof I have hereunto
set my hand and official seal this
1st day of Aug 1886
George W. Flynn

Centipede Cr
Bond, C. D.

RECEIPT

Division of Water Rights

No 4 9953

South Dakota Department of Water and Natural Resources

Pierre, February 15, 1985

RECEIVED OF William L. & Elna F. Miller, RR, Buffalo Gap, SD 57722

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct works and to put water to beneficial use _____	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. _____	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/ms

WATER RIGHTS DIVISION
(605) 774-3352

July 25, 1984

William and Elna Miller
Rural Route
Buffalo Gap, South Dakota 57722

Dear Mr. & Mrs. Miller:

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.

WATER RIGHTS DIVISION
(605) 773-3352

January 15, 1985

William & Elna Miller
Rural Route
Buffalo Gap, South Dakota 57722

Dear Mr. & Mrs. Miller:

In July 1984, I forwarded the necessary forms to modernize your Water Right for using water from Beaver Creek. The forms have not been returned and you have not contacted us if there is a problem.

The Division of Water Rights would like to know what your plans are relative to this Water Right. If there is a problem or if we can answer any questions, please contact us. Several irrigators along Beaver Creek have completed this process. Filing of the forms will establish an up-to-date record of your Water Rights.

Sincerely,

Delvin D. Brosz, P.E.
Hydrologist

DDB:ms

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.

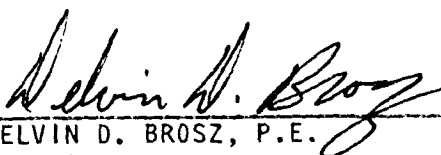
It is understood between the parties that this agreement in no way combines or modifies their respective ownership in and to the individual water rights. Each is to pay a 1/3 cost in repair and maintenance of the dam and main ditch. This agreement to stand unless the parties herinafter, by agreement,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

WILSON LAW OFFICE

(EST. 1886)

S. EUGENE WILSON (1852-1926)
WM. H. WILSON (1841-1920)
CLIFFORD A. WILSON (1883-1953)
JOYCE WILSON (1895-1982)
ALLEN G. WILSON

112 NORTH CHICAGO STREET
P.O. BOX 731
HOT SPRINGS, SOUTH DAKOTA 57747
TELEPHONE (605) 745-4177

June 27, 1985

South Dakota Department of Water
and Natural Resources
Water Rights Division
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

Dear Sirs:

Re: Water Right Filing 032-2

This is to notify you of the death of William L. Miller on April 19, 1985, who along with his wife, Elna F. Miller, was the owner of the above water right.

Proceedings have been commenced for the probate of Mr. Miller's estate and Mrs. Miller has been appointed Administratrix with the Will Annexed in connection with these.

I assume that you will need a certified copy of the Final Decree of Distribution to establish complete ownership of this water right to Mrs. Miller. At the appropriate time this will be sent to you.

Please contact me if anything else is required.

Thank you.



Very truly yours,

Allen G. Wilson
ALLEN G. WILSON

AGW:nm

cc: Elna F. Miller



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

WATER RIGHTS DIVISION
(605) 773-3352

No. 1917-2

DEC 20 1985

Elna F. Miller
RR
Buffalo Gap, South Dakota 57722

Dear Mrs. Miller:

Enclosed herewith are your Vested Right Permit, Water License No. 1917-2.
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

Applicable portions of Water Right Filing No. 032-2 have been incorporated
into this Vested Right No. 1917-2 and the abandoned portions of Filing No.
032-2 are cancelled.

WILSON LAW OFFICE

(EST. 1886)

S. EUGENE WILSON (1852-1926)
WM. H. WILSON (1841-1920)
CLIFFORD A. WILSON (1883-1953)
JOYCE WILSON (1895-1982)
ALLEN G. WILSON

112 NORTH CHICAGO STREET

P.O. BOX 731

HOT SPRINGS, SOUTH DAKOTA 57747

TELEPHONE (605) 745-4177

June 6, 1986



South Dakota Department of
Water and Natural Resources
Water Rights Division
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

Dear Sirs:

Re: Water Right Filing 032-2

Enclosed is a certified copy of the Decree of Settlement of Final Account of Administratrix with the Will Annexed and for Final Distribution of Estate in the matter of the estate of William Levi Miller, also known as William L. Miller, deceased, which distributes the above water right to Elna Fern Miller, also known as Elna F. Miller.

