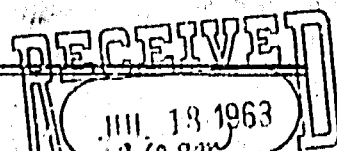


804.2

1. Considered 9-5, 1968
2. Name of Applicant Kenneth E. Brown
3. Post Office Address Philo
4. Amount of water claimed 1.0 (1.92 max allowable)
5. Source of water supply Box River
6. Water to be used for irrigation
Acres to be irrigated 60.0
7. Water to be diverted and used in Yuba County about
13 W 25 miles of Philo
8. Proof of Publication Received ✓
Not Received _____
9. Application Approved _____
Subject to _____
Not Approved _____
Action deferred _____

10. Remarks:

No. 804-2Water Division No. 2 BAD RIVER
(Blanks to be Filled by the Engineer for the W. R. C.)District 2 to am
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 Kenneth E. Berry
 Postoffice address Box 251, Fort Pierre, Micksville, County Hauke, State S. Dak

- I. If a corporation _____
 (a) Name of same _____
 (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)

by self with privately owned equipment
 (b) Cash on hand, \$ _____ (c) Treasury stock, \$ _____
 (d) Bonds to be issued, \$ _____ (e) Other resources, \$ _____

2. Name of diversion work _____

3. Amount of water claimed
- one
- cubic feet per second _____

4. Source of water supply
- Bad River
- _____

5. Location of point of diversion
- from river beginning at about N10°E and 1000

- from 532' 102' and 83' 5' from
same sec. corner on left bank Hauke County.

6. Annual period or periods during which water is to be used
- May 1 to Oct 1

7. To be used for:

- I. Irrigation or domestic use: Gravity, overhead sprinkling or combination system? _____

- (a) Number of acres to be irrigated
- 64.11
- acres.

- (b) Legal subdivisions to be irrigated
- see attached sheet

(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.) _____

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 _____

- (e) Point where water will be returned to stream _____

MAP No 692-2

8. Estimated cost of work:

(a) Head Gates, \$ None

(b) Pumping plant, \$ 250

(c) Plumbing, \$ _____ (d) Canal earth, \$ _____

Rock, \$ _____

(e) Other structures 6" Aluminum Pipe \$400

Total, \$ _____

9. Description of diversion works:

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

Portable Pumping station, tractor driven

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 _____ feet; height _____ feet; Material _____

(d) Canal: Total length _____ miles

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 One years.

11. Time required for complete application of water to the proposed beneficial use One years.

12. Choice of newspaper for publication of notice of intention to appro: its PIONEER REVIEW
of Philomath, S. Dakota

STATE OF SOUTH DAKOTA

County of Haskell

I, Kenneth E. Benson, 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 Kenneth E. Benson

