

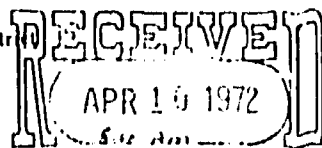
Water Right Number 957-1

1. Considered MAY 17, 1972
2. Name of Applicant EARL E. MURRAY
3. Post Office Address VALE, S.D.
4. Amount of Water claimed 1.34
5. Source of Water supply SCHUSTER DRAW
6. Water to be used for IRRIGATION  
Acres to be irrigated 94
7. Water to be Diverted and used in MEADE County  
about 16 E 70 N miles of VALE
8. Proof of Publication  
Received 1ST  
Not Received 5-16-72
9. Application  
Approved \_\_\_\_\_  
Subject to \_\_\_\_\_  
Not Approved \_\_\_\_\_  
Action Deferred \_\_\_\_\_

10. Remarks:

No. 957-1Map No. 788-1 Water Division No. 1 BELLE FOURCHE RIVER

(Blanks to be Filled by the Engineer for the W. R. C.)



## APPLICATION FOR PERMIT

STATE WATER RESOURCES COMMISSION  
PIERRE, SOUTH DAKOTA

To Appropriate Water within the State of South Dakota

(NOTE--Draw a line through items not applicable)

1. Name of Applicant Earl L. Murray  
 Postoffice address Vale State South Dakota  
 If a corporation show date and place of incorporation No.
2. Method of accomplishing work (contract, employment of others, or by direct labor) Employment of others
3. Name of diversion work Murray Spreader Project
4. Amount of water claimed (cubic feet per second) 1.34
5. Source of water supply Schuster Draw
6. Location of point of diversion 1750' S 88°00' E of W 1/2 Cor. Sec. 3, T 6 N, R 7 E.

County Mead

7. Annual period or periods during which water is to be used March 1st through November 15
8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) irrigation
9. For irrigation use, Total number of acres to be irrigated 94

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. |
|--------------------------|----------------|
| <del>NW 1/4 SE 1/4</del> | <del>30</del>  |
| <del>NE 1/4 SE 1/4</del> | <del>9</del>   |
| <del>SW 1/4 SE 1/4</del> | <del>16</del>  |
| <del>SE 1/4 SE 1/4</del> | <del>39</del>  |

| Land Description | No. Acres Irr. |
|------------------|----------------|
|                  |                |
|                  |                |
|                  |                |

Attach sheet if more space is needed

10. Time required to complete construction of water supply system 3 years. Additional time required to complete application of water to the proposed beneficial use 3 years.
11. Choice of newspaper for Notice of Intent to Appropriate Water publication Sturgis Tribune
12. Principal Features of the Proposed Water Supply System.

A. Works proposed to divert water from its natural source.

Spreader dams

dikes and ditches

B. Works proposed to transport water to place of use.

ditches and spreader

C. Works proposed to apply water to beneficial use.

dikes and ditches

Estimated Total Cost \$ 2,000.00Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water is proposed. Attach map.  
(See instructions concerning preparation.)

STATE OF SOUTH DAKOTA

County of MeadI, Earl L. Murray the applicant, certify that I have read the foregoing application and 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.

CARL M. CORNELIUS

Notary Public, State of South Dakota

Subscribed and sworn to before me this

Signed Earl L. Murray  
14th day of March 1972  
Carl M. Cornelius  
 Notary Public (or other qualified officer)

# PLAT OF THE MURRAY SPREADER PROJECT

Located in Section 3, Township 6 North, Range 7 East of the Black Hills Meridian, Meade County, South Dakota, drawn and prepared as a part of the Application for Permit to Appropriate Water of Earl L. Murray, Vale, South Dakota, to supply water for irrigation of areas as shown on this plat.

