

Considered: _____

Vested Right
WATER PERMIT NO. 1390-1

MAP No. same

Name of Applicant McClure Ditch c/o Della Crago

Post Office Address RR1, Box 24, Belle Fourche, SD 57717

Amount of Water Claimed 6.0 Total Acres 124.7

Source of Water Supply Redwater River

Water to be used for irrigation County Butte

About 1/2 miles E of Belle Fourche.

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

F.F. & C.L. Adopted _____ Not Approved _____ Deferred _____

PRIORITY _____ Date Received Dec 22, 1987 Fee \$15.00 Remarks _____

Corrected Application Received _____ Period of Annual Use _____

WATER QUALITY APPROVAL RECEIVED NA APPROVED/CONDITIONAL (Circle one)

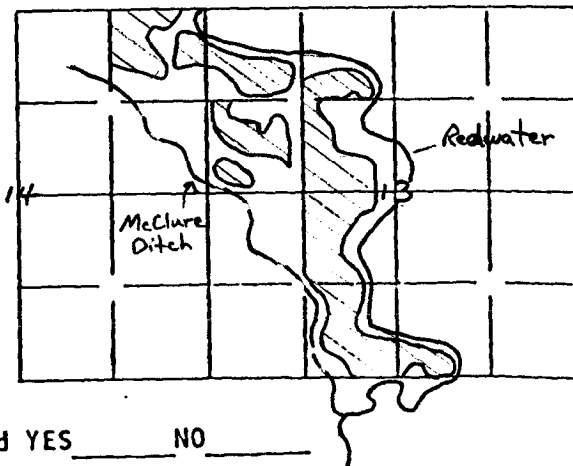
WI-1 Description same as Application YES _____ NO _____ REMARKS _____

Diversion Point McClure Ditch headgate:

NE 1/4 NW 1/4 section 24 - T8N - R2E

Land to be Irrigated E 1/2 SW 1/4, SW 1/4 SE 1/4, NW 1/4 section

13; NE 1/4 NE 1/4 section 14; T8N - R2E



Well Log: Driller NA Licensed YES _____ NO _____

Depth of Well _____ REMARKS _____

Type of Map plat PREPARED BY Rasool Ahadi Reviewed and the Number

assigned on June 12, 1987 By Ron Duwall

No. 1390-1 Hydrologic Unit 10120203
 Map No. same Basin Belle Fourche R
 Newspaper Belle Fourche Daily Post, 1004 5th Ave
Queen City Mail, Box 7, Spearfish (Weld)

Application For Permit To Appropriate Water Within The State Of South Dakota

Type of Application: Check one or more of the following:

New ☐ Vested Right ☒ Future Use ☐☐ Application to amend Permit No. _____ with old priority date retained☐ Change diversion point(s) ☐ Add diversion point(s) ☐ Change acreage ☐ Other ☐☐ Application to: ☐ Change use ☐ Change diversion point(s) ☐ Add diversion point(s)☐ Add Acreage ☐ Increase diversion rate ☐ Other _____ See Permit No. _____☐ Application to: ☐ Use ☐ Transfer water reserved by Future Use Permit No. _____1. Name of Applicant McClure Ditch/Della Crago Phone No. 605-892-3293Post Office Address RR 1, Box 24 Belle Fourche, South Dakota State 57717
(Street, RR or Box) Zip Code2. Amount of water claimed (c.f.s.) 6.0 Total acres irrigated 124.73. Source of Water supply Redwater River4. Location of point of diversion Approximately 850 feet South; 2020 feet East from NW Corner
of Section 24, T8N-R2ECounty Butte5. Counties where water will be used Butte6. Annual period during which water is to be used April 1 through October 31

7. List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

Land Description	No. Acres Irr.
NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 13, T8N-R2E	24.0
SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 13, T8N-R2E	22.2
SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 13, T8N-R2E	6.0
NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 13, T8N-R2E	5.0

Land Description	No. Acres Irr.
SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 13, T8N-R2E	18.8
SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 13, T8N-R2E	12.1
NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 13, T8N-R2E	12.1 + 2.1
NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 14, T8N-R2E	24.5

Attach sheet if more space is needed

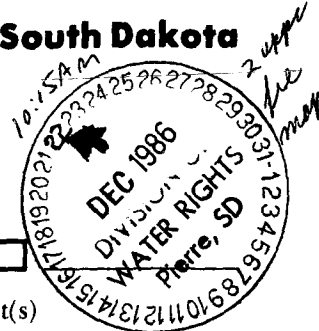
8. Give a brief description of proposed project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

This application is to file a vested right claim pursuant to SDCL 46-5-49

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map (see instruction)

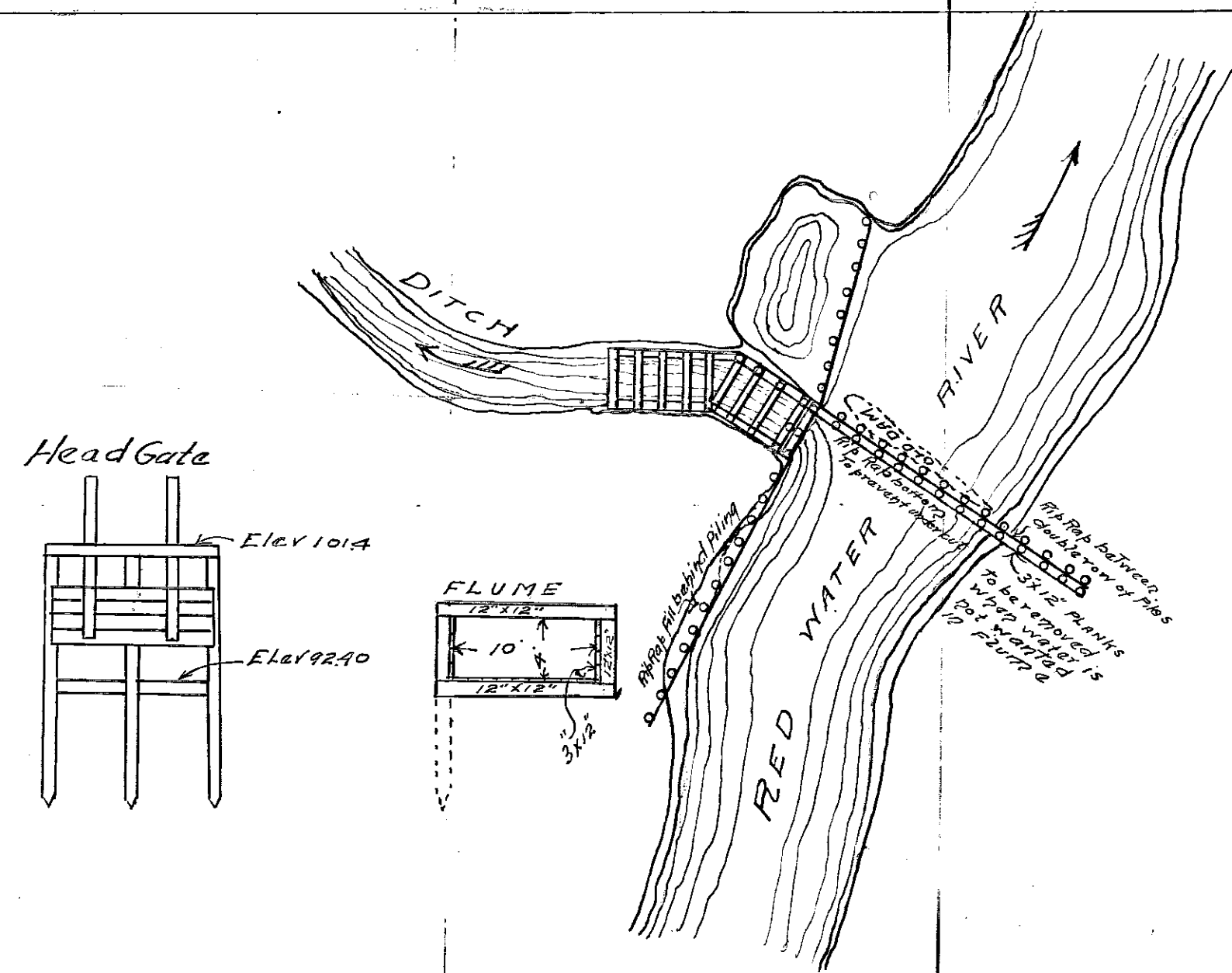
STATE OF SOUTH DAKOTA)
County of Butte)^{ss}I, Della Crago the applicant, certify that I have read the foregoing application, have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.Signed Della CragoSubscribed and sworn to before me this 19th day of December 1986

Notary Public (or other qualified officer)



RANGE 2 E.

TWP 8 N.



McCLURE-BERGE and JACKSON
IRRIGATING DITCH
AND LOCATED
On Red Water River, in Sec. 24, Twp. 8 N. Range 2 E. B.H.M.
BUTTE COUNTY

Belle Fourche, South Dakota
July, 21, 1911

L.D. LEA
ENG.

**SOUTH DAKOTA
VESTED WATER RIGHT FOR IRRIGATION**

Date of Receipt of Claim December 22, 1986

Date of Validation May 11, 1988

The Water Management Board validated Vested Water Right Claim No. 1390-1 for irrigation purposes on May 11, 1988 for McClure Ditch / Della Crago
(Applicant)
RR1, Box 24 Belle Fourche SD 57717
(Street, RR or Box) (City) (State) (Zip Code)

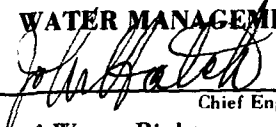
with the following limitations, conditions and qualifications:

1. Vested Water Right No. 1390-1 appropriates 3.56 cubic feet of water per second from the Redwater River to irrigate 124.7 acres via the McClure Ditch. The Redwater River diversion point for McClure Ditch is located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ section 24-T8N-R2E. The irrigated land is in the E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ section 13; NE $\frac{1}{4}$ NE $\frac{1}{4}$ section 14; all in T8N-R2E. Applicable portions of Water Right Filing Nos. 031-1 and 0244-1 are incorporated into Permit No. 1390-1 and the abandoned portions of Filing Nos. 031-1 and 0244-1 are cancelled.
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 acre per year and may not exceed one-seventieth (1/70) cubic feet of water per second for each acre of irrigated land. The water is to be used during the following annual period: Apr 1 - Oct 31.
3. The priority date(s) of the Vested Water Right is(are) May 12, 1879
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.

