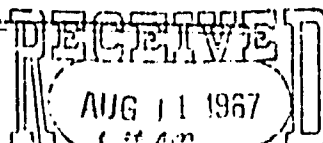


No. 8926-2Water Division No. 2 Rapid Creek District
(Blanks to be filled by the Engineer for the U. S. C.)

APPLICATION FOR PERMIT

 Vested Right
 STATE WATER RESOURCES COMM.
 PIERRE, SOUTH DAKOTA

To appropriate Water within the State of South Dakota

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

1. Name of applicant BIRDSALL SAND & GRAVEL CO.
 Postoffice address BOX 767, RAPID CITY, S. D. County PENNINGTON, State SOUTH DAKOTA

I. If a corporation

(a) Name of same BIRDSALL SAND & GRAVEL CO.
 (b) Date and place of incorporation SEPT. 22, 1956, RAPID CITY, SOUTH DAKOTA
 (c) Amount of capital stock \$22,000.00
 (d) Amount paid in \$22,000.00
 (e) Names and addresses of directors DAN CHAVIK, BOX 767, RAPID CITY, SOUTH DAKOTA

PETER G. LIEN, BOX 3124, RAPID CITY, SOUTH DAKOTA

CHARLES H. LIEN, BOX 3124, RAPID CITY, SOUTH DAKOTA

BRUCE H. LIEN, BOX 3124, RAPID CITY, SOUTH DAKOTA

(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 BIRDSALL DIVERSION

3. Amount of water claimed THREE (3) cubic feet per second

4. Source of water supply CHEYENNE RIVER AND GROUND WATER

5. Location of point of diversion 150 feet South of North line -- against Cheyenne River in Lot 1, Section 17, Twp. 1N, R14, E. B.E.M. Pennington County, South Dakota on LEFT bank PENNINGTON 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? N/A

(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 SAND & GRAVEL WASHING OPERATIONS

Name any of the above uses claimed

(b) Amount of power to be generated N/A horse power.

Amount claimed for engine cooling N/A

(c) Location of plant Lot 1, Section 17, Township 1N, Range 14E, B.E.M. Pennington County

(d) Method of developing power N/A

(e) Point where water will be returned to stream 300' North of Pump

8. Estimated cost of work:

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

(c) Fluming, \$-----

(e) Other structures -----

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

(d) Canal-earth, \$-----

Rock, \$-----

Total, \$COMPLETED

9. Description of diversion works:

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

Pumping plant, spare pump, pipe & storage pond

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 TWO (2) acre feet. Surface area at highwater mark 1 1/4 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 ----- Feet	----- 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
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 N/A years.

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

STATE OF SOUTH DAKOTA

County of SPRINGFIELD

ss.

I, DAN CHAULK, PRES. BIRDSALL SAND & GRAVEL CO.

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

Dan Chaule

Subscribed and sworn to before me this

day of

August

1967

Patricia M. Laake
Notary Public (or other qualified officer.)

*Each diversion must have a headgate or measuring device.

My Commission expires April, 1973

Remarks by State Water Resources Commission:

"VESTED RIGHT" CLAIMED

STATE OF SOUTH DAKOTA
County of HUGHES } ss.

Pierre, South Dakota, SEPTEMBER 28, 1967

This is to certify that the foregoing application was received by the Commission at 8:00 o'clock,
a.m. upon the 11TH day of AUGUST, 1967

State Water Resources Commission

By:

[Signature]
for Chief Engineer, Executive Officer

Number of permit 926-2

Date of first receipt of application AUGUST 11, 1967

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 1949, 19—

Approved SEPTEMBER 21, 1967, Recorded in Book 10 Page 10

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 COMMERCIAL USE -

SAND & GRAVEL WASHING

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 3.0 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 ~~irrigation of crops in the exercise of the best husbandry; and further, said appropriation must be limited to not more than one seventh (1/7) of a cubic foot of water per second of time for each acre of land to which water is actually~~

