

Considered: _____

WATER PERMIT NO. VR 2239-2

Phone: 393-0093

Name of Applicant: Rapid Valley Water Co. Inc.

Post Office Address: RR 2, Box 223, Rapid City SD 57701

Amount of Water Claimed: _____ Total Acres: _____

Source of Water Supply: Rapid Creek

Water to be used for: irrigation County: Pennington

About _____ miles _____ of _____

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

PRIORITY _____ Date Received: 7-5-92 Fee: \$15 Remarks _____

Jerry & Donna Olson

Corrected Application Received 7-22-92 Period of Annual Use April 15 - Nov 30

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

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

Diversion Point: SW 1/4 Sec 8-T1N-R8E

Land to be Irrigated: N 1/2 NE 1/4, SE 1/4 NE 1/4

Sec 15-T1N-R8E

Well Log: Driller: _____ Licensed YES _____ NO _____

Depth of Well: _____ REMARKS _____

Type of Map: _____ PREPARED BY: _____ Reviewed and the Number

Assigned on 7-29-92 By Karen Schlaak

(See instructions)

No. 2239-2 Hydrologic Unit 10120110
Basin Upper Cheyenne
Newspaper Rapid City Journal

Application For Soil/Water Compatibility Permit and Permit To Appropriate Water

Type of Application: ☐ New ☒ Vested Right ☒ Amend Permit No. 1727-2
☐ Change Acreage ☐ Change diversion point(s) ☐ Add diversion point(s)
☒ Add Acreage ☐ Increase diversion rate ☐ Other correct original permit

1. Name of Applicant Rapid Valley Water Co. Inc. Phone No. 393-0093

Post Office Address RR #2, Box 223, Rapid City State SD 57701
(Street, RR or Box) (City) Zip Code

2. Amount of water claimed (c.f.s.) 17cfs - 1878 Total acres irrigated 1341
3cfs - 1893

3. Source of Water supply Rapid Creek

4. Location of point of diversion SW1/4 of Section 8 T1N-R8E

County Pennington

5. Counties where water will be used Pennington

6. Annual period during which water is to be used April 15 thru November 30

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.
See attached Sheet	9
(Jerry/Donna Olson)	

Land Description	No. Acres Irr.

Attach sheet if more space is needed

8. Type of Irrigation: Gravity: X Towline: Center Pivot: Gun: X Other: (Specify) sprinklers

9. Crops to be Irrigated: alfalfa small grain

10. Give a description of proposed project. (Attach sheet if more-space is needed)

Application for Vested Right for water from Rapid Creek.



Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach maps, soils information and any other technical information.

STATE OF SOUTH DAKOTA)
County of Pennington)^{ss}

I, DAVID Lamb, President the applicant, certify that I have read this application and examined the attached maps, that the water sample, if needed, has been taken by the required procedures and has not been adulterated or tampered with and is truly representative of the water to be used, and that the matters stated in this application are true and correct.

Signed [Signature]

Subscribed and sworn to before me this 8th day of April 1991

[Signature]
Notary Public

SOUTH DAKOTA

VESTED WATER RIGHT NO. 2239-2 FOR IRRIGATION

Date of Receipt of Claim July 5, 1992.

Date of Validation November 12, 1992.

The Chief Engineer, on behalf of the Water Management Board validated Vested Water Right Claim No. 2239-2 for irrigation purposes for Rapid Valley Water Company, Inc., (a/k/a Murphy Ditch), RR 2, Box 223, Rapid City SD 57701 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 2239-2 authorizes irrigation of 9 acres located in the NW 1/4 NE 1/4, NE 1/4 NE 1/4 and SE 1/4 NE 1/4 Section 15-T1N-R8E. These lands are currently authorized for irrigation from Murphy Ditch by Vested Water Right No. 1788-2. Water Permit No. 1788-2 will be decreased by 9 acres and 0.2 cubic feet of water per second.
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. The water is to be used during the following annual period: April 15 - November 30.
3. The priority date of the Vested Water Right is April 6, 1878.
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 must not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

By: 
John Hatch, Chief Engineer, Water Right Division
Department of Environment and Natural Resources

DEC 24 1992
date



DEPARTMENT OF WATER & NATURAL RESOURCES

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

GREAT FACES. GREAT PLACES.

January 15, 1991

Michael M. Hickey
Bangs, McCullen, Butler, Foye & Simmons
PO Box 2670
Rapid City, SD 57709-2670



Dear Mr. Hickey:

I am enclosing a list of the legal descriptions and acreages of land irrigated under Vested Water Right No. 1727-2, Rapid Valley Water Company, based on my September 1990 inspection. Our intent is to reissue the water license with these corrected acreages. At this time we also intend to correct the priority dates from January 1 of 1878 and 1893 to April 6, 1878 and April 26, 1893. This is to make the dates conform with what Rapid Valley Water Company claimed on the affidavit for the vested water right claim.

There were some discrepancies between the legal descriptions of lands listed on the water license and the actual locations. As we had discussed previously a new application to claim these lands needs to be filed. The legal descriptions for these parcels of land are as follows:

Parcel owned by David Lamb

NW1/4 NE1/4	Section 22-T1N-R8E	31 acres
NE1/4 NE1/4	Section 22-T1N-R8E	7 acres

Parcel owned by Dale Wileman

NW1/4 NE1/4	Section 24-T1N-R8E	1 acres
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Also there were two parcels of land which you and your clients indicated should also be irrigated under Vested Water Right No. 1727-2. An application would also need to be filed to claim these. The legal descriptions for these lands are:

Parcel owned by Jerry and Donna Olson

NW1/4 NE1/4	Section 15-T1N-R8E	3 acres
NE1/4 NE1/4	Section 15-T1N-R8E	2 acres
SE1/4 NE1/4	Section 15-T1N-R8E	4 acres

page 2
January 15, 1991
Michael Hickey

Parcel owned by Marty Rypkema

NE1/4 NW1/4	Section 15-T1N-R8E	22 acres
NW1/4 NE1/4	Section 15-T1N-R8E	9 acres
SE1/4 SW1/4	Section 10-T1N-R8E	5 acres

Please review the information provided, if you have any questions or comments concerning this information, feel free to contact me. I will be in contact with you before we proceed with reissuing of the water license.

