

WATER PERMIT NO. 7250-3

Name of Applicant: Larry Tyler

Address: 44224 107th St, Veblen SD 57270-5405

Phone: 605 738-5405

Amount of Water Claimed: 60

Total Acres: NA

Source of Water Supply: runoff

Water to be used for: livestock water

County: Marshall

Type of Waste Disposal System:

Location: 5 miles southwest of Veblen

PRIORITY Date Received: 8-26-10

Application/License Fee: \$700

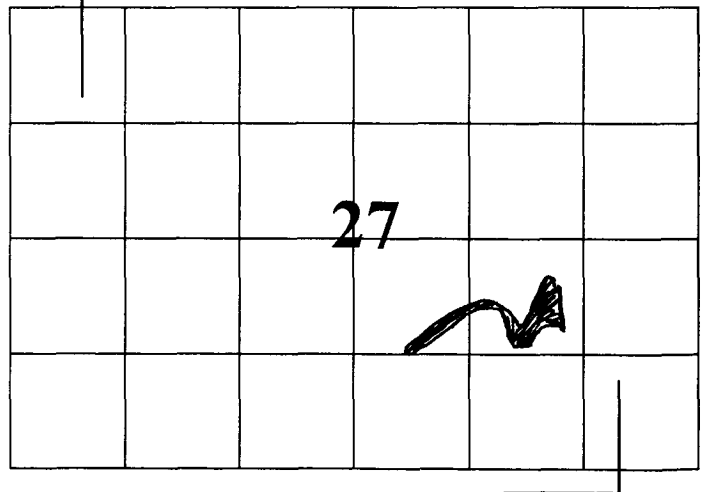
Corrected Application Received: 4-28-11

Period of Annual Use: Jan 1 – Dec 31

Remarks: existing dam

Diversion Point: NE ¼ SE 1/4Sec 27-T128N-R54W

Water Impounded: N ½ SE ¼ Sec 27-T128N-R54W



Depth of Well: NA

Well Driller:

Remarks:

Type of Map: aerial

Prepared by: Roger Gresh, NRCS

Reviewed and the Number Assigned on: 5-5-11

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

FORM 2: Application for uses other than irrigation
(type or print)

Mail to: PMB 2020 DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	(office use only)	
	No. <u>7250-3</u>	Hydrologic Unit <u>09020105</u>
	Basin <u>Red River</u>	
	Newspaper <u>Butter Journal</u> <u>PO Box 69 57430</u> <u>605-448-2281</u>	

RECEIVED

AUG 26 2010

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>Livestock Water</u>	

Type of Application:
(check one)

☒ New ☐ Vested Right (Use predates Mar 2, 1955) ☐ Future Use Reservation
☐ 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.)

- Name of Applicant Larry Tyler Phone 605-738-2552
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 44224 107th ST. Veblen SD 57270-5405
(Address) (City) (State) (Zip Code)
- Amount of water claimed _____ *CFS or _____ **GPM _____ 60 ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply Runoff
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Marshall
Dam is located in the NE1/4 SE1/4 Sec 27-T128N-R54W. Water impounded: N 1/2 SE 1/4
Sec 27 T128N R54W
- County or counties where water will be used Marshall
- Annual period during which water is to be used Grazing Season Jun 1 - Dec 31
- 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)
An abandoned railroad grade has been modified by plugging a culvert in to create a dam for livestock water. This modification took place in the late 1960's or early 1970's and it is unknown as to what material was used or how the culvert was plugged.

STATE OF SOUTH DAKOTA)
County of Marshall) SS

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

I, Larry Tyler, 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

Larry TylerSubscribed and sworn to before me this 25th day of August 20 10Jair A. Vukobratovic
Notary Public signature

**SOUTH DAKOTA
WATER PERMIT NO. 7250-3**

Date of first receipt of application August 26, 2010.

Date of return to applicant for corrections, amendments or changes August 26, 2010.

Date of receipt of corrected application April 28, 2011.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 7250-3 to Larry Tyler, 44224 107th St, Veblen SD 57270-5405 authorizing the construction of the dam and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 7250-3 authorizes impoundment of 60 acre-feet of water from runoff in an existing dam located in the NE 1/4 SE 1/4 Section 27 with water impounded in the N 1/2 SE 1/4 Section 27; all in T128N-R54W.
2. The water appropriated shall be used for the purpose of livestock watering 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. 7250-3 is July 11, 2011.
5. The date from which applicant may claim right is April 28, 2011.
6. One-fifth of the construction is to be completed on or before January 11, 2014.
7. All construction is to be completed on or before July 11, 2016.
8. Water is to be put to beneficial use on or before July 11, 2020.
9. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Water Permit No. 7250-3 authorizes a dam with a storage capacity of 60 acre feet of water and sufficient water annually to maintain the water level to the outlet elevation.
2. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.

