No. 828-2Water Division No. 2 Fall River
(Blanks to be filled by the Engineer for the W. R. C.)

STATE WATER RESOURCES COMM.

PIERRE, SOUTH DAKOTA

APPLICATION FOR PERMIT

To appropriate Water within the State of South Dakota

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

1. Name of applicant: D. K. Bell Steve Bernal
 Postoffice address Trailblazer, County Custer, State S. D.

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)

Contract

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

2. Name of diversion work D. K. Bell Water spreading system
 3. Amount of water claimed 1.81 cubic feet per second
 4. Source of water supply Big Horn
 5. Location of point of diversion see map

_____ on _____ bank _____ County.

6. Annual period or periods during which water is to be used
- February - December

7. To be used for:

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

- (a) Number of acres to be irrigated
- 127
- acres.

- (b) Legal subdivisions to be irrigated
- see map

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

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

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 713-2

8. Estimated cost of work:

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

(b) Pumping plant, \$.....

(c) Fluming, \$300.00 (d) Canal earth, \$3000.00

Rock, \$.....

(e) Other structures\$.....

Total, \$.....

9. Description of diversion works:

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

diversion dam with augmented C.M.P. outlets

II. Dimensions of works:

- (a) Dam: Height 60 feet; length at bottom 200 feet; length at top 800 feet; thickness at bottom 42 feet; thickness at top 12 feet; slope at front water face 3:1; slope at back face 2:1; material used in construction earth fill
- (b) Reservoir: Capacity when filled 12 acre feet. Surface area at highwater mark 3 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 4 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 not applicable years.
11. Time required for complete application of water to the proposed beneficial use not applicable years.
12. Choice of newspaper for publication of notice of intention to appropriate