Kindly file this with your records pertaining to this water right.

Thank you.

Very truly yours,

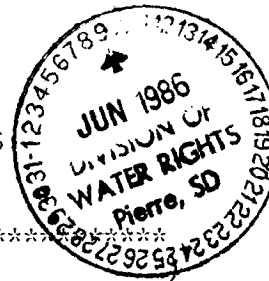
Allen G. Wilson
ALLEN G. WILSON

AGW:nm

enc.

STATE OF SOUTH DAKOTA)
COUNTY OF FALL RIVER)

SS



IN CIRCUIT COURT
SEVENTH JUDICIAL CIRCUIT

IN THE MATTER OF THE ESTATE OF
WILLIAM LEVI MILLER, also known as
WILLIAM L. MILLER, deceased

) DECREE OF SETTLEMENT OF FINAL
) ACCOUNT OF ADMINISTRATRIX WITH
) THE WILL ANNEXED AND FOR FINAL
) DISTRIBUTION OF ESTATE
)

This matter coming on regularly before the Court upon the petition of Elna F. Miller, Administratrix with the Will Annexed of the estate of William Levi Miller, also known as William L. Miller, deceased, and it appearing to the satisfaction of the Court that due notice of the time and place of this hearing has been given as required by law and the Order of this Court; said Administratrix with the Will Annexed appearing by her attorney, Allen G. Wilson of Hot Springs, South Dakota; and an Affidavit having been filed by the attorney for said Administratrix with the Will Annexed as required by the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, that neither of the heirs, devisees and legatees of said decedent is now nor has been since the date of the Order for and Notice of Hearing on Final Account of Administratrix with the Will Annexed and Petition for Final Settlement and Distribution of Estate herein in the military service of the United States, as that term is defined by said Act; and it being established on proofs adduced that the necessary expenses of funeral and of last sickness of said deceased, and of the administration of said estate, have been fully paid; that due proceedings have been had upon the matter of inheritance taxes and that there are no such taxes now chargeable or unpaid; that there are no unpaid state, county, school and municipal taxes legally levied upon the personal property of said

estate; that due notice has been given to creditors as required by law and that the time has expired within which claims may be presented against said estate, and that all debts existing against said decedent, or allowed by the Court pursuant to law, have been fully paid and satisfied; and it appearing that said estate has been fully administered and is now ready for distribution, now therefore

IT IS ORDERED, ADJUDGED AND DECREED:

1. That the Final Account of Elna F. Miller, Administratrix with the Will Annexed of the estate of William Levi Miller, also known as William L. Miller, deceased, be, and the same hereby is allowed, approved and settled in all respects as the same was rendered and presented for settlement.

2. That the said William Levi Miller, also known as William L. Miller, died testate in Fall River County, South Dakota, on April 19, 1985, being at the time of his death a resident of Fall River County, South Dakota, and leaving an estate consisting of real estate and personal property therein.

3. That the said William Levi Miller, also known as William L. Miller, left a Last Will and Testament dated August 26, 1983, which was admitted to probate by this Court on June 21, 1985.

4. That at the date of the death of said testator and at the date of this decree his heirs at law or devisees or legatees, as the case may be, were and are as follows:

<u>NAME</u>	<u>RELATIONSHIP</u>	<u>POST OFFICE ADDRESS</u>
Elna Fern Miller	Widow	Rural Route 1, Box 98 Buffalo Gap, SD 57722
Kristi Lynn Miller	Granddaughter	49 Timber Creek Road Rozet, Wyoming 82727

5. That the residue of the estate of said deceased remaining at this time consists of the following described real estate and personal property:

REAL ESTATE

Township 7 South, Range 7 East, Black Hills Meridian,
Fall River County, South Dakota

