

WATER PERMIT NO. 2573-2

Name of Applicant: Steve Simpson

Address: Box 147, Buffalo Gap SD

Phone: 605 833-2571

Amount of Water Claimed: 11.0 cfs

Total Acres: NA

Source of Water Supply: Beaver Creek

Water to be used for: fish hatchery & fish and wildlife propagation

County: Custer

Type of Waste Disposal System:

Location:

PRIORITY

Date Received: 12-22-05

Application/License Fee: \$200

Corrected Application Received:

Period of Annual Use: January 1 – December 31

Remarks: non-consumptive use

Diversion Point:

Land to be Irrigated:

Depth of Well:

Well Driller: :

Remarks:

Type of Map: aerial

Prepared by: Don Stroup

Reviewed and the Number Assigned on: 12-22-05

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

ES
\$150 + \$50

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>2573-2</u>	(office use only) Hydrologic Unit <u>10120109</u>
	Basin <u>Upper Cheyenne</u>	
	Newspaper <u>Custer Co. Chronicle, Custer</u>	

RECEIVED
DEC 22 2005
WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water Within The State Of South Dakota

Check use(s) of water:

☐ Municipal	☐ Suburban Housing	☐ Recreational	☐ Institutional
☐ Rural Water System	☐ Commercial	☒ Fish & Wildlife	☐ Geothermal Heat
☐ Domestic (over 18 gpm)	☐ Industrial	☐ Other <u>Hatchery</u>	

Type of Application: ☒ New ☐ Vested Right (Use predates Mar 2, 1955) ☐ Future Use Reservation
(check one) ☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____
☐ Amendment/Correction to Permit No. _____

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)
process under SDCL 46-5-13.1. If that statute not applicable process as a new application

1. Name of Applicant Steve Simpson Phone 605-833-2571
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address Box 147 Buffalo Gap State SD 57722
(Street, RR, or Box and City) (Zip Code)

2. Amount of water claimed 11.0 *CFS or **GPM ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Beaver Creek

4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
NE 1/4 SE 1/4 Section 14 and W 1/2 SW 1/4 Section 13, T6S, R6E
County Custer

5. County or counties where water will be used Custer

6. Annual period during which water is to be used January 1 - December 31

7. Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)
Non-consumptive use of water. Water that is diverted flows through hatchery ponds and allowed to flow back into creek. Two new diversion points are being requested. One diversion point has been in existence since 1990-1991. Other diversion point will be new

STATE OF SOUTH DAKOTA)
County of Fall River SS

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Attach map and any other technical information. (see instructions)

I, Steve Simpson, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Applicant's signature Steve Simpson

Subscribed and sworn to before me this 21st day of December 20 05

My commission expires:
October 22, 2011

Misty Summers
Notary Public signature

**SOUTH DAKOTA
WATER PERMIT NO. 2573-2**

Date of first receipt of application December 22, 2005.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2573-2 to Steve Simpson, Box 147, Buffalo Gap SD 57722 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 2573-2 authorizes an additional non-consumptive use of water from Beaver Creek for fish rearing purposes at Trout Haven Ranch in Custer County. Mr. Simpson currently holds Water Right No. 892-2 appropriating 11.0 cubic feet of water permit second (cfs) from Beaver Creek and groundwater for fish rearing purposes. The location of the Beaver Creek diversion and the existing well is the SE ¼ SE ¼ Section 14-T6S-R6E. Water is conveyed through hatchery ponds/raceways prior to flowing back into Beaver Creek.

This permit authorizes two additional non-consumptive diversions from Beaver Creek of 11.0 cfs each to supply an existing pond/raceway located in the NE ¼ SE ¼ Section 14 and a new pond/raceway in the W ½ SW ¼ Section 13; all in T6S-R6E. At each location, a small dam is placed across Beaver Creek to provide the necessary head to divert water into the ponds. The diverted flow returns to the creek approximately 100 yards downstream from where the diversion is made.

2. The water appropriated shall be used for the purpose of fish rearing purposes at Trout Haven Ranch in Custer County and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: January 1 – December 31.
4. The date of approval of Permit No. 2573-2 is February 13, 2006.
5. The date from which applicant may claim right is December 22, 2005.
6. One-fifth of the construction is to be completed on or before August 13, 2008.
7. All construction is to be completed on or before February 13, 2011.
8. Water is to be put to beneficial use on or before February 13, 2015.
9. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATION

Base flows of Beaver Creek are appropriated by senior downstream water right holders. Diversions under this permit shall be non-consumptive so there is no depletion of water from Beaver Creek.

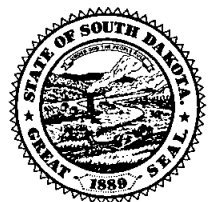
WATER MANAGEMENT BOARD

By: Garland Erbele

Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

MAR 02 2006

date



RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date DECEMBER 22, 2005

RECEIVED OF Trout Haven Ranch - Simpson Ranch, PO Box 147, Buffalo Gap SD 57722

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	150	00
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. _____	50	00
Fee for Filing Transfer Form _____		
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	200.00

No.

002110

By

David E. Eide
Chief Engineer
gm



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

December 13, 2005

Steve Simpson
Trout Haven Ranch
Box 147
Buffalo Gap SD 57722

Dear Mr. Simpson:

I am writing in follow-up to your phone conversation with Don Stroup and the message I left on your answering machine. Enclosed are forms to apply for a water permit for the additional raceway/ponds for Trout Haven's operation.

Currently, Trout Haven holds a Water Right No. 892-2 appropriating 11.0 cubic feet of water per second from Beaver Creek and ground water for propagation of trout. The Beaver Creek component is to be used non-consumptively. It is our understanding that additional raceway/ponds are proposed. I am uncertain at this point whether the proposed construction includes an additional diversion point or increase in the authorized diversion rate. All of this will need to be provided in the application.