QUALIFICATIONS

1. That Vested Water Right No. 1390-1 is subject to domestic use rights. Diversion of water under Water Right No. 1390-1 is contingent upon supplies being available first to domestic users.
2. That a flow measuring device be installed at or near the point of diversion for McClure ditch within one year of validation of Vested Water Right No. 1390-1. The measuring device shall be permanently installed. The design shall be approved by the chief engineer prior to construction.

WATER MANAGEMENT BOARD

By: 
Chief Engineer

DEC 1 1988

Division of Water Rights
Dept. of Water and Natural Resources

STATE OF SOUTH DAKOTA
REISSUED VESTED RIGHT WATER LICENSE NO. 1390-1 FOR IRRIGATION

(1) McClure Ditch, %Boyd Klinger, 920 Country Club Drive, Spearfish, SD 57783 was issued Vested Right Water License No. 1390-1, on December 1, 1988 for a right to appropriate 3.56 cubic feet of water per second from the Redwater River, Butte, County, South Dakota, for irrigation purposes. Vested Water Right No. 1390-1 was validated May 11, 1988 with a priority date of May 12, 1879. 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.

On July 26, 1989, Water Permit No. 1390A-1, Fred W Carlson, was issued which changed the Redwater River diversion point location for 13.3 acres located in the NE¼ NE¼ Section 14, T8N, R2E. Approval of No. 1390A-1 reduced Vested Right No. 1390-1 by 0.38 cfs and 13.3 acres.

On September 27, 1989, Water Permit No. 1390B-1, Della E Crago, was issued to change the location of the Redwater River diversion point for irrigation of 28.2 acres located in the W½ NW¼ Section 13 and the NE¼ NE¼ Section 14, T8N, R2E. Approval of 1390B-1 reduced Vested Right No. 1390-1 by 0.80 cfs and 28.2 acres.

Vested Right License No. 1390-1 is being reissued to reduce the diversion rate and acreage to correspond with Water Permit Nos. 1390A-1 and 1390B-1.

(2) The vested right owner is entitled to divert 2.38 cubic feet of water per second for beneficial use. The location of the diversion point is: approximately 850 feet south and 2020 feet east of the NW corner of Section 24, T8N, R2E (NE¼ NW¼)

The location of the irrigated acreage is: all in T8N, R2E

Section 13	NE¼ SW¼	24.0 acres
	SE¼ SW¼	22.2 acres
	SW¼ SE¼	6.0 acres
	NE¼ NW¼	5.0 acres
	SE¼ NW¼	18.8 acres
Section 14	NE¼ NE¼	7.6 acres
		83.6 acres

(3) Pursuant to Section 46-5-30.1 McClure Ditch, %Boyd Klinger, 920 Country Club Drive, Spearfish, SD 57783 the holder and/or owner of Vested Water Right No. 1390-1 is issued a license to appropriate 2.38 cubic feet of water per second from Redwater River with a priority date of May 12, 1879 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. 1390-1 and subject to South Dakota State Law.



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

NOV 14 1994

date

STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 1390-1 FOR IRRIGATION

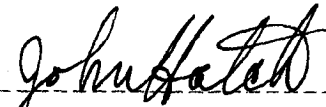
(1) McClure Ditch/Della Crago
of RR 1, Box 24, Belle Fourche, South Dakota 57717
made Application No. 1390-1, December 22, 1986
for validation of a vested right claim to appropriate 6.0
cubic feet of water per second from the Redwater River,
Butte County, South Dakota for irrigation purposes.
Vested Water Right No. 1390-1 was validated May 11, 1988
with a priority date of May 12, 1879. 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.

(2) The applicant is entitled to divert 3.56 cubic
feet of water per second for beneficial use. The location of the
diversion point(s) is: approximately 850 feet South, 2020 feet
East from the NW Corner of Section 24, T8N, R2E (NE $\frac{1}{4}$ NW $\frac{1}{4}$)

The location of the irrigated acreage is: all in 78N, R2E

Section 13	NE $\frac{1}{4}$ SW $\frac{1}{4}$	24.0 Acres
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	22.2 Acres
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	6.0 Acres
	NE $\frac{1}{4}$ NW $\frac{1}{4}$	5.0 Acres
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	18.8 Acres
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	12.1 Acres
	NW $\frac{1}{4}$ NW $\frac{1}{4}$	12.1 Acres
Section 14	NE $\frac{1}{4}$ NE $\frac{1}{4}$	24.5 Acres
	TOTAL	124.7 ACRES

(3) Pursuant to Section 46-5-30.1 McClure Ditch/Della Crago of RR 1, Box 24, Belle Fourche, South Dakota 57717 the holder(s) and/or owners(s) of Vested Water Right No. 1390-1 is issued a license to appropriate 3.56 cubic feet of water per second from the Redwater River with a priority date of May 12, 1879 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. 1390-1 and subject to South Dakota State Law.


JOHN HATCH, Chief Engineer
Water Rights Division
Department of Water and Natural
Resources
DEC 1 1988

Affidavit of Water Use

No. _____

(Type or Print in Ink)

Note: This Form is supplemental to Form 2 and is to be used when an affidavit pertaining to construction and water use already constructed is needed, primarily with vested right claims.

**Affidavit Of Construction Of Water Use System
And Application Of Water To Beneficial Use**

Name of Applicant (Same as Form 2) McClure Ditch/Della Crago

Post Office Address RR1, Box 24, Belle Fourche, South Dakota 57717
(Street, RR or Box) (State) (Zip Code)

A. Notice of Appropriation _____ Date of Posting _____

Date of recording April 19, 1884 Recording date Butte County 7 4
Where Book Page

B. Date of start of construction of water supply system May 12, 1879C. Date that water was first applied to beneficial use May 1879D. Name of owner of original water supply system J. McClure, et al.E. Amount of water originally applied to beneficial use 2000 M IF. Present Use of Water - Amount of water now being used 300 miners inchesDate that this water was first used May 1879

G. Chronological History of Water Use

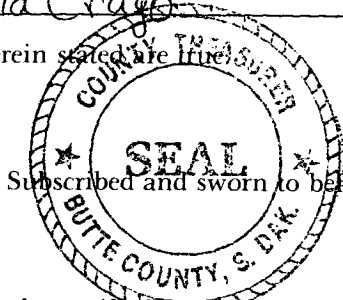
To the best of my knowledge the ditch has always been in use with no extended periods of non-use.

Attach to this Form 2B any copies of notices, postings, filings, publications, affidavits, or other records that apply. You may also attach any written statement by you, or by others, that you deem pertinent.

State of South Dakota)

County of Butte) SS

I, Della Crago the applicant, certify that I have read the foregoing
(print or type)
 and that the matters therein stated are true.

Signed Della CragoSubscribed and sworn to before me December 19, 1986

James Keel
 Notary Public or other qualified officer

I, the undersigned do hereby certify that I know about the water use system described above, that I have read the foregoing, and that the matters therein stated are true.

Della Crago 12-19 1986
 (Print name)

 (Print name) 19____

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

410666

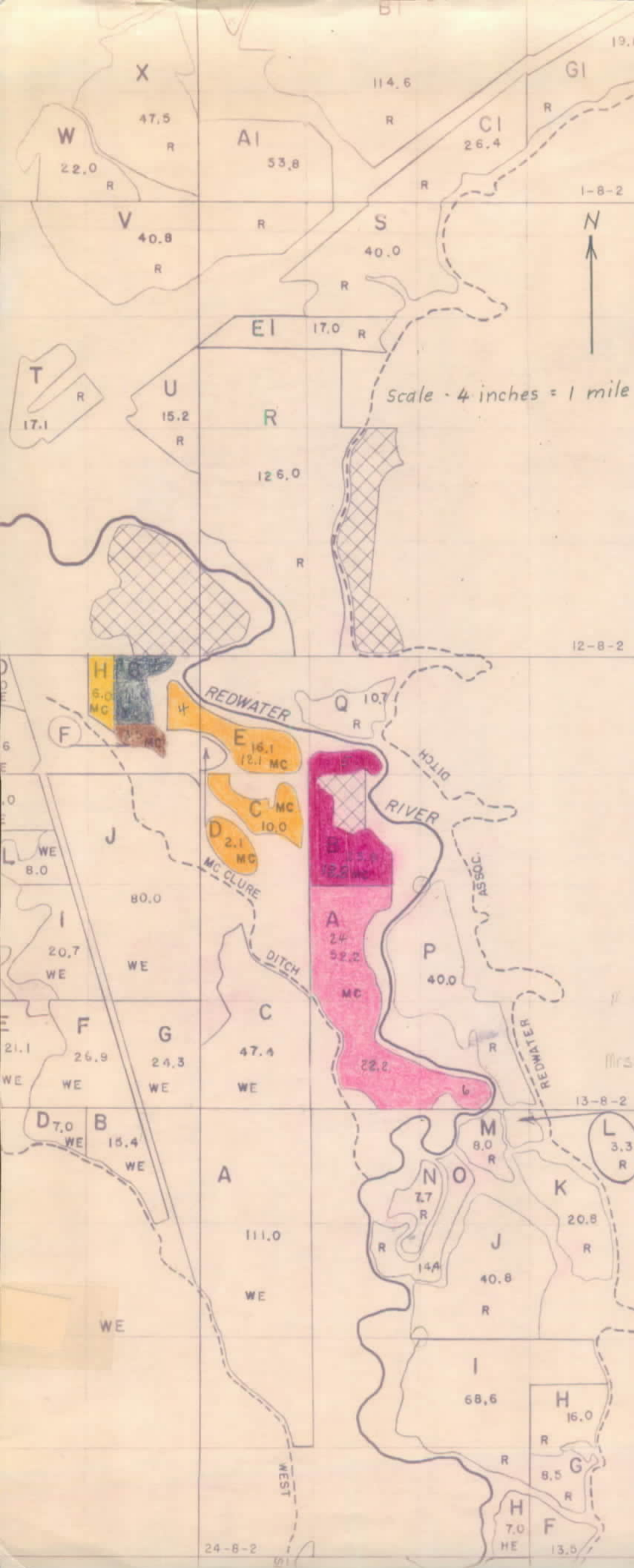
Pierre, December 22, 19 86

RECEIVED OF McClure Ditch/Della Crago, RR 1, Box 24, Belle Fourche, SD 57717

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

Fee for Application for Permit No. <u>1390-1</u> to Appropriate Water, to construct works and to put water to beneficial use _____	15 00	BR
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 _____		
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	15 00

