

1177-1

1. Considered NOVEMBER 15 19 78
2. Name of Applicant ESTHER KLING
3. Post Office Address NISLAND, S.D.
4. Amount of Water claimed 3.3
5. Source of Water supply BELLE FOURCHE RIVER
6. Water to be used for IRRIGATION

Acres to be irrigated 231

7. Water to be diverted and used in BUTTE County
about 1/2 S. 1 miles WEST of NISLAND

8. Proof of Publication Received 10-26-78
Not Received _____

9. Application Approved _____
Subject to _____

20 Points

- ADDITIONAL ON 281
ACRES - SAME
DIRECTION POINT
- Not Approved _____
Action Deferred _____

10. Remarks: NO PROTESTS TO DATE - DEFERRED
THIS IS ALONG DEFERRED APPLICATION DEFERRED
2 PROTESTS TO PRODUCE APPLICANT REPORT IN
W/275-1 & 273-1A DEFERRED APPL.

ALL BELOW
KLING

No. 1177-1Map No. 987-1 Water Division No. 1 BELLE FOURCHE RIVER District
(Blank to be filled by the Engineer for the W. R. C.)

APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

(NOTE - Draw a line through items not applicable)

1. Name of Applicant Esther Kling
Postoffice address Nisland, State S. D.
If a corporation show date and place of incorporation _____
2. Method of accomplishing work (contract, employment of others, or by direct labor) Contract & Direct Labor
3. Name of diversion work KLING #1, BOOSTER #1, & BOOSTER #2.
4. Amount of water claimed (cubic feet per second) 3.3 MAX. ALLOWABLE
5. Source of water supply Belle Fourche River
6. Location of point of diversion 310' East, 35' North, 1/4 of SW 1/4 of Section 12, Township 8N, R 4E.
- County Butte
7. Annual period or periods during which water is to be used May 1 to September 1
8. Use to be made of water. (Irrigation, industrial, municipal, commercial, recreation, etc.) Irrigation
9. For irrigation use, _____ Total number of acres to be irrigated 231

List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

Land Description	No. Acres Irr.	Land Description	No. Acres Irr.
See Attach Sheet			

Attach sheet if more space is needed

10. Time required to complete construction of water supply system 1 years. Additional time required to complete application of water to the proposed beneficial use 1/4 years.
11. Choice of newspaper for Notice of Intent to Appropriate Water publication Newell Irrigator, Newell, S. D. 57760
12. Principal Features of the Proposed Water Supply System.

A. Works proposed to divert water from its natural source.

No additional diversion is needed on the river because I propose to use booster pumps at the end of the present system under water right # 273-1A.

B. Works proposed to transport water to place of use.

I will need two booster pumps, 2400' of Underground, and 3300' of gated pipe, and large traveling gun.

C. Works proposed to apply water to beneficial use.

3300' Gated Pipe
Large Traveling GunEstimated Total Cost \$ 36,000Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map.
(See instructions concerning preparation.)

STATE OF SOUTH DAKOTA

County of ButteI, Esther Kling, the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.Signed Esther KlingSubscribed and sworn to before me this 28 day of May 1978

Notary Public (or other qualified officer)

COMMISSION EXPIRES
JULY 12, 1984

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 1177-1ESTHER KLING
(Applicant)NISLAND
(Post Office Address)SOUTH DAKOTA
(State)57762

With the following modifications:

Flows in the stretch of the Belle Fourche River above Owl Creek are not a dependable source of water during the latter part of the summer. Prior water rights and downstream domestic use must be respected. This permit is approved allowing withdrawals whenever 15 c.f.s. of water is flowing past the diversion point in this permit. The applicant must install a sufficient measuring device to record the flow of the river. No irrigation or withdrawal may take place before the Board's staff certifies to the applicant in writing that the measuring device is sufficient and that it is properly in place. This water permit is subject to suspension or revocation by the Water Management Board, on petition of the Conservation Commission, should the Conservation Commission suspend or revoke its own conditionally granted irrigation permit.

Date of first receipt of application MAY 14, 1978Date of return to applicant for correction, amendments or changes required MAY 19, 1978Date of receipt of corrected application WG SEPTEMBER 5, 1978Approved MAY 25, 1979, Recorded in Book 21, Page 72WATER RIGHT PERMIT NO. 1177-1

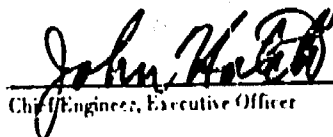
The Water Rights Commission hereby grants and issues this Water Right Permit No. 1177-1 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as modified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is SEPTEMBER 5, 1978
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before NOVEMBER 25, 1979
3. The whole of said work is to be completed on or before MAY 25, 1980
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is MAY 25, 1984
5. The water appropriated shall be used for the purpose of IRRIGATION
6. 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.
7. The amount of the appropriation herein granted shall not exceed 3.3 cubic feet per second; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for beneficial uses served, and if for the irrigation purposes said appropriation must be limited to not more than 2 acre feet per acre per year and 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 25, 1984; said water to be used during the following described annual period: MAY 1 TO SEPTEMBER 1

Witness my hand this 11th day of OCTOBER, 1979

WATER RIGHTS COMMISSION

By:


 Chief Engineer, Executive Officer

Certificate of Construction Issued _____, 19____

Water License Issued _____, 19____

STATE CONSERVATION COMMISSION
SUPPORTING INFORMATION
FOR APPROPRIATION OF GROUND WATER IN ACCORDANCE
WITH SDCL 46-6-3 AS AMENDED
(THIS FORM REQUIRED FOR PROPOSED GROUND WATER IRRIGATION)



NAME Esther Kling
ADDRESS Nisland, South Dakota 57762
COUNTY Butte

LEGAL DESCRIPTION

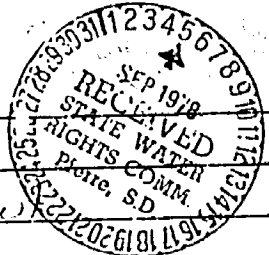
1. WELL LOCATION Belle Fourche River T8N Section 12 2.4E
2. LOCATION OF AREA TO BE IRRIGATED 310' East, 35' North, NW 1/4 of Section 12, T8N Section 13

TYPE OF IRRIGATION

3. GRAVITY ☒ TOWLINE _____ CENTER PIVOT _____ GUN ☒
4. CROPS TO BE IRRIGATED Corn, Beans, Hay

WATER QUALITY

5. SAMPLE NUMBER 78-467
6. SALINITY (EC x 10⁶) 1767 (high)
7. SODIUM (SAR) 3.25 (adjusted) low
8. RESIDUAL SODIUM CARBOXIMATE (meq/l.) 00



I do hereby certify that a chemical analysis of the ground water representative of that used to irrigate shall be acquired from South Dakota State University and; the soils information has been acquired from Butte Conservation District, County Extension office or Soil Conservation Service.
and:
that the legal description for the location of the well and land to be irrigated is true and correct.

Esther Kling
APPLICANT'S SIGNATURE

SUBSCRIBED AND SWORN BEFORE ME THIS
16th DAY OF JUNE 19 78.