Section 1: $S\frac{1}{2}SW\frac{1}{4}$
Section 2: $SW\frac{1}{4}SW\frac{1}{4}$, $SE\frac{1}{4}$, $N\frac{1}{2}$, $N\frac{1}{2}SW\frac{1}{4}$
Section 3: Lots 1, 2 and 3, $S\frac{1}{2}N\frac{1}{2}$, $S\frac{1}{2}$
Section 4: $S\frac{1}{2}NE\frac{1}{4}$, $E\frac{1}{2}SE\frac{1}{4}$
Section 11: $W\frac{1}{2}NW\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$

Township 6 South, Range 7 East, Black Hills Meridian,
Custer County, South Dakota

Section 34: $SE\frac{1}{4}SW\frac{1}{4}$, $SW\frac{1}{4}SE\frac{1}{4}$

Water Right Filing 032-2 with the South Dakota Department of Water & Natural Resources for irrigating 34.5 acres in the $SW\frac{1}{4}NE\frac{1}{4}$ of Section 4, 3.7 acres in the $SE\frac{1}{4}NE\frac{1}{4}$ of Section 4, 19.4 acres in the $NE\frac{1}{4}SE\frac{1}{4}$ of Section 4, and 32.6 acres in the $SE\frac{1}{4}SE\frac{1}{4}$ of Section 4 all in Township 7 South, Range 7 East, Black Hills Meridian, Fall River County, South Dakota, from Beaver Creek with the point of Diversion being N 54° W 1200 feet from the SE Corner of Section 29, Township 6 South, Range 7 East, Black Hills Meridian, Custer County, South Dakota.

PERSONAL PROPERTY

Machinery and vehicles

Cattle consisting of 65 cows, 53 calves and 2 bulls

6. That in accordance with the provisions of the Last Will and Testament of said deceased, heretofore admitted to probate herein, the above described personal property, be, and the same hereby is distributed to and vested in ELNA FERN MILLER, also known as ELNA F. MILLER.

7. That in accordance with the provision of the Last Will and Testament of said deceased, heretofore admitted to probate, the real estate described as:

Township 7 South, Range 7 East, Black Hills Meridian,
Fall River County, South Dakota

Section 1: $S\frac{1}{2}SW\frac{1}{4}$
Section 2: $SW\frac{1}{4}SW\frac{1}{4}$, $SE\frac{1}{4}$, $N\frac{1}{2}$, $N\frac{1}{2}SW\frac{1}{4}$
Section 3: Lots 1, 2 and 3, $S\frac{1}{2}N\frac{1}{2}$, $S\frac{1}{2}$
Section 4: $S\frac{1}{2}NE\frac{1}{4}$, $E\frac{1}{2}SE\frac{1}{4}$
Section 11: $W\frac{1}{2}NW\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$

Township 6 South, Range 7 East, Black Hills Meridian,
Custer County, South Dakota

Section 34: $SE\frac{1}{4}SW\frac{1}{4}$, $SW\frac{1}{4}SE\frac{1}{4}$

Water Right Filing 032-2 with the South Dakota Department of Water & Natural Resources for irrigating 34.5 acres in the $SW\frac{1}{4}NE\frac{1}{4}$ of Section 4, 3.7 acres in the $SE\frac{1}{4}NE\frac{1}{4}$ of Section 4, 19.4 acres in the $NE\frac{1}{4}SE\frac{1}{4}$ of Section 4, and 32.6 acres in the $SE\frac{1}{4}SE\frac{1}{4}$ of Section 4 all in Township 7 South, Range 7 East, Black Hills Meridian, Fall River County, South Dakota, from Beaver Creek with the point of diversion being N 54° W 1200 feet from the SE Corner of Section 29, Township 6 South, Range 7 East, Black Hills Meridian, Custer County, South Dakota

be, and the same hereby is distributed to and vested in ELNA FERN MILLER, also known as ELNA F. MILLER.

