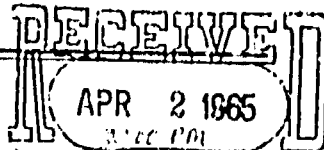


864-2

1. Considered 5-12, 1965
2. Name of Applicant Neil Clarke
3. Post Office Address St. Pierre
4. Amount of water claimed 2.9
5. Source of water supply Missouri River
6. Water to be used for irrigation
- Acres to be irrigated 203.1
7. Water to be diverted and used in Stanley County about
22E 8S miles _____ of St. Pierre
8. Proof of Publication Received Yes
- Not Received _____
9. Application Approved _____
- Subject to _____
- Not Approved _____
- Action deferred _____

10. Remarks:

may have been
sold to the government

No. B64-2Water Division No. 2 WHITE RIVER District

(Blank to be filled by the Engineer for the W. R. C.)

STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

(NOTE—Draw a line through items not applicable.)

1. Name of applicant Nail Clarke
 Postoffice address Fort Pierre, County Stanley, State So. Dak.

- I. If a corporation _____
- (a) Name of name _____
- (b) Date and place of incorporation _____
- (c) Amount of capital stock _____
- (d) Amount paid in _____
- (e) Names and addresses of directors _____

(NOTE—A certified copy of articles of incorporation must accompany the application.)

II. Method of accomplishing the work and financial resources of the applicant:

- (a) Method of accomplishing work (Whether by contract, employment of others, or by direct labor)

Direct Labor

- (b) Cash on hand, \$ Sufficient (c) Treasury stock, \$ _____
- (d) Bonds to be issued, \$ _____ (e) Other resources, \$ _____

2. Name of diversion work Clarke No 3
3. Amount of water claimed 2.9 cubic feet per second
4. Source of water supply Missouri River
5. Location of point of diversion 2720' N and 280' E of SW cor. of section 11, T109 N, R74 W. on right bank Stanley County.
6. Annual period or periods during which water is to be used April through October
7. To be used for:

- I. Irrigation or domestic use: Gravity, overhead sprinkling or combination system?
- Gravity

- (a) Number of acres to be irrigated 203.1 acres.
- (b) Legal subdivisions to be irrigated See BACK OF APPLICATION ATTACHED MAP

(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.) _____

II. Stockwatering, mining, milling, power, fish culture, fire protection and public recreation:

- (a) Nature of use _____
 (Name any of the above uses claimed)
- (b) Amount of power to be generated _____ horse power.
 Amount claimed for engine cooling _____
- (c) Location of plant _____
- (d) Method of developing power _____
- (e) Point where water will be returned to stream _____

MAP NO 638-2

8. Estimated cost of work:

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

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

(c) Flaming, \$.....

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

Rock, \$.....

(e) Other structures \$.....

Total, \$.....

9. Description of diversion works:

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

Two pumps, pipelines and ditches

II. Dimensions of works.

(a) Dam: Height.....feet; length at bottom.....feet; length at top.....feet; thickness at bottom.....feet; thickness at top.....feet; slope at front water face.....; slope at back face.....
material used in construction.....

(b) Reservoir: Capacity when filled.....acre feet. Surface area at highwater mark.....acres.

DEPTH AT OUTLET-Feet	SURFACE AREA AT EACH DEPTH AT OUTLET--ACRES	FEET	ACRE-Feet CAPACITY

(c)* Head gate: Width.....feet; height.....feet;

Material

(d) Canal: Total length.....miles.

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER-LINE	GRADE PER FEE
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet

(Give dimensions where reductions in size are made.)

10. Time required for completion of work 2 years.

11. Time required for complete application of water to the proposed beneficial use 2 years.

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

Fort Pierre Times

STATE OF SOUTH DAKOTA

County of } ss.

I,, 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, 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

Subscribed and sworn to before me this day of 19 15

Notary Public (or other qualified officer.)

*Each diversion must have a headgate or measuring device.