## SURVEYOR'S CERTIFICATE

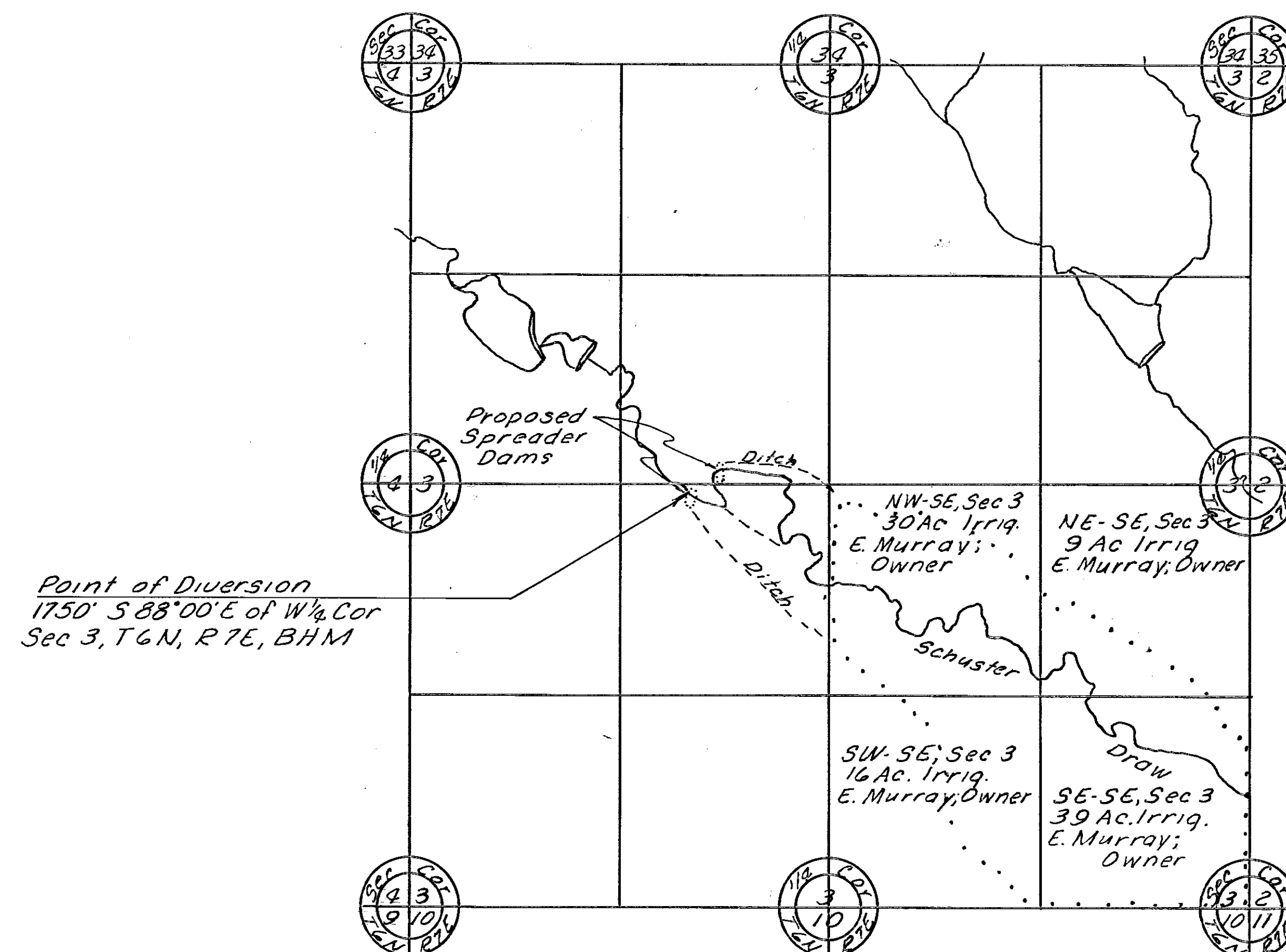
I, William C. Brengle, Registered Land Surveyor in and for the State of South Dakota, do hereby certify that at the request of Earl L. Murray, I have made a survey and have prepared this plat as a part of his Application for a Permit to Appropriate Water for irrigation. I further certify that the bearings and lengths of all lines shown and their location with reference to the Government Land Corners shown, are correct to the best of my knowledge and belief.

William C. Brengle  
William C. Brengle (SEAL)  
Registered Land Surveyor #1517

Subscribed and sworn to before me this 26th day of March, 1972.

