

OFFICE OF STATE ENGINEER

PIERRE, SOUTH DAKOTA

RECORD OF PROCEEDINGS

Application No. 56

Water Div. No. 2 Battle Creek Water Dist.

Application Received August 27, 1908

Map Received September 10, 1908

Acknowledgment August 29, 1908

Notice for Pub. Mailed September 18, 1908

Receipt from Newspaper October 24, 1908

Copy of Newspaper Rec'd. October 24, 1908

Notice of Correction

Proof of P.C. Rec'd. November 28, 1908

Hearing November 17, 1908

Approved November 28, 1908

Recorded and Filed December 1, 1908

REMARKS

Application was returned for correction August 29, 1908, and the corrected application received September 10, 1908. No protests were received against this application and same has been granted. Some delay occurred in receiving proof of publication of corrected advertisement, but this does not affect the validity of water right.

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 12 day of January 1909

Samuel H. Lee
State Engineer.

By B. B. Lee
Deputy.

No. 56.

Division No. 2 Battle Cr. District

PERMIT

to appropriate water from
Spring Creek
Ponnington County, South Dakota

Name of applicant

Frank E. McMahon.

Name of diversion works

McMahon Irrigation Ditch.

Date of first receipt at office of State

Engineer August 27, 1908.

Returned to applicant for correction

August 29, 1908.

Corrected application received

Sept. 10, 1908.

Date of water right

August 27, 1908.

Recorded in Book -1- Page -105-

One-fifth of work to be completed

May 28, 1910.

Whole work to be completed

November 28, 1911.

Final proof of use of water

November 28, 1912.

Approved November 28, 1908.

Samuel H. Lee
State Engineer.

By _____
Deputy.

No. 56

Water Division No. 2 Battle Creek Water District.

(Blanks to be filled by the State Engineer.)

C O P Y

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 Frank E. McMahon Walter O'Neill, Hermosa, SD
 Postoffice address Rapid City, County Pennington, State South Dakota

XXXXXXXXXXXX

XXXXXXXXXXXX

XXXXXXXXXXXX

XXXXXXXXXXXX

XXXXXXXXXXXX

XXXXXXXXXXXX

(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.) Tile line by contract; balance by direct labor.

(b) Cash on hand, \$ 2000. (c) ~~Treasury notes~~ \$

(d) ~~Bonds~~ \$ (e) Other resources, \$ 20,000.

2. Name of diversion works McMahon Irrigation Ditch

3. Quantity of water claimed seven (7) cubic feet per second.

4. Source of water supply Spring Creek

5. Location of point of diversion S 84° 0' W., 174.5 feet from the 1/4 corner
Sections 14 and 15, T. 2 S., R. 9 E. B H M on left bank
 (Right or left bank looking down stream.)

6. Annual periods during which water is to be used Continuously.

7. To be used for:

I. Irrigation or domestic use

(a) Number of acres to be irrigated -480- acres.
 (b) Legal subdivisions to be irrigated W_{1/2} Sec 24, E_{1/2} NE_{1/4} and E_{1/2} SE_{1/4}, Sec 23
T. 2 S., R. 9 E.

(NOTE - A list of lands to be irrigated, giving each subdivision and fraction with acreage thereof, should be written here, or may be appended as a part of this application. Same must also be shown on accompanying map.)

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

McMahon's Ranch in above described lands.

XX

XXXXXXXXXXXX

XX

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

XX

8. Estimated cost of works:

(a) Head gates, \$ 350 (b) remaining purchase
(c) Fluming, \$ 75 (d) Canal-earth, \$ 300 incl. labor \$
(e) Other structure: Pipe or tile line \$ 1398 Total, \$ 2023

9. Description of diversion works:

I. Nature of works: (Reservoir, dam, ditch, flume, pumping plant, etc.)
Log diverting dam, pipe supplying slough with water, thence ditches
over the lands, with pipe and timber flume over creek to south side.

II. Dimensions of works:

(a) Dam: Height six feet; length at bottom thirty feet; length at
top thirty feet; thickness at bottom ten feet; thickness at
top ten feet; slope of front (water) face brush, irregular; slope of
back face material used in construction logs, brush earth.

(b) Reservoir: Capacity when filled XXXXX acre feet. Surface area at highwater
mark acres. No storage area.

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

(c) Head gate: Width 24" round pipeXX, XXXX feet
Material Vitrufied tile or asphalt coated steel.

(d) Canal: Total length 13,542 ftXXX

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER LINE	GRADE PER MILE
At 500 ft	24" pipe	feet	feet	feet
At 2700 ft	slough	feet	feet	feet
At 8969 ft	1 feet	4 feet	5 feet	10.56 feet
At balance	1 feet	2 feet	3 feet	5.28 feet
At XXXX	feet	feet	feet	feet

[Give dimensions where reductions in size are made.]

10. Time required for completion of work three years.

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

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

The Rapid City Daily Journal, Rapid City, S. D.

STATE OF SOUTH DAKOTA

County of Pennington ss

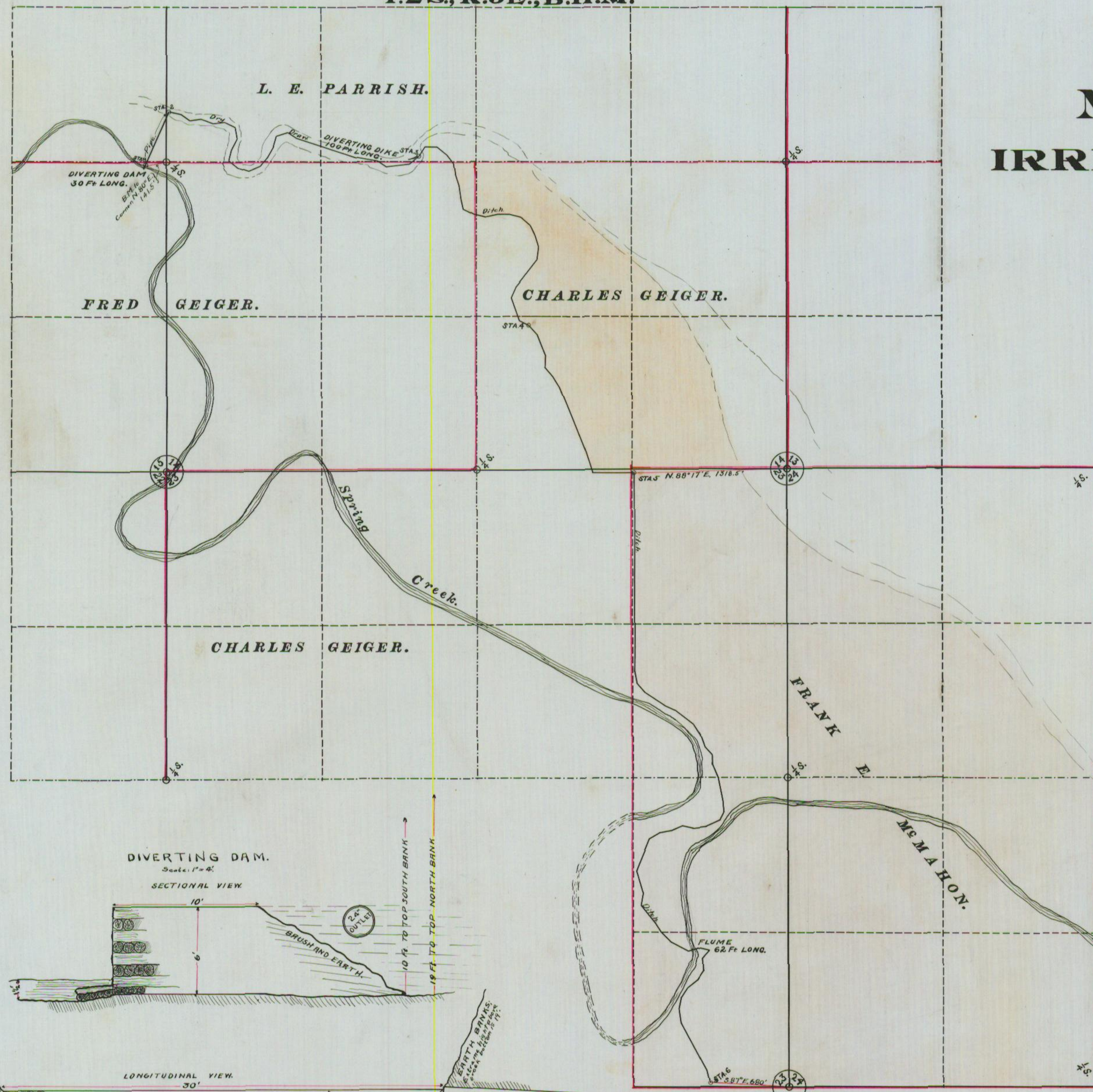
I, Frank E. McMahon, being first duly sworn
on my oath depose and say: That my relation to the above described undertaking is that of
OWNER- that I have read the above and
(owner, manager or engineer)
foregoing statement, and examined the map accompanying the same, and that I know of my own
personal knowledge that the matters therein stated and shown are true.

