

Copy.

No. 233

Division No. 2

Battle Creek Water District.

PERMIT

to appropriate water from

French Creek

Custer County, South Dakota.

Name of applicant

H. D. Brainard

Name of diversion works

Brainard Ditch

Date of first receipt at office of State Engineer

March 14, 1919

Returned to applicant for Correction

19

Corrected application received

19

Date of water right

March 14, 1919

Recorded in Book 2 Page 344 & 345

One-fifth of work to be completed

January 6, 1921

Whole work to be completed

June 6, 1922

Final proof of use of water

June 6, 1924

Approved June 6, 1919

Homer M. Derr.

State Engineer.

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 June 1919.

Homer M. Derr
State Engineer.

No. 233Water Division No. 2

Battle Creek Water 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 H. D. Brainard
 Postoffice address Fairburn County Custer State South Dakota

I. If a corporation:

- (a) Name of _____
 (b) City 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, \$2000.00 (c) Treasury stock, \$ _____
 (d) Bonds to be issued, \$ _____ (e) Other resources, \$ _____

2. Name of diversion works Brainard Ditch
 3. Quantity of water claimed 3.88 cubic feet per second.
 4. Source of water supply French Creek
 5. Location of point of diversion At a point whence 1/4 cor to secs. 27-34, T.4S., R.8 E., BHM, bears N. 2° 45' W., 1211.5 ft. on right bank.
 (Right or left bank looking down stream.)
 6. Annual periods during which water is to be used April 1 to November 1.

7. To be used for:

I. Irrigation or domestic use:

- (a) Number of acres to be irrigated 271.334 acres.
 (b) Legal subdivisions to be irrigated _____

Township 4 South, Range 8 East, B.H.M.

Section 24, Acres

NE 1/4 SW 1/4 20.377
 NE 1/4 SE 1/4 32.626
 SW 1/4 SE 1/4 1.347
 SW 1/4 SW 1/4 29.118

Section 35 Acres

SW 1/4 NW 1/4 8.990
 SE 1/4 NW 1/4 19.628
 NW 1/4 SW 1/4 39.454
 NE 1/4 SW 1/4 40.
 SW 1/4 SW 1/4 40
 SE 1/4 SW 1/4 40

(e) Point where water will be returned to stream _____ State Engineer.

8. Estimated cost of work:
- (a) Head gates, \$65 (b) Pumping plant, \$
- (c) Fluming, \$275 (d) Canal-earth, \$400 Rock, \$
- (e) Other structures Dam \$1200 Total, \$1940

9. Description of diversion works:

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

Dam, Headgate, Ditch and Flume.

II. Dimensions of works:

- (a) Dam: Height 15 feet; length at bottom 24 feet; length at top 7 1/2 feet; thickness at bottom 26 feet; thickness at top 6 feet; slope of front (water) face 1 1/2:1; slope of back face 2:1 1/2; material used in construction Pine logs, lumber, rock and 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 ACR.-FEET

- (c) Head gate: Width 8 feet; height 4 feet; Material Yellow pine lumber and posts.
- (d) Canal: Total length 1 1/2 miles.

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER LINE	GRADE PER MILE
Sta. 0 to 33				
At Mile	1 1/2 feet	8 feet	11 feet	4.224 feet
" 33 to 55				
At Mile	1 feet	6 feet	8 feet	4.224 feet
" 55 to 66				
At Mile	1 feet	4 feet	6 feet	4.224 feet
At Mile				
At Mile				

(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

Custer County Press, Fairburn, S. Dak.

STATE OF SOUTH DAKOTA,
County of Pennington ss.

I H. D. Brainard, 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 and (Owner, manager, 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 H. R. Brainard

Subscribed and sworn to before me this 12th day of March 1919

(S E A L)

O. N. Laws

Notary Public for South Dakota

N 2 1/2 S 1/4 W, 12115 to 1/4 Cor. Secs.
27 and 34, T.4 S. R.8 E.

Sheet A

MAP
OF THE
BRAINARD DITCH
SITUATE IN SECS. 34 AND 35, T.4 S. R.8 E. B.H.M.
Custer County, S.D.
Scale: 1 in = 200 ft.