By John Hatch
Chief Engineer JOHN HATCH/ms



McCLURE DITCH

WATER RIGHTS

Water Right Owner

Keith Powell	
Hollis Alcott	
Mrs. Walter Crago	
Harry Mitchell	
John Roth	
Carl Ellis	

Veril Norman

Boyd Klingler - was Powell

Crago

Mrs. Carmen Crago

Mitchell

Fred - Mrs. Locke Carlson

December 14, 1961

Mr. Keith Powell
RFD 1
Belle Fourche, S. Dak.

Mr. Harry M. Mitchell
E of City
Belle Fourche, S. Dak.

Mr. Hollis Alcott
RFD 1
Belle Fourche, S. Dak.

Mr. John Roth
RFD 1
Belle Fourche, S. Dak.

Mr. Walter Crago
RFD 1, St. Onge
Belle Fourche, S. Dak.

Mr. C. V. Ellis
E. National
Belle Fourche, S. Dak.

Re: McClure Ditch

The State Water Resources Commission has been making a study of water use pertaining to the surface flows of Redwater River and its tributaries in South Dakota.

As a part of this study, a search has been made for written records and documents which pertain to the diversions of the water. The Commission found the following pertaining to the McClure Ditch:

(1) Water Right locations filed as Instruments Nos. 189 and 200, Butte County, dated April 18, 1884, and including sworn statement that the water was located, claimed and used on May 12, 1879 claiming 2000 miner's inches of the water of Redwater Creek.

(2) In 1914 members of the McClure Ditch and other water users in the Redwater River Valley below the mouth of False Bottom Creek started a series of suits against the Redwater Irrigating Association, claiming damages, and praying that the Redwater Irrigating Association be stopped from taking all of the flow of Redwater River upstream. These cases were removed to Federal Court. Then an agreement was reached between all parties in the suit wherein the Redwater Irrigating Association was to divert the first 2200 miner's inches of Redwater River and the remainder of the flow at the diversion point of the Redwater Irrigating Association was to be divided on a specified basis.

In this action we found:

Complaint dated August 15, 1914.

Order removing case to Federal Court dated September 8, 1914.

Mr. Keith Powell
Mr. Hollis Alcott
Mr. Walter Crago

Mr. Harry M. Mitchell
Mr. John Roth
Mr. C. V. Ellis

Dec. 14, 1961

Agreement between parties in the suits dated December 14, 1915.

Stipulation of Dismissal from Federal Courts dated May 16, 1916.

(3) A copy of a complaint signed July 23, 1931 in which the rest of the members of McClure Ditch as plaintiffs contend that Ed Sunquist, a water user at the upper end of the ditch, blocked the ditch using all of the water. Also the order of the Circuit Court in this case, authorizing Sunquist to use all of the flows in the ditch for three days out of ten. The complaint in this case listed 118 acres as being irrigated out of the ditch.

Except as outlined above, no record was found wherein the McClure Ditch water right was interpreted, determined or established by Court action. The data collected, as outlined above, records the McClure Ditch water right as being an appropriative water right claiming 2000 miner's inches with a priority date of May 12, 1879. However, a copy of the original water right location in 1879, apparently by John McClure, Conrad Berg and Wesley Peaks, was not found.

In an appropriative water right, the amount claimed, in your case 2000 miner's inches, is not necessarily the amount of water which you are entitled to divert. You are entitled to divert that amount of water put to beneficial use, not exceeding 2000 miner's inches, providing that amount is available after holders of prior water rights have obtained their allocation of the water.

The agreement of December 14, 1915 ((2) above) between the Redwater Irrigating Association and water users downstream from False Bottom Creek, modifies your water right to some extent. This agreement applied only to the water users involved and would not be binding where it conflicts with legal use of water by other water right holders. This agreement specifies that the water users downstream on Redwater River from the Redwater Irrigating Association diversion point are to use the water flowing past the diversion point as they shall agree among themselves.

In an agreement dated February 21, 1916, and filed March 12, 1921, Page 345, Book 70, Butte County Register of Deeds, it was agreed that the West Side Ditch would take two-thirds of the water and McClure Ditch would take one-third of the water flowing past the diversion point of the Redwater Association Ditch.

Mr. Keith Powell
Mr. Hollis Alcott
Mr. Walter Crago

Mr. Harry M. Mitchell
Mr. John Roth
Mr. C. V. Ellis

Dec. 14, 1961

It would be advisable for you to check to see if you can locate additional records that pertain to McClure Ditch. The Water Resources Commission would appreciate being informed about any additional data you find that you deem applicable, in order to obtain as complete a record as possible, and would arrange to have a representative meet with you to discuss the information contained in this letter and such additional information as you might find, if you so desire.

A letter dated January 14, 1961 was sent to you enclosing a map showing fields reported to be irrigated and the acreages of these fields. With your help these fields and acreages have been revised. Enclosed, for your information, is a copy of the revised map and the revised list of owners and acreages.

Sincerely,

J. W. GRIMES
Executive Officer and
Chief Engineer

Encls: Map and List

XX

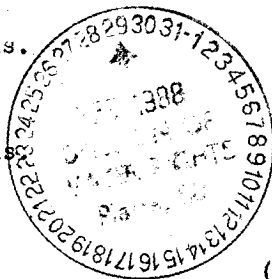
16196.

Agreement

John B Case et als.

to

D.P Roberts et als.



State of South Dakota County of Butte.)SS

Office of Register of Deeds. Filed for record
12 day of March A.D. 1921 at 1:50 o'clock P.M.
and recorded in book 70 on page 345.

(Seal)

Chas F McIlung Register of Deeds.

AGREEMENT.

This Agreement made and entered in to this 21st day of February A.D. 1916 by and between John B Case, Samuel B. Johnson Susan E Case, Frank ~~X~~ Heinbaugh, Floyd Cook, Frank Durst and S.G. Simmons and others representing what is known as the west Side Supply Company of the County of Butte and State of South Dakota, parties of the first part and D.P. Roberts, John F Peck, Mrs Thomas J Davis, Butte County A Corporation Jacob Schroyer Mrs H.A. Forsythe, M.W Draper. A. Raltz and Louis Sturis, representing what is known as the McClure Ditch Company of the County of Butte and State of South Dakota, parties of the second part; Witnesseth; That in consideration of mutual promises and agreements made between the parties hereto; It is agreed; That all water from any source whatecer which reaches the dam Situated on section.....Township.....Range..... being the ~~pp~~ point of division of the water waters of Red water River, and said water shall be divided between the parties of the first part and the parties of the second part; and the parties of the first part shall be entitled to and shall receive $\frac{2}{3}$ of such water and the parties of the second part shall be entitled to and shall receive $\frac{1}{3}$ of such water at this point and there shall be constructed a measuring device, whereby the water may be measured as provided by Law at the present time, and all water shall be measured under the unit ^{of} measure, that is to say; That as a unit of measure the minors inch shall be used, and the minors inch shall be considered as the quantity of water which will flow through an opening one inch square under a head or pressure of six inches, such head or pressure to be measured above the center of such opening; It is Further Understood and Agreed. That nothing in this agreement shall be considered to be a waver or abandonment by any of the parties hereto of any water rights which ~~may~~ any one or all may have in connection with the water of Red Water River but is simply made for the purpose of determining the proper amount of water from Red Water River which the parties of the first part shall receive at the point mentioned and the proper

In witness whereof; The parties have hereunto fixed their hands and seals htis 21st
day of February A.D. 1916.

D. P. Roberts.

Jacob Shroyer

X Dollie R Cook

Lucinda M Davis

Mrs T.J. Davis

Susan E Case.

John B Case.

