

WATER PERMIT NO. 1965-1

Name of Applicant: Ollila Family Living Trust

Address: 13087 194th St, Vale SD 57788 Phone: Meade

Amount of Water Claimed: 3.2 AF Total Acres: NA

Source of Water Supply: runoff

Water to be used for: livestock watering County: Meade

Type of Waste Disposal System:

Location: 13 miles north of Sturgis

PRIORITY Date Received: 4-7-17 Application/License Fee: \$ 50.00

Corrected Application Received: Period of Annual Use: Jan 1 – Dec 31

Remarks: Requesting a vested right with a priority date of January 1, 1930

Diversion Point: NW 1/4 NW 1/4 Sec 8-T7N-R6E

Land to be Irrigated: NA

Depth of Well: NA

Well Driller:

Remarks:

Type of Map: aerial

Prepared by:

	⊗				
			8		

Reviewed and the Number Assigned on: 4-7-17

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

FORM 2: Application for uses other than irrigation
(type or print)RECEIVED
APR - 7 2017
WATER RIGHTS
PROGRAM

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>1965-1</u> (office use only) Hydrologic Unit <u>10120202</u>
	Basin <u>Belle Fourch River</u>
	Newspaper <u>Meade Co Times-Tribune</u>
	<u>Black Hills Pioneer</u>

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

Check use(s) of water:

☐ Municipal	☐ Water Distribution System	☐ Recreational	☐ Institutional
☐ Rural Water System	☐ Commercial	☐ Fish & Wildlife	☐ Geothermal
☐ Domestic (over 18 gpm)	☐ Industrial	☒ Other <u>Livestock Watering</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.)

1. Name to Appear on Water Permit Ollila Family Living TrustMailing Address 13087 194th Street Vale SD 57788
(Address) (City) (State) (Zip Code)Phone (605)456-2242 Mobile (605)892-8626 Email jartollila@gmail.com2. Amount of water claimed _____ *CFS or _____ **GPM and 3.2 ***AF or _____ Gallons
Flow rate and volume are both required. (*Cubic Feet per Second) (**Gallons per Minute) (**Acre Feet - storage capacity of dam/dugout or annual use)

3. Source of water supply _____

4. Location of point of diversion dam in NW1/4 NW1/4 Section 8 T7N, R6E County Meade
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)If not a public water supply (e.g. municipal), will water be used outside of the area described above? ☐ Yes ☒ NoIf "Yes," where will water be used? _____
(example - NW1/4 section 12-T104N-R53W)5. County or counties where water will be used Meade6. Annual period during which water is to be used All year

7. Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

Dry Draw Dam constructed prior to the 1930s for livestock watering purposes.

I, Ant Ollila Trustee _____, the applicant, certify under
Name of Person Title (if applicable)

penalty of perjury that I have read this application, examined the attached map, and that the matters stated are true. I further certify, if acting on behalf of an entity or individual other than myself, that I am authorized to submit this application.

SOUTH DAKOTA

VESTED WATER RIGHT NO. 1965-1

Date of Receipt of Claim April 7, 2017.

Date of Validation July 12, 2017.

The Water Management Board validated Vested Water Right No. 1965-1 for Ollila Family Living Trust, c/o Art Ollila, 13087 194th St, Vale SD 57788 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 1965-1 authorizes impoundment of 3.2 acre-feet of water from runoff into a dam located in the NW 1/4 NW 1/4 Section 8-T7N-R6E.
2. The appropriated water is used for livestock watering purposes and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following annual period: January 1 – December 31.
4. The priority date of the Vested Water Right No. 1965-1 is December 31, 1929.
5. The water use system has been constructed and water has been applied to beneficial use.
6. Water Rights obtained in compliance with the laws of the State of South Dakota must not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

By: Jeanne Goodman
Jeanne Goodman, Chief Engineer
Water Rights Division
Department of Environment and Natural Resources

JUL 27 2017
date



Supplemental Information

(type or print)

1. Well Information (check one or both as applicable) ☐ Drilling new well(s) ☐ Using existing well(s)

a) If new wells, how many ____ Have test holes been drilled ☐ Yes ☐ No Drilled by ____
(if yes, please provide copies of logs)

b) If existing wells, how many ____ Provide copy of log(s), if available. Drilled by ____

For either Existing or Proposed Wells:

c) Well Depth (required) ____ Depth to Top of Water Bearing Material ____ Depth to Water from Surface ____

d) Distance to nearest domestic well on applicant's property ____ 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:

b) Freeboard 2'

c) Crest Width 15'

Crest Length 216'

d) Height 10'

e) Primary Outlet Capacity ____

If pipe, diameter ____

f) Secondary Spillway Capacity ____

Spillway Width 10'

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

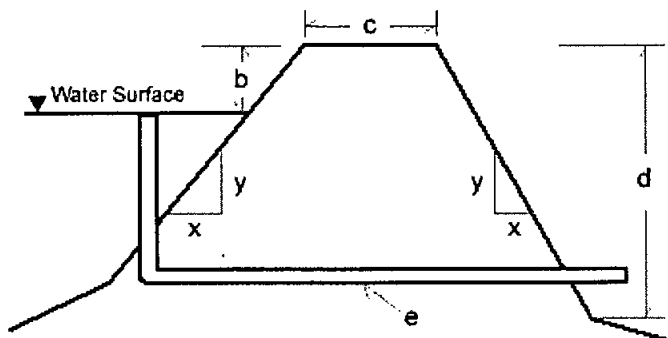
Upstream 3:1

Downstream 3:1

h) Surface Area of Impoundment 26,136 sq. ft.

i) Storage 3.2 Acre Feet

j) Drainage Area Above Dam 75.0 Acres



Affidavit of Water Use

Form 2B

(Type or Print in Ink)

Note: This Form is supplemental to Form 2 and is to be used when an affidavit is needed to document historical water use, primarily with vested right claims.

Affidavit Of Construction Of Water Use System And Application Of Water To Beneficial Use

Name of Applicant (Same as Form 2) Ollila Family Living Trust

Mailing Address 13087 194th Street Vale SD 57788
(Address) (City) (State) (Zip Code)

A. Notice of Appropriation _____ Date of Posting _____

Date of Recording _____ Recording Date _____

B. Date of start of construction of water supply system prior to the 1930s

C. Date that water was first applied to beneficial use prior to the 1930s

D. Name of owner of original water supply system _____

E. Amount of water originally applied to beneficial use _____

F. Present use of water - amount of water now being used livestock watering

Date that this water was first used prior to the 1930s

G. Chronological History of Water Use

Since the construction of the Dry Draw Dam prior to the 1930s, the water has been historically used for livestock watering purposes.