USED FOR SAND & GRAVEL WASHING

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 28TH day of SEPTEMBER, 1967

State Water Resources Commission

By:

[Signature]
Chief Engineer, Executive Officer

Certificate of Construction Issued SEPTEMBER 28, 1967

Water License Issued SEPTEMBER 28, 1967

Permit No. 926-2

Water Division No. 2 Rapid Creek Water District

Certificate of Completion of Works

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That Birdall Sand and Gravel Company

of Rapid City, County of Pennington, and State of South Dakota, the holder of Vested Right of Permit No. 926-2, issued upon Application.

No. 926-2, bearing date of priority of 1949, authorizing the diversion of 3.0 cu. ft. per second of the waters of the Cheyenne River and ground water

County of Pennington, State of South Dakota, at a point 150' S. of the N line in Lot 1, Section 17, T1N, R14E

for sand and gravel washing

purposes, and fully complied with the provisions of the laws of the State of South Dakota relating to proof of completion of the works of diversion set out and described in said Permit; that said works are recognized as satisfactory

condition for diverting and conveying to the place of intended use 3.0 cu. ft.

per second of water; and that the ~~works proposed to be constructed for the~~ use of said water are described as follows, to-wit:

to be used for commercial sand and gravel washing operation

Witness my hand this 28th day of September A. D. 1967

State Water Resources Commission

By:

J. W. GRIMES
Chief Engineer, Executive Officer

STATE OF SOUTH DAKOTA

WATER LICENSE No. 926-2

WHEREAS, On the 11th day of August A. D. 1967
the Birdsell Sand and Gravel Company

of Rapid City County of Pennington and State of
South Dakota duly made application (No. 926-2) to us for Vested Right
3.0
cubic feet per second of the waters of the Cheyenne River and ground water
County of Pennington, State of South Dakota, for sand and gravel washing
purposes; and

WHEREAS, On the 28th day of September A. D. 1967
Vested Right
Permit No. 926-2 was issued to said applicant... for the diversion of said water recognizing
the completion of the works of diversion therein described as follows:
XXXXXX and for the application to be beneficial use of said
water XXXXXX XXXXXX XXXXXX
and,

WHEREAS, On the 11th day of August A. D. 1967
the holder of said permit duly made proof of the completion of adequate works for the diversion of 3.0
cubic feet per second of said waters, as evidenced by our Certificate No. 926-2
dated September 20, 1967 confirming the completion of works of sufficient capacity for
diverting and conveying to the place of intended use 3.0 cubic feet per second of water, with date of
priority of 1949 XXXX and,

WHEREAS, On the 11th day of August A. D. 1967
proof was duly made of the application to beneficial use of 3.0 cubic feet per second of said water;
to be used for commercial sand and gravel washing operation

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 Birdsall Sand and Gravel Company
of Rapid City the holder and owner vested right of said permit No. 926-2
a water right, dating from 1949 to the use of 3.0
cubic feet per second of the waters of the Cheyenne River and ground water
in the County of Pennington and State of South Dakota, or so much thereof as may be
necessary for the purposes hereinbelow mentioned, to be diverted at a point 150' S of the N line
in Lot 1, Section 17, T1N, R14E
and ~~conducted to and from~~ through the Company's wash plant

for the purpose of Commercial sand and gravel washing, subject to any
limitations listed in the Permit to appropriate water, and

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 22th day of September A. D. Nineteen
Hundred and Sixty-seven

State Water Resources Commission

By:

J. W. GRIMES
Chief Engineer, Executive Officer

STATE OF SOUTH DAKOTA

Water License No. _____

To _____

Source of Supply _____

County _____

Amt. _____ c. f. s.

Point of Diversion _____

Place of Use _____

Purpose _____

Date of Priority _____

Recorded _____

Book _____ of _____ Page _____

INVESTIGATION OF BIRDSALL SAND AND GRAVEL COMPANY VESTED RIGHT

On July 28, 1967, Mr. Eugene Tennison the local manager was contacted concerning Birdsall's Water use. He stated that the pit started operation about 1950 and that he had worked there since 1953.