Subscribed and sworn to before me this

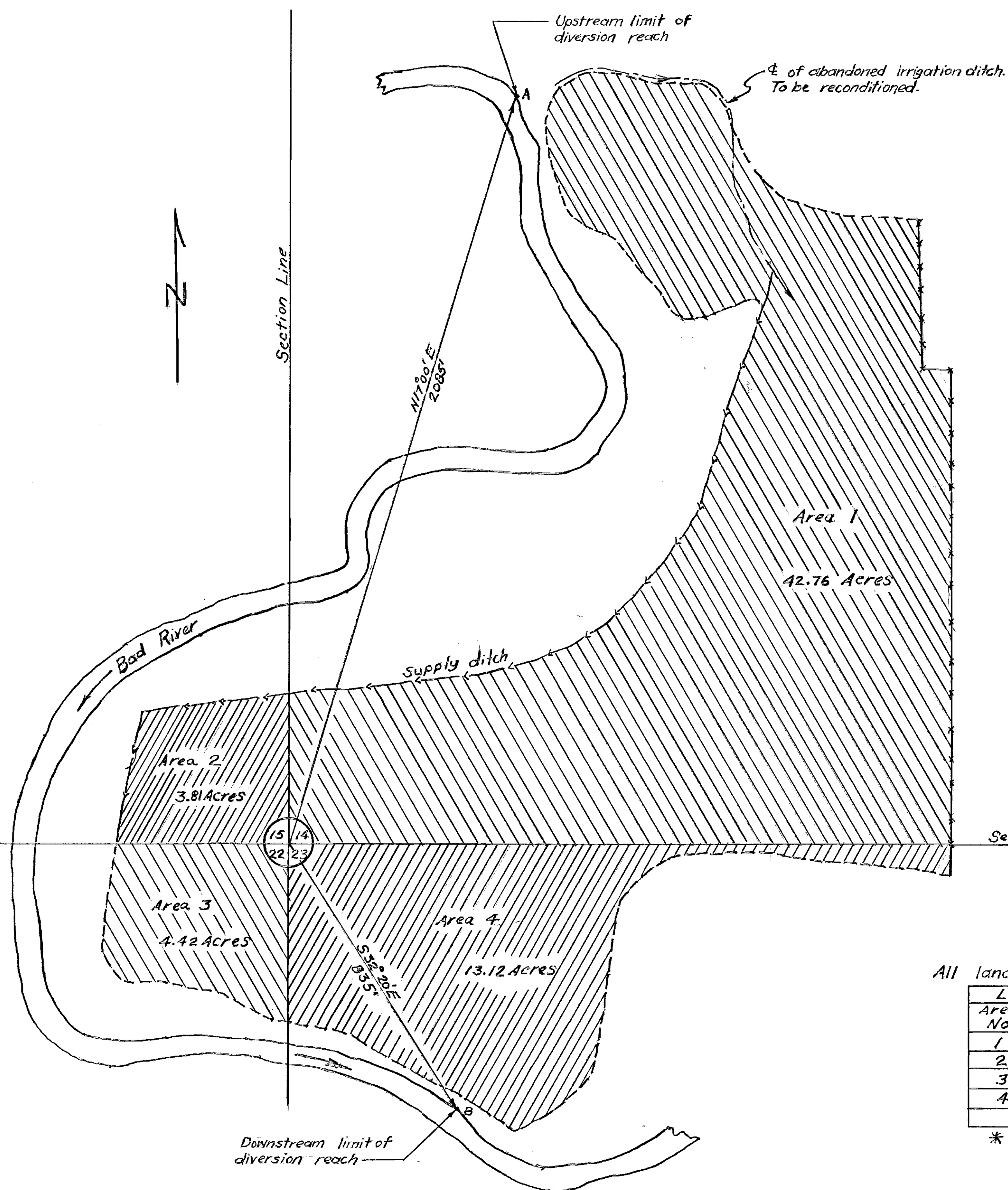
17 day of

1923

Kenneth E. Benson
Notary Public (or other qualified officer.)

*Each diversion must have a headgate or measuring device

BASIL E. HENDERSON, NOTARY PUBLIC
HASKELL COUNTY, SOUTH DAKOTA



NOTES:

1. Water will be pumped from River between Points A and B.
2. Evidence indicates that this flood plane was irrigated years ago.
3. The land is level, sloping gently to the southeast.
4. Natural drainage will carry excess water to the Bad River.
5. A minimum of shallow ditching will be required for the distribution canals.

SURVEYOR'S CERTIFICATE

I, George L. Jacobson, do hereby certify that this map is a reasonably accurate description of the land intended for irrigation by Kenneth E. Berry

George L. Jacobson

Subscribed and sworn to before me this 2 day of July 1963.

L. R. Pomeroy
Notary Public

My commission expires May 19, 1967

All lands described are owned by Kenneth E. Berry

LOCATION OF LAND TO BE IRRIGATED					
Area No.	Location	Section	Tier*	Range*	Acres
1	SW ⁴	14	1N	22E	42.76
2	SE ⁴ SE ⁴	15	1N	22E	3.81
3	NE ⁴ NE ⁴	22	1N	22E	4.42
4	N ² NW ⁴	23	1N	22E	13.12
Total					64.11

* Black Hills Meridian.

KENNETH E. BERRY
IRRIGATION PROJECT NO. 1
Haakon County S. Dakota

Surveyed and Mapped by G. L. Jacobson
Scale: 1" = 200' July 2, 1963

MAP NO 692-2 (APP NO 804-2)

Remarks by State Water Resources Commission:

YOUR USE OF WATER UNDER THIS PERMIT IS CONTINGENT
UPON SUPPLIES BEING AVAILABLE FOR PRIOR WATER
RIGHTS AND DOWNSTREAM DOMESTIC USE

STATE OF SOUTH DAKOTA
County of HUGHES } ss.

Pierre, South Dakota, SEPTEMBER 10, 1963

This is to certify that the foregoing application was received by the Commission at 8:00 o'clock
4 a.m. upon the 18 day of JULY, 1963

State Water Resources Commission

By: [Signature]

for Chief Engineer, Executive Officer

Number of permit 804-2

Date of first receipt of application JULY 18, 1963

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 JULY 18, 1963

Approved SEPTEMBER 5, 1963, Recorded in Book 53 Page 119

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 _____

MARCH 5, 1964

2nd. The whole of said work is to be completed on or before SEPTEMBER 5, 1964

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

SEPTEMBER 5, 1965

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 .92 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 is actually

and beneficially applied for irrigation on or before SEPTEMBER 5, 1965, said water to be used during the following described annual period:

APRIL

MAY 1 TO OCTOBER 1

Witness my hand this 10TH day of SEPTEMBER, 1963

State Water Resources Commission

By: [Signature]

Chief Engineer, Executive Officer

Certificate of Construction Issued JULY 8, 1965

Water License Issued JULY 8, 1965

Application for Permit to appropriate water

7.

(b). Legal subdivisions to be irrigated:

All lands described are owned by Kenneth Berry

<u>Area Number</u>	<u>Location</u>	<u>Section</u>	<u>Tier</u>	<u>Range</u>	<u>Acres</u>
1	Portion of SW ^{1/4}	14	1N	22E	42.76
2	Portion of SE ^{1/4} SE ^{1/4}	15	1N	22E	3.81
3	Portion of NE ^{1/4} NE ^{1/4}	22	1N	22E	4.42
4	Portion of N ² NW ^{1/4}	23	1N	22E	13.12

STATE OF SOUTH DAKOTA

WATER LICENSE No. 804-2

WHEREAS, On the 18th day of July A. D. 1963
Kenneth E. Berry

of Philip County of Haakon and State of
South Dakota duly made application (No. 804-2) to us for a permit to use .92
cubic feet per second of the waters of Bad River
County of Haakon, State of South Dakota, for irrigation
purposes; and

WHEREAS, On the 10th day of September A. D. 1963
Permit No. 804-2 was issued to said applicant for the diversion of said water, and providing for the
completion of the works of diversion therein described on or before the 5th day of
September 64 A. D. 1964 and for the application to beneficial use of said
water on or before the 5th day of September A. D. 1965
and,

WHEREAS, On the 29th day of June A. D. 1965
the holder of said permit duly made proof of the completion of adequate works for the diversion of 1.3
cubic feet per second of said waters, as evidenced by our Certificate No. 804-2
dated July 8, 1965 confirming the completion of works of sufficient capacity for
diverting and conveying to the place of intended use 1.3 cubic feet per second of water, with date of
priority of July 18, 1963 and,

WHEREAS, On the 29th day of June A. D. 1965
proof was duly made of the application to beneficial use of .92 cubic feet per second of said water;
for irrigating 64.11 acres in portions of Sections 14, 15, 22, and 23, T1N, R22E

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 Kenneth E. Barry
of Philip the holder and owner of said permit No. 804-2
a water right, dating from July 18, 1963 to the use of .92
cubic feet per second of the waters of Bad River
In the County of Haakon and State of South Dakota, or so much thereof as may be
necessray for the purposes hereinabelow mentioned, to be diverted at a point in the NW¹/₄ SW¹/₄, Section 14,
T1N, R22E

and conducted to and upon portions of Sections 14, 15, 22, and 23, T1N, R22E, 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 8th day of July A. D. Nineteen
Hundred and Sixty-Five.

