

NO. 328 - 2

Water Division No. 2 Fall River
(Blank to be filled by the State Engineer)

District

8:10 A.M.

APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

(NOTE—Draw a line through items not applicable.)

1. Name of applicant **s: JOHN E. MUELLER, A. M. WASHBURN, MAY A. GREGORY and MAE CORBIN**
Postoffice address **s: Hot Springs** County **Fall River** State **South Dakota**

I. If a corporation

- (a) Name of same
(b) Date and place of incorporation
(c) Amount of capital stock
(d) Amount paid in

~~John E. Mueller and address of residence~~ This is an application to establish right to waters of Fall River now claimed by the applicants as remote assignees of George H. Timmer, Emma J. Houghton and O. Ferguson, who filed amended certificate August 7, 1888, recorded in Book I of Deeds, page 191, in the office of the Register of Deeds of Fall River County, for 200 miners inches of water. Date of original appropriation was June 1, 1860. No rights now existing by virtue of the original Trimmer right are relinquished by the applicants because of this application.
(NOTE—A certified copy of articles of incorporation must accompany the application.)

II. Method of accomplishing the work and financial resources of the applicant:

- (a) Method of accomplishing work (Whether by contract, employment of others, or by direct labor) **Direct labor**
(b) Cash on hand, \$
(c) Treasury stock, \$
(d) Bonds to be issued, \$ **none** (e) Other resources, \$

2. Name of diversion work **Trimmer Ditch**
3. Quantity of water claimed **4** cubic feet per second. **75**
4. Source of water supply **Fall River**
5. Location of point of diversion **Underneath viaduct on University Avenue in the City of Hot Springs, South Dakota** on **right** bank.
(Right or left bank looking down stream.)
6. Annual periods during which water is to be used **May 1st to October 1st**
7. To be used for:

I. Irrigation or domestic use

- (a) Number of acres to be irrigated **10** acres. **All of Block 6; Lots 1 to 16 both inclusive in Block 7; Lots 1 to 24 both inclusive in Block 8; Lots 1 to 16 both inclusive in Block 9; and 1 of Blocks 10, 11 and 12 in Trimmer's Addition to the town of Hot Springs, S. Dak.**
(b) Legal subdivisions to be irrigated
(c) Statement as to domestic use (giving location, etc.)

water for livestock

II. Mining, power, manufacturing, transportation, or other purposes:

- (a) Nature of use
(b) Amount of power to be generated horse power
(c) Location of plant
(d) Method of developing power
(e) Point where water will be returned to stream

State Engineer

8. Estimated cost of works:

(a) Head gates, \$ 50.00 (b) Pumping plant, \$
(c) Fluming, \$ (d) Canal-earth, \$ Rock \$
(e) Other structures \$ Total, \$

9. Description of diversion works:

I. Nature of works: (Reservoir, dam, ditch, flume, pumping plant, etc.)

II. Dimensions of works:

(a) Dam: Height feet; length at bottom feet; length at top feet; thickness at bottom feet; thickness at top feet; slope of front (water) face; slope of back face; material used in construction
(b) Reservoir: Capacity when filled acre feet. Surface area at highwater mark acres.

DEPTH AT OUTLET-FEET	SURFACE AREA AT EACH DEPTH AT OUTLET-ACRES	FEET OF	CAPACITY ACRE-FEET

(c) Head gate: Width 2 1/2 feet; height 4 feet;
Material Concrete
(d) Canal: Total length 3,000 feet.

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER LINE	GRADE PER MILE
At Mile feet feet feet feet				
At Mile feet feet feet feet				
At Mile feet feet feet feet				
At Mile feet feet feet feet				
At Mile feet feet feet feet				
At Mile feet feet feet feet				

(Give dimensions where reductions in size are made.)

10. Time required for completion of work years. All completed
11. Time required for complete application of water to the proposed beneficial use years.
12. Choice of newspaper for publication of notice of intention to appropriate
The Hot Springs Star, Hot Springs, South Dakota

STATE OF SOUTH DAKOTA

County of Fall River

ss.