Neil A. Martz

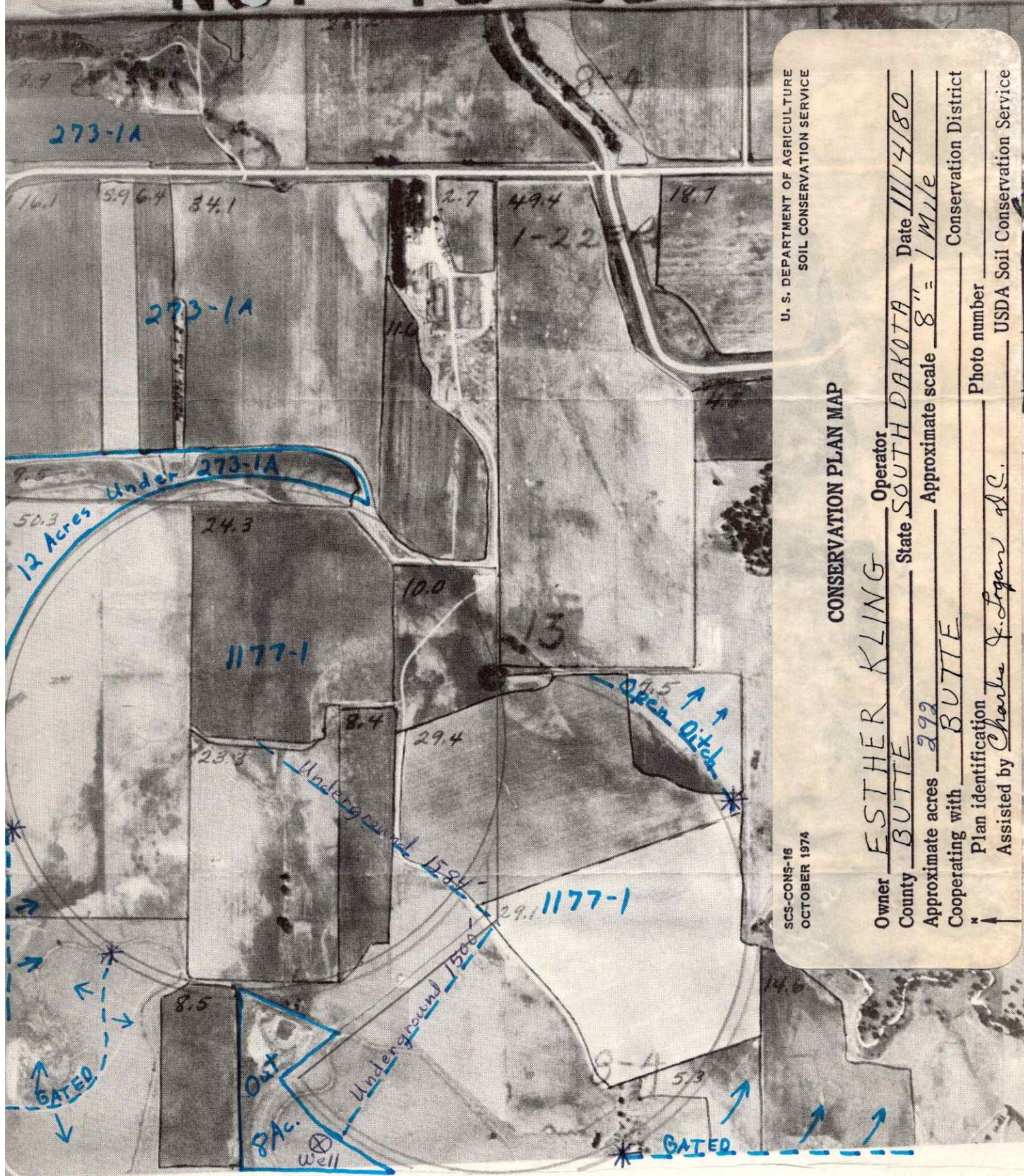
NOTAL PUBLIC SEAL, S.D.
By Commission Order 0.1.1.1.1.1.1

Albert J. Hoff

Conservation District

(SOILS INFORMATION ON REVERSE SIDE)

NOT TO SCALE



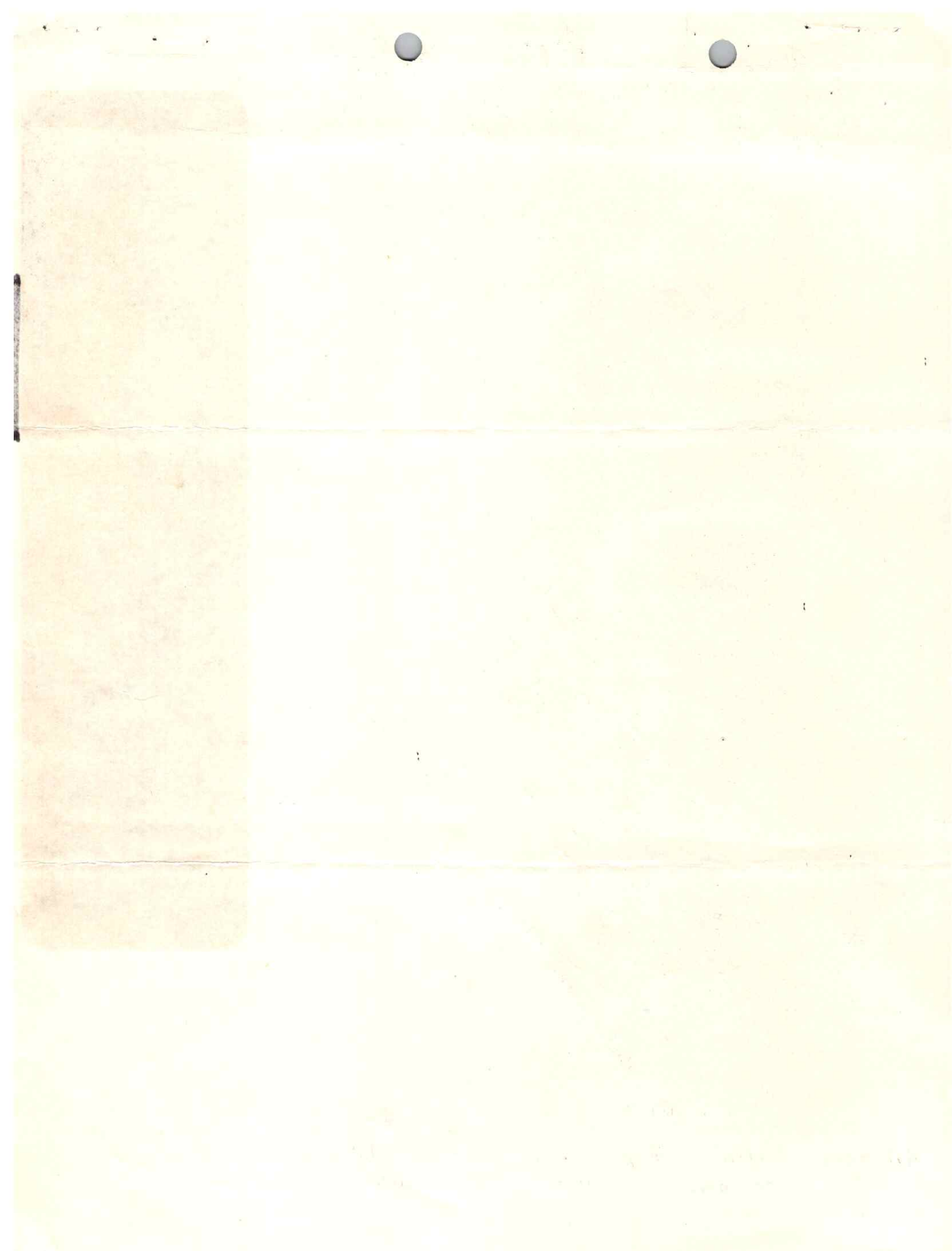
U. S. DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

CONSERVATION PLAN MAP

SCS-CONS-16
OCTOBER 1974

Owner ESTHER KLING Operator _____
 County BUTTE State SOUTH DAKOTA Date 11/14/80
 Approximate acres 292 Approximate scale 8" = 1 Mile
 Cooperating with BUTTE Conservation District _____
 Plan identification _____ Photo number _____
 Assisted by Charles F. Logan & Co. USDA Soil Conservation Service

All acres outside of pivot will be hooked on pivot end with hose to gated pipe or will flow to open ditch. Hookup point indicated by *.



