

WATER PERMIT NO. 2537-2

Name of Applicant: David Synder

Address: 2100 Sedivy Lane, Rapid City SD 57703

Phone: 605 388-8873

Amount of Water Claimed: Total Acres: 10

Source of Water Supply: Rapid Creek

Water to be used for: irrigation County: Penning

Type of Waste Disposal System:

Location:

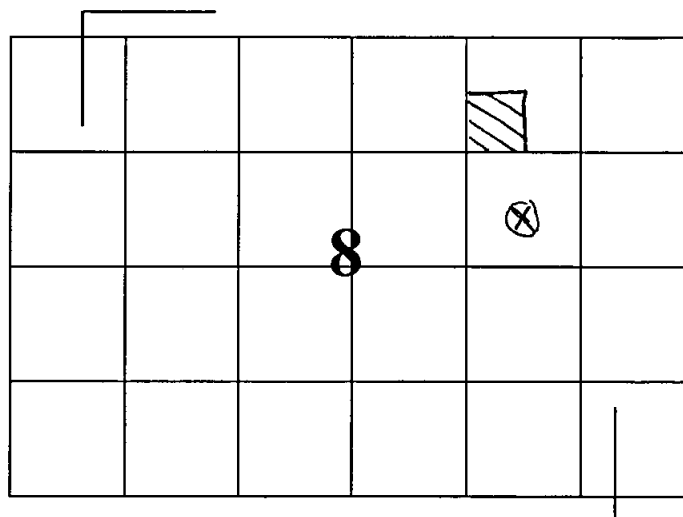
PRIORITY Date Received: 8-26-04 Application/License Fee: \$50

Corrected Application Received: Period of Annual Use: April 1 - October 31

Remarks: Move diversion point from Hawthorne Ditch to Murphy Ditch

Diversion Point: SE ¼ NE ¼ Sec 8-T1N-R8E

Land to be Irrigated: NE ¼ NE ¼ Section 8-T1N-R8E



Depth of Well: NA

Well Driller: : NA

Remarks:

Type of Map: aerial

Prepared by: Sherry Dishman, Penn. CO FSA

Reviewed and the Number Assigned on: 8-26-04

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

FORM 2: Application for irrigation in South Dakota

(type or print)

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>2537-2</u> (office use only) Hydrologic Unit <u>10/20110</u>
	Basin <u>Upper Cheyenne</u>
	Newspaper <u>Rapid City Journal</u>

RECEIVED

AUG 26 2004

WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☐ New ☐ Vested Right ☒ Amendment/Correction to Permit No. 2039-2 ^{my share of permit}
(Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)

Move diversion point from the Hawthorne Ditch to the Murphy Ditch.

- Name of Applicant DAVID SNYDER (check one) ☒ Owner ☐ Tenant/lessee Phone 605-388-8873
Mailing Address 2100 Sedivy Lane RAPID City State SD 57703
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed 200 *CFS or 200 **GPM ***AF Total Acreage 10 Acres
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply RAPID Creek
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Pennington
Current Diversion is on the south side of Hawthorne Ditch on east side of Sedivy Lane marked on the attached map. New diversion would be on the Murphy ditch where my current diversion is (see map) NE1/4SW1/4 Sec 8-T1N-R8E
- County or counties where water will be used Pennington R8E
- Annual period during which water is to be used April - Oct. 31
- List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
<u>See attached and signed map.</u>			
<u>NE1/4NE1/4 Sec 8-T1N-R8E</u>	<u>10</u>		

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

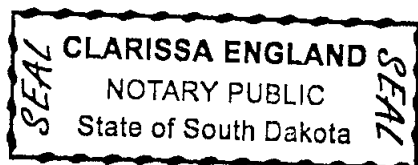
See Attachment "Description of Project"

STATE OF SOUTH DAKOTA)

County of Pennington)

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Attach map and any other technical information. (see instructions)

I, DAVID D. SNYDER, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Applicant's signature David SnyderSubscribed and sworn to before me this 25 day of August 20 04

Clarissa England
Notary Public signature

My Commission Expires 10-25-2007

SOUTH DAKOTA
WATER PERMIT NO. 2537-2 FOR IRRIGATION

Date of first receipt of application August 26, 2004.

The Water Management Board approved Water Permit No. 2537-2 on July 6, 2005 for David Snyder, 2100 Sedivy Lane, Rapid City SD 57703 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 2537-2 authorizes the change of the diversion point and diversion authority for 0.18 cubic feet of water per second (cfs) from Hawthorne Ditch to the Rapid Valley Water Company (Murphy Ditch) diversion point to irrigate 10 acres located in the NE ¼ NE ¼ Section 8, T1N, R8E. The 10 acres have been historically irrigated from the Hawthorne Ditch diversion point authorized by Vested Water Right No. 2039-2 located in the SE ¼ Section 6, T1N, R8E. The 0.18 cfs will be diverted at the existing Murphy Ditch headgate located in the NE ¼ SW ¼ Section 8, T1N, R8E for irrigation of the 10 acres.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – October 31.
3. The date from which applicant may claim right is July 12, 1886 (established by the Hawthorne Ditch Water Right No. 2039-2).
4. One-fifth of the construction is to be completed on or before January 6, 2008.
5. All construction is to be completed on or before July 6, 2010.
6. Water is to be put to beneficial use on or before July 6, 2014.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Diversions under Permit No. 2537-2 may not interfere with existing water rights in effect prior to approval of No. 2537-2 or any domestic rights.
2. When natural flows are unavailable the permit holder must purchase irrigation water through the Rapid Valley Water Conservancy District through their Deerfield Contract with the U.S. Bureau of Reclamation.
3. The amount of water with a July 12, 1886, priority date, which may be appropriated under Vested Water Right No. 2039-2 (Hawthorne Ditch) is reduced by 10 acres and 0.18 cfs.

