

No. 371-1Water Division No. 1

Plans to be filled by the Engineer for the W. R. C.)

District

JAN 15 1939

1:30 PM

STATE ENGINEER PERMIT FORM 100-5

PRIME, SOUTH DAKOTA

APPLICATION FOR PERMIT To appropriate Water within the State of South Dakota

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

1. Name of applicant Thomas McIlennyPostoffice address Sturgis, County Harris, State S. Dak.

I. If a corporation

(a) Name of same

(b) Date and place of incorporation

(c) Amount of capital stock

(d) Amount paid in

(e) Names and addresses of directors

(NOTE—A certified copy of articles of incorporation must accompany the application.)

II. Method of accomplishing the work and financial resources of the applicant:

(a) Method of accomplishing work (Whether by contract, employment of others, or by direct labor)

Completion

(b) Cash on hand, \$

(c) Treasury stock, \$

(d) Bonds to be issued, \$

(e) Other resources, \$

2. Name of diversion work McIlenny3. Amount of water claimed 7.82 cubic feet per second4. Source of water supply dry draw5. Location of point of diversion 1-dike- SE Sec. 10; S. Sec. 11; 1 dike SW Sec. 12;
2 dikes- NW S. Sec. 15; 1 dike- SW Sec. 14; 1 dike- SW S. Sec. 17; 1 dike- NW S. Sec. 24;
all on T34N R2E on bank County.6. Annual period or periods during which water is to be used March to November inclusive

7. To be used for:

1. Irrigation or domestic use: Gravity, overhead sprinkling or combination system? waterspreading(a) Number of acres to be irrigated 748 acres(b) Legal subdivisions to be irrigated See attachment

(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 Stockwatering

Name any of the above uses claimed

(b) Amount of power to be generated horse power.

Amount claimed for engine cooling

(c) Location of plant

(d) Method of developing power

(e) Point where water will be returned to stream

8. Estimated cost of work:

(a) Head Gates, \$ 70.(b) Pumping plant, \$ 1500.(c) Fluming, \$ 10,000.(d) Canal earth, \$ 1000.Rock, \$ 5200.(e) Other structures, \$ 10,000.Total, \$ 4770.

9. Description of diversion works:

I. Nature of works: (Reservoir, dam, ditch, flume, pumping plant, etc.) a ditch to 14 ft. in height and 120 ft. long. Ditches average about 2000 yd. each. All are diversion

II. Dimensions of works:

(a) Dam: Height 10 ft. feet; length at bottom 10 ft. feet; length at top 10 ft. feet; thickness at bottom 10 ft. feet; thickness at top 10 ft. feet; slope at front water face 3:1; slope at back face 2:1; material used in construction none

(b) Reservoir: Capacity when filled none acre feet. Surface area at highwater mark none acres.

DEPTH AT OUTLET-Feet	SURFACE AREA AT EACH DEPTH AT OUTLET--ACRES	ACRE-Feet CAPACITY

(c) * Head gate: Width 10 ft. feet; height 10 ft. feet; Material none

(d) Canal: Total length 10 miles.

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER-LINE	GRADE PER MILE
At <u>10</u> Mile	<u>10</u> feet	<u>10</u> feet	<u>10</u> feet	<u>10</u> feet
At <u>10</u> Mile	<u>10</u> feet	<u>10</u> feet	<u>10</u> feet	<u>10</u> feet
At <u>10</u> Mile	<u>10</u> feet	<u>10</u> feet	<u>10</u> feet	<u>10</u> feet
At <u>10</u> Mile	<u>10</u> feet	<u>10</u> feet	<u>10</u> feet	<u>10</u> feet
At <u>10</u> Mile	<u>10</u> feet	<u>10</u> feet	<u>10</u> feet	<u>10</u> feet
At <u>10</u> Mile	<u>10</u> feet	<u>10</u> feet	<u>10</u> feet	<u>10</u> feet

(Give dimensions where reductions in size are made.)

10. Time required for completion of work Completed years.11. Time required for complete application of water to the proposed beneficial use Completed years.12. Choice of newspaper for publication of notice of intention to appropriate none

STATE OF SOUTH DAKOTA

County of Hughes ss.

I, Thomas McHenry, being first duly sworn on my oath depose and say: That my relation to the above described undertaking is that of owner, that I have read the above foregoing statement, examined the map accompanying the same, and that I know of my own personal knowledge that the matters therein stated and shown are true.

Signed Thomas McHenrySubscribed and sworn to before me this 15th day of January 1959

Notary Public (or other qualified officer.)

*Each diversion must have a headgate or measuring device.

Remarks by State Water Resources Commission:

"Vested Right" claimed.

The diversion rate limitation of 1 cubic foot per second for each 70 acres irrigated shall not apply to this Dry Draw irrigation diversion during periods of flood flows, when such flows are in excess of the amount of water required to satisfy domestic use requirements and other water rights.

STATE OF SOUTH DAKOTA
County of Hughes ss.

Pierre, South Dakota,

January 22, 1959

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

P. m. upon the 15 day of January, 1959

State Water Resources Commission

By:

George H. Hines
Chief Engineer, Executive Officer

Vested Right
Number of permit 371-1

Date of first receipt of application January 15, 1959

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 See attachment to this Permit, 19____

Approved January 22, 1959 Recorded in Book 5 Page 82

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 _____

Completed, 19____

2nd. The whole of said work is to be completed on or before Completed, 19____

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

Completed, 19____

4th. The water appropriated shall be used for the purpose of irrigation

5th. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.