State Water Resources Commission

By:

J. W. GRIMES
Chief Engineer, Executive Officer

STATE OF SOUTH DAKOTA

Water License No. _____

To _____

Source of Supply _____

County _____

Am't _____ c. f. s.

Point of Diversion _____

Place of Use _____

Purpose _____

Date of Priority _____

Recorded _____

in Book _____ of _____ Page _____

Permit No. 804-2Water Division No. 2 Bad River Water District**Certificate of Completion of Works**

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That Kenneth E. Berryof Phillip, County of Haakon, and State of South Dakota, the holder of Permit No. 804-2, issued upon ApplicationNo. 804-2, bearing date of priority of July 18, 1963, authorizing the diversion of .92 cu. ft. per second of the waters of Bad RiverCounty of Haakon, State of South Dakota, at a point in the NW $\frac{1}{4}$ S $\frac{1}{4}$, Section 14, T1N, R22Efor irrigationpurposes, 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 found in satisfactory condition for diverting and conveying to the place of intended use 1.3 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 T1N, R22E

Section 14	SW $\frac{1}{4}$	42.76 acres
Section 15	SE $\frac{1}{4}$ SE $\frac{1}{4}$	3.81 "
Section 22	NE $\frac{1}{4}$ NE $\frac{1}{4}$	4.42 "
Section 23	N $\frac{1}{2}$ NW $\frac{1}{4}$	13.12 "
Total -		64.11 "

Witness my hand this 8th day of July, A. D. 1965

State Water Resources Commission

By:

J. W. GRIMES

Chief Engineer, Executive Officer

on or before August 8, 1963
(First Publication)

APPROPRIATION OF WATER

Office of State Water Resources Commission,

Pierre, S. Dak., July 29, 1963

Notice is hereby given that Kenneth E. Barry, whose post-office address is Philip, S. Dak., has made an application in accordance with

the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 1.00

cubic feet of water per second of time from the Bad River through the Berry Irrigation Project, the point of diversion of which is to be located on the left

between a point in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 14, and a point bank of said stream/in the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ Section 23

portions of Twp. 1 N Range 22E. Said water to be used for the purpose of providing irrigation on the following described land:

SW $\frac{1}{4}$ Section 14; SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 15; NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 22 and N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 23, T1N, R22E

and for purposes.

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 5th day of September, 1963, at 2 P. M. All interested persons may appear and be heard.

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

State Water Resources Commission

By:

CC: Mr. Roy H. McKown, Publisher
Philip Pioneer Review
Philip, South Dakota

BURTON F. JONES
Water Right Specialist

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA }
County Haakon } ss.

Les Ravelllette being duly sworn, deposes and says the annexed printed copy of Notice of Intention to Appropriate Water was taken from the Pioneer Review 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 Philip County of Haakon and State of South Dakota; that the said notice was published in said newspaper on the following dates:

1 August 1963
8 August 1963
15 August 1963
22 August 1963

in each and every issue of the full number thereof, the first publication being made on the 1 day of August 1963 and the last publication on the 22nd day of August 1963, 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.

Les Ravelllette

Subscribed and sworn to before me this 22 day of August A. D. 1963

Basil E. Henderson

Notary Public Haakon County, S. D.

BASIL E. HENDERSON, NOTARY PUBLIC
HAAKON COUNTY, SOUTH DAKOTA
COMMISSION EXPIRES 12-31-64

APPROPRIATION OF WATER
Office of State Water Resources
Commission, Pierre, S. Dak., on
July 29, 1963, advised that Kenneth E. Berry, whose postoffice address is Philip, S. Dak., has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 1.00 cubic feet of water per second off "mo" from the Bad River through the Berry Irrigation Project, the point of diversion of which is to be located on the left bank of said stream between a point in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 14, and a point in the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 23, Twp. 1N, Range 22E. Said water to be used for the purpose of providing irrigation on portions of the following described land: SW $\frac{1}{4}$ Section 14; SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 16; NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 22 and N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 23 T. 1N, R. 22E.
This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 15th day of September, 1963, at 2 p.m. All interested persons may appear and be heard.
Appropriate action will be taken by the Water Resources Commission after suitable time has elapsed for the

consideration of any or all information presented.
State Water Resources Commission
By: BURTON F. JONES
Water Right Specialist
(Aug. 1, 8, 19 & 22)

RECEIVED
AUG 30 1963

STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

At its September 3, 1969 meeting, the Commission considered Water Right Application No. 995-2 of Kenneth E. Berry to withdraw up to 2.0 cubic feet per second of water from Bad River to irrigate up to 144 acres of land. A number of people owning land along Bad River downstream from the proposed irrigation appeared to express their concern. The Commission deferred further consideration pending investigation by the Commission Staff.

The proposed irrigation is located eleven miles east of Philip. Mr. Berry already has Water Right No. 804-2 authorizing the irrigation of up to 64 acres with water from Bad River.

The main items of concern expressed by the downstream landowners were:

1. In July of 1963 the Water Resources Commission authorized the City of Philip to allow the excess flows of its flowing artesian well to flow downstream in Grindstone Creek and Bad River to be used for livestock watering. Much of the river section normally carrying this flow is now dry. The concern is that recent irrigation under Water Right No. 804-2 may have been a factor in reducing the length of the river section now having a flow of water.