A water right permit will need to be obtained for the contemplated construction as I understand the proposal. Please complete and submit the application. Once a complete application is received, it will be reviewed by staff and public noticed for a hearing before the Water Management Board.

I caution you not to begin construction until a water right permit is in place. South Dakota Codified Law 46-5-9&10 prohibit the construction of works until a water permit is obtained.

I understand that you are also working with Mike Pogany of the Surface Water Quality Program regarding discharge permitting for the outfall back to Beaver Creek.

If you have any questions regarding water right permitting requirements, please feel free to contact me.

Sincerely,

Eric Gronlund
Water Rights Program, DENR
(605) 773-3352

enclosure

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Trout Haven Ranch – Steve Simpson

ADDRESS: Box 147, Buffalo Gap SD 57722 COUNTY: Custer

DATE: December 21, 2005 TELEPHONE:

RE: On-site visit and application for a water permit

COMMENTS:

On December 21, 2005, Don Stroup, Aaron Tieman and myself traveled to the Buffalo Gap area to meet with Steve Simpson. The Water Rights Program became aware that he was constructing additional hatchery ponds/raceways along Beaver Creek. The intent of our on-site visit was to view the existing hatchery facilities and proposed construction in order to determine what additional permitting is necessary in addition to Mr. Simpson's existing Water Right No. 892-2.

The facilities constructed and authorized by Water Right No. 892-2 exists and are in working condition. On the north side of the county road there is a three pond/raceway configuration that Mr. Simpson stated has been in existence since the early 1990's. Mr. Simpson has also begun construction of another three pond/raceway configuration. These newest ponds have not been fully completed and the connection to the creek has not been made. The three pond/raceway configurations have their own diversion from the creek and outfall back to the creek. In each case a small dam is in place or will be place in Beaver Creek in order to make the diversion. The use of water by the hatchery is for the most part non-consumptive. In fact, Water Right No. 892-2 includes a well that also discharges to the creek.

The Water Rights Program informed Mr. Simpson that an application is necessary for the facility constructed in the 1990's and for the new ponds. The following information provides supplemental information to the application for the ponds.

1990 Pond/Raceway

The pond raceway is divided into three holding areas in series. The dimension of each holding area is approximately 30 feet wide by 100 feet long and 3 feet deep. There is a dam approximately 30 inches high across Beaver Creek to provide the necessary head to divert into the hatchery ponds. The inlet consists a 36" CMP pipeline with a headgate for controlling flow into the ponds. The outfall is a 30 to 36" CMP that is uncontrolled.

Proposed Pond/Raceway

The pond raceway is divided into three holding areas in series. The dimension of each holding area is approximately 24 feet wide by 70 feet long and 3 feet deep. There is a stoplog structure constructed across Beaver Creek. Stoplogs may be put in place to a height of approximately 30" to provide the necessary head to divert into the hatchery ponds. The inlet will consist of a 36" CMP pipeline for conveying water into the ponds. The outfall is a 30 to 36" CMP that is uncontrolled.

NAME: Eric Grenlund

Trout Haven Ranch
P.O. Box 147
Buffalo Gap, S.D.

Dear Mr. Simpson,

I received your letter Jan. 26, 2006 on your Expansion Project. 7-11 Ranch is not in favor of this project unless certian criteria are met. We are aware that you have a 10-10 Permit. Your Fish feces discharged into Beaver Creek at the present time has caused all of problems with our production of Alfalfa Hay. As you stated in your letter you will be raising more Trout earlier in the Spring which is the time Irrigation Season is in full swing. You need to put in a system to remove the elements from the fish feces that is being discharged into the creek. Our livelehood depends on the Creek just as yours does. We know when you are in full production because after 4 days of water in a ditch and we change ditches they are white and stink of fish feces. The only way we can get rid of this is with Rainfall. As your letter stated we all want to remain here so mabe you will have some consideration for the rest of us and put in a system that will help with the problem. We have alot of issues facing us with the Water Expansion Project and hopefully you will work to alleviate the new problem you are creating for the Irrigator so we can all work together and stay in business.

Sincerly,

Frank Schroth

REPORT ON WATER PERMIT APPLICATION 2573-2

Steve Simpson
Box 147
Buffalo Gap, SD 57722
(605)833-2571

Water Permit Application No. 2573-2, Steve Simpson, Trout Haven Ranch, proposes to make a non-consumptive use of water from Beaver Creek near Buffalo Gap, Custer County, SD for the commercial hatching and rearing of fish. The water is to be used year round.

Proposed Project

The applicant presently holds Water Right No. 892-2 for the non-consumptive appropriation of 11.0 cubic feet per second (cfs) of water from Beaver Creek and a shallow well in the SE¼ SE¼ Section 14 T6S R6E (Attachment 1) for the commercial hatching and rearing of fish. The water is diverted through ponds and returned to Beaver Creek. Throughout the year, the applicant pumps 50 to 400 gallons per minute (gpm) (0.11 to 0.89-cfs) of water from the shallow well to augment the Beaver Creek water diverted into the ponds. Depending on the market for stockfish, the applicant normally hatches and rears fish during the cooler months of the year. If the market requires hatching and rearing stockfish in summer months, the applicant uses well water at the pumping rate of approximately 400-gpm to cool the water in the ponds.

The applicant proposes to add two additional diversion points from Beaver Creek for the non-consumptive use of 11-cfs of water at each location. One point will divert water through an existing pond constructed in the NE¼ SE¼ Section 14, the second point will divert water through a to-be-constructed pond in the SW¼ SW¼ Section 13, all T6S R6E (Attachment 1). At each location, two small low head dams will divert water through the ponds and thence back into Beaver Creek approximately 500-feet downstream of the respective diversion point.

