

No. 315-2
 Water Division No. 2 Rapid Creek District 1
 (Blanks to be filled by the Engineer for the W. I. C.)
Bested Right
APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

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

1. Name of applicant The South Dakota Cement Plant
 Postoffice address Rapid City, County Pennington, State South Dakota

- I. If a corporation _____
- (a) Name of same _____
 - (b) Date and place of incorporation _____
 - (c) Amount of capital stock _____
 - (d) Amount paid in _____
 - (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)
Completed

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

2. Name of diversion work Wells #1, #2, #3, and #4
 3. Amount of water claimed 1.6 cubic feet per second
 4. Source of water supply Artesian ground water (Minnelusa)
 5. Location of point of diversion SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 33, T 2N, R 7E (See attached sketch)
 _____ on _____ bank _____ County.
 6. Annual period or periods during which water is to be used Continuous
 7. To be used for:

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

(a) Number of acres to be irrigated _____ acres.

(b) Legal subdivisions to be irrigated _____

(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 Used in manufacture of Portland Cement.
 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 _____

11/2

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.)

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-FOOT 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 ----- Completed ----- years.

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

12. Choice of newspaper for publication of notice of intention to appropriate ----- Not applicable

STATE OF SOUTH DAKOTA

County of Pennington } ss.

I, R. B. Magawick, 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 R. B. Magawick

Subscribed and sworn to before me this 27th day of February 1964

Oliver H. Hines
Notary Public for other qualified officer(s)

"Vested right" claimed

STATE OF SOUTH DAKOTA
County of Hughes

Pierre, South Dakota, March 24, 1964

This is to certify that the foregoing application was received by the Commission at 8:05 o'clock

9 a.m. upon the 13th day of February, 1964

State Water Resources Commission

By: [Signature]
Chief Engineer, Executive Officer

Number of permit B15-2

Date of first receipt of application February 18, 1964

Date of return to applicant for correction, amendments or changes required as follows: February 18, 1964

Date of receipt of corrected application February 28, 1964

Date from which applicant may claim right 62 cfs from 1923 1.06 cfs from 1934

Approved March 25, 1964, Recorded in Book 8 Page 171

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 ~~not~~ completed ~~on or before~~

2nd. The whole of said work is ~~not~~ completed ~~on or before~~

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

Completed

4th. The water appropriated shall be used for the purpose of industrial use
(manufacturing of cement)

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 1.57 1.57 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

used for manufacturing cement

and beneficially ~~applied for irrigation~~ on or before June 30, 1955; said water to be used during the following described annual period:

continuously
Witness my hand this 25th day of March, 1964

State Water Resources Commission

By: [Signature]
Chief Engineer, Executive Officer

Certificate of Construction Issued March 25, 1964

Water License Issued March 25, 1964

9. (Continued)

III. Well Specifications

(a) Hole and casing 7.5" Depth 200'
Size of drill hole or excavation
Type of casing Steel
(wood, concrete, steel, etc.)
Size of casing 6" Thickness of casing Standard
Length of casing 200' If collection gallery, length, size and depth of
gallery

(b) Screens
Type of perforated screen None
Size of perforated screen (diameter) (length)
Thickness of gravel pack No length of gravel pack

(c) Water Bearing Materials
Distance to water 185' Character of water bearing materials
Minnelusa Sand - Cased 15' into formation
.....
Thickness of water bearing material

(d) Pump and Motor
Type of pump (centrifugal, propeller, mixed flow, etc.)
Name of pump size
Kind of motor (gasoline, electric, diesel, etc.)
Horsepower Name of Motor

(e) Complete well
Capacity 440 G.P.M. at drawdown of Flow Estimated cost

(f) Owner of land upon which well is located State of South Dakota
Name
..... Address

(g) Distance to nearest existing wells
On same owner's property 200' On property owned by others 500'

9. (Continued)