My maiden name was Judy Holst. The Holst Family Homestead is located in the NE1/4 NE1/4 of Section 7, T7N, R6E. I was born December 5, 1943 and lived on the Holst Family Homestead until 1963. In 1963, I married Art Ollila, and we lived east of Newell, South Dakota until 1983, when we moved back to the Holst Family Homestead. We have lived on the Holst Family Homestead since 1983. My family rented out the Holst Family Homestead from 1963 to 1983, and during that time I was aware of how the lessees used the dam for livestock watering purposes. As far back as I can remember, the dam has been used continuously for livestock watering purposes. Family members have told me the dam has been used for livestock watering purposes since its construction.

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**WATER RIGHTS
PROGRAM**

I, Judy Ollila Trustee _____ the applicant, certify that I have read the foregoing and that the matters therein are true.

I, the undersigned do hereby certify that I know about the water use system described above, that I have read the foregoing, and that the matters therein are true.

Judy Ollila 4-4, 2017
_____, 20____

STATE OF SOUTH DAKOTA)

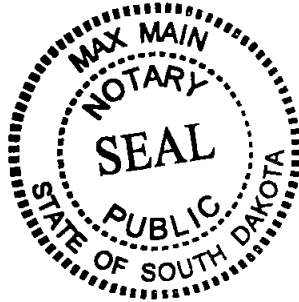
)SS.

Form 2B, page 2.

COUNTY OF BUTTE)

Subscribed and sworn to before me by Judy Ollila this 4th day of April, 2017.

Notary Seal



Max Main

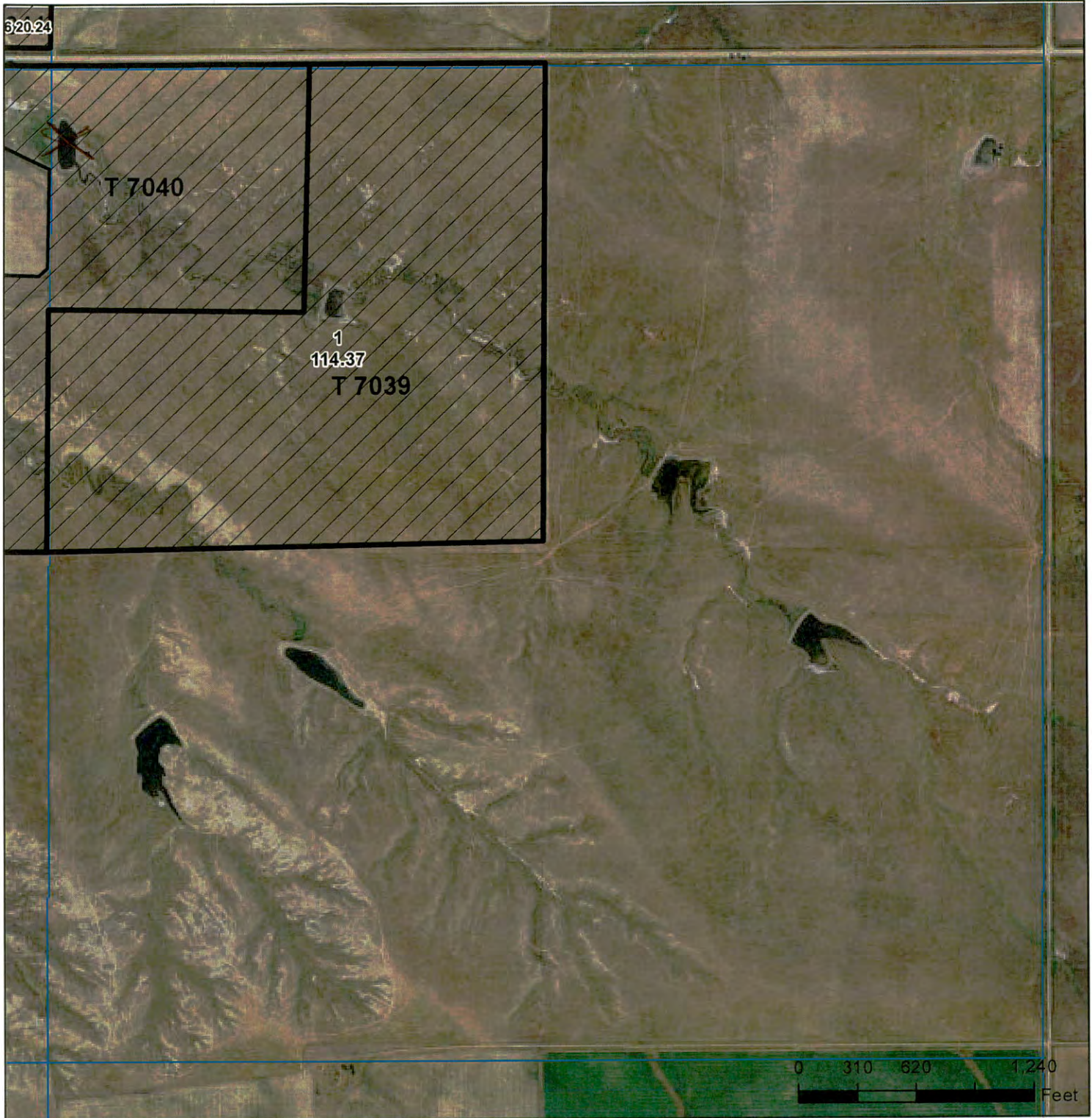
Max Main, Notary Public

My Comm. Exp.: 05/15/2020



United States
Department of
Agriculture

Meade County, South Dakota



Common Land Unit  Tract Boundary
 Common Land Unit
 Rangeland

Wetland Determination Identifiers

-  Restricted Use
-  Limited Restrictions
-  Exempt from Conservation
-  Compliance Provisions



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APR - 7 2017

**WATER RIGHTS
PROGRAM**

2017 Program Year

Map Created September 21, 2016

Farm 2438

8 -7N -6E

United States Department of Agriculture (USDA) Farm Service Agency (FSA) maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather it depicts the information provided directly from the producer and/or National Agricultural Imagery Program (NAIP) imagery. The producer accepts the data 'as is' and assumes all risks associated with its use. USDA-FSA assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside FSA Programs. Wetland identifiers do not represent the size, shape, or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact boundaries and determinations or contact USDA Natural Resources Conservation Service (NRCS).