M. W. Draper

Louis Sturis

XXXXXXXXXXXXXX

STATE		PROJECT <u>McClure Ditch</u>		
BY <u>T. VERHELST</u>	DATE <u>5/8/89</u>	CHECKED BY	DATE	JOB NO.
SUBJECT <u>Parashall Flume Measuring Device</u>				SHEET <u>1</u> OF <u>1</u>

Parashall Flume-

Measure Capability - 2 cfs

Try 9" Flume:

Submergence - 75%

$$H_a = .76 @ 2.02 \text{ cfs}$$

$$\frac{H_b}{H_a} = .70 \Rightarrow H_b = .7(.76) = .53$$

$$\Delta = \text{Crest Height} = \text{Flow Depth} - H_b$$

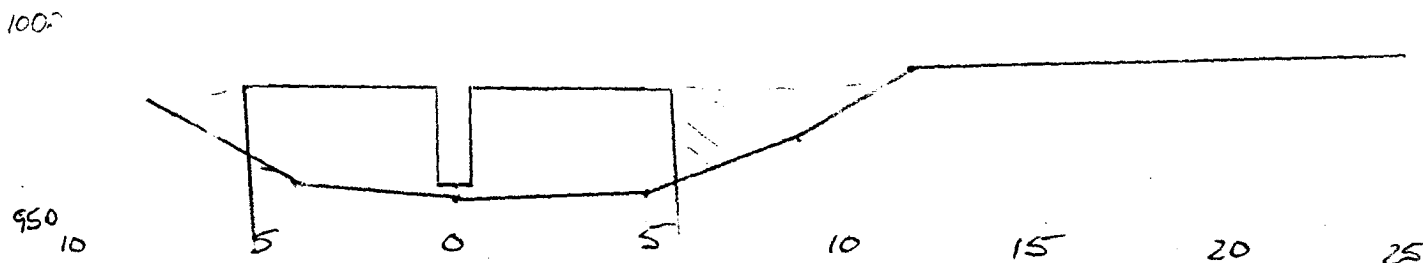
$$= .9 - .53$$

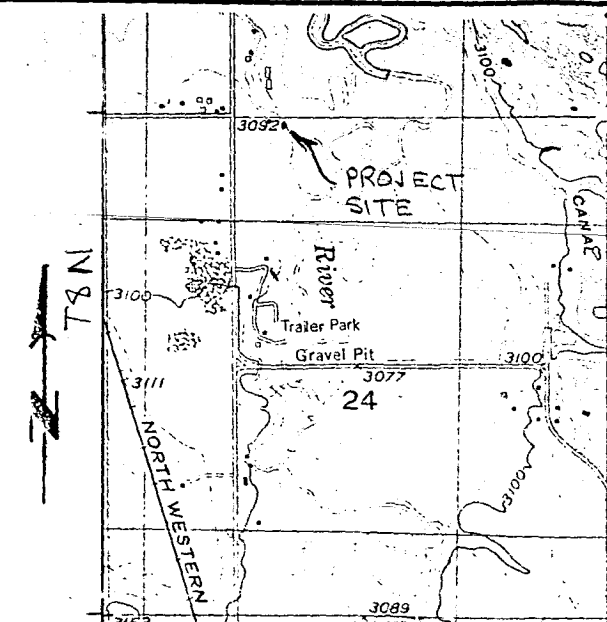
$$= .37 \quad \text{Use } .4'$$

$$\text{Upstream Depth} = H_a + \Delta$$

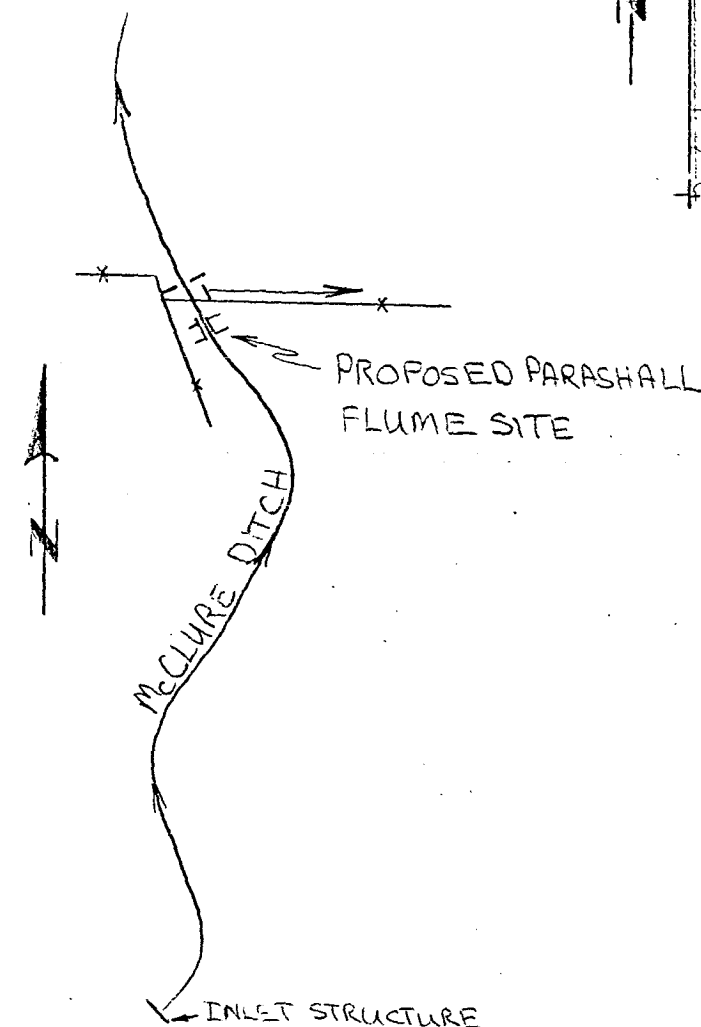
$$= .76 + .4$$

$$= 1.16$$





LOCATION MAP



FLOW-
VALUES

HEAD (FT)	FLOW (GPM)
0.9	2.6
0.8	2.18
0.76	2.02
0.7	1.78
0.6	1.40
0.5	1.06
0.4	.76
0.3	.49
0.2	.26
0.1	.09

NOTE: 1) INLET & OUTLET OF PARASHALL
FLUME MUST BE LINED W/ ROCK
TO PREVENT UNDERMINING OF
STRUCTURE. USE A 1" THICK LAYER
OF ROCK RIP-RAP W/ ROCK GRADED
FROM 1" DIA. MAX. SIZE DOWN TO
3" MIN. SIZE.

PARASHALL FLUME
MCCURE DITCH

SEC 24. T8N-RZE BUTTE CO.



U. S. DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

Designed T. VERHELST Date 5/8/89 Approved by Thomas O. Van Vleet

Drawn _____ Title English

Traced	Title	
	Cheek	Dennis No.

Street Drawing No. 1

Checked.....	of 1
--------------	------

DIVERSION DITCH SERVICE

NAME OF THE DITCH:

Mc Clure

ADDRESS:

Della
Crago

R1 Box 24 Belle Fourche 57717

DIVERSION POINT: $\frac{1}{4}$ $\frac{1}{4}$ SEC. T N-R E; SOURCE:

MAXIMUM DIVERSION RATE: 2000 C.F.S. min. inched

ACREAGE SERVED: ~~124.7~~ ACRES 124.7

2.17 CFS

LANDOWNER'S
NAME

LOCATION OF LAND
BEING IRRIG. BY
THIS DITCH

ACREAGE

COMMENTS

CFS / G.P.A.

1.49

0.68

A. Claire E and
Boyd Klingler

52 A.

1.49 / 10.5

B. Alice Alcott

A part of E $\frac{1}{2}$
NW $\frac{1}{4}$ of 13-8-2

23.81

0.68 / 5.50 H.M.C.

C. & D. Della E. Crago

SW $\frac{1}{4}$ NW $\frac{1}{4}$ 13-8-2

16.1

0.46 / 1.7

E Della E. Crago

Lots 13, 17 & 18

12.

0.34 / 153

F. Priscilla Karinen

Lots 10 & 112
Redwater

3.5

0.1 / 14 $\rightarrow$ talk to her

G. Fred W. Carlson

Lots 2, 3, 4, 5, 6,

11 A

0.21 / 137.5

Marcella J. Carlson

7, 8 and 9

11 A
2.33

1.31 CFS
1.07
0.38

H. Fred W. Carlson

Tract A of
Marcella J. Carlson
Lot 1 Redwater
Add.

2.33 A.

0.07 / 1.15

13.33 A.C.

H. Seth Abrahamson

Sorenson

3.73 A

0.11 / 49.5

Aletha Abrahamson

- Irrigation - Questionnaire
- keep track of your pumping
file

Conversation or File Documentation

NAME OF PERSON OR FILE: McClure DitchADDRESS: _____ COUNTY Butte

DATE: _____ TELEPHONE _____

RE: Use of McClure Ditch

COMMENTS:

On June 13, 1985 I met with Vyril Norman, shareholder of the West-Side Ditch. Mr. Norman indicated that the ditch (McClure) was no longer used. He thought the only time water was in the ditch was when excess water from West-Side ran into McClure. This is not to say that some of the lands are not still irrigated. The point of diversion may have been changed to a pumping type diversion near the irrigated lands. Other lands may no longer be irrigated.

** Contact a land holder along the ditch to verify what Norman has indicated.

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.

WATER RIGHTS DIVISION
(605) 773-3352

December 8, 1986

Mrs. Della Crago
RR1, Box 24
Belle Fourche, South Dakota 57717

Dear Mrs. Crago:

This is a copy of the letter you requested. I hope it is helpful. Please contact me if you have any questions.

Sincerely,

Rassool Ahadi
Natural Resources Engineer

RA:ms
Enc.

WATER RIGHTS DIVISION
(605) 773-3352

December 23, 1986

Della Crago
RR 1, Box 24
Belle Fourche, South Dakota 57717

RE: McClure Ditch

Dear Mrs. Crago:

Enclosed you will find a copy of the Affidavit of Water Use you requested, I hope it is helpful.

If you have any questions in regard to your vested right, please don't hesitate to contact me.

Sincerely,

Rassool Ahadi
Natural Resources Engineer

RA:ms
Enc.



Department of Water & Natural Resources

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

July 1, 1987

McClure Ditch
c/o Della Crago
RR 1, Box 24
Belle Fourche SD 57717

Dear Ms. Crago:

This letter is to inform you that the vested right claim for McClure Ditch has been reviewed. A report on the investigation of the vested right claim is being prepared. When the report is finalized your application will be complete pursuant to SDCL 46-2A-2. A recommendation will then be prepared and notice of hearing will be given stating the time and place the Water Management Board will consider the vested right claim. Tentatively, the hearing is to be scheduled for December 2 and 3, 1987 in the Black Hills area.

