

538-

1. Considered 3.15, 1961

2. Name of Applicant Ernest E. Lytle

3. Post Office Address Bismarck

4. Amount of water claimed 1.95 (1.01 U.R.)

5. Source of water supply Art's Lake (G.M.C.) & dry draws

6. Water to be used for domestication

Acres to be irrigated 157

155 7. Water to be diverted and used in Madison County about 5.5 miles of 5.5

8. Proof of Publication Received ✓
Not Received _____

9. Application Approved _____
Subject to _____
Not approved _____
Action deferred _____

10. Remarks:

8. Estimated cost of work:

(a) Head Gates, \$..... (b) Pumping plant, \$.....
 (c) Fluming, \$..... (d) Canal-earth, \$..... Rock, \$.....
 (e) Other structures Dam and dikes \$ Vented..... Total, \$.....

9. Description of diversion works: (Vested)

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

The dam serves as temporary reservoir for flooding and also turns water into series of dikes as shown on map. This system used also for proposed area.....

II. Dimensions of works: (Vested)

(a) Dam: Height 21.0 feet; length at bottom 30.0 feet; length at top 175.0 feet; thickness at bottom 129.0 feet; thickness at top 12.0 feet; slope at front water face 3:1; slope at back face 2:1 material used in construction Earth

(b) Reservoir: Capacity when filled 64.0 acre feet. Surface area at highwater mark 10.0 acres.

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

~~LENGTH OF CANAL~~ 10.0 feet; height 21.0 feet;

Material Earth

~~LENGTH OF CANAL~~ 10.0 miles.

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER-LINE	GRADE PER MILE
At <u>0.0</u> Mile	<u>21.0</u> feet	<u>129.0</u> feet	<u>175.0</u> feet	<u>12.0</u> feet
At <u>0.1</u> Mile	<u>20.0</u> feet	<u>120.0</u> feet	<u>160.0</u> feet	<u>11.0</u> feet
At <u>0.2</u> Mile	<u>19.0</u> feet	<u>110.0</u> feet	<u>150.0</u> feet	<u>10.0</u> feet
At <u>0.3</u> Mile	<u>18.0</u> feet	<u>100.0</u> feet	<u>140.0</u> feet	<u>9.0</u> feet
At <u>0.4</u> Mile	<u>17.0</u> feet	<u>90.0</u> feet	<u>130.0</u> feet	<u>8.0</u> feet
At <u>0.5</u> Mile	<u>16.0</u> feet	<u>80.0</u> feet	<u>120.0</u> feet	<u>7.0</u> feet

(Give dimensions where reductions in size are made.)