STATE OF SOUTH DAKOTA

County of Custer

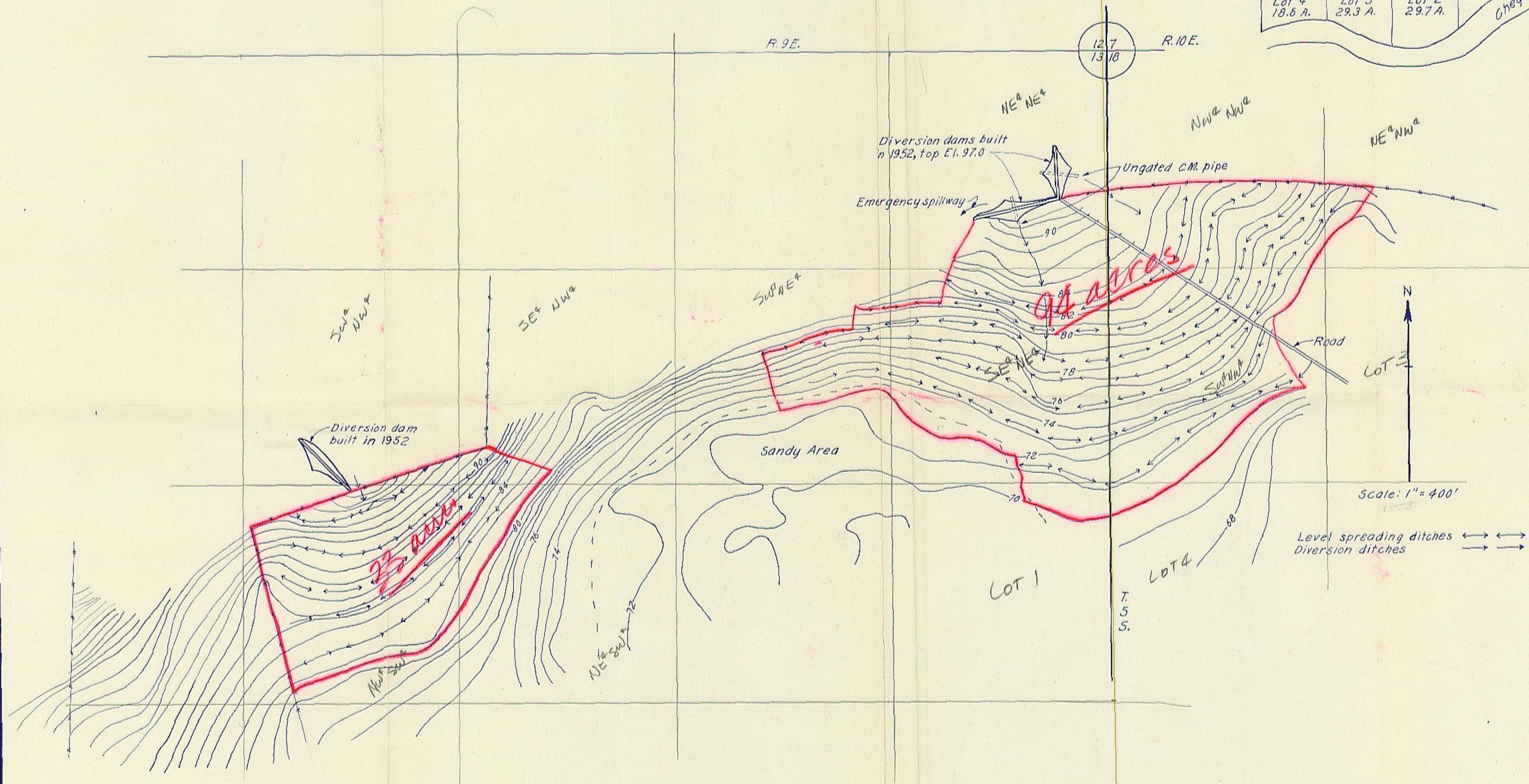
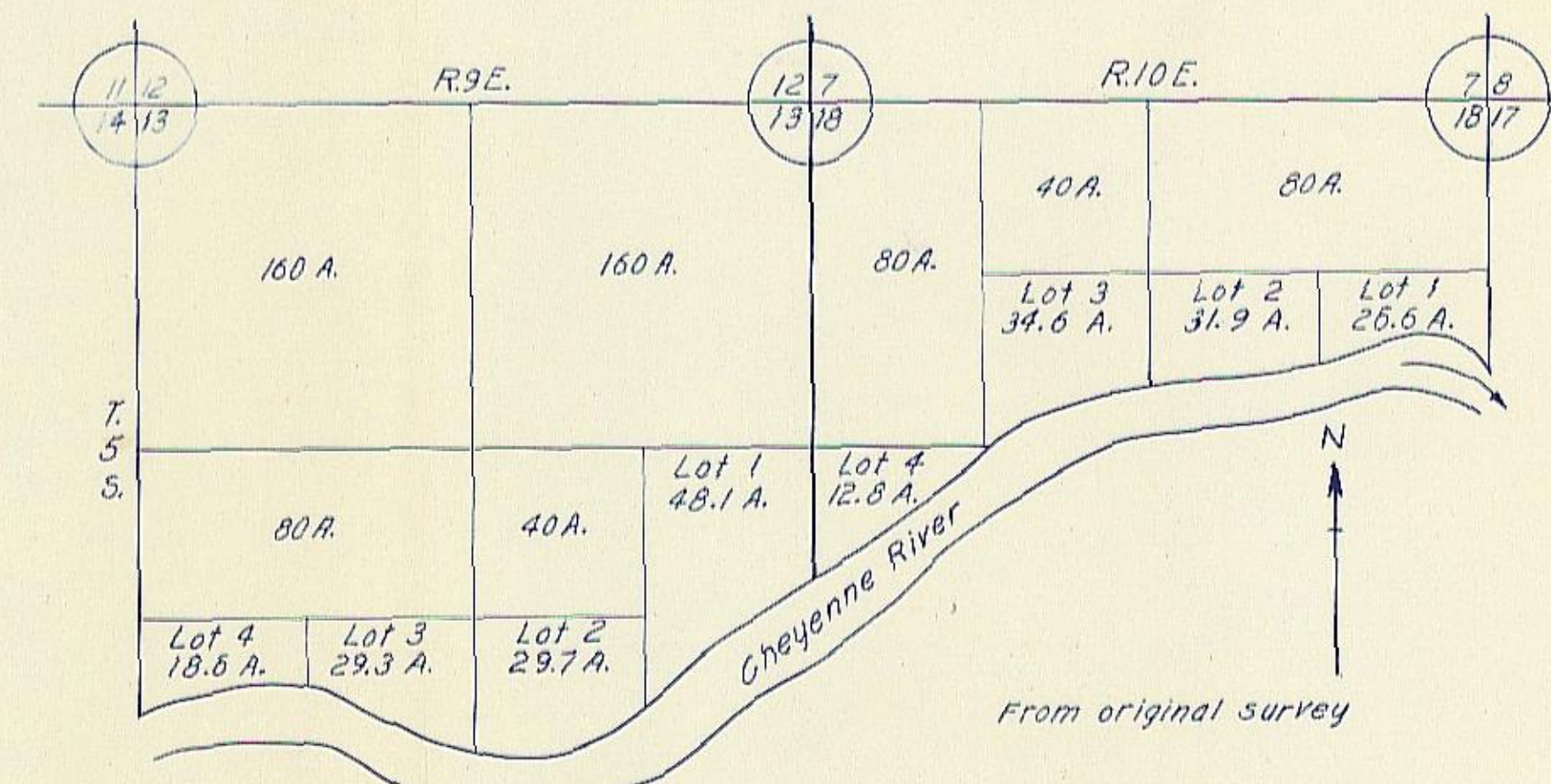
} ss.