WATER MANAGEMENT BOARD

By: Garland Erbele

Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JUL 25 2005

date



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date August 26, 20 04

RECEIVED OF Valley Green Inc., 2100 Sedivy Lane, Rapid City SD 57703

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

Fee for Application for Permit No. <u>2537-2</u> to Appropriate Water, to construct and to put water to beneficial use	50	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 _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50.00

No. 001465

By Darland Erbe
Chief Engineer gm

T-3387

5
1N-8

Current Diversion
off Hawthorne
Ditch

Connect Open Lateral

(1N-8) X15

T-3470

T-3965
NHFL
9.5
①

Requested Point
of Diversion

T-1792

T-1732
NHFL
5.5
①

PENNINGTON CO FSA OFFICE
1530 SAMCO RD SUITE 1
RAPID CITY SD 57702 8007

Sherry Dishman
12-24-04

8.2
②

3.9
③

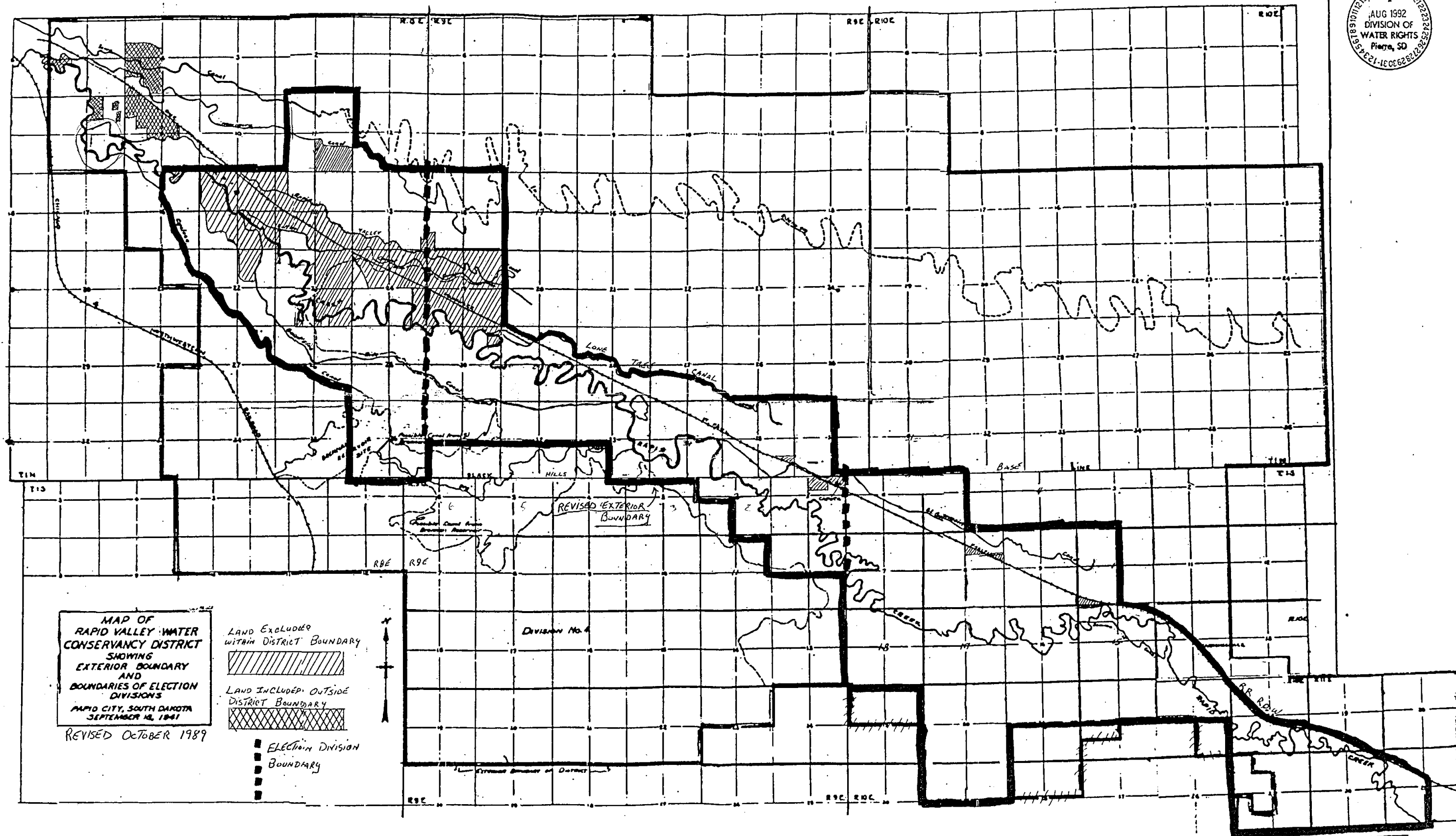
5.1
④

9.8
⑤

5.8
⑥

9.8
⑥

2537-2



To: Department of Environment and Natural Resources:
Water Rights Program

DESCRIPTION OF PROJECT:

I am requesting a change of diversion point for the 10 acres I irrigate from the Hawthorne Ditch.

I currently use an open lateral ditch off of the Hawthorne Ditch. This lateral was designed prior to Frank Apa's ownership of this land in the 1940's. The water flows from the Hawthorne Ditch south for over 5 blocks along the east side of Sedivy Lane in Rapid City. In the last 20 years several businesses have built along Sedivy Lane causing extensive cleaning and maintenance of the ditch. Both Fed Ex and UPS are along Sedivy Lane and the boxes and packaging material alone cause for much of the material I clean from the ditch to keep it flowing. During the last road improvement to St. Patrick Street (a major road in east Rapid City) an inverted siphon was placed under the road causing me to have a large buildup of water on the north side of St. Patrick Street before the water will begin to siphon to the south. This does not cause any major problems other than it appears that I'm using a large body of water when in fact I'm not. I use a 10 horse pump to irrigate these 10 acres. This is the same pump that has been in use by the Apa's.

