

OFFICE OF STATE ENGINEER
PIERRE, SOUTH DAKOTA

RECORD OF PROCEEDINGS

Application No. 135-2

Water Div. No. Red River Water Dist.

Application Received DEC 23 1911

Maps Received DEC 15 1911

Acknowledgment DEC 23 1911

Notice for Pub. Mailed JAN 12 1912

Receipt from Newspaper JAN 27 1912

Copy of Newspaper Rec'd. JAN 27 1912

Notice of Correction

Proof of Pub. Rec'd. MAR 7 1912

Hearing MAR 12 1912

Approved MAR 12 1912

Recorded and Filed

REMARKS

Just received Mar 12th 1912

Book 2 pages 86 and 87

No. 135-2

Water Division No. 2

Bad 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 James R. McGee
 Postoffice address Gettysburg, County Potter, State South Dakota

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 the work. (Whether by contract, employment of others, or by direct labor) Employment of others

(b) Cash on hand, \$

(c) Treasury stock, \$

(d) Bonds to be issued, \$

(e) Other resources, \$

2. Name of diversion works No. 8 Centrifugal Pump

3. Quantity of water claimed 4.4 cubic feet per second.

4. Source of water supply Bad River

5. Location of point of diversion S. 30° E. 1545 Ft. from N. 1/2 Cor. of Sec. 15

N. 30° W. 2100 " " S. 1/2 " " " 15

S. 84° E. 135 " " W. 1/2 " " " 13

on All on right bank.
 (Right or left bank looking down stream.)

6. Annual periods during which water is to be used Irrigating Season

7. To be used for:

I. Irrigation or domestic use:

(a) Number of acres to be irrigated 191.63 acres.

Legal Subdivisions

SE 1/4 of NE 1/4 of Section 15	15	12.88	Acres
SW 1/4 of NE 1/4 of Sec. 15	15	17.95	"
NE 1/4 of SE 1/4 of " 15	15	39.80	"
NW 1/4 of SE 1/4 of " 15	15	38.62	"
SE 1/4 of SE 1/4 of " 15	15	15.61	"
SE 1/4 of SE 1/4 of " 15	15	17.42	"
SW 1/4 of SW 1/4 of " 14	14	9.52	"
NW 1/4 of SW 1/4 of " 14	14	4.46	"
NW 1/4 of SW 1/4 of " 13	13	35.37	"

Total 191.63 Acres

All in township 1 North Range 22 East B.H.M.

8. Estimated cost of works:

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

(b) Pumping plant, \$ 2500.00.....

(c) Fluming, \$ 150.00.....

(d) Canal-earth, \$ 300.00.....

Rock, \$.....

(e) Other structures.....

\$..... Total, \$ 3950.00.....

9. Description of diversion works:

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

Pumping Plant

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 of front (water) face.....; slope of back face.....; material used in construction.....

(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.....5.....years.

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

Bad River News.....at.....Phillip, S. D.....

STATE OF SOUTH DAKOTA

County of Stanley.....} ss

I, Ralph Vandercook, 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
(Owner, manager or engineer)

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.....Ralph Vandercook

Subscribed and sworn to before me this 13th day of December 1901

M. L. Parcels

Notary Public (or other qualified officer.)

(SEAL)

Remarks by State Engineer:

This application is for the right to appropriate and divert for irrigation purposes - 4.4 - second feet of the waters of Bad River, through a pumping plant at the place designated herein, in Stanley County.

STATE OF SOUTH DAKOTA }
County of Hughes } ss

Pierre, South Dakota, March 13, 1912.

This is to certify that the foregoing application was received at this office at nine o'clock A.M. upon the 23rd day of December 1911 and that after examination it was found to comply with the provisions of the Irrigation 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, March 12, 1912.

Samuel Huber

State Engineer.

Number of permit 135-2

By B. B. Lee Deputy.