Signed Frank E. McMahon

Subscribed and sworn to before me this 2nd day of September 1908

George Williams,
Notary Public (or other qualified officer).

T.2S., R.9E., B.H.M.



McMAHON IRRIGATION DITCH.

MAP SHOWING RIGHT OF WAY FOR
McMAHON IRRIGATION DITCH, OWNER-
SHIP OF LANDS CROSSED, AND LANDS
TO BE IRRIGATED.

STA. 1 TO STA. 2, 500 FEET, PIPE LINE
THROUGH HILL, ON McMAHON-GEIGER
JOINT RIGHT OF WAY.

STA. 2 TO STA. 3, 2800 FEET, DRY WATER
COURSE ON McMAHON-GEIGER JOINT
RIGHT OF WAY.

STA. 3 TO STA. 4, 2300 FEET, OLD DITCH ON
McMAHON-GEIGER JOINT RIGHT OF WAY.

STA. 4 TO STA. 5, 1743 FEET, NEW DITCH ON
McMAHON RIGHT OF WAY.

STA. 5 TO STA. 6, 6645 FEET, DITCH ON
McMAHON'S DEEDED LANDS.

★ AFFIDAVIT. ★

STATE OF SOUTH DAKOTA } ss.
COUNTY OF PENNINGTON }

I, IVAN E. GOODNER, BEING
DULY SWORN, UPON MY OATH SAY, THAT I AM THE
ENGINEER OF THE McMAHON IRRIGATION DITCH;
THAT THE SURVEY AND MAP WERE MADE UNDER
MY DIRECTION ON AUGUST 31ST TO SEPTEMBER 2ND,
1908; AND THAT I HAVE READ THE ACCOMPANYING
STATEMENT AND KNOW OF MY OWN KNOWLEDGE
THAT THE STATEMENTS THEREIN MADE ARE
TRUE.

Ivan E. Goodner.
ENGINEER.

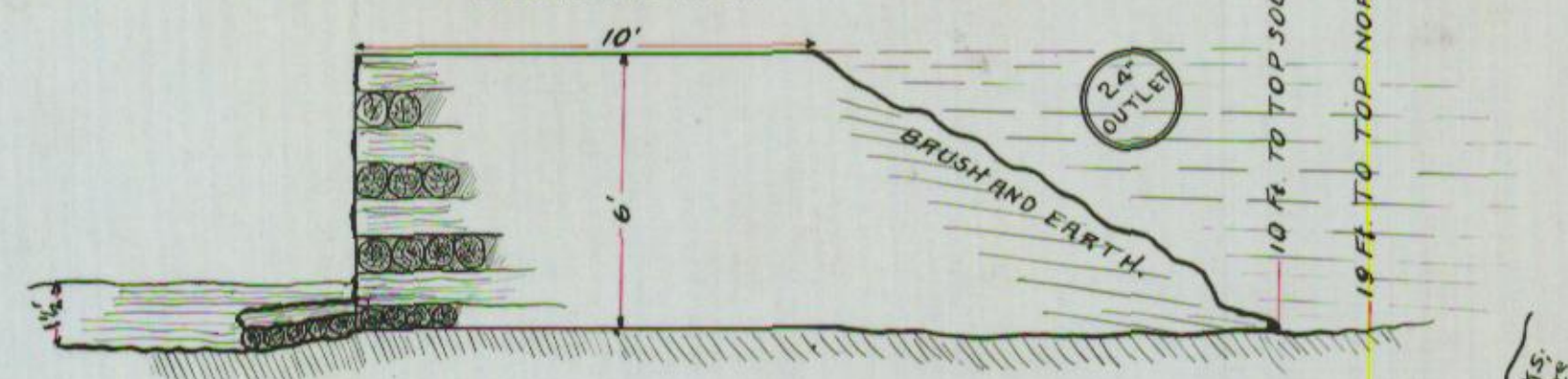
SUBSCRIBED AND SWORN TO BEFORE ME THIS
4TH DAY OF SEPTEMBER, 1908.

Charles Williams
NOTARY PUBLIC.

DIVERTING DAM.

Scale: 1" = 4'

SECTIONAL VIEW



LONGITUDINAL VIEW

30'

"BEAVER-DAM" CONSTRUCTION
OF LOGS AND BRUSH, EARTH FILLED.

24" PIPE, 500 FEET LONG,
SLOPE, 2" / 1000'

RECEIVED
SEP 10 1908

OFFICE OF STATE ENGINEER,
PIERRE, S. DAK.

MAP NO 70-2 W/R # 56-2

Remarks on State Engineer:

This application is for the right to appropriate for irrigation purposes 7 second-foot of the water of Spring Creek in Pennington County. No protest has been filed against granting the permit requested and the water supply appears to be sufficient for the purpose designated.

STATE OF SOUTH DAKOTA } ss
County of Hughes }

Pierre, South Dakota, Nov. 28, 1908.

This is to certify that the foregoing application was received at this office at 4 o'clock Pm. upon the 10th day of Sep. 1908 and that after examination it was found to comply with the provisions of the water laws of South Dakota. Notice of intention to appropriate was advertised, proof of publication was filed, and a hearing was held in this office Nov. 17, 1908.