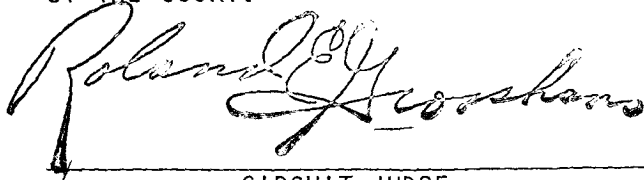
8. That all other property of every kind and character not herein described which belongs to the estate of William Levi Miller, also known as William L. Miller, deceased, or in which said estate may have acquired any interest or in which said deceased may have had any interest at the time of his death, be, and the same hereby is assigned and distributed to and vested in ELNA FERN MILLER, also known as ELNA F. MILLER.

TO HAVE AND TO HOLD the same together with all hereditaments and appurtenances thereunto belonging or in anywise appertaining to the aboye named Elna Fern Miller, also known as Elna F. Miller, and to her heirs and assigns forever.

Done in open Court in the City of Hot Springs, Fall River County,
South Dakota, this 6th day of June, 1986.

BY THE COURT:

ATTEST:

A handwritten signature in cursive script, appearing to read "Roland E. Hanson", written over a horizontal line.

CIRCUIT JUDGE


CLERK OF COURTS

(SEAL).

STATE OF SOUTH DAKOTA, FALL RIVER COUNTY
CERTIFICATE AS TO COPY

I, _____ the duly
elected, qualified and acting Clerk of Court in and
for the above named County and State, do hereby
certify that the within and foregoing _____
is a full, true and complete copy of the original
thereof as appears to me from the records of this
office.

IN TESTIMONY WHEREOF I have hereunto set my
hand and seal of the _____ Court
and Fall River County, South Dakota, this _____
day of _____, D. 19 _____

Clerk of Court

By _____ Deputy

CLERK OF COURT, FALL RIVER COUNTY, S.D.

FILED

1911

LORRY LOU MULLETT

Clerk of Courts



Department of Water & Natural Resources

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

July 30, 1990

Jerry Wyatt
Wyatt Real Estate
309 N River
Hot Springs, SD 57747

Dear Mr. Wyatt:

Enclosed, as you requested, is a copy of Vested Water Right Claim No. 1917-2. The claim is currently listed in the name of William L and Elna F Miller.

Also enclosed is a blank "Notice of Transfer of Ownership" form. If the land is sold, the "Notice of Transfer" will need to be completed and signed by the new owner in the presence of a notary public. Upon completion of the form, return it to our office with a required filing fee of \$2.50.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Genny McMath".

Genny McMath
Natural Resources Analyst
(605) 773-3352

enclosures



GREAT FACES. GREAT PLACES.

DEPARTMENT OF WATER & NATURAL RESOURCES

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

February 5, 1991

Bob Bradeen
Bradeen Auction
P.O. Box 686
Custer, SD 57730-0686

Dear Mr. Bradeen:

Per your request, I have enclosed copies of following documents in our files for Water Right No. 1917-2, William and Elna Miller:

1. Copies of the original Application 2 pages
2. Copy of the Affidavit of Water Use 1 page
3. Copies of Water License No. 1917-2 2 pages
4. Copy of Report of Examination of Works 1 page

I believe this is the information you requested. You also brought up the question regarding transfer of water to land other than that originally permitted. This activity would require that a new water permit be obtained. A set of the necessary application forms is enclosed.

Once a completed application is received, a report and recommendation on the application will be prepared and a notice of hearing published for two consecutive weeks to set a hearing before the Water Management Board. If no opposition is received, the recommendation of the Chief Engineer will become the decision of the Board and no formal hearing will be held. Optimistically, this process would take two months. However, if opposition to the application is received, a formal hearing before the Board would be scheduled which would cause further delays in the water permitting process.

If you have any other questions or need any other documents, please do not hesitate to contact me.