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 4/7, 20 17

RECEIVED OF Bennett Main & Gubbrud PC 618 State St Belle Fourche SD 57717

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

Fee for Application for Permit No. <u>1965-1</u> to Appropriate Water, to construct and to put water to beneficial use <u>(Vested Right Validation)</u>	50	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. _____		
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	50 00

No. **08220**

By Jeanne H. Hansen
Chief Engineer

Gronlund, Eric

From: Max Main <max@bellelaw.com>
Sent: Thursday, April 13, 2017 4:29 PM
To: Gronlund, Eric
Subject: [EXT] RE: Ollila Family Living Trust

Eric-

I concur with the priority dates.

Thanks.

Max Main
BENNETT MAIN GUBBRUD & WILLERT, P.C.
Telephone: 605.892.2011

From: Gronlund, Eric [<mailto:Eric.Gronlund@state.sd.us>]
Sent: Thursday, April 13, 2017 1:03 PM
To: Max Main (max@bellelaw.com) <max@bellelaw.com>
Subject: Ollila Family Living Trust

Mr. Main:

DENR received the four vested water right claims filed by the Ollila Family Living Trust.

Two of the claims indicate the dams were built prior to the 1930's. This would lead to the conclusion they are claiming a December 31, 1929 priority date.

The other two claims indicate the dams were built in the 1930's. Without more specificity on the date of construction this leads to claimed priority date of December 31, 1939.

Do you concur with these being the claimed priority dates?

Eric Gronlund
Water Rights Program, DENR
605 773-3352
eric.gronlund@state.sd.us



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

May 23, 2017

Sandy Hanson
19360 SD Hwy 79
Vale SD 57788

Dear Mr. Hanson:

Enclosed is the public notice, report and recommendation regarding four vested water right claims filed by Olliala Family Living Trust for dams. The notice is to be published May 31st in the Meade County Times & Tribune and the Black Hills Pioneer scheduling a July 12, 2017, hearing before the Water Management Board.

This information is being sent as a courtesy based on your request to be notified when this matter is sent for public notice.

Sincerely,

Eric Gronlund
Water Rights Program, DENR
605 773-3352

enclosures

RECEIVED

JUN - 5 2017

WATER RIGHTS
PROGRAM

Affidavit of Publication

STATE OF SOUTH DAKOTA:

COUNTY OF LAWRENCE:

Letitia Lister of said County and State being first duly sworn, on her oath says: That the BLACK HILLS PIONEER is a legal daily newspaper of general circulation, printed and published in the City of Spearfish, in said County and State by Letitia Lister, and has been such a newspaper during the times hereinafter mentioned; and that said newspaper has a bonafide circulation of at least 200 copies weekly, and has been published within said County in the English language for at least one year prior to the first publication of the notice herein mentioned, and is printed in whole or in part in an office maintained at the place of publication; and that I, Letitia Lister, the undersigned, am the Publisher of said newspaper and have personal knowledge of all the facts stated in this affidavit; and that the advertisement headed:

Notice

a printed copy of which is hereto attached, was printed and published in said newspaper for 1 successive and consecutive weeks, the first publication being made on the 31st day of May, 2017, and the last publication on the _____ day of _____, that the full amount of fees charged for publishing same, to-wit: The sum of \$ 62.37, insures solely to the benefit of the publisher of the BLACK HILLS PIONEER, that no agreement or understanding for a division thereof has been made with any person and that no part thereof has been agreed to be paid to any other person whomsoever.

[Signature]
Subscribed and sworn to before me this 21st day of May, 2017

[Signature]
Notary Public, Lawrence County, South Dakota
My commission expires: 10-24-2022

Notice to Validate Vested
Water Right Application
Nos. 1964-1, 1965-1,
1966-1 and 1967-1

Notice is given that Ol-lila Family Living Trust, c/o Art Ollila, 13087 194th St, Vale SD 57788 has filed four applications to validate vested water right claims. Application No. 1964-1 requests impoundment of 1.5 acre-feet of water from runoff into a dam claimed to be constructed prior to the 1930's located in the SE 1/4 SE 1/4 Section 6-T7N-R6E. Application No. 1965-1 requests impoundment of 3.2 acre-feet of water from runoff into a dam claimed to be constructed prior to the 1930's located in the NW 1/4 NW 1/4 Section 8-T7N-R6E. Application No. 1966-1 requests impoundment of 24 acre-feet of water from runoff into a dam claimed to be constructed in the 1930's located in the SE 1/4 NE 1/4 Section 7-T7N-R6E. Application No. 1967-1 requests impoundment of 2.0 acre-feet of water from runoff into a dam claimed to be constructed in the 1930's located in the SE 1/4 NE 1/4 Section 7-T7N-R6E. The water use for each vested water right claim is livestock watering purposes.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Application Nos. 1964-1, 1965-1 with a priority date of December 31, 1929, and a claimed priority date of December 31, 1939 for Application Nos. 1966-1 and 1967-1 because 1) water had been appropriated as described for livestock water use, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) it is in the public interest. The Chief Engineer's recommendation with qualifications, the applications, and staff report are available at <http://denr.sd.gov/public> or contact Er. Grogler for this information, or other information, at the Water Rights Program address provided below.

SDCL 46-2A-4(10) provides that "if the applicant does not contest the recommendations of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the applications pursuant to the Chief Engineer's recommendations and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that these applications present important issues of public interest that should be heard by the Water Management Board.

The Water Management Board will consider these application at 1:30 p.m. on July 12, 2017 in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) validate, 2) validate with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the applications and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendations. 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 June 30, 2017.

The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The July 12, 2017 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support the application. The request for an automatic delay must be filed by June 30, 2017. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may

be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is June 12, 2017. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31, 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:25:02; 74:02:01:35:01.

Steven M. Pirner,
Secretary,
Department of
Environment and
Natural Resources.

Published once at the
total approximate cost of
\$63.29.