Samuel H. Lea
State Engineer.

By Deputy.

Number of permit 56

Date of first receipt of application August 27, 1908

Date of return to applicant for correction August 29, 1908

Date of receipt of corrected application Sept. 10, 1908

Date from which application may claim right August 27, 1908

Approved Nov. 28, 1908, Recorded in Book -1- Page -105-

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 May 28, 1910.

2d. The whole of said work is to be completed on or before Nov. 28, 1911.

3d. The limit of time for proof of beneficial use of water appropriated in accordance herewith is Nov. 28, 1912.

4th. The water appropriated shall be used for the purpose of Irrigation, watering stock and domestic use.

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 seven 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 on or before Nov. 28, 1912; said water to be used during the following described annual periods.

Continuously.

Witness my hand this 28 day of November 1908.

Samuel H. Lea
State Engineer.

By Deputy.

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 56-2

WHEREAS, On the 27th day of August A. D. 1908

Frank E. McMahon
of Rapid City County of Pennington and State of
South Dakota duly made application (No. 56) to me for a permit to use seven
cubic feet per second of the waters of Spring Creek
County of Pennington State of South Dakota, for Watering Stock, etc.
purposes; and

WHEREAS, On the 28th day of November A. D. 1908
Permit No. 56 was issued to said applicant for the diversion of said water, and providing for the com-
pletion of the works of diversion therein described on or before the 29th day of
November A. D. 1911 and for the application to beneficial use of said
water on or before the 28th day of November A. D. 1912
and,

WHEREAS, On the 18th day of August A. D. 1911
the holder of said permit duly made proof of the completion of adequate works for the diversion of
seven cubic feet per second of said waters, as evidenced by my Certificate No. 56
dated August 15, 1911 confirming the completion of works of sufficient capacity for
diverting and conveying to the place of intended use seven cubic feet per second of water,
with date of priority of August 27, 1908 and,

WHEREAS, On the 18th day of August A. D. 1911
proof was duly made of the application to beneficial use of seven cubic feet per second of
said water;

for Watering Stock, etc., and for irrigating the following
described land: - E $\frac{1}{2}$ NE $\frac{1}{4}$ Sec. 23 and NW $\frac{1}{4}$ and N $\frac{1}{2}$ SW $\frac{1}{4}$ Sec. 24, Twp.
2 S., Rge. 9 E., B.H.M.

NOW, THEREFORE, by virtue of the authority vested in me by the laws of the State of South Dakota, I hereby grant and confirm to.....Frank E. McMahon.....
of.. Rapid City, So. Dak.the holder... and owner... of said permit No. 53.....
a water right, dating from.....August 27, 1908.....to the use of.....seven.....
cubic feet per second of the waters ofSpring Creek.....
in the County of.....Pennington.....and State of South Dakota, or so much thereof as may be
necessary for the purposes hereinbelow mentioned, to be diverted at a point S. 24° W. 174.5
feet from the W. 1/4 cor. of Sec. 15, Twp. 2 S., R. 9 E., B.H.M.
and conducted to and upon E 1/2 NE 1/4 Sec. 23, NW 1/4 and N 1/2 SW 1/4 Sec. 24, Twp. 2 S.,
Range 9 E., B.H.M.
for the purpose of.....Irrigation, watering stock and domestic use.....

subject, however, to the laws of the State of South Dakota applicable to a license for the use of the waters of the State, and subject, also, to the local or community customs, rules and regulations which have been or may be adopted from time to time by a majority of the users from a common source of supply, canal or lateral from which such water may be taken, when such rules and regulations have for their object the economical use of such water.

WITNESS, My hand and the seal of my office at Pierre, South Dakota,
this.....28th.....day of.....April.....A. D. Nineteen
Hundred and Twelve.....

State Engineer.

STATE OF SOUTH DAKOTA

Water License No. 53-2

To Frank E. McMahon

Rapid City,

South Dakota

Source of Supply

Spring Creek

Pennington County

Amt Seven Sec. Feet

Point of Diversion S. 24° W. 174.5 ft.
from W. 1/4 cor. of Sec. 15, Twp.
2 S., R. 9 E., B.H.M.

Place of Use E 1/2 NE 1/4 Sec. 23, NW 1/4
and N 1/2 SW 1/4 Sec. 24, T. 2 S.,
R. 9 E. B.H.M.

Purpose Irrigation, watering
stock, and domestic use.

Date of Priority August 27, 1908

Recorded

in Book 1 of Record Page 105

Permit No. 56.....

Water Division No. 2..... Battle Creek Water District

Certificate of Examination of Works**Report of Examining Engineer**

To the State Engineer, Pierre, South Dakota:

Dear Sir: I hereby certify that in accordance with your letter of authorization dated June 14, 1911, I have this day made a thorough examination of the diversion works constructed by Frank E. Mahan of Rapid City Pennington County, South Dakota, holder of permit No. 56, issued upon application No. 56, bearing date of priority of August 27th, 1908, authorizing the diversion of seven second feet of the waters of Spring Creek for irrigation purposes. I have to report on the condition of the same as follows:

The diversion works comprise: Pipe 24" diam. from Spring Creek, along ditches and pipe across the creek to south side substantial as contemplated in the application

and the system is in the following condition: is in good condition

The point of diversion is located S 84° 0' W. 174.5 ft. from West $\frac{1}{4}$ corner Sec. 15, T 2 S., R 9 E. B. H. M. on the left bank of Spring Creek

The works are capable of diverting and conveying to the place of use eight second-feet of water, which is to be used for irrigation and watering stock

The legal subdivisions to be irrigated are: W $\frac{1}{4}$ Sec. 24, E $\frac{1}{4}$ NE $\frac{1}{4}$ and E $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 23 T. 2 S., R. 9 E. B. H. M.

comprising a total of 480 acres of land.

The domestic use intended comprises watering stock on said land

The utilization for power, mining, or other beneficial uses comprises: none

Witness my hand, this 16th day of August, A.D. 1911. J. D. K. K.

James H. K. K.
Examining Engineer.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA } ss
County of Pennington.

Joseph B. Gossage being duly sworn, deposes and says the annexed printed copy of Notice Intention to appropriate Water was taken from the Black Hills Weekly Journal a newspaper which during the whole time of publication of said notice hereinafter stated, has been and is printed and published in the city of Rapid City County of Pennington and State of South Dakota, That the said notice was published in said newspaper on the following dates:
Oct. 9, 16, 23, 30, Nov. 6, 13, in the year 1908, in each and every issue of the full number thereof, the first publication being made on the 9th day of October 1908 and the last publication on the 13th day of November 1908, upon which days or times of publication aforesaid the newspaper was regularly published, and that during the whole time of said publication he was editor and ~~proprietor~~ publisher of the said newspaper.

Joseph B. Gossage

Subscribed and sworn to before me this 25th day of November A. D. 1908.

Fred Chubbain
Notary Public Pennington County, S. D.