Mae Corbin, each

I, John E. Mueller, A. W. Washburn, Kay A. Gregory and , being first duly sworn on my oath depose and say: That my relation to the above described, undertaking is that of owner, that I have read the above and foregoing statement, and examined the map accompanying the same, and that I know of my own personal knowledge that the matters herein stated and shown are true.

John E. Mueller

Signed

A. W. Washburn

Mae Corbin

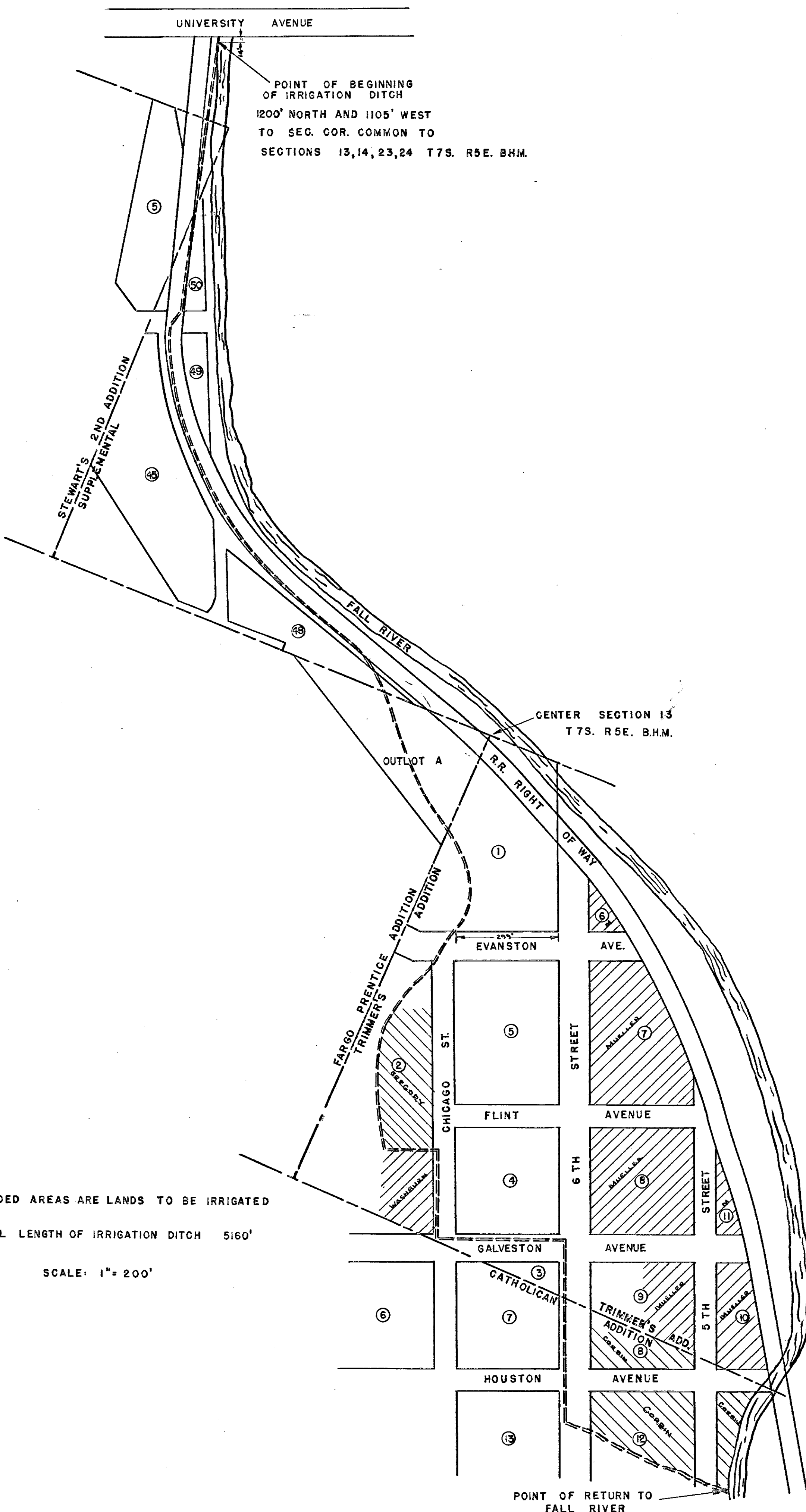
28th

day of March

1949

Subscribed and sworn to before me this

Joyce Wilson



SHADED AREAS ARE LANDS TO BE IRRIGATED

TOTAL LENGTH OF IRRIGATION DITCH 5160'

