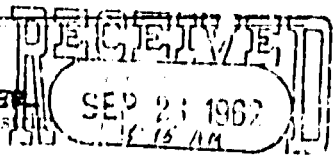


No. 784-2Water Division No. 2 SOUTH CHEYENNE RIVER
(Blanks to be filled by the Engineer for the W. R. C.)STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

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

1. Name of applicant JOHN N. McCLAIN
Postoffice address DEL RICH'S, County FALL RIVER, State S. DAK.

- I. If a corporation _____
(a) Name of name _____
(b) Date and place of incorporation _____
(c) Amount of capital stock _____
(d) Amount paid in _____
(e) Names and addresses of directors _____

(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 and contract (work completed)
(b) Cash on hand, \$ _____ (c) Treasury stock, \$ _____
(d) Bonds to be issued, \$ _____ (e) Other resources, \$ _____

2. Name of diversion work McCLAIN Diversion #2
3. Amount of water claimed 1.64 cubic feet per second 3456 Ac. ft.
4. Source of water supply Surface runoff from local watersheds
5. Location of point of diversion SW 1/4 Sec 24, T11S, R7E, BHM. from SW corner, North 22°, E 122nd on east bank FALL RIVER County.

6. Annual period or periods during which water is to be used Whenever flow occurs during annual period.
7. To be used for:

- I. Irrigation or domestic use: Gravity, overhead sprinkling or combination system? Gravity
(a) Number of acres to be irrigated 115.2 acres.

(b) Legal subdivisions to be irrigated See attached 1/4 sec. map.
(NOTE—A list of lands to be irrigated, giving each subdivision and fraction with acreage thereof, should be written here, or may be appended as a part of this application. Same must also be shown on accompanying map.)

- (c) Statement as to domestic use (giving location, etc.) Only irrigation.

II. Stockwatering, mining, milling, power, fish culture, fire protection and public recreation:

- (a) Nature of use _____
Name any of the above uses claimed _____
(b) Amount of power to be generated _____ horse power.
Amount claimed for engine cooling _____
(c) Location of plant _____
(d) Method of developing power _____

V/R

8. Estimated cost of work:

(a) Head Gates, \$.....

(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.)

Series of dikes and ditches for waterspreading

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 at front water face; slope at 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	ACRE- FEET CAPACITY

(c)* Head gate: Width *14" c m p* feet; height feet; Material

(d) Canal: Total length *None* miles.

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER-LINE	GRADE PER MILE
At <i>0.0</i> Mile	 feet	 feet	 feet	<i>5.0</i> 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 reduction in size was made.)

10. Time required for completion of work *work completed* years.

11. Time required for complete application of water to the proposed beneficial use *now being utilized* years.

12. Choice of newspaper for publication of notice of intention to appropriate

STATE OF SOUTH DAKOTA

County of *Full River* } ss.

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

Signed *John W. McLean*

Subscribed and sworn to before me this *21* day of *September* 19*67*

Ray Allen
Notary Public (or other qualified officer.)

*Each diversion must have a headgate or measuring device.

Remarks by State Water Resources Commission:

"VESTED RIGHT" CLAIMED

STATE OF SOUTH DAKOTA
County of HUGHES ss.

Pierre, South Dakota, OCTOBER 15, 1962

This is to certify that the foregoing application was received by the Commission at 8:15 o'clock

a.m. upon the 26TH day of SEPTEMBER, 1962

State Water Resources Commission

By:

[Signature]
Chief Engineer, Executive Officer

Number of permit 784-2

Date of first receipt of application SEPTEMBER 26, 1962

Date of return to applicant for correction, amendments or changes required as follows: _____, 19____

Date of receipt of corrected application _____, 19____

Date from which applicant may claim right AUGUST, 1940

Approved OCTOBER 15, 1962, Recorded in Book 7 Page 184

This is to certify that we have examined the foregoing application for a permit to appropriate water of the State of South Dakota, and we 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 _____, 19____