10. Time required for completion of work Four (4) years.

11. Time required for complete application of water to the proposed beneficial use 4 1/2 years.

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

STATE OF SOUTH DAKOTA

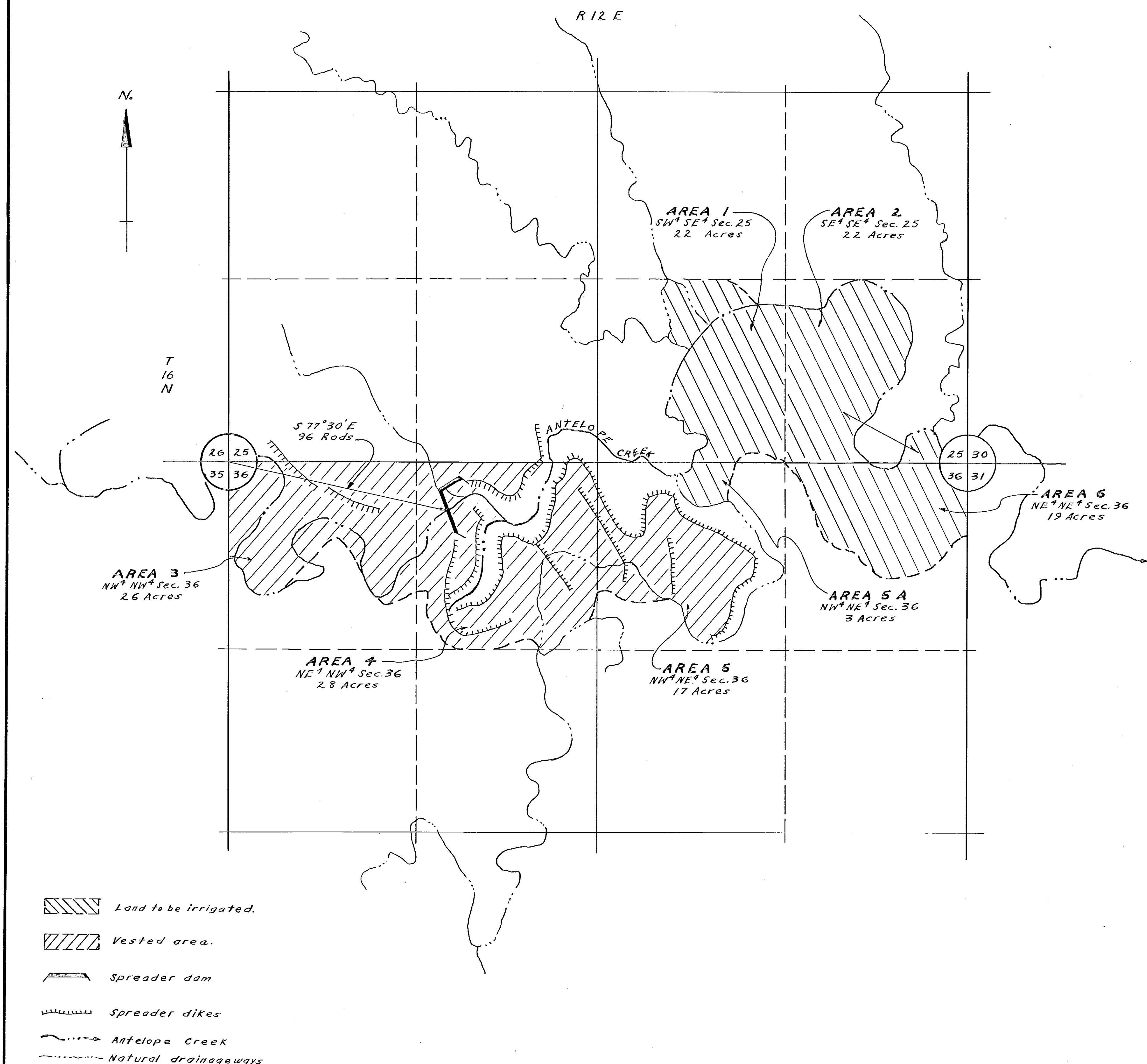
County of Parkinson

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

Signed Ernest E. Kolb

Subscribed and sworn to before me this 7 day of Feb 19 64

Barclay W. Waring
 Notary Public (or other qualified officer.)



- Land to be irrigated.
- Vested area.
- Spreader dam
- Spreader dikes
- Antelope Creek
- Natural drainageways

LAND TO BE IRRIGATED					
AREA	LOCATION	SECTION	TOWNSHIP	RANGE	ACRES
1	SW 1/4 SE 1/4	25	16N	12E	2.2
2	SE 1/4 SE 1/4	25	16N	12E	2.2
3A	NW 1/4 NE 1/4	36	16N	12E	3
6	NE 1/4 NE 1/4	36	16N	12E	1.9
TOTAL					66

LOCATION OF VESTED LAND					
AREA	LOCATION	SECTION	TOWNSHIP	RANGE	ACRES
3	NW 1/4 NW 1/4	36	16N	12E	2.6
4	NE 1/4 NW 1/4	36	16N	12E	2.8
5	NW 1/4 NE 1/4	36	16N	12E	1.7
TOTAL					7.1

SURVEYOR'S CERTIFICATE

I, Kenneth L. Huker DO HEREBY CERTIFY THAT THIS MAP IDENTIFIES A REASONABLY ACCURATE RECORD OF THE LAND OF THE ERNEST E. KOLB IRRIGATION PROJECT #1 AND HAS BEEN PREPARED BY THE SOIL CONSERVATION SERVICE FOR THE PERKINS COUNTY SOIL CONSERVATION DISTRICT.

