

No. 78-7

Water Division No. 1 Morgan River District.
(Blanks to be filled by the State Engineer.)

COPY

APPLICATION FOR A PERMIT To appropriate Water Within the State of South Dakota

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

1. Name of applicant ~~Robert Moran~~ **BURDINE & SONS, INC**
 Postoffice address **ELSON**, County **Parkins**, State **South Dakota**.

I. If a corporation: No

(a) Nature 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 the work. (Whether by contract, employment of others, or by direct labor) Direct labor

(b) Cash on hand, \$..... (c) Treasury stock, \$.....

(d) Bonds to be issued, \$..... (e) Other resources, \$.....

2. Name of diversion works Moran Diversion Works

3. Quantity of water claimed..... cubic feet per second.

4. Source of water supply Smith Creek

5. Location of point of diversion SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec. 13, Tp. 18 North, Range 13

East of L.H.M. on Left bank.
(Right or left bank looking down stream.)

6. Annual periods during which water is to be used during the growing season

7. To be used for:

I. Irrigation or domestic use: For irrigation

(a) Number of acres to be irrigated 35 acres.

(b) Legal subdivisions to be irrigated SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 24, Tp. 18 N., R.

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.]

13 East of B.H.M.

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

II. Mining, power, manufacturing, transportation, or other purposes:

(a) Nature of use For irrigating Desert Claims

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

(c) Location of plant

(d) Method of developing power

(e) Point where water will be returned to stream

8. Estimated cost of works:

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

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

(c) Fluming, \$..... (d) Canal-earth, \$..... Rock, \$.....

(e) Other structures, \$..... Total, \$..... 100.00

9. Description of diversion works:

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

Dam and ditches

II. Dimensions of works:

(a) Dam: Height..... feet; length at bottom..... feet; length at top..... feet; thickness at bottom..... feet; thickness at top..... 15 feet; slope of front (water) face..... 3 to 1; slope of back face..... 2 to 1; material used in construction..... earth

(b) Reservoir: Capacity when filled..... acre feet. Surface area at highwater mark..... acres.

DEPTH AT OUTLET-FEET	SURFACE AREA AT EACH..... FEET OF DEPTH AT OUTLET-ACRES	CAPACITY- ACRE-FEET

(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

(Give dimensions where reductions in size are made.)

10. Time required for completion of work..... 3 years.

11. Time required for complete application of water to the proposed beneficial use..... years.

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

Adm Advocate

STATE OF SOUTH DAKOTA

County of Perkins

I, A. S. Tubbs, being first duly sworn on my oath depose and say: That my relation to the above described undertaking is that of Engineer, that I have read the above and foregoing statement, and 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 Alfred S. Tubbs