Sincerely,

M. RASSOOL AHADI
Natural Resources Engineer
Water Rights Division
605 773-3352

enclosures

NOTICE OF TRANSFER OF OWNERSHIP

No. 1917-2

TO: Chief Engineer
Water Rights Division, DWNR
523 East Capitol
Pierre, SD 57501-3181

Date: March 25, 1991

I/We request that ^{Vested} Water Permit/Right No. 1917-2

formerly owned by: William L. & Elna F. Miller

be transferred to: (name & address) BCR, Inc., HCR 89, Box 315,
Hermosa, SD 57744 (telephone No.) 255-4104

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

SW1/4 NE1/4 Sec 4, T7S, R7E 34.5; NE1/4 SE1/4 Sec 4, T7S, R7E, 19.4
SE1/4 NE1/4 Sec 4, T7S, R7E 3.7; SE1/4 SE1/4 Sec 4, T7S, R7E, 32.6

I/We understand that the validity of ^{Vested} Water Permit/Right No. 1917-2 has ^{TOTAL 90.2 acres} 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 at the Division of Water Rights, as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is attached to cover the filing fees required under SDCL 46-2-13.

STATE OF SOUTH DAKOTA

County of Fall River

BCR, Inc., Clarence Foss, Pres,
Faye E. Kaiser, Co-Administratrixes,

I/We Sharon Miller & being first duly sworn on my oath depose and say that my relation to the above described undertaking is that of Owner, that I have read the above foregoing statement, and that I know of my own personal knowledge that the information herein stated is true.

Clarence Foss Pres BCR Inc
Transferor

Sharon Miller (Co-Admin) Faye E Kaiser
Transferee (Signed)

Subscribed and sworn to before me this 25th day of March, 1991.

Davis P. Russell
(Notary Public)

NOTE: Water permits may be cancelled for nonconstruction within the five year construction period. Once a water permit is developed and the water used, the permit becomes a water 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.





DEPARTMENT OF WATER & NATURAL RESOURCES

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

April 8, 1991

No. 1917-2

BCR Inc.
HCR 89, Box 315
Hermosa, SD 57744

Dear Sirs:

Enclosed is a receipt in the amount of \$2.50 which you paid for the transfer of Water Right No. 1917-2.

Our records now show you as the owner of Water Right No. 1917-2.

Sincerely,

Cheryl F. Frost
Secretary
Water Rights Division
605 773-3352

enclosure

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

412614

Pierre, March 26, 19 91

RECEIVED OF Carol Foos, BCR, Inc., HCR 89 Box 315, Hermosa, SD 57744

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct works and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>Vested Water Right No. 1917-2</u>	2	50
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	2 50

By John Hatch
Chief Engineer

SOUTH DAKOTA

VESTED WATER RIGHT NO. 1917-2 FOR IRRIGATION

Date of Receipt of Claim February 15, 1985.

Date of Validation May 6, 1992.

The Water Management Board validated Vested Water Right Claim No. 1917-2 for irrigation purposes for BCR, Inc., HCR 89, Box 315, Hermosa SD 57744 with the following limitations, conditions and qualifications:

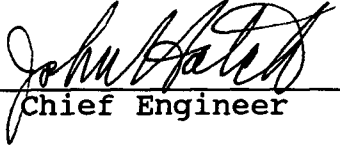
1. Vested Water Right No. 1917-2 appropriates 1.3 cubic feet of water per second from Beaver Creek located in the SE 1/4 SE 1/4 Section 29-T6S-R7E to irrigate 90.2 acres located in the S 1/2 NE 1/4, E 1/2 SE 1/4 Section 4-T7S-R7E.
2. The appropriation may not exceed the amount of water needed for beneficial use for irrigation. The appropriation may not exceed 3 acre feet per 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 this Vested Right No. 1917-2 and the abandoned portions of Filing No. 032-2 are 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

JUN 29 1992

BCR, Inc.
HCR 89, Box 315
Hermosa SD 57744

Dear Sir:

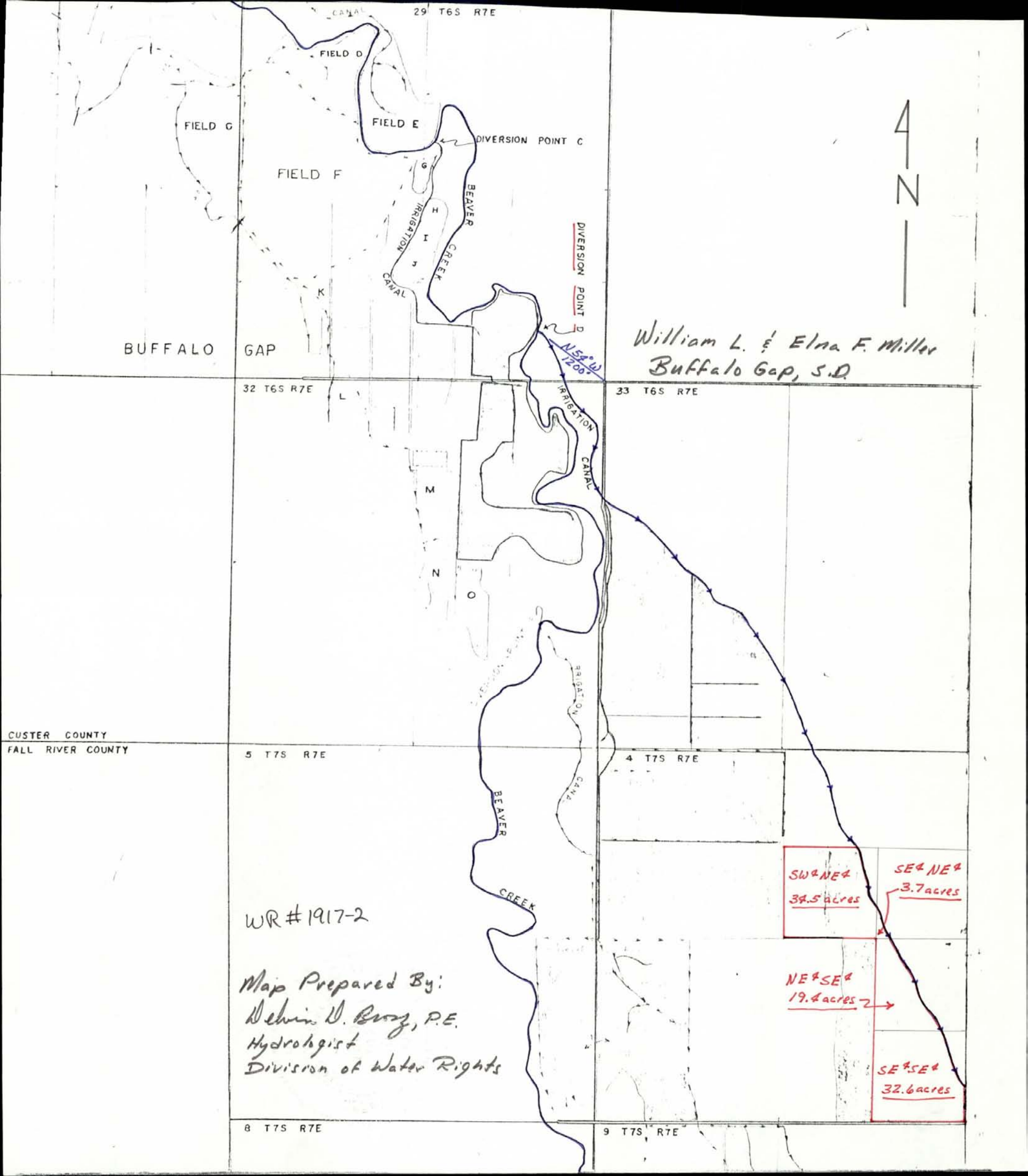
The Water Management Board has validated the enclosed Vested Water Right No. 1917-2. This validation gives legal status to the claim and is the final document for your vested right.

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



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—

William L. & Elna F. Miller
Buffalo Gap, S.D.

BUFFALO GAP

32 T6S R7E

33 T6S R7E

CUSTER COUNTY
FALL RIVER COUNTY

5 T7S R7E

4 T7S R7E

WR #1917-2

Map Prepared By:
Edwin D. Buz, P.E.
Hydrologist
Division of Water Rights

8 T7S R7E

9 T7S R7E

SW 1/4 NE 4
34.5 acres

SE 1/4 NE 4
3.7 acres

NE 1/4 SE 4
19.4 acres

SE 1/4 SE 4
32.6 acres