Since then they have used water from the Cheyenne River and some ground water that seeps into their storage pond.

They have an Allis Chalmers 8 x 6 pump, Serial #1-5234-44022-1-1, Model AC SSE 8 x 6. made in 1954. This pump is powered by a 7½ H.P. electric motor. They also have a spare pump which is an Allis Chalmers 3 x 3, Serial #1-5214-37120-2-1, Model #SSH 3 x 3, made in 1954. This pump is powered by a 2½ H.P. ~~Elge~~ Electric motor. There is a diversion ditch from the pumping site to a storage pond of Approximately 500'. The storage pond is about 1/2 acre in size with approximately four acre feet capacity. This pond obtains some of its water from ground water seepage.

The plant uses approximately 30,000 gallons of water per hour of operation.

Richard Schmoyer

Water Rights Specialist

August 2, 1967

RS/bw

Location No. 926-2Water Division No. 2 Rapid Creek District**Proof of Application of Water to Beneficial Use****PETITION OF HOLDER**

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

Ans. BIRDSALL SAND & GRAVEL CO.BOX 767 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. BIRDSALL SAND & GRAVEL CO.BOX 767 RAPID CITY, SOUTH DAKOTA

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

Ans. Previous to January 1, 1949

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

Ans. Cheyenne River and ground waterLot 1 Section 7 Twp. 1N R 14 E B.H.M. Pennington County, South Dakota

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. Allis Chalmers 8 x 6 Pump, Allis Chalmers 3 x 3 Pump, 500' diversion ditchand a storage pond with a capacity of approximately 2 acre feet

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. Gravel washing operations at Lot 1 Section 17 Twp. 1N R14 E. B.H.M.Pennington County, South Dakota

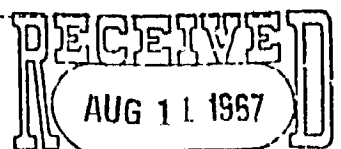
Ques. 7. If for other than irrigation purpose, state how applied, amount of horse power generated, etc.

Ans. Gravel washing operations

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

Ans. 3 cubic feet per second

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. N/ASTATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

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

Ans -----Use started previous to 1949 has been used continuously for sand and gravel washing since that time.

BIRDSALL SAND & GRAVEL CO. DAN CHAULY, Pres.
(Sign) -----Dan Chauly

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 7th day of August, A. D. 1967

Witnesses.

Patricia M. Krebs
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.

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 -----

 **Department of
Water & Natural Resources**

Jesse Ross Building
523 East Capitol
Pierre, South Dakota 57501-3181

September 21, 1988

NOTICE

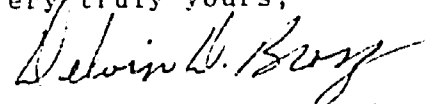
Birdsall Sand & Gravel
Box 767
Rapid City SD 57709

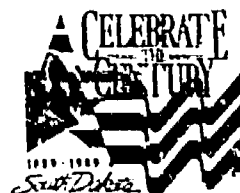
Dear Sir:

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) 926-2 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



Department of Water & Natural Resources

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

December 1, 1988

Vested Water Right
Claim No. 926-2

Birdsall Sand & Gravel
Box 767
Rapid City SD 57709

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, Chief Engineer
Water Rights Division
605 773-3352

cc: Bruce Laymon, Bureau of Reclamation



Water Rights Division - DWNR
Conversation or File Documentation

File No. 926-2

NAME OF PERSON OR FILE: _____

ADDRESS: _____ COUNTY Fennington

DATE: 7-24-90 TELEPHONE _____

RE: Vested Right Claim Inspections in

COMMENTS:

On July 16, 1990

The following vested right claims were inspected and are

recommended for validation:

461-2, ~~462-2~~, ~~463-2~~, 764-2, 509-2, 565-2, 94A-2

495-2 and 926-2

July 19, 90

The following vested right claims were inspected and ~~are~~ are recommended

for validation:

5-2, 1489-2, and 925-2

* This claim is for groundwater and surface water (Chesapeake River)
the groundwater part of it never developed.