Sincerely,



Mark D. Rath
Natural Resources Engineer II
Water Rights Division
605 773-3352

enclosures

1878 PRIORITY DATE



Land Parcel Number	Legal Description	Acreage
1	NE1/4 SW1/4 SE1/4 SW1/4	20 25
2	NW1/4 SE1/4 SW1/4 SE1/4	29 35
3	SW1/4 SW1/4 NW1/4 NW1/4 SW1/4 NW1/4 NW1/4 SW1/4 SE1/4 NW1/4 NE1/4 SW1/4 SW1/4 NE1/4 NW1/4 SE1/4 SE1/4 NE1/4 NE1/4 SE1/4 SW1/4 SW1/4 SE1/4 SW1/4 SW1/4 SE1/4 SE1/4 SE1/4	25 31 38 30 32 31 38 29 25 38 1 11 24 15
5	SW1/4 NW1/4	5
6	SW1/4 NW1/4	32
7	SE1/4 NW1/4 NE1/4 SW1/4	6 4
8	SE1/4 NW1/4 NE1/4 SW1/4	3 2
9	SE1/4 NW1/4 NE1/4 SW1/4	3 2
10	NW1/4 SE1/4 SW1/4 SE1/4 SE1/4 SE1/4 NE1/4 SE1/4 SW1/4 SW1/4	28 31 32 3 27
11	SE1/4 SW1/4	2
12	SW1/4 SE1/4	5

13	104 ACRES OF THE TOTAL 142 ACRES		
	NE1/4 NW1/4	S24-T1N-R8E	36
	SE1/4 NW1/4	S24-T1N-R8E	40
	NW1/4 NE1/4	S24-T1N-R8E	32
	SW1/4 NE1/4	S24-T1N-R8E	34
14	NW1/4 NE1/4	S24-T1N-R8E	1
15	28 ACRES OF THE TOTAL 56 ACRES		
	NE1/4 NE1/4	S24-T1N-R8E	31
	SE1/4 NE1/4	S24-T1N-R8E	25
16	NW1/4 NW1/4	S19-T1N-R9E	12
	SW1/4 NW1/4	S19-T1N-R9E	37
17	NE1/4 NW1/4	S19-T1N-R9E	2
	SE1/4 NW1/4	S19-T1N-R9E	32
	NE1/4 SW1/4	S19-T1N-R9E	10
	SW1/4 NE1/4	S19-T1N-R9E	25
	NW1/4 SE1/4	S19-T1N-R9E	24
	SW1/4 SE1/4	S19-T1N-R9E	2
	SE1/4 NE1/4	S19-T1N-R9E	11
	NE1/4 SE1/4	S19-T1N-R9E	39
18	NE1/4 SW1/4	S19-T1N-R9E	12
	SE1/4 SW1/4	S19-T1N-R9E	39
	NE1/4 NW1/4	S30-T1N-R9E	12
19	SW1/4 SE1/4	S19-T1N-R9E	31
	NW1/4 NE1/4	S30-T1N-R9E	20

	Total		1103

1893 PRIORITY DATE

20	SE1/4 SE1/4	S19-T1N-R9E	14
	NE1/4 NE1/4	S30-T1N-R9E	12
21	NW1/4 SW1/4	S20-T1N-R9E	25
	SW1/4 SW1/4	S20-T1N-R9E	34
	NE1/4 SW1/4	S20-T1N-R9E	7
	SE1/4 SW1/4	S20-T1N-R9E	39
	NW1/4 NW1/4	S29-T1N-R9E	2
	NE1/4 NW1/4	S29-T1N-R9E	18
22	SW1/4 SE1/4	S20-T1N-R9E	18
	NW1/4 NE1/4	S29-T1N-R9E	20

	Total		189



Affidavit of Water UseNo. 1727-2

(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) Rapid Valley Water Company, Inc.Post Office Address Route 2, Box 160, Rapid City, SD 57701
(Street, RR or Box) (State) (Zip Code)A. Notice of Appropriation _____ Date of Posting April 6, 1878 and April 26, 1893Date of recording April 9, 1878 Recording date _____
Where Book PageB. Date of start of construction of water supply system April 1878C. Date that water was first applied to beneficial use 1878 and 1879D. Name of owner of original water supply system Rapid Valley Irrigating CompanyE. Amount of water originally applied to beneficial use proportionate share of Rapid Valley Water Company's waterF. Present Use of Water - Amount of water now being used same as aboveDate that this water was first used 1879

G. Chronological History of Water Use

See chronology attached to Affidavit of Construction of Water use for
Permit No. 1727-2.

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 Pennington) ss

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

Signed David C. ReedSubscribed and sworn to before me July 1, 19 92Notary Public or other qualified officer David C. Reed

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.

David Lamb 7-1 19 92
(Print name)

_____, 19_____
(Print name)

SS

County of Pennington :

I

II

III

IV

1

V

That at the time the Rapid Valley Water Company, Inc. submitted its application to appropriate water, the lands described in Exhibit "A" were inadvertently omitted from the land covered by the water permit issued by the South Dakota Water Management Board.

VI

That your affiant has used the water from the Rapid Valley Water Company, Inc. on a continuous basis between the months of April 15 and November 30 of each year and the turn out for the water used is located at the center of the property described in Exhibit "A."

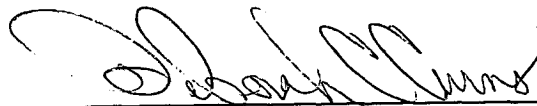
VII

That the above-described lands set out in Exhibit "A" should be included within the lands covered by the Water License Number 1727-2 issued to the Rapid Valley Water Company, Inc.

Dated this 16th day of July, 1992.


JERRY OLSON

Subscribed and sworn to before me this 16th day of July, 1992.