What I am proposing to do to improve this system is to install an underground pipe and pump the water from the Murphy Ditch which is much closer to the land in question. This system would eliminate all lost of water from ditch loss, that is incurred once it leaves the main ditch, in the current method. It would also eliminate contaminates entering the pump from the current lateral. I would use the current diversion point which is approved for my water right on the Murphy Ditch as indicated on the enclosed map.

There are also other problems with the current operation of the Hawthorne Ditch. It seem to be turned on and off at the convenience of the current management without regard to users as myself which require water for the entire season. The Murphy ditch management is much more willing and thoughtful of their users.

I am enclosing letters from the Hawthorne Ditch and the Estate of Frank Apa stating they support my changing of the diversion point. I have contacted Steve Murphy who has stated he does not feel there are any issues with me adding this water to the Murphy Ditch. In fact he is planning to do the same with his water that is currently on the Hawthorne Ditch.

I appreciate your attention to this matter. If you need to contact me please feel free to contact me anytime. If approved I would like to start construction of the underground pipe as soon as possible. Any consideration of allowing 46-5-13.1 to apply would be appreciated.



Dave Snyder
Valley Green Sod Farms
605-388-8873 – Office
605-390-9414 – Cell Phone

June 10, 2004

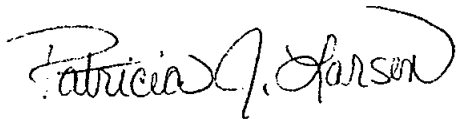
To Whom It May Concern:

I am the Personal Representative of the Estate of Frank Apa. The Estate is in the process of selling the property located at 2000 Sedivy Lane, Rapid City, South Dakota to David D. and LoRae Snyder, under a Contract for Deed dated December 15, 2003.

It is my understanding that Mr. Snyder wishes to change the diversion point of the water that he is using to irrigate the land at 2000 Sedivy Lane. The Estate has no objection to this being done.

If you have any questions or need anything else, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Patricia J. Larson". The signature is written in dark ink and is positioned above the printed name and address.

Patricia J. Larson
134 Franklin Street
Rapid City, SD 57701
605-721-1340

August 3, 2004

Valley Green, Inc.
2100 Sedivy Lane
Rapid City, South Dakota

Attn: Dave Snyder

Sir:

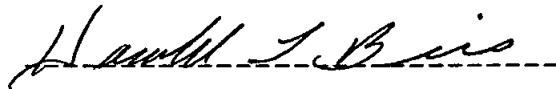
This letter is in response to your correspondence dated June 10, 2004.

The Hawthorne Ditch Company will support you in every way to change your diversion point to the Murphy Ditch.

The conditions of our support will be that all of the past and present water bills are paid in full.

Any water bill over 90 days old will result in the point of diversion to be locked and no more water will be delivered.

Harold Bies, President
Hawthorne Ditch Company

A handwritten signature in cursive script, reading "Harold T. Bies", is written over a horizontal dashed line.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 3, 2004

David Snyder
2100 Sedivy Lane
Rapid City SD 57703

Dear Mr. Snyder:

This letter is in regards to your water permit application to change a diversion point for a portion of the irrigation under Water Right No. 2039-2. I started working on your application and found that I will need some additional information and clarification from you before we can finish processing your application.

In 1996, the Water Management Board set a precedent when they approved a transfer of irrigation water from the Hawthorne Ditch Company to the City of Rapid City. The amount of water transferred was based upon the pro-rata share of the diversion rate for the 1886 priority date water from the ditch. In order to protect the existing water rights, Rapid City was also required to leave 18% of the associated diversion rate with the Hawthorne Ditch Company to address ditch carriage loss (see attached report). Based upon this I calculate the pro-rata share of the diversion rate for the 10 acres associated with your application to be 0.22 cfs (98.7 gpm). Reducing this amount by the 18% carriage loss gives a diversion rate of 0.18 cfs (81 gpm). This is 119 gpm less than what is listed in your application.

Based upon the 1996 Water Management Board decision, my advice to the Chief Engineer, at this time, is to recommend a diversion rate of 0.18 cfs be transferred to the proposed new diversion point. However, if you are able to get a signed letter from the Hawthorne Ditch Company waiving their right to retain the 18% carriage loss and/or supporting a transferable diversion rate greater than the pro-rata share associated with the 1886 priority date water my recommendation to may change.

I will wait to hear from you prior to proceeding with your application. If you have any questions, please contact me at phone (605) 773-3352.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. Rath".

Mark D. Rath
Natural Resources Engineering Specialist
Water Rights Program

LAW OFFICES**Lynn, Jackson, Shultz & Lebrun, P.C.**

FIRST NATIONAL BANK BUILDING
909 ST. JOSEPH STREET
EIGHTH FLOOR
P.O. BOX 8250
RAPID CITY, SD 57709-8250
605-342-2592
FAX 605-342-5185

LAWYERS ALSO ADMITTED IN MINNESOTA AND IOWA
www.lynnjackson.com

Member of Lex Mundi

A Global Association of 125 Independent Law Firms

REPLY TO: Rapid City 605-342-2592

US BANK BUILDING
141 N. MAIN AVENUE
EIGHTH FLOOR
P.O. BOX 1920
SIOUX FALLS, SD 57101-3020
605-332-5999
FAX 605-332-4249

From the offices of Robert Gusinsky
e-mail address: rgusinsky@lynnjackson.com

December 7, 2004

Ms. Diane Best
Attorney for DENR
Office of the Attorney General
500 East Capitol
Pierre, SD 57501

Re: Valley Green, Inc. (Hawthorne Ditch Co.)
Our File No. 010100-00005

Dear Diane:

Thank you for discussing this matter with me about one month ago. During that telephonic conversation I promised to provide you with correspondence outlining the issues. I apologize for the delay in getting you the information that follows.