SIGNATURE: Kenneth L. Huker

TITLE: Agricultural Engineer

U. S. DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

SUBSCRIBED AND SWORN TO BEFORE ME THIS 7 DAY OF FEB., 1967, A.D.

Robert M. Hering
NOTARY PUBLIC

MY COMMISSION EXPIRES 6-22, 1967.

Scale: 1" = 400'

ERNEST E. KOLB IRRIGATION PROJECT NUMBER 1

Perkins County, South Dakota.

U. S. DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

Designed	Date	Approved by
Drawn		Title
Traced		Title
Checked	Sheet 1 of 1	Drawing No.

Remarks by State Water Resources Commission:

Low flows of Antelope Creek, (3 cubic feet per second or less) must be allowed to flow past the diversion structure without being stored or diverted.

Diversion or storage of water can be made only when the flow of water in Antelope Creek below the diversion structure is greater than 3 cubic feet per second.

STATE OF SOUTH DAKOTA
County of Hughes

APPROVAL OF THIS PERMIT AUTHORIZES
STORAGE OF 6.4 AC FT OF WATER ANNUALLY

Pierre, South Dakota, August 16, 1961

This is to certify that the foregoing application was received by the Commission at 8:30 o'clock
a.m. upon the 10th day of February, 1961.

State Water Resources Commission

By:

Arthur J. Jones
Chief Engineer, Executive Officer

Number of permit 538-1

Date of first receipt of application February 10, 1961

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

Date of receipt of corrected application _____, 19____

Date from which applicant may claim right February 10, 1961

Approved July 20, 1961, Recorded in Book 6 Page 320

This is to certify that we have examined the foregoing application for a permit to appropriate water of the State of South Dakota and we hereby grant the same as stated herein, subject, however, to the following limitations and conditions:

1st. The equivalent of at least one-fifth of the work above specified is to be completed on or before _____

January 20, 1964

2nd. The whole of said work is to be completed on or before July 20, 1966

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

July 20, 1972

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

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

6th. The amount of the appropriation herein granted shall not exceed 1.95 cubic feet per second; neither shall it exceed the capacity of the above described system of diversion works, nor the least amount of water that experience may hereafter indicate as necessary for the production of crops in the exercise of the best husbandry; and further, said appropriation must be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for irrigation on or before July 20, 1970; said water to be used during the following described annual period:

when available during annual season

Witness my hand this 16th day of MAY, 1962

State Water Resources Commission

By:

John Rimmer
Chief Engineer, Executive Officer

Certificate of Construction issued JUNE 28, 1971

Water License issued JUNE 28, 1971

7.

I.

(6) Legal subdivisions to be irrigated

LAND TO BE IRRIGATED					
AREA	LOCATION	SECTION	TOWNSHIP	RANGE	ACRES
1	SW ⁴ SE ⁴	25	16N	12E	22
2	SE ⁴ SE ⁴	25	16N	12E	22
5-A	NW ⁴ NE ⁴	36	16N	12E	3
6	NE ⁴ NE ⁴	36	16N	12E	19
TOTAL					66

VESTED LAND					
AREA	LOCATION	SECTION	TOWNSHIP	RANGE	ACRES
3	NW ⁴ NW ⁴	36	16N	12E	26
4	NE ⁴ NW ⁴	36	16N	12E	28
5	NW ⁴ NE ⁴	36	16N	12E	17
TOTAL					71

WATER LICENSE NO. 538-1

(1) WHEREAS, On the 19th day of February A. D. 19 61
Ernest E. Kolb

made Water Right Application No. 538-1 for a permit to use 1.95 cubic feet per second of the waters of Antelope Creek and local watershed