NOTARY PUBLIC

(SEAL)

My Commission Expires: 6-25-95

EXHIBIT "A"

Parcel owned by Jerry and Donna Olson:

NW $\frac{1}{4}$ NE $\frac{1}{4}$	Section 15 - T1N - R8E	13.1 acres
NE $\frac{1}{4}$ NE $\frac{1}{4}$	Section 15 - T1N - R8E	29.2 acres
SE $\frac{1}{4}$ NE $\frac{1}{4}$	Section 15 - T1N - R8E	6.4 acres

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

418349

Pierre, _____, July 29, 1992

RECEIVED OF Bangs, McCullen, Butler, Foye & Simmons, (Rapid Valley Water Co), Box 2670
the following amount in fees for services rendered as provided for by law: Rapid City, SD 57709

Fee for Application for Permit No. <u>2237-2</u> to Appropriate Water, to construct works and to put water to beneficial use _____	15	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. _____		
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	15 00

By

Chief Engineer

[Signature]



S15-IN R8E

Mark D Rath
Mark D Rath
Natural Resources Engineer
Division of Water Rights
Date 8/5/92

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT OF THE STATE
OF SOUTH DAKOTA, IN AND FOR PENNINGTON COUNTY.

Isaac Cramer, George W. Mentch, James Halley, Trustee,
Julia Seese, Ole O. Stromsness, Isaac Platt, William H.
Gould, George Buckingham, Maurice Keliher, James Brennan,
Henry C. Blanchard, David Jolly, Elmir Kimball, John E.
Hunt, Etta M. Gould and the Lone Tree Ditch Company, a
Corporation, Plaintiffs,

Versus

The Rapid Valley Irrigating Company, Francis M. Murphy,
Francis M. Morris, Freeman J. Lewis, Samuel Morris, James
M. Woods, and the Rapid Valley Water Company, a corpora-
tion, Defendants.

JUDGMENT

This action having been brought to a trial by the Court, and a decision therein having been rendered for the Plaintiffs, Isaac Platt, Etta M. Gould, Julia Seese, Henry C. Blanchard, George Buckingham, Ole O. Stromsness, John E. Hunt, James Halley, trustee, Maurice Keliher, George W. Mentch, and James Brennan, against the defendants James M. Woods, Freeman J. Lewis, Francis M. Murphy, Francis M. Morris, Samuel Morris, and the Rapid Valley Water Company and in favor of the said defendants last named, as against the Plaintiffs, Isaac Cramer, William H. Gould, David Jolly, Elmir Kimball, and the Lone Tree Ditch Company, and the said decision having been duly filed; and the Court having in its said decision found among other things, that the Water Right and Location of the Plaintiffs, Isaac Platt, Etta M. Gould, Julia Seese, Henry C. Blanchard, George Buckingham, Ole O. Stromsness, John E. Hunt, James Halley, trustee, Maurice Keliher, and James Brennan, in and to the waters of Rapid Creek in said Pennington County, described in the said decision, is a good and valid water Right and Location to the extent of the appropriation made by them and their predecessors in interest to-wit: to the extent of fifteen hundred miner's inches of water, measured under a six inch pressure, subject only to the right of the defendants, the Rapid Valley Water Company, James M. Woods, Freeman J. Lewis, Francis M. Murphy, Francis M. Morris, and Samuel Morris, to the use of the said waters of Rapid Creek, to the extent of eight hundred and fifty inches measured under a four inch pressure, for irrigation and for agricultural and domestic purposes, under and by virtue of that certain Water Right originally located by C. Lewis, F. Lewis, Thomas F. Poinsett, and J. T. Davis, and now owned by the said Rapid Valley Water Company; and the Court being fully advised in the premises:-

Now on Motion of James W. Fowler and Charles W. Brown, Plaintiffs' attorneys, it is considered, ordered and adjudged, that the defendants the Rapid Valley Water Company, James M. Woods, Freeman J. Lewis, Francis M. Murphy, Francis M. Morris and Samuel Morris, and each of them, their servants, agents and employes, and all persons claiming under them or either of them, be, and they hereby are, perpetually enjoined and restrained from divesting, appropriating or using under or by virtue of the said Water Right originally located by the said C. Lewis, F. Lewis, Thomas F. Poinsett and J. T. Davis and now owned by the said Rapid Valley Water Company, the waters of said Rapid Creek, for agricultural or other purposes, eight hundred and fifty inches thereof measured under a four inch pressure, but the defendants shall forever have the right so far as the plaintiffs, their successors in interest or assigns are concerned, to carry so much of the said Eight Hundred and Fifty inches of water so as aforesaid appropriated by them and not used by them upon their said lands, above the head of Plaintiffs' Dam by ditch, and flume below the said Dam and lands of the Plaintiffs, to be by them used or sold to others for profit or irrigation and other useful purposes, as against any right or claim which the said Plaintiffs, their successors in interest or assigns may have hereto.

And it is further considered and adjudged that the Plaintiffs, Isaac Platt, Etta M. Gould, Julia Seese, Henry C. Blanchard, George Buckingham, Ole O. Stromsness, John E. Hunt, James Halley, trustee, Maurice Keliher, George W. Mentch and James Brennan recover of the defendants, the Rapid Valley Water Company, James M. Woods, Freeman

J. Lewis, Francis M. Murphy, Francis M. Morris and Samuel Morris, One Hundred and sixty three and 15/100 dollars, for the costs and disbursements of this action, to be taxed and adjusted by the Clerk of this Court, and inserted by him herein.

And it is further considered and adjudged that as to the said Plaintiffs, Isaac Cramer, David Jolly, Elmer Kimball, William H. Gould and the Lone Tree Ditch Company the Complaint be dismissed upon the merits of the action, as against the defendants Francis M. Murphy, Francis M. Morris, Francis M. Morris, Freeman J. Lewis, James M. Woods, and the Rapid Valley Water Company and that the said last named defendants recover of the Plaintiffs Isaac Cramer, David Jolly, Elmer Kimball, William H. Gould and the Lone Tree Ditch Company, Two Hundred Seventeen & 55/100 dollars for their costs and disbursements of this action, and adjusted by the Clerk of this Court and inserted by him herein.

Done in said County, this 14th day of March 1896.

By the Court

William Gardner
Judge.

Attest

Frank P. Cory
Clerk.

Filed March 14, 1896.

Frank P. Cory
Clerk.