III. Well Specifications

(a) Hole and casing

Size of drill hole or excavation 7.5" Depth 208
 Type of casing Steel
 (wood, concrete, steel, etc.)
 Size of casing 6" Thickness of casing Standard
 Length of casing 208 If collection gallery, length, size and depth of
 gallery

(b) Screens

Type of perforated screen None
 Size of perforated screen (diameter) (length)
 Thickness of gravel pack no length of gravel pack

(c) Water Bearing Materials

Distance to water 193 Character of water bearing materials
 Minnelusa Sand-Cased 15' into formation

 Thickness of water bearing material

(d) Pump and Motor

Type of pump None
 (centrifugal, propeller, mixed flow, etc.)
 Name of pump , size
 Kind of motor
 (gasoline, electric, diesel, etc.)
 Horsepower , Name of Motor

(e) Complete well

Capacity 244 G.P.M. Flow Estimated cost

(f) Owner of land upon which well is located State of South Dakota
 Name

Address

(g) Distance to nearest existing wells

On same owner's property 100' rods. On property owned by others 500' rods.

9. (Continued)

III. Well Specifications

(a) Hole and casing

Size of drill hole or excavation 7.5" Depth 214'
Type of casing Steel
(wood, concrete, steel, etc.)
Size of casing 6" Thickness of casing Standard
Length of casing 214 If collection gallery, length, size and depth of
gallery

(b) Screens

Type of perforated screen None
Size of perforated screen (diameter) (length)
Thickness of gravel pack No length of gravel pack

(c) Water Bearing Materials

Distance to water 199' Character of water bearing materials
Minnelusa Sand-Cased 15' into formation

Thickness of water bearing material

(d) Pump and Motor

Type of pump (centrifugal, propeller, mixed flow, etc.)
Name pump size
Kind of motor (gasoline, electric, diesel, etc.)
Horsepower Name of Motor

(e) Complete well

Capacity 22.5 G.P.M. at drawdown of Flow Estimated cost

(f) Owner of land upon which well is located State of South Dakota
Name

Address

(g) Distance to nearest existing wells

On same owner's property 100' On property owned by others 600' xoda

III. Well Specifications

Size of drill hole or excavation 7.5" , Depth 200'

Type of casing Steel
(wood, concrete, steel, etc.)

Size of casing 6" , Thickness of casing Standard

Length of casing If collection gallery, length, size and depth of
gallery

Type of perforated screen None

Size of perforated screen (diameter) (length)

Thickness of gravel pack No , length of gravel pack

Distance to water 185' Character of water bearing materials
 Minnelusa Sand-Cased 15' into formation

 Thickness of water bearing material

Type of pump (centrifugal, propeller, mixed flow, etc.)

Name of pump , size

Kind of motor (gasoline, electric, diesel, etc.)

Horsepower , Name of Motor

Capacity 20 G.P.M. at drawdown of 10' Flow Estimated cost

(f) Owner of land upon which well is located State of South Dakota
 Name
 Address

On same owner's property 1300' ~~700'~~ On property owned by others 1800' ~~700'~~

STATE OF SOUTH DAKOTA

WATER LICENSE No.... 815-2...

WHEREAS, On the 18th day of February A. D. 1964.

the South Dakota Cement Plant

of Rapid City County of Pennington and State of

South Dakota duly made application (No. 815-2) to us for a vested right permit to use 1.57

cubic feet per second of the waters of artesian ground water (minnelusa)

County of Pennington, State of South Dakota, for industrial purposes; and

WHEREAS, On the 25th day of March A. D. 1964.