WATER MANAGEMENT BOARD

By: Garland Erbele

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

AUG 30 2011

date



Supplemental Information

(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter _____ Depth _____
- b) Casing Type _____ Diameter _____ Thickness _____
- c) Screen Type _____ Diameter _____ Thickness _____
- d) Gravel Pack _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth to Water (ground surface to water level) _____
- g) Distance to nearest existing domestic well:
- On applicant's property _____ On property owned by others _____

2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field)
- b) System Capacity (gallons) _____ Year Constructed _____
- c) Connected to the City of _____ Sanitary System

3. Dugout Information

- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

4. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to be shown on the map submitted with the application.

- a) If a private engineering firm or government agency was involved in the design of this dam, please give their name and address:

NA

b) Freeboard 5.5'

c) Crest Width 12'

Crest Length 230'

d) Height 34'

e) Primary Outlet Capacity 52.7 cfs

If pipe, diameter 36"

f) Secondary Spillway Capacity 371 cfs

Spillway Width 60'

g) X & Y Slope (e.g. 3 to 1 is a typical slope)

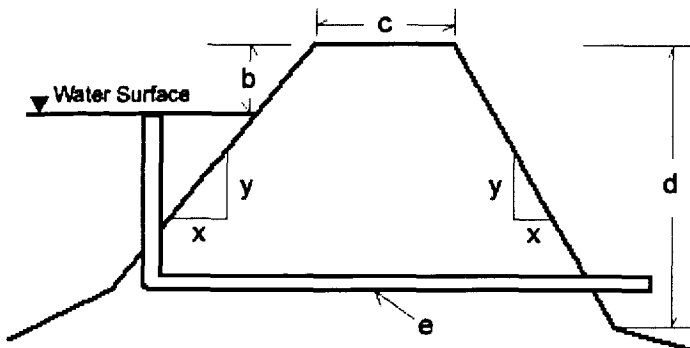
Upstream 3:1

Downstream 2:1

h) Surface Area of Impoundment 10.0 ac

i) Storage 60.0 Acre Feet

j) Drainage Area Above Dam 1,500.0 Acres



Larry Tyler Dam

AUG 26 2010

WATER RIGHTS
PROGRAM

Owner(s): Larry Tyler

District: MARSHALL COUNTY CONSERVATION DISTRICT

Legal Description: NE1/4 SE1/4 Sec 27-T128N-R54W

Agency: USDA/NRCS

Assisted By: ROGER GRESH

State and County: SD, MARSHALL

Roger Gresh SCT

Legend



Section

460 0 460 920 1,380 1,840 Feet





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

September 30, 2010

Natural Resources Conservation Service
Roger Gresh
PO Box 8
Britton SD 57430

Dear Mr. Gresh:

On August 26, 2010 we received an *Application for a Permit to Appropriate Water* from Larry Tyler for a 60 acre-feet storage dam located in Marshall County.

Tim Schaal with our office indicated he has talked with you regarding the need for whatever plans and specifications are available for this dam. We understand there is limited information.

Upon receipt of the above, we will continue processing the application. If you have any questions, please contact Tim Schaal or me.

Sincerely,

Karen Schlaak
Water Rights Program
605 773-3352
karen.schlaak@state.sd.us

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 8/26, 20 10

RECEIVED OF Larry Tyler 4424 107th St Veblen SD 57270

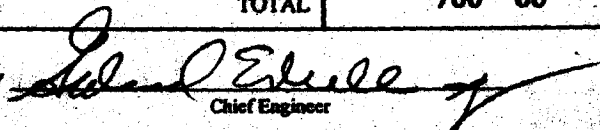
The following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. <u>7250-3</u> to Appropriate Water, to construct and to put water to beneficial use	500	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. <u>7250-3</u>	200	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	700 00

No.