Subscribed and sworn to before me this 17th day of March 1900

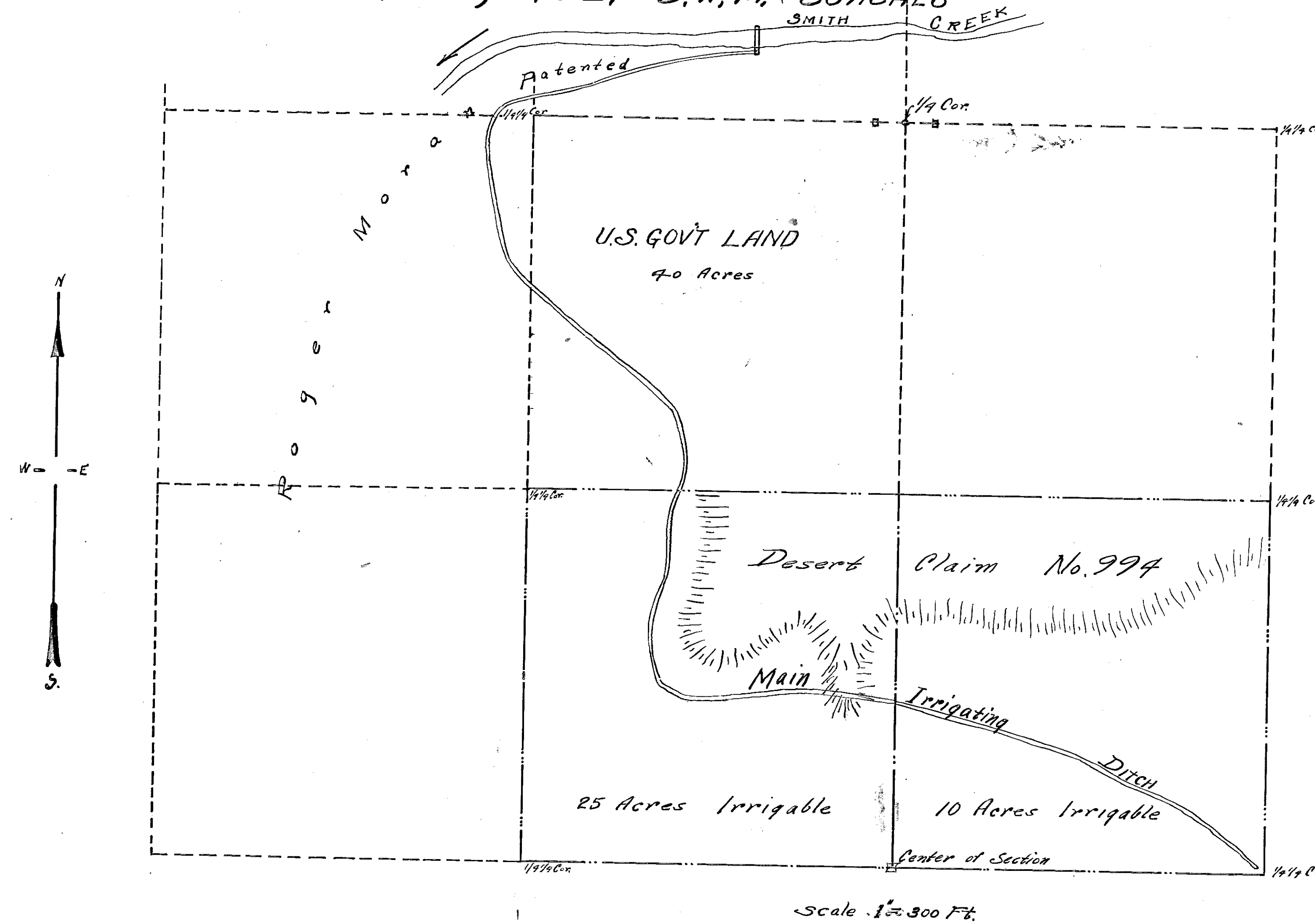
(SEAL)

Peter J. Tschanner

Notary Public (or other qualified officer.)

PLAT OF DESERT CLAIM NO. 994.

OF ROGER MORAN
FILED ON MAY 10 1907 FOR SE 1/4, SW 1/4, SW 1/4 NE 1/4
SECTION 24 T.16 N., R.13 E., B. H. M. 80 ACRES



STATE OF SOUTH DAKOTA, } s.s.
COUNTY OF PERKINS.

I ALFRED S TUBBS BEING DULY SWORN UPON MY OATH SAY THAT I AM THE ENGINEER WHO WAS EMPLOYED BY ROGER MORAN TO SURVEY HIS DESERT CLAIM AS SHOWN ON THIS PLAT, THAT THE SURVEY AND MAP WERE MADE BY ME AND UNDER MY DIRECTION THAT I KNOW OF MY OWN KNOWLEDGE THAT THE PLANS AND AND STATEMENTS HEREIN MADE ARE TRUE.

Sworn to in the presence
of Peter J. Ischarner
Notary Public South Dakota
this 16th day of March 1910

Alfred S. Tubbs
Deputy State Surveyor

MC 994
1/10/10
Surveyed
1/10/10

Remarks by State Engineer:

This application is for the right to appropriate from Smith Creek, at the point designated herein, in Parkins County, one cubic foot of water per second for the purpose of irrigating thirty-five acres on Desert Claim No. 994, as shown by the plat filed in this office.