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: NP4 Rad

926-2

SOUTH DAKOTA

VESTED WATER RIGHT NO. 926-2

Date of Receipt of Claim August 11, 1967.

Date of Validation September 30, 1992.

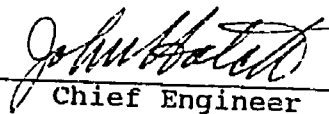
The Water Management Board validated Vested Water Right Claim No. 926-2 for Birdsall Sand and Gravel, Box 767, Rapid City, South Dakota 57709 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 926-2 appropriates 3.0 cubic feet per second of water from the Cheyenne River located in Lot 1, Section 17, T1N, R14E.
2. The appropriated water is used for sand and gravel washing 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 date of the Vested Water Right is: January 1, 1949
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



MAR 16 1993

926-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

Birdsall Sand and Gravel
Box 767
Rapid City SD 57709

Dear Sir:

The Water Management Board has validated the enclosed Vested Water Right No. 926-2. This validation gives legal status to your claim.

The claim was validated for surface water only (Cheyenne River) based on an inspection that was conducted by the Division of Water Rights which determined the groundwater portion of the permit was never developed. If you do not agree with this, please contact us immediately.

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

926-2



United States Department of the Interior

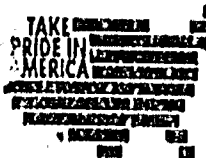
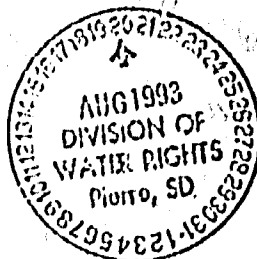
BUREAU OF RECLAMATION

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

PROJECT
FILED

WTR 4.10
B7-426

AUG 18 1993



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

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

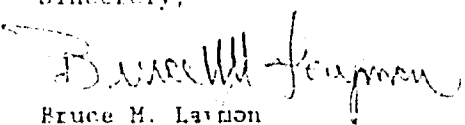
Dear Mr. Hatch,

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

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

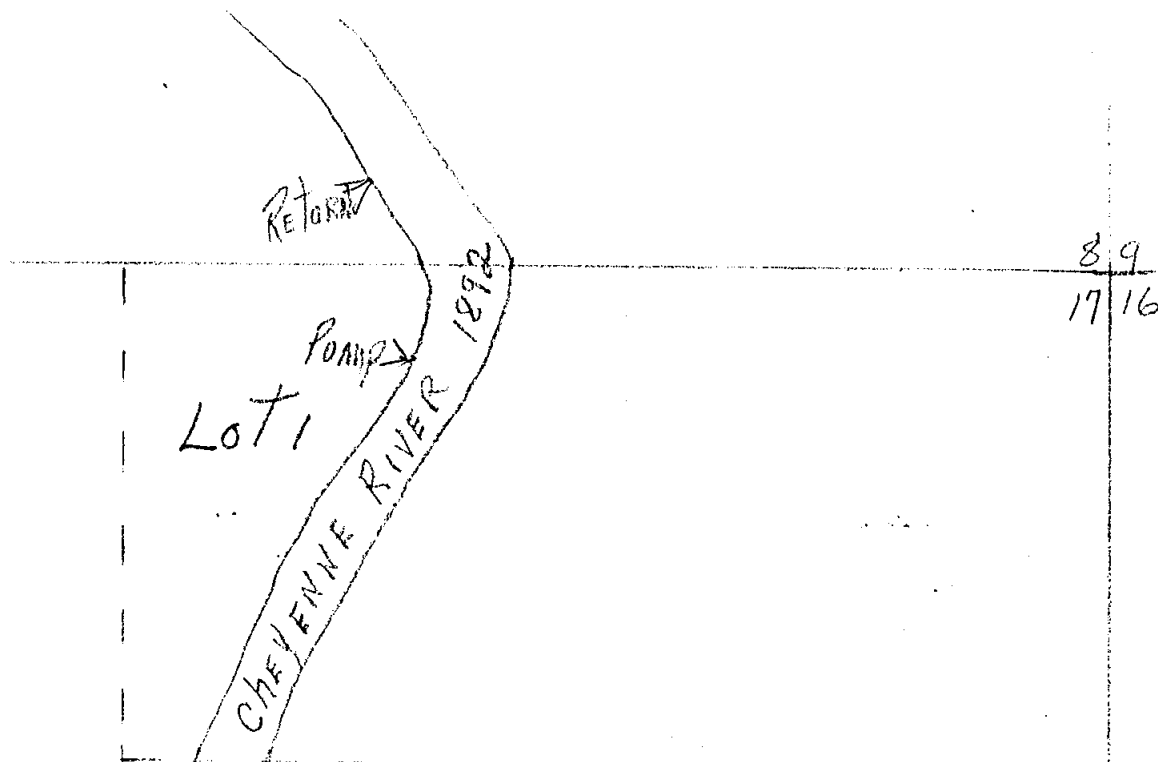
If we can be of further assistance, please contact Craig Kjar or me at (605) 456-2695.