STATE OF SOUTH DAKOTA
County of HUGHES } sp.

Pierre, South Dakota, MAY 25, 1965

This is to certify that the foregoing application was received by the Commission at 2:00 o'clock
P.m. upon the 2ND day of APRIL, 1965

State Water Resources Commission

By: Dustin Jones

for Chief Engineer, Executive Officer

Number of permit B64-2

Date of first receipt of application APRIL 2, 1965

Date of return to applicant for correction, amendments or changes required as follows: _____, 19____

Date of receipt of corrected application _____, 19____

Date from which applicant may claim right APRIL 2, 1965

Approved MAY 12, 1965, Recorded in Book 9 Page 10

This is to certify that we have examined the foregoing application for a permit to appropriate water of the State of South Dakota, and we 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 12, 1966

2nd. The whole of said work is to be completed on or before MAY 12, 1967

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

MAY 12, 1969

4th. The water appropriated shall be used for the purpose of IRRIGATION

5th. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation

6th. The amount of the appropriation herein granted shall not exceed 29 cubic feet per second; neither shall it exceed the capacity of the above described system of diversion works, nor the least amount of water that experience may hereafter indicate as necessary for the production of crops in the exercise of the best husbandry; and further, said appropriation must be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually

and beneficially applied for irrigation on or before MAY 12, 1969; said water to be used during the following described annual period:

APRIL THRU OCTOBER

Witness my hand this 25TH day of MAY, 1965

State Water Resources Commission

By: George B. Miller

Chief Engineer, Executive Officer

Certificate of Construction Issued OCTOBER 3, 1966

Water License Issued OCTOBER 3, 1966

Remarks by the Applicant:

This proposes expansion of the system authorized under permit No 799-2

LANDS TO BE IRRIGATED:

ALL IN T109N, R76W.

SECTION 10	SE ⁴ SE ⁴	40.0	ACRES
SECTION 14	NE ⁴ SW ⁴	8.1	"
	NW ⁴ SE ⁴	37.8	"
	NE ⁴ SE ⁴	36.6	"
	SW ⁴ NW ⁴	11.2	"
	NW ⁴ NW ⁴	6.8	"
	NE ⁴ NW ⁴	0.5	"
	SE ⁴ NW ⁴	25.5	"
	SW ⁴ NE ⁴	2.6	"
SECTION 15	NE ⁴ NE ⁴	34.0	"
TOTALS		203.1	ACRES

STATE OF SOUTH DAKOTA

WATER LICENSE No. 864-2

WHEREAS, On the 2nd day of April A. D. 1965

Neil Clarke

of Ft. Pierre County of Stanley and State of South Dakota duly made application (No. 864-2) to us for a permit to use 2.9 cubic feet per second of the waters of the Missouri River County of Stanley, State of South Dakota, for irrigation purposes; and

WHEREAS, On the 25th day of May A. D. 1965 Permit No. 864-2 was issued to said applicant for the diversion of said water, and providing for the completion of the works of diversion therein described on or before the 12th day of May A. D. 1967 and for the application to beneficial use of said water on or before the 12th day of May A. D. 1969 and,

WHEREAS, On the 30th day of August A. D. 1966 the holder of said permit duly made proof of the completion of adequate works for the diversion of 2.9 cubic feet per second of said waters, as evidenced by our Certificate No. 864-2 dated October 3, 1966 confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use 2.9 cubic feet per second of water, with date of priority of April 2, 1965 and,

WHEREAS, On the 30th day of August A. D. 1966 proof was duly made of the application to beneficial use of 2.9 cubic feet per second of said water; for irrigating 203.1 acres in portions of Sections 10, 14, and 15,
T109N, R76W