STATE OF SOUTH DAKOTA
County of Hughes } ss

Pierre, South Dakota, July 2, 1900

This is to certify that the foregoing application was received at this office at nine o'clock a. m. upon the ninth day of April, 1900, and that after examination it was found to comply with the provisions of the Water Code of South Dakota. Notice of intention to appropriate was published, proof of publication was duly filed, and a hearing was held in this office on June 15, 1900.

Samuel H. Lee
State Engineer.

By B. B. Lee Deputy.

Number of permit 78-1

Date of first receipt of application April 9, 1900

Date of return to applicant for correction 1900

Date of receipt of corrected application 1900

Date from which applicant may claim right April 9, 1900

Approved June 20, 1900, Recorded in Book -1- Page 166

This is to certify that I have examined the foregoing application for a permit to appropriate water of the state of South Dakota, and I 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 December 20, 1911.

2d. The whole of said work is to be completed on or before June 20, 1913.

3d. The limit of time for proof of beneficial use of water appropriated in accordance herewith is June 20, 1903.

4th. The water appropriated shall be used for the purpose of irrigating a Desert Claim.

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 one cubic foot of water per second of time; neither shall it exceed the capacity of the above described system of diversion works, nor the least amount of water that experience may hereafter indicate as necessary for the production of crops in the exercise of the best husbandry; and further, said appropriation must be limited to not more than one-seventieth (1-70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for irrigation on or before June 20, 1913; said water to be used during the following described annual periods.

During the growing season.

Witness my hand this second day of July 1900.

Samuel H. Lee
State Engineer.

By B. B. Lee Deputy.

CERT OF COMPLETION ISSUED 6-23-75
WATER LICENSE ISSUED 6-23-75

COPY

No. 78-1

Division No. 1

Moran River Water District.

PERMIT

to appropriate water from

Smith Creek

Perkins County, South Dakota

Name of applicant

Roger Moran

Name of diversion works

Moran Diversion Works

Date of first receipt at office of State Engineer April 9, 1900

Returned to applicant for Correction

----- 1900

Corrected application received

----- 1900

Date of water right

April 9, 1900

Recorded in Book -1- Page 166

One-fifth of work to be completed

December 20, 1911

Whole work to be completed

June 20, 1913

Final proof of use of water

June 20, 1913

Approved June 20, 1900

Samuel H. Lee

State Engineer.

By C. B. Lee

Deputy

STATE OF SOUTH DAKOTA
COUNTY OF HUGHES.

I hereby certify that the within and foregoing instrument is a true, correct and complete transcript of the instrument which it purports to be, as the same was filed for record in the office of the State Engineer.

Witness my hand and official seal, done at my office in Pierre, State of South Dakota this 6th day of July 1900

Samuel H. Lee
State Engineer.

C. B. Lee
Deputy

WATER LICENSE NO. 78-1

(1) WHEREAS, On the 9th day of April A. D. 19 10
Roger Moran

made Water Right Application No. 78-1 for a permit to use 1.0 cfs of the waters
of Smith Creek
County of Perkins, State of South Dakota, for irrigation
_____ purposes; and

(2) WHEREAS, On the 2nd day of July A. D. 19 10
Permit No. 78-1, with a date of priority of April 9, 1910
was issued to said applicant _____ for the diversion of said water, and provided for the completion of construction of the water
supply system therein described on or before the 20th day of June A. D. 19 13 and for the
application to beneficial use of said water on or before the 20th day of June A. D. 19 13,
and whereas the Permit was transferred to Burdine & Son, Inc.,

and:

(3) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota
relating to completion of the construction of the water supply system and is entitled to divert .50 cubic feet
per second of water for beneficial use and,

(4) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota
relating to the application of water to beneficial use of the following extent.

for irrigating the following land in Section 24, T76N, R13E

<u>SE⁴NW⁴</u>	<u>25 acres</u>
<u>SW⁴NE⁴</u>	<u>10 acres</u>
<u>Total</u>	<u>35 acres</u>

(5) 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 Buzdine & Son, Inc.