I, D. K. Bell, 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 D. K. BellSubscribed and sworn to before me this 1stday of July1964

Notary Public (or other qualified officer.)

*Each diversion must have a headgate or measuring device.



D. K. BELL			
WATER SPREADING SYSTEM			
Fairburn, Custer County, South Dakota			
U. S. DEPARTMENT OF AGRICULTURE			
SOIL CONSERVATION SERVICE			
Designed <u>D. A. A.</u>	Date <u>11-63</u>	Approved by _____	
Drawn _____	Title _____	_____	
Traced _____	Sheet _____	Drawing No. _____	
Checked _____	No. <u>1</u>	of <u>1</u>	

Map No 713-2 (App'l No 828-2)

Remarks by State Water Resources Commission:

"VESTED RIGHT" CLAIMED

This permit includes 12 acre feet of storage

STATE OF SOUTH DAKOTA

County of

Hughes

53

Pierre, South Dakota,

SEPTEMBER 11, 1964

This is to certify that the foregoing application was received by the Commission at 1:30 o'clock

P.m. upon the 4TH day of MAY, 1964

State Water Resources Commission

By:

Justin J. Jones
for Chief Engineer, Executive Officer

Number of permit

828-2

Date of first receipt of application

MAY 4, 1964

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

Date of receipt of corrected application

Date from which applicant may claim right

1952

Approved

SEPTEMBER 11, 1964

Recorded in Book

8

Page

234

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

2nd. The whole of said work is to be 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

IRRIGATED

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 1.81 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 June 30, 1955; said water to be used during the following described annual period:

when water is available

Witness my hand this

11th

day of

September, 1964

State Water Resources Commission

By:

Justin J. Jones

Chief Engineer, Executive Officer

Certificate of Construction issued

SEPTEMBER 11, 1964

Water License issued

SEPTEMBER 11, 1964

Remarks by the Applicant:

Water when available has been used for
hay production since the diversion dams
were built in 1952

Signed - Jack Markitan - - -

J. W. McDemas - - -

Diversion Points

A point in the SW⁴NW⁴, Section 13, T55, R9E,
and a point in the NE⁴NE⁴, Section 13, T55 R10.

Lands to be irrigated

Section 18, T55, R10E

NW⁴NW⁴ 16 acres

NE⁴NW⁴ 2 acres

SW⁴NW⁴ 25 acres

Lot 1 1 acre

Section 13, T55, R9E

NE⁴NE⁴ 7 acres

SE⁴NE⁴ 33 acres

SW⁴NE⁴ 7 acres

Lot 1 3 acres

NW⁴SW⁴ 26 acres

NE⁴SW⁴ 4 acres

SE⁴NW⁴ 2 acres

SW⁴NW⁴ 1 acre

Total 127 acres

STATE OF SOUTH DAKOTA

WATER LICENSE No. 828-2

WHEREAS, On the 4th day of May A. D. 1964
D. K. Bell

of Fairburn County of Custer and State of
South Dakota duly made application (No. 828-2) to us for vested right
1.81
cubic feet per second of the waters of dry draws
County of Custer, State of South Dakota, for irrigation
purposes; and

WHEREAS, On the 11th day of September A. D. 1964
vested Right Permit No. 828-2 was issued to said applicant... for the diversion of said water, recognizing the
XXXXXX
completion of the works of diversion therein described: XXXXXX
XXXXXX application to beneficial use of said
water XXXXXX
and,

WHEREAS, On the 9th day of September A. D. 1964
the holder... of said permit duly made proof of the completion of adequate works for the diversion of 1.81
cubic feet per second of said waters, as evidenced by our Certificate No. 828-2
dated September 11, 1964 confirming the completion of works of sufficient capacity for
diverting and conveying to the place of intended use 1.81
cubic feet per second of water, with date of
priority of 1952 and,