(First publication October 9, 1908.)
Appropriation of Water,
Office of the State Engineer,
Pierre, S. D., September 18, 1908.
Notice is hereby given that Frank
B. McMahon, whose post office ad-
dress is Rapid City, Pennington
County, S. D., has made application
in accordance with the irrigation
laws of South Dakota for a permit to
appropriate for beneficial use 7 cu-
bic feet of water per second of time
from Spring Creek through the Mc-
Mahon Irrigation Ditch, the point of
diversion of which is to be located
upon the left bank of said stream in
the northeast quarter of southeast
quarter of section 16, township 2
south, range 9 east, N. H. M., said
water to be used for the purpose of
irrigation, watering stock, and other
domestic purposes upon the west
half of section 24 and east half of
northeast quarter and east half of
southeast quarter section 23, town-
ship 2 south, range 9 east, N. H. M.
This application will be taken up
by the State Engineer at his office
at Pierre, for consideration and ap-
propriate action upon the 17th day
of November, 1908, at 9 a. m., at
which time all persons who believe
that the prior rights would be in-
jurious affected, or that the al-
lowance of the permit would be de-
rimental to the public welfare, and
who parties making the application,
be benefited, are notified to be pres-
ent either by sworn affidavit
or in person for the purpose of pro-
siding any relative testimony.
Samuel H. Lea,
State Engineer.

RECEIVED

NOV 28 1908

OFFICE OF STATE ENGINEER,
PIERRE, S. DAK.

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

APPROPRIATION OF WATER

Office of the State Engineer,

Pierre, S. D., September 18, 1908

Notice is hereby given that Frank B. McMahon
 whose postoffice address is Rapid City,
Pennington, County, S. D., has made an application in
 accordance with the provisions of the irrigation laws of South Da-
 kota for a permit to appropriate for beneficial use 7 cubic
 feet of water per second of time from Spring Creek
 through the McMahon Irrigation Ditch the point of diversion of which
 is to be located upon the 10th bank of said stream in the (SW) ^{NE}
^{SE}
 $\frac{1}{4}$ of the (NE) $\frac{1}{4}$ of section 15 township 3 S range 9 E said water
 to be used for the purpose of Irrigation, Watering Stock and other
Domestic purposes upon the W $\frac{1}{2}$ Section 24
E $\frac{1}{2}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$ section 23, T. 2 S., R. 9 E. 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
17th day of November 1908, at 9 a. m., at which time all
 persons who believe that the prior rights would be injuriously af-
 fected, or that the allowance of the permit would be detrimental
 to the public welfare, and also parties making the application, and
 to be benefited, are notified to be present either by sworn affi-
 davit or in person for the purpose of presenting any relative tes-
 timony.

State Engineer

No. 56.

Water Division No. _____, _____ District.

APPLICATION FOR A PERMIT TO APPROPRIATE
WATER WITHIN THE STATE OF SOUTH DAKOTA.

1. Name of applicant, Frank E. McMahon, postoffice address Rapid City, S.D.
Work to be accomplished by employment of engineer and labor.
2. Name of diversion works shall be McMahon Irrigation Ditch.
3. The quantity of water claimed is seven (7) second-feet.
4. The source of supply is Spring Creek.
5. The point of diversion is on the left bank of the stream in the SW 1/4 of NE 1/4, Section 15, in T. 2 S., R. 9 E., B.H.M.
6. The water is to be used continuously.
7. The water is to be used for irrigation and for watering stock and other domestic purposes upon ranch of the applicant.
8. The lands to be irrigated are the West one-half (W 1/2) of Section 24, the East one-half (E 1/2) of northeast one-fourth (NE 1/4) and the east one-half (E 1/2) of southeast one-fourth (SE 1/4) of Section 23, all in T. 2 S., R. 9 E., B.H.M.
9. It is estimated that headgates and supply pipe attached thereto will cost \$1000.00, and that the ditch will cost \$1000.00, making a total cost of \$2000.00. The works will consist of small log diverting dam, two feet high, and thirty foot long, turning the water into a vitrified tile sewer pipe 36" in diameter, which will run about 400 feet through a deep cut into the old creek channel, and thence by open ditch over the lands to be irrigated. There will be no storage capacity. Canal will be about two miles long, five feet wide and two feet deep.
10. It will require three years to finish the work.
11. It will require four years to complete application of the water to beneficial use.
12. Notice of intention to appropriate will be published in the Rapid City Daily Journal, of Rapid City, S.D.

STATE OF SOUTH DAKOTA, }
County of Pennington. } SS.

I, Frank E. McMahon, 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 foregoing
statement; and examined the map accompanying the same, and that I know
of my own personal knowledge that the attorns therein stated and shown
are true.

Signed, Frank E. McMahon

Subscribed and sworn to before me this 26th day of August, 1908.

Mary O. Rilly, Notary Public.

September 13, 1909.

Mr. Earle L. Lewis, C.E.,
Rapid City, South Dakota.

Dear Sir:-

The records of this office show that on June 30, 1909, in answer to an inquiry from Mr. F.E. Mollahan, the holder of permit No. 58, information was given that in order to perfect his water right it would be necessary for him to furnish this office with proof of completion of works and also proof of application of water to beneficial use. As there is some question about priority of right to the use of water from Spring Creek, it is important that Mr. Mollahan should perfect his water right promptly upon the completion of his works and the application of the water to beneficial use.

Please notify this office promptly as soon as you ascertain the condition of Mr. Mollahan's diversion works and also notify him of the requirements of the law concerning the furnishing of the proofs above designated for the perfection of water rights.

Yours very truly,

State Engineer.

State of South Dakota

OFFICE OF STATE ENGINEER

HAMUEL H. LEA, STATE ENGINEER
RALPH VANDERHOOF, ASSISTANT

PIERRE

October 14, 1906.

Mr. Frank E. Holahan,
Rapid City, South Dakota.

Dear Sir:-

A complaint has been made to this office by Mr. Charles Goiger that you are furnishing water through your diversion works to other parties for irrigating other lands than those designated by you in your permit. You are informed that the permit issued to you for the right to appropriate water from Spring Creek, designates the legal sub-divisions to be irrigated and the water carried through your diversion works can only be used for irrigating the lands therein designated. Any use of the water outside of these lands constitutes an injury to other water users along Spring Creek and is a misdemeanor under the State Law.

Please inform this office promptly whether you are using water through your diversion works for irrigating other lands than those designated in your permit.

Yours very truly,

State Engineer.

State of South Dakota

OFFICE OF STATE ENGINEER

PIERRE

SAMUEL H. LEA, STATE ENGINEER
RALPH VANDERBROOK, ASSISTANT

December
Third,
1900.

Mr. Frank E. Hollahan,
Rapid City, South Dakota.

Dear Sir:-

Charles Gelgor, through his attorneys Behrador and Lewis, has made the State Engineer a defendant in a petition to the Circuit Court to show cause why a Writ of Certiorari should not be allowed by the Circuit Court in the matter of permit No. 56, issued by this office to Frank E. Hollahan, for the right to appropriate water from Spring Creek in Pennington County. The case comes up before the Circuit Court at Pierre on December 30, next, and it will be necessary for some showing to be made at that time.