2nd. The whole of said work is ~~to be~~ completed on or before _____, 19____

3rd. The limit of time for proof of beneficial use of water appropriated in accordance herewith is

COMPLETED, 19____
4th. The water appropriated shall be used for the purpose of irrigation

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 1.64 cubic feet per second, 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 ^{was} actually and beneficially applied for irrigation on or before JUNE 30, 1955; said water to be used during the following described annual period:

whenever available during annual season

Witness my hand this 15TH day of October, 1962

State Water Resources Commission

By:

[Signature]
Chief Engineer, Executive Officer

Certificate of Construction Issued October 15, 1962

Water License Issued October 15, 1962

Remarks by the Applicant:

Map taken from records of Fall River Soil
Conservation District.

Point of diversion determined from
U.S. Dept. of Agriculture air survey map
BMX-2T-128, of 9-24-57.

Diversion in NE⁴ Sec. 24, T. 11. S., R. 8 E., BHM -
from SW corner, 27° north, 155 rods. This
is a diversion of a second watershed, but
the water spreading system is in conjunction
with the primary diversion.

AREA NO.	DESCRIPTION	ACRES
1	NW-NE 24-11-7E	12.4
2	NE-NE	30.0
3	SW-NE	18.4
4	SE-NE	7.6
5	NE-SW	25.2
6	SW-SW	2.8
7	SE-SW	18.3

STATE OF SOUTH DAKOTA

WATER LICENSE No. 794-2

WHEREAS, On the 26th day of September A. D. 1962
John H. McLain

of Oelrichs County of Fall River and State of
South Dakota duly made application (No. 794-2) Vested Right 1.64
cubic feet per second of the waters of dry draws
County of Fall River, State of South Dakota, for Irrigation
purposes, and

WHEREAS, On the 15th day of October A. D. 1962

Vested Right Permit No. 794-2 was issued to said applicant for the diversion of said water, and providing for the
completion of the works of diversion therein described ~~XXXXXX~~ ^{recognizing} the day of
~~XXXXXX~~ and for the application to beneficial use of said
water ~~XXXXXX~~ ^{XXXXXX} and,
and,

WHEREAS, On the 26th day of September A. D. 1962
the holder of said permit duly made proof of the completion of adequate works for the diversion of 1.64
cubic feet per second of said waters, as evidenced by our Certificate No. 794-2
dated October 15, 1962 confirming the completion of works of sufficient capacity for
diverting and conveying to the place of intended use 1.64 cubic feet per second of water, with date of
priority of August, 1940 and,

WHEREAS, On the 26th day of September A. D. 1962
proof was duly made of the application to beneficial use of 1.64 cubic feet per second of said water;
for irrigation of 115.2 acres in Section 24, T11S, R7E

NOW, THEREFORE, By the virtue of the authority vested in us by the laws of the State of South Dakota,
We hereby grant and confirm to John H. McLain
of Delrichs the holder and owner of Vested Right of said permit No. 711-2
a water right, dating from August, 1940 to the use of 1.64
cubic feet per second of the waters of dry draws
in the County of Fall River and State of South Dakota, or so much thereof as may be
necessray for the purposes hereinabelow mentioned, to be diverted at a point N22°E, 122 rods from the
SW corner, Section 24, T11S, R7E
and conducted to and upon portions of Section 24, T11S, R7E, more specifically described
in the Certificate of Completion of Works.
for the purpose of irrigation

subject, however, to the laws of the State of South Dakota applicable to a license for the use of the waters of the
State, and subject also to the local or community customs, rules and regulations which have been or may be
adopted from time to time by a majority of the users from a common source of supply, canal or lateral from
which such water may be taken, when such rules and regulations have for their object the economical use of such
water.

WITNESS, My hand and seal of our office at Pierre, South Dakota,
this 15th day of October A. D. Nireteen.
Hundred and Sixty-Two

State Water Resources Commission

By:

Chief Engineer, Executive Officer
J. W. GRIMES

STATE OF SOUTH DAKOTA

Water License No. _____

Source of Supply _____

County _____

Amount of Diversion _____ c. f. s.