As you know, I represent Valley Green, Inc. Currently, Valley Green irrigates 10 acres with water from the Hawthorne ditch. The water comes to Valley Green by way of an open lateral ditch. This water flows south from the Hawthorne ditch for over five blocks along the east side of Sedivy Lane. In the last 20 years, several businesses have moved in along Sedivy Lane, most notably Federal Express and UPS. Boxes and packaging materials from those businesses find their way into the ditch causing Valley Green to have to clean it to keep the water flowing.

Valley Green has been negotiating with Steve Murphy and has reached the following agreement.

1. Steve Murphy would sell his 50 miner inches water right associated with his 84 acres (1N-08E-Sec 14 Tract F of NW ¼) which is off the Hawthorne ditch;
2. This water right would be transferred from the Hawthorne ditch to the Murphy ditch. The water right to the above-described 84 acres would be extinguished.

Ms. Diane Best
December 7, 2004
Page 2

My understanding is that both Hawthorne ditch and Murphy ditch are in agreement with the above-described scenario.

I am attaching a colored plat showing the current arrangement as well as the requested diversion. I look forward to discussing this matter with you after you have had an opportunity to study this matter.

Sincerely,

LYNN, JACKSON, SHULTZ & LEBRUN, P.C.

A handwritten signature in black ink, appearing to read 'Robt Gusinsky', with a stylized flourish at the end.

Robert Gusinsky

ROB:fjs

Enclosure

Enc/cc: Dave Snyder, Valley Green



OFFICE OF ATTORNEY GENERAL

500 East Capitol Avenue
Pierre, South Dakota 57501-5070
Phone (605) 773-3215
FAX (605) 773-4106
www.state.sd.us/atg

LARRY LONG
ATTORNEY GENERAL

MARK BARNETT
CHIEF DEPUTY ATTORNEY GENERAL

January 12, 2005

Robert Gusinsky
Attorney at Law
P.O. Box 8250
Rapid City, SD 57709-8250

Re: Valley Green, Inc.

Dear Mr. Gusinsky:

This letter is in response to your recent correspondence concerning Valley Green, Inc. As you indicate in your letter, Valley Green is looking at applying for a transfer of authority to appropriate water from Hawthorne Ditch to the Murphy Ditch. Specifically, Valley Green has been actively negotiating with Steve Murphy to sell the portion of the Hawthorne Ditch water right associated with his property and the transfer of that diversion authority. It is my understanding that you and your client are also in the application process seeking to transfer diversion authority on 0.89 cfs on his own property. That application has already been filed. You may want to consider whether you would like these two applications to be considered at the same time.

You indicated you would like to visit with me after I have had a chance to look at the matter and discuss the issue with the Water Rights staff. I thought I would send this letter as additional background before we talk.

The situation you describe involves a transfer from one irrigation use to another. Accordingly the operative statutes for this transfer would be either SDCL 46-5-34 (transfer of irrigation rights appurtenant to the land) or SDCL 46-5-30.4 and SDCL 46-5-31 (change of place of diversion and location of water use if water is not appurtenant to the land). If the portion of the water right sought to be transferred holds a priority date previous to 1907 and the ditch company was designed as a "water stock" company rather than tying its water usage to land, then the water rights may not be appurtenant to the land. Jewett v. Redwater Irrigating Association, 220 N.W.2d 834 (1974). On the old pre-1907 "water stock" companies, the water right is not

considered as appurtenant to the land unless the operations of the company have changed over the years and there is evidence that the company has acquiesced or otherwise operated as a company where water is appurtenant to the land. I haven't reviewed the history or other bylaws on this. I would be interested in your input on this issue.

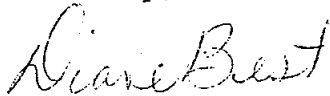
Also, your letter indicates that both Hawthorne and Murphy have agreed to these changes. When the additional transfer application is filed (or soon thereafter), please file written authorizations from these ditch companies. In addition to consenting to the change, the ditch companies will need to advise as to whether the additional water needed to carry Valley Green's water from the Hawthorne diversion point down to the Murphy diversion point would be included or excluded from the fifty miners inches. In handling a past transfer involving these ditches, the Water Rights staff calculated an eighteen percent carriage loss between these diversion points for evaporation, evapotranspiration, and other ditch losses.

Another matter that is at issue in these transfers is the priority date. When the water authorization is transferred, the priority date for that water usage is also transferred. In the case of Hawthorne Ditch, there are six different priority dates. Accordingly, you will need to identify which priority dates are applicable to this transfer.

There is also the issue of the "miner's inch" measurement. South Dakota's standard "miner's inch" measurement is 1 cfs, except when some other equivalent has been specifically established by usage or court decree. SDCL 46-1-7. The miner's inch measurement may depend on the original claim. I haven't looked at that question, but will do so once you advise as to the priority date claimed. Then we can track back to the source of the original claim and subsequent water licensing by the state for that claim to see if any unique miner's inch measurement was used.

I appreciate the opportunity to discuss these issues with you. When you have had a chance to review them, please feel free to call me anytime.

Sincerely,



Diane Best
Assistant Attorney General

DB/jmm

Water Rights Program - DENR

File Documentation

File No. 2537-2 & 2556-2

County: Pennington

Name of Person: David Snyder

Address: Rapid City

Date: 5/3/2005 Telephone: 605-388-8873

RE: Application Nos. 2537-2 & 2556-2

Comments:

Mr. Snyder called to tell me that he had talked with Harold Bies from Hawthorne Ditch concerning these two applications to move water from Hawthorne Ditch to Murphy Ditch. He said Mr. Bies told him that he did not believe that this request could be made because the water is held by Hawthorne Ditch and not by Mr. Snyder nor Mrs. Murphy. Mr. Snyder asked me if this could be true.