County of Perkins, State of South Dakota, for irrigation

purposes; and

(2) WHEREAS, On the 16th day of May A. D. 19 62

Permit No. _____, with a date of priority of February 10, 1961

was issued to said applicant _____ for the diversion of said water, and provided for the completion of construction of the water supply system therein described on or before the 20th day of July A. D. 19 65 and for the

application to beneficial use of said water on or before the 20th day of July A. D. 19 70

and;

(3) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to completion of the construction of the water supply system and is entitled to divert 1.95 cubic feet per second of water for beneficial use and,

(4) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to the application of water to beneficial use of the following extent.

water is used for irrigating the following land in T16N, R12E

		Acres
Section 25	SW $\frac{1}{4}$ SE $\frac{1}{4}$	22
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	22
Section 36	NW $\frac{1}{4}$ NE $\frac{1}{4}$	3
	NE $\frac{1}{4}$ NE $\frac{1}{4}$	19
	NW $\frac{1}{4}$ NW $\frac{1}{4}$	26
	NE $\frac{1}{4}$ NW $\frac{1}{4}$	28
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	17
Total		137 Acres

(5) NOW, THEREFORE, By the virtue of the authority vested in me by the laws of the State of South Dakota, We hereby grant and confirm to Ernest E. Kolb

_____ of Bleon, S.D.
the holder _____ and owner _____ of said permit No 538-1 a water right, dating from February 10, 1961
_____ to use of 1.95 cubic feet per second of the waters
of Antelope Creek and local watershed
in the County of Perkins and State of South Dakota, or so much thereof as may be necessary for the
purposes hereinbelow mentioned, to be diverted At from Antelope Creek at a point South 77° 30' East,
90 rods from the NW Corner, Section 36, T16N, R12E, and other diversions in
local watershed

and conduct to and upon portions of Sections 25 and 36, T16N, R12E, described on the
face of this license

for the purpose of irrigation

Subject to any limitations listed in Water Right Permit No. 538-1 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this 28th day of June A. D.
Nineteen Hundred and Seventy-one

WATER RESOURCES COMMISSION

By:

Chief Engineer, Executive Officer J.W. GRIMES

Form 15.

Permit No. 538-1

Water Division No. 1 MOREAU RIVER Water District

CERTIFICATE OF CONSTRUCTION

Ernest E. Kolb

This is to Certify, That

Permit No. 538-1, issued upon Application No. 538-1 bearing date of priority of February 10, 1961 the holder Antelope Creek and local watershed authorizing the diversion of 1.95 cu. ft. per second of the waters of Perkins County of Perkins State of South Dakota at from Antelope Creek at a point South 77° 30' East, 96 rods from the NW Corner, Section 36, T16N, R12E, and other diversions in local watershed for irrigation

purposes, na 8 complied with the provisions of the laws of the State of South Dakota relating to proof of completion of the works of diversion set out and described in said Permit that said works are found in satisfactory condition for diverting and conveying to the place of intended use up to 37 cu. ft. per second of water.

Date June 28, 1971

WATER RESOURCES COMMISSION

By:

J.W. GRIMES, Executive Officer

Permit No. 538-1

Water Division 1 MOREAU RIVER Water District

**REPORT OF EXAMINATION OF WORKS
AND/OR APPLICATION OF WATER TO BENEFICIAL USE**

TO: Water Resources Commission, State Office Building No. 2, Pierre, South Dakota 57501

I have this day made a thorough examination of the water use system constructed by Ernest E. Kolb
of Bison, South Dakota holder
of Permit No. 538-1, hearing date of priority of February 10, 1961
1.01 Vested
authorizing the diversion of 0.94 cu. ft. per second of the waters of Antelope Creek and local
watershed
for irrigation purposes, in Perkins County.