Purpose of Use _____

Priority _____

Recorded _____

Book _____ of _____ Page _____

Permit No. 784-2Water Division No. 2 So. Cheyenne River Water District**Certificate of Completion of Works**

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That John M. McLain

of Oelrichs, County of Fall River, and State of South Dakota, the holder of Vested Right of Permit No. 784-2, issued upon Application No. 784-2, bearing date of priority of August 1940, authorizing the diversion of 1.64 cu. ft. per second of the waters of dry draws

County of Fall River, State of South Dakota, at a point N22°E, 122 rods from the SW corner, Section 24, T11S, R7E

, for irrigation

purposes, has fully complied with the provisions of the laws of the State of South Dakota relating to proof of completion of the works of diversion set out and described in said Permit, that said works are recognized as ~~found~~ in satisfactory condition for diverting and conveying to the place of intended use 1.64 cu. ft.

per second of water; and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit: all in Section 24, T11S, R7E

NW¹ NE¹ 12.4 acres

NE¹ NE¹ 30.0 "

SW¹ NE¹ 18.4 "

SE¹ NE¹ 7.6 "

NE¹ SW¹ 25.2 "

SW¹ SW¹ 2.8 "

SE¹ SW¹ 18.8 "

Total.... 115.2 "

Witness my hand this 15th day of October A. D. 1962

State Water Resources Commission

By:

Chief Engineer, Executive Officer
J. W. CRIMES

Location No.

Water Division No. Water District

Proof of Application of Water to Beneficial Use**PETITION OF HOLDER**

Ques. 1. State your name, residence, occupation and postoffice address.

Ans. JOHN N. McLAIR, Slim Butte Twp., DeRiachs,
S. Dak. — Rancher.

Ques. 2. If acting in behalf of a corporation, state its name, principal place of business (if a foreign corporation, give name and postoffice of statutory agent,) your position with reference to same, and your authority for appearing in its behalf.

Ans.

Ques. 3. State date of posting and date of recording notice of appropriation.

Ans. Vested Right is being submitted, along with
application for permit.

Ques. 4. State source of water supply and give exact location of point of diversion.

Ans. From surface runoff of local watersheds. North 22°
East, 122 rods from SW corner of SW 4 Sec 24, T. 115, R. 7E BHM

Ques. 5. Describe your works of diversion giving length and height of each dam and state amount of water they are capable of conveying from point of diversion to place of use, and give name of canal or ditch or other works by which water is conducted to such place of use, and date of completion of same.

Ans. Ditch capacity adequate to carry max. of 345.6
Ac. ft. water allowable during annual period of use,
through McLAIR diversion #2, completed August 1940.

Ques. 6. State for what purpose water is used and describe place of use. (If for irrigation, name each subdivision in which used, and number of acres in each subdivision that have ACTUALLY been irrigated with said water.)

Ans. Water used for irrigation. See attached map
and listing for acreage.

Ques. 7. If for other than irrigation purpose, state how applied, amount of horse power generated, etc.

Ans.

Ques. 8. What is the minimum amount of water required for the use specified above?

Ans. 345.6 Ac. ft. or 1.64 CFS.

Ques. 9. If you are not the person or representative of the corporation to whom above mentioned permit was originally issued, please state how ownership was acquired by present holder

Ans.

Ques. 10. State when, how, in what amount and to what extent, the water diverted under above mentioned permit has been used.

Ans. Water has been applied to area shown on attached map by gravitational means through a series of dikes and ditches, in the amount available, when available.

(Sign)

John M. McLean

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Plebeles, County of Fall River

State of South Dakota, on this 21 day of September, A. D. 1962

Witnesses.

L. J. Miller
Notary Public

I, the undersigned, do hereby certify that I am a duly qualified elector residing in the immediate vicinity of the diversion works designated in the foregoing testimony, that I have no interest in the works, water or land above described, that I have read the foregoing testimony and that I know of my own personal knowledge that the matters therein stated are true.