I had a talk with the Attorney General last night and he suggested that I write and inform you concerning the matter, in order that you may take such steps as may be considered necessary to protect your interests in this matter. Please inform me as soon as convenient what action you expect to take in the matter.

Yours very truly,

State Engineer.

RECEIVED
DATE MICROFILMED
CAMERA OPERATOR

CHAUNCEY L. WOOD
STATES ATTORNEY

HARRISON E. ED.

Wood & Edwards

Attorneys at Law
ROOMS 3 & 4 WOOD BUILDING

Rapid City, South Dakota, Dec. 4, 1909.

Hon. Samuel H. Lea,
Pierre S.D.
My Dear Sir;

Yours of yesterday referring to the case of Geiger against yourself, I beg to say that, it has been duly received and noted. In answer will say that I have seen Mr. McMahon and he handed me your letter to him of the same date. I will take care of this matter for you and will be able to give it close attention as soon as I finish with the court in Deadwood, by the middle of next week. In the mean time kindly send me the papers in the case served on you.

If I find that a conference with you is necessary before the hearing I will arrange to go to Pierre myself and save you the fatigue of the trip here. In due time you will hear from me again.

Yours very truly;

Chauncey L. Wood

RECEIVED
DEC 6 1909
OFFICE OF STATE ENGINEER,
PIERRE, S. DAK.

State of South Dakota

SAMUEL H. LEA, STATE ENGINEER
RALPH V. KNEBODOK, ASSISTANT

OFFICE OF STATE ENGINEER

PIERRE

- Page 2, line 5 - Application recorded December 18, 1908, instead of September 1, 1908, as stated.
- Page 3, paragraph 2 - Section 20, Chapter 180 of the Session Laws of 1907 provides for the establishment of priority of application and for 60 days in which to make any necessary corrections in an application for a permit and to refit same.
- Page 3, paragraph 3 - Application refiled September 18, 1908, which was within sixty days from the date of the notice of corrections to be made and date of priority was given as in accordance with the provisions of Section 20, Chapter 180, Session Laws of 1907.
- Page 4, paragraph 2 - Papers are on file in this office which show that publication was duly made before the date set for the hearing and that the proof of publication was made out for filing before that date.
- Page 4, paragraph 3 - The records of this office show that the hearing was held on November 17, 1908, as advertised, instead of on November 23, 1908, as stated.
- Page 5, paragraph 3 - In cases of hearing it is not necessary that the applicant should be present in person at the hearing, as form No. 9 states that those interested may be present either in person or by sworn affidavit.
- Page 5, paragraph 4 - By evidence on file in this office it was the judgement of the State Engineer that the date of priority established should hold. Maps of proposed projects may be filed in State Engineer's office at any time before the approval of the application.

State of South Dakota

OFFICE OF STATE ENGINEER

PIERRE

HAROLD H. LEA, STATE ENGINEER
HAROLD VANDERBEEK, ASSISTANT

December
Third,
1909.

Hon. Chauncey L. Wood,
Rapid City, South Dakota.

Dear Sir:-

The State Engineer has been made a party to a suit brought by Schrader and Lewis for Charles Goigor in the Circuit Court of the Sixth Judicial Circuit of this state, and is required to show cause before the Court at the Court House in the City of Pierre on December 30, next, why a Writ of Certiorari should not be allowed by the Court as prayed for in the petition of the plaintiff, Charles Goigor.

It appears that an application was received in this office from Frank E. Hollahan on the 27th day of August, 1908, for a permit to appropriate water from Spring Creek at a point designated by him; and on the 1st day of September, 1908, a few days later, a petition was received from Charles Goigor for a permit to appropriate water from Spring Creek at a point some distance below the point designated by Frank E. Hollahan. On account of corrections required in the application of Frank E. Hollahan, same was returned to him for correction and he was required to return the corrected application to the office of the State Engineer within 60 days, as required by law. Another point upon which Mr. Goigor bases his claim is that the proof of publication had not been received in this office on the date of the hearing. This is true, in so far that a formal proof had not been received on that date, but information furnished this office showed that this proof of publication had been duly mailed in ample time to reach this office but must have been miscarried or lost in transmission. It appears further that a copy of the newspaper containing the

Chauncey L. Wood, Jr.

State of South Dakota

OFFICE OF STATE ENGINEER

PIERRE

HAMUEL H. LEA, STATE ENGINEER
RALPH VANDERBROOK, ASSISTANT

advertisement was in this office before the date of the hearing and this went to show that the advertisement had actually been published as required by law. Later on a formal proof of publication was duly filed in this office.

I had a talk with Mr. Clark, the Attorney General, last night and he suggested that I take the matter up with you and request you, as State Attorney of the county in which the legal questions arise, to advise me concerning the proper method of procedure in this matter. If you think necessary, I can send you the papers in the case or, if you prefer, I could make a trip to Rapid City and see you about this matter. As I am kept pretty busy just now, I would prefer to leave Pierre on the afternoon train and see you the same night, if convenient, and return to Pierre on the morning train. Whichever way you prefer, I will arrange to do. I am sending you a memorandum touching on the different points cited by the plaintiff; this may be of some value to you in forming an opinion concerning the case.

Yours very truly,

State Engineer.

Enclosure:
Memorandum

Permit No. 56

Water Division No. 3, Battle Creek Water District

Notice of Application of Water to Beneficial Use

(This blank must be filled out by holder of permit and forwarded to the State Engineer at least 60 days before the time set for application of water.)

(P. O.) Frank E. McMahon; Rapid City, S.D.

(Date) June 12th, 1911

TO THE STATE ENGINEER OF SOUTH DAKOTA, PIERRE:

DEAR SIR: Notice is hereby given that on the 15th day of August 1911, at Rapid City County of Pennington State of South Dakota, before James Hartgering (Examining Engineer or Officer) proof will be submitted of the application to beneficial use of seven cubic feet per second of the waters of Spring Creek in accordance with the terms and conditions of Permit No. 56 heretofore issued by the State Engineer of South Dakota.

1. The name and postoffice address of the person or corporation holding said permit are Frank E. McMahon; Rapid City, Pennington County, South Dakota
2. The use to which said water has been applied is Irrigation, watering stock, and domestic use.
3. The amount applied to beneficial use is seven cubic feet per second
4. The place where said water is used is (if for irrigation, give full and accurate description of the lands irrigated) W $\frac{1}{2}$, sec. 24; E $\frac{1}{2}$, NE $\frac{1}{4}$, and E $\frac{1}{2}$, SE $\frac{1}{4}$, sec. 23, Twp. 2 S. R. 9, E. B. H. M.
5. The name of the canal or ditch or other works by which said water is conducted to such place of use is McMahon Irrigation Ditch
6. The right to take the water from such works is based upon permit No. 56
7. The source of supply from which such water is diverted is Spring Creek
8. The date of priority which said user is prepared to establish is November 28th, 1908

(Sign)

Frank E. McMahon

Permit No. 56.....

Water Division No. 2..... Battle Creek Water District

Certificate of Application of Water to Beneficial Use.

Deposition of Holder

Ques. 1. State your name, residence, occupation and postoffice address.