6th. The amount of the appropriation herein granted shall not exceed 782 cubic feet per second; neither shall it exceed the capacity of the above described system of diversion works, nor the least amount of water that experience may hereafter indicate as necessary for the production of crops in the exercise of the best husbandry; and further, said appropriation must be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for irrigation on or before Completed, 19____; said water to be used during the following described annual period:

April to October inclusive

Witness my hand this 22 day of January, 1959

State Water Resources Commission

By:

George H. Hines
Chief Engineer, Executive Officer

Certificate of Construction Issued

January 22, 1959

Water License Issued

January 22, 1959

<u>Number of Structures & their locations</u>	<u>Estimated acres Irrigated by structures</u>	<u>Maximum amount of water allowable</u>	<u>Priority Date</u>
1 dike in the SE $\frac{1}{4}$, Sec. 10	34	.49	1936
1 dike in the S $\frac{1}{4}$, Sec. 11	65	.93	1942
1 dike in the SE $\frac{1}{4}$, Sec. 12	88	1.25	1948
1 dike in the SW $\frac{1}{4}$, Sec. 13	76	1.08	1953
1 dike in the W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 14	5	.07	1935
2 dikes in the NW $\frac{1}{4}$, Sec. 15	232	3.32	1946
1 dike in the NW $\frac{1}{4}$, Sec. 24	48	.68	1956
	<u>548</u>	<u>7.82</u>	

All in T 5 N, R 9 E

All lands listed below are irrigated and owned by
Thomas McNenny

All in T 5 E, R 9 E, BHM

Section 10
SE $\frac{1}{4}$ 26 acres

Section 11
SW $\frac{1}{4}$ 29 acres
SE $\frac{1}{4}$ 8 acres

Section 13
NW $\frac{1}{4}$ 16 acres
SW $\frac{1}{4}$ 70 acres

Section 14
NE $\frac{1}{4}$ 128 acres
NW $\frac{1}{4}$ 111 acres
W $\frac{1}{2}$ SW $\frac{1}{4}$ 5 acres

Section 15
NE $\frac{1}{4}$ 107 acres

Section 24
NW $\frac{1}{4}$ 48 acres
Total 548 acres

STATE OF SOUTH DAKOTA

WATER LICENSE No....371-1....

WHEREAS, On the 15th day of January A. D. 10... 59
Thomas McNenny

of Sturgis County of Meade ~~Vested Right~~ and State of
South Dakota duly made application (No. 371-1) to us for a permit to use 7.82
cubic feet per second of the waters of dry draws
County of Meade, State of South Dakota, for irrigation
purposes; and

WHEREAS, On the 22nd day of January A. D. 10... 59
~~Vested Right~~ recognizing
Permit No. 371-1 was issued to said applicant... for the diversion of said water, and providing for the
completion of the works of diversion therein described on or before the XXXX day of XXXX
see attachment to this Water License XXXX and for the application to beneficial use of said
see attachment to this Water License XXXX
XX A. D. 10...
water on or before the XXXX day of XXXX A. D. 10...
and,

WHEREAS, On the 15th day of January A. D. 10... 59
~~Vested Right~~ 7.82
the holder... of said permit duly made proof of the completion of adequate works for the diversion of
371-1
cubic feet per second of said waters, as evidenced by our Certificate No.
dated January 22, 1959 confirming the completion of works of sufficient capacity for
diverting and conveying to the place of intended use 7.82 cubic feet per second of water, with date of
priority of see attachment to this Water License and,

WHEREAS, On the 15th day of January A. D. 10... 59
7.82 cubic feet per second of said water;
proof was duly made of the application to beneficial use of
on 54 1/2 acres in the SE 1/4, Sec. 10; S 1/4, Sec. 11; W 1/4, Sec. 13; N 1/4 and
W 1/4 SW 1/4, Sec. 14; NE 1/4, Sec. 15; and NW 1/4, Sec. 24; all in T 5 N, R 9 E
BHM more specifically described in Certificate of Completion of Works
No. 371-1

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 Thomas McNenny
 of Sturgis, South Dakota the holder and owner of said Vested Right
see attachment to this Water permit No. 371-1
 a water right, dating from License to the use of 7.82
 cubic feet per second of the waters of dry draws
 in the County of Moade and State of South Dakota, or so much thereof as may be
 necessary for the purposes hereinbelow mentioned, to be diverted at see attachment to this
Water License
 and conducted to and upon SE $\frac{1}{4}$, Sec. 10; S $\frac{1}{4}$, Sec. 11; W $\frac{1}{4}$, Sec. 13; N $\frac{1}{4}$ and W $\frac{1}{4}$ SW $\frac{1}{4}$,
Sec. 14; NE $\frac{1}{4}$, Sec. 15; NW $\frac{1}{4}$, Sec. 24; all in T. 5 N., R. 2 E. B1M more
specifically described in Certificate of Completion of Works No. 371-1
 for the purpose of irrigation

subject, however, to the laws of the State of South Dakota applicable to a license for the use of the waters of the
 State, and subject, also to the local or community customs, rules and regulations which have been or may be
 adopted from time to time by a majority of the users from a common source of supply, canal or lateral from
 which such water may be taken, when such rules and regulations have for their object the economical use of such
 water.