#201
May 31

Affidavit of Publication

RECEIVED

JUN 16 2017

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA

County of Meade

SS:

Carina Tyler being first duly sworn, upon his/her oath says: That he/she is now and was at all time hereinafter mentioned, an employee of the Rapid City Journal, a corporation of Rapid City, South Dakota, the owner and publisher of the MEADE COUNTY TIMES, a legal and daily newspaper printed and published in Sturgis, in said County of Meade, and has full and personal knowledge of all the facts herein stated as follows: that said newspaper is and at all of the times herein mentioned has been a legal and daily newspaper with a bonafide paid circulation of at least Two Hundred copies weekly, and has been printed and published in the English language, at and within an office maintained by the owner and publisher thereof, at Sturgis, in said Meade County, and has been admitted to the United States mail under the second class mailing privilege for at least one year prior to the publication herein mentioned; that the advertisement, a printed copy of which, taken from said Meade County Times, the paper in which the same was published, is attached to this sheet and made a part of this affidavit, was published in said paper once each Week for 1 successive Week, the first publication there of being on the 31 day of May that the fees charged for the publication there of are 90 dollars and 06 cents.

Carina Tyler
Subscribed and sworn to before me this 14
day of June, 2017.

Dustin Rice
Notary public

DUSTIN RICE



NOTARY PUBLIC
SOUTH DAKOTA



7/1/20
My commission expires

May 31
L21043848

**NOTICE TO VALIDATE
VESTED WATER RIGHT
APPLICATION NOS.
1964-1, 1965-1, 1966-1
AND 1967-1**

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been appropriated as described for livestock water use, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) it is in the public interest. The Chief Engineer's recommendation with qualifications, the applications, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

SDCL 46-2A-4(10) provides that "if the applicant does not contest the recommendations of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the applications pursuant to the Chief Engineer's recommendations and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that these applications present important issues of public interest that should be heard by the Water Management Board.

The Water Management Board will consider these application at 1:30 p.m. on July 12, 2017 in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) validate, 2) validate with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the applications and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendations. 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 June 30, 2017.

The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The July 12, 2017 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support the application. The request for an automatic delay must be filed by June 30, 2017. If an automatic delay is requested, the hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location. Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

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/s/ Steven M. Pirner,
Secretary,

Department of Environment
and Natural Resources.

(Published once at the total
approximate cost of \$90.06).
MEADE COUNTY TIMES



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

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

May 23, 2017

Ollila Family Living Trust
Art Ollila
13087 194th St
Vale SD 57788

Dear Mr. Ollila:

Water Permit Application Nos. 1964-1, 1965-1, 1966-1 and 1967-1 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 Meade County Times & Tribune printed at Sturgis SD (Ph # 605-347-2503) and the Black Hills Pioneer printed at Spearfish SD (Ph # 605-642-2761). You will need to contact the newspaper(s) and authorize publication of this notice. For your information, a copy of the notice, the recommendations of the Chief Engineer and reports 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(s) to authorize publication of your Notice and to arrange for payment. Early contact with the paper(s) can eliminate delays. Upon receiving authorization from you, the publisher has been instructed to publish your notice. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

cc: Max Main, Bennett Main Gubbrud & Willert, 618 State St, Belle Fourche SD 57717

NOTE: If you plan to contest any part of the Chief Engineer's recommendations, 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.

Notice to Validate Vested Water Right Application Nos. 1964-1, 1965-1, 1966-1 and 1967-1

Notice is given that Ollila Family Living Trust, c/o Art Ollila, 13087 194th St, Vale SD 57788 has filed four applications to validate vested water right claims. Application No. 1964-1 requests impoundment of 1.5 acre-feet of water from runoff into a dam claimed to be constructed prior to the 1930's located in the SE 1/4 SE 1/4 Section 6-T7N-R6E. Application No. 1965-1 requests impoundment of 3.2 acre-feet of water from runoff into a dam claimed to be constructed prior to the 1930's located in the NW 1/4 NW 1/4 Section 8-T7N-R6E. Application No. 1966-1 requests impoundment of 24 acre-feet of water from runoff into a dam claimed to be constructed in the 1930's located in the SE 1/4 NE 1/4 Section 7-T7N-R6E. Application No. 1967-1 requests impoundment of 2.0 acre-feet of water from runoff into a dam claimed to be constructed in the 1930's located in the SE 1/4 NE 1/4 Section 7-T7N-R6E. The water use for each vested water right claim is livestock watering purposes.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Application Nos. 1964-1, 1965-1 with a priority date of December 31, 1929, and a claimed priority date of December 31, 1939 for Application Nos. 1966-1 and 1967-1 because 1) water had been appropriated as described for livestock water use, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) it is in the public interest. The Chief Engineer's recommendation with qualifications, the applications, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

SDCL 46-2A-4(10) provides that "if the applicant does not contest the recommendations of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the applications pursuant to the Chief Engineer's recommendations and no hearing may be held before the board, unless the Chief Engineer makes a finding that an application, even if uncontested, presents important issues of public policy or public interest that should be heard by the board." In this case, the Chief Engineer finds that these applications present important issues of public interest that should be heard by the Water Management Board.

The Water Management Board will consider these application at 1:30 p.m. on July 12, 2017 in the Matthew Training Center, Joe Foss Bldg, 523 E. Capitol Ave. Pierre SD. The Chief Engineer's recommendations are not final or binding upon the Board. The Board is authorized to 1) validate, 2) validate with qualifications, 3) defer, or 4) deny these applications based on the facts presented at the public hearing.

Any interested person who intends to participate in the hearing shall file a petition to oppose or support the applications and the petition shall be filed with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendations. 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 June 30, 2017.

The petition may be informal, but shall be in writing and shall include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. The hearing is an adversary proceeding and any party has the right to be present at the hearing and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing and decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The July 12, 2017 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any person who has filed a petition to oppose or support the application. The request for an automatic delay must be filed by June 30, 2017. If an automatic delay is requested, the

hearing will be rescheduled for a future Board meeting and personal notice will be provided to all petitioners regarding the time, date and location.

Notice is given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing. The telephone number for making arrangements is (605) 773-3352.

Under SDCL 1-26-17(7) notices must state that "if the amount in controversy exceeds \$2,500.00 or if a property right may be terminated, any party to the contested case may require the agency to use the Office of Hearing Examiners by giving notice of the request to the agency no later than ten days after service of a notice of hearing issued pursuant to SDCL 1-26-17." This is a Notice of Hearing, service is being provided by publication, and the applicable date to give notice to the Chief Engineer is June 12, 2017. However, since this particular matter is a water permit application and not a monetary controversy in excess of \$2,500.00 or termination of a property right the Chief Engineer disputes the applicability of this provision and maintains that the hearing must be conducted by the Board.