SCALE: 1"=200'

SURVEYOR'S CERTIFICATE

I, FRED D. BRADY, REGISTERED LAND SURVEYOR, DO HEREBY CERTIFY THAT, AT THE DIRECTION OF JOHN E. MUELLER, I HAVE SURVEYED THE IRRIGATION DITCH AS SHOWN ON THE ACCOMPANYING PLAT. THE LOCATION OF THE IRRIGATION DITCH IS AS SHOWN ON THE PLAT. IN WITNESS WHEREOF, I HAVE SET MY HAND AND SEAL THIS 14TH DAY OF MARCH A.D., 1949

Fred D. Brady
REGISTERED LAND SURVEYOR

CERTIFICATE BY OWNER

J.E. MUELLER, A.W. WASHBURN, MRS. MAY A. GREGORY, MRS. MAE CORBIN,
DO HEREBY JOIN IN AND APPROVE THE SURVEY AND PLAT OF THE LAND AND IRRIGATION DITCH AS SHOWN ON THE PLAT. WITNESS HAND THIS DAY OF MARCH, 1949. Mrs. May G. Gregory.
John E. Mueller Mrs. Mae Corbin
A.W. Washburn

ACKNOWLEDGEMENT OF OWNER

STATE OF South Dakota } SS.
COUNTY OF Fall River

BE IT REMEMBERED THAT ON THIS 19th DAY OF March, 1949, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC, WITHIN AND FOR THE COUNTY AND STATE AFORESAID PERSONALLY APPEARED J.E. MUELLER, A.W. WASHBURN, MRS. MAY A. GREGORY, MRS. MAE CORBIN

KNOWN TO ME TO BE THE PERSONS WHO ARE DESCRIBED IN AND WHO EXECUTED THE WITHIN AND FOREGOING INSTRUMENT AND CERTIFICATE AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

MY COMMISSION EXPIRES January 20-1953

Joyce Wilson
NOTARY PUBLIC
Fall River COUNTY
STATE OF South Dakota

OFFICE OF REGISTER OF DEEDS

STATE OF SOUTH DAKOTA

COUNTY OF _____

FILED FOR RECORD THIS _____ DAY OF _____ A.D., 19____ AT _____ M., AND RECORDED IN BOOK OF PLATS _____ ON PAGE _____ THEREIN.

REGISTER OF DEEDS

BY

DEPUTY

428 MP 381-2
(MP) W/R 328-2

Remarks by State Engineer:

This water right confirms water right No. 0552-2 under date of 1880 to the extent indicated in the application but no rights under the original filing are hereby revoked.

STATE OF SOUTH DAKOTA

County of Hughes

ss.

Pierre, South Dakota, July 19, 1949

This is to certify that the foregoing application was received at this office at 8:10 o'clock a. m. upon the 19th day of April, 1949 and that after examination it was found to comply with the water laws of South Dakota, was duly advertised in accordance therewith and no protests received.

DEAN W. LOUCKS

State Engineer.

Number of permit 328-2

Date of first receipt of application April 19, 1949

Date of return to applicant for correction April 23, 1949

Date of receipt of corrected application May 18, 1949

Date from which applicant may claim right April 19, 1949

Approved July 19, 1949, Recorded in Book II Page 606 and 607

This is to certify that I have examined the foregoing application for a permit to appropriate water of the state of South Dakota, and I hereby grant the same as stated herein, subject, however, to the following limitations and conditions:

- 1st. The equivalent of at least one-fifth, of the work above specified is to be completed on or before April 19, 1950
- 2nd. The whole of said work is to be completed on or before April 19, 1951
- 3rd. The limit of time for proof of beneficial use of water appropriated in accordance herewith is April 19, 1951
- 4th. The water appropriated shall be used for the purpose of irrigation and domestic use.

5th. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.