REPORT OF ANALYSIS
 Water Quality Laboratory
 Water Resources Research Institute
 South Dakota State University
 Brookings, South Dakota 57007



Submitted by: Bother King
 Address: Hioland, SD 57762

Date Rec'd: JUN 22, 1978
 Sample No.: 73-467
 Identification: Felle Fourche River

WATER ANALYSIS

Calcium (Ca)	304	ppm*	15.20	me/l**
Magnesium (Mg)	38	ppm	3.15	me/l
Sodium (Na)	86	ppm	3.74	me/l
Potassium (K)	7	ppm	0.28	me/l
Sulfate (SO ₄)	760	ppm	15.81	me/l
Nitrate (as N)		ppm		me/l
Chloride (Cl)	10	ppm	0.27	me/l
Bicarbonate (HCO ₃)	251	ppm	9.12	me/l
Carbonate (CO ₃)		ppm		me/l
Iron (Fe)		ppm		me/l
Fluoride (F)		ppm		me/l
Hardness (EDTA as CaCO ₃)		ppm		g.p.g.***
Alkalinity (Methyl Orange)	206	ppm (as CaCO ₃)		
Alkalinity (Phenolphthalein)	0	ppm (as CaCO ₃)		
Electrical Conductivity	1767	micromhos per cm at 25° C.		
Sodium Adsorption Ratio	1.23	Adjusted	3.25	
Sodium	16.75	% of cations		
Residual sodium carbonate	0.00	me/l		
pH	7.73			

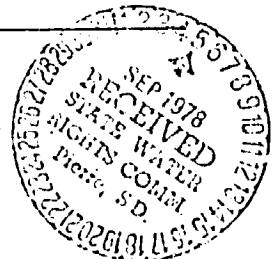
Others:

*ppm=parts per million

**me/l=millequivalents per liter

***g.p.g.=grains per gallon

COMMENTS: Total cations 22.27 me/l
 Total anions 20.27 me/l



By: Shirley Mitan

Service Performed	Amount Due
Irrigation analysis	\$15.00

Make checks payable to: Water Quality Laboratory

Cut along dotted line and return the lower portion with payment

Sample No. 73-467

Amount Enclosed \$

Signed

LAND DESCRIPTIONS

System Under Booster #1

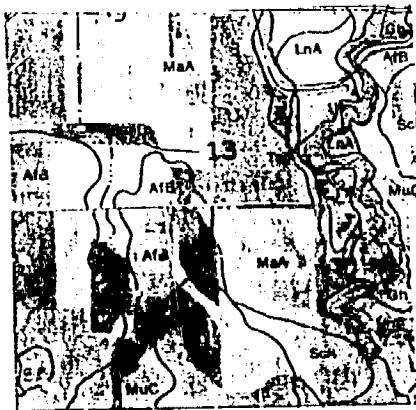
All land is located on Township 8N, Range 4E, Section 13.

NW $\frac{1}{4}$ OF SW $\frac{1}{4}$ ---39 Acres
NE $\frac{1}{4}$ OF SW $\frac{1}{4}$ ---West 2 $\frac{1}{2}$ Acres
S $\frac{1}{2}$ OF NW $\frac{1}{4}$ ---South 35 Acres
SE $\frac{1}{4}$ OF NW $\frac{1}{4}$ ---West 21 Acres

System Under Booster #2

All land is located on Township 8N, Range 4E, Section 13.

NW $\frac{1}{4}$ OF SE $\frac{1}{4}$ ---39 Acres
SW $\frac{1}{4}$ OF SE $\frac{1}{4}$ ---39 Acres
SE $\frac{1}{4}$ OF SW $\frac{1}{4}$ ---North East 11 Acres
NE $\frac{1}{4}$ OF SW $\frac{1}{4}$ ---East 16 Acres
SE $\frac{1}{4}$ OF NW $\frac{1}{4}$ ---South East 8 Acres



SCS-CONS-15
OCTOBER 1974

U. S. DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

SOIL MAP

Owner Ed Kling Operator Sane
County Butte State South Dakota

Soil survey sheet(s) or code nos. _____ Approximate scale 2 1/2" = 1 mi.

Prepared by U. S. Department of Agriculture, Soil Conservation Service cooperating
with Butte Conservation District

Charles F. Logan

SD-CONS-1A
11/75

Ed Kling

UNITED STATES DEPARTMENT OF AGRICULTURE
Soil Conservation Service

SOIL INTERPRETATIONS

SOIL MAPPING UNITS	LAND USE and SOIL GROUP	SOIL GROUP DESCRIPTIONS
AtB	<u>Irrigation Capability</u> IIIC4 -	These are deep, well drained, gently sloping (2.6%) sandy loam soils. Water intake is about 1.5 inches per hour. Water holding capacity is about 1.6 inches per foot. The moisture holding zone is 4 to 6 feet thick. These soils are very susceptible to wind erosion. Water erosion is also a hazard when in row crop.
MaA	IIe1 -	These are deep, well drained fine sandy loam soils occurring on nearly level (0-2%) terraces. The subsoils have moderate structure. Water intake is about 1.0 inch per hour. Water holding capacity is about 1.5 inches per foot. The moisture holding zone is 4 to 6 feet thick. These soils are very susceptible to wind erosion.
ScA	I-2 -	These are deep, well drained soils occurring on nearly level (0-2%) terraces. They have silty or loamy surface layers, silty clay loam or clay loam subsoils and silty or loamy underlying materials. Water intake is about 0.5 inches per hour. Water holding capacity is about 2.1 inches per foot. The moisture holding zone is 3 to 4 foot thick.

Publish first publication, on or before October 2, 1978 No. 1177-1

NOTICE OF HEARING ON
APPLICATION TO APPROPRIATE WATER

Pierre, South Dakota 57501

October 2, 1978

Notice is hereby given that Esther Kling whose post office address is Nisland, South Dakota, has made an application in accordance with the provisions of SDCL 46-1-1 thru 46-1-8; 46-2-9 thru 46-2-11; 46-5-1 thru 46-5-8; 46-5-10 thru 46-5-22, 46-5-41, and Commission Rules ARSD 52:01:01:01 thru 52:01:01:13, for a permit to appropriate for beneficial use 3.3 cubic feet of

water per second of time from the Belle Fourche River through the

Kling #1, Booster #1 & #2, the point of diversion which is to be located

in the NW 1/4 SW 1/4

of Section 12, Twp. 8N Range 4E. Said water to be used for the purpose of providing irrigation on portions of the following described land:

N 1/2 SW 1/4; S 1/2 NW 1/4, W 1/2 SE 1/4 and SE 1/4 SW 1/4 all in Section 13 - T8N - R4E

This Application No. 1177-1 will be considered by the Water Rights Commission at SDEA Building

411 East Capitol, Pierre, South Dakota upon the 15th day of November, 1978 at 10 A.M. The Commission is authorized to make a determination on this application at the hearing. All interested persons may appear and be heard. Any person who may be affected by a Commission decision who desires to present evidence or cross-examine witnesses according to SDCL 1-26 may notify the Commission in writing prior to the hearing or orally at the hearing.

This hearing is an adversary proceeding. Any person has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing. Decisions of the Commission may be appealed to the Courts as provided by law.

WATER RIGHTS COMMISSION

BETTY WESTLUND
Water Rights Specialist I

cc: **Esther Kling,**
Nisland, SD 57762

Form 6 - Notice of Intent to Appropriate Water
SURFACE WATER

No. 1177-1

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Beade) ss.