Vested Right / Permit No. 815-2 was issued to said applicant... for the diversion of said water, **recognizing** ~~xxxxxxx~~ the

completion of the works of diversion therein described ~~on or before the~~ day of

~~xxxxxx~~ and ~~xxxxxx~~ application to beneficial use of said

water on or before the ~~xxxxxx~~ day of ~~xxxxxx~~ and,

WHEREAS, On the 18th day of February A. D. 1964

the holder... of said permit duly made proof of the completion of adequate works for the diversion of 1.57

cubic feet per second of said waters, as evidenced by our Certificate No. 815-2

dated March 25, 1964 confirming the completion of works of sufficient capacity for

diverting and conveying to the place of intended use 1.57 cubic feet per second of water, with date of

priority of 1923, 1924, 1934 and 1941 and,

WHEREAS, On the 18th day of February A. D. 1964

proof was duly made of the application to beneficial use of 1.57 cubic feet per second of said water;

for use in manufacturing cement

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 the South Dakota Cement Plant
 of Rapid City the holder and owner vested right of said term. No. 815-2
 a water right, dating from 1923, 1924, 1934 and 1941 to the use of 1.57
 cubic feet per second of the waters of artesian ground water (Minnelusa)
 in the County of Pennington and State of South Dakota, or so much thereof as may be
 necessary for the purposes hereinafter mentioned, to be diverted at four points in the SE 1/4 NE 1/4
Section 33, T 2N, R 7E.
 and conducted ~~downstream~~ to the processing plant in the NE 1/4, Section 33,
T2N, R 7E.
 for the purpose of manufacturing cement

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 25th day of March A. D. Nineteen
 Hundred and Sixty-Four

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. 815-2Water Division No. 2 RAPID CREEK Water District**Certificate of Completion of Works**

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That the South Dakota Cement Plantof Rapid City, County of Pennington, and State of South Dakotathe holder of Permit No. 815-2, issued upon Application No. 815-2, bearing date of priority of 1923, 1924, 1934, & 1941, authorizing the diversion of1.57 cu. ft. per second of the waters of artesian ground water (Minnelusa)County of Pennington, State of South Dakota, at four points in the SE 1/4, Section 33, T 2N, R 7E.for industrialpurposes, has B 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 assatisfactory for diverting and conveying to the place of intended use 1.57 cu. ft.per second of water; and that the ~~uses of said water are described as follows~~ use of said water are described as follows,to-wit: to be used in the manufacturing of cementWitness my hand this 25th day of March A. D. 1964

State Water Resources Commission

By:

J.W. GRIMES, Chief Engineer, Executive Officer

All flowing wells
off case-6 with 6" steel casing

Well information:

West Well (in tunnel)

Drilled: 1923

Depth: 195-200'

Well bottomed in top of Minnelusa Ss.

Flow Test: 1-14-64---- 440 GPM

East Well (nearest Pond)

Drilled: 1924

Depth: 208'

Well bottomed in top of Minnelusa Ss.

Flow Test: 1-14-64---- 244 GPM

North Well

Drilled: 1934

Depth: 214'

Well bottomed in top of Minnelusa Ss.

Flow Test 1-14-64---- 22½ GPM

Quarry Shop Well

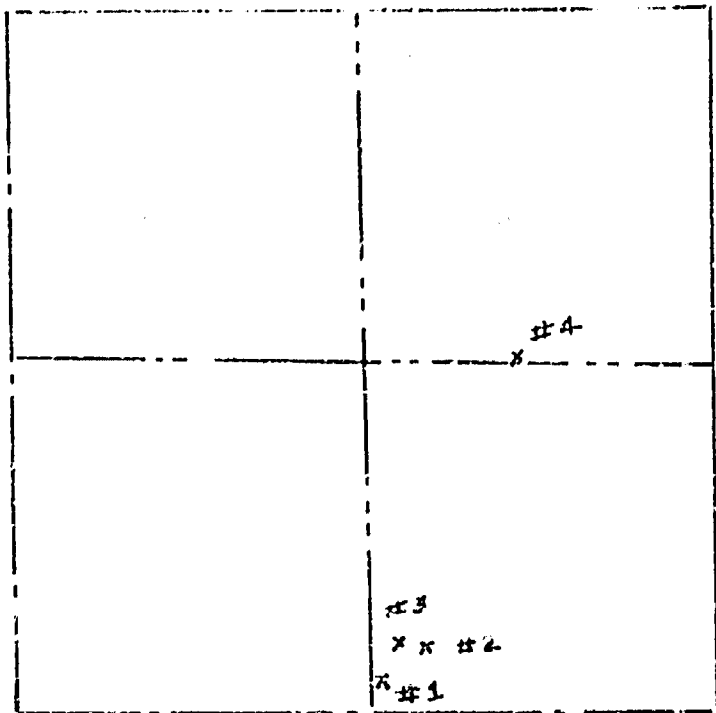
Drilled: 1941

Depth: 200'

Well bottomed in top of Minnelusa Ss.