Please contact us if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Ron Duvall".

RON DUVALL
Water Resources Engineer
605 773-3352

Report on the McClure Ditch (Redwater River)
Vested Water Right Application No. 1390-1
September 28, 1987

Background

Pursuant to SDCL 46-5-49 and ARSD 74:02:01:20, the McClure Ditch has filed an application to validate a vested right claim. The application claims 6.0 cfs of Redwater River water to irrigate 124.7 acres of land located in Sections 13 and 14, T8N-R2E in Butte County. The diversion point is located in the NE1/4 NW1/4 Section 24, T8N-R2E.

Document Search

The following documents were found pertaining to the McClure Ditch Claim:

- 1) Water Rights Filings No. 031-1 and No. 0244-1, which included a sworn statement that the water was located, claimed and used on May 12, 1879. These Water Rights Filings claimed 2000 miner's inches of water from the Redwater River water.
- 2) A copy of a complaint signed July 23, 1931, in which the other members of McClure Ditch as plaintiffs contended that Ed Sunquist, a water user at the upper end of the ditch, blocked the ditch using all of the water. Also, the order of the Circuit Court in this case, authorizing Sunquist to use all of the flows in the ditch three days out of ten. The complaint in this case listed 118 acres as being irrigated out of the ditch.
- 3) In 1914, members of the McClure Ditch and other water users in the Redwater River Valley below the mouth of False Bottom Creek started a series of suits against the Redwater Irrigating Association in which they claimed damages and requested that the Redwater Irrigating Association be stopped from taking all of the flow of Redwater River. These cases were removed to Federal Court. Then an agreement was reached between all parties in the suit wherein the Redwater Irrigating Association was to divert the first 2200 miner's inches and the remainder of the flow at the diversion point of the Redwater Irrigating Association was to be divided on a specified basis. In this agreement, dated February 21, 1916, and filed and recorded March 12, 1921, page 345, Book 70, Butte County, Register of Deeds, it was agreed that the West Side Ditch would take two-thirds of the water and McClure Ditch would take one-third of the water flowing past the diversion point of the Redwater Association Ditch.

Discussion

The Water Resources Commission investigated the irrigation from McClure Ditch in early 1960's. At that time, 124.7 cfs were mapped as being irrigated from the ditch. The maximum diversion rate was reported to be 2.45 cfs (122.5 miner's inches).

Recent investigations by Water Rights Division have found that the McClure Ditch irrigates 124.7 acres of land. A survey of the headgate and culvert was conducted in January 1987. The headgate has a capacity of diverting more water than the amount claimed and the culvert located right behind the headgate has a capacity of 27.5 cfs.

To determine the amount of water needed to irrigate 124.7 acres, two different methods were used:

- 1) State Law, SDCL 46-5-6 allows 1.0 cfs for each 70 acres of irrigation. If 1.0 cfs of water is necessary to irrigate 70 acres of land, 1.78 cfs of water will be used to irrigate 124.7 acres. Considering the efficiency of flood irrigation in the area, which according to SCS for this area is 50%, the diversion rate required will be 3.56 cfs.
- 2) Using the SCS, S.D. Irrigation Guide, the peak consumption occurs in July. The crops in the area use 28.8% of the annual water consumption during the Month of July. Assuming the crops need 3 feet of water per irrigation season, a total of 374 acre-feet of water is necessary for the season, from which 107.7 acre-feet or 1.75 cfs will be used during the Month of July. Considering a 50% loss due to the system, the total diversion rate required will be 3.3 cfs.

Conclusions and Recommendations

- 1) The headgate and the culvert are capable of diverting and carrying more water than the 6.0 cfs claimed. However, the application claims 6.0 cfs as the quantity of water necessary for the flood irrigation system to irrigate 124.7 acres. The quantity claimed, based upon the calculations, is in excess of what would be reasonable.
- 2) Based upon the 1.0 cfs per 70 acres criteria plus a 50% loss calculation, the peak quantity of water needed to irrigate the land served by the McClure Ditch would be 3.56 cfs. Comparing this to the SCS, South Dakota Irrigation Guide calculations, this quantity of water appears to be reasonable.
- 3) It is recommended that the McClure Vested Water Right Claim be validated for a diversion rate of 3.56 cfs for the irrigation of 124.7 acres as described in Application No. 1390-1 with a priority date of May 12, 1879.
- 4) It is recommended that if Vested Water Right No. 1390-1 is validated, that the applicable portions of Water Right Filings No. 031-1 and No. 0244-1 be incorporated into No. 1390-1 and that the abandoned portions of Water Right Filings No. 031-1 and No. 0244-1 be cancelled.



Rassool Ahadi
Natural Resources Engineer

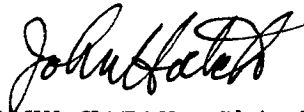
RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED WATER
RIGHT APPLICATION NO. 1390-1, McClure Ditch

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Validation of Vested Water Right Application No. 1390-1, McClure Ditch, c/o Della Crago, RR 1, Box 24, Belle Fourche, South Dakota.

The Chief Engineer is recommending VALIDATION of Application No. 1390-1 for 3.56 cfs and that the applicable portions of Water Right filing No. 031-1 and No. 0244-1 have been incorporated into No. 1390-1 and the abandoned portions of Filings Nos. 031-1 and No. 0244-1 have been cancelled, because 1) water has been appropriated as described for irrigation use with a priority date of May 12, 1879, 2) the use has been developed without unlawful impairment of existing rights, 3) the use is a beneficial use and 4) it is in the public interest with the following qualifications.

1. That Vested Water Right No. 1390-1 is subject to domestic use rights. Diversion of water under Water Right No. 1390-1 is contingent upon supplies being available first to domestic users.
2. That a flow measuring device be installed at or near the point of diversion for McClure ditch within one year of validation of Vested Water Right No. 1390-1. The measuring device shall be permanently installed. The design shall be approved prior to construction by the chief engineer.

See
May 1988
Minutes *JH*
See the attached report for additional information.



JOHN HATCH, Chief Engineer
October 14, 1987



Department of Water & Natural Resources

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

October 22, 1987

NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT THE
NEWSPAPERS RIGHT AWAY.

McClure Ditch
c/o Della Crago
RR 1, Box 24
Belle Fourche SD 57717

Dear Ms. Crago:

Your Application No. 1390-1 for a vested water right claim has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of your claim has been sent to the Publishers of the QUEEN CITY MAIL printed at Spearfish and the BELLE FOURCHE DAILY POST printed at Belle Fourche SD. For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice and notify this office, if you have any corrections or questions.

Be sure to contact the above newspapers to authorize publication of your notice of hearing to validate a vested right and to arrange for payment. Early contact with the papers can eliminate delays. The publishers have been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. We must receive Proof of Publication before the application can be considered by the Water Management Board.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ron Duvall".

Ron Duvall
Natural Resources Engineer
605 773-3352

enclosures



Department of Water & Natural Resources

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

October 22, 1987

BELLE FOURCHE DAILY POST
1004 5th Ave
Belle Fourche SD 57717

Dear Sir:

Enclosed is a Notice of Hearing to Validate Vested Right Application No. 1390-1. Please publish this notice once each week for two consecutive weeks in your paper. The first publication should be on or before October 28, 1987.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is McClure Ditch, c/o Della Crago, RR 1, Box 24, Belle Fourche SD 57717.

A copy of BOTH publications must be SENT to the WATER RIGHTS DIVISION. IMMEDIATELY return the FIRST publication with the FIRST Transmittal form on the bottom of this page. The first copy is needed to check the publication for errors so any corrections can be made in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. The permit application cannot be considered by the Water Management Board until proof of publication has been received.

Sincerely,

Ron Duvall
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

FIRST TRANSMITTAL NOTICE

TO: Water Rights Division
Joe Foss Building
Pierre SD 57501-3181

Date _____

We are in receipt of your letter of _____ enclosing Notice of Hearing to Validate A Vested Right Application which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper



Department of Water & Natural Resources

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

October 22, 1987

QUEEN CITY MAIL
Box 7
Spearfish SD 57783

Dear Sir:

Enclosed is a Notice of Hearing to Validate Vested Right Application No. 1390-1. Please publish this notice once each week for two consecutive weeks in your paper. The first publication should be on or before October 28, 1987.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is McClure Ditch, c/o Della Crago, RR 1, Box 24, Belle Fourche SD 57717.

A copy of BOTH publications must be SENT to the WATER RIGHTS DIVISION. IMMEDIATELY return the FIRST publication with the FIRST Transmittal form on the bottom of this page. The first copy is needed to check the publication for errors so any corrections can be made in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. The permit application cannot be considered by the Water Management Board until proof of publication has been received.

Sincerely,

Ron Duvall
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

FIRST TRANSMITTAL NOTICE

TO: Water Rights Division
Joe Foss Building
Pierre SD 57501-3181

Date _____

We are in receipt of your letter of _____ enclosing Notice of Hearing to Validate A Vested Right Application which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper

Instruction to Newspaper -- Publish first publication of the following Notice on or before October 28, 1987 with 2nd publication 1 week later. The applicant is responsible for payment.