Bangs, McCullen, Butler, Foye & Simmons

Lawyers

George A. Bangs
W. A. McCullen (1943-1987)
Joseph M. Butler
Thomas H. Foye
Thomas E. Simmons
Ronald E. Clabaugh
Charles L. Riter
Allen G. Nelson
James P. Hurley

818 St. Joe Street
Mailing Address P. O. Box 2670
Rapid City, South Dakota 57709

605-343-1040

Telecopier 605-343-1503

Michael M. Hickey
Mark F. Marshall
Terry L. Hofer
Rebecca A. McMahon
Patrick K. Duffy
Rodney W. Schlauger
Matthew V. Ressegieu

July 3, 1991



Recycled Paper



Mr. Mark Rath
SD Dept of Water &
Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

Re: Rapid Valley Water Company
Amendment to Permit No. 1727-2

Dear Mark:

Somewhat red faced, I am sending to you four applications to amend the Rapid Valley Water Company permit. I thought I had sent them somewhat earlier, but in reviewing my file, I see I did not. The error is mine and I apologize to you for it.

In any event, I have decided to file four separate applications to amend the water permit. The separate applications deal with the individual properties of Lamb, Rypkema, Wileman and Olson. I thought it would be better to do it this way, so that if any problems arise, they could be dealt with on an individual basis. It would be my hope, however, that any recommendation issued by the State Engineer, as well as any hearing could be held at a single time so that we would only have to do a single publication of notice.

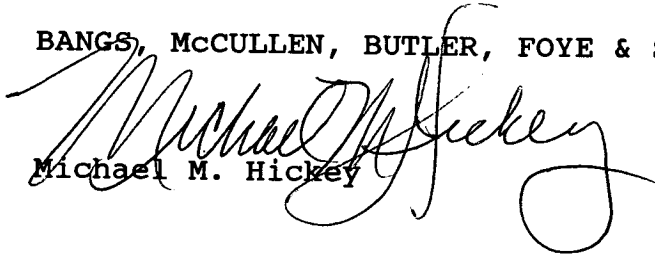
I do believe the applications are rather straight forward and since you are familiar with these amendments, I see no reason why they should stir any great controversy.

Mr. Mark Rath
July 3, 1991
Page 2

In any event, after you have had an opportunity to
review this matter, please do not hesitate to contact me.

Sincerely,

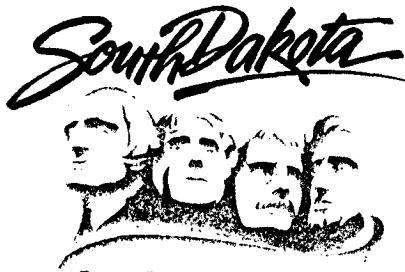
BANGS, McCULLEN, BUTLER, FOYE & SIMMONS


Michael M. Hickey

MMH/dcc

Enclosures

cc: clients



GREAT FACES. GREAT PLACES.

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING

523 EAST CAPITOL

PIERRE SOUTH DAKOTA 57501-3181

July 10, 1991

Michael M Hickey, Attorney
PO Box 2670
Rapid City SD 57709

RE: Rapid Valley Water Company
Amendment to Permit No. 1727-2

Dear Mr. Hickey:

Regarding the four water permit applications received on July 5, 1991, for the Rapid Valley Water Company, the following information needs to be submitted in order to process the applications.

Enclosed are four Affidavit of Water Use Forms. One form needs to be completed, signed and notarized for each application. The filing fee for each application will be \$15.00 for a total of \$60.00. The map prepared by Mark Rath, during his inspection of Water Permit No. 1727-2, will suffice in order to meet the requirement of submitting a map.

Upon receipt of the above, further processing of the four applications will continue. If you have any questions, please contact this office.

Sincerely,

Karen Schlaak
Natural Resources Analyst
605 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

GREAT FACES. GREAT PLACES.

September 17, 1991

Michael M Hickey, Attorney
PO Box 2670
Rapid City SD 57709

RE: Rapid Valley Water Company
Amendmend to Permit No. 1727-2

Dear Mr. Hickey:

On July 5, 1991, you submitted four applications (copy enclosed) on behalf of the Rapid Valley Water Company. You were notified on July 10, 1991 (copy enclosed) that the applications were incomplete and were instructed what additional information was necessary in order to complete the applications. To date, we have not received a response.

Obtaining a water permit ultimately benefits the permit holder by protecting it's right to use water. Except for domestic use, any water user without a water right is not entitled to receive protection in the event of interference by a new or future user who has a water right.

Pursuant to South Dakota Codified Laws 46-1-15, 46-5-9, 46-5-10 and 46-2-18, a water permit must be obtained prior to using water.

If you have any questions, please contact this office.

Sincerely,

Karen Schlaak

Karen Schlaak
Natural Resources Analyst
(605) 773-3352

enclosures

Water Rights Division - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Rapid Valley Water Company

ADDRESS: _____ COUNTY: PE

DATE: 11/19/91 TELEPHONE: 343-1040 (Hickey)

RE: Discussion with Michael Hickey

COMMENTS:

I called Mr. Hickey to ask him the status of the four incomplete applications he submitted on behalf of the Rapid Valley Water Company. The fee and affidavits of water use forms for the applications would be necessary before we could proceed with processing the application. He stated that he had not submitted this information and was waiting for a discrepancy on one of the applications to get straightened out. I told him that the 4 applications would remain in our pending files until I heard from him.