WITNESS, My hand and seal of our office at Pierre, South Dakota,
 this 22nd day of January A. D. Nineteen
 Hundred and fifty-nine

State Water Resources Commission

By:

J. W. GRIMES,

Chief Engineer, Executive Officer

STATE OF SOUTH DAKOTA

Water License No. _____

To _____

Source of Supply _____

County _____

Ac't _____

c. f. s. _____

Point of Diversion _____

Place of Use _____

Purpose _____

Date of Priority _____

Recorded _____

In Book _____ of _____ Page _____

<u>Number of Structures & their locations</u>	<u>Estimated acres Irrigated by structures</u>	<u>Maximum amount of water allowable</u>	<u>Priority Date</u>
1 dike in the SE $\frac{1}{4}$, Sec. 10	34	.49	1936
1 dike in the SE $\frac{1}{4}$, Sec. 11	65	.93	1942
1 dike in the SW $\frac{1}{4}$, Sec. 12	88	1.25	1948
1 dike in the SW $\frac{1}{4}$, Sec. 13	76	1.08	1953
1 dike in the W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 14	5	.07	1935
2 dikes in the NW $\frac{1}{4}$, Sec. 15	232	3.32	1946
1 dike in the NW $\frac{1}{4}$, Sec. 24	<u>48</u> 548	<u>.68</u> 7.82	1956

All in T 5 N, R 9 E

Permit No. 371-1Belle FourcheWater Division No. 1 River Water District

Certificate of Completion of Works

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That Thomas McNennyof Sturgis, County of Meade, and State of South DakotaNo. 371-1, bearing date of priority of 7.82 cu. ft. per second of the waters of dry drawsCounty of Meade, State of South Dakota, at see attachment

to this Certificate of Completion of Works

for Irrigation

purposes, has fully complied with the provisions of the laws of the State of South Dakota relating to proof of completion of the works of diversion set out and described in said Permit; that said works are found in satisfactory condition for diverting and conveying to the place of intended use 7.82 cu. ft.

per second of water; and that the lands proposed to be irrigated by the use of said water are described as follows,

to-wit: SE $\frac{1}{4}$, Sec. 10) 26 acresSW $\frac{1}{4}$, Sec. 11) 29 acresSE $\frac{1}{4}$, Sec. 11) 8 acresNW $\frac{1}{4}$, Sec. 13) 16 acresSW $\frac{1}{4}$, Sec. 13) all in 70 acresNE $\frac{1}{4}$, Sec. 14) T 5 N, R 9 E, BHM 128 acresNW $\frac{1}{4}$, Sec. 14) 111 acresW $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 14) 5 acresNE $\frac{1}{4}$, Sec. 15) 107 acresNW $\frac{1}{4}$, Sec. 24) 48 acres

Total 548 acres

Witness my hand this 22nd day of January A. D. 1959

State Water Resources Commission

By:

J. W. GRIMES,

Chief Engineer, Executive Officer

<u>Number of Structures & their locations</u>	<u>Estimated acres Irrigated by structures</u>	<u>Maximum amount of water available</u>	<u>Priority Date</u>
1 dike in the SE $\frac{1}{4}$, Sec. 10	34	.49	1936
1 dike in the S $\frac{1}{2}$, Sec. 11	65	.93	1942
1 dike in the SW $\frac{1}{4}$, Sec. 12	88	1.25	1948
1 dike in the SW $\frac{1}{4}$, Sec. 13	76	1.08	1953
1 dike in the W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 14	5	.07	1935
2 dikes in the NW $\frac{1}{4}$, Sec. 15	232	3.32	1946
1 dike in the NW $\frac{1}{4}$, Sec. 24	$\frac{48}{548}$	$\frac{.68}{7.92}$	1956

All in T 5 N, R 9 E

Location No. 371-1Water Division No. 1Belle Fourche
River Water District

Proof of Application of Water to Beneficial Use

PETITION OF HOLDER

Rec'd
1-15-59
fww

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

Ans. Thomas McNenny, OwnerSturgis, South Dakota

Ques. 2. If acting in behalf of a corporation, state its name, principal place of business (if a foreign corporation, give name and postoffice of statutory agent,) your position with reference to same, and your authority for appearing in its behalf.

Ans. _____

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

Ans. _____

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

Ans. 1 dike- NW $\frac{1}{4}$, Sec. 11; 1 dike- SW $\frac{1}{4}$, Sec. 14; 1 dike SW $\frac{1}{4}$, Sec. 13; 1 dike SE $\frac{1}{4}$, Sec. 10;
1 dike SE $\frac{1}{4}$, Sec. 11; 1 dike SW $\frac{1}{4}$, Sec. 12; 1 dike- NW $\frac{1}{4}$, Sec. 24, all in T5N, R9E.

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. 8 dikes varying from 4 ft. high and 200 ft. long to 14 ft. high and 180 ft. long,
with 5 and 10 ft. crowns, 2:1 and 3:1 side slopes. Gate of main canal and 1 mile
of spreader ditches. Also numerous spreader dikes. Practically no storage involved.

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. See Attachment.

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

Ans. _____

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

Ans. Flow of 100 cfs up to 100 acre-feet per season.

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

Ans. _____

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

Ans. dike in SW 1/4 Sec. 10, built in 1935; dike in SW 1/4 Sec. 11, built in 1942;
dike in SW 1/4 Sec. 12, built in 1948; 2 dikes in NW 1/4 Sec 13, built in 1946;
dike in NW 1/4 Sec 24, built in 1955; dike in SW 1/4 Sec 14, built in 1955
dike in SW 1/4 Sec 13, built in 1953. All in T. 5 N. R. 2 E. Started extending
water in 1935 and completed 548 acres by 1956. Water was used whenever
it ran, since dikes were built. Total flows were diverted. Maximum flow
in ditches was about 18 ft. wide and 5 ft. deep.