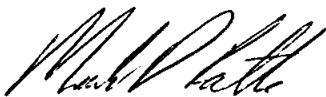
I explained to him that I had discussed the issue with Mr. Snyder's attorney and with Mr. Bies of whether or not the water is tied to the lands or tied to ditch company shares because the water right is pre-1907. I told Mr. Snyder this was an issue he needs to have his attorney look into to determine how this issue plays out.

Mr. Snyder also told me that there was another question concerning the Arlene Murphy property and application. Some time in the recent past, the Murphy's became concerned about some activity Hawthorne Ditch was involved with. So they divested themselves of their shares in the Hawthorne Ditch company in order to reduce their liability if something happened.

Mr. Snyder asked me if these applications don't go through what could he do. I suggested he could get an agreement with the Rapid Valley Water Conservancy District to contract for irrigation water releases from Deerfield, then apply for a new water right to divert this water.

Mr Snyder told me he has purchased two other pieces of irrigated property on Murphy Ditch, he asked if he were able to get application 2537-2 approved would he be able to rotate his total water use among the three pieces of property. I told him that was an internal management issue with the ditch company, Water Rights does not typically get involved with internal management issues.

I told Mr. Snyder that these were some significant issues involving these two applications that his attorney needs to try to resolve.



Mark D Rath
Natural Resources Engineering Specialist

Rapid Valley Water Company, Inc.

4555 Reservoir Road

Rapid City, SD 57703

Water Supervisor: (605) 393-0010

(605) 393-0093

Fax: (605) 393-0044

May 24, 2005

Mr. Mark Rath

Water Rights Division

South Dakota Department of Environment and Natural Resources

523 East Capitol

Pierre, SD, 57501

RECEIVED

MAY 25 2005

WATER RIGHTS
PROGRAM

Ref: Proposed water rights transfers into Rapid Valley Water Co., Inc. diversion point.

Dear Mr. Rath,

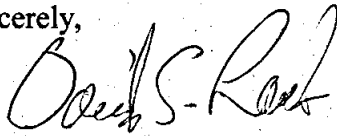
Thank you for the information regarding the proposed transfer of water from the Hawthorne Ditch to the Rapid Valley Water Co., Inc. diversion point. As I mentioned, Our Board of Directors have a high regard for your experience and we appreciate your consultation and perspective on this proposed transfer. It appears to be beneficial in effect.

The amount of water to be transferred seems to be very similar to the amount most recently transferred from this diversion and should not overburden the facilities. We appreciate this analysis.

Our Board of Directors and membership is concerned that new users be aware that there would be fees associated with use of this diversion. These requirements would be much the same with all the Rapid Valley irrigation companies, of course. In addition, the rules and priorities in effect in this conveyance would apply to any new water added as well.

If these conditions were acceptable, Rapid Valley Water Co., Inc. would be willing to accept the amounts discussed for transfer from the Hawthorne Ditch.

Sincerely,



David S. Lamb, President

Rapid Valley Water Company, Inc.

605 393-0093



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 7, 2005

David Lamb
Rapid Valley Water Company
4555 Reservoir Road
Rapid City SD 57701

Dear Mr. Lamb:

Enclosed is a copy of the report, recommendation and public notice for a Water Permit Application No. 2537-2 filed by David Snyder. The notice is to be published in the Rapid City Journal on June 9th and 16th. This notice schedules a July 6th hearing on the application before the Water Management Board.

This is being sent to keep you informed of water right permitting issues involving Murphy Ditch. If you have any questions, please call Mark Rath at (605) 773-3352.

Sincerely,

Eric Gronlund
Water Rights Program, DENR
(605) 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 7, 2005

Curt Anderson
Bureau of Reclamation
515 9th Street, Room 101
Rapid City SD 57701

Dear Curt:

Enclosed is a copy of the report, recommendation and public notice for a Water Permit Application No. 2537-2 filed by David Snyder. The notice is to be published in the Rapid City Journal on June 9th and 16th. This notice schedules a July 6th hearing on the application before the Water Management Board.

This is being sent to the Bureau to keep you aware of water right permitting issues involving Rapid Creek. If you have any questions, please call Mark Rath at (605) 773-3352.

Sincerely,

Eric Gronlund
Water Rights Program, DENR
(605) 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 7, 2005

John Wagner, Water Superintendent
City of Rapid City
300 6th Street
Rapid City SD 57701

Dear Mr. Wagner:

Enclosed is a copy of the report, recommendation and public notice for a Water Permit Application No. 2537-2 filed by David Snyder. The notice is to be published in the Rapid City Journal on June 9th and 16th. This notice schedules a July 6th hearing on the application before the Water Management Board.

This is being sent to the city to keep you aware of water right permitting issues involving Rapid Creek. If you have any questions, please call Mark Rath at (605) 773-3352.

Sincerely,

Eric Gronlund
Water Rights Program, DENR
(605) 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 7, 2005

Jerry Hammerquist
Rapid Valley Conservancy District
P.O. Box 26
Caputa, SD 57725

Dear Mr. Hammerquist:

Enclosed is a copy of the report, recommendation and public notice for a Water Permit Application No. 2537-2 filed by David Snyder. The notice is to be published in the Rapid City Journal on June 9th and 16th. This notice schedules a July 6th hearing on the application before the Water Management Board.

This is being sent to keep you informed of water right permitting issues involving Rapid Creek. If you have any questions, please call Mark Rath at (605) 773-3352.

Sincerely,

Eric Gronlund
Water Rights Program, DENR
(605) 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 7, 2005

Keith Ham
15567 Hammerquist Road
Caputa SD 57725

Dear Mr. Ham:

Enclosed is a copy of the report, recommendation and public notice for a Water Permit Application No. 2537-2 filed by David Snyder. The notice is to be published in the Rapid City Journal on June 9th and 16th. This notice schedules a July 6th hearing on the application before the Water Management Board.