I, Harachy Allan hereby
certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Valley Irrigation

A newspaper which during the whole time of publication of said notice
herein after stated, has been and is printed and published in the _____

City Butte of Beade

County of Butte and State of South Dakota;
that the said notice was published in said newspaper on the following
two dates:

October 13, 1978

October 25, 1978

Harachy Allan
(Signature)

Co-Publisher
(Title)

OCT 20, 1978
(Date Signed)

NOTICE OF HEARING ON
APPLICATION TO
APPROPRIATE WATER

Notice is hereby given that
Esther Kling, whose post office
address is Nisland, South Dakota,
has made an application in ac-
cordance with the provisions of
SDCL 46-1-1 thru 46-1-8; 46-2-9
thru 46-2-11; 46-3-13; 46-5-1 thru
46-5-8; 46-5-10 thru 46-5-22; 46-5-41;
and Commission Rules ARSD
52:01:01:01 thru 52:01:01:13, for a
permit to appropriate for benefi-
cial use 3.3 cubic feet of water per
second of time from the Belle
Fourche River (through the Kling
No. 1, Boxer No. 1 and No. 2, the
point of diversion which is to be
located in the NW 1/4 SW 1/4 of
Section 12, Twp. 6N, Range 4E.
Said water to be used for the pur-
pose of providing irrigation on
portions of the following de-
scribed land: N 1/4 SW 1/4; S 1/4
NW 1/4, W 1/4 SE 1/4 and SE 1/4 SW 1/4
all in Section 13, T6N-R4E.

This Application No. 1177-1 will
be considered by the Water
Rights Commission at SDEA
Building, 411 East Capitol,
Pierre, South Dakota upon the
15th day of November, 1978 at 10
A.M. The Commission is au-
thorized to make a determination
on this application at the hearing.
All interested persons may ap-
pear and be heard. Any person
who may be affected by a Com-
mission decision who desires to
present evidence or cross-exam-
ine witnesses according to SDCL
52 may notify the Commission
in writing prior to the hearing or
orally at the hearing.

This hearing is an adversary
proceeding. Any person has the
right to be present or to be rep-
resented by a lawyer. These and
other due process rights will be
forfeited if they are not exercised
at the hearing. Decisions of the
Commission may be appealed to
the Courts as provided by law.

WATER RIGHTS
COMMISSION
BETTY WESTLUND
Water Rights Specialist I
Publ Oct. 18 & 25, 1978



David G. Rathbun
Nisland, South Dakota 57762

November 9, 1978

Department of Natural Resource Development
Water Rights Commission
Joe Foss Building
Pierre, South Dakota 57501

Dear Sir:

This letter is in protest of the up-coming application for a larger water permit by Esther Kling of Nisland, S. D.

The reason for this protest is due to insufficient stream flow to accommodate the already large number of water permits west from where Owl Creek runs into the Belle Fourche River.

I believe you inspectors found this to be so when investigating the Brunner application a year ago.

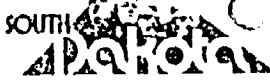
Thank you.

Sincerely,

David G. Rathbun

David G. Rathbun
Nisland, S. D. 57762





Department of Natural Resource Development

WATER RIGHTS COMMISSION
Joe Foss Building, Pierre, South Dakota 57501
Phone 605/773-3151

May 9, 1979

TO: Persons Concerned with Deferred Applications in Butte County

FROM: John Hatch, Chief Engineer, Water Rights Commission

SUBJECT: Reconsideration of Deferred Applications

The Water Rights Commission will reconsider deferred water right applications in Butte County at 2:30 p.m., May 24, 1979, at the Lincoln Room, Howard Johnson Hotel, 2211 LaCrosse, Rapid City SD.

This reconsideration hearing will be conducted in accordance with the provisions of SDCL 46-1-1 thru 46-1-9; 46-1-14; 46-2-9 thru 46-2-11; 46-2-13; 46-5-1 thru 46-5-8; 46-5-10 thru 46-5-22; 46-5-41; 46-6-3; 46-6-5; 46-6-6.1; 46-6-10; 46-6-13.1; 46-6-14 and Commission Rules ARSD 57:01:01:01 thru 52:01:01:13.

These applications were previously deferred by the Water Rights Commission, pending staff investigation.

After reconsideration of the deferred applications the Commission can approve, conditionally approve, defer, or deny all or part of the Application.

This hearing is an adversary proceeding. Any person has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing. Decisions of the Commission may be appealed to the Courts as provided by law.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Commission

JH:kjv



Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501
Phone 605/773-8151 3352

June 13, 1979

Ed Brunner & Sons
Nisland, SD 57762 (1106-1)

Esther Kling
Nisland, SD 57762 (1177-1)

George Leach
Fruitdale, SD 57742 (1182-1)

Gentlemen:

The Water Rights Commission requested that proposed Findings of Fact, Conclusions of Law and a proposed Decision concerning approval of Permits No. 1106-1, 1177-1, and 1182-1 be prepared. At this time, we do not know when the next meeting will be scheduled, since the Governor's Reorganization abolished the Water Rights Commission with a new Water Management Board to be appointed effective July 1, 1979. Following appointment of a new Board, a meeting date will be set and Findings, Conclusions and Decision will be considered at that time.

Assistant Attorneys General will prepare the requested documents; however, each of you may prepare or have your attorney prepare proposed Findings, Conclusions and Decision if you wish. We will notify you when the next meeting is scheduled.

Very truly yours,

A handwritten signature in dark ink, appearing to read "John Hatch".

JOHN HATCH, Chief Engineer
Water Rights Commission

JH/gv

cc: John Smith, Assistant Attorney General
John L. Lewis
Ed Kling
Thomas E. Carr
R. Thornton Vallery
Solomon Stark
Leon Miner

1177-1

 **Department of
Water & Natural Resources**
Joe Foss Building Water Rights, Water Management Division
Pierre, South Dakota 57501 Phone (605) 773-3352

July 23, 1979

TO: Persons concerned with Permits from the Belle Fourche River in Butte County

FROM: John Hatch, Chief Engineer, Water Rights

SUBJECT: Consideration and adoption of final decision, including Findings of Fact & Conclusions of Law on the approval of Permits listed below

The Water Rights Commission requested that proposed Findings of Fact, Conclusions of Law and a proposed Decision regarding action taken on the following Permits be prepared:

1106-1 Ed Brunner & Sons
1177-1 Esther Kling
1182-1 George Leach

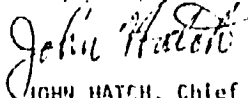
The Board of Water Management will meet in Pierre, SD, August 3, 1979 at the Civil Defense Room, Capitol Building. We have placed consideration of the proposed Findings of Fact, Conclusions of Law and Decision on the Agenda for 1:00 PM, August 3, 1979.

This hearing will be conducted in accordance with the provisions of § 46-1-1 thru 46-1-9; 46-1-14; 46-2-9 thru 46-2-11; 46-2-13; 46-5-1 thru 46-5-8; 46-5-10 thru 46-5-22; 46-5-41; and Board Rules ARD 52:01:01:01 thru 52:01:01:13.

All parties may submit or mail proposed Decisions, Findings and Conclusions to the Board members (mailing addresses enclosed) prior to consideration by the Board, if they wish.

This hearing is an adversary proceeding. Any person has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing. Decisions of the Board may be appealed to the Courts as provided by law.