Date of first receipt of application December 23, 1911

Date of return to applicant for correction - - - - - 190

Date of receipt of corrected application - - - - - 190

Date from which applicant may claim right December 23, 1911.

Approved March 12, 1912., Recorded in Book 2 Page 86-87

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 September 12, 1913.

2d. The whole of said work is to be completed on or before March 12, 1915.

3d. The limit of time for proof of beneficial use of water appropriated in accordance herewith is March 12, 1917.

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 - 4.4 - cubic feet 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 March 12, 1917; said water to be used during the following described annual periods.

During the irrigating season.

Witness my hand this 13th day of March 1912.

Samuel Huber

State Engineer.

By B. 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, given at my office in Pierre, State of South Dakota

this 13 day of March, 1912

Samuel H. Lea
State Engineer.

By B. B. Lea
Deputy.

No. 135-2

Division No. 2

Bad River District.

PERMIT

to appropriate water from

Bad River

Stanley County, South Dakota

Name of applicant

James R. McGee

Name of diversion works

No. 8 Centrifugal Pump

Date of first receipt at office of State

Engineer December 23, 1911

Returned to applicant for Correction

----- 190

Corrected application received

----- 190

Date of water right

December 23, 1911

Recorded in Book 2 Page 86-87

One-fifth of work to be completed

September 12, 1913

Whole work to be completed

March 12, 1915

Final proof of use of water

March 12, 1917

Approved March 12, 1912

Samuel H. Lea
State Engineer.

By B. B. Lea
Deputy

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA

County of Stanley } ssRobert M. Durkee being duly sworn, deposes and says the annexed printed copy of Notice

Intention to appropriate Water was taken from the

Bad River News, a newspaper which

during the whole time of publication of said notice herein-

after stated, has been and is printed and published in the

City of Philip County ofStanley and State of South Dakota,

That the said notice was published in said newspaper on the following dates:

Jan. 25, 1912, Feb. 1, 1912
Feb. 8, 1912, Feb. 15, 1912in each and every issue of the full number thereof, the first publication being made on the 25 day of Jan1912 and the last publication on the 15 day ofFebruary 1912, 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 the printer and publisher of

the said newspaper.

Robert M. DurkeeSubscribed and sworn to before me this 7th day of March A. D. 1912C. K. Whitney
Notary Public Stanley County, S. D.

RECEIVED

MAR 7 1912

OFFICE OF STATE ENGINEER.
PIERRE, S. DAK.

Appropriation of Water

Office of the State Engineer, Pierre,
S. D., January 12, 1912.

Notice is hereby given that James R. McGee whose postoffice address is Gettysburg, Potter County, S. D., has made an application in accordance with the provisions of the Irrigation laws of South Dakota for a permit to appropriate for beneficial use 4.4 cubic feet of water per second of time from Bad River through the No. 8 Centrifugal Pump, the points of diversion of which is to be located upon the right bank of said stream in the SW $\frac{1}{4}$ of NE $\frac{1}{4}$ S; NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of section 15, and NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 13, township 1N, range 2E, East B. H. M. said water to be used for the purpose of Irrigation upon the SE $\frac{1}{4}$ of NE $\frac{1}{4}$ Sec. 15, 12.83 A.; SW $\frac{1}{4}$ of NE $\frac{1}{4}$ Sec. 15, 17.95 A.; NE $\frac{1}{4}$ of SE $\frac{1}{4}$ Sec. 15, 39.80 A.; NW $\frac{1}{4}$ of SE $\frac{1}{4}$ Sec. 15, 38.62 A.; SW $\frac{1}{4}$ of SE $\frac{1}{4}$ Sec. 15, 15.61 A.; SE $\frac{1}{4}$ of SE $\frac{1}{4}$ Sec. 15, 17.42 A.; SW $\frac{1}{4}$ of SW $\frac{1}{4}$ Sec. 14, 9.52 A.; NW $\frac{1}{4}$ of SW $\frac{1}{4}$ Sec. 14, 4.40 A.; NW $\frac{1}{4}$ of SW $\frac{1}{4}$ Sec. 13, 35.37 A. Total 191.63 Acres, all in Township 1 North Range 22 East B. H. M.