NOTICE OF HEARING To Validate
Vested Right Application No. 1390-1 to Appropriate Water

Notice is hereby given that McClure Ditch c/o Della Crago whose mailing address is RR 1, Box 24, Belle Fourche, South Dakota has filed an application to validate a vested right claim to appropriate 6.0 cubic feet of water per second (cfs) from Redwater River to irrigate 124.7 acres with a claimed priority date of May 12, 1879 via the McClure Ditch. The Redwater River diversion point for McClure Ditch is located in the NE 1/4 NW 1/4 Section 24, T8N, R2E. The irrigated acreage is located in the E 1/2 SW 1/4, SW 1/4 SE 1/4, NW 1/4 Section 13; NE 1/4 NE 1/4 Section 14; all in T8N, R2E.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends VALIDATION of Vested Water Right Application No. 1390-1 for 3.56 cfs and that the applicable portions of Water Right Filings No. 031-1 and No. 0244-1 be incorporated into No. 1390-1 and that the abandoned portions of Filings No. 031-1 and No. 0244-1 be cancelled because 1) water has been appropriated as described for irrigation with a priority date of May 12, 1879, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water and 4) it is in the public interest.

Validation of this application will be considered by the Water Management Board at Howard Johnson's, Roosevelt and Jefferson Rooms, 2211 LaCrosse, Rapid City SD, December 2, 1987 at 1:00 pm.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve validation, 2) approve the validation with qualifications, 3) defer, or 4) deny validation of the application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and the Chief Engineer by November 20, 1987. The petition may be informal, but it must include a statement describing the petitioner's interest in the application, the reasons for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-18; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31, 46-5-49; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15 and 74:02:01:19 thru 74:02:01:22.

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

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, Joe Foss Bldg, Pierre SD (605 773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by November 20, 1987.

No. 1390-1

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Battle) ss.

I, Marion Succa hereby

certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Belle Fourche Daily post

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 Belle Fourche

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

October 28, 1987

November 3, 1987

Marion Succa
(Signature)

Editor
(Title)

November 3, 1987
(Date Signed)

Cost of Printing: 43.42

129 2 times

Public Notice

NOTICE OF HEARING
TO VALIDATE
Vested Right Application
No. 1390-1
to Appropriate Water

Notice is hereby given that McClure Ditch c/o Della Crago whose mailing address is RR 1, Box 24, Belle Fourche, South Dakota has filed an application to validate a vested right claim to appropriate 6.0 cubic feet of water per second (cfs) from Redwater River to irrigate 124.7 acres with a claimed priority date of May 12, 1879 via the McClure Ditch. The Redwater River diversion point for McClure Ditch is located in the NE 1/4 NW 1/4 Section 24, T8N, R2E. The irrigated acreage is located in the E 1/2 SW 1/4, SW 1/4 SE 1/4, NW 1/4 Section 13; NE 1/4 NE 1/4 Section 14; all in T8N, R2E.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends VALIDATION of Vested Water Right Application No. 1390-1 for 3.56 cfs and that the applicable portions of Water Right Filings No. 031-1 and No. 0244-1 be incorporated into No. 1390-1 and that the abandoned portions of Filings No. 031-1 and No. 0244-1 be cancelled, because 1) water has been appropriated as described for irrigation with a priority date of May 12, 1879, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water and 4) it is in the public interest.

Validation of this application will be considered by the Water Management Board at Howard Johnson's, Roosevelt and Jefferson Rooms, 2211 LaCrosse, Rapid City, SD, December 2, 1987 at 1:00 p.m.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve validation, 2) approve the validation with qualifications, 3) defer, or 4) deny validation of the application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may



be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and the Chief Engineer by November 20, 1987. The petition may be informal, but it must include a statement describing the petitioner's interest in the application, the reasons for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel. If legal counsel is obtained, the applicant need not file a petition.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15, 46-2-3, 1, 46-2-9, 46-2-11, 46-2-13, 46-2-17, 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-18, 46-5-1 thru 46-5-11, 46-5-13, 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31, 46-5-49; and Board Rules ARSD 74-02:01:01 thru 74-02:01:15 and 74-02:01:19 thru 74-02:01:22.

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Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, Joe Foss Bldg., Pierre SD (605 773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or person who has filed a petition. The request for extension must be filed with the Chief Engineer by November 20, 1987.

No. 1390-1

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Lawrence) ss.

I, Jimmie R. Stephenson hereby

certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Queen City Mail

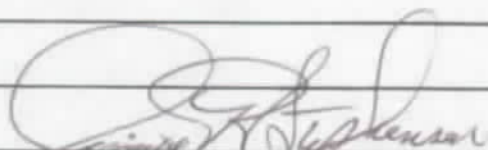
A newspaper which during the whole time of publication of said notice
herein after stated, has been and is printed and published in the

City of Spearfish

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

October 28th

November 4th


(Signature)

Publisher
(Title)

11-4-87
(Date Signed)

Cost of Printing: _____

111 X .2564 = 28.46

111 X .2051 = 22.77

Total = 51.23



NOTICE OF HEARING
TO VALIDATE VESTED
RIGHT APPLICATION
NO. 1390-1 TO
APPROPRIATE WATER

Notice is hereby given that McClure Ditch c/o Della Crago whose mailing address is RR 1, Box 24, Belle Fourche, South Dakota has filed an application to validate a vested right claim to appropriate 6.0 cubic feet of water per second (cfs) from Redwater River to irrigate 124.7 acres with a claimed priority date of May 12, 1879 via the McClure Ditch. The Redwater River diversion point for McClure Ditch is located in the NE 1/4 NW 1/4 Section 24, T8N, R2E. The irrigated acreage is located in the E 1/2 SW 1/4, SW 1/4 SE 1/4, NW 1/4 Section 13; NE 1/4 NE 1/4 Section 14; all in T8N, R2E.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the water Rights Division recommends VALIDATION of Vested Water Right Application No. 1390-1 for 3.56 cfs and that the applicable portions of Water Right Filings No. 031-1 and No. 0244-1 be incorporated into No. 1390-1 and that the abandoned portions of Filings No. 031-1 and No. 0244-1 be cancelled because 1) water has been appropriated as described for irrigation with a priority date of May 12, 1879, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water and 4) it is in the public interest.

Validation of this application will be considered by the Water Management Board at Howard Johnson's, Roosevelt and Jefferson Rooms, 2211 LaCrosse, Rapid City SD, December 2, 1987 at 1:00 pm.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve validation, 2) approve the validation with qualifications, 3) defer, or 4) deny validation of the application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and the Chief Engineer by November 20, 1987. The petition may be informal, but it must include a statement describing the petitioner's interest in the application, the reasons for the petitioner's opposition to or support of the application, and the

signature and mailing.
petitioner or his legal counsel if legal
counsel is obtained. The applicant
need not file a petition.

This application is made pursuant
to the provisions of SDCL 46-1-1 thru
46-1-9, 46-1-12 thru 46-1-15; 46-2-
3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17,
46-2A-1 thru 46-2A-10, 46-2A-12,
46-2A-14, 46-2A-15, 46-2A-18; 46-5-
5-1 thru 46-5-11, 46-5-13 thru 46-5-
15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-
30.4, 46-5-31, 46-5-49; and Board
Rules ARSD 74:02:01-01 thru
74:02:01:15 and 74:02:01:19 thru
74:02:01:22.

This hearing is an adversary pro-
ceeding. The applicant or any person,
after filing a petition, has the right to
be present, or to be represented by a
lawyer. These and other due process
rights will be forfeited if they are not
exercised. Decisions of the Board
may be appealed to the Circuit Court
and State Supreme Court as provided
by law.

Any person wishing a copy of the
Chief Engineer's recommendation,
further information on this applica-
tion or to assure access to the hearing
by the handicapped can contact the
Water Rights Division, Joe Foss Bldg,
Pierre SD (605 773-3352) for assis-
tance prior to the hearing date. The
time of the hearing will be automati-
cally extended for at least twenty days
upon written request of the applicant
or person who has filed a petition to
oppose or support the application.
The request for extension must be
filed with the Chief Engineer by
November.

Oct 28 Nov

November 24, 1987
(date)

page 1

Parties of Record before Water Management Board regarding Vested
Right Application No. 1390-1, McClure Ditch

For:

Interested:

Della Crago
McClure Ditch
RR 1, Box 24
Belle Fourche SD 57717

Richard Beringson, Secretary
SD Dept. of Game, Fish & Parks
Andersen Bldg., 445 E Capitol
Pierre SD 57501

Boyd Klingler

Against:

represented by:

Harlan A. Schmidt, atty
1230 N. Ave - Suite 8
PO Box 1048
Spearfish SD 57783-7048

B.E. Martin, Regional Director
Bureau of Reclamation
PO Box 36900
Billings MT 59107-6900

Bruce Layman
U.S. Bureau of Reclamation
PO Box 226
Newell SD 57760

**South Dakota
Department of
Game, Fish and Parks**

Division of Wildlife
Sigurd Anderson Building
445 East Capitol
Pierre, South Dakota 57501-3185
(605) 773-3381

November 16, 1987



Mr. John Hatch, Chief Engineer
Division of Water Rights
S.D. Department of Water & Natural Resources
Joe Foss Building
Pierre, SD 57501

Dear Mr. Hatch:

Pursuant to the notice provided by the Chief Engineer under SDCL 46-2A-4 the South Dakota Department of Game, Fish and Parks intends to be a party to water right claim 1390-1 on Redwater River, Butte County.

GF&P is an interested and potentially affected party by virtue of statutory authority to manage fish and wildlife resources of the state (SDCL Chapter 41). The pending water right claim could affect the quantity of water available for natural resource management.

Thank you for the opportunity to comment on this pending water right application.

Sincerely,


Richard J. Beringson
Secretary

RJB/ld

cc: McClure Ditch % Della Crago



United States Department of the Interior
 BUREAU OF RECLAMATION
 Missouri Basin Region
 P.O. Box 36900
 Billings, Montana 59107-6900



IN REPLY
 REFER TO: MB-450
 870.