Very truly yours,



JOHN HATCH, Chief Engineer
Water Rights, WMB

JH:plh

Enclosure

Equal Opportunity Employer

STATE OF SOUTH DAKOTA
WATER MANAGEMENT BOARD

APPLICATION OF ESTHER KLING FOR)
PERMIT NO. 1177-1)

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

The proposed decision having been timely served upon the parties and opportunity having been provided for each party to file Findings of Fact and Conclusions of Law, to file exceptions and to file briefs and to present oral argument to the Board and the Board having considered all such submissions, the Board hereby makes the following:

FINDINGS OF FACT

1. On May 19, 1978, Esther Kling regularly applied for a water permit No. 1177-1 for 3.3 c.f.s. of water from the Belle Fourche River to irrigate 231 acres, the point of diversion to be located at 310 feet east, 35 feet north, NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 12, Township 8 North, Range 4 East. The lands to be irrigated were the N $\frac{1}{2}$ of the SW $\frac{1}{4}$, the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$, the S $\frac{1}{2}$ of the NW $\frac{1}{4}$, and the W $\frac{1}{2}$ of the SE $\frac{1}{4}$, of Section 13, Township 8 North, Range 4 East.
2. The application was duly advertised on October 18 and October 25, 1978 and the affidavit of publication has been received. All notices required by law have been given.
3. The application was deferred at the November 15, 1978 meeting of the Water Rights Commission for further study.
4. The application was considered at the May 24-25, 1979 meeting of the Water Rights Commission. Notice of this meeting was served on all persons who appeared in opposition to or in favor to the permit at the 1978 meeting.
5. The State Conservation Commission had issued a conditional approval of soil-water compatibility for lands contained in the application to the Board.

6. The gauging station operated by the USGS from November of 1945 to September of 1970 indicates flows which can be expected on the Belle Fourche River, above Owl Creek.
7. The USGS research shows flows will ordinarily be substantial for the early part of the growing season but will be greatly diminished during the latter part of the season.
8. A desirable means of responding to the high flow- low flow problem is to set a minimum flow on the stream which must bypass the applicant before she can begin to take water from the stream.
9. The applicant here should allow 15 c.f.s. of water to bypass her point of diversion to insure that senior appropriators are not harmed.
10. The Board should require that the applicant install a measuring device so that the bypass may be monitored by her and the Board.
11. There is unappropriated water available under the conditions within the limitations included below.

CONCLUSIONS OF LAW

1. The Board has jurisdiction to issue the requested permit.
2. The publication of notice complies with applicable regulation and statute.
3. SDCL 46-1-4 requires the Board to maximize the beneficial use of the state's water and when there is a reasonable probability based upon the evidence that unappropriated water is available, the Board should issue a permit.
4. There is unappropriated water available under the conditions

5. The proposed project is feasible.

6. Granting of the permit is in the public interest.

7. The Conservation Commission has set maximum levels for salinity and sodium in the soil at the beginning of the growing season on all lands irrigated pursuant to a conditionally granted permit and has determined by rule that a conditionally granted permit may be revoked or suspended when those levels are exceeded.

8. The Board of Water Management recognizes the statutorily vested authority of the State Conservation Commission to set maximum salinity and sodium levels for its conditionally granted irrigation permits and recognizes the authority of the State Conservation Commission to suspend or revoke its conditionally granted irrigation permits when those levels are exceeded.

9. The Board has the power under SDCL 46-7-2 to require an applicant to install a measuring device to monitor bypass as a precondition to use of water under this permit.

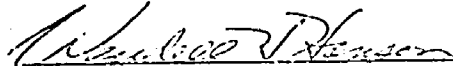
10. The present applicant must allow 15 c.f.s. of water to bypass her point of diversion to insure that other appropriators are not harmed.

11. The following are reasonable conditions to be attached to the permit: Flows in the stretch of the Belle Fourche River above Owl Creek are not a dependable source of water during the latter part of the summer. Prior water rights and downstream domestic use must be protected. This permit is approved allowing withdrawals whenever 15 c.f.s. of water or more is flowing past the diversion point under this permit. A measuring device must be installed to record the flows of the river. No irrigation can commence until the staff of the Board certifies to the applicant in writing that her measuring device is sufficient and is properly in place. This water permit is subject to suspension or revocation by the Water Management Board, on petition of the Conservation Commission, should the Conservation Commission suspend or revoke its own conditionally granted irrigation permit.

12. The permit should be approved subject to the aforementioned condition.

Dated this 13th day of August, 1979.


Chairman


Secretary

STATE OF SOUTH DAKOTA
WATER MANAGEMENT BOARD

APPLICATION OF ESTHER KLING FOR
PERMIT No. 1177-1

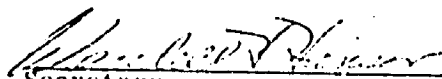
FINAL DECISION

Having entered its Findings of Fact and Conclusions of Law, it
is a final decision of the Board:

1. That the application of Esther Kling for permit No. 1177-1
for 3.3 c.f.s. of water from the Belle Fourche River to irrigate
231 acres is approved.
2. That the permit is subject to the following conditions:
Flows in the stretch of the Belle Fourche River above Owl Creek
are not a dependable source of water during the latter part of
the summer. Prior water rights and downstream domestic use must
be respected. This permit is approved allowing withdrawals
whenever 15 c.f.s. of water is flowing past the diversion point
in this permit. The applicant must install a sufficient measuring
device to record the flow of the river. No irrigation or with-
drawal may take place before the Board's staff certifies to the
applicant in writing that the measuring device is sufficient
and that it is properly in place. This water permit is subject
to suspension or revocation by the Water Management Board, on
petition of the Conservation Commission, should the Conservation
Commission suspend or revoke its own conditionally granted
irrigation permit.

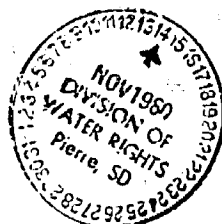
Dated this 13th day of August, 1979.


Chairman


Secretary

Form 10.

No. 1177-1



NOTICE OF COMPLETION OF WORKS AND/OR
APPLICATION OF WATER TO BENEFICIAL USE

Post Office Nisland, S.D.
Date 11-12-80

TO: Water Rights [REDACTED]
Joe Foss Building
Pierre, South Dakota 57501

Dear Sirs:

This is to inform you that I have completed the construction of the water diversion system and/or that I have put the water to beneficial use to the maximum extent it is going to be used, not exceeding the amounts as specified in Water Right Permit No. 1177-1.

Water Right Permit No. 1177-1 states that the diversion system is to be constructed by _____, 19____ and that the water is to be put to beneficial use by _____, 19____.

The diversion system was completed on _____, 19____.
Applying the water to beneficial use was completed on April 1,
1980.

You may schedule an inspection so that the Certificate of Construction and/or the Water License may be issued, thus completing my acquisition of a water right.

E. Schaefer
(Signature)

Diversion was done at the day of application because pump under 273-1A would be used for the initial diversion. Also, a time extension on completion was requested but not confirmed.



Department of Water & Natural Resources

Jon Foss Building
Pierre, South Dakota 57501

Water Rights Division (605) 773-3352

June 10, 1981

Ruben & Esther Kling
Hiland, SD 57762

Dear Mr. & Mrs. Kling:

The rules adopted by the Water Management Board for establishing a water use control area on the Belle Fourche River, Whitewood Creek and Owl Creek requires that the water right holder be assessed a fee of ten dollars for each cubic foot per second or portion thereof of the diversion capability of the diversion works plus twenty-five cents for each acre irrigated as shown by the water rights of record in the Division of Water Rights. These fees are required to be paid to the Division of Water Rights by July 1, 1981.

Permits for which fees have not been paid by July 1, 1981 shall be refused the right to divert water for the remainder of the year. The fees paid will be used to defray the costs of providing water master services within the water use control area. The following is a tabulation of your assessment.

<u>Permit No.</u>	<u>Diversion Rate</u>	<u>Acreage</u>	<u>Fee</u>
273-1	0.46 cfs	32.60	\$ 16.25
273-1A	1.54 cfs	108.40	47.25
✓ 1177-1	3.30	231.00	97.75
TOTAL			\$163.25

Please make check or money order payable to the Dept. of Water and Natural Resources and send to the Division of Water Rights, Jon Foss Building, Pierre, SD 57501.