This is being sent to keep you informed of water right permitting issues involving Rapid Creek. If you have any questions, please call Mark Rath at (605) 773-3352.

Sincerely,

Eric Gronlund
Water Rights Program, DENR
(605) 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 7, 2005

Kevin Ham
Rapid Valley Water Master
3724 Freedom Ct.
Rapid City SD 57701-7639

Dear Mr. Ham:

Enclosed is a copy of the report, recommendation and public notice for a Water Permit Application No. 2537-2 filed by David Snyder. The notice is to be published in the Rapid City Journal on June 9th and 16th. This notice schedules a July 6th hearing on the application before the Water Management Board.

This is being sent to keep you informed of water right permitting issues involving Rapid Creek. If you have any questions, please call Mark Rath at (605) 773-3352.

Sincerely,

Eric Gronlund
Water Rights Program, DENR
(605) 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 7, 2005

Harold Bies, President
Hawthorne Ditch Company
23138 Radar Hill Road
Rapid City SD 57703

Dear Mr. Bies:

Enclosed is a copy of the report, recommendation and public notice for a Water Permit Application No. 2537-2 filed by David Snyder. The notice is to be published in the Rapid City Journal on June 9th and 16th. This notice schedules a July 6th hearing on the application before the Water Management Board.

This is being sent to inform you of this water right permitting issuing involving Hawthorne Ditch. If you have any questions, please call Mark Rath at (605) 773-3352.

Sincerely,

Eric Gronlund
Water Rights Program, DENR
(605) 773-3352

enclosures

REPORT ON WATER PERMIT APPLICATION NO. 2537-2

David Snyder

May 26, 2005

Application No. 2537-2, David Snyder, proposes to change a diversion point and diversion authority for 0.18 cubic feet of water per second from Rapid Creek from the Hawthorne Ditch diversion to the Rapid Valley Water Company (Murphy Ditch) diversion point located for irrigation of 10 acres. The proposed diversion point is to be in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 8 T1N-R8E is at the existing Murphy Ditch headgate. The 10 acres, located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 8 T1N-R8E, are currently irrigated by the July 12, 1886 priority date Hawthorne Ditch Water Right No. 2039-2. The water will continue to be used for irrigation purposes. The proposed project is located just east of Rapid City in Pennington County.

Review of the Proposed Project

The applicant proposes to change the diversion point for the 0.18 cfs from the existing Hawthorne ditch diversion point located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 6 T1N-R8E down stream to the Murphy Ditch diversion point located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 8 T1N-R8E, 2.5 miles downstream. Currently the water is diverted into the Hawthorne Ditch through a lateral to irrigate the 10 acres. The applicant intends to continue to irrigate the same land but by utilizing the Murphy Ditch he will be able to utilize a pump setup bypassing the need to use a lateral ditch.

The applicant has submitted a letter from Harold Bies, President of Hawthorne Ditch Company supporting changing the diversion point. There is also a letter from David Lamb, President of the Rapid Valley Water Company, Inc. stating they would be willing to accept the amount of water proposed to be transferred from Hawthorne Ditch.

Review of Existing Water Rights

There are 90 existing water rights/permits appropriating 270.84 cfs from Rapid Creek on the reach located between Pactola Reservoir and the confluence with the Cheyenne River. From the location of this proposed project downstream to the Cheyenne River there are 48 existing water rights/permits appropriating 136.33 cfs.

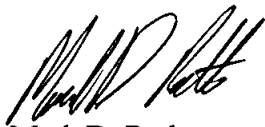
The applicant proposes to transfer only the pro-rata share of the July 12, 1886 priority date Hawthorne Ditch water minus 18% ditch loss. In previous transfers of water from irrigation to municipal use by the City of Rapid City, the 18% ditch loss was the amount of carriage loss that was determined to be lost transporting water in Hawthorne Ditch. Leaving the carriage loss protects the existing water rights on Hawthorne ditch from being adversely impacted by the transfer. In order to remain consistent with the earlier transfer, the pro-rata share for the 10 acres is 0.22 cfs. The transferable amount of the diversion rate is 0.18 cfs ($0.22 \text{ cfs} \times 82\%$). The remaining 0.04 cfs of the pro-rata share will continue to be held under the Hawthorne Ditch water right. This diversion rate will retain the July 12, 1886 priority date.

Hawthorne Ditch is a member of the Rapid Valley Water Conservancy District (RVWCD) and the irrigated land is within the district boundaries and has been capable of receiving purchased water under the RVWCD Deerfield Reservoir contract with the US Bureau of Reclamation. Because the July 12, 1886 priority date is relatively junior in priority to other Rapid Creek water rights, the applicant will need to continue to purchase water in order to have a reliable supply of irrigation water.

If this application is approved, the July 12, 1886 priority date portion of the Hawthorne Ditch Water Right No. 2039-2 will need to be reduced by 10 acres and 0.18 cfs.

Conclusions

1. This application proposes to change a diversion point for 0.18 cubic feet of water per second from Rapid Creek from the Hawthorne Ditch diversion to the Rapid Valley Water Company (Murphy Ditch) diversion point located for irrigation of 10 acres.
2. Letters supporting this change in diversion point have been submitted from Hawthorne and Murphy ditches.
3. The transferable amount of the diversion rate reflects leaving 18% carriage loss with the Hawthorne Ditch water right.
4. If this application is approved, the July 12, 1886 priority date portion of the Hawthorne Ditch Water Right No. 2039-2 will need to be reduced by 10 acres and 0.18 cfs.