Water Source

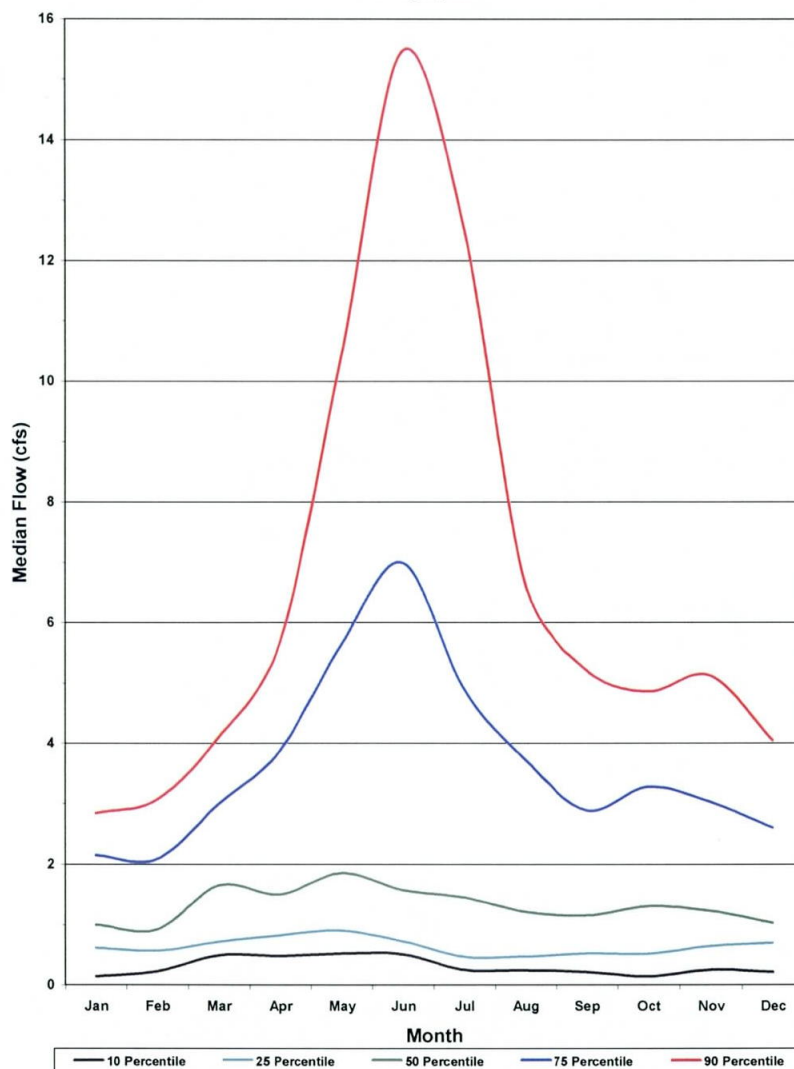
The water source for the proposed project is Beaver Creek upstream of Buffalo Gap, Custer County, SD. Beaver Creek originates in the Black Hills near Pringle, SD and flows east-southeast through Wind Cave National Park to Buffalo Gap, SD. The stream passes over the recharge zones of the Paha Sapa (Madison), Minnelusa, and Minnekahta Limestone Formations, losing approximately 5-cfs of water in the process. U.S. Geological Survey (USGS) 1990 to 2004 stream flow data, Pringle, SD, show that normally Beaver Creek can not maintain flow past the recharge zones. (Table 1 and Hydrograph 1) A spring emanates in the Beaver Creek channel approximately 1-mile upstream of the proposed project location and the stream then flows east by Buffalo Gap, SD to the Cheyenne River.

Table 1. Beaver Creek Monthly Median Flow (cfs) Pringle, SD

Percentile	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
10	0	0	0	0	1	1	0	0	0	0	0	0
25	1	1	1	1	1	1	0	0	1	1	1	1
50	1	1	2	2	2	2	1	1	1	1	1	1
75	2	2	3	4	6	7	5	4	3	3	3	3
90	3	3	4	6	10	15	13	7	5	5	5	4

Hydrograph 1

Beaver Creek
Pringle, SD



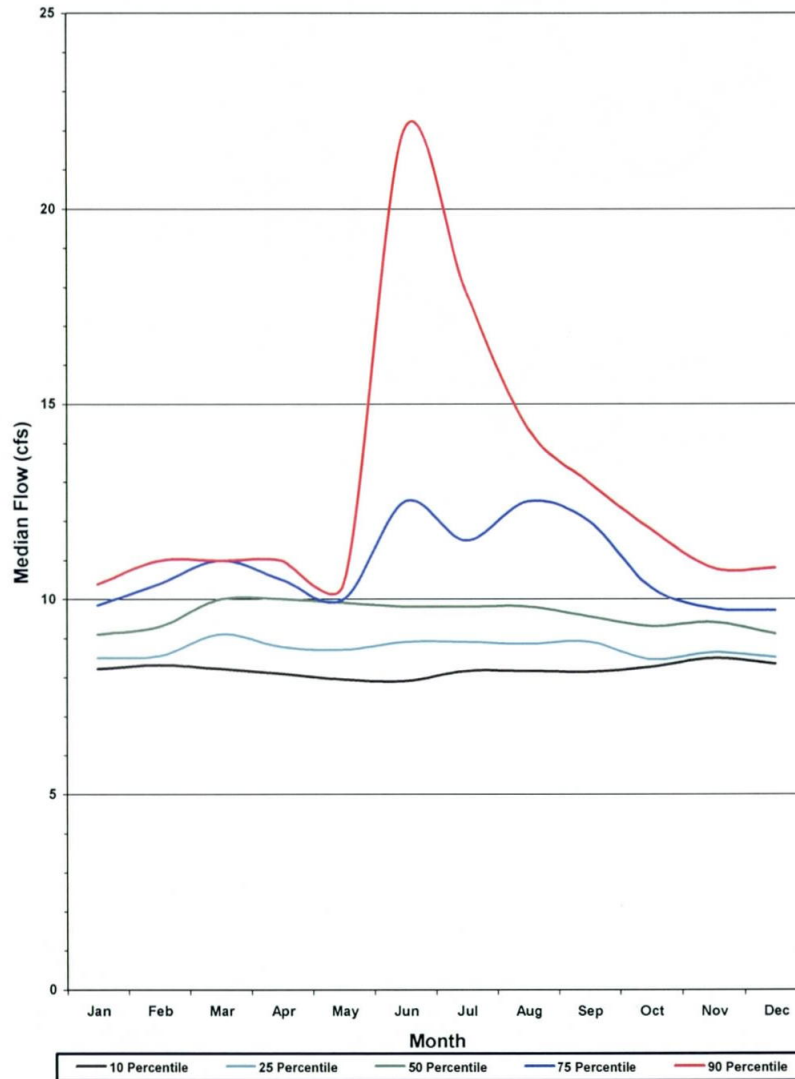
USGS maintained a stream flow gaging station at the proposed project location from 1990 to 1997. (Table 2 and Hydrograph 2) The data from this gaging station may be skewed at the 75 and 90 percentile levels to higher flows as the Black Hills and surrounding area received above normal precipitation during this period, but the data do indicate a steady consistent normal flow as does most data for spring derived flow in the Black Hills, i.e. Fall River and Cascade Spring.