This application will be taken up by the state engineer at his office at Pierre for consideration and appropriate action upon the Twelfth day of March 1912, at 9 a. m., at which time all persons who believe that the prior rights would be injuriously 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 person for the purpose of presenting any relative testimony.

Samuel H. Lea,
State Engineer.

First Publication Jan. 25, 1912.

Last Publication Feb. 15, 1912.

(First Publication, January 25, 1912.) (Last, Feb. 15.)

APPROPRIATION OF WATER.

Office of the State Engineer,

Pierre, S. D., January 12, 1912.

Notice is hereby given that James R. McGee, whose postoffice address is Gettysburg, Potter County, S. D., has made an application in accordance with the provisions of the irrigation laws of South Dakota for a permit to appropriate for beneficial use 4.4 cubic feet of water per second of time from Bad River through the No. 8 Centrifugal Pump, the points of diversion of which are to be located upon the right bank of said stream in the SW¹/₄ of NE¹/₄ and NW¹/₄ of SE¹/₄ of Section 15, and NW¹/₄ of SW¹/₄ of Section 13 Township 1 N., range 23 East, B. H. M., said water to be used for the purpose of irrigation upon the SE¹/₄ of NW¹/₄, Sec. 15, 12.88 A.; SW¹/₄ of NE¹/₄, Sec. 15, 17.95 A.; NE¹/₄ of SE¹/₄, Sec. 15, 39.80 A.; NW¹/₄ of SE¹/₄, Sec. 15, 38.62 A.; SW¹/₄ of SE¹/₄, Sec. 15, 15.61 A.; SE¹/₄ of SE¹/₄, Sec. 15, 17.42 A.; SW¹/₄ of SW¹/₄, Sec. 14, 9.53 A.; NW¹/₄ of SW¹/₄, Sec. 14, 4.46 A.; NW¹/₄ of SW¹/₄, Sec. 13, 35.37 A.; Total 191.63 Acres, all in Township 1 North, Range 23 East, B. H. M.

This application will be taken up by the state engineer at his office at Pierre for consideration and appropriate action upon the Twelfth day of March, 1912, at 9 a. m., at which time all persons who believe that the prior rights would be injuriously 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 person for the purpose of presenting any relative testimony.

State Engineer

(First Publication _____ 191____)

APPROPRIATION OF WATER

Office of the State Engineer,

Pierre, S. D., January 12, 1918

Notice is hereby given that James R. McGee
 whose postoffice address is Gattysburg Potter
 County, S. D., has made an application in accordance with the provisions
 of the irrigation laws of South Dakota for a permit to appropriate for
 beneficial use 4.4 cubic feet of water per second of time from
Bad River through the No. 8 Centrifugal Pump
 _____, the point of diversion of which is to be lo-
 cated upon the right bank of said stream in the SW 1/4 of NE 1/4 & NW 1/4
1/4 of the SE 1/4 of section 15 township 1 N. range 32 East B. M. M.
 said water to be used for the purpose of Irrigation
 _____ upon the SE 1/4 of NE 1/4 Sec. 15, 12.88
1/4 of NE 1/4 Sec. 15, 12.95 A.; NW 1/4 of SE 1/4 Sec. 15, 39.80 A.; NW 1/4 of SE 1/4 Sec.
15, 32.63 A.; SE 1/4 of SE 1/4 Sec. 15, 15.41 A.; SE 1/4 of SE 1/4 Sec. 15, 12.42 A.; SW 1/4
of SW 1/4 Sec. 14, 9.53 A.; NW 1/4 of SW 1/4 of Sec. 14, 4.46 A.; NW 1/4 of SE 1/4 Sec. 13,
35.32 A. Total 121.63 Acres. All in Township 1 North Range 32 East B.M.