_____ of Bison
the holder _____ and owner _____ of said permit No. 78-1 a water right, dating from April 9, 1910
_____ to use of .50 cubic feet per second of the waters
of Smith Creek
in the County of Perkins and State of South Dakota, or so much thereof as may be necessary for the
purposes hereinbelow mentioned, to be diverted at a point 2400 feet S63°E from SE corner,
section 14, T16N, R13E

and conduct to and upon a portion of Section 24, T16N, R13E, described more fully
on the face of this license,

for the purpose of irrigation

Subject to any limitations listed in Water Right Permit No. 78-1 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this 23rd day of June A. D.
Nineteen Hundred and seventy-five

WATER RESOURCES COMMISSION

By:

Chief Engineer, Executive Officer
Vern W. Butler, Acting

Form 15.

Permit No. 78-1

Water Diversion No. 1 Moreau River Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That Burdine and Son, Inc.

_____ the holder _____ of
Permit No. 78-1 issued upon Application No. 78-1, bearing date of priority of April 9,
1910 authorizing the diversion of 1.0 cu. ft. per second of the waters of _____
Smith Creek County of Perkins, State of South Dakota at _____
a point 2400 feet S63°E from SE corner, section 14, T16N,
R13E
_____, for irrigation

_____ purposes, has _____ 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 or intended use 1.0 cu. ft. per second of water.

Date June 23, 1975

By: **WATER RIGHTS COMMISSION**

**Vain W. Butler, Acting
Chief Engineer**

Permit No. 78-1Water Division 1 Moreau River Water DistrictREPORT OF EXAMINATION OF WORKS
AND/OR APPLICATION OF WATER TO BENEFICIAL USE

TO: Water Resources Commission, State Office Building No. 2, Pierre, South Dakota 57501

I have this day made a thorough examination of the water use system constructed by Roger Moran
of Ada, S.D. holder
of Permit No. 78-1, bearing date of priority of April 9, 1910
authorizing the diversion of one cu. ft. per second of the waters of Smith Creek
for irrigation purposes, in Perkins County.

I have to report on the condition of the same as follows:

The Water Use System consists of,

A. Works used to divert the water:

Earth dam 15 feet high with front slope 3 to 1, back face slope 2 to 1

B. Works used to transport water to place of use,

Ditch approximately 2550 feet in length

C. Works used to apply water to beneficial use.

Series of spreader dikes

The system is in the following condition: fairThe point of diversion is located 2400 feet S 63° E from the SE Corner of Sec 14,
T16N, R13EThe works are capable of diverting and conveying to the place of use onecu. ft. per second of water which is to be used for irrigation

Water has been put to beneficial use to the maximum extent as follows:

SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec 24 T16N, R13E	25 a.
SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec 24 T16N, R13E	10 a.

comprising a total of 35 acres of land.Send to: D.R. Burdine
Bison, S.D. 57620Date April 25, 1975

Thomas Gardner
(Signature)
Thomas Gardner
Water Resources Engineer

NOTICE OF TRANSFER OF WATER PERMIT

TO: **WATER RIGHTS COMMISSION**
 State Office Building No. 2
 Pierre, South Dakota 57501

Date May 1 1975

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

SE 1/4 NW 1/4 Sec 24, T16N, R13E

SW 1/4 NE 1/4 Sec 24, T16N, R13E

formerly owned by Roger Moran

has been transferred to D.R. Burdine & Sons, Inc.

together with any rights to the beneficial use of water thereon as evidenced by Water Right Permit No. 78-1 as provided for in Section 61.0127 of the 1960 Supplement to the South Dakota Code of 1939.