Sincerely,


Bruce M. Layton
Project Manager

cc: Mr. Joe Kramer, Manager
Angostura Irrigation District
PO Box 346
Oral SD 57766

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



RECEIVED
AUG 11 1967

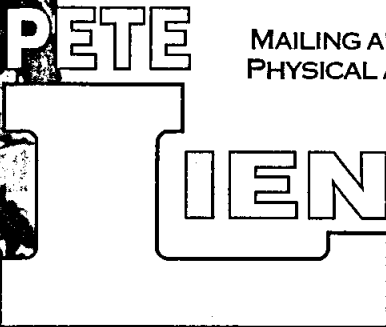
STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

V/A

APPL. #

926-2

426-2



MAILING ADDRESS: P.O. BOX 440 RAPID CITY, SD 57709-0440 PH. 605-342-7224
PHYSICAL ADDRESS: 3401 UNIVERSAL DR. RAPID CITY, SD 57702 FX. 605-342-6979

•PETE LIEN & SONS •BIRDSALL SAND & GRAVEL •COLORADO LIEN CO.
•DAKOTA BLOCK CO. •DAKOTA STEEL & SUPPLY •TRANS COLORADO CONCRETE

PETER C. LIEN
1898 - 1969 FOUNDER

BRUCE H. LIEN
FOUNDER

CHARLES H. LIEN
FOUNDER
CHAIRMAN

PETER C. LIEN
PRESIDENT

& Sons, Inc.

February 9, 2006

Department of Environment & Nat. Resources
Attn. Water Rights Program
Joe Foss Building
523 East Capital Ave
Pierre, SD 57501-3182

RE: Water Permit – Change of name

Permit 1283-2 – Hermosa
Permit 2531-2 – Oral

Permit 1715-2 – Creston
Permit 4512-3 - Blunt

Permit 926-2 – Wasta

The Birdsall Sand & Gravel sand plants will now be operating under the name of Pete Lien & Sons Inc, effective January 1, 2006.

The operations affected by this transfer are as follows:

Blunt Sand Plant	Blunt, SD	Oral Sand Plant	Oral, SD
Creston Sand Plant	Rapid City, SD	Crook County Sand Plant	Hulett, WY
Wasta Sand Plant	Wasta, SD	St. Barbara Sand Plant	Pueblo CO

Please transfer our above-mentioned permit to the name of Pete Lien & Sons Inc, with the following address and contact information:

Pete Lien & Sons Inc.
Attn. Environment Engineer
P.O. Box 440
Rapid City, SD 57709

605-342-7224 - phone
605-342-6979 – fax

If you have any questions or concerns, please feel free to contact me at the Rapid City office or my direct line phone at 605-939-2753. Thank you.