Ans. Frank E. McMahon Rapid City, South Dakota. my occupation is farmer and merchant

Ques. 2. If acting in behalf of a corporation, state its name, principal place of business (if a foreign corporation, give name and postoffice of statutory agent), your position with reference to same, and your authority for appearing in its behalf.

Ans. _____

Ques. 3. State number and date of permit, and date of priority you propose to establish under the permit.

Ans. No. 56, August 27th 1908 which is the date of priority I propose to establish.

Ques. 4. State source of water supply and give exact location of point of diversion.

Ans. Spring Creek, Point of diversion is S 84°W. 174.5' from the N. 1/4 cor. Sec. 15 T 2 S., R. 9 E. B. H. M.

Ques. 5. Describe your works of diversion, and state amount of water they are capable of conveying from point of diversion to place of use, and give name of canal or ditch or other works by which water is conducted to such place of use.

Ans. Pipe 24" diam. from Spring Creek to slough, ditches and pipe across the creek to south side all as contemplated in the application. the system is capable of conveying seven second feet.

Ques. 6. State for what purpose water is used and describe place of use. (If for irrigation, name each subdivision in which used, and number of acres in each subdivision that have ACTUALLY been irrigated with said water.)

Sec. 23,

Ans. For irrigation on the E 1/4 NE 1/4, NW 1/4 and N 1/4 SW 1/4 Sec 24 T 2 S.,
R. 9 E. B. H. M.

Ques. 7. If for other than irrigation purpose, state how applied, amount of horse power generated, etc.

Ans. Watering stock from ditches

Ques. 8. What is the minimum amount of water required for the use specified above?

Ans. Seven second feet

Ques. 9. If you are not the person or representative of the corporation to whom above mentioned permit was originally issued, please state how ownership was acquired by present holder.

Ans. By application and permit No. 56 in my own name.

Ques. 10. State when, how, in what amount and to what extent the water diverted under above mentioned permit has been used.

Ans. Water was first run through pipe in Nov. 1909, during the season of 1909 and 1910 the full seven second ft. were used on about 120 acres of the above lands, and during the season of 1911 only one irrigation was made owing to the fact that Spring Creek went dry.

(Sign.) *Francis M. McChes*

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Rapid City, County of Pennington

State of South Dakota, on this 15th day of August, 1911. A. D., 1911.

Oliver E. Sweet
Notary Public

Permit No. 56

Proof of Application of Water to Beneficial Use.

DEPOSITION OF HOLDER.

Amount of water seven second feet
Source Spring Creek
County Pennington
Purpose Irrigation and watering stock
Place of Use E¹/₂ NW¹/₄, Section 22;
NW¹/₄, N²/₂ SW¹/₄, Section 24; Township
2 S., Range 9 E., R.H.M.
Date of priority August 27, 1908

FILED
AUG 16 1911
CHARLES H. LEA, State Engineer.

Received and filed August 16, 1911.

RECEIVED
AUG 16 1911
OFFICE OF STATE ENGINEER,
PIERRE, S. DAK.

RECEIVED

OFFICE OF STATE ENGINEER
PIERRE, S. DAK.

WARRANTY DEED

JENNIE J. McMAHON, a widow, Grantor, of Pennington County, State of South Dakota, for and in consideration of FIVE THOUSAND SEVEN HUNDRED SIXTY and no/100 DOLLARS (\$5,760.00), GRANTS, CONVEYS AND WARRANTS TO EDWARD H. McMAHON, Grantee, of Hermosa, South Dakota, P. O., the following described real estate in the Counties of Pennington and Custer in the State of South Dakota:

East Half (E $\frac{1}{2}$) of the Northeast Quarter (NE $\frac{1}{4}$) and the Northeast Quarter (NE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of Section Twenty-three (23), and the Northwest Quarter (NW $\frac{1}{4}$) and the North Half (N $\frac{1}{2}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section Twenty-four (24), all in Township Two (2) South of Range Nine (9) East of the B. H. M., and that part of the Southeast Quarter (SE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of said Section Twenty-three (23) and of the South Half (S $\frac{1}{2}$) of the Southwest Quarter (SW $\frac{1}{4}$) of said Section Twenty-four (24) located in Pennington County; all in Pennington County; and that part of the Southeast Quarter (SE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of Section Twenty-three (23) and of the South Half (S $\frac{1}{2}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section Twenty-four (24), all in Township Two (2) South of Range Nine (9) East of the B. H. M. in Custer County; together with all water and irrigation rights.

Dated this 2nd day of August, 1939.

Jennie J. McMahon (s)

Jennie J. McMahon

STATE OF SOUTH DAKOTA }
PENNINGTON COUNTY } SS.

On this 1st day of August, in the year 1939, before me George Williams, a Notary Public in and for said County and State, personally appeared Jennie J. McMahon, a widow, known to me to be the person who is described in and who executed the within and foregoing instrument, and acknowledged to me that she executed the same.

George Williams (s)

Notary Public

(SEAL)

My commission expires October 7, 1940

Recorded in Pennington County, S. D. on August 2, 1939 in Book 58, Page 581.
Recorded in Custer County, S. D. on August 3, 1939 in Book 17 of Deeds, Page 135.

QUIT-CLAIM DEED
(Borrower to "Straw Man")

THIS INDENTURE, Made this 2nd day of September, A. D., 1943, between EDWARD H. McMAHON and HATTIE McMAHON, Husband and Wife, of Pennington County, in the State of South Dakota, of the first part, and RICHARD ALBERT McMAHON and EDNA M. McMAHON, Husband and Wife, Rapid City, South Dakota, of Pennington County, in the State of South Dakota, of the second part;

WITNESSETH, that the said parties of the first part, in consideration of the sum of One and No/100 Dollar (\$1.00), to them duly paid, the receipt where of is hereby acknowledged, have remised, released and quit-claimed, and by these presents do for themselves, their heirs, executors and administrators, remise, release and forever quit-claim and convey unto the said party of the second part, and to his heirs and assigns forever, all their right, title, interest, estate, claim and demand, both at law and in equity, of, in and to all the following described real estate, situated in the Counties of Pennington and Custer and State of South Dakota-to-wit:

East Half of the Northeast Quarter ($E\frac{1}{2}NE\frac{1}{4}$) and the Northeast Quarter of the Southeast Quarter ($NE\frac{1}{4}SE\frac{1}{4}$) of SECTION TWENTY-THREE (23), and the Northwest Quarter ($NW\frac{1}{4}$) and the North Half of the Southwest Quarter ($N\frac{1}{2}SW\frac{1}{4}$) of SECTION TWENTY-FOUR (24), all in Township Two (2) South, of Range Nine (9), East of the P. M., and that part of the Southeast Quarter of the Southeast Quarter ($SE\frac{1}{4}SE\frac{1}{4}$) of said Section Twenty-three (23) and of the South Half of the Southwest Quarter ($S\frac{1}{2}SW\frac{1}{4}$) of said Section Twenty-four (24) located in Pennington County, all in Pennington County; and that part of the Southeast Quarter of the Southeast Quarter ($SE\frac{1}{4}SE\frac{1}{4}$) of SECTION TWENTY-THREE (23) and of the South Half of the Southwest Quarter ($S\frac{1}{2}SW\frac{1}{4}$) of SECTION TWENTY-FOUR (24), all in Township Two (2) South, of Range Nine (9), East of the P. M., in Custer County; together with all water and irrigation rights,

Being the same property mortgaged to the United States of America by the parties of the first part, by mortgage dated August 1, 1939, and recorded in Book 100, at Page 51 of the records of Pennington County, and Book 22, at Page 401 of the records of Custer County, to secure payment of the sum of Six Thousand Two Hundred Ten and No/100 Dollars (\$6,210.00) plus interest at the rate of three per cent (3%) per annum, evidenced by a certain promissory note dated July 20, 1939, and executed by the parties of the first part;

Subject, however, to:

- (1) Said mortgage to the United States of America, any other title exceptions of record, and any unpaid taxes.