04606

By


Chief Engineer

STRUCTURE DATA

DRAINAGE AREA	ANNUAL YIELD	PEAK RUNOFF	EMERG. SPWY. CAPACITY	WATER DEPTH	SURFACE AREA	SEDIMENT STORAGE	TOTAL STORAGE
ACRES	AC. FT.	25-YR.	C.F.S.	FEET	ACRES	AC. FT.	AC. FT.
1500	171.5	309	371	20	10	54	60



sec 27 T. 128 R. 54
Mitchell County

LOCATION

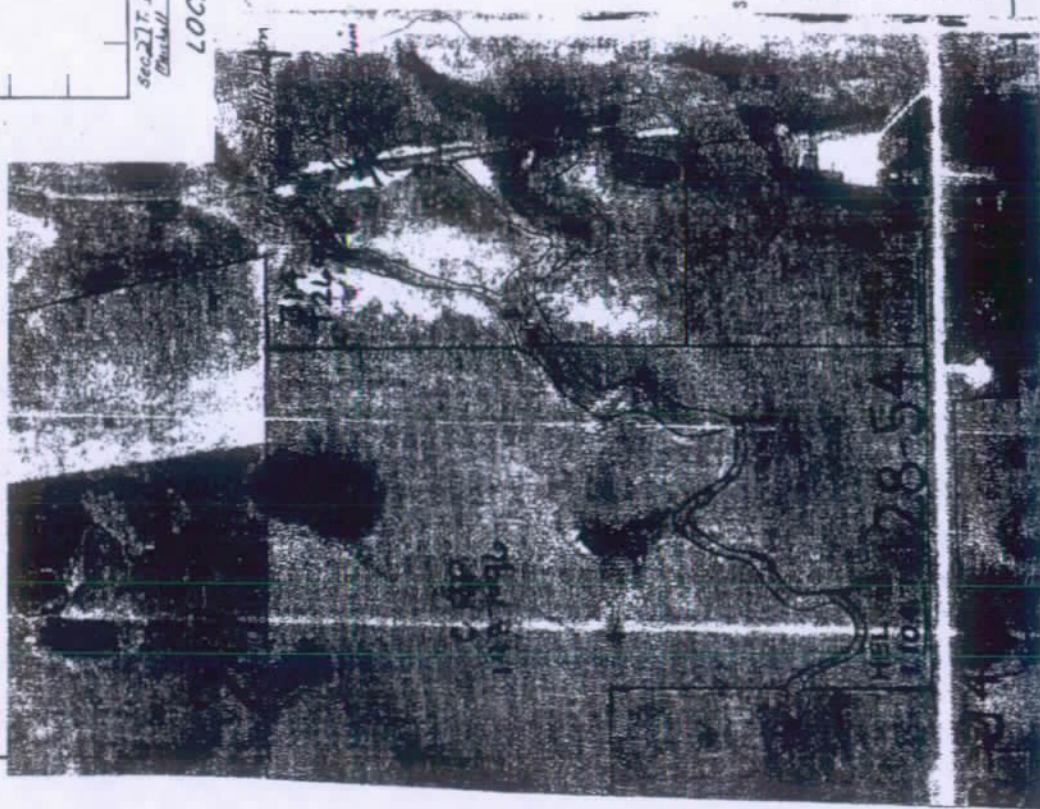
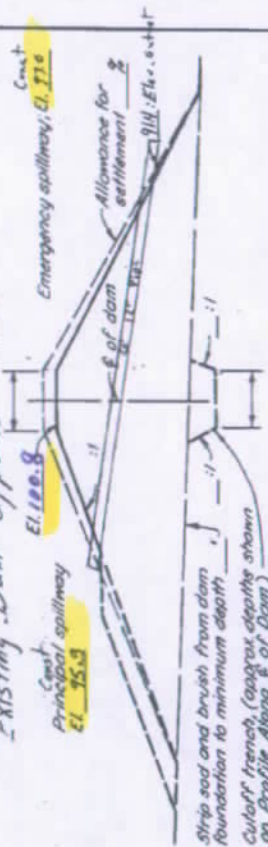


TABLE OF QUANTITIES

ITEM	UNIT	QUANTITY
Excavation for spillway	cuyds	668'
Total	cuyds	668'
12" PE Corrugated Plastic Pipe	lin.ft.	60'

Existing Dam appears solid.



TYPICAL CROSS SECTION OF DAM

CATIONS:

Design #1
This is plan #1
Larry Mettler designed
the principal & emergency
spillage way in August of
1996