NOW, THEREFORE, By the virtue of the authority vested in us by the laws of the State of South Dakota,
 We hereby grant and covenant to Neil Clarke
 of Ft. Pierre the holder and owner of said permit No. 864-2
 a water right, dating from April 2, 1965 to the use of 2.9
 cubic feet per second of the waters of the Missouri River
 in the County of Stanley and State of South Dakota, or so much thereof as may be
 necessary for the purposes hereinbelow mentioned, to be diverted at a point 2720'N and 280'E of
the SW corner, Section 11, T109N, R78W
 and conducted to and upon portions of Sections 10, 14, and 15, T109N, R78W,
more specifically described in the Certificate of Completion of Works
 for the purpose of irrigation

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 seal of our office at Pierre, South Dakota,
 this 3rd day of October A. D. Nineteen
 Hundred and Sixty-Six

State Water Resources Commission

By:

J. W. GRIMES

Chief Engineer, Executive Officer

STATE OF SOUTH DAKOTA

Water License No. _____

To _____

Source of Supply _____

County _____

Am't _____

Point of Diversion _____

Place of Use _____

Purpose _____

Date of Priority _____

Recorded _____

In Book _____ of _____ Page _____

Permit No. 864-2.

Water Division No. 2 White River Water District

Certificate of Completion of Works

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That Neil Clarke

of Ft. Pierre, County of Stanley, and State of South Dakota, the holder of Permit No. 864-2, issued upon Application No. 864-2, bearing date of priority of April 2, 1965, authorizing the diversion of 2.9 cu. ft. per second of the waters of the Missouri River County of Stanley, State of South Dakota, at a point 2720'N and 280'E of the SW corner, Section 11, T109N, R76W for irrigation

purposes, has fully complied with the provisions of the laws of the State of South Dakota relating to proof of completion of the works of diversion set out and described in said Permit; that said works are found in satisfactory condition for diverting and conveying to the place of intended use 2.9 cu. ft. per second of water; and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit: All in T109N, R76W

<u>Section 10</u>	<u>SE$\frac{1}{4}$ SE$\frac{1}{4}$</u>	<u>40.0 acres</u>	
<u>Section 14</u>	<u>NE$\frac{1}{4}$ SW$\frac{1}{4}$</u>	<u>8.1</u>	<u>"</u>
	<u>NW$\frac{1}{4}$ SE$\frac{1}{4}$</u>	<u>37.8</u>	<u>"</u>
	<u>NE$\frac{1}{4}$ SE$\frac{1}{4}$</u>	<u>36.6</u>	<u>"</u>
	<u>SW$\frac{1}{4}$ NW$\frac{1}{4}$</u>	<u>11.2</u>	<u>"</u>
	<u>NW$\frac{1}{4}$ NW$\frac{1}{4}$</u>	<u>6.3</u>	<u>"</u>
	<u>NE$\frac{1}{4}$ NW$\frac{1}{4}$</u>	<u>0.3</u>	<u>"</u>
	<u>SE$\frac{1}{4}$ NW$\frac{1}{4}$</u>	<u>25.5</u>	<u>"</u>
	<u>SW$\frac{1}{4}$ NE$\frac{1}{4}$</u>	<u>2.6</u>	<u>"</u>
<u>Section 15</u>	<u>NE$\frac{1}{4}$ NE$\frac{1}{4}$</u>	<u>34.0</u>	<u>"</u>
	<u>Total</u>	<u>203.1</u>	<u>"</u>

Witness my hand this 3rd day of October A. D. 1966

State Water Resources Commission

By:

J. W. GRIMES
Chief Engineer, Executive Officer

on or before
(First Publication April 15, 1965)

APPROPRIATION OF WATER

Office of State Water Resources Commission,

Pierre, S. Dak., April 8, 1965

Notice is hereby given that Neil Clarke whose postoffice address is Pt. Pierre S. Dak., has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 2.9 cubic feet of water per second of time from the Missouri River through the Clarke #3, the point of diversion of which is to be located on the right bank of said stream in the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 11 portions of Twp. 109N Range 76W. Said water to be used for the purpose of providing irrigation on the following described land: SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 10; NE $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 14; NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 15, all in T109N, R76W

~~and for~~

~~purposes~~

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 12th day of May, 1965, at 2 P. M. All interested persons may appear and be heard.