Mr. Berry reported that in 1969 he irrigated for only one week, during May. Since his irrigation has started he has only irrigated during a one week period of May each year, except that he did irrigate for four days in July of 1964.

2. Low flows needed for downstream livestock watering could be used instead for irrigation purposes.

As was explained at the Commission hearing, there is a legal requirement that those having water rights to irrigate from flowing streams are to by-pass flows of water needed for domestic use, including livestock watering, and prior water right use, downstream.

3. Mr. Berry already has Water Right No. 804-2. It seems that other landowners along Bad River should receive water rights before a second water right to take water from Bad River is considered for Mr. Berry.

There is no question but that under South Dakota Law, water right applications are to be considered in the order received, without consideration of other water rights held by the applicant, and be approved to the degree that unappropriated water is available.

Since September 5, 1969 some estimate of the flows of Bad River in the Philip-Midland section have been made by the Commission Staff. Flows shown are in gallons per minute. Miles shown are distances east of Philip.

	9/6/69	9/9/69	9/17/69	10/3/69	10/20/69
Upstream from Philip	0	0	0	0	0
Flow at mouth of Grindstone Cr. (3 mi.)	1000	1000	1000	1000	1000
Flow at Powell (9 mi.)	300	360	250	450	700
Flow at Berry's (11 mi.)	200	125	50	150	200
Flow at Petersen Crossing (15 mi.)	15	0	0	0	125
Flow at Jarman Crossing (16 mi.)	0	0			0
** Flow at Nowlin (18 mi.)	50	25	25	25	25
Flow at Midland (25 mi.)	0	0	0	0	0

* Grindstone Creek carries the overflow of the Philip municipal well into Bad River.

** Low flows at Nowlin are believed to be from the Nowlin R.R. well.

The United States Geological Survey has stream gaging stations on the Bad River at Midland and Fort Pierre. The drainage area above the Midland Station is about 1500 square miles.

This station has been maintained since 1955. During the period of measurement, monthly average flows during January, October, November and December were never higher than five cubic feet per second. Shown below are monthly average flows larger than 5 c.f.s. during the 1951-1965 period.

	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.
1951	96	55	9		131	26	15	33
1952		622	2408	61	427	41		
1953		1168	188	801	185	13	216	
1954	21	13		31	8			
1955		249	12	28	34			69
1956		281	7	15		105	24	
1957			38	569	524		15	
1958		6	61		160		9	40
1959				70	55	24	12	
1960		836	15	12	84			
1961				18	166	5		
1962		200	30	111	240	112	7	
1963				26	318			
1964			18	77	247	8		
1965			21	430	159	7		

Normally there is little irrigation during March and April. The records indicate unappropriated water would be available about one half of the time during the months of March and April.

The measurements indicate that unappropriated water is usually available during May and June with a reduction in flow occurring in July. There are a few months of May and June when the flows are low. During most such low flow periods none of the water right holders should irrigate, although there are some periods when there is sufficient water so that a few of the water right holders having the highest priorities, could irrigate. When a good cooperative understanding is reached, such as in the White River area, quite a number of applications can be approved without conflicts occurring between irrigators and domestic water users, or between irrigators having different water right priorities.

The recommendation of the Commission Staff is that Water Right Application No. 995-2 be approved containing the following qualifications.

Low flows including all of the flows originating from the Philip Municipal well are to be by-passed for downstream domestic use, including livestock watering.

Flows as needed for downstream prior water right use are to be by-passed.

No diversion of Bad River flows are to be made after July 1st of each year, except when it is evident that the flows are in excess of water needs downstream.

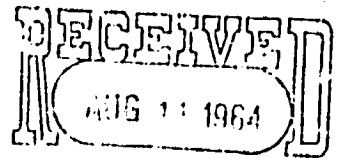
The Commission Staff believes that these same qualifications should apply to any later water right approved for diversion of water from Bad River between Grindstone Creek and Nowlin.

Water Right Application No. 999-2 of John L. Konst to divert up to 1.7 cubic feet per second of water from Bad River to irrigate up to 121 acres is ready for consideration by the Commission. The location of this proposed irrigation is one to two miles east of Nowlin.

The recommendation of the Commission Staff is that Water Right Application No. 999-2 be approved containing the following qualifications.

Low flows as needed for domestic use, including livestock watering, and prior water right use, downstream, are to be by-passed.

No diversion of Bad River flows are to be made after July 1st of each year except when it is evident that the flows are in excess of water needs downstream.

Permit No. 804-2

Water Division No. _____

Water District _____

STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

NOTICE OF COMPLETION OF WORKS

This blank must be filled out by the holder of permit and forwarded to the Executive Officer at least 60 days before the time set for completion of works

(P. O.) Philip, S. Dak.(Date) 1 Aug 64

TO THE STATE WATER RESOURCES COMMISSION
OF SOUTH DAKOTA, PIERRE:

DEAR SIR: Notice is hereby given of the completion of the works for the diversion of _____

_____ 92 cu. ft. per second of the waters of the state from _____
through the Berry Irrigation Project
for Irrigation purposes

_____ in accordance with the terms and conditions of a certain permit heretofore issued by the Water Resources Commission of the State of South Dakota.

1. The name of the person or corporation holding said permit is Kenneth E. Berry

2. The postoffice address of such person or the place of business of such corporation is Philip
County of Haskell State of S. Dak.

3. The number of such permit is 804-2 and the date set for the completion of such work is 1 Sept 64

4. Said water to be used for Irrigation purposes.

5. Said works of diversion will be fully completed on the date set for such completion, and the amount of water which said works are capable of conducting to the place of intended use, in accordance with the plans accompanying the application for such permit, is 7.5 cubic feet per second.