If you have any questions, do not hesitate to contact this office.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division

JH/JW/gy

Equal Opportunity Employer

RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

No 4 8361

PIERRE, July 1, 1981

RECEIVED OF Esther Kling, Wisland, SD 57762

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		
Fee for certified copy of		
Fee for Print copy of map		
Fee for Certifying		
Fee for water master services on WR# 1177-1 (any other work as provided by law)	97	75
TOTAL	97	75

WATER RIGHTS COMMISSION

By (Miss Hatcher)
Chief Engineer, Executive Officer
JOHN HATCH / bt

1177-1

(605) 773-3352
Water Rights Division

November 9, 1981

Esther Kling
Hisland, SD 57762

Dear Mr. Kling:

A refund check for \$2.00 is currently being processed thru our State Auditor. This is being done in response to your recent request to our office in regards to your Extension of Time on Water Permit No. 1177-1.

The check will be sent under separate cover thru our Finance Office.

If you have any questions concerning this matter, please feel free to contact our office.

Sincerely,

BARB TEMPLETON
Staff Assistant

/bt

STATE OF SOUTH DAKOTA

DIRECT VOUCHER

Do not use this space.

AGENCY VOUCHER No.	DATE

PAYEE . Esther Kling
 Misland, SD 57762

DEPT. . DWR, Water Rights Division
 Foss Bldg.
 Pierre, SD 57501

STAPLE
HERE

AGENCY .

ADDRESS .

Agency	Fund	Sub Fund	Prog-Act	Obj. Sub. Obj.	Agency Coding	Amount	Contract No.
							1
							2
							3
							4
							5
							6
							7
							8
							9
							10
TOTAL 22							

NOTE: Vendors invoice must be attached.

Invoice No.(s)	Date Delivered	QUAN.	DESCRIPTION OF SERVICE OR COMMODITY	UNIT PRICE	AMOUNT	MEMO
			Fund 290 Refund of application for Extension of Time; Water Permit #1177-1, Esther Kling; Mr. Kling does not want the Extension of Time at this time. Receipt # 7502		2.50	
TOTAL					2.50	

I declare and affirm under the penalties of perjury that this claim is in all things, true and correct. I further agree to comply with the provisions of the Civil Rights Act of 1964 and regulations issued thereunder relating to nondiscrimination in federally assisted programs.

Claimant Signature

11-9-71

Date

AGENCY VERIFICATION

I hereby certify that this claim has been examined by me, and to the best of my knowledge and belief is in all things true and correct and the same is hereby approved.

DIVISION APPROVAL

DATE

APPROVAL SIGNATURE

DATE

Belle Fourche River and Tributaries
Water Use Control Area
Financial Report
1981

11/7/77

Summary of Receipts and Expenditures
June, 1981 - July, 1981

	<u>Receipts</u>	<u>Disbursements</u>	<u>Balance</u>
Collections (Water User's fees)	\$7,379.37	\$	\$
Watermaster (Salary and Mileage)		2,028.62	5,350.75
	<u>\$7,379.37</u>	<u>\$2,028.62</u>	<u>\$5,350.75</u>

Detailed Report of Receipts

No.	Name	Diversion Rate	Acreage	Receipts (total fee)	Amount Returned
789-1	Louis Budmayr	0.90	95.50	\$ 34.00	\$ 30.10
429-1	Ed Brunner & Son	1.43	106.00	46.50	41.16
429-1A	Mel Pittman	1.07	79.00	40.00	35.41
506-1	Bob Bartels	.23	17.00	14.25	12.61
892-1	Bob Bartels	1.00	70.00	27.50	24.34
417-1A	Quinten & Karen Watson	.53	78.00	29.50	26.11
417-1B	Clarence Anderson	1.43	206.00	64.00	56.65
417-1	Mrs. Eddie(Vivian)Anderson	1.15	69.00	69.50	61.52
531-1	Ruby Dillinger	1.27	89.29	42.50	37.62
1162-1	Charles & Dorothy Shaykett	4.61	324.70	131.00	115.96
1210-1	Charles & Dorothy Shaykett	1.80	128.30	52.00	46.03
1132-1	Ezra Pauley	4.00	285.00	111.25	98.48
1204-1	Art Heitz, Jr.	2.19	153.00	68.25	60.41
1205-1	Harlan K Schnell	1.88	132.00	53.00	46.91
1215-1	H L & Mildred Brunner	3.00	264.50	96.12	85.03
418-1	Alex Miller	1.67	117.00	49.25	43.59
1211-1	Robert W Grant	1.43	100.00	45.00	39.83
419-1	Herman Stark	2.50	179.00	74.75	66.17
421-1	Lee Dutton	2.50	175.00	73.75	65.28
1049-1	Thorval Jensen	1.47	103.00	45.75	40.50
1122-1	Thorval Jensen	4.88	324.14	135.75	120.16
1160-1	Thorval Jensen	1.90	133.49	53.50	47.36
1029-1	Homestake Mining	1.39	97.00	44.25	39.17
910-1	Donald Halbmaier	2.50	175.00	73.75	65.28
1165-1	Tom Bowen	2.35	200.00	80.00	70.81
722-1	Edith Anderson & Tom Bowen	2.80	196.00	79.00	69.93
1148-1	Homestake Mining	13.50	948.00	377.00	333.71
430-1	Gerald Wetz	1.65	116.00	49.00	43.37
432-1	Roy Casteel	4.30	307.00	126.75	112.20
414-1	Mary Ann Schummer	3.40	239.00	99.75	88.30
411-1	Edward Poss	5.10	452.00	173.00	153.13
440-1	David A Richards	5.00	416.00	154.00	136.32
1149-1	Homestake Mining	3.20	226.00	96.50	85.42
1150-1	Homestake Mining	7.60	534.00	213.50	188.98
437-1	McNenny Ranch Inc.	5.30	418.00	164.50	145.61
1151-1	Homestake Mining	5.50	390.00	157.50	139.41
821-1	George Levin & Sons	7.00	490.00	192.50	170.40
1136-1	George Levin & Sons	3.07	215.00	93.75	82.98

Detailed Report of Receipts Cont.

No.	Name	Diversion Rate	Acreage	Receipts (total fee)	Amount Returned
1152-1	Homestake Mining	6.60	462.00	\$ 105.50	\$ 164.70
449-1	George Wurnig	5.00	365.00	171.25	151.59
1153-1	Homestake Mining	6.10	428.00	177.00	156.68
311-1	Lester Clark	16.61	1,163.60	461.00	408.06
310-1	Lester Clark	6.76	473.20	108.50	166.85
248-1	Lawrence Burke	0.90	64.00	26.00	23.01
1077-1	Charles M Arneson	1.44	131.00	52.75	46.69
165-1	Trigg Ranches Inc.	4.30	301.00	275.00	243.42
122-1	Trigg Ranches Inc.	3.75	263.00		
1146-1	Trigg Ranches Inc.	1.89	336.00	68.75	60.86
928-1	Charles Wennborg	2.20	155.00	45.50	40.28
912-1	Gilbert Alan	1.46	101.80	65.75	58.20
926-1	Donald Berger	2.04	143.00	70.75	62.63
1176-1	Arthur J Odekoven	2.30	163.00	101.75	90.07
1190-1	Neil Shuck	3.53	247.00	98.75	87.41
611-1	Alex Miller	3.35	235.00	27.00	23.90
569-1	Ramona McFarland	0.97	68.00	22.25	19.70
870-1	Eugene C Bishop	0.70	49.00	53.00	46.91
401-1	Kenneth & Dorothy Aker	1.88	132.00	95.00	84.09
135-1	Walter Hoffman	3.11	220.00	94.50	83.65
408-1	James A Mickelson	3.10	218.00	42.75	37.84
469-1	Raymond Garness	1.30	91.00	20.75	18.37
1218-1	William Dillinger	.40	42.70	39.75	35.19
1222-1	John Ismay (Norman)	1.11	79.00	129.75	114.85
1154-1	Homestake Mining	4.50	319.00	67.50	---
285-1	Edgar Colin Smart	1.42	150.00	52.75	---
331-1	Anna Stetta (Louis Budmayr)	1.87	131.00	62.00	---
472-1	Timothy Reich	2.00	167.84	53.25	---
275-1	John Durr	1.90	133.00	20.75	---
271-1	Herbert Clarkson	.06	43.00	74.75	---
296-1	Robert Helmer	2.50	179.00	21.25	---
308-1	Lewis Bertolotto	.64	45.00	38.50	---
282-1	James Jeffrey	1.05	73.70	47.00	---
1182-1	George Leach	1.60	108.00	23.75	---
228-1	Thornton Vallery	.72	54.17	156.50	---
290-1	Thornton Vallery	5.50	386.00	14.00	---
264-1	Thornton Vallery	.22	15.30	48.75	---
321-1	Clarence & Lawrence Foos	1.64	115.00	92.75	---
962-1	Ione A Shevling	3.00	251.00	18.75	---
960-1	Thornton & Gwenivere Vallery	.50	35.00	38.75	---
289-1	Thornton & Gwenivere Vallery	1.02	75.00	18.25	---
273-1	Ruben & Esther Kling	.46	32.60	47.25	---
273-1A	Ruben & Esther Kling	1.54	108.40	97.75	---
1177-1	Ruben & Esther Kling	3.30	231.00	79.50	---
416-1	Creta & Leslie Miner	2.66	198.00	67.50	---
865-1	Solomn Stark	2.14	150.00	68.50	---
297-1	David G Rathbun	2.20	154.00	124.75	---
1126-1	John Lewis	3.11	339.00		