As applicable, the following provides the legal authority and jurisdiction under which the hearing will be held and the particular statutes and rules pertaining to this application: SDCL 1-26-16 thru 1-26-28; SDCL 46-1-1 thru 46-1-9, 46-1-13 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-1 thru 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21, 46-2A-23; 46-5-1.1, 46-5-2 thru 46-5-26, 46-5-30.2 thru 46-5-30.4, 46-5-31, 46-5-32 thru 46-5-34.1, 46-5-38 thru 46-5-39, 46-5-46, 46-5-47, 46-5-49; 46-6-1 thru 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:25.02; 74:02:01:35.01.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once at an approximate cost of _____.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED
WATER RIGHT APPLICATION NO. 1965-1, OLLILA FAMILY LIVING TRUST**

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 validation of Vested Water Right Application No. 1965-1, Ollila Family Living Trust, c/o Art Ollila, 13087 194th Street, Vale SD 57788.

The Chief Engineer is recommending VALIDATION of Application No. 1965-1 for 3.2 acre feet of water in a dam because 1) water had been appropriated as described for livestock water use with a priority date of December 31, 1929, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) it is in the public interest.

See report on application for additional information.

Jeanne Goodman, Chief Engineer
May 23, 2017

Report on
Vested Water Right Application Nos.
1964-1, 1965-1, 1966-1 and 1967-1
Ollila Family Trust c/o Art Ollila
April 21, 2017

The Ollila Family Trust c/o Art Ollila has filed four applications to validate vested water right claims. Application No. 1964-1 requests impoundment of 1.5 acre-feet of water from runoff into a dam located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 6-T7N-R6E with a claimed priority date of December 31, 1929. Application No. 1965-1 requests impoundment of 3.2 acre-feet of water from runoff into a dam located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 8-T7N-R6E with a claimed priority date of December 31, 1929. Application No. 1966-1 requests impoundment of 24 acre-feet of water from runoff into a dam located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 7-T7N-R6E with a claimed priority date of December 31, 1939. Application No. 1967-1 requests impoundment of 2.0 acre-feet of water from runoff into a dam located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 7-T7N-R6E with a claimed priority date of December 31, 1939. The water use for each vested water right claim is livestock watering purposes.

Vested Water Right Application No. 1964-1:

This dam is located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 6-T7N-R6E. It is 8.5 feet high and has a claimed storage capacity of 1.5 acre-feet at the primary spillway elevation. It has a total drainage area of 0.69 square miles or 442 acres; however, there are four other dams located upstream on this drainage.

The first dam is located about 1000 feet upstream and in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 8-T7N-R6E. Vested Water Right Application No. 1965-1 has been filed for this dam with a claimed storage capacity 3.2 acre-feet. The next dam is another 1700 feet upstream and is located near the center of the NW $\frac{1}{4}$ of Section 8-T7N-R6E. This dam is located on the applicant's property and appears to be about the same size as the previous dam, about 3 or 4 acre-feet storage capacity. Then there are two dams located off the applicant's property located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 8-T7N-R6E. Both of these dams appear to be in that 3 or 4 acre-foot storage capacity range.

The annual yield for this drainage area with an 80 percent chance of occurrence, or 8 out of 10 years, is expected to be 6.6 acre-feet. The annual yield with a 50 percent chance of occurrence, or 1 out of 2 years, is expected to be 17 acre-feet; and the annual yield with a 10 percent chance of occurrence, or 1 out of 10 years, is expected to be 74 acre-feet.

April 21, 2017

Vested Water Right Application No. 1965-1:

This dam is located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 8-T7N-R6E. It is 10 feet high and has a claimed storage capacity of 3.2 acre-feet at the primary spillway elevation. It is located about 1000 feet upstream of the dam in Vested Water Right Application No. 1964-1.

Vested Water Right Application No. 1966-1:

This dam is located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 7-T7N-R6E. It is 19 feet high and has a claimed storage capacity of 24 acre-feet at the primary spillway elevation. It has a total drainage area of 0.47 square miles or 301 acres; however, there are three other dams located upstream on this drainage.

The first dam is located about 600 feet upstream and on the west fork of the drainage area and in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 7-T7N-R6E. This dam is located on the applicant's property and Vested Water Right Application No. 1967-1 has been filed for this dam with a claimed storage capacity 2.0 acre-feet. The other two dams are located off the applicant's property; about 2500 feet upstream on the east branch of the drainage area, and are both in the SW $\frac{1}{4}$ of Section 8-T7N-R6E. Location Notice 1664-1 was filed in 1950 for 16 acre-feet in the larger of the two dams. The smaller dam appears to be in the 4 or 5 acre foot range.

The annual yield for this drainage area with an 80 percent chance of occurrence, or 8 out of 10 years, is expected to be 4.5 acre-feet. The annual yield with a 50 percent chance of occurrence, or 1 out of 2 years, is expected to be 11.5 acre-feet; and the annual yield with a 10 percent chance of occurrence, or 1 out of 10 years, is expected to be 50 acre-feet.

Vested Water Right Application No. 1967-1:

This dam is located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 7-T7N-R6E. It is 16 feet high and has a claimed storage capacity of 2.0 acre-feet at the primary spillway elevation. It is located about 600 feet upstream and on the west fork of the drainage area for the dam in Vested Water Right Application No. 1966-1.

Discussion:

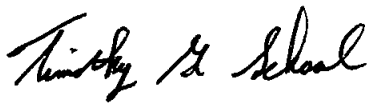
The four Vested Water Right Applications have been filed for dams on two different drainages. Both drainages have additional dams. The expected annual yield for these drainages indicate that there will be insufficient water to satisfy all of the dams during most years, especially the southern drainage with the two larger dams with storage capacities of 24 acre-feet and 16 acre-

Ollila Family Trust
April 21, 2017

feet. However, the Affidavits of Use filed with the applications and the Location Notice on file indicate that these dams have co-existed for a number of years.