(Sign)

Thomas McHenry

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 *Pierre, S.D.*, County of *Hughes*

State of South Dakota, on this *15th* day of *January* A. D. 19*57*.

Witnesses.

J. Engstrom
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 _____
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All lands listed below are irrigated and owned by
Thomas McNenny

All in T 5 S, D. 9 R, B1M

Section 10
SE $\frac{1}{4}$ 26 acres

Section 11
SW $\frac{1}{4}$ 29 acres
SE $\frac{1}{4}$ 8 acres

Section 13
NW $\frac{1}{4}$ 16 acres
SW $\frac{1}{4}$ 70 acres

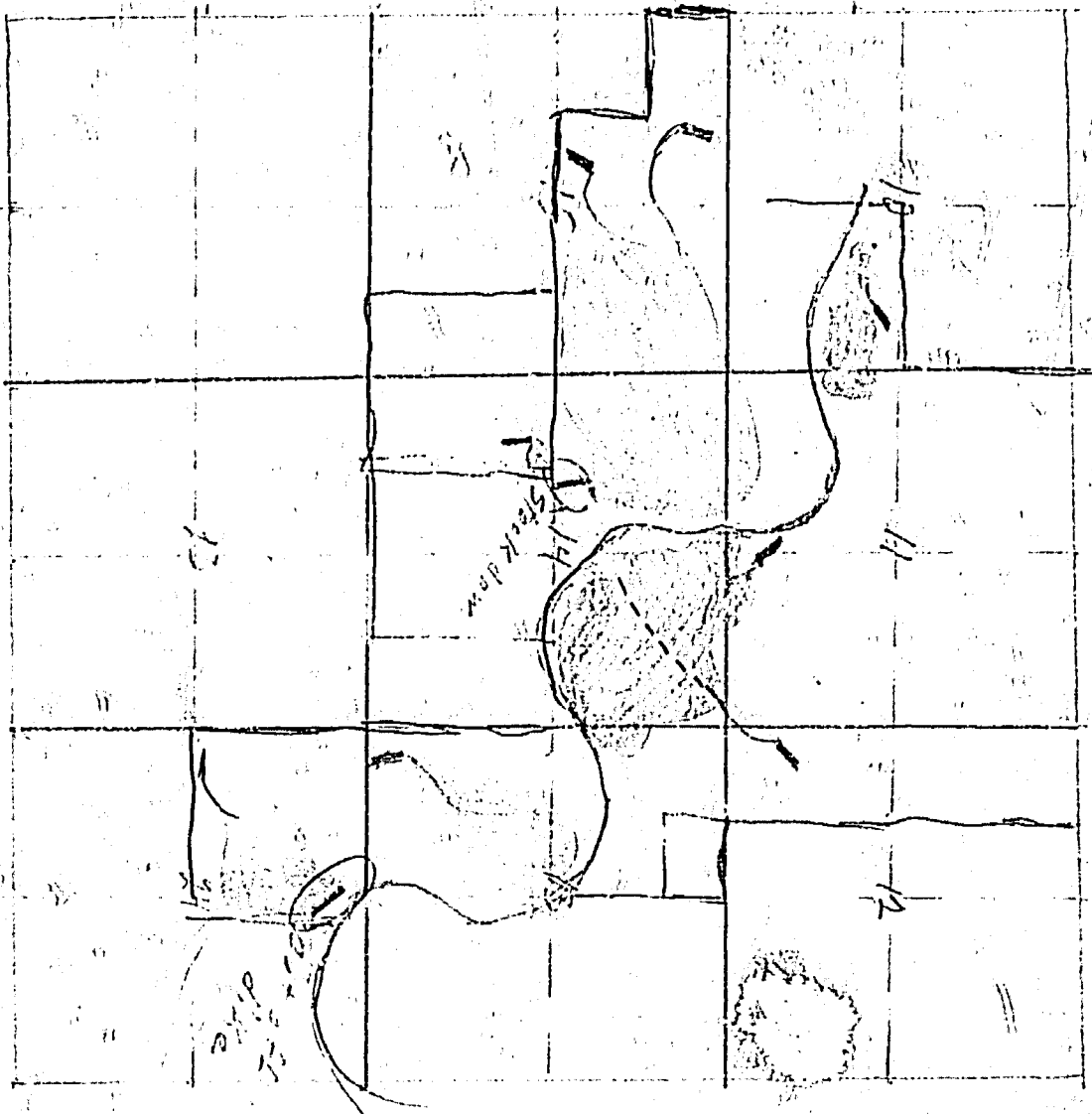
Section 14
NE $\frac{1}{4}$ 128 acres
NW $\frac{1}{4}$ 111 acres
SW $\frac{1}{4}$ 5 acres

Section 15
NE $\frac{1}{4}$ 107 acres

Section 24
NW $\frac{1}{4}$ 48 acres
Total 548 acres

<u>Number of Structures & their locations</u>	<u>Estimated acres Irrigated by structures</u>	<u>Maximum amount of water allowable</u>	<u>Priority Date</u>
1 dike in the SE $\frac{1}{4}$, Sec. 10	34	.49	1936
1 dike in the SE $\frac{1}{4}$, Sec. 11	65	.93	1942
1 dike in the SW $\frac{1}{4}$, Sec. 12	88	1.25	1948
1 dike in the SW $\frac{1}{4}$, Sec. 13	76	1.08	1953
1 dike in the W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 14	5	.07	1935
2 dikes in the NW $\frac{1}{4}$, Sec. 15	232	3.32	1946
1 dike in the NW $\frac{1}{4}$, Sec. 24	48	.68	1956
	<u>548</u>	<u>7.82</u>	