Department of Water & Natural Resources

Joe Foss Building
Pierre, South Dakota 57501

(605) 773-3352
Water Rights Division

November 13, 1981

To Water Use Control Area Permit Owners:

Enclosed is a copy of the Financial Report for the Belle Fourche River Water Use Control Area. Based on this closing financial statement, amounts were prorated out and refunds are being sent from the money that was not used by the water master. Persons between the Belle Fourche Diversion Dam and Owl Creek will receive no refunds due to the water master's services being required only in this area.

The refund checks are being mailed under separate cover thru our Finance Office.

If you have any questions feel free to contact our office.

Sincerely,

A handwritten signature in dark ink, appearing to read "James E. Winterton".

JAMES E. WINTERTON
Water Resources Engineer

JW/bt
Enc.

Equal Opportunity Employer

APPLICATION FOR EXTENSION OF TIME

TO: Water Rights
Foss Building
Pierre, South Dakota 57501

Date 4-30-80

Dear Sirs:

In Water Right Permit No. 1177-1 it is specified that the water diversion system is to be completed by May 25, 1980 and that the water is to be put to the limit of beneficial use by May 25, 1984.

I hereby request that the date for completing the diversion system be extended to May 30, 1984 and that the date for putting the water to the limit of beneficial use be extended to May 30, 1984. 114

The extension of time for the completion of these works is requested for the following reasons: We are planning to put pivots on this land instead of big gun. We feel that low pressure will work on this ground and the energy savings would be significant. Therefore, we would like more time for planning and also for a little better economic situation.

Enclosed herewith is a fee of Two Dollars and Fifty Cents (\$2.50) to pay the cost of filing this request for extension of time.

E. A. H. Kling May 8, 1980
(Signed)

1177-1

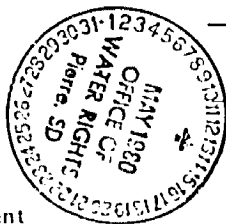
Permit Number

APPROVED:

Board of Water Management

BY:

P.S. We would like to have the irrigation district extended from May 1 to Sept 1 to April 1 to Oct 1, on right 1177-1. There is very little water taken from the river in the April ~~to~~ Sept. months and irrigating offsite during these months would help spread out the water need so it won't be as critical in the May 1 to Sept 1 period.



IN THE REQUEST FOR AN EXTENSION OF TIME, MRS KLING ALSO REQUESTS THAT THE PERIOD OF ANNUAL USE BE CHANGED FROM MAY 1 TO SEPTEMBER 1 TO APRIL 1 TO OCTOBER 1.

I SEE NO SERIOUS PROBLEM WITH ALLOWING HER TO PUMP DURING APRIL; HOWEVER, ACTION BY THE WATER RIGHTS COMMISSION ON SUBSEQUENT PERMITS FROM THE BELLE FOURCHE RIVER ESTABLISHING AN AUGUST 15 CUT OFF DATE WOULD SEEM TO PRECLUDE EXTENDING THE SEPTEMBER 1 DATE.

~~SECTION~~ SDCL 46-1-14 STATES THAT THE BOARD MAY AMEND PERMITS, AND MAY ALTER TERMS, CONDITIONS, RESTRICTIONS, QUALIFICATIONS OR QUANTIFICATIONS CONSISTENT WITH THIS CHAPTER.

QUESTION: CAN THE BOARD AMEND THE PERMIT TO EXTEND THE ANNUAL PERIODS OF USE WITHOUT A NEW APPLICATION?

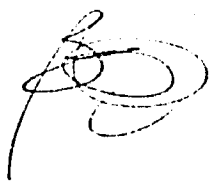
5-19-80 CURT: SAYS TO BE CONSISTENT, ^{AND IN ABSENCE OF RULES COVERING THIS,} THE INTENT SHOULD BE NOTICED - DOES NOT THINK IT REQUIRES ANOTHER APPLICATION NOR ADDITIONAL FEE

NOTICE IS HEREBY GIVEN THAT ESTHER KLING HAS MADE APPLICATION TO EXTEND THE ~~TIME~~ ANNUAL PERIOD OF USE UNDER WATER RIGHT PERMIT TO INCLUDE ^{APRIL} ~~SEPTEMBER~~

11-9-51

MR KLING SAYS TO RETURN
\$250 FOR EXTENSION —

THEY DO NOT THINK THEY
WANT THE EXTENSION AT
THIS TIME. IF RIVER IS
OPENED UP PAST AUG 15 DATE,
NOTIFY THEM

A handwritten signature or set of initials, possibly "B.D.", written in a cursive style with a large loop.

REPORT ON DEFERRED APPLICATION NOS. 1106-1, 1177-1, 1182-1
IN BUTTE COUNTY, SOUTH DAKOTA ON THE BELLE FOURCHE RIVER
May 15, 1979

The Water Rights Commission had previously deferred action on Application Nos. 1106-1 for Ed Brunner and Sons, 1177-1 for Esther Kling, and 1182-1 for George Leach pending an investigation by the Commission Staff.

The applications are as follows:

Appl. No.	Name	Diversion Point	cfs	Acres
1106-1	Ed Brunner & Sons	SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 8, T8N, R5E	3.3	230
1177-1	Esther Kling	NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 12, T8N, R4E	3.3	231
1182-1	George Leach	NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 17, T8N, R4E	1.6	108

THE PROPOSED PROJECTS

The applications propose to pump a total of 8.2 cfs of water from the Belle Fourche River in the area between the Fruitdale gauging station number 4360 and the Owl Creek inlet (see attached map). The land listed on the Brunner Application is under the Belle Fourche Irrigation District and obtains water from this source. Mr. Brunner wishes to use this water to supplement the Irrigation District water during peak usage of the ditches because the ditches during these times are not capable of carrying the needed supplies. The Kling and Leach Applications would depend solely on whatever flows are available in the Belle Fourche River along with return flows which are added to the Belle Fourche from Maloney Creek. This creek picks up part of the return flows of the Redwater Ditch Co.

OPPOSITION

The main objections that were raised concerned water availability during the irrigation season for downstream senior rights.