The emergency spillway
originally W. along the
Railroad grade

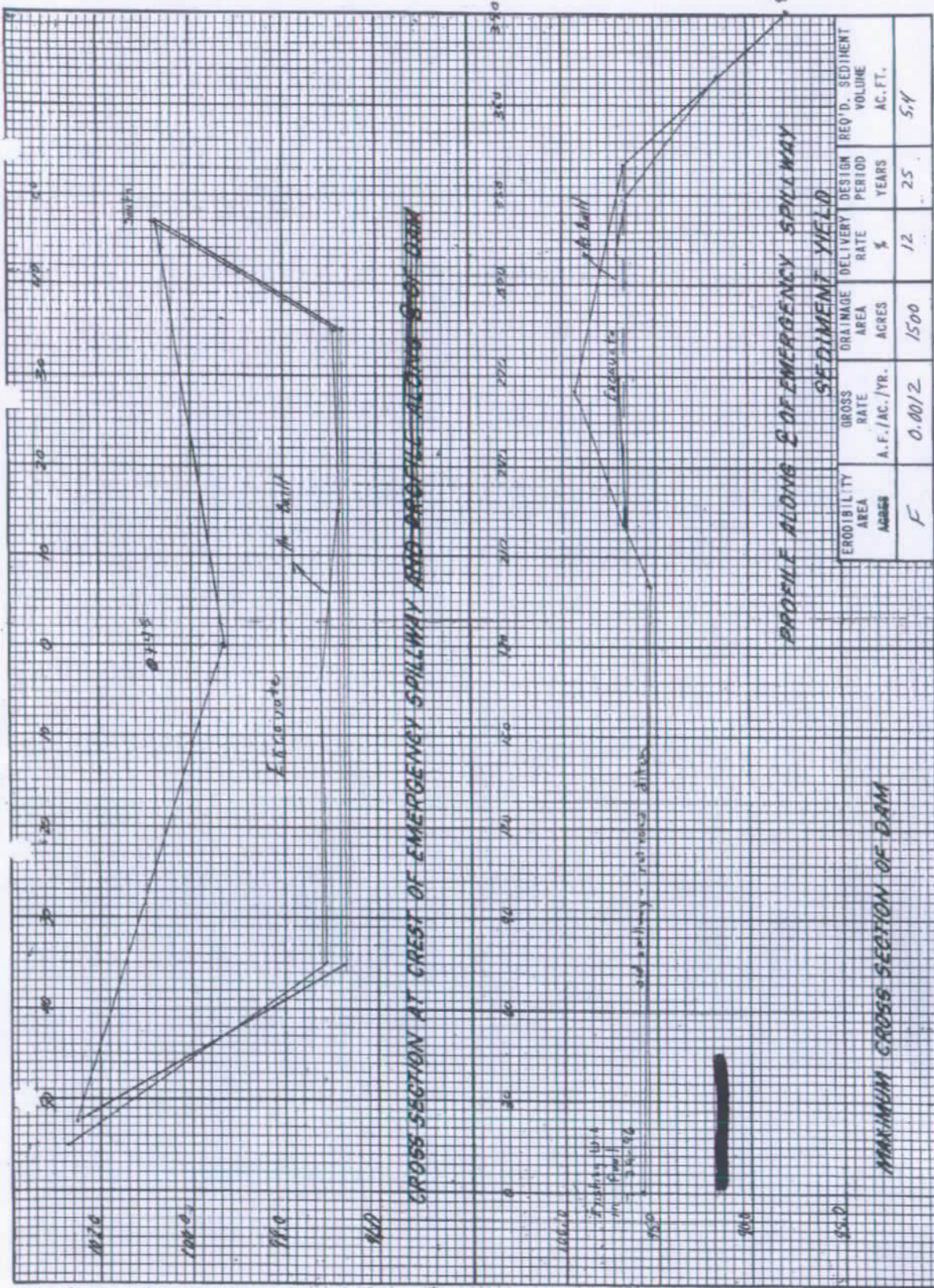
There are 2 pages

OPERATOR: Larry Tyler
 CONSERVATION DISTRICT: Marshall
 U. S. DEPARTMENT OF AGRICULTURE
 SOIL CONSERVATION SERVICE

RECEIVED
 August 1, 1961 6-1-61
 Approved by: G. O. Meeks
 Date: 6-1-61

FIELD NO. 1023 PLANTING NO. 1023
 DATE 6-1-61

(Rev 4-73) 5, N-29, 073-10(1)





Worksheet 2: Time of concentration and peak discharge

Client Larry Tyler By L.D. Mett Date 8-7-96
 County Marshall State S.D. Checked _____ Date _____
 Practice Spillway Restoration

Estimating time of concentration

1. Data:

Rainfall distribution type = 11 (I, IA, II, III)
 Drainage area A = 1500 ac
 Runoff curve number CN = 63 (Worksheet 1)
 Watershed slope Y = 4 % many sloughs + low areas in drainage
 Flow length L = 14000 ft
 2. T_c using L, Y, CN and figure 2-27 = 3.6 hrs
 or using equation 2-5

$$T_c = \frac{L^{0.8} \left[\frac{1000}{CN} - 9 \right]^{0.7}}{1140 Y^{0.5}} = \frac{(14000)^{0.8} \left[\frac{1000}{63} - 9 \right]^{0.7}}{1140 (4)^{0.5}} = \underline{\hspace{2cm}} \text{ hrs}$$