Mark D. Rath
Natural Resources Engineering Specialist



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2537-2, David Snyder**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 2537-2, David Snyder, 2100 Sedivy Lane, Rapid City SD 57703

The Chief Engineer is recommending APPROVAL of Application No. 2537-2 because 1) the proposed diversion can be developed without unlawful impairment of existing rights, 2) the proposed use is a beneficial use and 3) it is in the public interest with the following qualifications:

1. Diversions under Permit No. 2537-2 may not interfere with existing water rights in effect prior to approval of No. 2537-2 or any domestic rights.
2. When normal flows are unavailable the permit holder must purchase irrigation water through the Rapid Valley Water Conservancy District through their Deerfield Contract with the U.S. Bureau of Reclamation.
3. The amount of water with a July 12, 1886, priority date, which may be appropriated under Vested Water Right No. 2039-2 (Hawthorne Ditch) is reduced by 10 acres and 0.18 cfs.

See report on application for additional information.

Garland Erbele, Chief Engineer
June 6, 2005

NOTE: The Rapid Valley Water Company has agreed to accept this transfer from the Hawthorne Ditch. However, there will be fees associated with the use of Murphy Ditch that must be negotiated with them.

Form 8

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
 County of Pennington) SS

I, Patricia K. Van Patten

certify that the attached printed Notice was
 taken

from the Rapid City Journal

printed and published in Rapid City

County of Pennington and

state of South Dakota. The notice was published
 in the newspaper on the following two dates:

June 9, 2005

June 16, 2005

Cost of Printing One hundred fifty-seven
dollars and sixty-eight cents (\$157.68)

Patricia K. Van Patten
 (Signature)

Legal Advertising Rep.
 (Title)

6/16/05
 (Date Signed)

RECEIVED
 JUN 21 2005
 WATER RIGHTS
 PROGRAM

June 9, 16 L1976521

NOTICE OF HEARING
 ON APPLICATION NO. 2537-2
 TO TRANSFER
 DIVERSION AUTHORITY
 ON RAPID CREEK

Notice is given that David Snyder, 2100 Sedivy Lane, Rapid City, SD 57703, has filed a water right permit application proposing to change the diversion point and diversion authority for 0.18 cubic feet of water per second from Hawthorne Ditch to the Rapid Valley Water Company (Murphy Ditch) diversion point to irrigate 10 acres located in the NE¼NE¼ Section 8, T1N, R8E. The 10 acres have been historically irrigated from the Hawthorne Ditch diversion point authorized by Vested Water Right No. 2039-2 located in the SE¼ Section 6, T1N, R8E. If approved, the 0.18 cfs will be diverted at the existing Murphy Ditch headgate located in the NE¼SW¼ Section 8, T1N, R8E for irrigation of the 10 acres. The July 12, 1886, priority date established by the Hawthorne Ditch Water Right No. 2039-2 will be retained.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2537-2 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest.

Any person interested in opposing or supporting this application 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 recommendation. The Chief Engineer's address is "Water Rights Program, 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 June 27, 2005. The petition may be informal but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

The Water Management Board will consider this application at 11:00 a.m., July 6, 2005, in the Matthew Training Center, Foss Building, 523 E. Capitol, Pierre, S.D. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The July 6, 2005, 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 application. The request for an automatic delay must be filed by June 27, 2005.

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 June 27, 2005, at the above Water Rights Program address to request copies of information pertaining to this application, to assure access to the hearing by the handi-

capped or to obtain an interpreter for the hearing impaired.

Since this application does not involve a monetary controversy in excess of \$2,500.00 or termination of a property right in accordance with SDCL 1-26-18.3, the Chief Engineer has determined this contested case need not be referred to the Office of Hearing Examiners. If any party disagrees with this determination, the Chief Engineer shall be notified by June 27, 2005.

This application is 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-20, 46-2A-21; 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; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

Steven M. Pirner, Secretary
 Department of Environment
 and Natural Resources

Instruction to Newspaper - Publish first Notice on June 9, 2005 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 2537-2 to Transfer Diversion Authority on Rapid Creek

Notice is given that David Snyder, 2100 Sedivy Lane, Rapid City SD 57703 has filed a water right permit application proposing to change the diversion point and diversion authority for 0.18 cubic feet of water per second from Hawthorne Ditch to the Rapid Valley Water Company (Murphy Ditch) diversion point to irrigate 10 acres located in the NE ¼ NE ¼ Section 8, T1N, R8E. The 10 acres have been historically irrigated from the Hawthorne Ditch diversion point authorized by Vested Water Right No. 2039-2 located in the SE ¼ Section 6, T1N, R8E. If approved, the 0.18cfs will be diverted at the existing Murphy Ditch headgate located in the NE ¼ SW ¼ Section 8, T1N, R8E for irrigation of the 10 acres. The July 12, 1886 priority date established by the Hawthorne Ditch Water Right No. 2039-2 will be retained.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2537-2 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest.

Any person interested in opposing or supporting this application 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 recommendation. The Chief Engineer's address is "Water Rights Program, 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 June 27, 2005. The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

The Water Management Board will consider this application at 11:00 A.M. July 6, 2005 in the Matthew Training Center, Foss Building, 523 E Capitol Building, Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The July 6, 2005 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 application. The request for an automatic delay must be filed by June 27, 2005.

Any hearing may be an adversarial 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 June 27, 2005, at the above Water Rights Program address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

Since this application does not involve a monetary controversy in excess of \$2,500.00 or termination of a property right in accordance with SDCL 1-26-18.3, the Chief Engineer has determined this contested case may not be referred to the Office of Hearing Examiners. If any party disagrees with this determination, the Chief Engineer shall be notified by June 27, 2005.