WHEREAS, On the 9th day of September A. D. 1964
proof was duly made of the application to beneficial use of 1.81 cubic feet per second of said water;
for irrigation of 127 acres in portions of Section 13, T5S, R9E and Section 18, T5S,
R10E

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 D. K. Bell
of Fairburn the holder and owner of Vested Right of sale/permit No. 828-2
a water right, dating from 1952 to the use of 1.81
cubic feet per second of the waters of dry draws
in the County of Custer and State of South Dakota, or so much thereof as may be
necessary for the purposes hereinbelow mentioned, to be diverted at a point in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section
13, T5S, R9E and a point in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 18, T5S, R10E
and conducted to and upon portions of Section 13, T5S, R9E, and Section 18, T5S, R10E
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 11th day of September A. D. Nineteen
Hundred and Sixty-Four

State Water Resources Commission

By:

J. W. CRIMES
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. 828-2Water Division No. 2 Full River Water District

Certificate of Completion of Works

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That D. F. Bell

of Fairburn, County of Custer, and State of South Dakota, the holder of Vested Right of Permit No. 828-2, issued upon Application No. 828-2, bearing date of priority of 1956, authorizing the diversion of 1.81 cu. ft. per second of the waters of dry draws

County of Custer, State of South Dakota, at a point in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 13, T5S, R9E, and a point in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 18, T5S, R10E for irrigation

purposes, has ⁵ full, complied with the provisions of the laws of the State of South Dakota relating to proof of completion of the works of diversion set out and described in said Permit; that said works are ~~recognized as satisfactory~~ ^{recognized as satisfactory} ~~XXXXXX~~ for diverting and conveying to the place of intended use 1.81 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: Section 18, T5S, R10E NE $\frac{1}{4}$ NW $\frac{1}{4}$ 16 acres

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 2 "

SW $\frac{1}{4}$ NW $\frac{1}{4}$ 25 "

Lot 4 1 "

Section 13, T5S, R9E NE $\frac{1}{4}$ NE $\frac{1}{4}$ 7 "

SE $\frac{1}{4}$ NE $\frac{1}{4}$ 33 "

SW $\frac{1}{4}$ NE $\frac{1}{4}$ 7 "

Lot 1 3 "

NW $\frac{1}{4}$ SW $\frac{1}{4}$ 26 "

NE $\frac{1}{4}$ SW $\frac{1}{4}$ 1 "

SE $\frac{1}{4}$ NW $\frac{1}{4}$ 2 "

SW $\frac{1}{4}$ NW $\frac{1}{4}$ 1 "

Total - 127 "

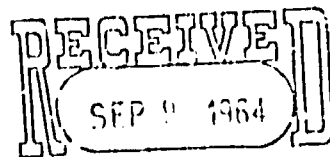
Witness my hand this 11th day of September A. D. 1964

State Water Resources Commission

By: J. W. CRIGGS
Chief Engineer, Executive Officer

Location No. _____

Water Division No. _____ Water District _____

STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA**Proof of Application of Water to Beneficial Use****PETITION OF HOLDER**

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

Ans. D. K. Bell, Rancher Fairburn

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 recording

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

Ans. As shown on the application

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. As shown on the application

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. Irrigation of 127 acres as shown on the application

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

Ans. None

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

Ans. 250 acre feet

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

Ans. _____

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

Ans. Water has been spread - almost natural
spread system since farm was homesteaded
in 1890. Diversion dams built in 1952
and have been in use since that date.

(Sign) -

J. K. Bell

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 22nd day of September, A. D. 1964.

Witnesses,

Hermit E. Toral

My Commission Expires December 3, 1971

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.

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 _____

RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

No. 4 7463

PIERRE, April 17 1920

RECEIVED OF Steve/Lordish Bernal, Fairburn, SD 57728

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

Fee for Application for Permit to Appropriate Water No. _____ (examination, processing, recording and filing) _____		
Fee for Inspecting Construction, and issuing Cert. of Construction No. _____		
Fee for Inspecting Beneficial Use, and issuing Water License No. _____		
Fee for issuing Location Certificate-Dry Draw, No. _____		
Fee for filing transfer of water right No. 828-2		2 50
Fee for certified copy of _____		
Fee for Print copy of map _____		
Fee for Certifying _____		
Fee for _____		
(any other work as provided by law)		
TOTAL		50