Estimating peak discharge

- Frequency yr
- Rainfall, P (24-hour) in
- Initial abstraction, I_a in
(Use CN with table 2-4)
- Compute I_a/P ratios $\frac{1.175}{4.2} = \frac{1.175}{2.3}$
- Unit peak discharge q_u cfs/ac/in
(Use T_c and I_a/P with exhibit 2-11)
- Runoff, Q in
(Use P and CN with figure 2-26 or table 2-2)
- Peak discharge, q_p cfs
(Where $q_p = q_u AQ$)

Storm #1	Storm #2	Storm #3
25	2	5
4.2	2.3	3.1

1.175	1.175	1.175
-------	-------	-------

0.28	0.51	0.38
------	------	------

$$\frac{1.175}{3.1}$$

0.20	0.13	0.165
------	------	-------

1.03	0.18	0.47
------	------	------

309	35.1	116
-----	------	-----

$$0.13 \times 1500 \times 1.8 = 35.1$$

$$0.165 \times 1500 \times 0.47 = 116$$

CN (weighted) =

Use CN = 63

Erodibility Area	Gross Rate (Ac.Ft./Ac./Yr.)	Drainage Area Acres	Delivery Rate (X)	Design Period Years	Req'd. Sediment Volume (Ac.Ft.)
F	0.0012	1500	12	25	5.4

SPILLWAYS - EARTH OR VEGETATED

Crest Elev.	Crest Length	Permissible Velocity	H _p (ft)	q _x (ft ³ /s/ft)	Width (ft)	Velocity at Control Section	Q (ft ³ /s)
96.7	120	6.0	2.0	5.3	70	5.5	371

Z Chance	Freq.	Isogram No.	Area Acres	Inches	Ac.-In.	Ac.-Ft.

WATERWAYS-DIVERSIONS (FROM TABLES)

[illegible]

8-6-96

Shortfoot Creek Pipe Design

Larry Tyler

NE- SE- 27- 128- 54

$$VT = 60 \text{ Ac Ft} - 5.4 \text{ sediment} = 55.6 \text{ Ac Ft.}$$

$$Vr = 58.8 \text{ Ac Ft.}$$

$$Q_1 = 116 \text{ cfs} \quad \text{5yr design storm.}$$

$$Q_0 = 116 \text{ cfs}$$

Q_{ps} = principle spillway design

AF = Emergency Spillway adjustment factor = 0.35

$$\frac{VT}{Vr} = \frac{55.6}{58.8} = 0.95$$

$$\text{Chart on 378-A-8 } 0.95 = .18$$

$$.18 \times 116 \text{ cfs} = 21 \text{ cfs for pipe}$$

$$AF = 0.35 \times 21 \text{ cfs} = 7.35 \text{ cfs for pipe}$$

Given 60' 12" plastic pipe with 6.6' head = 90 cfs

From 210-V-EFM ^{Amend} SD 14 Apr 1982



PROJECT

Larry Tyler Bonham Voat

DATE 11-12-58

A blank sheet of graph paper with a grid pattern. The grid consists of small squares formed by horizontal and vertical lines. There are no markings or text on the page.

BM 9.0 Larry Tyler 8-5-96
109.0

Inlet to pipe $\frac{109.0}{95.2}$ 96.7 spray
13.8

Over Inlet of pipe $\frac{11.8}{C.-2.0}$ 13.8

0+30 $\frac{10.1}{5.2}$ 10.3

0+60 Out of pipe 18.8 18.8 --

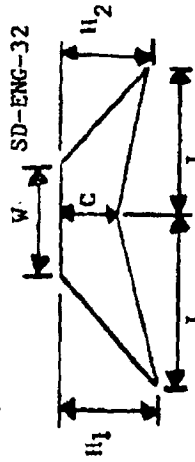
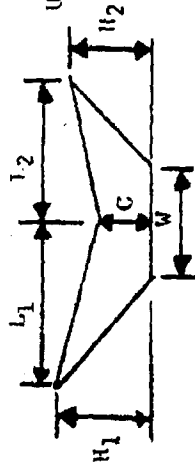
5
13.8
18.8
6

SD-ENG-32 9/81

UNITED STATES DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

2

EARTHWORK COMPUTATION SHEET
for Three Level Section



Owner or Operator Larry Tyler

Plan or Job No. Spillway Repair

Date 8-7-86

Calculations by L. D. Matthe

Checked by LDM + WMD

[illegible]

Schaal, Tim

From: Schaal, Tim
Sent: Friday, April 29, 2011 1:35 PM
To: 'Burke, Michelle - Brookings, SD'
Subject: RE: Larry Tyler info.