All in T 5 N, R 9 E



75th 179E 15th

COMMISSION

A. H. Mun-y, Pierre,
Chairman
Kenneth G. Keller, Lead,
Secretary
James Bigger, Brookings
Carl Cronin, Gettysburg
Lauren A. Davis, Belle Fourche
Stephen H. Ferris, Vermillion
Wall Taylor, Rapid City

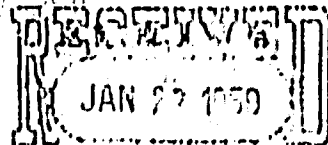


SOUTH DAKOTA
State Water Resources Commission

J. W. GRIMES, CHIEF ENGINEER AND EXECUTIVE OFFICER
STATE OFFICE BUILDING

PIERRE, SOUTH DAKOTA

January 23, 1959



STATE WATER RESOURCES COMMISSION
PIERRE, SOUTH DAKOTA

Mr. Thomas McNenny
Sturgis, South Dakota

Dear Mr. McNenny:

While examining your Application #371-1, I noted what I believe is an error.

All locations are referred to as T 5 S, R 9 E.

I wonder if this should be T 5 N, R 9 E instead.
Please advise as to which location is correct.

Sincerely,

Les Wyborny
Les Wyborny,
Water Rights Engineer

lw:ls

Mr. Les Wyborny
Dear Friend,

Thanks for calling my attention to the mistake on the description. It should read T 5 N, R 9 E, of B.H.M.

Sincerely
Tom McNenny

<u>Number of Structures & their locations</u>	<u>Estimated acres Irrigated by structures</u>	<u>Maximum amount of water allowable</u>	<u>Priority Date</u>
1 dike in the SE $\frac{1}{4}$, Sec. 10	34	.49	1936
1 dike in the S $\frac{1}{2}$, Sec. 11	65	.93	1942
1 dike in the SW $\frac{1}{4}$, Sec. 12	88	1.25	1948
1 dike in the SW $\frac{1}{4}$, Sec. 13	76	1.08	1953
1 dike in the W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 14	5	.07	1935
2 dikes in the NW $\frac{1}{4}$, Sec. 15	232	3.32	1946
1 dike in the NW $\frac{1}{4}$, Sec. 24	48	.68	1956
	<u>548</u>	<u>7.82</u>	

All in T 5 N, R 9 E

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

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

September 21, 1988

NOTICE

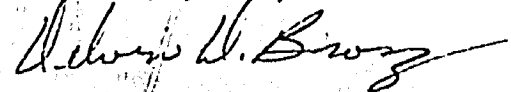
McNenny Ranch
HC 75, Box 192
Sturgis SD 57786

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). 371-1 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



371-1

File No. 371-1

Water Rights Division -DENR
Conversation or File Documentation

NAME OF PERSON OR FILE: McNenny Ranch Inc.

ADDRESS: HC 75, Box 192, Sturgis, SD 57785 COUNTY: Meade

DATE: October 20, 1993 TELEPHONE:

RE: Vested Water Right Claim Inspection

COMMENTS: On June 30, 1993, I inspected the acreage claimed on Vested Water Right Claim No. 371-1. The acreage seemed to be the same as in the license, except for the acreage in Section 24, T5N-R9E. The dike located in this section is used only for erosion control and not irrigation. The acreage should be adjusted to 500.0 acres for Vested Water Right Claim No. 371-1.

** Recommend validation of Vested Water Right Claim No. 371-1 for 500.0 acres and a diversion rate of 7.14 cfs.

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.

M. Rassool Ahadi
M. RASSOOL AHADI
Natural Resources Engineer III
DENR, Water Rights Division



October 27, 1993

371-1

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

NOTICE

TO: McNenny Ranch Inc.
HC 75, Box 192
Sturgis SD 57785

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

John Hatch

SUBJECT: Hearing to Consider Validation of Recognized Vested Right Claim No. 371-1

A Notice of Intent to validate Claim No. 371-1 was published on June 22 and 29, 1988 in the Meade County Times-Tribune. The Water Rights Division opposed validation of No. 371-1 for purposes of completing an on-site inspection of the claim. The inspection of Claim No. 371-1 was completed on June 30, 1993, by Rassool Ahadi, staff engineer. The inspection found that the number of acres being irrigated has been reduced from 548 acres to 500 acres. According to the inspection, the dike located in Section 24-T5N-R9E is used for erosion control and not for irrigation purposes. The diversion rate is to be reduced, accordingly, from 7.82 cubic feet of water per second (cfs) to 7.14 cfs. This reduced diversion rate is based on the statutory application rate of 1 cfs per 70 acres (500 acres/70 = 7.14 cfs).

The Water Management Board will consider validation of Claim No. 371-1 at 9:30 am, December 1, 1993, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre SD. The agenda time is an estimate. The actual time of the hearing may be later than 9:30 am due to prior agenda items.