State of South Dakota } ss
County of Pennington }
I, Charles E. Smith, being duly sworn, upon my
oath say: that I am the Engineer of the BRAINARD DITCH, that the
survey and map thereof were made by me, and that I have read
the accompanying statement and know of my own knowledge
that the statements therein made are true.
C. E. Smith
Engineer.
Subscribed and sworn to before me this 28th day of February, A.D. 1919.
Thos. G. McBain
Notary Public

34

35

IRRIGABLE AREA, 271.334 A.

20.377 Acres.

32.525 Acres.

39.454 Acres.

40 Acres.

1.347 Ac.

29.118 Acres.

40 Acres.

40 Acres.

19.523 Acres.

8.990 Acres.

Main Ditch

French
Creek

RECEIVED
MAR 14 1919
OFFICE OF STATE ENGINEER
PIERRE, S. DAK.

277 52

Approved June 6, 1919,
Thomas M. Dorr
State Engineer.

Sheet A

Remarks by State Engineer:

This permit to appropriate 3.88 second-feet of water is issued with the usual restrictions that the priority of all valid water rights on this stream be respected.

STATE OF SOUTH DAKOTA
County of Hughes

Pierre, South Dakota, June 6, 1919

This is to certify that the foregoing application was received at this office at nine o'clock a m. upon the 14th day of March 1919 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 May 19, 1919.

Harmon M. Derr

State Engineer.

Number of permit 233-2

Date of first receipt of application March 14, 1919

Date of return to applicant for correction - - - - - 19

Date of receipt of corrected application - - - - - 19

Date from which applicant may claim right March 14, 1919

Approved June 6, 1919. Recorded in Book 2 Page 8 344 & 345

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 January 6, 1921.

2nd. The whole of said work is to be completed on or before June 6, 1922.

3rd. The limit of time for proof of beneficial use of water appropriated in accordance herewith is June 6, 1924.

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 -3.88- 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 June 6, 1924; said water to be used during the following described annual periods.

April 1 to November 1.

Witness my hand this 6th day of June 1919

Harmon M. Derr

State Engineer.

WATER LICENSE NO. 1745-2

(1) WHEREAS On the 5th day of January A. D. 19 81A. W. Careymade Water Right Application No. 1745-2 vested right for a permit to use 3.91 cubic feet per second of the waters of Dry DrawsCounty of Custer, State of South Dakota, for irrigation

purpose; and

(2) WHEREAS, On the 28th day of January A. D. 19 81

stated
ht Permit No. 1745-2, with a date of priority of 1950 recognizing
was issued to said applicant for the diversion of said water, and ~~XXXXXX~~ for the completion of construction of the water
supply system therein described ~~XX~~ and for the
application to beneficial use of said water ~~XX~~

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 3.91 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,

to irrigate the following lands all in T4S - R8E

Section 34	Acres	
NE $\frac{1}{4}$ NE $\frac{1}{4}$	16	
SW $\frac{1}{4}$ NE $\frac{1}{4}$	3	* note - The applicable portions of Water Permits Nos. 233-2 and 15-2 have been incorporated into this Water License No. 1745-2.
SE $\frac{1}{4}$ NE $\frac{1}{4}$	27	
NE $\frac{1}{4}$ SE $\frac{1}{4}$	33	
SE $\frac{1}{4}$ SE $\frac{1}{4}$	20	

Section 35	Acres	
SW $\frac{1}{4}$ NW $\frac{1}{4}$	36	
SE $\frac{1}{4}$ NW $\frac{1}{4}$	32	
NW $\frac{1}{4}$ SW $\frac{1}{4}$	40	
NE $\frac{1}{4}$ SW $\frac{1}{4}$	16	
SW $\frac{1}{4}$ SW $\frac{1}{4}$	38	
SE $\frac{1}{4}$ SW $\frac{1}{4}$	13	

Total 274 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 A. W. Carey

_____ of Fairburn, SD
the holder _____ and owner _____ vested right _____
of said permit No. 1745-2 a water right, dating from 1950
_____ to use of 3.91 cubic feet per second of the waters
of dry draws

in the County of Custer and State of South Dakota, or so much thereof as may be necessary for the
purposes hereinbelow mentioned, to be diverted at point "A" - 100' S and 300' E of N $\frac{1}{4}$ Corner, Section 34;
point "B" - 1700' S and 800' W of NE Corner, Section 34; point "C" - 1500' S and 1050' W
of N $\frac{1}{4}$ Corner, Section 35, all in T4S-R8E

and conducted to and upon _____
portions of Section 34 and 35 - T4S - R8E, more fully described
on the face of t^{his} license.