TO HAVE AND TO HOLD THE above described premises together with all and singular the hereditaments thereunto belonging unto the said Richard Albert McMahon and Edna M. McMahon, their heirs and assigns; so that neither Edward H. McMahon nor Hattie McMahon, the said parties of the first part, nor any person in their name and behalf, shall or will hereafter claim or demand any right or title to the said premises or any part thereof, but they and every one of them shall by these presents be excluded and forever barred.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals the day and year above written.

Witnesses:

R. F. Mauser (Signed)

Edward H. McMahon (Signed)
Edward H. McMahon

Manda Goodburn (Signed)

Hattie McMahon (Signed)
Hattie McMahon

R7-LE-188
Rev. 11-14-62

ACKNOWLEDGMENT

STATE OF SOUTH DAKOTA)
COUNTY OF PENNINGTON) SS

On this 2nd day of September, 1943, before me,
appeared EDWARD H. McMAHON and HATTIE McMAHON, husband and wife,

known to me or satisfactorily proven to be the person(s) whose name(s) are subscribed to the within instrument and acknowledged that the y executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

(SEAL)

C. E. Foigel (Signed)
Notary Public

My commission expires July 5-1947

STATE OF SOUTH DAKOTA)
COUNTY OF HUGHES) SS

Filed for record this 28th day of
September, A. D., 1943 under Water
Right No. 56-2 and noted in Book 1,
Page 105, all in the office of the
State Engineer at the State Capitol
in Pierre, South Dakota.

By Dean A. Loucks
Dean A. Loucks
State Engineer

STATE OF SOUTH DAKOTA }
COUNTY OF HUGHES } SS

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

Witness my hand and official seal of the
my office in Pierre, State of South Dakota

this 28 day of September 1943

Dean A. Loucks
State Engineer

QUIT-CLAIM DEED
("Straw Man" to Borrower and Wife)

THIS INDENTURE, Made this 2nd day of September, A. D., 1943, between RICHARD ALBERT McMAHON and EDNA M. McMAHON, Husband and Wife, of Pennington County, in the State of South Dakota, of the first part, and EDWARD H. McMAHON and HATTIE McMAHON, Husband and Wife, Hermosa, South Dakota, as Joint Tenants with Right of Survivorship, and not as tenants in common, of Pennington County, in the State of South Dakota, of the second part;

WITNESSETH, That the said parties of the first part, in consideration of the sum of One and No/100 Dollar (\$1.00), to them duly paid, the receipt whereof is hereby acknowledged, have remised, released and quit-claimed, and by these presents do for themselves, their heirs, executors and administrators, remise, release and forever quit-claim and convey unto the said Edward H. McMahon and Hattie McMahon, Husband and Wife, AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP, AND NOT AS TENANTS IN COMMON, the survivor to take the whole estate, all their right, title, interest, estate, claim and demand, both at law and in equity, of, in and to all the following described real estate, situated in the Counties of Pennington and Custer, and State of South Dakota, to-wit:

East Half of the Northeast Quarter (E $\frac{1}{2}$ NE $\frac{1}{4}$) and the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$) of SECTION TWENTY-THREE (23), and the Northwest Quarter (NW $\frac{1}{4}$) and the North Half of the Southwest Quarter (N $\frac{1}{2}$ SW $\frac{1}{4}$) of SECTION TWENTY-FOUR (24), all in Township Two (2) South, of Range Nine (9), East of the B. H. M., and that part of the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$) of said Section Twenty-three (23) and of the South Half of the Southwest Quarter (S $\frac{1}{2}$ SW $\frac{1}{4}$) of said Section Twenty-four (24) located in Pennington County, all in Pennington County; and that part of the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$) of SECTION TWENTY-THREE (23) and of the South Half of the Southwest Quarter (S $\frac{1}{2}$ SW $\frac{1}{4}$) of SECTION TWENTY-FOUR (24), all in Township Two (2) South, of Range Nine (9), East of the B. H. M., in Custer County; together with all water and irrigation rights,

Being the same property mortgaged to the United States of America by the parties of the second part, by mortgage dated August 1, 1939, and recorded in book 100, at Page 51 of the records of Pennington County, and Book 22, at Page 401 of the records of Custer County, to secure payment of the sum of Six Thousand Two Hundred Ten and No/100 Dollars (\$6,210.00) plus interest at the rate of three percent (3%) per annum, evidenced by a certain promissory note dated July 20, 1939, and executed by the parties of the second part;

Subject, however, to:

- (1) Said mortgage to the United States of America, and any other title exceptions of record, and any unpaid taxes.

TO HAVE AND TO HOLD, the above described premises, together with all and singular the hereditaments thereunto belonging, unto the said Edward H. McMahon and Hattie McMahon, Husband and Wife, AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP AND NOT AS TENANTS IN COMMON, and unto their successors or assigns, and unto the heirs, successors and assigns of the survivor; so that neither Richard Albert McMahon nor Edna M. McMahon, the said parties of the first part, nor any person in their name and behalf, shall or will hereafter claim or demand any right or title to the said premises or any part thereof, but they and every one of them shall by these presents be excluded and forever barred.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals the day and year above written.

Witnesses:

Freda Nelle Scott (Signed)

Richard Albert McMahon (Signed)
Richard Albert McMahon

Ella L. Ollenburg (Signed)

Edna M. McMahon (Signed)
Edna M. McMahon

R7-1E-188
Rev. 11-11-42

ACKNOWLEDGMENT

STATE OF SOUTH DAKOTA)
COUNTY OF PENNINGTON) SS

On this 2nd day of September, 1943, before me, appeared
RICHARD ALBERT McMAHON and EDNA M. McMAHON, Husband and Wife, known to me
or satisfactorily proven to be the person (s) whose name (s) are subscribed
to the within instrument and acknowledged that they executed the same for
the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

C. E. Feigel (Signed)
Notary Public

(SEAL)

My Commission expires July 5-1947

STATE OF SOUTH DAKOTA)
COUNTY OF HUGHES } SS

Filed for record this 28th day of
September, A. D., 1913 under Water
Right No. 56-2 and noted in Book 1,
Page 105, all in the office of the
State Engineer at the State Capitol
in Pierre, South Dakota.

By Dean W. Loucks
Dean W. Loucks
State Engineer

STATE OF SOUTH DAKOTA)
COUNTY OF HUGHES } SS

I hereby certify that the within and
forgoing 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.