Sincerely,

PETE LIEN & SONS INC.

Kyle Frisinger
Sand & Gravel Manager

RECEIVED

FEB 28 2006

WATER RIGHTS
PROGRAM



926-2
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 1, 2006

No. 506-2
926-2
1283-2
1715-2
4512-3

Pete Lien & Sons, Inc.
Shelly Erickson
PO Box 440
Rapid City SD 57709

Dear Ms. Erickson:

Thank you for returning the 2005 Water Use Questionnaires. The forms indicate ownership changes on several water permit/rights. Enclosed are partially completed "Notice of Transfer" forms for use in filing ownership changes. The water rights are currently listed in the name of Birdsall Sand & Gravel.

The transfer forms should be checked over for accuracy and signed by the new owner. Upon completion, return the forms to our office with a required filing fee of \$2.50 each (\$12.50 total).

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

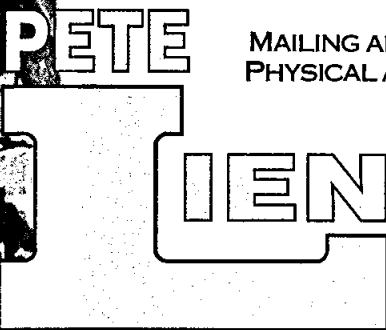
If you have any questions, please contact me.

Sincerely,

Karen Schlaak
Water Rights Program
605 773-3352
email: karen.schlaak@state.sd.us

enclosure

426-2



MAILING ADDRESS: P.O. BOX 440 RAPID CITY, SD 57709-0440 PH. 605-342-7224
PHYSICAL ADDRESS: 3401 UNIVERSAL DR. RAPID CITY, SD 57702 FX. 605-342-6979

•PETE LIEN & SONS •BIRDSALL SAND & GRAVEL •COLORADO LIEN CO.
•DAKOTA BLOCK CO. •DAKOTA STEEL & SUPPLY •TRANS COLORADO CONCRETE

PETER C. LIEN
1898 - 1969 FOUNDER

BRUCE H. LIEN
FOUNDER

CHARLES H. LIEN
FOUNDER
CHAIRMAN

PETER C. LIEN
PRESIDENT

& Sons, Inc.

March 10, 2006

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

RE: Notice of Transfer Forms

Dear Karen Schlaak,

Enclosed are the completed "Notice of Transfer" forms for use in filing ownership changes and the required filing fee of \$12.50. The water rights will be listed under Pete Lien & Sons, Inc instead of Birdsall Sand and Gravel.

If you have any questions, please feel free to contact me at 605-342-7224.

Thank you,
Pete Lien & Sons, Inc

Shelly Erickson

Shelly Erickson
Permitting Engineer

RECEIVED
MAR 13 2006
WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 926-2

Date: 3-10-06

I/We request that Water Right No. 926-2

formerly owned by: Birdsall Sand & Gravel

be transferred to: (name & address) Pete Lien & Sons, Inc.

PO Box 440, Rapid City SD 57709

Telephone No. 605 342-7224

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

Cheyenne River – Lot 1, Sec 17-T1N-R14E (Pennington County)

I/We understand that the validity of Water Right No. 926-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

I/We Pete Lien + Sons, Inc., the new owner, certify that the above information is true and correct.



(Signed by new owner)

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

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

RECEIVED
MAR 13 2006
WATER RIGHTS
PROGRAM

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date March 13, 20 06

RECEIVED OF Pete Linn & Sons Inc., PO Box 440, Rapid City SD 57709

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	2 50	
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>926-2</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	2.50

No.

