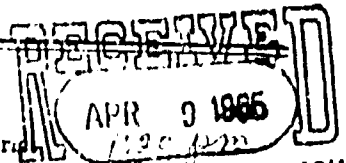


No. 750-1Water Division No. 1 BELLE FOURCHE RIVER District 1
(Blanks to be filled by the Engineer for the W. R. C.)

APPLICATION FOR PERMIT

A VESTED RIGHT STATE WATER RESOURCES COMM.
SOUTH DAKOTA

To appropriate Water within the State of South Dakota

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

1. Name of applicant R. W. Burwell, Regional Director, U. S. Department of Interior, Bureau of Sport Fisheries & Wildlife, Acting on Behalf of the U. S. of America
 Postoffice address 1006 West Lake Street Minneapolis (55408), County Hennepin, State Minnesota

I. Utilization United States Government

- (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)

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

2. Name of diversion work spring areas - McNary National Fish Hatchery
 3. Amount of water claimed 2.08 cubic feet per second or 1,200 gpm
 4. Source of water supply spring areas (see Exhibit "A" attached)
 5. Location of point of diversion (see Exhibit "A" attached) NW 1/4 NW 1/4 SECTION 21 T. 7N. R. 1E Adjacent to Crow Creek which in turn is tributary to Redwater Creek on right bank Lawrence County.
 6. Annual period or periods during which water is to be used January 1 to December 31
 7. To be used for:

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

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

(b) Legal subdivisions to be irrigated

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

- (c) Statement as to
- fish culture
- NW 1/4 NW 1/4 Section 21, T. 7N., R. 1E., Lawrence County, South Dakota

II. Stockwatering mining, milling, power, fish culture, fire protection and public recreation:

- (a) Nature of use fish culture
 (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 NW 1/4 NW 1/4 Sec. 21, T. 7N., R. 1E.

MAP NO-629-1

8. Estimated cost of work:

(a) Head Gates, \$..... (b) Pumping plant, \$.....
 (c) Plumbing, \$..... (d) Canal-earth, \$..... Rock, \$.....
 (e) Other structures \$..... Total, \$.....

9. Description of diversion works:

I. Nature of works: (Type of work, date, place, purpose, etc.) Springs

II. Dimensions of works.

(a) Dam: Height.....feet; length at bottom feet; length at top feet; thickness at bottom feet; thickness at top feet; slope at front water face; slope at back face material used in construction
 (b) Reservoir: Capacity when filled acre feet. Surface area at highwater mark.....acres.

QUANTITY	SPRING AREA CAPACITY (gpm)	ACRE-FOOT CAPACITY (DAILY)
POND AREA		
No. 1	400	1.76
No. 2	nil	--
No. 3	600	2.64
No. 4	200	.88
total	1200	5.28

(c) Head gate: Width.....feet; height feet; Material
 (d) Canal: Total length miles.

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER-LINE	GRADE PER MILE
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet

(Give dimensions where reductions in size are made.)

10. Time required for completion of work completed - not applicable years.
 11. Time required for complete application of water to the proposed beneficial use completed years.
 12. Choice of newspaper for publication of notice of intention to appropriate not applicable

MINNESOTA
 STATE OF SOUTH DAKOTA
 County of Hennepin } ss.

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

Signed R. W. Burwell, Regional Director

Subscribed and sworn to before me this 8 day of April 1965

Notary Public (or other qualified officers)

*Each diversion must have a headgate or measuring device.

WILLIAM J. SCHMIDT
 Notary Public, Hennepin County, Minn.
 My Commission Expires Aug. 22, 1966

Remarks by State Water Resources Commission:

"VESTED RIGHT" CLAIMED

STATE OF SOUTH DAKOTA
County of HUGHES ss.

Pierre, South Dakota, JUNE 2, 1965

This is to certify that the foregoing application was received by the Commission at 1:20 o'clock
P.m. upon the 9TH day of APRIL, 1965

State Water Resources Commission
By: Dwight Stone
for Chief Engineer, Executive Officer

Number of permit 75C-1

Date of first receipt of application APRIL 9, 1965

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 1947, 19—

Approved JUNE 2, 1965, Recorded in Book 9 Page 16

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 ~~work~~ completed ~~on or before~~

2nd. The whole of said work is ~~work~~ completed ~~on or before~~

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

COMPLETED

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

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 2.68 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 centiloth (1/100) of one cubic foot of water per second of time for each acre of land to which water is actually USED FOR FISH CULTURE ~~was~~

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

CONTINUOUSLY

Witness my hand this 2ND day of JUNE, 1965

State Water Resources Commission

By: Robert Grimes
Chief Engineer, Executive Officer

Certificate of Construction Issued JUNE 2, 1965

Water License Issued JUNE 2, 1965

Remarks by the Applicant:

DESCRIPTION OF THE STATE OF SOUTH DAKOTA TRACT (2)
LAWRENCE COUNTY, SOUTH DAKOTA

The following-described tract of land is located in South Dakota, Lawrence County, lying about eleven miles northwesterly of the village of Spearfish, being, in part, a portion of the land described in a conveyance from James M. McNerny, et ux, to the State of South Dakota, dated December 26, 1942, and recorded in Book 284, page 180; and in part, a portion of the land described in a patent from the State of South Dakota to the South Dakota Department of Game and Fish, dated January 3, 1944, and recorded in Patent Record Book 279, page 217; all of said instruments are of record in Lawrence County and described according to the public land surveys:

Township Seven (7) North, Range One (1) East, Black Hills Meridian:

In section sixteen (16), all of the Southwest Quarter Southwest Quarter ($SW\frac{1}{4}SW\frac{1}{4}$); in section seventeen (17), all of the East Half Southeast Quarter Southeast Quarter ($E\frac{1}{2}SE\frac{1}{4}SE\frac{1}{4}$); in section twenty (20), all of the East Half Northeast Quarter Northeast Quarter ($E\frac{1}{2}NE\frac{1}{4}NE\frac{1}{4}$); and in section twenty-one (21), all of the Northwest Quarter Northwest Quarter ($NW\frac{1}{4}NW\frac{1}{4}$) and the North Half North Half Southwest Quarter Northwest Quarter ($N\frac{1}{2}N\frac{1}{2}SW\frac{1}{4}NW\frac{1}{4}$).

The above-described tract of land is delineated on a map tracing designated STATE OF SOUTH DAKOTA TRACT (2), bearing date of August 18, 1948, of record in the files of the Department of the Interior.

STATE OF SOUTH DAKOTA

WATER LICENSE No. 750-1

WHEREAS, On the 9th day of April A. D. 1965
 the Bureau of Sport Fisheries and Wildlife

of Minneapolis County of Hennepin and State of
Minnesota duly made application (No. 750-1 vested right 2.68
 cubic feet per second of the waters of springs
 County of Lawrence, State of South Dakota, for fish culture
 purposes; and

Vested Right WHEREAS, On the 2nd day of June A. D. 1965
 Permit No. 750-1 was issued to said applicant... recognizing
 for the diversion of said water, and providing for the
 completion of the works of diversion therein described ~~XXXXXX~~
~~XXXXXX~~ and for the application to beneficial use of said
 water ~~XXXXXX~~ and,

WHEREAS, On the 9th day of April A. D. 1965
 the holder... of said permit duly made proof of the completion of adequate works for the diversion of 2.68
 cubic feet per second of said waters, as evidenced by our Certificate No. 750-1
 dated June 2, 1965 confirming the completion of works of sufficient capacity for
 diverting and conveying to the place of intended use 2.68 cubic feet per second of water, with date of
 priority of 1947 and,

WHEREAS, On the 9th day of April A. D. 1965
 proof was duly made of the application to beneficial use of 2.68 cubic feet per second of said water;
 for fish culture and operation of the McNenny National Fish Hatchery

NOW, THEREFORE, By the virtue of the authority vested in us by the laws of the State of South Dakota,
We hereby grant and confirm to the Bureau of Sport Fisheries and Wildlife
of Minneapolis, Minnesota Vested Right 750.1
the holder and owner of said permit No. 750.1
a water right, dating from 1947 to the use of 2.68
cubic feet per second of the waters of springs
in the County of Lawrence and State of South Dakota, or so much thereof as may be
necessary for the purposes hereinafter mentioned, to be diverted at points in the NW 1/4 NW 1/4, Section 21,
T2N, R1E
and conducted to ~~xxxxxx~~ the fish hatchery site

for the purpose of fish culture

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 2nd day of June A. D. Nineteen
Hundred and Sixty-five

State Water Resources Commission

By:

J. W. GRIMES
Chief Engineer, Executive Officer

STATE OF SOUTH DAKOTA

Water License No. _____

To _____

Source of Supply _____

County _____

Am't _____ c. f. s.