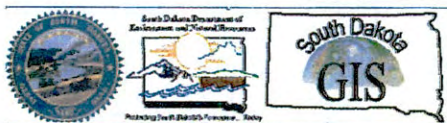
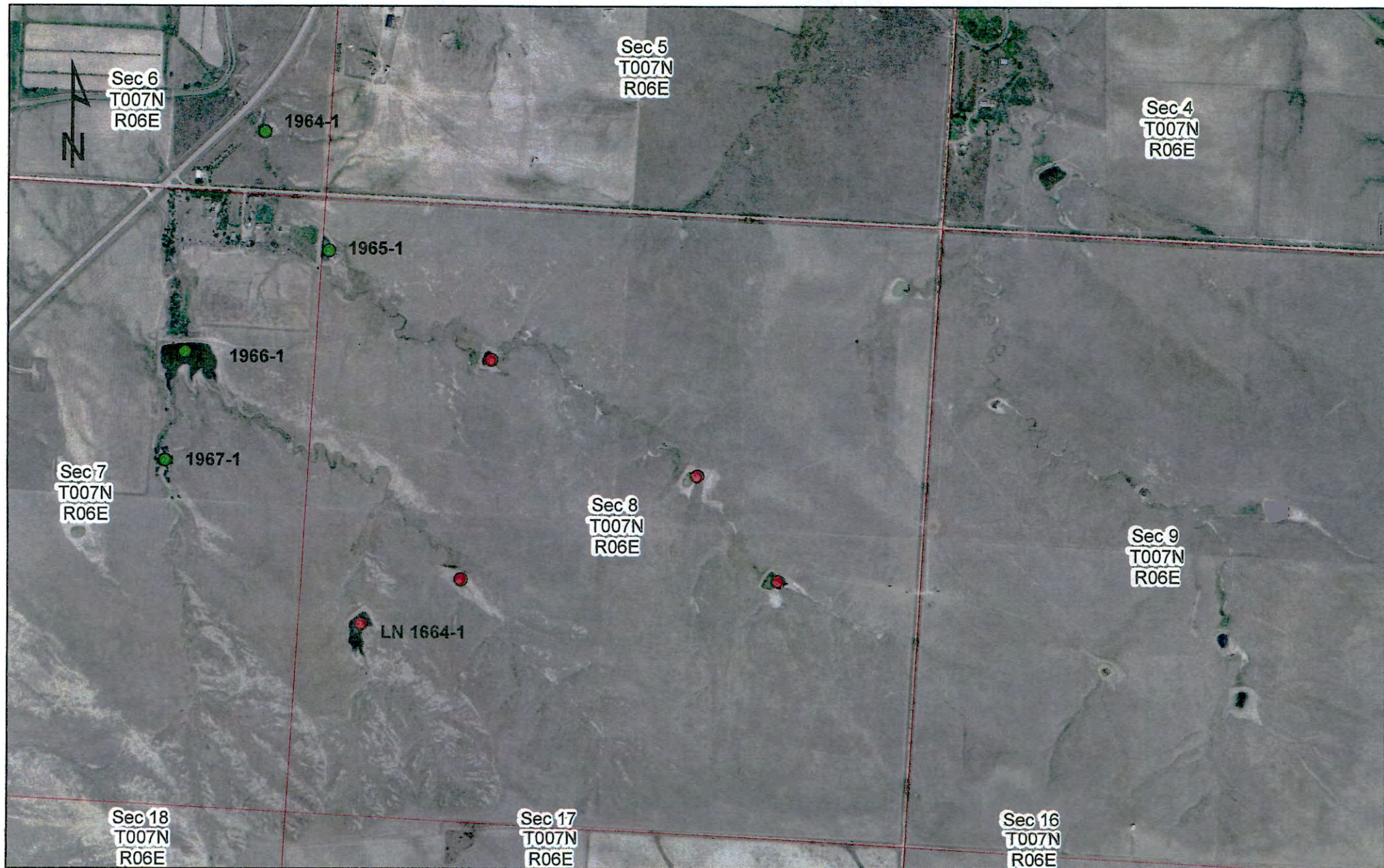
Conclusions:

1. Vested Water Right Application No. 1964-1 with the claimed Affidavit of Use should be approved for a dam with 1.5 acre-feet storage capacity and a claimed priority date of December 31, 1929.
2. Vested Water Right Application No. 1965-1 with the claimed Affidavit of Use should be approved for a dam with 3.2 acre-feet storage capacity and a claimed priority date of December 31, 1929.
3. Vested Water Right Application No. 1966-1 with the claimed Affidavit of Use should be approved for a dam with 24 acre-feet storage capacity and a claimed priority date of December 31, 1939.
4. Vested Water Right Application No. 1967-1 with the claimed Affidavit of Use should be approved for a dam with 2.0 acre-feet storage capacity and a claimed priority date of December 31, 1939.



Timothy G. Schaal, P.E.
Engineer IV
SD DENR, Water Rights Program

Vested Water Right Application Nos. 1964-2, 1965-2, 1966-2 & 1967-2



Timothy G. Schaal, P.E.
Engineer IV
SD DENR, Water Rights Program



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

JUL 27 2017

Ollila Family Living Trust
c/o Art Ollila
13087 194th St
Vale SD 57788

Dear Mr. Ollila:

Enclosed are your validated Vested Water Right Nos. 1964-1, 1965-1, 1966-1 and 1967-1 authorizing the four dams. As long as you use the water beneficially, as stated in the water rights, the State Water Laws provide that you have a continuing right to use the water.

We will schedule an inspection so that the Water Licenses may be issued to you, thus completing your acquisition of a Water Right.

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program
605 773-3352

enclosures

Report of Examination of Works and/or Application of Water to Beneficial Use For Vested Water Right No. 1965-1

I have this day, May 22, 2018 made a thorough examination of the water use system constructed by Ollila Family Living Trust, 13087 194th St., Vale, So. Dak. 57788 of Permit No. 1965-1, bearing the priority of 12/31/1929 authorizing the diversion and storage of 3.2 acre-feet of water of a dry draw tributary of Cottonwood Creek /Belle Fourche River for domestic purposes, in Meade County.

Inspection contact & relationship to permit holder, if applicable:

Judy Ollila, Trustee
605-456-2242

A. Dam Information:

- 1) Height to crest 5 feet from downstream toe
- 2) Height to primary (earth) spillway 2 feet from downstream toe
- 3) Height to secondary spillway none feet from downstream toe
- 4) Crest width 12 feet
- 5) Crest length 315 feet
- 6) Primary Spillway width 8 feet
- 7) Secondary Spillway width n/a feet
- 8) Approx. storage to primary spillway 3.2 ac-ft
- 9) Approx. storage to crest 8.9 ac-ft (2.8 ac. surface @ crest)

Date constructed: Prior to 12/31/1929

B. Works used to put water to beneficial use:

This is a dam/dugout combination utilizing vegetated emergency spillways on either end of the embankment. The water impounded in the reservoir is put to beneficial use in-place.

C. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by: Yes

List any extended period of nonuse: none

- 2) Exceptions to compliance are: none

D. Condition and Location:

1. The system is in poor condition with the point of diversion located as follows:
16' W and 446' S of the NE corner Section 7 T7N R6E (44.589107, -103.427562)

The works are capable of diverting to the place of use and storing 3.2 acre-feet of water which is to be used for domestic use. Water has been put to beneficial use to the maximum extent and the license should be issued for 3.2 acre-feet storage.

2. All structures, wells and lands on map **Yes**

E. Comments or other permit(s) associated with the project: none



Steven Quissell
Water Rights Inspector
DENR, Water Rights Program

Date report completed **5/23/2018**



Pool, looking to southeast

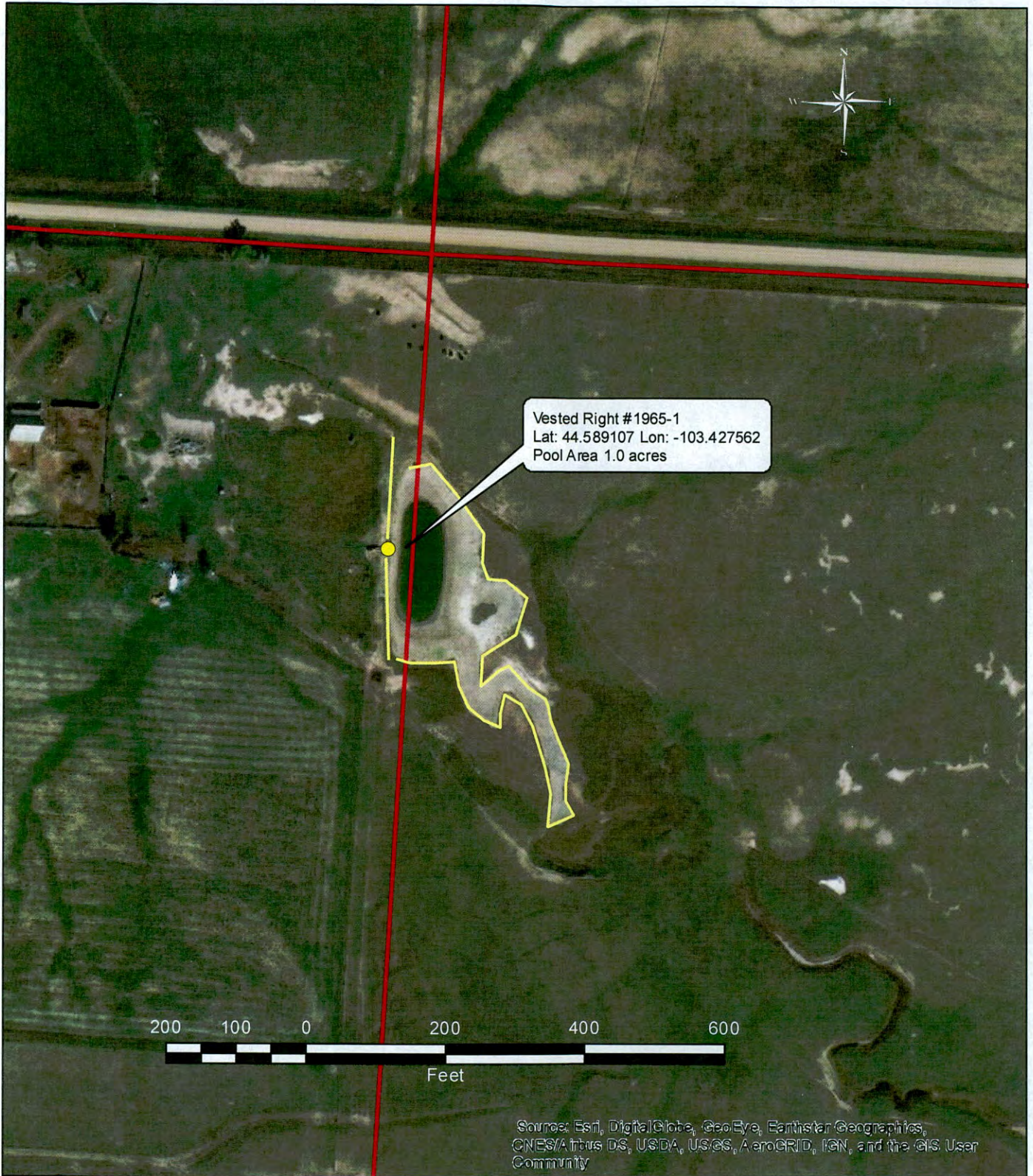


Embankment and pool, looking to north



Earth spillway, looking to northwest

Vested Right #1965-1
Ollila Family Living Trust
5/22/2018

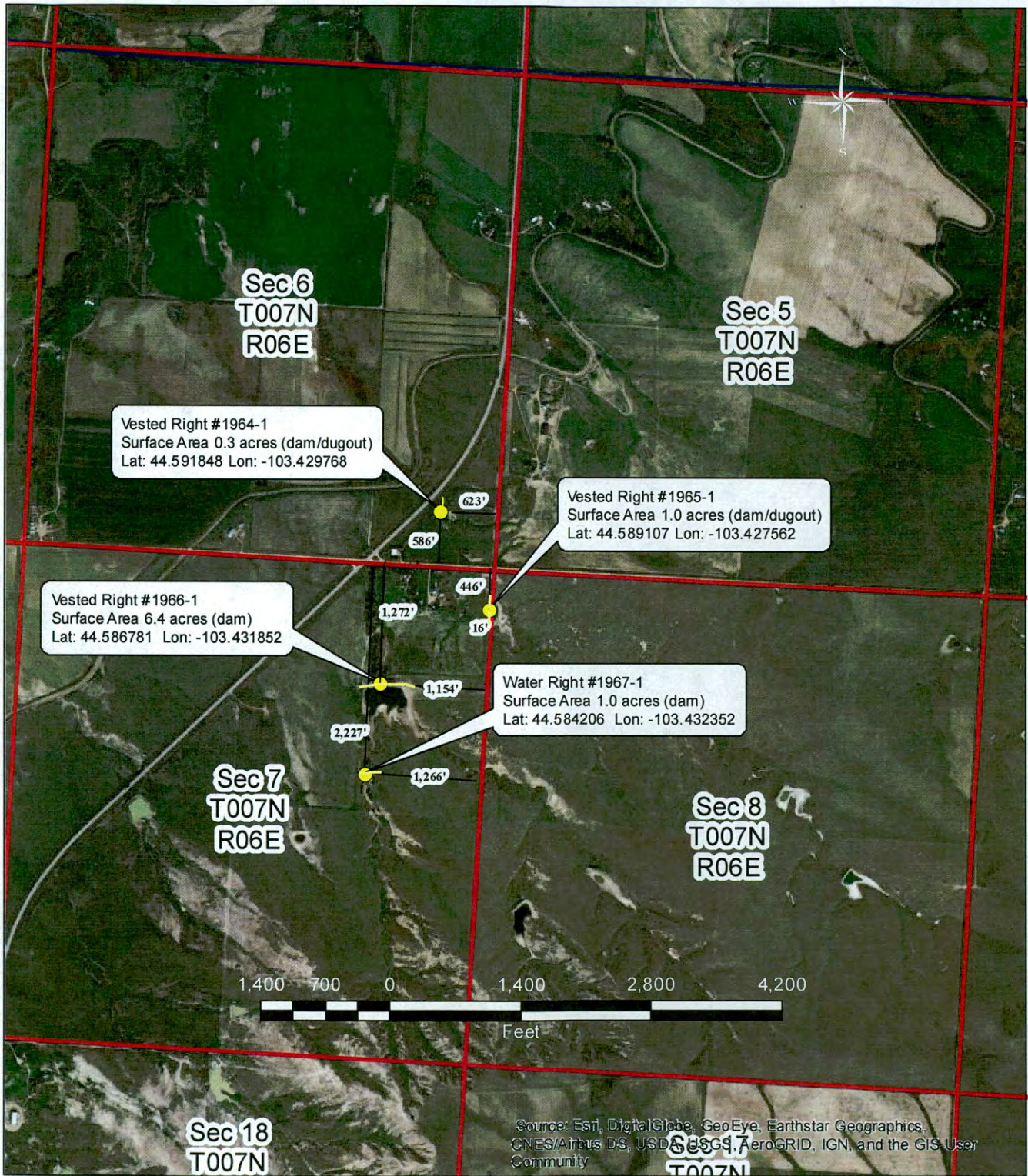


Steven Quissell

Steven Quissell
Water Rights Inspector
DENR Water Rights Program

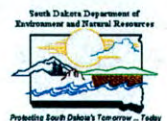


Vested Right #1964-1, 1965-1, 1966-1, 1967-1
Ollila Family Living Trust
5/22/2018



Steven Quissell

Steven Quissell
Water Rights Inspector
DENR Water Rights Program



Approval of Location Change

NAME: Ollila Family Living Trust, c/o Judy Ollila

ADDRESS: 13087 194th Street, Vale SD 57788

DATE: May 24, 2018

COUNTY: Meade

TELEPHONE: 605 456-2242

AUTHORITY:

Pursuant to SDCL 46-5-13.1, the location of a diversion point may be changed or additional diversion points may be licensed provided the following conditions are met and the potential for interference with other existing diversions is not increased:

- **Developed water source same as permitted source and no additional water appropriated**

This is a vested water right recently validated for a impoundment of 3.2 acre feet of water. The vested water right has the dam located in the NW ¼ NW ¼ Section 8-T7N-R6E. The dam is on the same water course and the on-site investigation found the dam capable of impounding 3.2 acre feet of water.

This Approval is needed since the dam is actually located just across the section line in the NE ¼ NE ¼ Section 7-T7N-R6E with water impounded primarily in the NW ¼ NW ¼ Section 8-T7N-R6E. The dam is almost right on the line between Sections 7 and 8

- **If irrigation, no new land is irrigated**

Not applicable

- **Review of Existing Diversions**

The only water right held down gradient prior to the drainage area confluence with the south canal is another vested water right (No. 1964-1) held by Ollila Family Living Trust. Therefore, there will not be adverse effects to existing diversions.

RECOMMENDED ACTION

Based on the above criteria, it is recommended that the dam be licensed as developed.



Eric Gronlund, Natural Resources Engineer