Pursuant to the findings of the on-site inspection, validation of Claim No. 371-1 is recommended for a diversion rate of 7.14 cfs from dry draws to irrigate 500 acres. Following the hearing, the Board is authorized to 1) validate the claim as recommended for 500 acres and 7.14 cfs, 2) validate the claim as licensed prior to the on-site inspection, 3) validate the claim based on evidence presented at the public hearing, or 4) defer validation of the claim. Applicable provisions of the published notice of intent to validate Claim No. 371-1 will still apply at this hearing. A copy of the June 22 and 29, 1988, publication is available upon request.

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

cc: Diane Best, Assistant Attorney General

371-1

CERTIFICATION

I hereby certify that on October 27, 1993, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated October 27, 1993, regarding Hearing to Consider Validation of Recognized Vested Right Claim No. 371-1, addressed as stated below:

McNelly Ranch, Inc., HC 75, Box 192, Sturgis, SD 57785

Copy Sent Inter-office to:

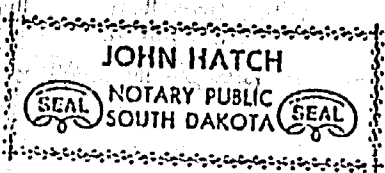
Diane East, Assistant Attorney General, Capitol Building.

Cheryl F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
COUNTY OF HUGHES) SS

Sworn to, before me, this 1st day of November, 1993.



John Hatch
Notary Public

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001



371-1

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

DEC 23 1993

McNenny Ranch
HC 75, Box 192
Sturgis SD 57785

Dear Sir:

The Water Management Board has validated the enclosed Vested Water Right No. 371-1. This validation gives legal status to the claim and is the final document for your vested right. Enclosed is the reissued water license which reflects the acreage and diversion rate as validated by the Board.

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

Very truly yours,

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

enclosure

371-1

SOUTH DAKOTA

VESTED WATER RIGHT NO. 371-1 FOR IRRIGATION

Date of Receipt of Claim January 15, 1959.

Date of Validation December 1, 1993.

The Water Management Board validated Vested Water Right Claim No. 371-1 for irrigation purposes for McNenny Ranch, HC 75, Box 192, Sturgis SD 57765 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 371-1 authorizes diversion of 7.14 cubic feet of water per second from dry draws located in the SE 1/4 Section 10, S 1/2 Section 11, SW 1/4 Section 12, SW 1/4 Section 13, W 1/2 SW 1/4 Section 14, NW 1/4 Section 15; all in T5N-R9E to irrigate 500 acres. The lands irrigated are located in the SE 1/4 Section 10, S 1/2 Section 11, W 1/2 Section 13, N 1/2, SW 1/4 Section 14 and the NE 1/4 Section 15; all in T5N-R9E.
2. The appropriation may not exceed the amount of water needed for beneficial use for irrigation. The appropriation may not exceed 3 acre feet per irrigated acre per year. Water is to be used during the following annual period: March 1 - October 31.
3. The priority dates of the Vested Water Right are as follows:

0.40 cfs	-	January 1, 1936
0.93 cfs	-	January 1, 1942
1.25 cfs	-	January 1, 1948
1.08 cfs	-	January 1, 1953
0.07 cfs	-	January 1, 1935
3.32 cfs	-	January 1, 1946
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

The diversion rate limitation of 1 cubic feet of water per second for each 70 acres irrigated shall not apply to this dry draw irrigation diversion during periods of flood flows, when such flows are in excess of the amount of water required to satisfy domestic use requirements and other water rights.

WATER MANAGEMENT BOARD

By: John Hatch

John Hatch, Chief Engineer
Water Rights Division
Department of Environment and Natural Resources

DEC 23 1993

date

371-1

STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 371-1 FOR IRRIGATION

(1) Thomas McNenny, of Sturgis SD 57785 made Application No. 371-1, January 15, 1959 for validation of a vested right claim to appropriate 7.82 cubic feet of water per second from dry draws, Meade County, South Dakota for irrigation purposes. Vested Water Right No. 371-1 was validated December 1, 1993 with priority dates of 1936, 1942, 1948, 1953, 1935, 1946 and 1956. 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.

The original water license issued January 22, 1959 described irrigation of 548 acres in portions of Sections 10, 11, 13, 14, 15 and 24; all in T5N-R9E. A field inspection conducted found the number of acres being irrigated had been reduced to 500 acres. The dike located in Section 24-T5N-R9E is used for erosion control and not for irrigation purposes. Based upon the inspection and subsequent validation of the vested right claim, the license is being reissued to the extent of what is actually being irrigated.

(2) The vested right owner is entitled to divert 7.14 cubic feet of water per second for beneficial use. The location of the diversion points are: SE 1/4 Section 10, S 1/2 Section 11, SW 1/4 Section 12, SW 1/4 Section 13, W 1/2 SW 1/4 Section 14, NW 1/4 Section 15; all in T5N-R9E.