DISCUSSION ON THE AVAILABILITY OF WATER

Adequate supplies of water are usually available below the mouth of Owl Creek due to return flows from the Irrigation District. Above the mouth flows can become very low especially during the later part of July and the months of August and September.

The gauging station operated by the USGS located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 3, T8N, R3E gives an indication of the flows that can be expected. The following is the mean flow for the years of record from 11/1945 - 9/1970 broken down into 10 day intervals:

April	Time Period	Mean Flow cfs	May	Time Period	Mean Flow cfs
	1-10	162		1-10	187
	11-20	112		11-20	240
	21-30	91.7		21-31	249

	Time Period	Mean Flow cfs		Time Period	Mean Flow cfs
June	1-10	174	July	1-10	92.2
	11-20	240		11-20	52.1
	21-31	249		21-31	22.1
August	1-10	28.3	September	1-10	22.3
	11-20	8.2		11-20	38.8
	21-31	9.8		21-30	23.8

According to the above records, flows on the average would be available up through July 20. Therefore, a cutoff date could be set. The gauging station, however, does not give an indication of the return flows from the Redwater Ditch entering the Belle Fourche via Maloney Creek and flows entering the Belle Fourche from Stinking Water Creek. These flows have not been quantified and there is a question on the impact of these drainages to the Belle Fourche River flows. The applicants for water rights say that there is a significant increase in flows due especially to the return flows of the Redwater irrigation.

CONCLUSIONS

There are times when flows would be available primarily in the early part of the irrigation season. In order to control pumping during low flow times, it is best to set a minimum flow which must be bypassed at a given location to meet the needs of downstream senior rights. The following is a listing in order of location from Owl Creek to the Fruitdale gauging station:

Water Permit No.	Diversion Rate (cfs)	Total
1126-1	3.11	
865-1	2.14	
287-1	2.2	
416-1	2.66	10.11
1106-1 (Appl. Deferred)	3.3	13.41
1177-1 (Appl. Deferred)	3.3	
273-1	0.46	
273-1A	1.54	
289-1	1.02	
960-1	0.50	
961-1	1.50	
962-1	3.0	
321-1	1.64	
264-1	0.22	
228-1	0.72	
290-1	5.5	32.81
1182-1 (Appl. Deferred)	1.6	
402-1	1.7	
282-1	1.05	
296-1	2.5	39.66

The above listing indicates the flows which would have to be bypassed for each of the Deferred Applications.

3

RECOMMENDATIONS:

The staff recommends that the applications be approved with bypass provisions depending on the location of the diversion above Owl Creek. An additional 10% is added to the bypass rates to take care of losses which may be incurred from other than irrigation. Mr. Ed Brunner also indicated that he would be willing to reduce his requested diversion rate from 3.3 cfs to 2.2 cfs as the water will be used as a supplemental supply to that of the Irrigation District's water.

RECOMMENDATION FOR APPL. NO. 1106-1, Ed Brunner & Sons

Approve application No. 1106-1 for 2.2 cfs with the qualification that flows in the stretch of the Belle Fourche River above Owl Creek are not a dependable source of water during the latter part of the summer. Prior water rights and downstream domestic use must be respected. This permit is approved allowing withdrawals whenever 12 cfs of water or more is flowing past your diversion point. Lands described in this permit which receive water from the Belle Fourche Project may not receive water under this permit when the needed supplies are available from the Belle Fourche Project.

RECOMMENDATION FOR APPL. NO. 1177-1, Esther Kling

Approve application No. 1177-1 for 3.3 cfs with the qualification that flows in the stretch of the Belle Fourche River above Owl Creek are not a dependable source of water during the latter part of the summer. Prior water rights and downstream domestic use must be respected. This permit is approved allowing withdrawals whenever 15 cfs of water or more is flowing past your diversion point.

RECOMMENDATION FOR APPL. NO. 1182-1, George Leach

Approve application No. 1182-1 for 1.6 cfs with the qualification that flows in the stretch of the Belle Fourche River above Owl Creek are not a dependable source of water during the latter part of the summer. Prior water rights and downstream domestic use must be respected. This permit is approved allowing withdrawals whenever 36 cfs of water or more is flowing past your diversion point.

James E. Winterton

JAMES WINTERTON, Water Resources Engineer IV
Water Rights Commission

STATE OF SOUTH DAKOTA)
COUNTY OF HUGHES) SS

Swore to, before me, this 23rd day of May, 1977.

Lois L. Bils
Notary Public

LOIS L. BILS, Notary Public
My Commission Expires
February 3, 1981

South Dakota Department of
Water & Natural Resources

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

March 23, 1987

ESTHER KLING
PO BOX 166
NISLAND, SD 57762

NOTICE

Re: Violation of Water Permit(s). 1233-1 and 1986 Irrigation
Questionnaire Requirements.

Our records indicate that the 1986 Irrigation Questionnaire has not been submitted for Permit No(s). 1233-1. The request for the questionnaire was dated November 3, 1986. The Water Management Board has directed that owners of water permits who have not submitted 1986 Irrigation Questionnaires be given notice of permit violation and of hearing(s) before the Board. The hearing(s) will be held to determine action to be taken by the Board for violation of Water Permit No(s). 1233-1 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will also be to determine if Permit No(s). 273-1A and 1177-1 should be amended with the qualification to require the Questionnaire to be submitted each year.

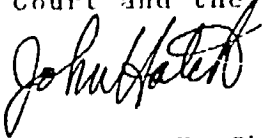
The hearing(s) will be at 2:00 pm, May 6, 1987, in Room 216, Joe Foss Building, 523 E Capitol, Pierre SD.

The hearing(s) will be conducted pursuant to the provisions of SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11, and 46-2-17. These are contested case hearings pursuant to procedures contained in SDCL 1-26.

Following the hearings(s), the Water Management Board can:

1. Suspend Permit No(s). 1233-1 until either the 1986 Questionnaire is submitted or for the period of up to one year;
2. Amend Permit No(s). 273-1A and ~~1177-1~~ to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action;
4. Take no action.

The hearing(s) is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

A handwritten signature in cursive script, appearing to read "John Hatch".

JOHN HATCH, Chief Engineer
Water Rights Division
605 773-3352

NOTE: If the questionnaire(s) are received in this office before the hearing date, you will no longer be in violation of your permit(s) and your name will be deleted from the agenda pertaining to these hearings.

South Dakota Department of
Water & Natural Resources

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

April 15, 1987

273-1A
1177-1
1233-1

Esther Kling
Box 166
Nisland, SD 57762

Dear Ms. Kling:

This will acknowledge receipt of and thank you for the return of your 1986 Irrigation Questionnaires. A notice was sent to you March 23, 1987 regarding the Irrigation Questionnaire submittal violation of Water Permit Nos. 273-1A, 1177-1 and 1233-1 and the date hearings were to be held before the Water Management Board to determine any action to be taken concerning the violation.

Please disregard the notice sent to you dated March 23, 1987. Your name has been deleted from the agenda pertaining to these hearings.

If you have any questions, please contact us.

Very truly yours,



JOHN HATCH, Chief Engineer
Water Rights Division
605 773-3352

 **Department of
Water & Natural Resources**

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

1233-1
273-1A
1177-1

SEP 12 1989

Esther Kling
P.O. Box 166
Nisland, SD 57762

Dear Ms. Kling:

Enclosed is Partial Vested Water License No. 1233-1. This is the final water right document completing your process of obtaining a water right. Enclosed is Receipt No. 410726 in the amount of \$50.00 which you paid for the inspection and issuance of the Water License.

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

Very truly yours,


JOHN HATCH, Chief Engineer
Water Rights Division
605 773-3352

enclosures

Note: The applicable portions of Partial Vested Water Permit No. 273-1A and Water Permit No. 1177-1 have been incorporated into this Water License No. 1233-1.