6th. The amount of the appropriation herein granted shall not exceed 0.9 cubic feet of water per second of time; neither shall it exceed the capacity of the above described system of diversion works, nor the least amount of water that experience may hereafter indicate as necessary for the production of crops in the exercise of the best husbandry; and further, said appropriation must be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for irrigation on or before April 19, 1951; said water to be used during the following described annual period:

May 1st to October 1st for irrigation, continuously for domestic purposes.

Witness my hand this 19th day of July, 1949

DEAN W. LOUCKS,

State Engineer.

No. 328-2

Division No. 2

Fall River

District

PERMIT

to appropriate water from

Fall River

Fall River County, South Dakota.

Name of applicant John S. Mueller,
A. W. Washburn, May A. Gregory and
Mae Corbin

Name of diversion works

Trimmer Ditch

Date of first receipt at office of State

Engineer April 19 19 49

Returned to applicant for Correction

April 23 19 49

Corrected application received

May 18 19 49

Date of water right

March 28 19 49

Recorded in Book II Page 606-607

One-fifth of work to be completed

April 19 19 50

Whole work to be completed

April 19 19 51

Final proof of use of water

April 19 19 51

Approved July 19

19 49

DEAN W. LUCKS State Engineer

PROOF OF PUBLICATION

RECEIVED

JUL 19 1949

STATE OF SOUTH DAKOTA }
County of Fall River } ss.

OFFICE OF STATE ENGINEER

PIERRE, S. DAK.

(First Publication June 2, 1949)

APPROPRIATION OF WATER

Office of State Engineer

Pierre, S. Dak., May 26, 1949

Notice is hereby given that John

E. Mueller, A. W. Washburn, May

A. Gregory and Mae Corbin whose

postoffice address is Hot Springs,

S. Dak., has made an application in

accordance with the provisions of

the water laws of South Dakota to

establish rights now claimed by the

applicant, etc. (See application)

for a permit to appropriate for ben-

eficial use 0.9 cubic feet of water

per second of time from the Fall

River through Trimmer Ditch, the

point of diversion of which is to be

located on the right bank of said

stream on University Avenue in the

Town of Hot Springs. Said water

to be used for the purpose of pro-

viding stockwater and irrigation in

blocks six, seven, eight, nine, ten,

eleven and twelve in Trimmer Addi-

tion.

This application will be taken up

by the State Engineer at his office

at Pierre for consideration upon the

19th day of July, 1949, at 10:00 A.

M. All persons who believe that

their prior rights would be injur-

iously affected or that the allow-

ance of the permit would be detri-

mental to the public welfare shall

file such protest with the State En-

gineer in writing prior to the above

date and may appear on the day

above mentioned in person for the

purpose of discussing further, the

information presented.

Appropriate action will be taken

by the State Engineer after suitable

time has elapsed for the considera-

tion of any or all information pre-

sented.

DEAN W. LOECKS

State Engineer

June 2-5-16-23

Charles T. Leonard being duly sworn, deposes and says the annexed printed copy of Notice of Intention to Appropriate Water was taken from the

Hot Springs Star a newspaper which during the whole time of publication of said notice herein after stated, has been and is printed and published in the

City of Hot Springs County of

Fall River and State of South Dakota;

that the said notice was published in said newspaper on the following dates:

June 2, 1949

June 9, 1949

June 16, 1949

June 23, 1949

in each and every issue of the full number thereof, the first publication being made on the 2nd day of June 1949 and the last publication on the 23rd day of June 1949, upon which days or times of publication aforesaid the newspaper was regularly published, and that during the whole time of said publication he was editor the printer and publisher of the said newspaper.

Subscribed and sworn to before me this 24th day of June A. D. 1949

Notary Public Fall River County, S. D.

(First Publication 194.....)

APPROPRIATION OF WATER

Office of State Engineer,

Pierre, So. Dak., May 26, 1942

Notice is hereby given that John E. Mueller, A.W. Washburn, May A. Gory, & Lee Corbin whose postoffice address is Hot Springs, So. Dak., has made an application in accordance with the provisions of the water laws of South Dakota to establish rights now claimed by the applicants, etc. (See application) for a permit to appropriate for beneficial use

0.7 cubic feet of water per second of time from the Fall River through the Trigger Ditch, the point of diversion of which is to be located on the right bank of said stream on University Avenue in the Town of Hot Springs in the 1/4 of the 1/4 of Section 44.