6. The amount of land for which said water is available is 64.11 acres,
particularly described as follows: 42.76 acres in SW 1/4 - 14 - 1N - 22E; 3.81 acres in
SE 1/4 - 15 - 1N - 22E; 7.42 acres in NE 1/4 - 22 - 1N - 22E; 13.12 acres
in NW 1/4 - 23 - 1N - 22E

I hereby certify that the facts set forth in the above notice are true.

Kenneth E. Berry

(Signature of Owners)

Permit No. 804-2Water Division No. 2 BAD RIVER Water District**Certificate of Examination of Works****Report of Examining Engineer**

To the State Water Resources Commission, Pierre, South Dakota:

Dear Sirs: I hereby certify that in accordance with your letter of authorization dated _____

19____ I have this day made a thorough examination of the diversion works constructed by _____

KENNETH E. BERRY, of PHILIPHAKON County, South Dakota, holder of Permit No. 804-2, issuedupon Application No. 804-2, bearing date of priority of JULY 18, 1963, authorizing thediversion of 92 cu. ft. per second of the waters of BAD RIVER for IRRIGATION

purposes. I have to report on the condition of the same as follows:

The diversion works comprise: GORMAN-PUMP 6" PUMP - MODEL
#666AD, POWERED BY JOHN DEERE 30-10 TRACTOR.
WATER IS PUMPED INTO APPROX 3/4 MILE MAIN
DITCH THENCE ONTO LEVELLED LAND. 30' OF 6"
SUCTION PIPE & 60' OF 8" DISCHARGE PIPE CARRY
WATER TO DITCH
 and the system is in the following condition: EXCELLENT

The point of diversion is located AS SHOWN ON THE MAP

The works are capable of diverting and conveying to the place of use 600 GPM on ft. per second of water,
 which is to be used for IRRIGATION

The legal subdivisions to be irrigated are: 42.76 ACRES IN SW¹ SECTION 14;
3.81 ACRES IN SE¹ SE¹ SECTION 15;
4.42 ACRES IN
NE¹ NE¹ SECTION 22; AND 13.12 ACRES IN N¹ NE¹ SECTION 23,
ALL IN T1N, R22E

comprising a total of 64.11 acres of land.

The domestic use intended comprises _____

The utilization for power, mining, or other beneficial uses comprises: _____

Witness my hand, this 30TH day of JUNE, A. D. 1965

—SEAL—

Examining Engineer.

OFFICER

December 9, 1969

Mr. Kenneth E. Berry
Box 254
Philip, South Dakota 57567

Dear Mr. Berry:

This is to confirm that the Water Resources Commission on November 12, 1969 extended the annual period of water use of your Water license No. 804-2 from May 1st to October 1st, to April 1st to October 1st.

Sincerely,

BURTON F. JONES
Water Rights Specialist

DD/BFJ/bw



804-2

DEPARTMENT OF WATER & NATURAL RESOURCES
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

February 1, 1991

KENNETH E BERRY
HCR 1 BOX 17
MILESVILLE SD 57553

NOTICE

RE: Violation of Requirement to Submit 1990 Irrigation Questionnaire

Our records indicate that the 1990 Irrigation Questionnaire has not been submitted for Permit No(s) 804-2, 995-2. The request for the Questionnaire was dated October 12, 1990. The Water Management Board has directed that owners of water permits who have not submitted the 1990 Irrigation Questionnaire be given notice of hearing(s) to be held by the Board to determine if any action is to be taken concerning the violation.

The hearings will be held at 9:15 am, February 27, 1991, at the Governor's Inn in the meeting room, 700 West Sioux Avenue, Pierre SD.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to procedures contained in SDCL 1-26. Following the hearing(s), the Water Management Board can:

1. Amend Permit No(s) 804-2, 995-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action;
3. Take no action.

The hearing(s) is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaire(s) is received in this office before the February 27th hearing date, your name will be deleted from the agenda for the hearing.

Very truly yours,

Ron Duvall, Natural Resources Engineer IV
Water Rights Division
605 773-3352

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☒ Show to whom delivered, date, and addressee's address. (Extra charge) 2. ☐ Restricted Delivery (Extra charge)

3. Article Addressed to: KENNETH E BERRY HCR 1 BOX 17 MILESVILLE SD 57553	4. Article Number P 694 057 393 Type of Service: ☐ Registered ☐ Insured ☒ Certified ☐ COD ☐ Express Mail ☐ Return Receipt for Merchandise Always obtain signature of addressee or agent and DATE DELIVERED.
5. Signature — Addressee X <i>Kenneth E. Berry</i>	8. Addressee's Address (ONLY if requested and fee paid)
6. Signature — Agent X <i>[Signature]</i>	
7. Date of Delivery 2-8-91	



DEPARTMENT OF WATER & NATURAL RESOURCES

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

February 15, 1991

504-2

(804-2)
895-2

Kenneth E Berry
HCR 1 Box 17
Milesville, SD 57553

Dear Mr. Berry:

I am writing to acknowledge receipt of your 1990 irrigation questionnaires for Water Right Nos. 874-2 and 995-2. You may disregard the February 1, 1991, Notice of failure to submit the 1990 irrigation questionnaire. With receipt of the questionnaires, your name has been deleted from the February Water Management Board meeting agenda.

If you have any questions, please contact Genny McMath, at (605) 773-3352.