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: Eric [Signature]

Bangs, McCullen, Butler, Foye & Simmons

Lawyers

George A. Bangs
W. A. McCullen (1943-1987)
Joseph M. Butler
Thomas H. Foye
Thomas E. Simmons
Ronald E. Clabaugh
Charles L. Riter
Allen G. Nelson
James P. Hurley

818 St. Joe Street
Mailing Address P. O. Box 2670
Rapid City, South Dakota 57709-2670

605-343-1040

Telecopier 605-343-1503

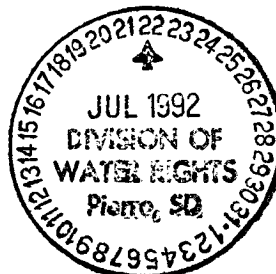
Michael M. Hickey
Mark F. Marshall
Terry L. Hofer
Patrick K. Duffy
Rebecca A. McMahon
Rodney W. Schlauger*
Matthew V. Ressegieu**

July 21, 1992

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Mr. Mark Rath
Natural Resources Engineer II
Water Rights Division
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181



* Also admitted in
Minnesota, North Dakota
and Nebraska

** Also admitted in
Wyoming and Nebraska

Re: Rapid Valley Water Company
Amendment to Permit No. 1727-2

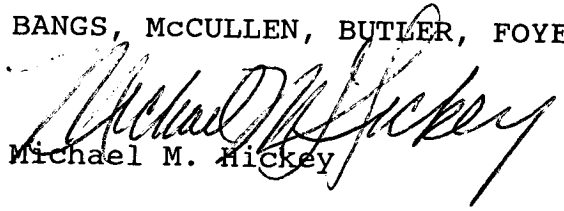
Dear Mr. Rath:

Pursuant to your request, please find enclosed four Affidavit of Water Use Forms with attached Affidavits of Water Use relative to permit no. 1727-2 of Rapid Valley Water Company. As you may recall, this involved parcels owned by David Lamb, Dale Wileman, Jerry and Donna Olson and Marty Rypkema.

If you have any questions or comments, please do not hesitate to contact me. Thank you.

Sincerely,

BANGS, McCULLEN, BUTLER, FOYE & SIMMONS


Michael M. Hickey

MMH/dcc

Enclosures

cc: clients



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 23, 1992

Michael M Hickey, Attorney
PO Box 2670
Rapid City SD 57709

RE: Rapid Valley Water Company
Amendment to Permit No. 1727-2

Dear Mr. Hickey:

We received the four Affidavit of Water Use Forms relative to Water Permit No. 1727-2, Rapid Valley Water Company. A review of the file found that the filing fees have not been submitted. The filing fee will be \$15.00 for each application (\$60.00 total).

Upon receipt of the filing fees, further processing of the four applications will continue. If you have any questions, please contact this office.

Sincerely,

Karen Schlaak

Karen Schlaak
Natural Resources Analyst
605 773-3352

Bangs, McCullen, Butler, Foye & Simmons

Lawyers

George A. Bangs
W. A. McCullen (1943-1987)
Joseph M. Butler
Thomas H. Foye
Thomas E. Simmons
Ronald E. Clabaugh
Charles L. Riter
Allen G. Nelson
James P. Hurley

818 St. Joe Street
Mailing Address P. O. Box 2670
Rapid City, South Dakota 57709-2670

605-343-1040

Telecopier 605-343-1503

Michael M. Hickey
Mark F. Marshall
Terry L. Hofer
Patrick K. Duffy
Rebecca A. McMahon
Rodney W. Schlauger*
Matthew V. Ressegieu**

July 28, 1992

Recycled Paper 

* Also admitted in
Minnesota, North Dakota
and Nebraska

** Also admitted in
Wyoming and Nebraska

Mr. Mark Rath
Natural Resources Engineer II
Water Rights Division
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181



Re: Rapid Valley Water Company
Amendment to Permit No. 1727-2

Dear Mr. Rath:

Please find enclosed our office check in the amount of \$60.00 for the filing fees relative to the four Affidavit of Water Use Forms previously sent regarding the above matter.

If you have any questions or comments, please do not hesitate to contact me. Thank you.

Sincerely,

BANGS, McCULLEN, BUTLER, FOYE & SIMMONS


Michael M. Hickey

MMH/dcc

Enclosures

cc: clients

RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED WATER
RIGHT APPLICATION NO. 2239-2, Rapid Valley Water Company, Inc.

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Environment and Natural Resources concerning Validation of Vested Water Right Application No. 2239-2, Rapid Valley Water Company, Inc., David Lamb, RR 2 Box 223, Rapid City, SD 57701.

The Chief Engineer is recommending VALIDATION of Application No. 2239-2 for irrigation of 9 acres with no additional appropriation of water authorized by Vested Right No. 1727-2 because 1) the priority date for irrigation of the 9 acres is April 6, 1878, 2) the use has been developed without unlawful impairment of existing rights, 3) the use is a beneficial use and 4) it is in the public interest.

See report on application for additional information.



for

JOHN HATCH, Chief Engineer
September 17, 1992

Report on Vested Water Right Claim Nos.
2239-2, 2240-2, 2241-2 & 2242-2
Rapid Valley Water Company, Inc.
September 10, 1992

1292- Vested Water Right Claim Nos. 2239-2, 2240-2, 2241-2 & 2242-2, Rapid Valley Water Company, Inc., a.k.a. Murphy Ditch, request validation of claims for irrigating 84 acres in addition to the 1229 acres authorized by Vested Water Right No. 1727-2 bearing the priority date of April 6, 1878. These vested water right claims do not claim any additional diversion rate beyond the 16.20 cfs authorized by Vested Water Right No. 1727-2. The additional land is located in the SE1/4 SW1/4 of Section 10, the N1/2 NE1/4, SE1/4 NE1/4 and the NE1/4 NW1/4 of Section 14, the N1/2 NE1/4 of Section 22 and NW1/4 NE1/4 of Section 24 all in T1N-R8E. The diversion point from Rapid Creek is the Murphy Ditch diversion point located in the SW1/4 of Section 8 T1N-R8E. The irrigated land is located southeast of Rapid City in Pennington County.

Review of the Vested Water Right Claims

Vested Water Right Claim No. 2239-2

Vested Water Right Claim No. 2239-2 requests validation for the irrigation of 9 acres located in the NW1/4 NE1/4, NE1/4 NE1/4 & SE1/4 NE1/4 of Section 15 T1N-R8E. This land is currently owned by Jerry and Donna Olson. The 9 acres is currently irrigated with Rapid Creek water from Murphy Ditch. The irrigation is authorized by Water Permit No. 1788-2 with a priority date of April 6, 1878. This is the same priority date as that of Vested Water Right No. 1727-2. Jerry Olson submitted an Affidavit of Water Use requesting that the 9 acres be included with the lands authorized by Vested Water Right No. 1727-2, Rapid Valley Water Company, Inc. If Vested Water Right Claim No. 2239-2 is validated, Water Permit No. 1788-2 should be decreased by 9 acres and 0.2 cfs.