Appropriate action will be taken by the Water Resources Commission after suitable time has elapsed for the consideration of any or all information presented.

State Water Resources Commission

By:
BURTON F. JONES
Water Right Specialist

CC: Mr. H. R. Halleck, Publisher
Fort Pierre Times
Ft. Pierre, S. Dak.

Affidavit of Publication

STATE OF SOUTH DAKOTA, County of Stanley

M. R. Hallock of said county being first duly sworn, on oath says that he is the publisher of the FORT PIERRE TIMES, a weekly newspaper printed in Fort Pierre, said County of Stanley, 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 at an office maintained at said place of publication; that the Notice of Intention To appropriate water 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 in each week for four successive weeks, on the day of each week on which said newspaper was regularly published, to-wit:

April 15, 1965; _____, 19____;
April 22, 1965; _____, 19____;
April 29, 1965; _____, 19____;
May 6, 1965; _____, 19____;
_____, 19____; _____, 19____;

that the full amount of the fees for the publication of the annexed notice is

17.90

Subscribed and sworn to before me this 6th day of May

1965

M. Verne Sumner
Notary Public

County of Stanley, South Dakota

M. Verne Sumner, Notary Public
My Commission Expires June 1st, 1967

RECEIVED
MAY 25 1965

STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

NOTICE OF INTENTION
TO APPROPRIATE WATER
No. 8642
APPROPRIATION OF WATER
Office of State Water Resources
Commission
Pierre, S. Dak., April 8, 1965
NOTICE IS HEREBY GIVEN
THAT Neil Clarke, whose post-
office address is Fort Pierre, South
Dakota, has made an application
in accordance with the provisions
of the water laws of South Dakota
for a permit to appropriate for
beneficial use 2.9 cubic feet of
water per second of time from the
Missouri River through the Clark
No. 3, the point of diversion of
which is to be located on the right
bank of said stream in the SW 1/4
of the NW 1/4 of Section 11, Town-
ship 100N, Range 76W. Said water
is to be used for the purpose of pro-
viding irrigation on portions of
the following described land:
SE 1/4 SW 1/4, Section 10, T108N, R76W;
NW 1/4, NE 1/4 SW 1/4, Section 11,
T108N, R76W, all in
Township 100N, Range 76W.
This application will be taken
up by the State Water Resources
Commission at their office at
Pierre for consideration upon the
12th day of May, 1965, at 2 P.M.
CST. All interested persons may
appear and be heard.
Appropriate action will be taken
by the Water Resources Commis-
sion after suitable time has elap-
sed for the consideration of any
or all information presented.
State Water Resources Commission
By: BURTON F. JONES
Water Right Specialist
Filed April 15, 22, 29; May 6, 1965

Permit No. 864-2Water Division No. 2 White River Water District

Certificate of Examination of Works

Report of Examining Engineer

To the State Water Resources Commission, Pierre, South Dakota:

Dear Sirs: I hereby certify that in accordance with your letter of authorization dated
 10....., I have this day made a thorough examination of the diversion works constructed by

..... Neil Clark, of

..... Stanley, County, South Dakota, holder.. of Permit No. 864-2, issued
 upon Application No. 864-2, bearing date of priority of April 2, 1965, authorizing the
 diversion of 2.7 cu. ft. per second of the waters of Missouri River for irrigation
 purposes. I have to report on the condition of the same as follows:

The diversion works comprise: Two Stryker 413 C.T. w/o 8" Cornell
pump, mod. #6 NWB 3000' of 10" mainline pipe *
approx. 2 miles of main ditch

* Both pumps & motors & pipe are used on both apps. 798-2
and the system is in the following condition: Good

The point of diversion is located 2720' N & 280' E. of SW 1/4 Sec. 11 T109N R76W

The works are capable of diverting and conveying to the place of use 2.7 cu. ft. per second of water,
 which is to be used for Irrigation

The legal sub-divisions to be irrigated are: SE 1/4 SE 1/4 Sec. 10 - 40.0 acres, All in T109N R76W
NE 1/4 NE 1/4 Sec. 15 - 34.0 "
NE 1/4 SW 1/4 Sec. 14 - 1.1 "
NW 1/4 SE 1/4 " " - 37.8 "
NE 1/4 SE 1/4 " " - 36.6 "
SW 1/4 NW 1/4 " " - 11.2 "

..... comprising a total of 203.1 acres of land.