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

WATER RIGHTS COMMISSION

A fee of one dollar is hereto attached to cover filing fees as required under Section 61.0159 of the 1960 Supplement to the South Dakota Code of 1939.

STATE OF SOUTH DAKOTA)

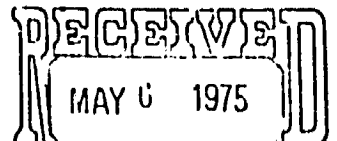
County of _____) ss.

I, D.R. Burdine & Sons, Inc. 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.

D.R. Burdine, Pres.
 (Signed)

Suscribed and sworn to before me this 1st day of May, 19 75

Justin D. Ziebrich
 (Notary Public)
 my Commission Expires 3/27/83



STATE WATER RIGHTS COMM.
 PIERRE, SOUTH DAKOTA

COMMISSION

John M. Garhart, Spearfish
Lester Brue, Parker
Carl Cronin, Gettysburg
Lauren A. Davis, Belle Fourche
Milton E. Fischer, Milbank
Richard Lommen, Harnsburg
Clarence D. Mortenson, Hayes
Dick Fisher, Cresbard

South Dakota

WATER RESOURCES COMMISSION

State Office Building #2

PIERRE, SOUTH DAKOTA 57501

0134-1, 51-1, 78-1,
782-1 & 783-1

JW GRIMES

Chief Engineer
and
Executive Officer

PHONE
224-3584
Area Code 605

July 14, 1971

Mr. D.R. Burdine
Bison,
South Dakota 57620

This is to confirm our discussions on July 9, 1971, pertaining to Water Permits and a Water Location Notice associated with your land in Perkins County, South Dakota.

Water Location No. 0134-1 of William Galvin, dated January 5, 1905, proposed to divert water from Rabbit Creek to irrigate in Sections 9, 10 and 15, T16N, R13E. If any portion of this system was constructed, it was abandoned many years ago.

Water Permit No. 51-1 of Dean Witcher, approved by the State Engineer on June 15, 1909, authorized the diversion of water from Witcher Draw to irrigate up to 78 acres of land. This system was constructed but does not now constitute a significant irrigation system.

Therefore under the South Dakota Water Laws which provide that when a person entitled to the use of appropriated water fails to beneficially use the water for a period of three years, or longer, such water shall revert to the public, cancellation of Water Location No. 0134-1 and Water Permit No. 51-1 will be considered by the Water Resources Commission at 3:30 P.M., D.S.T., on September 1, 1971 at its office in Pierre, S.D.

Water Permit No. 78-1 of Roger Moran, approved by the State Engineer on June 20, 1910, to divert water from Smith Creek to irrigate up to 35 acres. You state you are in a position to prove that 100 acres of bottom land has been irrigated from Smith Creek for at least the last 45 years, with a supplemental source from a dam or a Smith Creek Tributary available since 1948. It is our intent that this irrigation with its early priority dates will be incorporated into a part of Water License 782-1 when such license is issued. The above done Water Permit No. 78-1 will remain in its present status.

Mr. D.R. Burdine

Page 2.

0134-1, 51-1, 78-1, 782-1 & 783-1

Water Permit No. 782-1 approved by the Water Resources Commission on March 15, 1967 authorizes the diversion of water from Rabbit Creek to irrigate up to 445.7 acres and Water Permit No. 783-1, approved the same date, authorizes the diversion of water from Antelope Creek to irrigate up to 31.3 acres. My inspection on July 8, 1971 showed that you have pumping equipment, water transportation equipment, earth moving equipment and that you have constructed many gated dikes and dams. You indicate you do need more time to apply the water to beneficial use. The time limit for applying the water to beneficial use in Water Permit No. 782-1 is March 15, 1975, (could be extended to March 15, 1976) and this office will probably schedule an inspection in late 1974 unless word is received from you sooner that you are ready for the inspection.

The time limits for your Permit No. 783-1 have expired, but you can ask for an extension of time. To have the proper records you should sign the enclosed application for an extension of time (this is the maximum time allowable) and return it to this office together with the required fee of \$1.00.