I have to report on the condition of the same as follows:

The Water Use System consists of,

A. Works used to divert the water:

Dam across Antelope Creek. 24" culvert with slide gate and culvert spillway consisting of two gated 48" culverts
Dikes on local watershed drainage

B. Works used to transport water to place of use,

Water is guided by a great number of dikes

C. Works used to apply water to beneficial use.

Dikes and land leveling

The system is in the following condition: Very good

The point of diversion is located "Vested" South 77°30' East of NW Corner of Section 36,
T16N, R12E and other diversions in the local watershed.

The works are capable of diverting and conveying to the place of use up to 30
cu. ft. per second of water which is to be used for irrigation purposes

Water has been put to beneficial use to the maximum extent as follows: all in T16N, R12E

SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 25	22 acres	Vested Portion	
SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 25	22 acres	NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 36	26 acres
NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 36	3 acres	NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 36	26 acres
NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 36	19 acres	NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 36	17 acres

comprising a total of 137 acres of land.

Date June 10, 1971

Donald Darrick
(Signature)

(Signature)
DONALD DRISCOLL, Deputy Chief Engineer, W.R.C.

Permit No. 538-1

Water Division No. 1-----

Moreau River
Water District

Water District

RECEIVED
NOV 21 1969
STATE WATER RESOURCES COM.
PIERRE SOUTH DAKOTA

Notice of Application of Water to Beneficial Use

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

(F. O.)

Bison, S. Dak

(Date) Mar 15, 1969

TO THE STATE WATER RESOURCES COMMISSION OF SOUTH DAKOTA, PIERRE:

DEAR SIR: Notice is hereby given that on the 14 day of November
1919, at Bismarck County of Perkins State of South Dakota,
before _____ proof will be submitted of the application to beneficial use
(Examining Engineer or Officer)
of 1.95 cubic feet per second of the waters of Antelope Creek
_____ in accordance with the terms and conditions of Permit No. 538-1
heretofore issued by the Water Resources Commission of South Dakota.

1. The name and postoffice address of the person or corporation holding said permit are -----

Guest Koltz Bion, Los Angeles

2. The use to which said water has been applied is irrigation

3. The amount applied to beneficial use is 1.95 cu. ft. per second

4. The place where said water is used is (if for irrigation, give full and accurate description of the lands irrigated) *Acres* *Section* *Range* *Acres*
ASW 4 SE 4 25 16 N 12 E 22

2 SE⁴ SE⁴ 2.5 11M 12E 2.5

5-A NW¹⁴NE¹⁴ 36 16N 12E 3

6	NE" NE"	36	16N	12E	19
			16E	12E	26

3	NW ⁴	NW ⁴	36	16N	12E	26
4	NE ⁴	NW ⁴	36	16N	12E	28

4. NE 1/4 NW 1/4 36 14 N 12 E 17
5. NW 1/4 NE 1/4 36 14 N 12 E 17

81 The name of the canal or ditch or other works by which said water is con-
134.16 irrigation canal 11

5. The name of the canal or ditch or other works by which said water is conducted to such place of use is

Ernest Kalk navigation Project^{1st}

6. The right to take the water from such works is based upon permit No. 538-1

7. The source of supply from which such water is diverted is Antelope Creek

7. The source of supply from which each user is prepared to obtain the information is _____
8. The date of priority which said user is prepared to establish is 9-1-76

(Sign)

Ernest Kolb

Permit No.

RECEIVED
 NOV 21 1969

Water Division No.

Water District

STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

NOTICE OF COMPLETION OF WORKS

This blank must be filled out by the holder of permit and forwarded to the Executive Officer at least 60 days before the time set for completion of works

(P. O.)

Bismarck, S. Dak

(Date)

Nov. 15, 1969

TO THE STATE WATER RESOURCES COMMISSION
OF SOUTH DAKOTA, PIERRE:

DEAR SIR: Notice is hereby given of the completion of the works for the diversion of

1.95 cu. ft. per second of the waters of the state from Antelope creek
through the Ernest Kallb irrigation project #1
for irrigation purposes
where available In accordance with the terms and con-
ditions of a certain permit heretofore issued by the Water Resources Commission of the State of South Dakota.