Table 2. Beaver Creek Monthly Median Flow (cfs) Above Buffalo Gap, SD

Percentile	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
10	8	8	8	8	8	8	8	8	8	8	8	8
25	9	9	9	9	9	9	9	9	9	8	9	9
50	9	9	10	10	10	10	10	10	10	9	9	9
75	10	10	11	11	10	13	12	13	12	10	10	10
90	10	11	11	11	10	22	18	14	13	12	11	11

Hydrograph 2

Beaver Creek
Above Buffalo Gap, SD



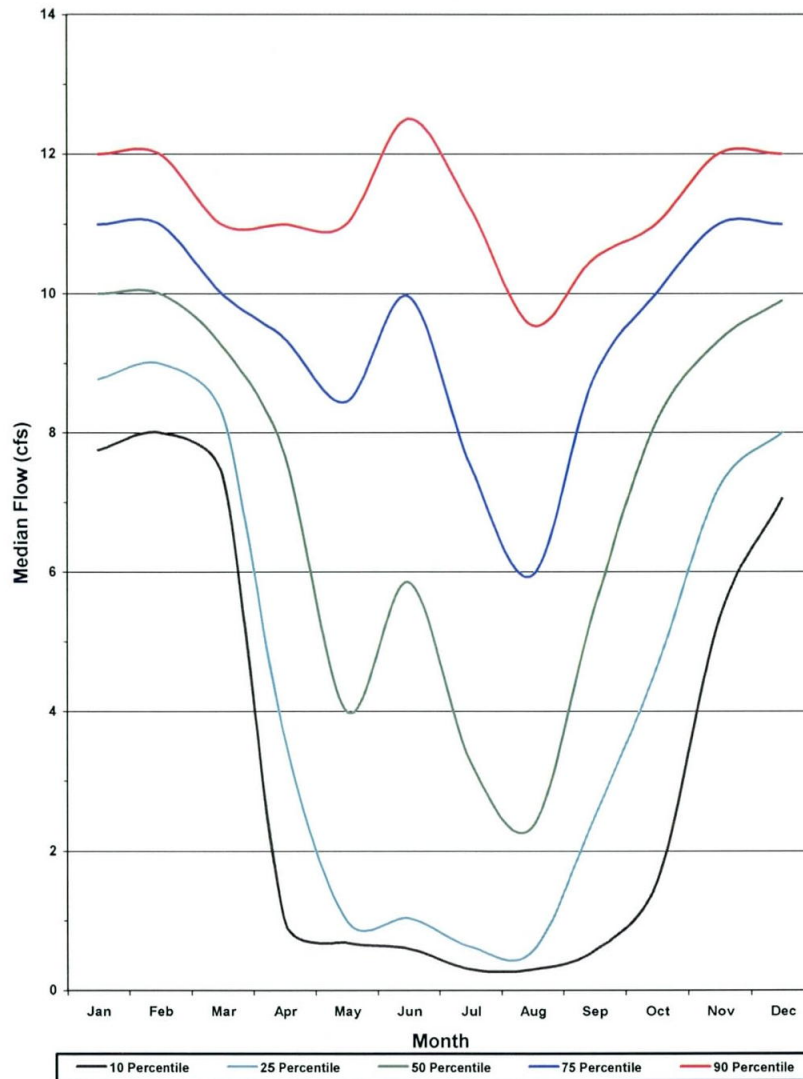
Since 1937 the USGS has maintained a stream flow gaging station approximately 2-miles south of Buffalo Gap, SD and 7-miles downstream of this proposed project. The historical data from this gage show the effect of the irrigation carried out by the several water right holders downstream of this proposed project during the normal irrigation season. (Table 3 and Hydrograph 3)

Table 3. Beaver Creek Monthly Median Flow (cfs) Buffalo Gap, SD

Percentile	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
10	8	8	7	1	1	1	0	0	1	2	5	7
25	9	9	8	4	1	1	1	1	2	5	7	8
50	10	10	9	8	4	6	3	2	5	8	9	10
75	11	11	10	9	8	10	8	6	9	10	11	11
90	12	12	11	11	11	13	11	10	11	11	12	12

Hydrograph 3

Beaver Creek
Buffalo Gap, SD



Taking in to account the effects of withdrawals during the irrigation season, evapotranspiration, and the above normal precipitation during the 1990 to 1997 period, the historical data from the USGS gage at the proposed project location near the spring emanating in the Beaver Creek channel and the USGS gage downstream of Buffalo Gap indicate that between these gages there is a slight gain of water in Beaver Creek.