John Hatch, Chief Engineer
 Water Rights Division
 Joe Foss Building
 Pierre, SD 57301

NOV 19 1987

Dear Mr. Hatch:

Pursuant to South Dakota Civil Law 1-26, we hereby make known our objections to Applications to Validate Vested Water Rights (applications) Nos. 1388-1, 1390-1, 1394-1, 1395-1, 1399-1, 1400-1, 1402-1, 1405-1, 1408-1, 1409-1, 1410-1, 1411-1, 1412-1, 1413-1, 1415-1, 1417-1, 1423-1, and 1425-1. These applications are scheduled for consideration by the Water Management Board in Rapid City, South Dakota, on December 2, 1987, at 1:00 pm.

We concur with the Chief Engineer's recommendations regarding the diversion rates for the applications listed above and would object to increases in the diversion rates above those recommended by the Chief Engineer. The Bureau of Reclamation (Bureau) is the owner of water rights for the Belle Fourche Irrigation Project (Project) located on the Belle Fourche River. Most of the vested rights (with the exception of application No. 1423-1) have points of diversion located on tributaries to the Belle Fourche River upstream of the Project diversion dam. The Project could be adversely impacted if the applications are validated with flow rates in excess of those historically utilized.

Finally, we request that you send a copy of the Chief Engineer's recommendation regarding each of the applications listed above to Bruce Laymon who will be representing the Bureau's interests at the hearings. His mailing address is listed below.

U.S. Bureau of Reclamation
 Attention: Bruce Laymon
 Belle Fourche Project Office
 P.O. Box 226
 Newell, SD 57760

If you have any questions regarding our interest in these matters, please contact Dave Nelson at (406) 657-6639 or Bob Pike at (406) 657-6469.

Sincerely yours,


 Donald R. Glaser

For B. E. Martin
 Regional Director

Enclosure

Identical letters sent to attached listing

Mr. Ralph Bahm
RR 1, Box 196
Spearfish, SD 57783

Ms. Della Crago
RR 1, Box 24
Belle Fourche, SD 57717

Mr. Dick Cundy
St. Onge Road
Spearfish, SD 57783

Homestake Mining Company
P.O. Box 875
Lead, SD 57754

Mr. Albert Jeffery
RR 1
Spearfish, SD 57783

Mr. Leland Johnson
Mr. Keith Johnson
RR 1, Box 1011
Spearfish, SD 57783

Mr. Richard Lausser
RR 1, Box 195
Spearfish, SD 57783

Redwater Irrigation Association
P.O. Box 351
Belle Fourche, SD 57717

Mr. R. Thornton Vallery
Star Route, Box 188
Nisland, SD 57762

Mr. James Chenowith
Box 248
Woodrow, CO 80757

Mr. Ralph Crago
RR 1, Box 52B
St. Onge, SD 57779

Mr. Melvin Delzer
Box 1045
Spearfish, SD 57783

Mr. Robert Humphrey
Rt. 1, Box 170
Spearfish, SD 57783

Mr. James Jennings
RR 1, Box 182C
Spearfish, SD 57783

Mr. William Lambert
Box 335
Beulah, WY 82712

Mr. Josef Meier
421 Meier Street
Spearfish, SD 57783

Mr. Wesley W. Thompson
Rt. 1, Box 198A
Spearfish, SD 57783

**South Dakota
Department of
Game, Fish and Parks**

Division of Wildlife
Sigurd Anderson Building
445 East Capitol
Pierre, South Dakota 57501-3185
(605) 773-3381

November 20, 1987

Mr. John Hatch, Chief Engineer
Division of Water Rights
S.D. Department of Water & Natural Resources
Joe Foss Building
Pierre, SD 57501



Dear Mr. Hatch:

Pursuant to the filings made by the S.D. Department of Game, Fish and Parks to the attached list of applicants, some confusion exists regarding the intent of the filings. For your information when dealing with inquiries to the nature of the GF&P interest in the upcoming hearings the following information should be useful.

GF&P intends to participate in the upcoming water right validations by supporting the water rights staff recommendations that will bring each water right into legal compliance with existing laws, e.g. appropriate quantities of water for the land base, appropriately sized and gauged headgates for the right in question, abandonment of unused quantities of water, etc. GF&P filed with your office and each applicant so that we would officially be parties to the hearing process and be able to carry out the mandated duties of the Department under SDCL Chapter 41. We also are of the opinion that the Department would have been negligent in not participating in proceedings that relate to water resource allocation directly affecting waters that support fish and wildlife values.

I hope this information will aid you in describing the nature of the interest the Department of Game, Fish and Parks has in the upcoming proceedings. If you have any questions you can contact me at 773-5511.

Sincerely,

Ron Koth
Water Permits Coordinator

RK/ld

HARLAN A. SCHMIDT
ATTORNEY AT LAW
1230 NORTH AVENUE - SUITE 8
P.O. BOX 1048
SPEARFISH, SOUTH DAKOTA 57783-7048
TELEPHONE (605) 642-2622

November 25, 1987



Chief Engineer
Water Rights Division
Joe Foss Building
Pierre, South Dakota 57501

This is to confirm my telephone conversation with your office of November 25, 1987, in which I appeared in regard to the McClure Ditch application to appropriate water.

I was contacted yesterday evening at 4:45 p.m. by Boyd Klingler who had received a copy of the notice on that date. I immediately called your office to obtain more particulars and to request extension of the hearing.

I am advised that it is too late to obtain an extension but am further advised that I can request an extension at the hearing on December 2, 1987 at the Howard Johnson's in Rapid City, commencing at 1:00 p.m.

The McClure Ditch resists or opposes the recommendation of the engineer to appropriate a lesser amount than was previously approved.

Your office has promised to send me copies of the recommendation and further information on the application. Thank you for your assistance.

Yours truly,

Harlan A. Schmidt

HAS/jh

cc: Boyd Klingler

SOUTH Dakota Department of
Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181
December 8, 1987

NOTICE

TO: Della Crago, McClure Ditch, RR 1, Box 24, Belle Fourche SD
and Parties of Record (see attached list)

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



SUBJECT: Continuance of Hearing on Vested Right Application No. 1390-1, McClure Ditch

The Water Management Board granted a continuance of hearing on Vested Right Application No. 1390-1 at the December 2 & 3, 1987 Board meeting in Rapid City. Harlan A Schmidt, attorney, requested the continuance on behalf of Boyd Klingler. Application No. 1390-1 will now be considered at 10:30 am, March 2, 1988 in Room 216, Joe Foss Building, 523 E Capitol, Pierre SD. The agenda time is an estimate. The actual time of hearing may be later than 10:30 am due to prior agenda items. Applicable provisions of the public notice of hearing published on October 28 and November 3, 1987 in the Belle Fourche Daily Post will still apply at this hearing.

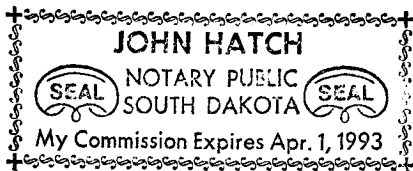
cc: Harold Deering, Assistant Attorney General
John Guhin, Assistant Attorney General

I hereby certify that on December 9, 1987 I have personally deposited with the U.S. Mail, postage prepaid envelopes containing Notice of Continuance of Hearing on Vested Right Application No. 1390-1, McClure Ditch addressed as stated on the Parties of Record sheet.

KAREN SCHLAAK
Senior Secretary

Sworn to, before me, this 11th day of December, 1987.

John H. H. H.
Notary Public



Conversation or File Documentation

NAME OF PERSON OR FILE: McClure DitchADDRESS: C/o Della Crago, RRI, Box 24, Belle Fourch COUNTY BulleDATE: 3/1/88 TELEPHONE 505 57717RE: March 2 WMB, validation of the Vested Water Right

COMMENTS:

Harlan Schmidt, Attorney General for McClure Ditch
called to see if we are going to present more evidence
than we did last time in the WMB meeting. I said no,
there will be the same, validation for 3.56 CFS and
installing a measuring device. He asked if we had jurisdiction
over pre-1907 water right claims? I said we do, however
if he had any legal questions, he should call Harold Deering;
I gave him his number.

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: McClure



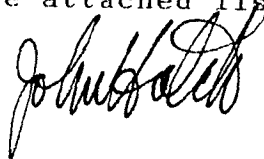
Department of Water & Natural Resources

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

March 8, 1988

NOTICE

TO: McClure Ditch, c/o Della Crago
RR 1, Box 24
Belle Fourche SD 57717
and Parties of Record (see attached list)

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

SUBJECT: Deferral of Consideration of Vested Right Application
No. 1390-1

The Water Management Board deferred Vested Right Application No. 1390-1 at the March 2 and 3, 1988 Board meeting in Pierre. The Board deferred consideration of the application to allow collection of flow data for McClure Ditch during the 1988 irrigation season. Notice will be given when Application No. 1390-1 is rescheduled for hearing.

The Board included in the motion to defer, that a permanent flow measuring device is to be installed on McClure Ditch at or near the point of diversion. Design is subject to approval by the Chief Engineer. The device is to be used for measuring ditch flows during the 1988 irrigation season. After approval of a device design, a method of record-keeping will then be determined cooperatively between the Division of Water Rights and McClure Ditch. A measuring device design will need to be submitted to the Chief Engineer by April 1, 1988 to ensure approval of the design and installation of the device prior to the beginning of the 1988 irrigation season.

cc: Harold Deering, Assistant Attorney General
John Guhin, Assistant Attorney General

CERTIFICATION

I hereby certify that on March 8, 1988 I have personally deposited with the U.S. Mail, postage prepaid envelopes containing Notice of Deferral of Consideration of Vested Right Application No. 1390-1 addressed as stated on the Parties of Record Sheet.

Karen Schlaak

KAREN SCHLAACK
Senior Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 9th day of March, 1988.