Point of Diversion _____

Place of Use _____

Purpose _____

Date of Priority _____

Recorded _____

in Book _____ of _____ Page _____

Permit No. 750-1Water Division No. 1 Belle Fourche Water District**Certificate of Completion of Work**

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That the Bureau of Sport Fisheries and Wildlifeof Minneapolis, County of Hennepin, and State of Minnesotathe holder Vested Right of Permit No. 750-1, Issued upon Application No. 750-1, bearing date of priority of 1947, authorizing the diversion of 2.68 cu. ft. per second of the waters of springsCounty of Lawrence, State of South Dakota, at points in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 21, T7N, R1E, for fish culturepurposes, has 5 fully complied with the provisions of the laws of the State of South Dakota relating to proof of completion of the works of diversion set out and described in said Permit; that said works are recognized as satisfactory and for diverting and conveying to the place of intended use 2.63 cu. ft.per second of water; and that the use of said water are described as follows,
to-wit: to be used for fish culture purposes and operation of McNairy National Fish Hatchery.Witness my hand this 2nd day of June A. D. 1965

State Water Resources Commission

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



UNITED STATES
DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE
BUREAU OF SPORT FISHERIES AND WILDLIFE
1006 WEST LAKE STREET
MINNEAPOLIS, MINNESOTA 55401

In reply refer to:
EH-FH McNenny

April 8, 1965

Mr. Joseph W. Grimes
Chief Engineer & Executive Officer
Water Resources Commission
State Office Building
Pierre, South Dakota 57501

Dear Mr. Grimes:

We are attaching an application in duplicate for a vested right for water from spring areas at the McNenny National Fish Hatchery, Lawrence County, South Dakota. We are also attaching in duplicate an application for a vested right correction to an existing Certificate of Withdrawal (No. 595-1) on an existing artesian well. These applications are being made as a result of the letter from you dated February 15, 1965.

Attached with each application are (1) an exhibit "A", a 22" x 36" location map of the hatchery site, and (2) a typewritten land description of the lands shown on exhibit "A". A reproducible drawing of exhibit "A" is being sent under separate cover. The land on which the McNenny hatchery facilities, spring areas, and artesian well are located is owned by the State of South Dakota; the use of said land having been transferred to the Department of the Interior by Agreement dated January 6, 1949. (Reference is made to our previous letter dated February 5, 1965, regarding this transfer agreement.)

Following is a brief description of the present water use from these springs and from an existing 8-inch artesian well on the hatchery lands:

The water being diverted by way of pipeline and spring areas is used in the operation of a federal fish hatchery, consisting of approximately 92 fish troughs, 12 concrete rearing tanks 3'x28'x30", 24 concrete raceways 8'x100'x30", and three rearing ponds (Ponds 1, 2, and 4) which total about one-half acre and are approximately two feet deep. (Pond 3 is strictly a spring area and is not used for fish rearing purposes.)

The fish hatchery facilities are located as shown on the exhibit "A" location map drawing. The flow of water through

the hatchery is as follows: 400 gpm of water from spring area #1 is used in Pond area #1 and is reused in the following amounts: 100 gpm to Pond #2 and 300 gpm to Pond #3 which has an additional spring area contribution of 600 gpm. The resulting total of 900 gpm issuing from Pond #3 is used through the 24 100-foot raceways from which the water then flows to Crow Creek. The remaining 100 gpm of water from Pond #1 passes through Pond #2 to Crow Creek. Water from the 8-inch artesian well in the average quantity of 1000 gpm is used for domestic use in three residences and in the hatchery building and for fish culture use. The majority of the well water is used for fish culture purposes. Approximately 150 gpm from the well is used through 56 fish troughs in the diet test building. The remaining approximate 850 gpm fish culture use is through 36 fish troughs and/or 12 rearing tanks in the hatchery building. The water from the diet test building (150 gpm) is reused in Pond #4. In addition, a spring area in Pond #4 contributes approximately 200 gpm of water. This total of 350 gpm flow to Pond #4 is then reused through the 24 100-foot raceways. The water from the hatchery building (850 gpm) is also reused through the 24 100-foot raceways. All fish culture use water is returned to Crow Creek.

The springs were first used for hatchery purposes by the South Dakota Department of Game, Fish, and Parks in 1947. By Agreement dated January 6, 1949, this land use was transferred to the U. S. Department of the Interior, Fish and Wildlife Service. This use has been continued since that date by the Bureau of Sport Fisheries and Wildlife.

The Certificate of Withdrawal No. 595-1 was executed on April 14, 1949, for an estimated flow of 600 gpm from a 400 to 500 foot artesian well. The well was actually constructed to a 220 foot depth and not to the depth indicated on the Certificate of Withdrawal. The driller's log dated October 31, 1949, listed an initial free flow rate of 1600 gpm from this well. (A copy of this log was submitted to your office on May 26, 1950.)

There is some question as to whether this flow figure was correct. The next flow measurement made on the well was by someone from your office in 1961 and at that time the flow was found to be about 960 gpm. Apparently the flow from this well fluctuates from year to year near the estimated 1000 gpm figure.