The domestic use intended comprises

The utilization for power, mining, or other beneficial uses comprises:

Witness my hand, this 30 day of Sept August, A. D. 1966.

—SEAL—

William H. Miller
 Examining Engineer.

Water Rights Division
605 773-3352

December 30, 1983

458-2
759-2
(864-2)

Nell Clarke
Ft. Pierre,
South Dakota 57532

Dear Mr. Clarke:

Please find enclosed copies of Notice of Transfer of Water Permit forms. These forms must be signed by the owner before a notary and returned to this office with a filing fee of \$2.50 each (\$7.50 for the three).

Upon receipt of the enclosed forms and the \$7.50 filing fee the permits will be transferred to the proper name. South Dakota Water Law 46-5-30.3 requires Notice of sale, grant, lease, conveyance or other transfer of Water Permit or Water Right to appropriate water to be filed with this office within ninety days.

Please advise if you have any questions.

Sincerely,

KAREN SCHLAACK
Administrative Aide

enclosures



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

Water Rights Division
605 773-3352

October 23, 1985

458-2

799-2

864-2

Lower Brule Sioux Tribe
Box 187
Lower Brule SD 57548

ATTN: Lisa Estes

Dear Ms. Estes:

Regarding our telephone conversation of October 23, 1985, enclosed are partially completed transfer forms for transferring Water Rights formerly owned by Neil Clarke to the Lower Brule Sioux Tribe. Please check over, date, sign and have them notarized. Upon completion of the forms, return them to our office in the enclosed postage paid envelope.

Upon receipt of the completed forms in our office, all records pertaining to Water Right Nos. 458-2, 799-2 and 864-2 will be transferred to the Tribe.

If you have any questions, please contact our office. I have enclosed a copy of the water rights for your information.

Sincerely,

Genny McMath

GENNY MCMATH
Natural Resources Analyst

GM:ks

enclosures

Equal Opportunity Employer

NO. 864-2

NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Rights
Foss Building
Pierre, SD 57501

Date: October 24, 1985

This is to notify you that the title to the lands described as follows:

203.1 acres: SE 1/4 SE 1/4 Section 10; NE 1/4 SW 1/4, N 1/2 SE 1/4,

NW 1/4, SE 1/4 NE 1/4 Section 14; NW 1/4 NW 1/4 Section 15, T109N, R76W

formerly owned by Neil Clarke

has been transferred to Lower Brule Sioux Tribe, Box 187, Lower Brule SD

(please include complete mailing address)

together with any rights to the beneficial use of water thereon as evidenced by

Water Right Permit No. 864-2 as provided for in SDCL 46-5-32 and 46-5-33.

You are therefore hereby requested to file this "Notice of Transfer of Water Permit" in its appropriate file at the Div. of Water Rights, Water Management Board as evidence of the change of ownership.

~~A fee of Two Dollars and Fifty cents (\$2.50) is hereto attached to cover filing fees as required under SDCL 46-5-15.~~

STATE OF SOUTH DAKOTA)

County of Yankton) ss.

I, Lower Brule Sioux Tribe 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 I know of my own personal knowledge that the information herein stated is true.

Michael B. Jandreau
(Signed)

MICHAEL B. JANDREAU, CHAIRMAN
LOWER BRULE SIOUX TRIBE

Subscribed and sworn to before me this 24 Day of October, 1985.

William Mendenhall
(Notary Public)