WATER RIGHTS COMMISSION

By John Hatch
Chief Engineer, Executive Officer
JOHN HATCH (SY)

NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Rights
Foss Building
Pierre, SD 57501

Date: 4/11/80

This is to notify you that the title to the lands described as follows:

N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, & Lot 4, Sec. 18, T5S, R10E; E $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, Lot 1, N $\frac{1}{2}$ SW $\frac{1}{4}$,

S $\frac{1}{2}$ NW $\frac{1}{4}$ Section 13, T5S, R9E

formerly owned by D.K. Bell, Fairburn, SD

has been transferred to Steve Bernal, Fairburn, SD 57733

together with any rights to the beneficial use of water thereon as evidenced by

Water Right Permit No. 828-2 as provided for in SDCL 46-5-32 and 46-5-33.

You are therefore hereby requested to file this "Notice of Transfer of Water Permit" in its appropriate file at the Office of the Board of Water Management as evidence of the change of ownership.

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

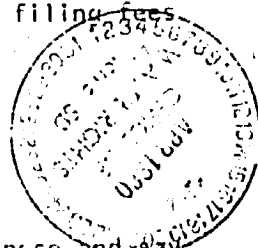
STATE OF SOUTH DAKOTA)
County of Custer) ss.

I, Steve Bernal 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 I know of my own personal knowledge that the information herein stated is true.

Steve Bernal
(Signed)

Subscribed and sworn to before me this 11th day of April, 1980

Deann Bernal
(Notary Public)



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**Dakota Department of
Water & Natural Resources**
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

September 21, 1988

NOTICE

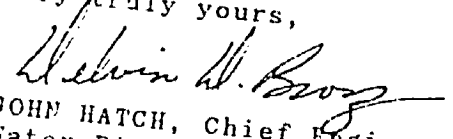
Rittberger Bros.
HCR 83, Box 13
Hermosa SD 57744

Dear Sirs:

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). The claim has 828-2 until a field inspection has been completed. An inspection is 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



NOTICE OF TRANSFER OF OWNERSHIP

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

No. 823-2

Date: April 17, 1990

I/We request that Vested Right Claim No. 828-2

formerly owned by: Steven Bernal

be transferred to: (name & address) Ritterberger Beef & Dairy

Box 13, Hermosa, SD 57744 (Telephone No.) 883-6805

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

NW1/4 Section 18-T5S-R10E and NE1/4 & SW1/4 Section 13-T5S-R9E

We understand that the validity of Vested Right Claim No. 828-2 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 Custer)

I/We Steven Bernal 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.

Subscribed and sworn to before me this 5th day of June, 1990.
Steven Bernal
(Signed)

Notary Commission
Expires Jan 20 1991

Polina O. Beckman
(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 Water and Natural Resources

448276

Pierre, June 25, 1960

RECEIVED OF Rittberger Beef & Dairy, Inc., RCR 83 Box 13, Hermosa, SD 57744
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct works and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form: <u>Wasted Right Claim No. 318-2</u>	2	50
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	2 50

By John W. Nelson
Chief Engineer

SOUTH DAKOTA Department of
Water & Natural Resources

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

June 26, 1990

No. 828-2

Pittberger Beef & Dairy
RR 3, Box 13
Hermosa SD 57744

Dear Sir:

Enclosed is a receipt in the amount of \$2.50 which you paid for the transfer of Vested Right Claim No. 828-2.

Our records now show you as the owner of this Vested Right Claim.

Sincerely,

Karen Schlaak

KAREN SCHLAACK
Senior Secretary
Water Rights Division
605 773-3352

enclosure

Conversation or File Documentation

NAME OF PERSON OR FILE: Steve BernalADDRESS: Fairburn, SD 57738 COUNTY CusterDATE: April 12, 1990 TELEPHONE _____RE: Validation of Vested Right Claim No. 828-2

COMMENTS:

On June 22, 1989, I made an investigation of Vested Right Claim No. 828-2. Bob Rittberger accompanied me on the inspection. Rittberger Beef & Dairy, Rt. 3 Box 13, Hermosa, SD is now the owner of this project. The project appears to be as described on the original application with the exception of a few less acres are now being irrigated. A transfer form will be sent to the Rittbergers.

The following lands are being irrigated by Vested Right Claim No. 828-2.