1. The name of the person or corporation holding said permit is Ernest Kallb

2. The postoffice address of such person or the place of business of such corporation is Bismarck
County of BEYRON State of S. DAK

3. The number of such permit is 538-1 and the date set for the completion of such work is
2-20-1970

4. Said water to be used for irrigation purposes.

5. Said works of diversion will be fully completed on the date set for such completion, and the amount of
water which said works are capable of conducting to the place of intended use, in accordance with the plans ac-
comprying the application for such permit, is 1.95 cubic feet per second.

6. The amount of land for which said water is available is 137 acres,
particularly described as follows: Sec 36. 7-16-R-12

25 T 16 Q-12

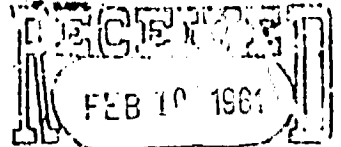
I hereby certify that the facts set forth in the above notice are true.

(Signature of Owners)

Ernest Kallb

Location No. _____

Water Division No. _____ Water District _____

STATE WATER RESOURCES COMMISSION
SOUTH DAKOTA

Proof of Application of Water to Beneficial Use

PETITION OF HOLDER

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

Ans. Ernest E. Kolb, Farmer and Rancher, Bison, South Dakota

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

Ans. _____

~~Ques. 3. State date of posting~~ and date of recording notice of appropriation.

Ans. _____

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

Ans. Surface runoff from local watershed. 96.0 Rods S. 77° 50' E. of NW Corner of
Sec 36-T 16 N-R 12 E

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

Ans. The floodwater from watershed is turned into a series of dikes by the dam
and is spread over the area as shown by the map. The dam is 21.0 ft. high
and 175.0 ft. long and was completed in the year 1956.

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

Ans. The water is used for spreader irrigation. AREA 3--NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Sec 36-T 16 N-
R 12 E (26 acres); AREA 4--NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Sec 36-T 16 N-R 12 E (28 acres); AREA 5--
NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Sec 36-T 16 N-R 12 E (17 acres); with a total of seventy-one (71) acres.

~~Ques. 7. If for irrigation~~ purpose, state how applied, amount of horse power required, etc.

Ans. _____

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

Ans. 1.01 cubic feet per second or 213.0 acre feet

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

Ans. _____

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

Ans. Floodwater from local watershed will spread over irrigable area with aid of dam and dikes whenever surface runoff occurs.

(Sign) Ernest E. Zall

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

State of South Dakota, on this 7 day of Feb. A. D. 1961

Witnesses.

I, the undersigned, do hereby certify that I am a duly qualified elector residing in the immediate vicinity of the diversion works designated in the foregoing testimony, that I have no interest in the works, water or land above described, that I have read the foregoing testimony and that I know of my own personal knowledge that the matters therein stated are true.

Location No.

PROOF OF APPLICATION OF
WATER TO BENEFICIAL USE

PETITION OF HOLDER

Amount of Water c. f. s.

Source

County

Purpose

Place of Use

Date of recording

Received and filed

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA }
County Perkins } ss.

Lloyd I Sudlow being duly sworn, deposes and says the annexed printed copy of Notice of Intention to Appropriate Water was taken from the Bison Courier a newspaper which during the whole time of publication of said notice herein after stated, has been and is printed and published in the Town Bison of Perkins County of Perkins and State of South Dakota;

that the said notice was published in said newspaper on the following dates:

Feb 16-23-Mar 2-9

in each and every issue of the full number thereof, the first publication being made on the 16 day of Feb. 1961 and the last publication on the 9 day of March 1961, upon which days or times of publication aforesaid the newspaper was regularly published, and that during the whole time of said publication he was the printer and publisher of the said newspaper.

Lloyd I Sudlow

Subscribed and sworn to before me this 9 day of March A. D. 1961

Adria B. Sudlow

Notary Public Perkins County, S. D.