Vested Water Right Claim No. 2240-2

Vested Water Right Claim No. 2240-2 requests validation for the irrigation of 38 acres located in the N1/2 NE1/4 of Section 22 T1N-R8E. A September 1990 inspection of Murphy Ditch found that these acres were incorrectly listed as being located in Section 20 T1N-R8E on the 1980 application and were then incorrectly listed on Recognized Vested Water Right License No. 1727-2. The June 23 and 30, 1988 Public Notice for Validation of a Vested Water Right Claim also listed the land incorrectly. This irrigated acreage is currently owned by David Lamb. Mr. Lamb filed an Affidavit of Water Use stating the lands were included, but incorrectly described as to the section number. He also stated that these lands should be included with the lands authorized by Vested Water Right No. 1727-2.

Vested Water Right Claim No. 2241-2

Vested Water Right Claim No. 2241-2 requests validation for the irrigation of 36 acres located in the SE1/4 SW1/4 of Section 10 and the NE1/4 NW1/4 and NW1/4 NE1/4 of Section 15 all in T1N-R8E. These acres are currently owned by Marty Rypkema who filed an Affidavit of Water Use stating that the described land was inadvertently omitted and should be included with lands authorized by Vested Water Right No. 1727-2, Rapid Valley Water Company, Inc. These acres are currently irrigated with Rapid Creek water from Murphy Ditch with the irrigation authorized by Water Permit No. 1784-2. During a September 1990 inspection Mr. Rypkema indicated that after Rapid Valley Water Company was issued Recognized Vested Water Right No. 1727-2, he determined that his land had been inadvertently omitted from the water right. Mr. Rypkema in 1981 intended to file a vested water right claim for the April 6, 1878 priority date, but was unable to substantiate this claim at that time, so instead applied for Water Permit No. 1784-2 bearing the priority date of June 8, 1981. If this vested water right claim is validated, Water Permit No. 1784-2 should be decreased by 36 acres and 0.51 cfs.

Vested Water Right Claim No. 2242-2

Vested Water Right Claim No. 2242-2 requests validation for the irrigation of 1 acre located in the NW 1/4 NE 1/4 of Section 24 T1N-R8E. A September 1990 inspection of Murphy Ditch found that this land was incorrectly listed as being located in Section 13 T1N-R8E on the 1980 application and was then incorrectly listed on Recognized Vested Water Right License No. 1727-2. The June 23 and 30, 1988 Public Notice for Validation of a Vested Water Right Claim also listed it incorrectly. This irrigated acreage is currently owned by Dale Wileman. Mr. Wileman has filed an Affidavit of Water Use stating the land was incorrectly listed. He also stated that it should be included with the lands authorized by Vested Water Right No. 1727-2.

Rapid Valley Water Company, Inc. has filed an Affidavit of Water Use for each of these vested water right claims stating that these acreages use a proportionate share of water authorized by Vested Water Right No. 1727-2. The Affidavits also state that the chronological history of water use is the same as stated on the Affidavit of Construction for Water Use for Vested Water Right No. 1727-2. The priority date for Vested Water Right No. 1727-2 of April 6, 1878 is based on the date of a location notice. The diversion rate of 17.0 cfs associated with this priority date was set forth in the Amended Judgement dated March 14, 1896. The diversion rate of 17.0 cfs has since been reduced to 16.2 cfs due to water right transfers to the City of Rapid City.

Review of Existing Water Rights

There are 62 existing water rights/permits for diversion of surface water from Rapid Creek between Pactola Reservoir and the Cheyenne River authorized to appropriate 255.40 cfs. Of these, 4 water rights which are authorized to appropriate approximately 3.37 cfs have priority dates senior to these vested water right claims. These are: Water Right No. 504-2, Cleghorn Springs Water Users, for 0.89 cfs; Water Right No. 2023-2, Leedy Ditch, for 1.00 cfs; Water Right Nos. 0646-2 and 1998-2, City of Rapid City, for a total of 1.48 cfs. There are 33 water permits/rights appropriating surface water downstream from the Murphy Ditch diversion point. The water permits/rights issued include 31 for irrigation which are authorized to appropriate 114.65 cfs, 1 for fish and wildlife propagation authorized to appropriate 0.75 cfs and 1 for suburban housing development authorized to appropriate 1.73 cfs. None of these have priority dates senior to these vested water right claims.

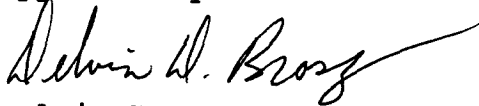
Conclusions

1. Rapid Valley Water Company, Inc. has filed 4 Vested Water Right Claims for the irrigation of 84 acres in addition to the 1229 acres authorized by Vested Water Right No. 1727-2.
2. The priority date claimed for irrigation of these acres is April 6, 1878.
3. There is no additional diversion claimed beyond the 16.2 cfs authorized by Vested Water Right No. 1727-2 bearing the priority date of April 6, 1878.
4. There are no existing downstream senior water rights/permits authorized to appropriate surface water from Rapid Creek.
5. If Vested Water Right Claim No. 2239-2 is validated, Water Permit No. 1788-2 should be decreased by 9 acres and 0.20 cfs.
6. If Vested Water Right Claim No. 2241-2 is validated, Water Permit No. 1784-2 should be decreased by 36 acres and 0.51 cfs.

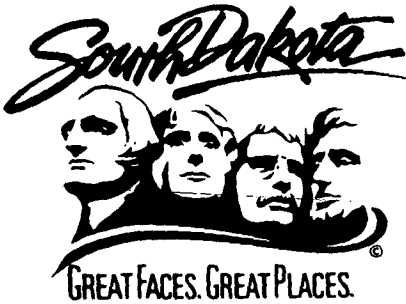
Mark D Rath 

Mark D. Rath
Natural Resources Engineer II

approved by:

Delvin D. Brosz 

Delvin D. Brosz, P.E.
Natural Resources Engineer IV



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT THE
NEWSPAPER RIGHT AWAY.