Section 18-T55-R10E NW $\frac{1}{4}$ NW $\frac{1}{4}$ - 20 Acres

NE $\frac{1}{4}$ NW $\frac{1}{4}$ - 2.5

SW $\frac{1}{4}$ NW $\frac{1}{4}$ - 21

Lot 4 - 1.5

Section 13-T55-R9E NE $\frac{1}{4}$ NE $\frac{1}{4}$ - 10

SE $\frac{1}{4}$ NE $\frac{1}{4}$ - 30

SW $\frac{1}{4}$ NE $\frac{1}{4}$ - 6

NW $\frac{1}{4}$ SW $\frac{1}{4}$ - 22

Total - 113 Acres

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.

NAME: Tim Schaal

828-2

SOUTH DAKOTA Department of
Water & Natural Resources

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

April 20, 1990

Rittberger Beef & Dairy
Rt. 3, Box 13
Hermosa, SD 57744

Dear Mr. Rittberger:

Enclosed is some information pertinent to transferring a water permit to other land. SDCL 46-5-30.4, 46-5-34 and 46-5-35 cover this. The transfer is subject to Soil/Water approval and the priority date can also be transferred if the transfer will not impair existing water rights. The Clarence Werner permit is No. 1024-2 with a priority date of May 22, 1970, and a diversion rate of 0.63 cfs to irrigate 43 acres.

Also enclosed is a Notice of Transfer of Ownership to transfer Vested Water Right Claim No. 828-2. This is for the water spreading project located in the NW 1/4 of Section 18-T5S-R10E and the NE 1/4 and SW 1/4 of Section 13-T5S-R9E.

This form needs to be signed and notarized and returned to us with a \$2.50 filing fee.

If you have any questions, please let us know.

Sincerely,



Timothy G. Schaal
Water Resources Engineer
(605) 773-3352

enclosures

L



828-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

April 14, 1992

NOTICE

TO: Rittberger Beef & Dairy
RR 3, Box 13
Hermosa SD 57144

FROM: John Hatch, Chief Engineer
for Water Rights Division
605 773-3352

SUBJECT: Hearing to Consider Validation of Recognized Vested Right Claim No. 828-2,
Rittberger Beef & Dairy

A Notice of Intent to validate Claim No. 828-2 was published on June 22 and 29, 1988 in the Custer County Chronicle. The Water Rights Division opposed validation of No. 828-2 for purposes of completing an on-site inspection of the claim. The inspection of Claim No. 828-2 was completed on June 22, 1989, by Tim Schaal staff engineer. The inspection found that the number of acres being irrigated has been reduced from 127 acres to 113 acres. The diversion rate is to be reduced, accordingly, from 1.81 cubic feet of water per second (cfs) to 1.61 cfs. This reduced diversion rate is based on the statutory application rate of 1 cfs per 70 acres (113 acres/70 = 1.61 cfs).

The Water Management Board will consider validation of Claim No. 828-2 at 9:30 am, May 6, 1992, in the Floyd Matthews Training Center, Joe Foss Building, 523 E Capitol, Pierre SD. The agenda time is an estimate. The actual time of the hearing may be later than 9:30 am due to prior agenda items.

Pursuant to the findings of the on-site inspection, validation of Claim No. 828-2 is recommended for a diversion rate of 1.61 cfs from dry draws to irrigate 113 acres. Following the hearing, the Board is authorized to 1) validate the claim as recommended for 113 acres and 1.61 cfs, 2) validate the claim as licensed prior to the on-site inspection, 3) validate the claim based on evidence presented at the public hearing, or 4) defer validation of the claim. Applicable provisions of the published notice of intent to validate Claim No. 828-2 will still apply at this hearing. A copy of the June 22 and 29, 1988, publication is available upon request.

This hearing is an adversary proceeding. You have the right to be represented by a lawyer. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

cc: Diane Best, Assistant Attorney General

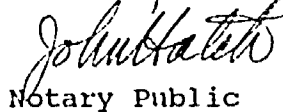
Rittberger Beef & Dairy, RR 3, Box 13, Hermosa, SD 57744.

Diane Best, Assistant Attorney General, Capitol Building.

Cheryl F. Frost.
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 16th day of April, 1992.



Conversation or File Documentation

NAME OF PERSON OR FILE: Rittberger Beef & DairyADDRESS: _____ COUNTY CusterDATE: June 4, 1992 TELEPHONE: _____RE: Error in diversion point description

COMMENTS:

It appears there is an error on the original application for Vested Right Claim No. 828-2. Both diversion points are located in Section 13-T5S-R10E. The diversion point described as being located in the NE¹/₄-NE¹/₄ of Section 18-T5S-R10E is actually located in the NE¹/₄-NE¹/₄ of Section 13-T5S-R10E.