By Darland Elvehjem
Chief Engineer gm

02055



926-2
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 14, 2006

Shelly Erickson
Pete Lien & Sons Inc
PO Box 440
Rapid City SD 57709-0440

RE: Ownership Changes for Water Permit or Right Nos. 506-2, 926-2, 1283-2, 1715-2, and 4512-3

Dear Ms. Erickson:

I am writing to acknowledge receipt of the ownership changes you submitted for Water Permit and Right Nos. 506-2, 926-2, 1283-2, 1715-2, and 4512-3. The transfers have been completed. The above listed water permits and rights formerly listed in the name of Birdsall Sand and Gravel are now listed in the name of "Pete Lien & Sons Inc."

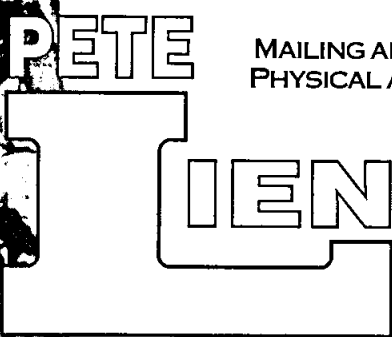
Enclosed are Receipt Nos. 02350, 02351, 02352, 02353 and 02354 in the amounts of \$2.50 each. You may keep them for your records. If I can answer any questions for you, please contact me.

Sincerely,

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

enclosures

926-2



MAILING ADDRESS: P.O. BOX 440 RAPID CITY, SD 57709-0440 PH. 605-342-7224
PHYSICAL ADDRESS: 3401 UNIVERSAL DR. RAPID CITY, SD 57702 FX. 605-342-6979

•PETE LIEN & SONS •BIRDSALL SAND & GRAVEL •COLORADO LIEN CO.
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BRUCE H. LIEN
FOUNDER

CHARLES H. LIEN
FOUNDER
CHAIRMAN

PETER C. LIEN
PRESIDENT

& Sons, Inc.

August 4, 2006

Mark Rath
South Dakota DENR
Water Rights Division
523 East Capitol, Joe Foss Building
Pierre, SD 57501

RE: Wasta Water Rights Permit 926-2

RECEIVED
AUG - 7 2006
WATER RIGHTS
PROGRAM

Dear Mr. Rath,

I am writing to request adding a diversion point to Water Rights Permit 926-2 issued in 1949. I would like to add the diversion point from Water Rights Permit 1715-2 located at our Creston Sand Plant to this permit. Permit 926-2 is permitted for 3 cfs, and at no time will more than 3 cfs be extracted from the Cheyenne River from either the existing diversion at Wasta or the new diversion at Creston, or from either combined. Thank you for your assistance in this matter.

Sincerely,

Pete Lien & Sons, Inc.

Scott Landguth
Vice President/Environmental

Approval of Location Change and/or Additional Diversion Point(s)

NAME: Pete Lien and Sons

ADDRESS: PO Box 440 Rapid City SD 57709

DATE: 8/4/06 **COUNTY:** Pennington **TELEPHONE:** 605-342-7224

GENERAL DESCRIPTION OF AUTHORIZED PROJECT:

The permit holder for No. 926-2 is authorized to divert 3.0 cfs from the Cheyenne River from Section 17 T1N-R14E. The priority date is January 1, 1949. The water right holder has requested to add an additional diversion point from the Cheyenne River to be located in SE ¼ of Section 9 T2S-R12E.

AUTHORITY:

Pursuant to SDCL 46-5-13.1, the location of a diversion point may be changed or additional diversion points may be licensed provided the following conditions are met and the potential for interference with other existing diversions is not increased:

- **Developed water source same as permitted source and no additional water appropriated**

The source of water at both sites is from the natural flow of the Cheyenne River.

- **If irrigation, no new land is irrigated**

This not for irrigation use

- **Review of Existing Diversions**

I have reviewed existing water rights, as long as the water is only diverted at one of the diversion points at a time, existing rights would not be expected to be impaired by this request.