Sincerely,

Ron Duvall, Natural Resources Engineer IV
Water Rights Division

804-2

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 804-2

Date: _____

I/We request that Water Right No. 804-2

formerly owned by: Kenneth E. Berry

be transferred to: (name & address) Robert Berry, HCR 61 Box 40, Midland, SD 57552 (Telephone No) 859-2315

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

64.11 acres SW¼ Section 14, SE¼SE¼ Section 15, NE¼NE¼ Section 22, NW¼NW¼ Section 23, T1N, R22E

I/We understand that the validity of Water Right No. 804-2 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 Hughes)

I/We Robert Berry 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.

Robert Berry
(Signed)

Subscribed and sworn to before me this 3rd day of December, 1993.

KAREN SCHLAACK, Notary Public
My Commission Expires
April 1, 1994

Karen Schlaack
(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 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 Environment and Natural Resources

Pierre, December 3, 1993

804-2
413957

RECEIVED OF Robert Berry, RR 61 Box 40, Midland, SD 57552

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 _____		
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 Water Right No. 804-2	2	50.
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	2 50

By [Signature]
Chief Engineer



804-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

December 16, 1993

No. 804-2
995-2

Robert Berry
HCR 61, Box 40
Midland, SD 57552

Dear Mr. Berry:

Enclosed are receipts in the amount of \$2.50 each which you paid for the transfer of Water Right Nos. 804-2 and 995-2.

Our records now show you as the owner of Water Right Nos. 804-2 and 995-2.

Sincerely,

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

enclosures



February 7, 1995

ROBERT BERRY
HC 61 BOX 40
MIDLAND SD 57552

804-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

NOTICE

RE: Violation of Requirement to Submit 1994 Irrigation Questionnaire

Our records indicate that the 1994 Irrigation Questionnaire has not been submitted for Permit Nos. 804-2 & 995-2. The request for the Questionnaire was dated November 3, 1994. The Water Management Board has directed that owners of water permits who have not submitted the 1994 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning the violation.

The hearing will be held at 9:30 am, March 8, 1995, in the Crown Room, 3rd Floor, Kings Inn Best Western Convention Center, 220 S Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to SDCL 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit Nos. 804-2 & 995-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaires are received in this office on/or before March 3, 1995 your name will be deleted from the Board agenda.

Very truly yours,

Ron Duvall, Natural Resources Engineer IV
Water Rights Division
605 773-3352



804-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

February 28, 1995

804-2
995-2

Robert Berry
HC 61 Box 40
Midland, SD 57552

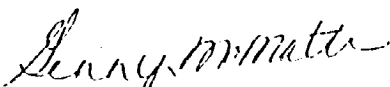
Dear Mr. Berry:

I am writing to acknowledge receipt of your 1994 irrigation questionnaires. You may disregard the February 7, 1995, Notice of Violation of the Requirement to Submit the 1994 Irrigation Questionnaires.

The questionnaires were received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,


Genny McMath
Environmental Scientist
Water Rights Division
(605) 773-3352

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

3. Article Addressed to:

ROBERT BERRY
HC 61 BOX 40
MIDLAND SD 57552

5. Received By: (Print Name)

6. Signature: (Addressee or Agent)

X

PS Form 3811, December 1994

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

4a. Article Number

P 378 081 325

4b. Service Type

- ☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

2-11-97

8. Addressee's Address (Only if requested and fee is paid)

Domestic Return Receipt

Thank you for using Return Receipt Service.



804-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

February 4, 1997

NOTICE**TO:** ROBERT BERRY, HC 61 BOX 40, MIDLAND, SD 57552**FROM:** Ron Duvall, Natural Resources Engineer
for John Hatch, Chief Engineer
Water Rights Program**SUBJECT:** Violation of Requirement to Submit 1996 Irrigation Questionnaire

Our records indicate that the 1996 Irrigation Questionnaire has not been submitted for Permit No(s) 804-2 & 995-2. The request for the Questionnaire was dated October 24, 1996. The Water Management Board has directed that owners of water permits who have not submitted the 1996 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning the violation.

The hearing will be held at 2:30 pm, March 5, 1997, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 804-2 & 995-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaire(s) is(are) received in this office on/or before February 28, 1997, your name will be deleted from the Board agenda. If you have any questions or need assistance with completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

Note: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

804-2



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

March 5, 1997

804-2
995-2

Robert Berry
HC 61 Box 40
Midland, SD 57552

Dear Mr. Berry:

I am writing to acknowledge receipt of your 1996 irrigation questionnaires. You may disregard the February 4, 1997, Notice of Violation of the Requirement to Submit the 1996 Irrigation Questionnaire.

I completed questionnaires for you based on our March 5th telephone conversation. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

Thank you for calling and if you have any questions, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352

804-2

SENDER, COMPLETE THIS SECTION

- Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse, so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

ROBERT BERRY
HC 61 BOX 40
MIDLAND SD 57552

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

Betty Berry

B. Date of Delivery

1/20/01

C. Signature

X Betty Berry

☐ Agent☐ Addressee

D. Is delivery address different from item?

☐ Yes

If YES, enter delivery address below.

☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number (Copy from service label)

7000 03.00 6026 9814 3819

PS Form 3811, July 1999

Domestic Return Receipt

102595-00 M-0952



804-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 19, 2001

NOTICE

TO: ROBERT BERRY, HC 61 BOX 40, MIDLAND, SD 57552

FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2000 Irrigation Questionnaires

Our records indicate that the 2000 Irrigation Questionnaire has not been submitted for Permit Nos. 804-2 & 995-2. The request for the Questionnaire was dated October 20, 2000. The Water Management Board has directed that owners of water permits who have not submitted the 2000 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

The hearing will be held at 10:00 am, March 7, 2001, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit Nos. 804-2 & 995-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaires are received in this office on/or before March 2, 2001, your name will be deleted from the Board agenda. If you have any questions or need assistance with completion of the irrigation questionnaires, please contact Genny McMath at (605) 773-3352.