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.

NAME: Tim Shoal

South Dakota



GREAT FACES. GREAT PLACES.

August 20, 1992

Rittberger Beef & Dairy
RR 3, Box 13
Hermosa SD 57744

Dear Mr. Rittberger:

The original Notice of Intent to Validate Vested Water Right Claims was published with an error. The location of one of the diversion points was incorrect. Therefore, the notice needs to be readvertised to correct the error. The Readvertisement of the Notice of Intent to Validate Vested Water Right Claims has been sent to the Publisher of the Custer County Chronicle printed at Custer SD. For your information, a copy of the notice is enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

The cost of publication of this notice will be paid by the Division of Water Rights. Please contact us if you have any questions.

Sincerely,

Eric Gronlund

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

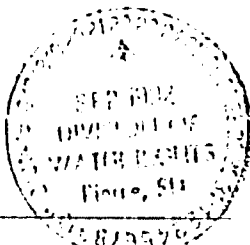
828-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County (Custer)) ss.



I, Floyd Matthew Training

certify that the attached printed Notice was taken from the Custer County Chronicle

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 Custer

County of Custer and State of South Dakota; that the said notice was published in said newspaper on the following two dates:

8/26/92

9/2/92

Floyd Matthew Training
(Signature)

Publisher
(Title)

9-21-92
(Date Signed)

Cost of Printing: 13.51

READVERTISEMENT OF NOTICE OF INTENT TO VALIDATE VESTED WATER RIGHT CLAIMS

Notice is given that the following vested water right claim in Custer County is eligible for validation by the Water Management Board pursuant to SDCL 46-2A-17 without a hearing unless a petition to oppose the validation is filed pursuant to SDCL 46-2A-22. Readvertisement of the original notice of intent to validate the claim, as published on June 22 and 29, 1988 in the Custer County Chronicle, is necessary to correct errors in the previously published notice.

Vested Water Right No. 828-2, Rintberger Reef & Dairy, RR 3, Box 13, Menasha SD 57144 appropriates 1.61 cubic feet of water per second from dry draws located in the SW 1/4 NW 1/4 and the NE 1/4 NE 1/4 Section 13-T5S R9E to irrigate 113 acres. The irrigated land is located in the N 1/2 NW 1/4, SW 1/4 NW 1/4 and E 1/4 Section 18-T5S R9E and the E 1/2 NE 1/4, SW 1/4 NE 1/4, NW 1/4 SW 1/4 Section 13-T5S R9E. The priority date is January 1, 1952.

Any person who wishes to oppose validation of the readvertised vested right claim shall file a petition of intent to oppose the validation by September 18, 1992 with the Chief Engineer, Water Rights Division, Department of Environment and Natural Resources, Joe Foss Building, 523 East Capitol, Pierre, SD 57501-3181 (605-773-3352) and with the vested water right holder at the listed address. The petition may be informal, but it must include a statement describing the petitioner's interest in the vested water right claim, the reasons for the petitioner's opposition to the claim, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained.

If a petition of intent to oppose the validation of a recognized vested water right claim is filed, the Water Management Board will conduct a hearing on the opposed claim at 10:00 am, September 30, 1992, Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre SD. The September 30, 1992, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by September 18, 1992.

If no person opposes validation of the readvertised vested water right claim pursuant to SDCL 46-2A-16, the Water Management Board will issue an order pursuant to SDCL 46-2A-17, validating the vested water right claim.

This validation is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-14; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-16 thru 46-2A-19, 46-2A-22; 46-5-1 thru 46-5-6.1, 46-5-8.2, 46-5-13 thru 46-5-15, 46-5-30.2 thru 46-5-37.1, 46-5-46, 46-5-49, 46-6-1 thru 46-6-3, 46-6-6, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-7-1 thru 46-7-5.3, 46-7-12, 46-7-14, 46-7-16 and Board Rules ARSD 74:02:01:01 thru 74:02:01:0503 and 74:02:01:20 thru 74:02:01:22.

Contact Eric Gronlund by September 18, 1992, at the above Water Rights Division address for: 1) request copies of information pertaining to the vested right claim or a copy of the vested water right claim list for another county; 2) obtain a summary of South Dakota Water Law and Water Rights information; 3) to assure access to the hearing by the handicapped; or 4) obtain an interpreter for the hearing impaired.