OK thanks Michelle--I think we can go with this.

Tim

-----Original Message-----

From: Burke, Michelle - Brookings, SD [mailto:michelle.burke@sd.usda.gov]
Sent: Thursday, April 28, 2011 1:36 PM
To: Schaal, Tim
Subject: Larry Tyler info.

Tim,

Hope you were able to enjoy the nice weather today.

Attached is the information we have on the Tyler RR grade. There was no survey of the pool area. I would expect that the technician used the quad sheet to approximate the storage.

The routings were done with longhand methods and charts from our Engineering Field Manual.

Not sure if this will be of much help.

Michelle M. Burke, P.E.
Area Engineer
USDA NRCS
520 3rd. Ave.
Brookings, SD 57006
Phone: 605.692.2344, ext.106
Fax: 605.697.5374
michelle.burke@sd.usda.gov



**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. 7250-3, Larry Tyler**

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. 7250-3, Larry Tyler, 44224 107th Street, Veblen SD 57270.

The Chief Engineer is recommending APPROVAL of Application No. 7250-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 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 qualifications:

1. Water Permit No. 7250-3, combined authorizes a dam with a storage capacity of 60 acre feet of water and sufficient water annually to maintain the water level to the outlet elevation.
2. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.

See report on application for additional information.

Garland Erbele, Chief Engineer
June 13, 2011

REPORT ON
WATER PERMIT APPLICATION NO. 7250-3
Larry Tyler
May 13, 2011

Water Permit Application No. 7250-3 has been filed by Larry Tyler to impound 60 acre-feet of water from runoff in an existing dam located in the NE ¼ SE ¼ of Section 27-T128N-R54W, in Marshall County. The application also requests impoundment of sufficient water to maintain water to the outlet elevation. The water will be used for livestock water purposes.

Discussion:

The dam will be classified as a small size, Category 3, Low Hazard dam. The dam is located on an abandoned railroad grade which is still owned by the Canadian Pacific Railway. Sometime in the 1960's or 1970's the culvert through the grade was plugged to form the dam. The structure was modified again in 1996 and 1997, when Larry Mette from the Natural Resources Conservation Service (NRCS) designed a new primary and secondary spillway. The 12 inch diameter primary spillway was replaced with a 36 inch diameter HDPE culvert in 2009. The "As built" plans and specifications have been reviewed and will be approved.

The Tyler Dam is 34 feet high with a normal storage capacity of 60 acre-feet with a reservoir level at the primary spillway elevation, and a maximum storage capacity of 90 acre-feet with a reservoir level at the top of dam elevation. A dam of this size and hazard classification is required to have a minimum spillway design capable of passing a 25-year frequency event.

The dam has a drainage area of 1500 acres or 2.34 square miles. The dam has a 36 inch diameter HDPE culvert with 5.5 feet of freeboard as the primary spillway, and a 60 foot wide earthcut secondary spillway with 3.3 feet of freeboard. A 25 year frequency event produces a peak runoff of approximately 154 cfs and a 100 year frequency event produces a peak runoff of approximately 275 cfs. The earthcut spillway will have a capacity of approximately 935 cfs.

The annual yield for this drainage area with an 80 percent chance of occurrence, or 8 out of 10 years, is expected to be 9 acre-feet; the annual yield with a 50 percent chance of occurrence, or 1 out of 2 years, is expected to be 25 acre-feet; and the annual yield with a 10 percent chance, or 1 out of 10 years, is expected to be 150 acre-feet.

The Tyler Dam will be located in the NE ¼ SE ¼ of Section 27-T128N-R54W on Shortfoot Creek, which flows to the Northeast and eventually flows into North Dakota. The dam is located about eight miles upstream of where Shortfoot Creek enters North Dakota. There are no existing Water Permits/Rights filed on Shortfoot Creek between the Tyler Dam and North Dakota.

Conclusions:

1. Water Permit Application No. 7250-3 should be approved since unappropriated water is available and approval should not have any adverse effect on existing Water Permits/Rights.
2. If approved, the low flow bypass requirement for domestic use should be a qualification on Water Permit Application No. 7250-3.