The location of the irrigated acreage is:

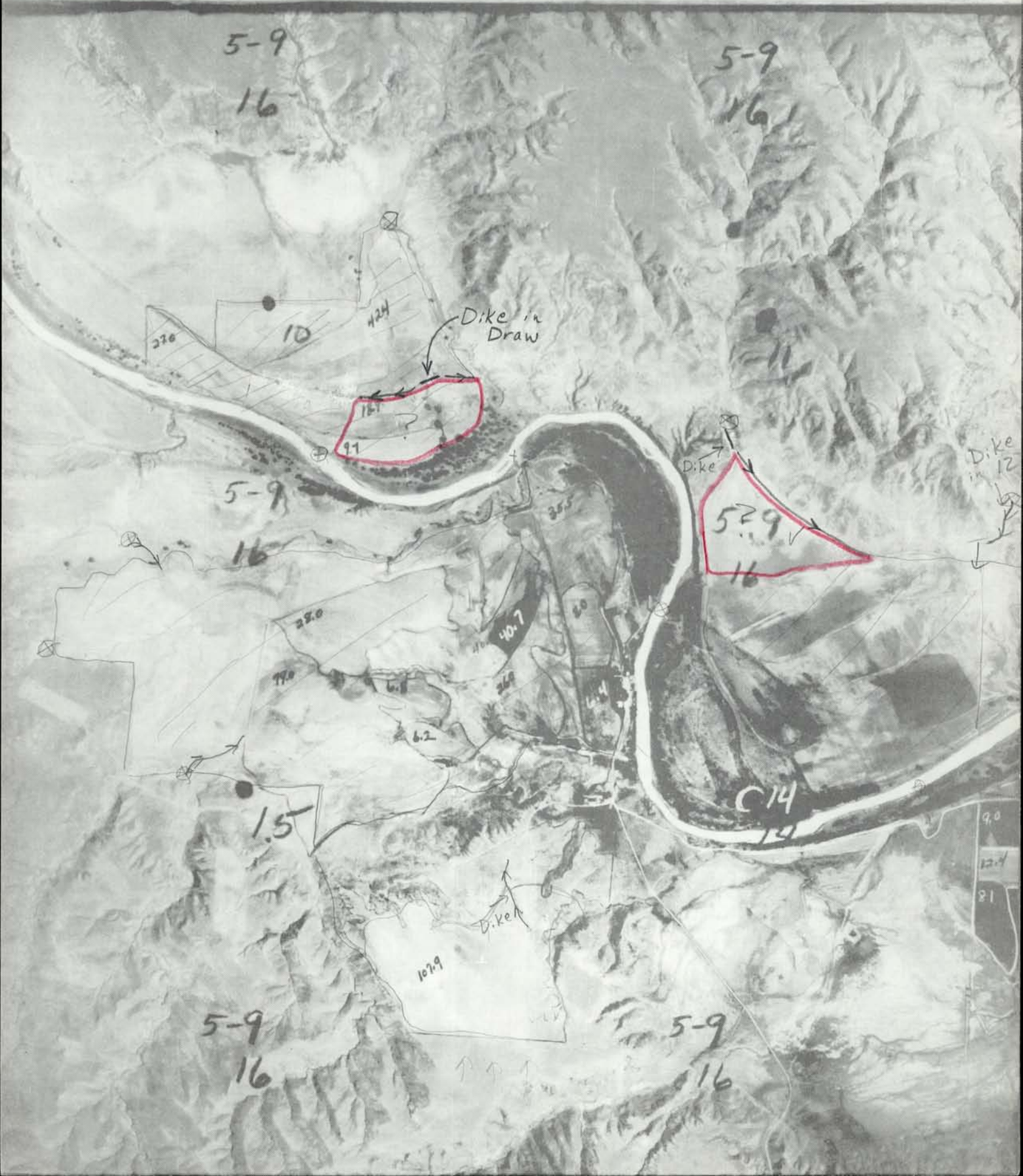
T5N-R9E	Section 10	SE 1/4	26 acres
	Section 11	S 1/2	37 acres
	Section 13	W 1/2	86 acres
	Section 14	N 1/2	239 acres
		SW 1/4	5 acres
	Section 15	NE 1/4	107 acres
Total			500 acres

(3) Pursuant to Section 46-5-30.1 Thomas McNenny, McNenny Ranch of HC 75, Box 192, Sturgis SD 57785 the holder and owner of Vested Water Right No. 371-1 is issued a license to appropriate 7.14 cubic feet of water per second from dry draws with priority dates of January 1, 1935 (0.07 cfs), January 1, 1936 (0.49 cfs), January 1, 1942 (0.93 cfs), January 1, 1946 (3.32 cfs), January 1, 1948 (1.25 cfs) and January 1, 1953 (1.08 cfs) 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 or qualifications listed in Vested Water Right No. 371-1 and subject to South Dakota State Law.