Flow test: 1-14-64---- approx. 20 GPM

THE SOUTH DAKOTA CEMENT PLANT



Center of Section
33 T2N, R7E.

LOCATION OF ARTESIAN WELL UNDER VESTED WATER RIGHT

- No. 1 or West well
125 ft. N $14^{\circ} 30'$ E of SW corner of SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 33.
- No. 2 or East well
290 ft. N $52^{\circ} 20'$ E of SW corner of SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 33.
- No. 3 or North well
280 ft. N $18^{\circ} 35'$ E of SW corner of SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 33.
- No. 4 or Quarry well
565 ft. N $28^{\circ} 30'$ E of SW corner of NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 33.

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. **The South Dakota Cement Plant, Rapid City, South Dakota**

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. **No prior posting**

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

Ans. **4 wells located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 33, T 2N, R 7E.**

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.

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. **Used in the manufacturing of Portland Cement.**

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. **1.6 c.f.s.**

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. Wells were drilled in 1923, 1924, 1934 and 1941 as shown on the Form 2A, and have been used in the manufacturing of cement since constructed.

(Sign) *F. L. Maysman*

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 *Rapid City*, County of *Pennington* State of South Dakota, on this *13th* day of *February* A. D. 19*42*

Witnesses, *Edmund J. ...*
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.

George J. Stangle

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 -----
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Water Rights Division
(605) 773-3352

815-2 & 902-2

November 12, 1981

Sheryl Kanderas
SD Cement Plant
W of City
Rapid City, SD 57701

Dear Ms. Kanderas:

This will confirm our telephone conversation of this morning regarding water rights held by the South Dakota Cement Plant.

The Cement Plant holds Permit No. 815-2 covering four wells with a total diversion of 1.57 cfs and Permit No. 902-2 which reserves 3.14 cfs for future developmental needs of the plant. I am enclosing copies of the permits for your files.

You indicate that your concern was with drilling replacement wells in case of failure of the casing on existing wells. Replacement wells into the same water bearing formation can be drilled without further action by this office. Abandoned wells should be plugged.

If you have further questions, feel free to contact this office.

Sincerely,

BURTON F JONES
Water Rights Specialist

BFJ/gy

encl: attached

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

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

September 21, 1988

NOTICE

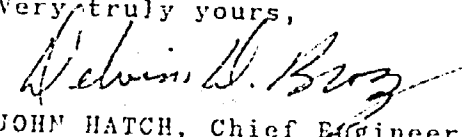
SD Cement Plant
Drawer 360
Rapid City SD 57701

Dear Sir:

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). 815-2 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,

for 
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. 815-2

SD Cement Plant
Drawer 360
Rapid City SD 57701

Dear Sir:

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



Conversation or File Documentation

NAME OF PERSON OR FILE: The South Dakota Cement PlantADDRESS: Rapid City, SD 57701 COUNTY PenningtonDATE: 10-4-90 TELEPHONE 347-1252 394-5200RE: Vested right claim inspection

COMMENTS:

Accompanied by Fred Carl, with the SD Cement Plant inspected
the wells under Vested Right Claim, 815-2. All four wells
seemed to be in good shape and were used for industrial
purposes. According to Mr. Carl approximately 700 GPM are being
used from the well depending on the production rate

A Recommend validation

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.

SOUTH DAKOTA

VESTED WATER RIGHT NO. 815-2

Date of Receipt of Claim February 18, 1964.

Date of Validation September 30, 1992.