ADRIA B. SUDLOW

Notary Public

Commission Expires Mar. 12, 1962

No. 538-1
APPROPRIATION OF WATER
Office of State Water Resources
Commission, Pierre, S. Dak., February 10, 1961.

Notice is hereby given that Ernest Kolb, whose postoffice address is: Bison, S. Dak., has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 1.95 (1.01 Vested Right) cubic feet of water per second of time from Antelope Creek and dry draws through the Kolb Irrigation Project No. 1, the point of diversion of which is to be located on both banks of said stream in the NE 1/4 of the NW 1/4 of Section 36, Twp 16N, Range 12E. Said water to be used for the purpose of providing irrigation on portions of the following described land:

N 1/4 NW 1/4 of Range 12, Sec. 36, and S 1/4 SE 1/4 Sec. 36, all in T. 16N, R. 12 E.

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 15th day of March, 1961, at 2:00 P. M. All interested persons may appear and be heard.

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

State Water Resources Commission,
BY BURTON F. JONES, ^{Notary Public} _{FILED}

RECORDED
MAR 11 1961

STATE WATER RESOURCES COM.
PIERRE, S. DAKOTA

(First Publication on or before February 16, 1961)**APPROPRIATION OF WATER**

Office of State Water Resources Commission,

Pierre, S. Dak., February 10, 1961

Notice is hereby given that Ernest Kolb whose postoffice address is Bison S. Dak., has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use ^{1.95} ~~(1.01 Veated Right)~~ cubic feet of water per second of time from the dry draws through the Kolb Irrigation Project #1, the point of diversion of which is to be located on the both bank of said stream in the NE 1/4 of the NW 1/4 of Section 36 Twp. 16N Range 12E. Said water to be used for the purpose of providing irrigation on portions of the following described land:

N 1/2 NW 1/4 & N 1/2 NE 1/4, Sec 36, and S 1/2 SE 1/4, Sec 25, all in T. 16N, R. 12E.

and for irrigation

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 15th day of March, 1961 at 2:00 P.M. All interested persons may appear and be heard.

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

State Water Resources Commission

By:

CC: Lloyd I. Sidlow-Publisher
Bison Courier
Bison, South Dakota

Chief Engineer, Executive Officer

BURTON F. JONES

Water Right Specialist

538

May 2, 1961

Mr. Duane Hibner
Bison, South Dakota

Dear Mr. Hibner:

On March 15th, 1961 you appeared at the office of the State Water Resources Commission in Pierre in regard to Water Right Application No. 538-1 of Ernest E. Kolb to use 1.95 cubic feet per second of the flows of Antelope Creek to irrigate 138 acres of land.

On April 14th, 1961, Mr. Driscoll of this office inspected the proposed project of Mr. Ernest Kolb and found the following:

Mr. Kolb started construction on a dam in Antelope Creek in 1954 for the purpose of irrigating 71 acres of land and completed his system in 1956. Under the 1955 Water Laws this is classified as a Vested Water Right which the State Water Resources Commission must recognize.

In Application No. 538-1 Mr. Kolb proposes to increase the acres to be irrigated by 66 acres using the same diversion structure. When flood flows or unappropriated waters are available at this location for the additional irrigation requested by Mr. Kolb, the 1955 Water Laws state that the Commission is to approve such application.

One requirement the Water Resources Commission specifies is that the low flows of the creek must by-pass the diversion structure and be allowed to flow downstream for domestic use, including stock-water. At the time Mr. Driscoll inspected Mr. E. Kolb's diversion structure the low flows were being by-passed due to the porous condition of the dam foundation and because his shut-off gate did not shut off the entire flow of the creek.

- 2 -

It will be my recommendation to the State Water Resources Commission that Mr. Kolb's application No. 538-1 be approved, but with the stipulation that low flows of the stream into his reservoir as needed for domestic use downstream must always be allowed to by-pass his diversion structure.

This application No. 538-1 will be reconsidered by the State Water Resources Commission at 2:00 P.M. on May 10th, 1961 in their office at Pierre.