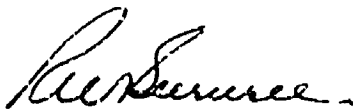
In summary then: (1) we are asking that the vested right priority date for the spring areas date back to 1947. (2) The actual water use from the artesian well averages about 1000 gpm instead of the 600

gpm figure listed in Certificate No. 595-1, and we are submitting an application to correct this deficiency.

We are attaching Purchase Order SFWA 156361 for the amount of \$16.00 to cover the examination fee for the spring area application and for the artesian well application correction (No. 595-1). Please sign the form as indicated and return to this office for payment.

Please advise us if you have any other questions or desire additional information regarding the two permit applications.

Sincerely yours,

A handwritten signature in dark ink, appearing to read 'R. W. Burwell', with a stylized flourish at the end.

R. W. Burwell
Regional Director

Attachments

September 29, 1970

Original letter in w/R 749-1

Mr. John R. Langenbach
Acting Regional Director
Fish and Wildlife Service
Federal Building, Fort Snelling
Twin Cities, Minnesota 55111

Re: EN-H-FH-McNenny W R

Dear Mr. Langenbach:

Your letter of September 14, 1970 asks my advice as to whether or not you should update your "McNenny" water rights.

Considering your water right allowance of 3,000 gpm and the total average flow of 5,200 gpm, my suggestion is that you do not make an additional water right application pending completion of the investigation of the Water Resources Commission.

Sincerely,

J.E. GRINES

JWG/DD/bw

NO. _____

NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Rights
Foss Building
Pierre, SD 57501

Date: January 2, 1985

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

Ownership and operation of McNairy National Fish Hatchery, Lawrence County, S.D., has
been transferred to the State of South Dakota, Department of Game, Fish and Parks.

formerly owned by U.S. Fish and Wildlife Service

has been transferred to S.D. Dept. of Game, Fish & Parks, Anderson Bldg. 445 E. Capitol,
(please include complete mailing address) Pierre, SD 57501
together with any rights to the beneficial use of water thereon as evidenced by

Water Right Permit No. 750-1 as provided for in SDCL 46-5-32 and 46-5-33.

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

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

STATE OF SOUTH DAKOTA)
County of Hughes) ss.

I, S.D. Dept. of Game, Fish & Parks being first duly sworn on my oath depose and say:
That my relation to the above described undertaking is that of Owner, that I have read
the above foregoing statement, and I know of my own personal knowledge that the information herein stated is true.

Ross H. Koffel, Resource Staff Specialist
(signed)

Subscribed and sworn to before me this 2nd Day of January, 1985.

Charles E. Kessler
(Notary Public)



749-1
750-1

**WATER RIGHTS DIVISION
(605) 773-3352**

January 3, 1985

**Department of Game, Fish & Parks
Anderson Building
445 E. Capitol
Pierre, South Dakota 57501**

ATTENTION: Ronald Koth, Resource Staff Specialist

Dear Mr. Koth:

The transfer notices for transferring Water Right No. 749-1 and 750-1 from U.S. Fish and Wildlife Service to the South Dakota Department of Game, Fish and Parks were received in our office January 3, 1985. The transfer notices were filed with the respective water rights and our records now show Water Right Nos. 749-1 and 750-1 to be owned by the South Dakota Department of Game, Fish and Parks.

Sincerely,

**Genny McKath
Natural Resources Analyst**

GM:ms

SOUTH DAKOTA

VESTED WATER RIGHT CLAIM NO. 750-1

Date of Receipt of Claim April 9, 1965.

Date of Validation May 6, 1992.

The Water Management Board validated Vested Water Right Claim No. 750-1 for the South Dakota Department of Game, Fish and Parks, 523 E Capitol, Pierre SD 57501 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 750-1 appropriates 2.68 cubic feet of water per second from springs located in the NW 1/4 NW 1/4 Section 21-T7N-R1E.
2. The appropriated water is used for supplying water to the McNenny Fish Hatchery and may not exceed the amount of water needed for beneficial use for fish culture purposes.

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

3. The priority date of the Vested Water Right is January 1, 1947.
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 must not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

By: 
Chief Engineer

JUN 29 1992

date

Division of Water Rights
Dept. of Environment and Natural Resources



JUN 29 1992

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

South Dakota Department of
Game, Fish and Parks
Richard Beringson, Secretary
523 E Capitol
Pierre SD 57501

Dear Mr. Beringson:

The Water Management Board has validated the enclosed Vested Water Right Nos. 749-1 and 750-1. These validations give legal status to the claims and are the final document for your vested rights.

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

enclosures