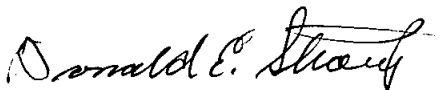
Existing Water Rights

Downstream of this proposed project's location and the USGS gage south of Buffalo Gap there are 8 prior water rights with appropriations totaling 18.8-cfs. Three of these water rights (3.9-cfs total) have a 1920 water use agreement to rotate withdrawals during each month. As indicated by the USGS data, Beaver Creek is over appropriated downstream of this proposed project location.

Since USGS historical data indicate that Beaver Creek is a gaining stream between the two stream flow gages located up and down stream of Buffalo Gap, SD, approval of this application should not infringe on prior water rights.

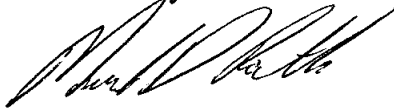
Conclusions

1. Water Permit Application No. 2573-2 proposes to make an additional non-consumptive use of water from Beaver Creek near Buffalo Gap, Custer County, SD for the commercial hatching and rearing of fish.
2. As indicated by historical USGS data, Beaver Creek is over appropriated downstream of this proposed project location.
3. Historical data from the USGS gage at the proposed project location near the spring emanating in the Beaver Creek channel and the USGS gage downstream of Buffalo Gap indicate that between these gages there is a slight gain of water in Beaver Creek.
4. Approval of this application for non-consumptive use of Beaver Creek water will not infringe on prior water rights.



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

Reviewed by:



Mark D. Rath
Natural Resources Engineering Specialist
DENR Water Rights Program

References:

South Dakota Department of Environment and Natural Resources, Water Rights Program Records

U.S. Geological Survey, NWISWeb National Water Information System, Historical Stream Flow Data for South Dakota

U.S. Geological Survey Report 02-4094, Hydrology of the Black Hills Area, South Dakota