October 8, 1992

David Lamb
Rapid Valley Water Company, Inc.
RR 2 Box 223
Rapid City, SD 57701

Dear Mr. Lamb:

Your Application Nos. 2239-2, 2240-2, 2241-2 and 2242-2 for vested water right claims have been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of your claim has been sent to the Publisher of the Rapid City Journal printed at Rapid City, SD (Ph # 394-8300). For your information, a copy of the notice, the recommendations of the Chief Engineer and a report on the applications are enclosed. Please review the notice and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your notice of hearing to validate a vested right and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. We must receive Proof of Publication before the applications can be considered.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendations, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the applications.

cc: Michael Hickey, Bangs, McCullen, Butler, Foye & Simmons, PO Box 2670,
Rapid City, SD 57709-2670



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 8, 1992

Rapid City Journal
PO Box 450
Rapid City, SD 57709

ATTN: Legal Publications:

Enclosed is a Notice of Hearing to Validate Vested Right Application Nos. 2239-2, 2240-2, 2241-2 and 2242-2 to be published twice. Please publish the notice on October 16, 1992, with the second publication 7 days later.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is Rapid Valley Water Company, Inc., RR 2 Box 223, Rapid City, SD 57701 (Ph # 393-0093).

A copy of BOTH publications must be SENT to the WATER RIGHTS DIVISION. IMMEDIATELY return the FIRST publication with the FIRST Transmittal form on the bottom of this page. The first copy is needed to check the publication for errors so any corrections can be made in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. The permit applications cannot be considered until proof of publication has been received.

Sincerely,

Eric Gronlund
Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----
FIRST TRANSMITTAL NOTICE TO: ATTN: Eric Gronlund
Water Rights Division
523 E Capitol
Pierre SD 57501-3181

Date _____
We are in receipt of your letter of _____ enclosing Notice of Hearing to
Validate A Vested Right Application which was first published in our issue
of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name Newspaper

Instruction to Newspaper - Publish first Notice on October 16, 1992, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING To Validate
Vested Water Right Application Nos. 2239-2, 2240-2, 2241-2 and 2242-2

Notice is given that the Rapid Valley Water Company, Inc., (a/k/a Murphy Ditch), RR 2 Box 223, Rapid City, SD 57701 has filed applications to validate Vested Water Right Claim Nos. 2239-2, 2240-2, 2241-2 and 2242-2. These applications, combined, request validation of claims for irrigating 84 acres in addition to the 1229 acres authorized by Vested Water Right No. 1727-2. The Murphy Ditch point of diversion from Rapid Creek is located in the SW 1/4 Section 8-T1N-R8E. These vested water right claims do not claim any additional diversion rate beyond the 16.20 cubic feet of water per second (cfs) authorized by Vested Water Right No. 1727-2 with a priority date of April 6, 1878.

Vested Water Right Application No. 2239-2 is for validation for the irrigation of 9 acres located in the NW 1/4 NE 1/4, NE 1/4 NE 1/4 and SE 1/4 NE 1/4 Section 15-T1N-R8E. These lands are currently authorized for irrigation from Murphy Ditch by Vested Water Right No. 1788-2 bearing a priority date of April 6, 1878. If Vested Water Right Application No. 2239-2 is validated, Water Permit No. 1788-2 will be decreased by 9 acres and 0.2 cfs.

Vested Water Right Application No. 2240-2 is for validation for the irrigation of 38 acres located in the N 1/2 NE 1/4 Section 22-T1N-R8E. These acres were incorrectly listed as being located in Section 20-T1N-R8E on the application for the Recognized Vested Water Right License 1727-2.

Vested Water Right Application No. 2241-2 is for validation for the irrigation of 36 acres located in the SE 1/4 SW 1/4 Section 10 and the NE 1/4 NW 1/4, NW 1/4 NE 1/4 Section 15; all in T1N-R8E. These lands are currently authorized for irrigation by Water Permit No. 1784-2 bearing a priority date of June 8, 1981. If this vested water right claim is validated, Water Permit No. 1784-2 will be decreased by 36 acres and 0.51 cfs.

Vested Water Right Application No. 2242-2 is for validation for the irrigation of 1 acre located in the NW 1/4 NE 1/4 Section 24-T1N-R8E. This acre was incorrectly listed as being located in Section 13-T1N-R8E on the application for the Recognized Vested Water Right License No. 1727-2.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application Nos. 2239-2, 2240-2, 2241-2 and 2242-2 because 1) water has been appropriated as described for irrigation of the described lands with a priority date of April 6, 1878, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) it is in the public interest. Unless a petition is filed opposing the applications or the applicant files a petition contesting the chief engineer's recommendations, the Water Management Board will NOT CONDUCT a HEARING to consider these applications and the chief engineer will issue the vested water right applications as recommended. Petitions filed in support of the applications will NOT require the Board to hear the applications.

Any person interested in opposing or supporting the applications must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendations. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 2, 1992. The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

For purposes of publishing 1) the notice of hearing on Application Nos. 2239-2, 2240-2, 2241-2 and 2242-2 and 2) the chief engineer's recommendations, a meeting at the Division of Water Rights office to hear the applications is scheduled for November 12, 1992, at 9:00 am in Room 413, Joe Foss Building, 523 E Capitol, Pierre SD. If the applications are

opposed or the recommendations contested, the November 12, 1992, hearing date will be rescheduled for a regularly scheduled Board meeting. Notice of the time and place of the rescheduled hearing before the Board will be given by First Class Mail to the applicant and persons filing petitions. Anyone not filing a petition, but interested in attending the hearing, may contact the Division of Water Rights to confirm a hearing date and location. The November 12, 1992, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the applications. The request for an automatic delay must be filed by November 2, 1992.

If a hearing is held, the Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve the validation, 2) approve the validation with qualifications, 3) defer, or 4) deny validation of the applications based on the facts presented at the public hearing. Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by November 2, 1992, at the above Water Rights Division address to request copies of information pertaining to the applications, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

These applications are made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-18, 46-2A-22; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31, 46-5-49; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15; 74:02:01:19 thru 74:02:01:22. Robert E. Roberts, Secretary, Department of Environment and Natural Resources.