Note: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 26, 2001

804-2
995-2

Robert Berry
HC 61 Box 40
Midland, SD 57552

Dear Mr. Berry:

I am writing to acknowledge receipt of your 2000 irrigation questionnaires. You may disregard the January 19, 2001, "Notice" concerning reporting requirements for Water Right Nos. 804-2 and 995-2.

The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352



804-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 20, 2005

NOTICE

TO: ROBERT BERRY, HC 61 BOX 40, MIDLAND, SD 57552

FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2004 Irrigation Questionnaire(s)

Our records indicate that the 2004 Irrigation Questionnaire has not been submitted for Permit Nos. 804-2 & 995-2. The request for the Questionnaire was dated October 22, 2004. The Water Management Board has directed that owners of water permits who have not submitted the 2004 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

The hearing will be held at 8:30 am, March 2, 2005, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit Nos. 804-2 & 995-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaires are received in this office on/or before February 25, 2005, your name will be deleted from the Board agenda. If you have any questions or need assistance with completion of the irrigation questionnaires, please contact Genny McMath at (605) 773-3352.

Note: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



804-2

Track & Confirm

Current Status

You entered 2301 3460 0000 8516 1169

Your item was delivered at 10:17 am on January 21, 2005 in MIDLAND, SD 57552. The item was signed for by P RBERRY.

[Shipment Details >](#)

Track & Confirm

Enter label number:

[Track & Confirm FAQs](#)

Notification Options

▶ Track & Confirm by email [What is this?](#) [Go >](#)

▶ Request Proof of Delivery [What is this?](#) [Go >](#)



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U.S. Postal Service Signature Confirmation Receipt

SIGNATURE CONFIRMATION NUMBER:
2301 3460 0000 8516 1169

ROBERT BERRY
HC 61 BOX 40
MIDLAND SD 57552

Waiver of Signature ☐ YES ☐ NO

Postmark
Here

POSTAL CUSTOMER:

Keep this receipt. For Inquiries:
Access internet web site at
www.usps.com
or call 1-800-222-1811

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☐ Package Services

(See Reverse)

PS Form 153, July 2001



804-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 17, 2005

804-2
995-2

Robert Berry
23331 Hwy 14
Midland SD 57552

Dear Mr. Berry:

Thank you for stopping by the office to complete your 2004 irrigation questionnaires. You may disregard the January 20, 2005, "Notice" concerning reporting requirements for Water Right Nos. 804-2 and 995-2.

The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352



804-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 20, 2017

NOTICE

TO: ROBERT BERRY, 23331 HWY 14, MIDLAND, SD 57552

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2016 Irrigation Questionnaire(s)

Our records indicate your 2016 Irrigation Questionnaire has not been submitted for Permit No(s) 804-2 & 995-2 as required by administrative rule 74:02:01:14.02. The request for the Questionnaire was dated October 21, 2016. The Water Management Board has directed that owners of water permits who have not submitted the 2016 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

The hearing will be held at **Wednesday, March 1, 2017 at 11:00 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 804-2 & 995-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaire(s) is (are) received in this office before the **March 1, 2017** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

Note: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



804-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

February 16, 2017

804-2
995-2

Robert Berry
23331 Hwy 14
Midland SD 57552

Dear Mr. Berry:

I am writing to acknowledge receipt of your 2016 irrigation questionnaires.

You may disregard the January 20, 2017, "Notice" concerning reporting requirements for Water Right Nos. 804-2 and 995-2. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



804-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 23, 2020

NOTICE

TO: ROBERT BERRY, 23331 HWY 14, MIDLAND, SD 57552

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2019 Irrigation Questionnaire(s)

Our records indicate your 2019 Irrigation Questionnaire has not been submitted for Permit No(s) 804-2 & 995-2 as required by administrative rule 74:02:01:14.02. The request for the Questionnaire was dated October 18, 2019. The Water Management Board has directed that owners of water permits who have not submitted the 2019 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

The hearing will be held at **Wednesday, February 26, 2020 at 8:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 804-2 & 995-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaire(s) is (are) received in this office before the **February 26, 2020** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://denr.sd.gov/iq> using this password: NDFRHR**

Note: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

804-2

USPS Tracking®

FAQs >

Track Another Package +

Tracking Number: 70191120000129107175

Remove X

Your item was delivered to an individual at the address at 9:55 am on January 24, 2020 in MIDLAND, SD 57552.

 **Delivered**

January 24, 2020 at 9:55 am
Delivered, Left with Individual
MIDLAND, SD 57552

Get Updates ▾

Text & Email Updates

Tracking History

Product Information

7019 1120 0001 2910 7175

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Certified Mail Fee

\$

Extra Services & Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy)	\$
☐ Return Receipt (electronic)	\$
☐ Certified Mail Restricted Delivery	\$
☐ Adult Signature Required	\$
☐ Adult Signature Restricted Delivery	\$

Postage

ROBERT BERRY
23331 HWY 14
MIDLAND SD 57552

Delivered

1-24-2020

Postmark
Here

Feedback

See Less ^

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions



804-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

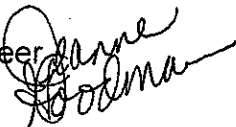
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

February 27, 2020

NOTICE OF ENTRY OF ORDER TO AMEND WATER RIGHTS

TO: Robert Berry, 23331 Hwy 14, Midland SD 57552

FROM: Jeanne Goodman, Chief Engineer
Water Rights Program 

SUBJECT: Amendment to Water Right Nos. 804-2 and 995-2

On February 27, 2020, the Water Management Board amended Water Right Nos. 804-2 and 995-2 to add the following qualification:

"This water right is subject to the Irrigation Water Use Questionnaire being submitted each year."