#2573-2

Steve Simpson

Trout Haven Ranch

Box 147

Buffalo Gap, SD 57722

(605)833-2571

T6S R6E

Proposed
Diversion Point

Ponds

Proposed Diversion
Point & USGS Gage

WR 892-2
Ponds

WR 892-2
Diversion Point



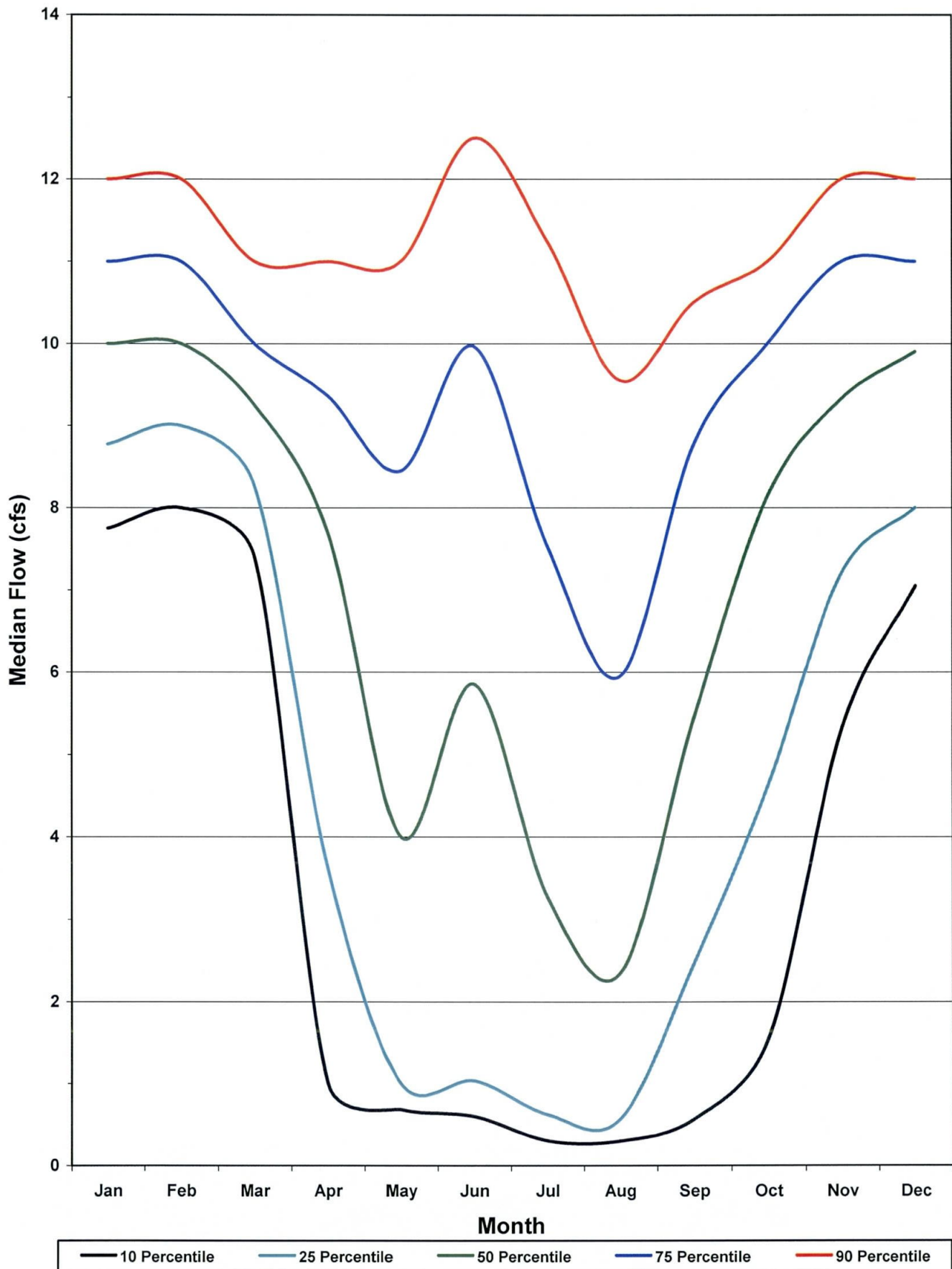
Donald E. Stroup

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

0 0.125 0.25 0.5 Miles

Attachment 1

Beaver Creek
Buffalo Gap, SD



Plot Data	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
10 Percentile	8	8	7	1	1	1	0	0	1	2	5	7
25 Percentile	9	9	8	4	1	1	1	1	2	5	7	8
50 Percentile	10	10	9	8	4	6	3	2	5	8	9	10
75 Percentile	11	11	10	9	8	10	8	6	9	10	11	11
90 Percentile	12	12	11	11	11	13	11	10	11	11	12	12



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2573-2, Steve Simpson**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 2573-2, Steve Simpson, Box 147, Buffalo Gap SD 57722.

The Chief Engineer is recommending APPROVAL of Application No. 2573-2 because 1) there is reasonable probability that there is water available for this non-consumptive appropriation, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualification:

Base flows of Beaver Creek are appropriated by senior downstream water right holders. Diversions under this permit shall be non-consumptive so there is no depletion of water from Beaver Creek.

See report on application for additional information.

Garland Erbele, Chief Engineer
January 20, 2006



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

**NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPER RIGHT AWAY.**

January 20, 2006

Steve Simpson
Box 147
Buffalo Gap SD 57722

Dear Mr. Simpson:

Water Permit Application No. 2573-2 for fish hatchery & fish and wildlife propagation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Publisher of the Custer Co. Chronicle printed at Custer, SD (Ph # 605-673-2217). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization, the publisher has been instructed to publish your notice once each week for two consecutive weeks. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

January 20, 2006

Custer Co. Chronicle
PO Box 551
Custer SD 57730-0551

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 2573-2 to Appropriate Water to be published twice. Please publish the first notice on January 26, 2006 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

The applicant must verify to you that the notice is to be published, before you make the first publication. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Steve Simpson, Box 147, Buffalo Gap, SD (Ph # 605-833-2571).

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

No. 2573-2

TO: Eric Gronlund
Water Rights Program
Joe Foss Building
Pierre SD 57501-3181

Date _____

We are in receipt of your letter of January 20, 2006 enclosing Notice to Appropriate Water by Application No. 2573-2 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper

Affidavit of Publication

State of South Dakota)

)ss.

County of Custer

Charles W. Najacht of said county, being duly sworn, on oath says that he is publisher of the Custer County Chronicle, a weekly newspaper printed and published in Custer City, said County of Custer and has full and personal knowledge of all the facts herein stated; that said newspaper is a legal newspaper and has a bona-fide 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

Trout Haven, Steve Simpson

P.O. Box 147, Buffalo Gap 57722

Notice of Application

a printed copy of which, taken from 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 at least once each week for 2 successive week(s), on which said newspaper was regularly published, to wit:

_____, _____; _____, _____;

Jan. 25, 2006; Feb. 1, 2006;

_____, _____; _____, _____;

_____, _____; _____, _____;

_____, _____; _____, _____;

the full amount of the fees for the publication of the annexed notice is \$ 49.08.

Charles W. Najacht

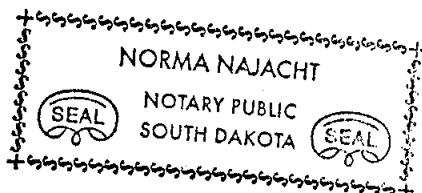
Subscribed and sworn to me before this 17

of February, 2006;

Norma Najacht

NOTARY PUBLIC

MY COMMISSION EXPIRES: May 5, 2006



NOTICE OF APPLICATION

NO. 2573-2

TO PLACE WATER TO BENEFICIAL USE

Notice is given that Steve Simpson, Box 147, Buffalo Gap SD 57722 has filed an application for a water permit to make an additional non-consumptive use of water from Beaver Creek for fish rearing purposes at Trout Haven Ranch in Custer County.

Mr. Simpson currently holds Water Right No. 892-2 appropriating 11.0 cubic feet of water permit second (cfs) from Beaver Creek and groundwater for fish rearing purposes. The location of the Beaver Creek diversion and the existing well is the SE 1/4 SE 1/4 Section 14, T6S, R6E. Water is conveyed through hatchery ponds/raceways prior to flowing back into Beaver Creek.

The application seeks to authorize two additional non-consumptive diversions from Beaver Creek of 11.0 cfs each to supply an

existing pond/raceway located in the NE 1/4 SE 1/4 Section 14 and a new pond/raceway in the W 1/2 SW 1/4 Section 13; all in T6S, R6E. At each location a small dam is placed across Beaver Creek to provide the necessary head to divert water into the ponds. The diverted flow returns to the creek approximately 100 yards downstream from where the diversion is made.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2573-2 because 1) water is available for this non-consumptive appropriation, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by February 13, 2006.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pimer, Secretary, Department of Environment and Natural Resources.

#27, 1/25, 2/4

Instruction to Newspaper - Publish first Notice on January 26, 2006 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 2573-2 to Place Water to Beneficial Use

Notice is given that Steve Simpson, Box 147, Buffalo Gap SD 57722 has filed an application for a water permit to make an additional non-consumptive use of water from Beaver Creek for fish rearing purposes at Trout Haven Ranch in Custer County.