The Water Management Board validated Vested Water Right Claim No. 815-2 for the South Dakota Cement Plant, Drawer 360, Rapid City, South Dakota 57701 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 815-2 appropriates 1.57 cubic feet per second of water from four wells located in the NE1/4 NE1/4 and SE1/4 NE1/4 Section 33, T2N, R7E.
2. The appropriated water is used for manufacturing cement and may not exceed the amount of water needed for beneficial use for industrial purposes.

The water is to be used during the following annual period:
January 1 - December 31.

3. The priority dates of the Vested Water Right are:
January 1, 1923 - 0.98 cfs
January 1, 1924 - 0.5 cfs
January 1, 1934 - 0.05 cfs
January 1, 1941 - 0.04 cfs
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: _____


Chief Engineer

MAR 16 1993

date

Division of Water Rights
Dept. of Environment and Natural Resources



815-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

MAR 16 1993

Gene Nelson
South Dakota Cement Plant
Drawer 360
Rapid City SD 57701

Dear Mr. Nelson:

The Water Management Board has validated the enclosed Vested Water Right No. 815-2. This validation gives legal status to the claim and is the final document for your vested right.

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

815-2



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

WTR 4.10

BF-430

AUG 13 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
Orad SD 57766

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

Department of Environment and Natural Resources
Air and Surface Water Program
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181
Telephone: (605) 773-3351

815-2



STATE OF SOUTH DAKOTA

BEFORE THE SECRETARY OF

THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

IN THE MATTER OF THE
APPLICATION OF GCC DACOTAH, INC.

See Exhibit A attached hereto
(FACILITY NAME)

STATE OF _____

COUNTY OF _____

) CERTIFICATION OF
)
) APPLICANT
)

) SS
)

I, GCC DACOTAH, INC., the applicant in the above matter after being duly sworn upon oath hereby certify the following information in regard to this application:

South Dakota Codified Laws Section 1-40-27 provides:

"The secretary may reject an application for any permit filed pursuant to Titles 34A or 45, including any application by any concentrated swine feeding operation for authorization to operate under a general permit, upon making a specific finding that:

(1) The applicant is unsuited or unqualified to perform the obligations of a permit holder based upon a finding that the applicant, any officer, director, partner or resident general manager of the facility for which application has been made:

- (a) Has intentionally misrepresented a material fact in applying for a permit;*
- (b) Has been convicted of a felony or other crime involving moral turpitude;*
- (c) Has habitually and intentionally violated environmental laws of any state or the United States which have caused significant and material environmental damage;*
- (d) Has had any permit revoked under the environmental laws of any state or the United States; or*
- (e) Has otherwise demonstrated through clear and convincing evidence of previous actions that the applicant lacks the necessary good character and competency to reliably carry out the obligations imposed by law upon the permit holder; or*

(2) The application substantially duplicates an application by the same applicant denied within the past five years which denial has not been reversed by a court of competent jurisdiction. Nothing in this subdivision may be construed to prohibit an applicant from submitting a new application for a permit previously denied, if the new application represents a good faith attempt by the applicant to correct the deficiencies that served as the basis for the denial in the original application.

All applications filed pursuant to Titles 34A and 45 shall include a certification, sworn to under oath and signed by the applicant, that he is not disqualified by reason of this section from obtaining a permit. In the absence of evidence to the contrary, that certification shall constitute a prima facie showing of the suitability and qualification of the applicant. If at any point in the application review, recommendation or hearing process, the secretary finds the applicant has intentionally made any material misrepresentation of fact in regard to this certification, consideration of the application may be suspended and the application may be rejected as provided for under this section.

Applications rejected pursuant to this section constitute final agency action upon that application and may be appealed to circuit court as provided for under chapter 1-26."

Pursuant to SDCL 1-40-27, I certify that I have read the forgoing provision of state law, and that I am not disqualified by reason of that provision from obtaining the permit for which application has been made.

Dated this 6th, day of March, 2001

GCC DACOTAH, INC.