John Hatch
Notary Public



Department of Water & Natural Resources

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

March 11, 1988

McClure Ditch
c/o Della Crago
RR 1, Box 24
Belle Fourche SD 57717

RE: Diversion Rate Records, Vested Water Right Application
No. 1390-1

Dear Ms. Crago:

I am writing to ask for your comments on the enclosed draft of a "Diversion Rate Record" form for recording your ditch flow measurements. The Water Management Board at the March 2 and 3, 1988, Board Meeting in Pierre, deferred your vested right claim until ditch flows could be measured during the 1988 irrigation season. The Board's motion required a permanent flow measuring device to be installed on the ditch at or near the point of diversion. The motion also stated that a method of record keeping will cooperatively be determined between the Division of Water Rights and the Ditch Company.

The flow measurements will need to be made when water is being diverted and on a daily basis. If the flow is to be recorded following opening or closing the headgate, the gauge reader will need to wait for the flow to stabilize before reading the gauge. The recording time and name of the gauge reader must be recorded. If possible, the number of acres being irrigated should be recorded. The "Remarks" column is provided for any comments you may have during data collection, i.e. "Rainy day, no diversion" etc.

The diversion rate records will need to be submitted to us at the end of each month. If you have any questions or comments regarding the "Diversion Rate Record" form or any suggested changes, please let us know.

Very truly yours,

A handwritten signature in dark ink, appearing to read "John Hatch". The signature is written in a cursive, flowing style.

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

Conversation or File Documentation

NAME OF PERSON OR FILE: McClure DitchADDRESS: Belle Fourche COUNTY BulkeDATE: 3/22/88 TELEPHONE 892-3688RE: Validation of Vested RightCOMMENTS: Mr. Fred Carlson - McClure Ditch irrigator called.He stated that Mr. Nathan Schmidt who represented McClureDitch in Dec. 1987 WMB meeting was actually representingBoyd Klinger, one of the irrigators. He also said that Mrs DellaCrago was present at the meeting, but she did not say a wordto object deferral of the vested right. Mr. Carlson said thatthey thought 3.56 CFS recommended by the Division soundedOK and they agreed with it. I told him send us a letteras soon as you can so that we go ahead with the validationprocess.

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: MR. Carlson

MEMO

CRAGO HEREFORD RANCHES

Colony, Wy. and Belle Fourche, S.D. 57717

Phone (605) 892-3293

TO Rassool Ahadi
Natural Resources Engineer
523 E Capitol-Pierre, S.D.

DATE March 23, 1988
SUBJECT McClure Ditch

Dear Sir:

I am writing in reference to the recent action taken on the
McClure Ditch. We request validation of the water rights based
on the 3.56 cu ft for the 124.7 A as you recommended.

Sincerely,

McClure Ditch

Della Crago
Della Crago

RR 1 Box 107

Belle Fourche, S.D. 57717



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

April 4, 1988

NOTICE

TO: McClure Ditch, c/o Della Crago
RR 1, Box 24
Belle Fourche, SD 57717
and Parties of Record (see attached list)

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



SUBJECT: Reconsideration of Vested Right Application No. 1390-1.

The Water Management Board will reconsider Vested Right Application No. 1390-1 at 11:35 am on May 11, 1988, in Room 216, Joe Foss Building, 523 E Capitol, Pierre SD. Application No. 1390-1 is being reconsidered pursuant to a written request from Della Crago received on March 24, 1988 requesting validation of the vested water right claim.

The agenda time is an estimate. The actual time of hearing may be later than 11:35 am due to prior agenda items. Applicable provisions of the public notice of hearing published on October 28 and November 3, 1987 in the Belle Fourche Daily Post will still apply at this hearing.

cc: Harold Deering, Assistant Attorney General

CERTIFICATION

I hereby certify that on April 4, 1988 I have personally deposited with the U.S. Mail, postage prepaid envelopes containing Notice of Reconsideration of Vested Right Application No. 1390-1, McClure Ditch addressed as stated on the Parties of Record sheet.

Karen Schlaak

KAREN SCHLAACK
Senior Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 6th day of April, 1988.



John Hatch
Notary Public



Department of Water & Natural Resources

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

DEC 1 1988

Della Crago
McClure Ditch
Route 1, Box 24
Belle Fourche, South Dakota 57717

Dear Mrs. Crago:

Enclosed are your Validated Vested Water Right and Water License No. 1390-1.
As long as you use the water beneficially, as stated in the Water License,
the State Water Laws provide that you have a continuing right to use the
water.

Very truly yours,

A handwritten signature in black ink that reads "John Hatch". The signature is written in a cursive style with a large, stylized "J" and "H".

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

JH: ms

enclosures

NOTE: Applicable portions of Water Right Filing Nos. 031-1 and
0244-1 are incorporated into Permit No. 1390-1.

Equal Opportunity Employer

 **Department of
Water & Natural Resources**

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

January 9, 1989

McClure Ditch
c/o Della Crago, President
RR 1, Box 107
Belle Fourche, S.D. 57717

RE: Installation of a Permanent Measuring Device, VR# 1390-1

Dear Mrs. Crago:

As a reminder, the Water Management Board, at the May 11 and 12, 1988 meeting, validated your vested right claim on McClure Ditch. The Board's motion required installation of a permanent measuring device on the ditch at or near the point of diversion within one year of validation of your vested right claim. To comply with the Board's order, the measuring device must be installed prior to the 1989 irrigation season. Please note that the plans and specifications for the measuring device must be approved by the Chief Engineer prior to installation.

If you have any questions, please contact me.

Sincerely,

RA

RASSOOL AHADI
Natural Resources Engineer
(605)773-3352





Department of Water & Natural Resources

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

April 4, 1989

Della Crago
RR #1, Box 107
Belle Fourche, S.D. 57717

RE: Change of Location of the Diversion Point.

Dear Mrs. Crago:

Enclosed you will find two copies of Form 2 to change location of your diversion point from McClure Ditch to the NW1/4 NW1/4 Section 13, T8N-R2E, in Butte County. Please review the forms for accuracy, sign and notarize them, and return them to this office with \$50.00 filing fee.

If you have any questions, please feel free to contact me.

Sincerely,

M. RASSOOL AHADI
Natural Resources Engineer
605 773-3352





Department of Water & Natural Resources

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

May 15, 1989

Boyd Klingler
920 Country Club Drive
Spearfish, S.D. 57783

RE: Vested Water Right No. 1390-1, McClure Ditch,
Installation of Flow Measuring Device.

Dear Mr. Klingler:

We have reviewed plans and specifications for your measuring device designed by the Soil Conservation Service. According to the proposed plan, a pre-fabricated Parshall Flume, with a throat width of 9.0 inches, will be used. The measuring device will be used to measure the flow in McClure Ditch. The plans and specifications are approved as submitted.

The installation must meet the design criteria set forth by the Soil Conservation Service.

If you have any questions, please contact Rassool Ahadi,
(605)773-3352.

Very truly yours,

James Winterton, P.E.
Natural Resources Engineer
For JOHN HATCH, Chief Engineer
Water Rights Division
(605)773-3352





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

NOV 14 1994

1390-1

Boyd Klinger
McClure Ditch
920 Country Club Drive
Spearfish, SD 57783

Dear Mr. Klinger:

Enclosed is your Reissued Vested Right Water License No. 1390-1.

Approval of Water Permit No. 1390A-1 (Fred Carlson) and Permit No. 1390B-1 (Della Crago) changed the diversion point for acreage described under Vested Right No. 1390-1. Vested Right License No. 1390-1 has been reissued to reduce the diversion rate and acreage to correspond with Water Permit Nos. 1390A-1 and 1390B-1.

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

If you have any questions concerning the reissued water license, please contact us.

Very truly yours,

John Hatch, Chief Engineer
Water Rights Division
(605) 773-3352

enclosure

Water Rights Program - DENR

File Documentation

File No. 1390-1

County: Butte

Name of Person: Max Main, Attorney

Address: Belle Fourche SD

Date: 4/29/03 **Telephone:** #

RE: McClure Ditch

Comments:

Max Main called to give us a heads-up about the status of McClure Ditch. Mr. Main did some research for a local Belle Fourche realtor concerning some property located along the ditch. Max said it appears that a significant portion of the ditch no longer irrigates and a portion owned by Wayne Crabill (723-2892) has filled in the ditch.



Mark D Rath

Natural Resources Engineering Specialist

Water Rights Program - DENR

File Documentation

File No. 1390-1

County: Butte

Name of Person: Wayne Crabill

Address: Rt 2 Box 103 : Belle Fourche, SD

Date May 21, 2003 **Telephone:** 723-2892

RE: Status of McClure Ditch Water Right

Comments:

On May 21, 2003, I met with Wayne Crabill and John Charlson concerning irrigation along McClure Ditch. Mr. Crabill had sold a lot to Mr. Charlson to build a house on. The McClure irrigation ditch ran across the lot. When I was there the ditch had been filled in.

Mr. Roger Croell owns the irrigated property adjoining this lot. He informed Mr. Crabill and Mr. Charlson that filling in the ditch prohibits his being able to irrigate his property.

Mr. Crabill indicated that Mr. Croell had not irrigated in a number of years. I discussed abandonment and forfeiture with them. I looked at the ditch and it appeared the ditch is in a state of disrepair on Mr. Croell's property and irrigation had not been performed in recent years.

I called Mr. Roger Croell on 5/27/03 (307-283-2588). I told him what the complaint was and why the issue of abandonment and forfeiture had been brought up. He said I could not cut back the water right. I told him that the Water Management Board had legal authority to reduce or cancel a water right due to non-use. He said he last irrigated 3 years ago but wanted to irrigate this year but would not be able to because the ditch had been filled in. I suggested he talk to Mr. Crabill and Mr. Charlson to see if they can work out a solution.

On May 30, 2003 I called Mr. Crabill to see if a solution had been worked out. He said they had agreed to open the ditch back up to allow Mr. Croell to irrigate.



Mark D Rath

Natural Resources Engineering Specialist