Florence Brengle  
Notary Public (SEAL)

**FLORENCE BRENGLE**  
NOTARY PUBLIC - MEADE CO., S. DAK.  
MY COMMISSION EXPIRES AUG. 1, 1978



N  
Scale: 1" = 660'

WATER RIGHT APPLICATION APPROVAL

The Water Resources Commission hereby approves Water Right Application No. 957-1  
EARL E. MURRAY VALE  
 (Applicant) (Post Office Address)  
SOUTH DAKOTA With the following modifications:  
 (State)

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.

Date of first receipt of application APRIL 10 19 72  
 Date of return to applicant for correction, amendments or changes required \_\_\_\_\_ 19 \_\_\_\_\_  
 Date of receipt of corrected application \_\_\_\_\_ 19 \_\_\_\_\_  
 Approved MAY 17 19 72, Recorded in Book 12 Page 92  
 WATER RIGHT PERMIT NO. 957-1

The Water Resources Commission hereby grants and issues this Water Right Permit No. 957-1 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as modified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is APRIL 10 19 72
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before NOVEMBER 17 19 73
3. The whole of said work is to be completed on or before MAY 17 19 75
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is MAY 17 19 78
5. The water appropriated shall be used for the purpose of ~~MARCH 1 TO NOVEMBER 15~~  
IRRIGATION
6. 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.
7. The amount of the appropriation herein granted shall not exceed 1.34 cubic feet per second; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for beneficial uses served, and if for the irrigation purposes said appropriation must be limited to not more than 3 acre feet per acre per year and 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 MAY 17 19 78; said water to be used during the following described annual period: MARCH 1 THRU NOVEMBER 15

Witness my hand this 18TH day of MAY 19 72

WATER RESOURCES COMMISSION

By:

Joel Crinner  
 Chief Engineer, Executive Officer

Certificate of Construction Issued FEBRUARY 2 19 78  
 Water License Issued FEBRUARY 2 19 78

## STATE OF SOUTH DAKOTA

## WATER LICENSE NO. 957-1

(1) WHEREAS, On the 10th day of April A. D. 19 72  
Earl J. Murray

made Water Right Application No. 957-1 for a permit to use 1.34 cubic feet per second of the waters of Schuster Draw

County of Meade, State of South Dakota, for irrigation purposes; and

(2) WHEREAS, On the 18th day of May A. D. 19 72  
Permit No. 957-1, with a date of priority of April 10, 1972

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 17th day of May A. D. 19 75 and for the application to beneficial use of said water on or before the 17th day of May A. D. 19 78

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 1.0 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 3, T6N, R7E

NW $\frac{1}{4}$  SE $\frac{1}{4}$  16 acres

NE $\frac{1}{4}$  SE $\frac{1}{4}$  2 acres

SW $\frac{1}{4}$  SE $\frac{1}{4}$  18 acres

SE $\frac{1}{4}$  SE $\frac{1}{4}$  33 acres

TOTAL 69 acres

(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 Earl L. Murray

\_\_\_\_\_ of Vale  
the holder \_\_\_\_\_ and owner \_\_\_\_\_ of said permit No. 957-1, water right, dating from April 10, 1972  
\_\_\_\_\_ to use of 1.0 cubic feet per second of the waters  
of Schuster Draw

In the County of Meade and State of South Dakota, or so much thereof as may be necessary for the  
purposes hereinafter mentioned, to be diverted at \_\_\_\_\_  
a point 2100' N of the SE corner, Section 3, T6N, R7E

and conduct to and upon portions of Section 3, T6N, R7E, described on the  
face of this License

for the purpose of irrigation

Subject to any limitations listed in Water Right Permit No. 957-1 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota  
this 2nd day of February A. D.  
Nineteen Hundred and seventy-eight

WATER RIGHTS COMMISSION

By:

John Hatch  
Chief Engineer, Executive Officer JOHN HATCH

Permit No. 957-1

Water Diversion No. 1 Belle Fourche River Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That Earl L. Murray

\_\_\_\_\_ the holder \_\_\_\_\_ of  
Permit No. 957-1, issued upon Application No. 957-1, bearing date of priority of April 10,  
1972 authorizing the diversion of 1.34 cu. ft. per second of the waters of \_\_\_\_\_  
Schuster Draw County of Meade, State of South Dakota at \_\_\_\_\_  
a point 2100' N of the SW corner, Section 3, T6N, R7E  
\_\_\_\_\_, 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 of intended use 13.0 cu. ft. per second of water.