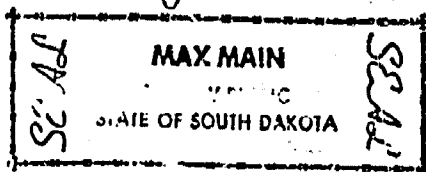
By: Martha Rodriguez
Applicant Martha Rodriguez, Treasurer

Subscribed and sworn before me this 13th day of March, 2001

Max Main
Notary Public

My commission expires: May 15, 2002

(SEAL)



PLEASE ATTACH SHEET DISCLOSING ALL FACTS PERTAINING TO
SDCL 1-40-27 (1) (a) THROUGH (e).
ALL VIOLATIONS MUST BE DISCLOSED, BUT WILL NOT
AUTOMATICALLY RESULT IN THE REJECTION OF AN APPLICATION.

LAW OFFICES OF
BENNETT, MAIN, BAILEY & GUBBRUD
A PROFESSIONAL CORPORATION
618 STATE STREET
BELLE FOURCHE, SOUTH DAKOTA 57717-1489
TEL (605) 892-2011
FAX (605) 892-4084
Email: Lellelaw@bellelaw.com

MAX MAIN*
KEVIN S. BAILEY
DANIEL A. GUBBRUD
*ALSO LICENSED IN WYOMING

March 20, 2001



DOHA STIRED
IETT

Chief Engineer
Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3182

**RE: State Cement Plant Commission - GCC Dacotah, Inc. Water
Right Transfers.**

Dear Chief Engineer:

Enclosed are original NOTICES OF TRANSFER OF OWNERSHIP for the
following water rights:

1. Vested Water Right No. 815-2.
2. Water Right No. 54-2.
3. Water Right No. 293-2.
4. Water Right No. 294-2.

Also enclosed is a check payable to the order to SDDENR in the amount of \$10
as payment of the filing fees for the transfers. Please return confirmation of the
change in ownership to me at the above address.

Thank you for your assistance, and if you have any questions, please feel free
to contact me.

Sincerely,

BENNETT, MAIN, BAILEY & GUBBRUD, P.C.

Max Main

MM/njo

cc (via fax): Jim Nelson
Lori Anne Czepiel
Gene Nelson

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 815-2

Date: Mar. 15, 2001



I/We request that Vested Water Right No. 815-2

formerly owned by: the SD Cement Plant

be transferred to: (name & address) GCC Dacotah, Inc. d/b/a Dacotah Cement

PO Drawer 360, Rapid City, SD 57709-0360

Telephone No. (605) 394-5200

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

four wells used for industrial purposes located in the NE 1/4 NE 1/4 and SE 1/4 NE 1/4 Section 33, T2N, R7E

I/We understand that the validity of Vested Water Right No. 815-2 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.

STATE OF SOUTH DAKOTA)

County of Pennington)

I/We Manuel A. Milan 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 statements and that I know of my own personal knowledge that the information herein stated is true.

GCC Dacotah, Inc.

Manuel A. Milan (Signature of new owner)
President

Subscribed and sworn to before me this 15 day of March, 2001.

JAMES S. NELSON
Notary Public, South Dakota
My Commission Expires April 7, 2005

James S. Nelson
(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
Water Rights Program

South Dakota Department of Environment and Natural Resources

711 416806

Pierre, MARCH 22, 2001

RECEIVED OF Bennett, Main Bailey & Gubbrud, 618 State St., Belle Fourche, SD 57717 (GCC Dakota)
the following amount in fees for services rendered as provided for by law: (State Cement Plant)

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 815-2

2 50

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

2 50

By J. D. [Signature]
Chief Engineer

LAW OFFICES OF
BENNETT, MAIN, BAILEY & GUBBRUD

A PROFESSIONAL CORPORATION

618 STATE STREET

BELLE FOURCHE, SOUTH DAKOTA 57717-1489

TEL (605) 892-2011

FAX (605) 897-4084

Email: bellelaw@bellelaw.com

MAX MAIN*

KEVIN S. BAILEY

DWIGHT A. GUBBRUD

*ALSO LICENSED IN WYOMING

RETIRED

DONN BENNETT

March 27, 2001

S.D. Department of Environment & Natural Resources
Attn: Tim Tollefsrud
Joe Foss Bldg.
523 E. Capitol
Pierre, SD 57501-3181



RE: Sale of Dacotah Cement to GCC Dacotah, Inc.