This action was taken for your failure to return the 2019 irrigation questionnaires. The addition of this qualification to your water right means that failure to submit the required irrigation questionnaire in the future could result in suspension of the water right with no use of water for up to one year for the first violation.

Please contact Genny McMath (605) 773-3352, if you have any questions.

804-2

CERTIFICATION

I hereby certify that on February 27, 2020, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated February 27, 2020 regarding Water Management Board action taken February 26, 2020 for Irrigation Questionnaire violations addressed as stated below:

One Year Suspensions:

Water Right No. 6947-3
Joel Adler, 48353 149th St, Milbank SD 57252

Water Permit No. 7655-3
Thomas Brady, 265 Antler Dr., Yankton SD 57078

Water Right Nos. 2698-2 & 2721-2
Neil & Lupita Fanning, 220 Rangely Ct., Simi Valley CA 93065

Water Right No. 5947-3
Sean Davis, Fish Lake Country Club, 24385 393rd Ave., Letcher SD 57359

Water Permit Nos. 7008A-3 and 7009A-3
Roger D Hanson, 615 E 72nd St., Kansas City MO 64131

Water Right No. 7043-3
Corey Johannsen, 502 Main St., Tolstoy SD 57475
Donald & Dianna Stotz, 14850 328th Ave, Tolstoy SD 57475

Water Right No. 876-1
Gene E Johnson, 19610 US Hwy 85, Belle Fourche SD 57717

Water Right No. 1213B-1
Charles & Cathy Kimbril, 19027 137th Ave, Vale SD 57788

Water Right No. 410B-2
Kathi Koester, PO Box 206, Custer SD 57730-0206

Water Permit No. 8253-3
James Makens, Makens Oak Tree LLP, 42563 168th St, Clark SD 57225

Water Permit Nos. 5849-3 and 6194-3
Josh Oakley, Meadow Creek Golf Course, PO Box 511, Volga SD 57071-0511

Water Right Nos. 2521-3 and 2934-3
Henry Decker, Pembrook Hutterian Inc., 35955 139th St, Ipswich, SD 57451 7103

Water Right Nos. 5566-3 & 7615-3 and Water Permit No. 7616-3
Wayne Reiersen, 30048 Reiersen Pl., Pollock SD 57648

Water Permit No. 2350-3
Bill Boyer, President, River Valley Farms, PO Box 486, Alcester SD 57001 0486

Water Right No. 4737-3
RUS Farms Real Estate LLC, 3283 Dogwood Ave., Rock Valley IA 51247

Water Right No. 2954-3
Lane Tekrony, 47840 180th St, Clear Lake SD 57226-5405

Water Right Nos. 6131-3 and 6132-3
Daniel Ulmer, PO Box 433, Menno SD 57045 0433

Water Right Nos. 2631A-3 and 5451-3
Merritt Ulmer, PO Box 433, Menno SD 57045-0433
Merritt & Marie Ulmer, 1402 S Cage #217, Pharr TX 78577

Water Right No. 553-1
Richard W Kieffer, 14555 Hamlet Pl, Sturgis SD 57785

Three Year Suspensions:

Water Right No. 6168-3
Robert Hattum, 21744 W Bend Rd, Harrold SD 57536

Water Right No. 2106-2
Stuart Rice, 2300 Skyline Ranch Rd, Rapid City SD 57701

Amendments:

Water Right Nos. 804-2 & 995-2
Robert Berry, 23331 Hwy 14, Midland SD 57552

Water Right No. 766-2
Gene Fortune, PO Box 60, Interior SD 57750 0060

Water Right Nos. 516-1 and 715-1
Lawrence Woodward, PO Box 220, Dupree SD 57623 0220

Both Suspend and Amendments

Water Right No. 960-3 and Water Permit No. 472A-3
Chad Binger, 18309 383rd Ave, Tulare SD 57476

Water Right Nos. 2579-3, 4353-3, 5774-3, 6424-3, 6606-3, 6870-3, 7193-3, 7490-3 & 7491-3
Jonathan Wollman, Claremont Colony, 46271 184th St, Castlewood SD 57223

Water Right Nos. 3012-3 and 7323B-3
Mark Morlock, 33820 112th St., Eureka SD 57437-6005
Marvin Morlock, 11072 339th Ave, Eureka SD 57437-6003

Water Right No. 399-2 and Water Permit No. 2668-2
Steve L Simunek, 27851 S Buffalo Gap Rd, Oral SD 57766



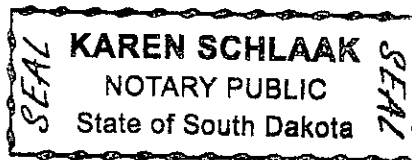
Eric Gronlund
Water Rights Program

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 27th day of February, 2020.



Karen Schlaak
Notary Public
My Commission expires April 1, 2025





DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 20, 2022

NOTICE

TO: ROBERT BERRY, 23331 HWY 14, MIDLAND, SD 57552

FROM: Ron Duvall, Water Rights Permitting Administrator
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2021 Irrigation Questionnaire(s)

Our records indicate your 2021 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 804-2 & 995-2. The request for the Questionnaire was dated October 22, 2021. The Water Management Board has directed that owners of water permits who have not submitted the 2021 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 804-2 & 995-2 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at **Wednesday, March 2, 2022 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 804-2 & 995-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaire(s) is (are) received in this office before the **March 2, 2022** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: QKGDMT**

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

804-2



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

February 1, 2022

804-2
995-2

Robert Berry
23331 Hwy 14
Midland SD 57552

Dear Mr. Berry:

I am writing to acknowledge receipt of the information for your 2021 irrigation questionnaires. Thank you for visiting with me on the phone. I completed the questionnaires for you based on our conversation.

You may disregard the January 20, 2022, "Notice" concerning reporting requirements for Water Right Nos. 804-2 and 995-2. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us