Timothy G. Schaal, P.E.
Natural Resources Engineering Specialist

Water Permit Application No. 7250-3

Larry Tyler

Top of Dam Elev. - 100.8
 2nd Spillway Elev. - 97.5
 P. Spillway Elev. - 95.3
 Dis Emb. Toe Elev. - 66.8

Cont. 3-Low Hazard Dam
 Ht. = 34 ft

Normal Storage Capacity - 60 Ac-Ft
 Int. Storage Capacity - 72 Ac-Ft
 Max. Storage Capacity - 90 Ac-Ft } Estimated

Int. Capacity $\times$ Est. Ht. = $72 \times 30.2 = 2175 < 3000 \therefore 25\text{yr}$
Minimum Spillway Design

From USGS WRI Report 98-4055 "Tech for Est. Peak Flows in SO"
 Region A DA = 1500 Ac = 2.34 mi² P_{II} = 0.85

$$Q_{15} = 218 CA^{.513} P_{II}^{4.80}$$

$$= 218 (2.34)^{.513} (0.85)^{4.80}$$

$$= 218 (1.5467) (0.4584)$$

$$= \underline{154 \text{ cfs}}$$

$$Q_{100} = 362 CA^{.521} P_{II}^{4.47}$$

$$= 362 (2.34)^{.521} (0.85)^{4.47}$$

$$= 362 (1.5573) (0.4836)$$

$$= \underline{275 \text{ cfs}}$$

Secondary Spillway Capacity

$$Q = CLH^{3/2}$$

$$C = 2.6$$

$$L = 60 \text{ ft}$$

$$H = 3.3 \text{ ft}$$

$$= (2.6)(60)(3.3)^{1.5}$$

$$= \underline{935 \text{ cfs}}$$

Section 74:02:08:09

1. Topo Map - OK
2. Dam Axis Profile - OK
3. Dam Max X-Sec. - OK
4. Area Capacity - OK
5. Outlet Details - OK
6. Spillway Routing - OK
7. Spillway Details - OK
8. Specs - S&B NRCS - OK
9. EPM - NHD Cat 3 - OK

NRCS Annual Yield

DA = 1500 Ac CN = 63 ISO = 242

$$80\% \text{ chance} = 0.07$$

$$0.07 \times 1500/12 = \underline{9 \text{ Ac-Ft}}$$

$$50\% \text{ chance} = 0.2$$

$$0.2 \times 1500/12 = \underline{25 \text{ Ac-Ft}}$$

$$10\% \text{ chance} = 1.20$$

$$1.20 \times 1500/12 = \underline{150 \text{ Ac-Ft}}$$



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 14, 2011

Larry Tyler
44224 107th St.
Veblen, SD 57270-5405

Dear Mr. Tyler:

We have reviewed the "As Built" plans and specifications for your dam project located in the NE ¼ SE ¼ of Section 27-T128N-R54W, in Marshall County. The plans and specifications for the project are approved.

Our review was to determine compliance with the requirements of the Water Management Board Safety of Dams Rules, Chapter 74:02:08. Approval of these plans and specifications does not release you from the responsibility for operating and maintaining the dam in good repair to ensure the safety of the dam.

The Tyler Dam will be authorized under Water Permit Application No. 7250-3, and will be classified as a small size Category 3, Low Hazard dam with a dam height of 34 feet and a normal storage capacity of 60 acre-feet and a maximum storage capacity of 90 acre-feet.

If you have any questions, please feel free to contact us.

Sincerely,

Timothy G. Schaal, P.E.
Natural Resources Engineering Specialist
for Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

c: Roger Gresh, NRCS, PO Box 8, Britton SD 57430
Charles Wiese, Candanian Pacific Railway, 501 Marquette Ave S #1525
Minneapolis MN 55402

AFFIDAVIT OF PUBLICATION

RECEIVED

JUN 30 2011

2T (June 22, 29)

A, County of Marshall.

**NOTICE OF APPLICATION
NO. 7250-3 to appropriate
Water**

WATER RIGHTS
PROGRAM

Notice is given that Larry Tyler, 44224 107th St, Veblen SD 57270 has filed an application for a water permit to impound 60 acre-feet of water from runoff in an existing dam located in the NE 1/4 SE 1/4 Section 27 with water impounded in the N 1/2 SE 1/4 Section 27; all in T128N-R54W. This application requests impoundment of sufficient water to maintain water to the outlet elevation. The water is for livestock water purposes.

Pursuant to SDCL 46-2 A-2, the Chief Engineer recommends APPROVAL of Application No. 7250-3 because 1) unappropriated water is available, 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 46-2 A-23, the Chief Engineer will act on this 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 this 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 July 11, 2011.