Dear Tim:

As a followup to Talbot Wieczorek's March 2, 2001 letter to you, please be advised that the sale from the South Dakota State Cement Plant Commission to GCC Dacotah, Inc. closed Friday, March 16, 2001.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

BENNETT, MAIN, BAILEY & GUBBRUD, P.C.

Max Main

MM/ra

cc: Gene Nelson @ Dacotah Cement



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

April 5, 2001

Gene Nelson
Dacotah Cement
PO Drawer 360
Rapid City, SD 57709-0360

Dear Mr. Nelson:

Enclosed is a copy of the letter sent to Max Main verifying that the water rights and the vested water right once held by the State Cement Plant were transferred to GCC Dacotah, Inc., d/b/a Dacotah Cement.

Also enclosed is a sample copy of the yearly irrigation questionnaire. Two of the water rights (Nos. 293-2 and 294-2 - in Custer County) contain a qualification that requires submission of annual irrigation questionnaire. I am sending you the sample copy of the form as a reminder what type of information to keep track of during the irrigation season. The actual forms that need completion will be mailed to you in October 2001.

If I can answer any questions for you, please get in touch with me.

Sincerely,

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

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

April 5, 2001

Max Main
Bennett, Main, Bailey & Gubbrud, PC
618 State St
Belle Fourche, SD 57717-1489

RE: State Cement Plant – GCC Dacotah, Inc
Vested Water Right No. 815-2, Water Right Nos. 54-2, 293-2 & 294-2

Dear Mr. Main:

I am writing to acknowledge receipt of the "Notice of Transfer of Ownership" forms and filing fees you submitted for Vested Water Right No. 815-2, and Water Right Nos. 54-2, 293-2 and 294-2.

The ownership changes have been completed. Vested Water Right No. 815-2 and Water Right Nos. 54-2, 293-2 and 294-2, once held by the State Cement Plant are now listed in the name of GCC Dacotah, Inc., d/b/a Dacotah Cement.

Enclosed are your Receipt Nos. 416806, 416807, 416808 and 416809 in the amount of \$2.50 each. If we can answer any questions for you concerning the ownership changes or the water rights in general, please get in touch with us.

Sincerely,

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

c: Gene Nelson



January 7, 2005

815-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

Mr. Steve Zellmer
GCC Dacotah, Inc
PO Drawer 360
Rapid City, SD 57709

Dear Steve:

I wanted to follow-up our telephone conversation with a letter to provide you the information in writing concerning the water rights held by GCC Dacotah, Inc.

GCC holds two water rights at the Rapid City site. Water permit No. 815-2 is for 1.57 cubic feet per second (cfs) from the Minnelusa aquifer for the purpose of making Portland cement. This permit is licensed and has a priority date of January 1, 1923. GCC also holds a future use permit No. 902-2 reserving 3.14 cfs for future development from the Minnelusa aquifer. Water rights law requires future use permit to be brought before the Water Management Board every seven years to determine if there is a reasonable need for the reserved water. At some point, we will need to schedule this permit for its seven year review.

We also discussed the new GCC site at Dewey and the potential water right needs. We would encourage GCC to apply for new permits as this site is developed. There was some discussion about the possibility of transferring a permit from the Rapid City site to the Dewey site but we do not see this as feasible and would discourage any efforts to do that. Obtaining a new permit should not pose any problems since both the Madison and Minnelusa aquifers are available at that site and development of either would not adversely impair any existing water rights.

Hopefully, this summarizes our conversation. If you have any further questions please don't hesitate to contact our office.

Sincerely

Garland Erbele
Chief Engineer

Cc: Gene Nelson