This application will be taken up by the state engineer at his office
 at Pierre for consideration and appropriate action upon the Twelfth
 day of March 1918, at 9 a. m., at which time all per-
 sons who believe that the prior rights would be injuriously 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 person for
 the purpose of presenting any relative testimony.

State Engineer.

INFORMATION CONCERNING FILES NOS. 149-2, 159-2, 120-2, 125-2, 135-2 found
in File No. 149-2 in letter addressed to Warren Hickey, Auditor Haukon
County, Philip, S. Dak., under date of December 13, 1943.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

September 13, 1999

135-2

Robert Berry
HCR 61 Box 40
Midland, SD 57522

Dear Mr. Berry:

Thank you for taking the time to visit with me concerning Water Permit No. 135-2, currently listed in the name of James McGee. Enclosed is a copy of the water permit for your review.

A water permit or right is maintained if the water is placed to beneficial use for the purpose it was appropriated at least once every three years. I am including excerpts of the South Dakota Water Law and Water Management Board Rules that deal with this issue.

It is my understanding after visiting with you on the phone that the majority of the land is still being irrigated. Some of the land covered under the water permit appears to be the same land currently authorized for irrigation under your existing water rights (Nos. 804-2 and 995-2). I will add Water Permit No. 135-2 to the list of those needing a field investigation. Once the investigation is completed, a license may be issued for the portions of land still being irrigated.

Enclosed is a partially completed "Notice of Transfer of Ownership" form for use in filing an ownership change. Please review the form for accuracy and make any necessary changes. Upon completion, please sign the form in the presence of a notary public and return it to our office with a required filing fee of \$2.50.

If I can answer any questions for you, please give me a call at (605) 773-3352.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

December 6, 1999

135-2

Robert Berry
HCR 61 Box 40
Midland, SD 57522

Dear Mr. Berry:

I am writing to acknowledge receipt of your 1999 irrigation questionnaires for Water Right Nos. 804-2 and 995-2. We also received the "Notice of Transfer of Ownership" form for Water Right No. 135-2.

A \$2.50 filing fee is required prior to us being able to transfer the water right to your name. You may make the check or money order payable to the "Water Rights Program". As soon as we receive the fee, the water right will be transferred to your name.

Thank you in advance for your help. If I can answer any questions for you, please give me a call.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352

enclosures

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 135-2



Date: 12-2-99

I/We request that Water Right No. 135-2

formerly owned by: James R McGee

be transferred to: (name & address) Robert Berry HCR 61 Box 40
Midland, S. Dak 57552 Telephone No. 605-859-2315

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

191.63 acres - S 1/4 NE 1/4 & SE 1/4 Section 15; W 1/4 SW 1/4 Section 14; NW 1/4 SW 1/4 Section 13, all in T1N, R22E

I/We understand that the validity of Water Right No. 135-2 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.

STATE OF SOUTH DAKOTA)

County of Haskell)

I/We Robert Berry 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 that I know of my own personal knowledge that the information herein stated is true.

Robert Berry
(Signed)

Subscribed and sworn to before me this 2nd day of December, 19 99.

Don A. Schulz
(Notary Public)

NOTE: Water permits may be cancelled for nonconstruction within the five year construction period. 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.

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

N2 416325

Pierre, January 4, 2000

RECEIVED OF Robert Berry, HC 61, Box 40, Midland, SD 57552
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 _____

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 Water Right No. 135-2

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

2 50

By

Jeff Engstrom

John Hatch



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

January 5, 2000

135-2

Robert Berry
HCR 61 Box 40
Midland, SD 57522

Dear Mr. Berry:

Thank you for sending in the filing fee needed for completing the transfer of Water Permit No. 135-2. The transfer has been completed and the permit is now listed in your name.

Enclosed is your Receipt No. 416325 in the amount of \$2.50. You may keep this for your records.

If I can answer any questions for you, please give me a call.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352

enclosures