Your Water Application No. 782-1 asks for water only from Rabbit Creek. In the construction of your works, your structures automatically use much water from the small tributaries, and this will be noted in Water License No. 782-1, when issued.

If you have any questions, please let me know.

Sincerely,

DONALD DRISCOLL
Deputy Chief Engineer

DD/bw
Encl: Form 18

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA } ss
 County of Parkinson
I, May D Mansbridge being duly
 sworn, deposes and says the annexed printed copy of Notice
 Intention to appropriate Water was taken from the
Ada Advocate a newspaper which
 during the whole time of publication of said notice herein-
 after stated, has been and is printed and published in the
 town of Ada County of
Parkinson and State of South Dakota,
 That the said notice was published in said newspaper on the
 following dates:
April 27, May 4, May 11,
and May 18,
 in each and every issue of the full number thereof, the first
 publication being made on the 27th day of April
 1910 and the last publication on the 18th day of
May 1910, upon which days or times
 of publication aforesaid the newspaper was regularly pub-
 lished, and that during the whole time of said publication
 he was Regularly the printer and publisher of
 the said newspaper.

APPROPRIATION OF WATER NO 78-1
 Office of the State Engineer,
 Pierre, S. D., April 15, 1910.
 Notice is hereby given that Roger Mo-
 ran whose postoffice address is Ada,
 Perkins Co, S D, has made an ap-
 plication in accordance with the
 provisions of the irrigation laws of
 South Dakota for a permit to ap-
 propriate for beneficial use one cu-
 bic foot of water per second of time
 from Smith Creek through the
 Moran diversion works, the
 point of diversion of which is to be
 located upon the left bank of said
 stream in the se qr of the sw qr of
 sec. 13 T 16N R 13, B H m, said
 water to be used for the purpose of
 irrigation upon the sw no qr, se
 qr nw qr, section 24, Township
 16 n, range 13 e, B H m, S. D.
 This application will be taken up
 by the state engineer at his office at
 Pierre for consideration and appro-
 priate action upon the 15th day of
 June 1910, at 9 a m, at which
 time all persons who believe that
 the prior rights would be injurious-
 ly affected, or that the allowance of
 the permit would be detrimental to
 the public welfare, and also parties
 making the application, and to be
 benefited, are notified to be present
 either by sworn affidavit or in per-
 son for the purpose of presenting
 any relative testimony.
 Samuel H Lea, State Engineer.

May D Mansbridge
 Subscribed and sworn to before me this 18 day of May A. D. 1910
Walter Mansbridge
 Notary Public Parkinson County, S. D.

RECEIVED

MAY 2 1910

OFFICE OF STATE ENGINEER,
 PIERRE, S. DAK.

(First Publication.....190.....)

APPROPRIATION OF WATER

Office of the State Engineer,

Pierre, S. D., April 15, 1900.

Notice is hereby given that Rogor Moran
 whose postoffice address is Ada

Parkins County, S. D., has made an application in
 accordance with the provisions of the irrigation laws of South Da-
 kota for a permit to appropriate for beneficial use one cubic
 foot of water per second of time from Smith Creek
 through the Moran Diversion Works, the point of diversion of which
 is to be located upon the left bank of said stream in the SE
 $\frac{1}{4}$ of the SW $\frac{1}{4}$ of section 13 township 18 N. range 13 E. said water
 to be used for the purpose of irrigation

upon the SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$
Section 24, Township 18 N., Range 13 E. B.H.H.

This application will be taken up by the state engineer at his
 office at Pierre for consideration and appropriate action upon the
15th day of June 1900, at 9 a. m., at which time all
 persons who believe that the prior rights would be injuriously af-
 fected, or that the allowance of the permit would be detrimental
 to the public welfare, and also parties making the application, and
 to be benefited, are notified to be present either by sworn affi-
 davit or in person for the purpose of presenting any relative tes-
 timony.

State Engineer