Charles P. Hall

Carl P. Hall

Location No. -----

**PROOF OF APPLICATION OF
WATER TO BENEFICIAL USE**

PETITION OF HOLDER

Amount of Water ----- c. f. s.

Source -----

County -----

Purpose -----

Place of Use -----

Date of recording -----

Received and filed -----

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

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

September 21, 1988

NOTICE

John McLain
Oelrichs SD 57763

Dear Mr. McLain:

I am writing to notify you that pursuant to the Notice of Intent to Validate Vested Water Right Claims dated June 20, 1988 that I intend to oppose validation of your water right claim No(s). 784-2, 785-2 until a field inspection has been completed. The claim has either never been inspected or an inspection was conducted so long ago that a new inspection is needed. An inspection is needed to determine the current state of your vested water right claim.

A staff member from the Division of Water Rights will be contacting you and scheduling an inspection of your water project. If we can answer any questions, please contact us.

Very truly yours,

Delvin D. Brosz

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



**SOUTH DAKOTA Department of
Water & Natural Resources**

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

December 1, 1988

Vested Water Right
Claim No. 784-2, 785-2

John McLain
Oelrichs SD 57763

Dear Mr. McLain:

Enclosed is a copy of a letter received from the U.S. Department of Interior, Bureau of Reclamation. The Bureau of Reclamation is opposing those vested water right claims in Pennington, Perkins, Butte and Fall River counties which have never been investigated by the Division of Water Rights. Earlier, you received a letter stating that I was opposing your claim until an investigation can be completed.

After the investigation has been completed, you and the Bureau of Reclamation will be notified as to the date, place and time of the hearing on your vested water right claim. At that time all parties of record will have an opportunity to testify on the validation.

If we can answer any questions, please contact us.

Very truly yours,

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

cc: Bruce Laymon, Bureau of Reclamation





Department of Water & Natural Resources

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

March 23, 1990

784-2

NOTICE

TO: John N McLain
OELRICHS, SD 57763

FROM: *for Delvin D. Brosz*
JOHN HATCH, CHIEF ENGINEER
Water Rights Division
(605)773-3352

SUBJECT: Low Water Levels in Angostura Reservoir

The water level in Angostura Reservoir on March 6, 1990 was at 3171.1 feet above mean sea level (msl). This is approximately 16 feet below the full elevation of 3187.2 msl. The present estimates are that the Angostura Irrigation District will be able to deliver less than 50% of full service water to project lands during the 1990 irrigation season. We are contacting you to advise you of the actions we have taken due to the low water situation in Angostura Reservoir. Junior Water Right owners above Angostura have been ordered not to use water until Angostura fills.

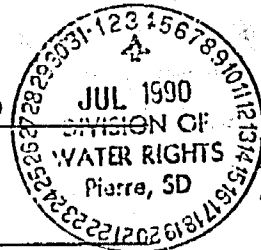
Since your Water Right No. 784-2 has a priority date that is senior to the April 11, 1941 priority for Angostura Irrigation Water Right No. 579-2, your permit is not directly affected by the Junior Priority Order. However, I am requesting that all Senior Water Right holders comply with any qualifications and limitations as stated on their water right. With the existing low runoff conditions, we expect to monitor all water rights above Angostura Reservoir.

I want to thank all Water Right Holders above Angostura for the cooperation that we have received up to this time. If you have any questions, please contact Del Brosz (605 773-3352).

NOTICE OF TRANSFER OF OWNERSHIP

No. 784-2

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

Date: 7-2-90I/We request that Vested Water Right Claim No. 784-2formerly owned by: John McLain

be transferred to: (name & address) Ardith W. McLain
Box 164 Del Rio SD 57763 (telephone No.) 535-2522

Title to the following described land(s)/property has been transferred as described above:
115.2 acres - NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ Section 24, T11S, R7E

I/We understand that the validity of Vested Water Right Claim No. 784-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

STATE OF SOUTH DAKOTA)
County of Hutchinson)

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

Ardith W. McLain
(Signed)

Subscribed and sworn to before me this 2 day of July, 1990.