Water Rights Program

The Chief Engineer makes a finding pursuant SDCL 46-5-13.1 and ARSD 74:02:01:14.01 that:

This change in location does not increase the potential for adverse effects to existing diversions.



Jeanne Goodman, Chief Engineer
Water Rights Program



1965-1
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

JUN 04 2018

Judy Ollila, Trustee
Ollila Family Living Trust
13087 194th St
Vale SD 57788

RE: Vested Right Water License Nos. 1964-1, 1965-1, 1966-1, 1967-1

Dear Ms. Ollila:

Enclosed are Vested Right Water License Nos. 1964-1, 1965-1, 1966-1, 1967-1. They are the final water right documents completing your process of obtaining Water Rights. Included with each license is a map prepared by the staff engineer who conducted the field investigation.

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

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 1965-1

(1) Ollila Family Living Trust, 13087 194th St, Vale SD 57788 made Application No. 1965-1, April 7, 2017 for a vested water right to impound 3.20 acre feet of water from runoff (dry draw), Meade County, South Dakota for domestic purposes. Vested Water Right No. 1965-1, with a priority date of December 31, 1929 was validated July 12, 2017.

The Water Management Board validated the vested water right with an impoundment located in the NW ¼ NW ¼ Section 8, T7N, R6E. The on-site investigation of the dam found it was located just across the section line into the NE ¼ NE ¼ Section 7, T7N, R6E with water impounded in the NW ¼ NW ¼ Section 8. The Chief Engineer made a finding pursuant to SDCL 46-5-13.1 and ARSD 74:02:01:14.01 that the change in location does not increase the potential for adverse effects to existing diversions.

(2) It is certified that the vested water right holder has complied with the provisions of South Dakota State Law relating to completion of the water supply system and application of water to beneficial use and is entitled to impound 3.20 acre feet of water for beneficial use.

The location of the storage dam is:

- 16 feet west and 446 feet south of the NE corner of Section 7, T7N, R6E (NE ¼ NE ¼) Latitude 44.589107, Longitude -103.427562). Water is impounded within the NE ¼ NE ¼ Section 7 and NW ¼ NW ¼ Section 8, T7N, R6E. The impoundment is on a dry draw tributary of Cottonwood Creek and the Belle Fourche River.

(3) Pursuant to South Dakota Water Law 46-5-30.1 Ollila Family Living Trust, 13087 194th St, Vale SD 57788 the holder and/or owner of Vested Water Right No. 1965-1 is issued a license to appropriate water, the right to impound 3.20 acre feet of water from runoff (dry draw) with a priority date of December 31, 1929 from the location specified in (2) of this license for domestic livestock watering purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Vested Water Right No. 1965-1.



Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JUN 04 2018

date