Date February 2, 1978

By:

WATER RIGHTS COMMISSION

John Hatch

JOHN HATCH, Chief Engineer

Form 8 - Proof of Publication - Notice of  
Intent to Appropriate Water

No. \_\_\_\_\_

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )  
County Meade ) ss.

I, Teresa Shoun hereby  
certify that the annexed printed copy of Notice of Intent to Appropriate  
Water was taken from the Sturgis Tribune

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

Sturgis Tribune of Sturgis

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

April 12, 19, 26 and May 3

Teresa Shoun  
(Signature)

Bookkeeper  
(Title)

May 15, 1972  
(Date Signed)

NOTICE  
INTENT TO  
APPROPRIATE WATER

Notice is hereby given that Earl L. Murray whose post office address is Vale, South Dakota, has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 1.34 cubic feet of water per second of time from Schuster Draw through the Murray Spread-Project, the point of diversion of which is to be located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 3, Twp. 6N, Range 7E, Sd. water to be used for the purpose of providing irrigation on a portion of the following described land:

SE $\frac{1}{4}$ , Section 3, T6N, R7E.  
This application No. 957-1 will be considered by the Water Resources Commission at their office at Pierre upon the 17th day of May, 1972, at 2:00 P.M. All interested persons may appear and be heard.

WATER RESOURCES COMMISSION  
By: s-Burton F. Jones  
BURTON F. JONES  
Water Rights Specialist  
Trib. Apr. 12, 19, 26, May 3

RECEIVED  
MAY 16 1972

STATE WATER RESOURCES COMM.  
PIERRE, SOUTH DAKOTA

C. 957-1

Publish first publication, on or before April 20, 1972

**NOTICE  
INTENT TO APPROPRIATE WATER**

Pierre, South Dakota 57501

April 20, 1972

Earl E. Murray

Notice is hereby given that \_\_\_\_\_  
whose post office address is Valle, South Dakota, has made an application in accordance  
with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use  
1.34 cubic feet of water per second of time from the Schuster Draw through the  
Murray Spreader Project, the point of diversion of which is to be located in the \_\_\_\_\_

NE 1/4 SW 1/4

of Section 3, Twp. 6N, Range 7E. Said water to be used for the purpose  
of providing irrigation on a portion of the following described land:  
SE 1/4, Section 3, T6N, R7E

This application No. 957-1 will be considered by the Water Resources Commission at their office at  
Pierre upon the 17th day of May, 1972, at 2:00 P. M. All interested  
persons may appear and be heard.

**WATER RESOURCES COMMISSION**

By:

**BURTON F. JONES, Water Rights Specialist**

cc: Earl E. Murray, Valle, S.D. 57768

## Water Division

## REPORT OF EXAMINATION OF WORKS

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 Earl L. Murray.

\_\_\_\_\_ of Vale South Dakota. 57758 holder \_\_\_\_\_

authorizing the diversion of 1.34 cu. ft. per second of the waters of Schluster Draw

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:

Works used to divert the water:  
Dam 5.0ft high - 700ft long with 24" dia CMP Culvert  
Thru dam

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

Works used to transport water to place of use.  
1000 ft long diversion ditch & dike.

C. Works used to apply water to beneficial use.

Works used to apply water to beneficial use.  
level dike with 4" dia. orangeburg Pipes spaced 60 ft apart  
Thru fill to spread water.

The system is in the following condition: Good.

The point of diversion is located 2100 ft North of S  $\frac{1}{4}$  corner of section 3, T6N R7E.

The works are capable of diverting and conveying to the place of use 13

cu. 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: All in section 3, T6N R7E  
NW $\frac{1}{4}$  SE $\frac{1}{4}$  - 16 Ac., NE $\frac{1}{4}$ , SE $\frac{1}{4}$  - 2 Ac., SW $\frac{1}{4}$  SE $\frac{1}{4}$  - 18 Ac., SE $\frac{1}{4}$  SE $\frac{1}{4}$  - 33 Ac.

comprising a total of 69 acres of land.