Caroline Hunt
(Notary Public)

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

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

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

412296

Pierre, July 3, 1990

RECEIVED OF Ardith McLain, Box 164, Oelrichs, SD 57762-0164

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct works and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>Vested Water Right Claim No. 784-2</u>	2	50
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____ (Any Other Work Provided by Law)		
Total	2	50

By

John Hatch
Chief Engineer

South Dakota Department of
Water & Natural Resources

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

July 5, 1990

No. 784-2
785-2

Ardith W. McLain
Box 164
Oelrichs SD 57763

Dear Mrs. McLain:

Enclosed are receipts in the amount of \$2.50 each which you paid for the transfer of Vested Water Right Claim Nos. 784-2 and 785-2.

Our records now show you as the owner of these Vested Water Right Claims.

Sincerely,

Karen Schlaaf

KAREN SCHLAAF
Senior Secretary
Water Rights Division
605 773-3352

enclosure

Conversation or File Documentation

NAME OF PERSON OR FILE: John N. McLainADDRESS: Delrich, SD COUNTY Fall RiverDATE: June 27 1990 TELEPHONE _____RE: Inspection of Vested Water Right Claim No. 784-2

COMMENTS:

I inspected this claim on June 20, 1990. I was accompanied by Mrs. John McLain's son-in-law. The water spreading irrigation system exists as described on the claim and is in working condition.

John McLain is deceased. The claim should be transferred to Mrs. John McLain.

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: William W. Bragg, P.E.
N.R. Engineer



Department of Water & Natural Resources

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

June 28, 1990

784-2
785-2

Mrs. John McLain
Oelrichs, SD 57763

Dear Mrs. McLain:

Enclosed are partially completed "Notice of Transfer" forms for use in filing ownership changes on Vested Water Right Claim Nos. 784-2 and 785-2. The claims are currently listed in the name of John McLain.

The transfer forms should be checked over for accuracy and signed in the presence of a notary public. Upon completion, return the forms to our office with a required filing fee of \$2.50 each (total of \$5.00).

South Dakota Water Law 46-5-30.3 requires Notice of any sale, grant, lease, conveyance or other transfer of a water permit or water right to appropriate water to be filed with this office within ninety days.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Natural Resources Analyst
(605) 773-3352

enclosures

SOUTH DAKOTA.

VESTED WATER RIGHT NO. 784-2 FOR IRRIGATION

Date of Receipt of Claim September 26, 1962.

Date of Validation May 6, 1992.

The Water Management Board validated Vested Water Right Claim No. 784-2 for irrigation purposes for Ardith W. McLain, Box 164, Oelrichs SD 57763 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 784-2 appropriates 1.64 cubic feet of water per second from dry draws located in the NW 1/4 SW 1/4 Section 24 to irrigate 115.2 acres located in the NE 1/4, NE 1/4 SW 1/4, S 1/2 SW 1/4 Section 24; all in T11S-R7E.
2. The appropriation may not exceed the amount of water needed for beneficial use for irrigation. The appropriation may not exceed 3 acre feet per irrigated acre per year. Water is to be used during the following annual period: January 1 - December 31.
3. The priority date of the Vested Water Right is August 1, 1940.
4. The water use system has been constructed and water has been applied to beneficial use.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

By: _____

John H. Hallett
Chief Engineer

JUL 1 1992

date

Division of Water Rights
Dept. of Environment and Natural Resources



784-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

JUL 1 1992

Ardith McLain
Box 164
Oelrichs SD 57763

Dear Mrs. McLain:

The Water Management Board has validated the enclosed Vested Water Right Nos. 784-2 and 785-2. These validations give legal status to the claim and are the final document for your vested rights.