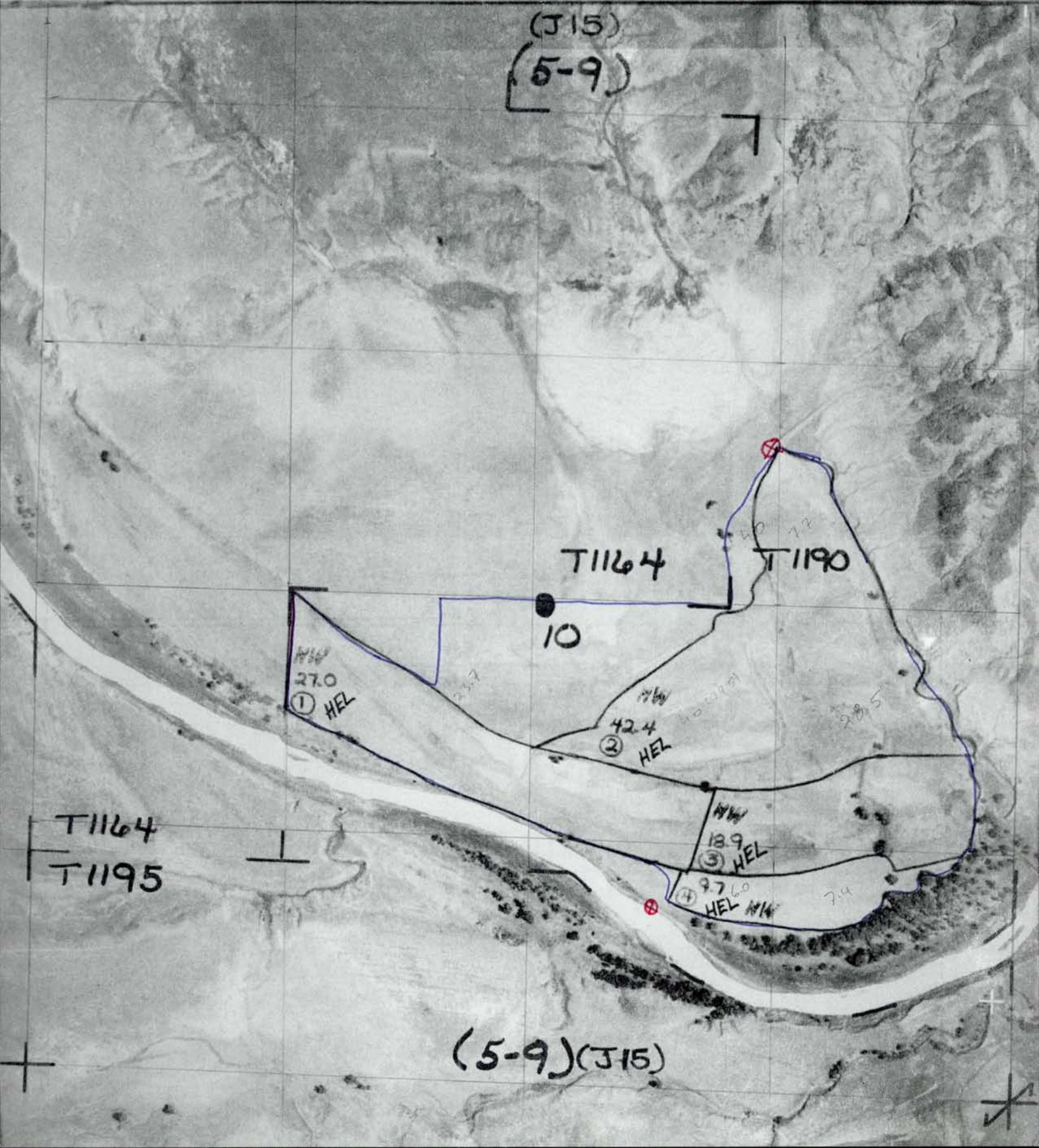

JOHN HATCH, Chief Engineer
Water Rights Division
Department of Environment and Natural Resources

DEC 23 1993
date

NOT TO SCALE



NOT TO SCALE





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

May 1, 2012

371-1

Kenneth McNenny
McNenny Ranch Inc
15252 Alkali Rd
Sturgis SD 57785

Dear Mr. McNenny:

Thank you for calling me back with reference to land ownership under Vested Water Right No. 371-1. The vested right covers land in Sections 10, 11, 13, 14 and 15, T5N, R9E (copy enclosed).

It is my understanding from our conversation that all of the land described in the vested right should be transferred to McNenny Ranch Inc. I am returning the original transfer form to you that contained only the land listed in the SE ¼ Section 10. Enclosed is an updated version of the form that includes the entire acreage described in the vested right.

Please review the form for accuracy. Upon completion, please sign the form and return it to our office in the enclosed envelope. You do not need to send another fee. You have already paid the fee for filing an ownership change.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

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

enclosures

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

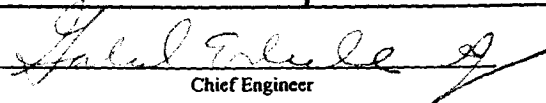
Date 4/30, 20 12

RECEIVED OF McNenny Ranch Inc 15252 Alkali Rd Sturgis SD 58785

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	50	00
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>371-1</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	50 00

No. 05429

By 
Chief Engineer

RECEIVED

MAY 17 2012

WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 371-1

Date: _____

I/We request that Vested Water Right No. 371-1

formerly owned by: Thomas McNenny

be transferred to: (name & address) McNenny Ranch, Inc., 15252 Alkali Rd, Sturgis SD 57785

Telephone No. 605 347-2157

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

500 acres – SE ¼ Section 10; S ½ Section 11; W ½ Section 13; N ½ and SW ¼ Section 14;

NE ¼ Section 15 all in T5N, R9E – Meade County South Dakota

I/We understand that the validity of Vested Water Right No. 371-1 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 Fifty Dollars (\$50.00) 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 McNenny Ranch Inc., the new owner, certify that the above information is true and correct.

McNenny Ranch Inc.
By Kenneth H. McNenny
(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.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

May 17, 2012

371-1

Kenneth McNenny
McNenny Ranch Inc
15252 Alkali Rd
Sturgis SD 57785

Dear Mr. McNenny:

Thank you for sending in the updated transfer form for filing an ownership with Vested Water Right No. 371-1.

The ownership change has been completed. Vested Water Right No. 371-1 formerly held by Thomas McNenny is now listed under "McNenny Ranch Inc."

Enclosed for your records is Receipt No. 05429 in the amount of \$50.00. If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Genny McMath".

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

enclosure

c: Sheila Schieffer, First Dakota National Bank, Yankton SD