Date Nov. 17, 1977  
Leroy J. Mernau  
(Signature)

**OVERSIZE**

**DOCUMENT IS**

**SUPPLEMENTARY**

**TO MICROFILM FILE**



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

June 4, 2003

Ken Kluck  
13591 199 St  
Vale, SD 57788

Dear Mr. Kluck:

Enclosed please find copies of South Dakota water right statutes (SDCL) that are pertinent to the small dam Mr. Bertolotto rebuilt on his property.

On the U.S. Geological Survey (USGS) topographic map attached, the dry draw where Mr. Bertolotto rebuilt the small dam shows four dams, two in Section 33, one in Section 4, and two in Section 3, all T6N R7E. The USGS topographic map for this quadrangle was drawn from data compiled in the 1950s, so it can be assumed that all four dams were in place at that time. A location notice was filed in 1963 by the Hardy Estate for the larger dam in Section 33 which predates Water Right # 957-1.

It appears that these dams on this dry draw could claim equal rights for reasonable domestic use, to include stock watering, of any available water. The problem being that this dry draw does not have enough drainage area to supply water to these dams under normal to below normal conditions in this part of South Dakota. Without an adequate winter snow pack and spring rains there is not going to be adequate water available for these dams. Without adequate precipitation it becomes a futile effort to cause a landowner to bypass water when all on the dry draw could probably claim the same priority of right to the water.

Under SDCL the use of water for domestic purposes is the highest use of water and takes precedence over all appropriative rights.

It appears that best solution to conflicts over available water in this dry draw for domestic purposes would be cooperation between the involved landowners. Otherwise, under SDCL 46-4-2 contests between dry draw owners can be brought before the Water Management Board for resolution.

If you should have any further questions, please contact me at (605)773-3352.

Sincerely,

Donald E. Stroup  
Natural Resources Project Engineer  
DENR Water Rights Program



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

April 10, 2003

957-1

Ken Kluck  
13591 199<sup>th</sup> St  
Vale SD 57788

Dear Mr. Kluck:

Recently, Don Stroup with our program, met with you regarding a water issue in your area. Don found an old water right for the area that should be transferred to your name. I have included a copy of the water right. You may keep this for your records.

Enclosed is a partially completed Notice of Transfer of Ownership form for filing an ownership change. Please review the form and make any necessary corrections. Upon completion, please sign the form and return it to our office with a required filing fee of \$2.50. The check or money order for the fee can be made payable to the Water Rights Program.

If I can answer any questions for you, please get in touch with me.

Sincerely,

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

enclosures

# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date APRIL 15, 2003

RECEIVED OF GLEND A KLUCK, 13951 199th St., Vale SD 57788

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

|                                                                                                                |       |      |
|----------------------------------------------------------------------------------------------------------------|-------|------|
| Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use | 2 50  |      |
| Fee for Application for Permit No. _____ to Appropriate Water for Future use                                   |       |      |
| Fee to retain Future Use Permit No. _____ after period of seven years.                                         |       |      |
| Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____            |       |      |
| Fee for Filing Transfer Form <u>957-1</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 | 2.50 |

No.

000762

By

Darland Eble  
Chief Engineer *gm*

## NOTICE OF TRANSFER OF OWNERSHIP

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

RECEIVED

APR 15 2003

WATER RIGHTS  
PROGRAM

No. 957-1

Date: 4-12-03

I/We request that Water Right No. 957-1

formerly owned by: Earl L Murray

be transferred to: (name & address) Glenda Kluick

13951 199th

Val, SD 57788

Telephone No. 605-347-4473

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

**69 acres in the SE ¼ Section 3, T6N, R7E**

I/We understand that the validity of Water Right No. 957-1 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 Two Dollars and Fifty Cents (\$2.50) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.**

I/We Glenda Kluick, the new owner, certify that the above information is true and correct.

Glenda J. Kluick  
(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**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

April 15, 2003

957-1

Glenda Kluck  
13951 199<sup>th</sup> St  
Vale SD 57788

Dear Ms. Kluck:

I am writing to acknowledge receipt of the transfer of ownership form and filing fee you submitted for Water Right No. 957-1. The transfer has been completed. The water right, formerly held by Earl L Murray is now listed in your name.

Enclosed is your Receipt No. 000762 in the amount of \$2.50 which you paid for filing the ownership change. You may keep this for your records.

If I can answer any questions for you, please get in touch with me.

Sincerely,

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

enclosure