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

Very truly yours,

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

enclosure



100-111111
100-111111

WTR 4.10
BF-430

United States Department of the Interior

BUREAU OF RECLAMATION

Great Plains Region
Belle Fourche Projects Office
P.O. Box 226
Newell, South Dakota 57760-0226

AUG 18 1993



Mr. John Hatch, Chief Engineer
Water Rights Division
South Dakota Department of Water and Natural Resources
523 E. Capitol
Pierre SD 57501-3181

Subject: Vested Water Right Claims in Western South Dakota (Your Letter
Dated April 20, 1993) (Water Rights)

Dear Mr. Hatch,

We have reviewed the vested water right claims located in Perkins, Pennington, Fall River, and Butte Counties as listed in your letter dated April 20, 1993. We have also discussed these rights with contract water users. We appreciate the assistance of your staff in providing documentation of inspections and validation proceedings for specific claims as we requested.

We are satisfied with all of the actions taken by the board. Our intent in opposing validation of the water rights was to assure that all of the rights were reviewed prior to validation. That review has been completed by your staff. Thank you for notifying us of the board's actions and extending the opportunity to reconsider the actions if it would have been deemed necessary. We understand that future notification will be made in advance of board actions.

If we can be of further assistance, please contact Craig Kjar or me at (605) 456-2695.