RECOMMENDED ACTION

Based on the above criteria, it is recommended that the diversion point(s) be licensed as developed.



Mark D. Rath, Natural Resources Engineering Specialist
Water Rights Program

The Chief Engineer makes a finding pursuant SDCL 46-5-13.1 and ARSD 74:02:01:14.01 that:

This change in location and/or additional diversion point(s) does not increase the potential for adverse effects to existing diversions.



Garland Erbele, Chief Engineer
Water Rights Program



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

AUG 17 2008

926-2

Scott Landguth
Pete Lien & Sons Inc
PO Box 440
Rapid City SD 57709

Dear Mr. Landguth:

Enclosed is Reissued Vested Water License No. 926-2. The license was reissued to include the additional diversion point you requested.

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

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

STATE OF SOUTH DAKOTA

REISSUED VESTED WATER LICENSE NO. 926-2

(1) Vested Water Right No. 926-2, was validated September 30, 1992 and issued to Birdsall Sand and Gravel for a right to divert 3.00 cubic feet of water per second from the Cheyenne River, Pennington County, South Dakota for commercial purposes in a sand and gravel washing operation. Vested Water Right No. 926-2 carries a priority date of January 1, 1949.

On March 13, 2006, Vested Water Right No. 926-2 was transferred to Pete Lien and Sons Inc, PO Box 440, Rapid City SD 57709.

The vested water right holder requested an additional diversion point from the Cheyenne River with no increase in the existing diversion rate. Pursuant to SDCL 46-5-13.1 and ARSD 74:02:01:14.1, the Chief Engineer made a finding that the additional diversion point does not increase the potential for adverse effects to existing diversions.

(2) It is certified that the vested right holder is entitled to divert 3.00 cubic feet of water per second for beneficial use. The location of the diversion points on the Cheyenne River are as follows:

- Lot 1, Section 17, T1N, R14E
- SE ¼ Section 9, T2S, R12E

(3) Pursuant to South Dakota Water Law 46-5-30.1 Pete Lien and Sons Inc., PO Box 440, Rapid City SD 57709 the holder and/or owner of Vested Water Right No. 926-2 is issued a license to appropriate water, the right to use 3.00 cubic feet of water per second from the Cheyenne River with a priority date of January 1, 1949 from the locations specified in (2) of this license. The water is used for commercial purposes in a sand and gravel washing operation.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Vested Water Right No. 926-2.

Garland Erbele
Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

AUG 17 2006

date





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 5, 2007

Dear Water Right Holder;

Due to the ongoing drought I am advising Cheyenne River water right holders of the possibility of shutoff orders in 2007 for the river reach from Angostura Dam to the Belle Fourche River confluence. This is **not a shutoff order**.

As a result of the continuing lack of precipitation, tributary flows throughout the Cheyenne River basin remain well below the historical average. Angostura Reservoir ended February almost 21-feet below full and the forecast for improved conditions throughout the summer months is not favorable.

This letter is only intended to give you advanced warning that your ability to divert water may be cut short this year. If shut-off orders are issued, you will receive another letter from the department. In the meantime, water right holders can help by closely monitoring water usage and trying to avoid wasting water.

South Dakota water law gives the highest priority to domestic use, which includes livestock watering. There is generally adequate water available to meet both domestic use and other needs. However, once water availability reaches critical low levels, other uses, including irrigation, will begin to interfere with domestic use. If levels become critically low, the department must issue shut-off orders to protect domestic water uses. Once these orders are issued, the department will continue to monitor water availability and should conditions improve, the shutoff orders would be rescinded.

If you are interested, the US Geological Survey has an Internet site showing river flows at 150 stream gauging stations across the state. Go to sd.water.usgs.gov and click on "Realtime streamflow data via satellite".

Thank you for your cooperation. If you have any questions, please contact Mark Rath or Mike DeFea at (605) 773-3352.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program