Mr. Simpson currently holds Water Right No. 892-2 appropriating 11.0 cubic feet of water permit second (cfs) from Beaver Creek and groundwater for fish rearing purposes. The location of the Beaver Creek diversion and the existing well is the SE ¼ SE ¼ Section 14, T6S, R6E. Water is conveyed through hatchery ponds/raceways prior to flowing back into Beaver Creek.

The application seeks to authorize two additional non-consumptive diversions from Beaver Creek of 11.0 cfs each to supply an existing pond/raceway located in the NE ¼ SE ¼ Section 14 and a new pond/raceway in the W ½ SW ¼ Section 13; all in T6S, R6E. At each location a small dam is placed across Beaver Creek to provide the necessary head to divert water into the ponds. The diverted flow returns to the creek approximately 100 yards downstream from where the diversion is made.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2573-2 because 1) water is available for this non-consumptive appropriation, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by February 13, 2006.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

January 23, 2006

TO: Beaver Creek Water Right Holders

FROM: Eric Gronlund *Eric Gronlund*
Water Rights Program, DENR
(605) 773-3352

SUBJECT: Water Permit Application from Beaver Creek filed by Steve Simpson

Steve Simpson of Trout Haven Ranch has filed an application for a non-consumptive use of water from Beaver Creek. Mr. Simpson holds an existing water right from Beaver Creek for the original fishery operation. This application is for two additional diversion points on the creek to supply an existing hatchery pond and a proposed pond on the north side of the county road. The water is diverted through the ponds and returned to Beaver Creek.

Enclosed is a copy of the report, recommendation and public notice for Water Permit Application No. 2573-2 filed by Steve Simpson. The notice is to be published in the Custer County Chronicle on January 26 and February 2, 2006.

This information is being sent to holders of water rights in an effort to keep you informed of water issues involving Beaver Creek.

enclosure

Dan Conger
HC 56 Box 99
Buffalo Gap SD 57722

Bowker Family Trust
HC 52 Box 136A
Hot Springs SD 57747

Stephen/Linda Tymkowych
150 Starr Ln
Brighton CO 80601

Robert Baker
13536 S Hwy 16
Rapid City SD 57702

BCR Inc
HCR 89 Box 315
Hermosa SD 57744

Shawn Fugier
HC 56 Box 103
Buffalo Gap SD 57722

Paul & Carol Fugier
RR 1 Box 104
Buffalo Gap SD 57722

Seven Eleven Ranch Inc
Box 97
Buffalo Gap SD 57722



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

MAR 02 2008

Steve Simpson
Box 147
Buffalo Gap SD 57722

Dear Mr. Simpson:

Enclosed is Water Permit No. 2573-2 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

An informational sheet *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

Permit No. 2573-2
Upper Cheyenne River - Water District

Report of Examination of Works and/or Application of Water to Beneficial Use

TO: Chief Engineer, Water Rights Program, DENR, Foss Bldg., Pierre, SD 57501

I have this day, 3/3/2009, made a thorough examination of the water use system constructed by Steve Simpson, PO Box 147, Buffalo Gap, SD holder of Permit No. 2573-2, bearing the priority dates of December 22, 2005 authorizing the total diversion of 11.0 cfs (non-consumptive) of the waters of Beaver Creek for Fish Hatchery and Fish and Wildlife Propagation purposes, in Custer County.

Inspection contact and relationship to
permit holder, if applicable:

Steve Simpson, owner
Trout Haven Ranch

A. Works used to divert the water and transport water to place of use:

Pond/Raceway #1 – A diversion dam 2.5 feet in height and 100 feet across is used to divert water from Beaver Creek and transport it through 40 feet of 36-inch diameter corrugated pipeline.

Pond/Raceway #2 – A stop log structure 2.5 feet in height and 50 feet across is used to divert water from Beaver Creek and transport it through 40 feet of 36-inch corrugated pipeline.

B. Works used to apply water to beneficial use:

Pond/Raceway #1 – Water is applied to beneficial use through 3 ponds/raceways 110 feet in length, 30 feet wide and 3 feet deep.

Pond/Raceway #2 – Water is applied to beneficial use through 3 ponds/raceways 80 feet in length, 25 feet wide and 3 feet deep.

The system is in the following condition good.

The points of diversion are located at the following:

- **Pond/Raceway #1** is approximately 2120' north and 540' west of the southeast corner of Section 14, T6S-~~R6E~~ ~~R5E~~ (43.526783 N latitude and -103.363836 W longitude.)
- **Pond/Raceway #2** is approximately 500' north and 1325' east of southwest corner of Section 13, T6S-R6E. (43.522099 N latitude and -103.356910 W longitude.)

The works are capable of diverting and conveying to the place of use 11.0 cfs of water (**Non-consumptive**) which is to be used for fish hatchery and fish and wildlife propagation.