This application is 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-20, 46-2A-21; 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; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

June 6, 2005

David Snyder
2100 Sedivy Lane
Rapid City SD 57703

Dear Mr. Snyder:

Water Permit Application No. 2537-2 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Publisher of the Rapid City Journal printed at Rapid City, SD (Ph # 605-394-8300). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization, the publisher has been instructed to publish your notice once each week for two consecutive weeks. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, 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 application.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

June 6, 2005

Rapid City Journal
PO Box 450
Rapid City SD 57709-0450

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 2537-2 to Appropriate Water to be published twice. Please publish the first notice on June 9, 2005 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

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 David Snyder, 2100 Sedivy Lane, Rapid City SD (Ph # 605-388-8873).

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

No. 2537-2

TO: Eric Gronlund
Water Rights Program
Joe Foss Building
Pierre SD 57501-3181

Date _____

We are in receipt of your letter of June 6, 2005 enclosing Notice to Appropriate Water by Application No. 2537-2 which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

JUL 22 2005

David Snyder
2100 Sedivy Lane
Rapid City SD 57703

Dear Mr. Snyder:

Enclosed is Water Permit No. 2537-2 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

An informational sheet *Common Water Right Questions* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 21, 2007

2487-2
2537-2
1684-2
2320-2

Dave Snyder
Valley Green Sod
2100 Sedivy Lane
Rapid City, SD 57703

Dear Mr. Snyder:

I am writing this letter in reference to your March 20, 2007 telephone request allowing diversion from Rapid Creek prior to the irrigation season. Flow today in Rapid Creek at the USGS gaging station at Rapid City is 23 cfs.

The Water Rights Program will grant your request to immediately begin Rapid Creek diversions under your Water Right No. 2537-2, the Donna Sedivy Water Right Nos. 1684-2 and 2320-2, and the Open Bible Christian Center's Water Right No. 2487-2.

If you have any questions, please contact me at the Water Rights Program at phone (605) 773-3352.

Sincerely,

Mark D Rath,
Natural Resources Engineering Specialist

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

RECEIVED

DEC - 2 2016

WATER RIGHTS
PROGRAM

Mail to: PMB 2020
DENR - Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182

Water Right/Permit No. 2537-2Date: November 30, 2016

I/We request that Water Right/Permit No. 2537-2 formerly owned by:
David Snyder be transferred to:

New Owner Name: K Bar S Enterprises, LLCAddress: 2100 Sedivy LaneCity, State, Zip Rapid City SD 57701 Telephone No. (605)515-4501

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

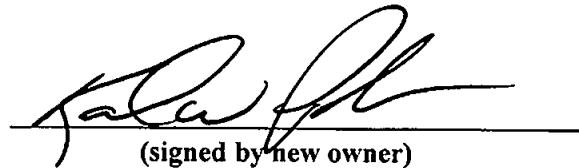
NE 1/4 NE 1/4 in Section 8 T 1 N, R8 E BHM Rapid City, Pennington County, SD

☒ I understand that the validity of Water Right/Permit No. 2537-2 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

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

A fee of Fifty Dollars (\$50.00) is included to cover the filing fee as required by SDCL 46-2-13.

I, K Bar S Enterprises, LLC Karl Paepke, Member, the new owner, certify that the above information is true and correct.


(signed by new owner)

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

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 12/2, 20 16

RECEIVED OF DeMersseman Jensen Tellinghuisen & Huffman PO Box 1820 Rapid City SD 57709

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	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 <u>2537-2</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No. **07968**

By Jeanne H. Olson
Chief Engineer



2537-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

December 28, 2016

Richard Huffman
DeMersseman, Jensen, Tellinghuisen & Huffman LLP
PO Box 1820
Rapid City SD 57709

RE: Transfer of Water Permit/Right Nos. 1684-2, 2320-2 and 2537-2

Dear Mr. Huffman:

On December 2, 2016, we received transfer forms and filing fees from you for filing an ownership change on Water Right No. 1684-2 and Water Permit Nos. 2320-2 and 2537-2.

The ownership changes have been completed. The above listed water right and water permits originally held by David Snyder dba Valley Green Sod Farms, are now listed in the name of **"K Bar S Enterprises, LLC, 2100 Sedivy Lane, Rapid City SD 57703 – Karl Paepke, Member."**

Enclosed for your records are Receipt Nos. 07966, 07967 and 07968 in the amounts of \$50 each. If you have any questions, please contact me.

Sincerely,

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

c: Karl Paepke, K Bar S Enterprises LLC

File: Water Right Nos. 1576A-2, 1684-2, 2320-2, 2487A-2, & 2537-2
Water Rights Program
File Documentation

NAME: Karl Paepke

DATE: March 27, 2026

Operator, Open Bible Christian Center (2487A-2)

Owner, K Bar S Enterprises, LLC. (1576A-2, 1684-2, 2320-2 & 2537-2)

ADDRESS:

PHONE:

RE: Request to irrigate early (2487A-2)

COMMENTS:

Carl Paepke, on behalf of K Bar S Enterprises, LLC and Open Bible Christian Center, requested permission to start irrigating on April 1, before the April 15 period of use on the Water Right No. 2487A-2. All other water rights/permits have an annual period of use starting April 1. Mr. Paepke mentioned that he operates a sod farm and the Open Bible Christian Center irrigation system. Due to the very dry winter, there is no moisture, and he had concerns regarding losing his sod production and the center lawn. Mr. Paepke made this request based on a letter in the file for Water Permit No. 2537-2 dated March 21, 2007, from Water Rights Staff member Mark Rath. The letter provided to the previous permit holder for Water Permit No. 2537-2, Dave Snyder, approved the request to immediately begin Rapid Creek diversions.

I consulted with staff engineer Nakaila Steen who is our Rapid Creek expert. She explained some history of allowing some early water to use to clean the ditches and startup a couple of center pivots. Based on past practice and to prevent undue loss, I have approved the request for this year. I informed Mr. Paepke that it would probably be prudent to apply for an amendment to the permit to change the date to earlier in the year and that it may also be prudent to do that for all his water rights/permits.



Adam Mathiowetz

Acting Chief Engineer

DANR-Water Rights Program