Said water to be used for the purpose of providing stockwater and irrigation in blocks six, seven, eight, nine, ten, eleven and twelve in Trigger Addition.

This application will be taken up by the State Engineer at his office at Pierre for consideration upon the 19th day of July, 1942, at 10:00 M. All persons who believe that their prior rights would be injuriously affected, or that the allowance of the permit would be detrimental to the public welfare shall file such protest with the State Engineer in writing prior to the above date and may appear on the day above mentioned in person for the purpose of discussing further, the information presented.

Appropriate action will be taken by the State Engineer after suitable time has elapsed for the consideration of any or all information presented.

B7L:RW
cc: C.A. Wilson

DEAN W. LOUCKS
State Engineer

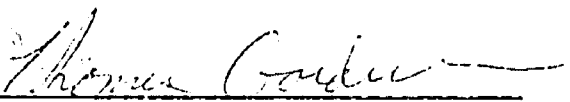
0552-2 and 328-2

On August 13, 1974, a field investigation indicated the Water Permit No. 328-2 issued to John E. Mueller, A. W. Washburn, May A. Gregory, and Mae Corbin was still in use. John E. Mueller, A. W. Washburn and May A. Gregory had passed away, leaving Mae Corbin as the only Water Permit survivor. She had since the issuing of the permit sold appurtenant lands to Mr. Alvin Clyde. Mr. Alvin Clyde said, "The ditch is used by 12 to 15 landowners adjacent to the ditch for lawn watering. The ditch is maintained by the users and no problems appear to exist."

Further investigation indicated that a previous claim was made by George Trimmer, Emma J. Houghton and O. Ferguson. This was recorded at No. 0552-2 on June 1, 1887.

The ditch is approximately one mile long, 18 inches wide and 6 inches deep.

Insofar as this office is concerned, Water Right Claim No. 0552-2 and Water Permit No. 328-2 shall be considered Vested Rights with complete legal standing.



Water Resources Engineer I
Thomas A Gardner

Water Rights Division - DWR
Conversation or File Documentation

File No. 0552-2

(328-2)
1783-2

NAME OF PERSON OR FILE: Trimmer Water Users Association - % Hugh Wynn

ADDRESS: 602 River St., Hot Springs, SD 57712 COUNTY Fall River

DATE: August 29, 1985 TELEPHONE --

RE: Incorporating 0552-2 & 328-2 with 1783-2

COMMENTS:

Water Right Filing 0552-2 has a date of
appropriation of June 1, 1880. It was filed by G.M.
Trimmer, E.J. Houghton and O. Ferguson.

Water Permit 328-2 was filed on April 19, 1979 by
Mueller, Washburn, Gregory and Corbin. This was for
lawn and garden watering in the town of Hot Springs.
The project was called the Trimmer Ditch. The application
was based on ~~0552-2~~ the continued use of water
under 0552-2.

Vested Right 1783-2 was filed on May 22, 1981 by
the Trimmer Water Users Association. The filing was for the
Trimmer ditch and was based on the continued use of
water under 0552-2. VR 1783-2 includes all of the
area described in application 328-2.

Water Permit 328-2 can be incorporated with VR 1783-2.
Water Right Filing 0552-2 can be incorporated with VR 1783-2
and the unused portions cancelled.

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.

4/82

NAME: Delwin A. Pross, P.E.
Hydrologist

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

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

WATER RIGHTS DIVISION
(605) 773-3352

1783-2

0552-2

328-2

DEC 4 1985

Hugh Wynia, Chairman
Trimmer Water Users Association
602 River Street
Hot Springs, South Dakota 57747

Dear Mr. Wynia:

Enclosed is Vested Water Right License No. 1783-2. The license was
reissued to incorporate the applicable portions of Water Right Filing
No. 0552-2 and Vested Water Right No. 328-2.

If you have any questions regarding the enclosed license, please contact
us.

Very truly yours,

John Hatch
John Hatch, Chief Engineer
Water Rights Division

JH:ms
Enc.

Equal Opportunity Employer