for the purpose of irrigation

This Water License No. 1745-2 is based on a Vested Right claim recorded and filed by the
Water Management Board

Subject to any limitations stated in Water Right Permit No. 1745-2 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this 18th day of February A. D.
Nineteen Hundred and Eighty-one

WATER MANAGEMENT BOARD

By:

Chief Engineer, Executive Officer JOHN HATCH

Affidavit of Publication

STATE OF SOUTH DAKOTA,)

County of Pennington) ss.

JOSEPH B. GOSSAGE, of Rapid City, in said County, being first duly sworn, on oath says, that he is now and was at all times hereinafter mentioned, the publisher of the BLACK HILLS WEEKLY JOURNAL, a weekly newspaper printed and published in Rapid City, in said County of Pennington, and had full and personal knowledge of all facts herein stated; that said newspaper is a legal newspaper, and has a bonafide circulation of at least two hundred copies weekly, and has been published within said County for fifty-two successive weeks next prior to the publication of the notice herein mentioned and was and is printed wholly or in part in an office maintained at said place of publication, that the advertisement, a printed copy of which, taken from the said THE BLACK HILLS WEEKLY JOURNAL, the paper in which the same was published, is attached to this sheet, and is made a part of this Affidavit, was published in said newspaper once each week for

five successive issues

the first publication thereof beginning on the 22^d day of April 1919, and the last publication thereof ending on the _____ day of _____ 191 ,

that the full amount of the fees charged for the publishing of said notice inures to the benefit of the publisher of said newspaper; that no agreement or understanding for the division thereof has been made with any other person and that no part thereof has been agreed to be paid to any person whomsoever; and that the fees charged for the publication thereof are _____

Eight Dollars, and Twenty-five Cents.

Subscribed and sworn to me before this 9th day of May 1919

C. B. Smith
Notary Public

Attorney's Affidavit of Ex-Rel Ferro

STATE OF SOUTH DAKOTA,)

County of Pennington) ss.

_____ being first duly sworn, on oath deposes and says that I am the _____

_____ mentioned in the annexed notice, and that I directed the publication of said notice, that no agreement or understanding for any division of the fees thereof has been made with any person whomsoever and that no part thereof has been refunded or rebated by the party or parties publishing said notices.

Subscribed and sworn to before me this _____ day of _____

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NOTICE OF INTENTION TO APPROPRIATE WATER.

No. 233-2

Appropriation of Water.

Office of the State Engineer, Pierre, South Dakota, March 20, 1919.

Notice is hereby given that H. D. Brainard, whose postoffice address is Fairburn, Custer 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 3.88 cubic feet of water per second of time from French Creek through the Brainard Ditch, the point of diversion of which is to be located upon the right bank of said stream in the NW 1-4 of the NE 1-4 of Section 34, Township 4 South, Range 8 East Black Hills Meridian, said water to be used for the purpose of irrigation upon the SE 1-4, Section 34, S 1-2 of NW 1-4 and SW 1-4, Section 35, Township 4 South, Range 8 East, Black Hills Meridian.

This application will be taken up by the state engineer at his office at Pierre for consideration and appropriate action upon the 19th day of May, 1919, 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.

HOMER M. DERR.

State Engineer.

First publication April 3, 1919.

SOUTH DAKOTA Department of
Water & Natural Resources

Jon Foss Building Water Rights, Water Management Division
Pierro, South Dakota 57501 (605) 773-3352

March 2, 1981

A. W. Carey
Fairburn, SD 57738

Dear Mr. Carey:

Enclosed herewith are your Vested Right Permit, Water License No. 1745-2
and Certificate of Construction.

This Water License is the final water right document completing your process
of obtaining a vested water right.

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

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights, WMD

JH: bt

enclosures

Note: The applicable portions of Water Permits Nos. 233-2 and 15-2 have been
incorporated into this Water License No. 1745-2.

Equal Opportunity Employer