All structures, wells and lands on map Y

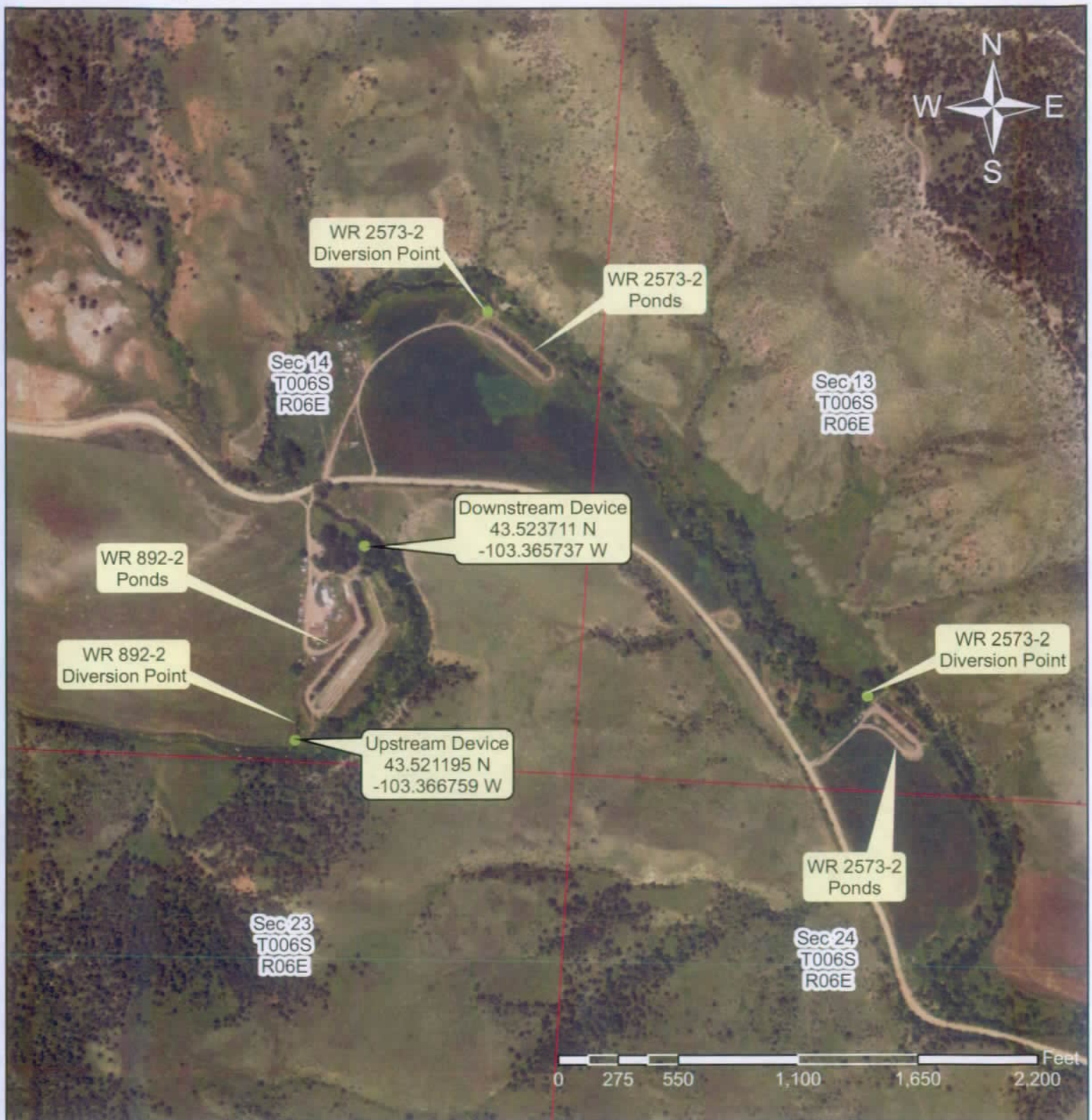
Comments:

Aaron R. Tieman

Aaron Tieman
Natural Resources Project Engineer
DENR, Water Rights Program

Date report completed: 3/4/2010

Water Right 2573-2
Steve Simpson
Trout Haven Ranch
November 10, 2009



Aaron R. Tieman

Aaron Tieman
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
denr.sd.gov

JUN 16 2010

2573-2

Steve Simpson
PO Box 147
Buffalo Gap SD 57722-0147

Dear Mr. Simpson:

Enclosed is your Water License No. 2573-2. The water license is the final document which completes the process of obtaining a water right. Included with the license is a map prepared by the staff engineer who conducted the field investigation.

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

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 2573-2**

(1) Steve Simpson, PO Box 147, Buffalo Gap SD 57722 made Application No. 2573-2, December 22, 2005 for a water permit for two additional non-consumptive diversions from Beaver Creek of 11.0 cubic feet of water per second (each) for fish rearing purposes at Trout Haven Ranch, Custer County, South Dakota. Permit No. 2573-2, with a priority date of December 22, 2005 was approved February 13, 2006 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before February 13, 2011 and for the application to beneficial use of said water on or before February 13, 2015.

Water Permit No. 2573-2 authorizes two additional non-consumptive diversions from Beaver Creek to supply an existing pond/raceway. Water Right No. 892-2 appropriates 11.0 cfs from Beaver Creek and ground water for fish rearing purposes at a separate raceway and project facility.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 11.0 cubic feet of water per second for beneficial use from each of the following locations:

- Pond/Raceway #1 is approximately 2,120 feet north and 540 feet west of the SE corner of Section 14, T6S, R6E (NE ¼ SE ¼ Section 14);
- Pond/Raceway #2 is approximately 500 feet north and 1,325 feet east of the SW corner of Section 13, T6S, R6E (SE ¼ SW ¼ Section 13);
- *(Water Right No. 892-2 authorizes a third diversion from Beaver Creek located in the SE ¼ SE ¼ Section 14, T6S, R6E.)*

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use.

(4) Pursuant to South Dakota Water Law 46-5-30.1 Steve Simpson, PO Box 147, Buffalo Gap SD 57722 the holder and/or owner of Water Right No. 2573-2 is issued a license to appropriate water, the right to use 11.0 cubic feet of water per second from each of the defined non-consumptive diversion points on Beaver Creek with a priority date of December 22, 2005 from the location specified in (2) of this license for use in a fish rearing facility at Trout Haven Ranch.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 2573-2 and subject to the following qualification:

- Base flows of Beaver Creek are appropriated by senior downstream water right holders. Diversions under this water right shall be non-consumptive so there is no depletion of water from Beaver Creek.



Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JUN 16 2010

date