Robert E. Roberts, Secretary
Department of Environment and Natural Resources

RD 25 BOX 97

SOUTH DAKOTA

VESTED WATER RIGHT NO. 828-2 FOR IRRIGATION

Date of Receipt of Claim May 4, 1964.

Date of Validation September 30, 1992.

The Water Management Board validated Vested Water Right Claim No. 828-2 for irrigation purposes for Rittberger Beef & Dairy, RR 3, Box 13, Hermosa SD 57744 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 828-2 appropriates 1.61 cubic feet of water per second from dry draws located in the SW 1/4 NW 1/4 and the NE 1/4 NE 1/4 Section 13-T5S-R9E to irrigate 113 acres located in the N 1/2 NW 1/4, SW 1/4 NW 1/4, Lot 4 Section 18-T5S-R10E and E 1/2 NE 1/4, SW 1/4 NE 1/4, NW 1/4 SW 1/4 Section 13-T5S-R9E.
2. The appropriation may not exceed the amount of water needed for beneficial use for irrigation. The appropriation may not exceed 3 acre feet per irrigated acre per year. Water is to be used during the following annual period: February 1 - December 31.
3. The priority date of the Vested Water Right is January 1, 1952.
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.

QUALIFICATION

This vested right includes 12 acre-feet of storage.

WATER MANAGEMENT BOARD

By: 
John Hatch, Chief Engineer

OCT 29 1992

date

Division of Water Rights
Dept. of Environment and Natural Resources

STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 828-2 FOR IRRIGATION

(1) Rittberger Beef & Dairy of RR 3, Box 13, Hermosa, SD 57744 made Application No. 828-2, May 4, 1964 for validation of a vested right claim to appropriate 1.81 cubic feet of water per second from dry draws, Custer County, South Dakota for irrigation purposes. Vested Water Right No. 828-2 was validated September 30, 1992 with a priority date of January 1, 1952. Construction of the described water supply system and application of water to beneficial use has been completed and complies with applicable provisions of South Dakota State Law.

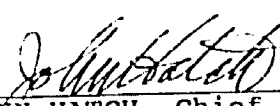
A June 22, 1989 inspection of the water use system found a portion of the acreage was no longer irrigated. Based upon the inspection and subsequent validation, the original license dated September 11, 1964 is being reissued to reflect the acreage actually irrigated.

(2) The vested right owner is entitled to divert 1.61 cubic feet of water second for beneficial use. The location of the diversion dams are in the SW 1/4 NW 1/4 and the NE 1/4 NE 1/4 Section 13, T5S, R9E

The location of the irrigated acreage is:

T5S, R10E Section 18	NW 1/4 NW 1/4	20 Acres
	NE 1/4 NW 1/4	2.5 Acres
	SW 1/4 NW 1/4	21 Acres
	Lot 4	1.5 Acres
T5S, R9E Section 13	NE 1/4 NE 1/4	10 Acres
	SE 1/4 NE 1/4	30 Acres
	SW 1/4 NE 1/4	6 Acres
	NW 1/4 SW 1/4	22 Acres
	Total-----	113 Acres

(3) Pursuant to Section 46-5-30.1 Rittberger Beef & Dairy of RR 3, Box 13, Hermosa, SD 57744 the holder(s) and/or owner(s) of Vested Water Right No. 828-2 is issued a license to appropriate 1.61 cubic feet of water per second from dry draws with a priority date of January 1, 1952 from the location specified in (2) of this license. The water is to be used for the purpose of irrigation. This license is subject to any limitations, conditions or qualifications listed in Vested Water Right No. 828-2 and subject to South Dakota State Law.


JOHN HATCH, Chief Engineer
Water Rights Division
Department of Environment and
Natural Resources

OCT 29 1992



828-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

OCT 29 1992

Rittberger Beef & Dairy
RR 3, Box 13
Hermosa SD 57744

Dear Mr. Rittberger:

The Water Management Board has validated the enclosed Vested Water Right No. 828-2. This validation gives legal status to the claim and is the final document for your vested right. Enclosed is the reissued water license which reflects the acreage and diversion rate as validated by the Board.

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

NOT TO SCALE



#828-2

271-6
E29

E 29

T490

DIVERSION DAM
SW 1/4 NW 1/4
13-5-9

T493

T489

NW 1/4 SW 1/4
13-5-9
22 Ac.

217

T489

T490

(202)

828-2