Sincerely,

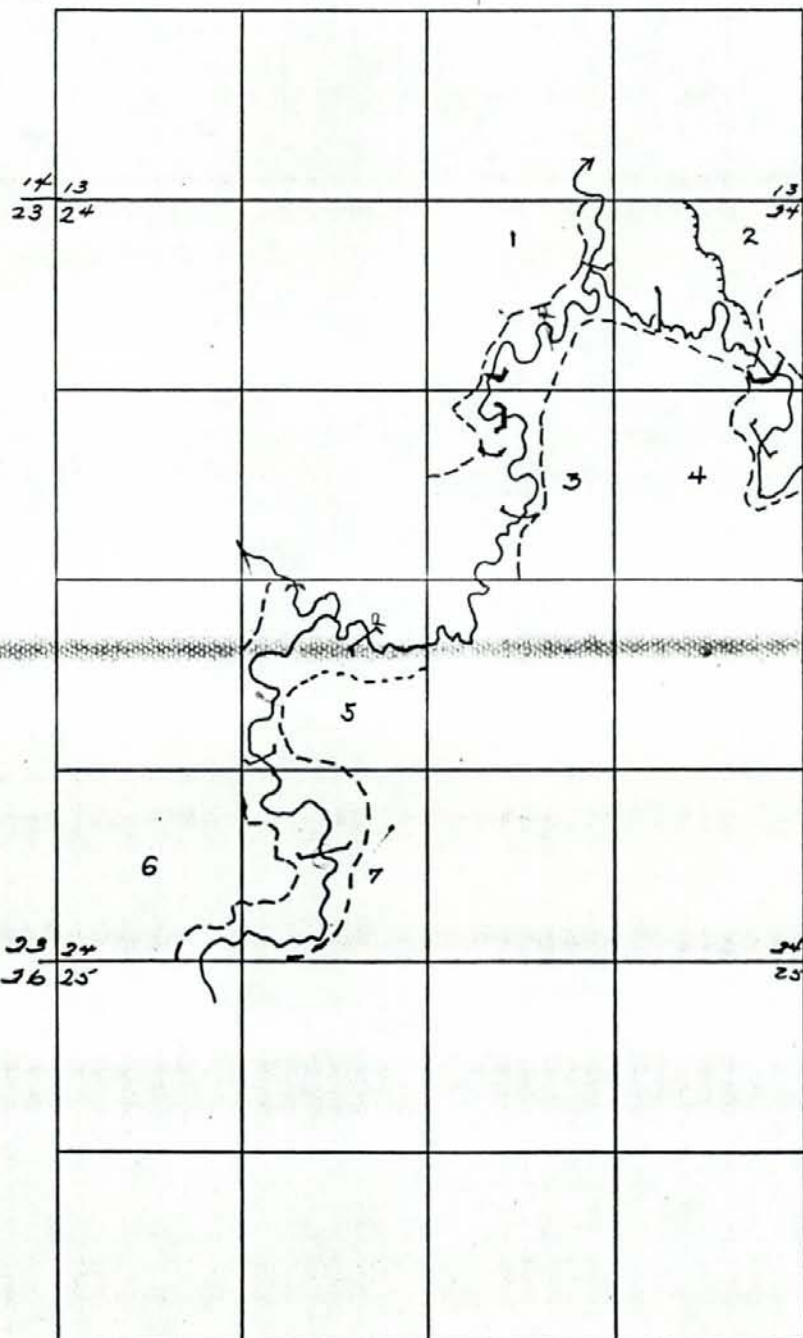
Bruce M. Laymon
Project Manager

cc: Mr. Joe Kramer, Manager
Angostura Irrigation District
PO Box 346
Oral SD 57756

Mr. James E. Winterton, Project Manager
Belle Fourche Irrigation District
PO Box 225
Newell SD 57760

Needs transfer to
McLain

N
4



J. McLAIN

(148 II

784-2)



March 23, 2005

784-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

784-2
785-2

Hald Brothers
HC 46 Box 5
Oelrichs SD 57763

Wayne Cope
PO Box 112
Oelrichs SD 57763

Dear Sirs:

Recently, when mailing out shutoff orders for junior water right holders, it came to our attention that ownership on Vested Water Right Nos. 784-2 and 785-2 had changed. The vested rights are currently listed in the name of Ardith McLain.

Your names were obtained from the Fall River County Assessor's office as owning portions of the land described in the vested rights. Enclosed are copies for your review.

Also enclosed are partially completed Notice of Transfer of Ownership forms for filing an ownership change. Please complete the forms by including the correct legal descriptions of the land you own. Upon completion, please sign the forms and return them to our office with a required filing fee of \$2.50 each. The check or money order for the fee can be made payable to the Water Rights Program.

If you only own a portion of each one, list only the legal descriptions you own and we will divide the water right accordingly.

Thank you for your assistance in this matter and if you have any questions, please let me know.

Sincerely,

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

enclosures

Land described in Vested Water Right Nos. 784-2 and 785-2 (Ardith McLain):

Vested Water Right No. 784-2		Vested Water Right No. 785-2	
Section 24, T11S, R7E		Section 7, T11S, R8E	
NW ¼ NE ¼	12.4 acres	NW ¼ SE ¼	10.8 acres
NE ¼ NE ¼	30.0 acres		
SW ¼ NE ¼	18.4 acres	Section 18, T11S, R8E	
SE ¼ NE ¼	7.6 acres	NE ¼ NW ¼	4.0 acres
NE ¼ SW ¼	25.2 acres	NW ¼ NE ¼	20.0 acres
SW ¼ SW ¼	2.8 acres	NE ¼ NE ¼	5.2 acres
SE ¼ SW ¼	18.8 acres	SW ¼ NE ¼	0.8 acres
		SE ¼ NE ¼	10.0 acres



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 9, 2005

784-2
785-2

Wayne Cope
PO Box 112
Oelrichs SD 57763

Dear Mr. Cope:

On March 23, 1005, I wrote to you and "Hald Brothers" concerning ownership of land described in Vested Water Right Nos. 784-2 and 785-2. The vested rights are currently listed in the name of Ardith McLain.

We received a response back from Hald's saying they do not have an interest in the water rights. We need to know whether you own the land and if you want to maintain the vested water rights.

The vested rights are transferable as long as they have not been abandoned or forfeited for non-use. Under South Dakota water law, water must be placed to beneficial use for the purpose it was appropriated at least once every three years unless legal excuse exists for not irrigating. Enclosed are excerpts of the laws and rules dealing with these issues.

Please contact us as to whether or not you do indeed own the land and if so, do you wish to maintain the water rights on them. If you do not own the land and we need to be contacting someone else, let me know.

Sincerely,

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

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

April 28, 2006

MEMO

To: File
Donald E. Stroup
From: Donald E. Stroup, DENR Natural Resources Project Engineer
Subject: Water Right Nos. 784-2 & 785-2

Persons Contacted: Mr. Hald & Mr. Cope

On April 27, 2006 I spoke with Mr. Hald, the present owner of a portion of the property (NE¼ NW¼ Section 18 T11S R8E) irrigated under Water Right No. 785-2. Mr. Hald advised me that the property never should have been listed as irrigated under 785-2 since Mr. McLain did not own that acreage. He also stated that he advised some one from the state years ago of this and that the acreage should be removed from the water right.