In witness my hand and official seal, done
at my office in Pierre, State of South Dakota
this 28 day of September 1913.

Dean W. Loucks
State Engineer.

STATE OF SOUTHERN DAKOTA)
COUNTY OF BURLINGTON)

NOTARIAL PUBLIC
DEC 22 1950

I, Harvey G. Linton, upon my oath, DEPUTY NOTARIAL PUBLIC
PIERRE, S. DAK. that I was a tenant on, and operated the west half of Section 15 and Northeast quarter of Section 16 and North half of Section 14, Township 2, South of Range 9, East of Black Hills Meridian, known as the Parrish Ranch. I operated this ranch from 1917 to 1932, and that I am well acquainted with that certain water right which has a point of diversion just west of the Northeast corner of the Northwest quarter of the Northwest quarter of Section 8, Township 2, South of Range 9, East of the Black Hills Meridian, which point of diversion was for irrigating Sections 5, 8 and 9, same Township and Range described as Overpeck water right and I have owned my own place a few miles down the creek from 1912 to 1950. I know of my own knowledge that for a period of years described that said water right was not in any way used for irrigating purpose or any other purpose. I also know of my own knowledge that during the above years water passed the point of diversion which could have been diverted and none of it was diverted through said point of diversion.

Further deponent sayeth naught.

Harvey G. Linton

Subscribed and sworn to before me this 19 day of
December 1950.

A. C. Brey

Notary Public

STATE OF SOUTH DAKOTA)
COUNTY OF PIERRE) SS:

AFFIDAVIT

I, William H. Behrens, upon my oath depose and say that I have lived on the Henry Behrens Ranch all my life and have operated it over a period of years. The said Henry Behrens Ranch includes West half of Section 9 and Southwest quarter of Section 10, Township 2, South of Range 9, East of Black Hills Meridian. And that I am well acquainted with that certain water right which has a point of diversion just west of the Northeast corner of the Northwest quarter of the Northwest quarter of Section 8, Township 2, South of Range 9, East of the Black Hills Meridian, which point of diversion was for irrigating Section 5, 8, and 9, Same Township and Range described as Overpeak water right. I also know of my own knowledge that during the years from 1911 to 1950 said water right was not in any way used for irrigating or any other purpose and I also know of my own knowledge that during the above years water passed the point of diversion which could have been diverted and I know that none was diverted through said point of diversion.

Further deponent sayeth naught.

Wm H. Behrens

Subscribed and sworn to before me this 21st day of

December, 1950.

[Signature]

Notary Public

RECEIVED
DEC 22 1950

OFFICE OF STATE ENGINEER
PIERRE, S. DAK.

RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

No 4 7657

PIERRE, August 22, 1980

RECEIVED OF Walter O'Neill, Hermosa, SD 57704

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

Fee for Application for Permit to Appropriate Water No. (examination, processing, recording and filing)		
Fee for Inspecting Construction, and issuing Cert. of Construction No.		
Fee for Inspecting Beneficial Use, and issuing Water License No.		
Fee for issuing Location Certificate-Dry Draw, No.		
Fee for filing transfer of water right no. 56-2	2	50
Fee for certified copy of		
Fee for Print copy of map		
Fee for Certifying		
Fee for		
(any other work as provided by law)		
TOTAL	2	50

WATER RIGHTS COMMISSION

By *John Hatch*
Chief Engineer, Executive Officer
JOHN HATCH *cy*

NOTICE OF TRANSFER OF WATER PERM

Date: August 13, 1980

E $\frac{1}{2}$ NE $\frac{1}{4}$ Section 23, NW $\frac{1}{4}$ and N $\frac{1}{2}$ SW $\frac{1}{4}$ Section 24, T2S, R9E B.H.M.

WNR-820-7/79
Notice of Transfer of Water Permit.

56-2

DENR - Water Rights Program
523 E Capitol
Pierre, SD 57501
Phone: 605 773-3352
Fax: 605 773-4068

State of South Dakota

Fax

To: Marty Rypkema	From: Genny McMath
Fax: 605 341-3156	Date: July 14, 1998
Phone: 605 343-2896	Pages: 2
Re: transfer of Water Right No. 56-2	CC:
☐ Urgent ☐ For Review ☐ Please Comment ☒ Please Reply ☐ Please Recycle	

•Comments:

Marty: The following page is the transfer form I discussed with you. There are two areas which need your attention:

- 1) near the top part of the form it lists your partnership name — please include your mailing address and telephone number
- 2) the form will need to be signed by you (OR another representative of your partnership) in the presence of a notary

Once the form has been completed — you may either mail it or fax it back to me. In your original correspondence, you submitted a filing fee of \$3.00. Filing an ownership change is only a \$2.50 fee — I will return 50 cents to you when I send confirmation of the transfer.

Thanks for your help and I apologize for all the red tape. If you have any questions, please get in touch with me.



Genny

NOTICE OF TRANSFER OF OWNERSHIP

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



No. 56-2

Date: 7-14-98

I/We request that Water Right No. 56-2

formerly owned by: Walter O'Neill, Hermosa, SDbe transferred to: (name & address) M & H Rypkema Family Ranching, LLP, a SD limited liability partnership1120 E. Omaha Rapid City, SD, 57701 Telephone No. 605-343-2896

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

E 1/2 NE 1/4 Section 23, NW 1/4 and N 1/2 SW 1/4 Section 24, T2S, R9E

I/We understand that the validity of Water Right No. 56-2 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 Pennington)

I/We Marty Rypkema 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.

Marty Rypkema
(Signed)

Subscribed and sworn to before me this 14 day of July, 19 98.

[Signature]
(Notary Public) 2-28-02

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
Pierre, _____

M2 415822

July 16, 19 98

RECEIVED OF M & H Rypkema Family Ranching, LLP, 1120 E. Omaha, Rapid City, SD 57701
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. 56-2

Fee for Filing Extension Request _____

Fee for _____

Total

2 50

(Any Other Work Provided by Law)

By _____
Chief Engineer

John Hatcher



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 16, 1998

56-2

Marty Rypkema
M & H Rypkema Family Ranching, LLP
1120 E Omaha
Rapid City, SD 57701

Dear Mr. Rypkema:

Thank you for submitting the "Notice of Transfer of Ownership" form for Water Right No. 56-2. The water right is now listed under M & H Rypkema Family Ranching, LLP, a SD limited liability partnership. Enclosed is your receipt in the amount of \$2.50 which you paid for filing the ownership change. The extra 50 cents you sent in is included in the envelope with this letter.

Please keep in mind that water must be placed to beneficial use at least once every three years in order to maintain your water right. This three year period may be waived if legal excuse exists for not irrigating. Legal excuse as defined in Water Management Board Rules includes, but is not limited to, the following: 1) unavailability of water to satisfy a permit or right; 2) legal proceedings which prevent the use of water; or 3) water use under existing climatic conditions would result in a waste of water.

Thank you again for filing the ownership change. If you have any questions concerning the water right, please contact us.

Sincerely,

A handwritten signature in cursive script that reads "Genny McMath".

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

encl