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.
Published twice

said county, being first duly sworn on oath says that he is publisher of the BRITTON JOURNAL, a weekly newspaper printed and published in the City of Britton, in the County of Marshall, 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 is printed wholly or in part in an office at said place of publication;

that the

*Notice of Application No 7250-3
to Appropriate Water (Larry Tyler)*

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 two successive weeks, on the day of each week on which said newspaper was regularly published, to wit:

June 22, 2011

June 29, 2011

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

*Forty-five and 15/100
D. M. C.*

Subscribed and sworn to before me this

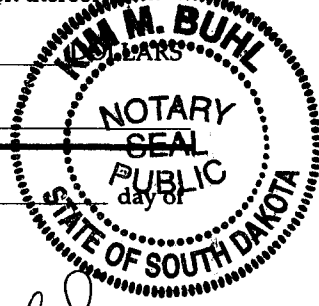
29th

RECEIVED
FOR DEPOSIT ONLY
SD STATE TREASURER
JUN 30 2011
1701269763
WATER RIGHTS
PROGRAM

A. D., 2011

Kim M Buhl

Notary Public, Marshall County, S. D.
My Commission Expires March 12, 2016





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

June 14, 2011

Britton Journal
PO Box 69
Britton SD 57430

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 7250-3 to Appropriate Water to be published twice. Please publish the first notice on June 22, 2011 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 Larry Tyler, 44224 107th St., Veblen SD 57270 (Ph # 605-738-2552).

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. 7250-3

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

Date _____

We are in receipt of your letter of June 14, 2011 enclosing Notice to Appropriate Water by Application No. 7250-3 which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper



**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.

June 14, 2011

Larry Tyler
44224 107th St
Veblen SD 57270

Dear Mr. Tyler:

Water Permit Application No. 7250-3 for livestock watering 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 Britton Journal printed at Britton SD (Ph # 605-448-2281). 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 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
eric.gronlund@state.sd.us

c: Roger Gresch, NRCS, PO Box 8, Britton SD 57430

Charles Wiese, Canadian Pacific Railway, 501 Marquette Ave S #1525, Minneapolis MN 55402
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.

Instruction to Newspaper - Publish first Notice on June 22, 2011 with the second publication 7 days later. The applicant is responsible for payment. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352 or email: Karen.schlaak@state.sd.us.

NOTICE OF APPLICATION NO. 7250-3 to Appropriate Water

Notice is given that Larry Tyler, 44224 107th St, Veblen SD 57270 has filed an application for a water permit to impound 60 acre-feet of water from runoff in an existing dam located in the NE ¼ SE ¼ Section 27 with water impounded in the N ½ SE ¼ Section 27; all in T128N-R54W. This application requests impoundment of sufficient water to maintain water to the outlet elevation. The water is for livestock water purposes.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 7250-3 because 1) unappropriated water is available, 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 this 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 this 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 July 11, 2011.

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.

Published twice at the total approximate cost of_____.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

AUG 30 2011

Larry Tyler
44224 107th St
Veblen SD 57270-5405

Dear Mr. Tyler:

Enclosed is Water Permit No. 7250-3 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

**NOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USE**

Date Sept 12, 2011

TO: Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

RECEIVED

SEP 14 2011

**WATER RIGHTS
PROGRAM**

FROM: Larry Tyler
(name)
44224- 107th St.
(address)
Veblen, S.D. 57270
(city, state, zip)

605-738-2552
(phone)

I have completed the construction of the water use system and I have put the water to beneficial use to the maximum extent it is going to be used.

Water Permit No. 7250-3 states that the water use system is to be constructed by

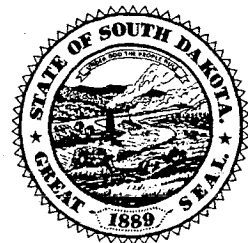
dam was already there when? and water is to be put to beneficial use by been in use since 1995
purchased in 1995 (date) (date)

The water use system was completed on changed spillway in Sept 2008
(date)

Applying the water to beneficial use was completed on Sept 2008
(date)

You may schedule an investigation so that the water license may be issued.

Larry Tyler
(signature)





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

September 14, 2011

7250-3

Larry Tyler
44224 107th St
Veblen SD 57270

Dear Mr. Tyler:

I am writing to acknowledge receipt of the "Notice of Completion of Works" form that you sent in to let us know that you are completed with the water use project authorized by Water Permit No. 7250-3.

The system is now ready for inspection. Inspections are done on a county-by-county basis as staff time permits. You have done everything you need to do and the intervening time between the completion of your project and the staff inspection has no bearing on your water permit.

Someone from our office will contact you prior to the inspection to set up a time that is convenient for you. If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath".

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us