On April 28, 2006 I spoke with Mr. Leslie Cope who now owns all of the lands previously owned by Mr. McLain. I advised him that we would send him the forms to transfer Water Rights 784-2 and 785-2 to him and that the acreage in the NE¼ NW¼ Section 18 T11S R8E would be removed from 785-2. Mr. Cope agreed to this.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 1, 2006

784-2
785-2

Leslie Cope
14160 Fhirk Rd
Oelrichs SD 57763

Dear Mr. Cope:

Recently, Don Stroup with our program, visited with you about ownership of land described in Vested Water Right Nos. 784-2 and 785-2. The vested rights are currently listed in the name of Ardith W McLain.

Enclosed are partially completed Notice of Transfer of Ownership forms for filing ownership changes. Please review the forms and make any necessary corrections. Upon completion, please sign and return them to our office with a required filing fee of \$2.50 each (total of \$5.00). The check or money order for the fee can be made payable to the Water Rights Program.

Vested Water Right No. 785-2 describes a portion of land in the NE ¼ NW ¼ Section 18, T11N, R8E. It has been brought to our attention that the land should never have been placed on the vested right. It appears that the legal description was written in after the claim was filed and subsequently was carried along through the validation process. We have received a request from Hald Brothers, the owner of the land in question, to remove the legal description from the vested right. They have indicated they do not have any interest in the water right.

Upon receipt of both of the transfer forms and the filing fees, Vested Water Right Nos. 784-2 and 785-2 will be transferred to your name. No. 785-2 will be reissued to remove the portion of land discussed above.

If you have any questions, please contact me.

Sincerely,

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

NOTICE OF TRANSFER OF OWNERSHIP

RECEIVED

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

MAY 12 2006
WATER RIGHTS
PROGRAM

No. 784-2

Date: _____

I/We request that Vested Water Right No. 784-2

formerly owned by: Ardith McLain

be transferred to: (name & address) Cope Ranch

14160 Shirk Creek Rd.

Del Rio SD 57763 Telephone No. 605-535-6910

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

115.2 acres - NE ¼, NE ¼ SW ¼, S ½ SW ¼ Section 24, T11S, R7E

I/We understand that the validity of Vested Water Right No. 784-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

I/We Cope Ranch, the new owner, certify that the above information is true and correct.

Cope Ranch by
Cope Ranch Leslie Cope (PTR)
(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 May 12, 20 06

RECEIVED OF Cope Ranch, HC 46 Box 3, Oelrichs SD 57763

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	2	50
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>784-2</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. _____	2.50	
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	2.50

No.

02441

By Darland Ebel
Chief Engineer gm



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

May 17, 2006

784-2
785-2

Leslie Cope
Cope Ranch
14160 Shirk Creek Rd
Oelrichs SD 57763

Dear Mr. Cope:

The ownership changes you filed with Vested Water Right Nos. 784-2 and 785-2 have been received. The transfers have been completed. The vested water rights formerly listed in the name of Ardith McLain are now listed in the name of Cope Ranch.

Enclosed are your Receipt Nos. 02440 and 02441 in the amount of \$2.50 each. You may keep them for your records.

Also enclosed is Reissued Vested Water Right License No. 785-2. Hald Brothers have requested that the portion of land they own in the NE ¼ NW ¼ Section 18, T11S, R8E be removed from the license because it was never part of the project and was never owned by the McLain's. The license was reissued to remove the legal description with the remaining portions of the license left as is.

As long as you use the water beneficially as described in the vested water right, South Dakota Water Law provides that you have a continuing right to the use of the water.

If you have any questions concerning the ownership changes or the reissued license, please contact Genny McMath with our program at (605) 773-3352.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program

enclosures