Notice is given that the Rapid Valley Water Company, Inc. (a/k/a Murphy Ditch), RR2 Box 223, Rapid City, SD 57701 has filed applications to validate Vested Water Right Claim Nos. 2239-2, 2240-2, 2241-2 and 2242-2. These applications, combined, request validation of claims for irrigating 84 acres in addition to the 1229 acres authorized by Vested Water Right No. 1727-2. The Murphy Ditch point of diversion from Rapid Creek is located in the SW $\frac{1}{4}$ Section 8-T1N-R8E. These vested water right claims to not claim any additional diversion rate beyond the 16.20 cubic feet of water per second (cfs) authorized by Vested Water Right No. 1727-2 with a priority date of April 6, 1878.

Vested Water Right Application No. 2239-2 is for validation for the irrigation of 9 acres located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15-T1N-R8E. These lands are currently authorized for irrigation from Murphy Ditch by Vested Water Right No. 1788-2 bearing a priority date of April 6, 1878. If Vested Water Right Application No. 2239-2 is validated, Water Permit No. 1788-2 will be decreased by 9 acres and 0.2 cfs.

Vested Water Right Application No. 2240-2 is for validation for the irrigation of 38 acres located in the N $\frac{1}{2}$ NE $\frac{1}{4}$ Section 22-T1N-R8E. These acres were incorrectly listed as being located in Section 20-T1N-R8E on the application for the Recognized Vested Water Right License 1727-2.

Vested Water Right Application No. 2241-2 is for validation for the irrigation of 36 acres located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 10 and the NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15; all in T1N-R8E. These lands are currently authorized for irrigation by Water Permit No. 1784-2 bearing a priority date of June 8, 1981. If this vested water right claim is validated, Water Permit No. 1784-2 will be decreased by 36 acres and 0.51 cfs.

Vested Water Right Application No. 2242-2 is for validation for the irrigation of one acre located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 24-T1N-R8E. This acre was incorrectly listed as being located in Section 13-T1N-R8E on the application for the Recognized Vested Water Right License No. 1727-2.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Applications Nos. 2239-2, 2240-2, 2241-2 and 2242-2 because 1) water has been appropriated as described for irrigation of the described lands with a priority date of April 6, 1878, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, 4) it is in the public interest. Unless a petition is filed opposing the applications or the applicant files a petition contesting the chief engineer's recommendations, the Water Management Board will NOT CONDUCT a HEARING to consider these applications and the chief engineer will issue the vested water right applications as recommended. Petitions filed in support of the applications will NOT require the Board to hear the applications.

Any person interested in opposing or supporting the applications must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendations. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E. Capitol, Pierre, SD 57501 (605-773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 2, 1992. The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Affidavit of Publication



STATE OF SOUTH DAKOTA

ss.

County of Pennington

I, Jerry J. Shoener

, being first duly sworn,

upon his oath says: That he is now and was at all times hereinafter mentioned, an employee of the RAPID CITY JOURNAL COMPANY, a corporation, of Rapid City, South Dakota, the owner and publisher of the RAPID CITY JOURNAL, a legal and daily newspaper printed and published in Rapid City, in said County of Pennington, and has full and personal knowledge of all the facts herein stated as follows: that said newspaper is and at all of the times herein mentioned has been a legal and daily newspaper with a bonafide paid circulation of at least Two Hundred copies daily, and has been printed and published in the English language, at and within an office maintained by the owner and publisher thereof, at Rapid City, in said Pennington County, and has been admitted to the United States mail under the second class mailing privilege for at least one year prior to the publication herein mentioned; that the advertisement, a printed copy of which, taken from said RAPID CITY JOURNAL, the paper in which the same was published, is attached to this sheet and made a part of this affidavit, was published in said newspaper once each _____ week for _____ two _____ successive _____ weeks _____, the first publication thereof being on the _____ 16th _____ day of _____ October _____, 19 92 _____, that the fees charged for the publication thereof are One hundred seventy two _____ Dollars and _____ twelve _____ cents.

Jerry J. Shoener

Subscribed and sworn to before me this _____ 23rd _____ day of

October _____, 19 92 _____

Perry Weidinger
Notary Public.

Commission expires April 18, 1995

For purposes of publishing 1) the notice of hearing on Application Nos. 2239-2, 2240-2, 2241-2 and 2242-2, and 2) the chief engineer's recommendations, a meeting at the Division of Water Rights office to hear the applications is scheduled for November 12, 1992, at 9:00 a.m. in Room 413, Joe Foss Building, 523 E. Capitol, Pierre, S.D. If the applications are opposed or the recommendations contested, the November 12, 1992, hearing date will be rescheduled for a regularly scheduled Board meeting. Notice of the time and place of the rescheduled hearing before the Board will be given by First Class Mail to the applicant and persons filing petitions. Anyone not filing a petition, but interested in attending the hearing, may contact the Division of Water Rights to confirm a hearing date and location. The November 12, 1992, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the applications. The request for an automatic delay must be filed by November 2, 1992.

If a hearing is held, the Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) approve the validation, 2) approve the validation with qualifications, 3) defer, or 4) deny validation of the applications based on the facts presented at the public hearing. Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by November 2, 1992, at the above Water Rights Division address to request copies of information pertaining to the applications, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

These applications are made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-18, 46-2A-22; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31, 46-5-49; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15; 74:02:01:19 thru 74:02:01:22.

Robert E. Roberts
Secretary
Department of Environment
and Natural Resources

IN THE _____ COURT
COUNTY OF PENNINGTON

**Publisher's and Attorney's
Affidavit**

Filed in the office of _____

the _____ day of _____

19 _____

on _____



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

DEC 24 1992

Michael Hickey
Bangs, McCullen, Butler, Foye & Simmons
PO Box 2670
Rapid City, SD 57709-2670

Dear Mr. Hickey:

Enclosed are Validated Vested Water Right Nos. 2239-2, 2240-2, 2241-2 and 2242-2. As long as the water is used beneficially, as stated in the Water Rights, the State Water Laws provide that Rapid Valley Water Company, Inc. has a continuing right to use the water.

Very truly yours

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

Enclosures

cc: Steve Murphy, Pres., Rapid Valley Water Company, Inc., RR 2
Box 125, Rapid City, SD 57701