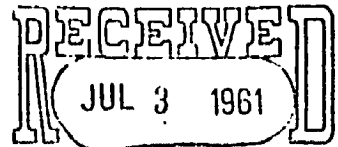
While making this inspection on April 14th, 1961, Mr. Driscoll was not able to locate the D. R. Burdine Ranch. Mr. Driscoll did stop at Mr. Sexton's Ranch, but no one appeared to be at the Ranch Headquarters.

Sincerely,

J.W. GRIMES
Executive Officer

DD/ JWG/bw

May 25, 1961



STATE WATER RESOURCES COMM.
PIERRE SOUTH DAKOTA

J. W. Grimes
Executive Officer & Chief Engineer
State Water Commission
Capitol Building
Pierre, South Dakota

Dear Mr. Grimes:

We, the undersigned interested parties, hereby oppose any acquisition of water rights granted for the purpose of flood irrigation by means of diversionary dams, fills, or spreader dams on Rabbit Creek and Antelope Creek for the following reasons:

1. The proposed use of water by means of such dams on Rabbit Creek on land owned by Sam Besler and occupied by his family is a deliberate attempt to divert water out of the main stream bed and divert water away from land bordering the stream and occupied by the undersigned Dick Price.
2. The damming and diversion of water from the main stream on both Rabbit Creek and Antelope Creek has the following effects upon lower riparian users.
 - a. Excessive silt from flooding cropland seals off the existing springs taking away the only source of water that exists in the stream bed for several months of the year.
 - b. The proposed dams using the method followed by Rudolph Kolb on Antelope Creek actually reduces the amount of water flow down the stream at all times during the year and not just when there is a run-off since these dams are so constructed as to take whatever water comes into the stream and flood it across cropland.
 - c. Sufficient quantity of water does not exist at any time even in a run-off period to provide enough water for livestock and certainly not enough to flood irrigate cropland on either stream.
 - d. There are already existing water rights vested in owners along these two streams which would require all of the water even in a run-off period to fulfill their allowances without granting additional water rights to additional users.
 - e. It is absolutely essential that what little run-off does occur at the present time as shown by the experience of the last five to ten years must be used to flush out the stream in order to clear it of the pollution caused by the normal silt and animal

matter that exists under normal conditions in order to have sufficient pure water for livestock to drink.

- f. The owners bordering on both streams are ranchers pre-dominantly and not farmers and the few farmers or rancher-farmers who are attempting to use these streams for flood irrigation projects would necessarily as a natural result of such action ruin both streams for the livestock use of the many ranchers who own ranches below them on the streams.

For the above mentioned reasons, the undersigned parties petition the Water Resources Commission to disallow any attempts to build such dams or divert the streams mentioned without a thorough investigation of the use to be made of the water and its effect upon the predominantly livestock use for drinking purposes that is presently being made on these streams and not without a full public hearing with adequate notice to all users of the stream.

Joe Wicks

D. B. Burdine

R. Clyde Miller

Robert C. Gray

Duane Wilson

Merle H. Hays

Thos. M. Salas

John M. Sexton

J. R. Mackey

Gay Simons

Glenn C. Jones

Lynd L. Kelly

Dorothy Sexton

Harry Price

Albert Pedraza

Dick Price

Cona Foster

Harley Johnson

Hilma Kelly

George Jones

Hillat Jones

Alice Kelley

Don Wells

May D Webb

Ray P. Sexton

May E. Sexton

Kenneth Randall

James Jacob

Clair Smith

Alden C. Erickson

APPLICATION 538-1 Ernest E. Kolb.

At the hearing of the State Water Resources Commission in Pierre on March 15, 1966, the application No. 538-1 of Ernest E. Kolb to use 1.95 cubic feet per second of the flows of Antelope Creek to irrigate 138 acres of land was deferred for further investigation. The proposed irrigation is located in Park County about 20 miles southwest of Bison.

This proposed irrigation project was inspected on April 14, 1966.

Mr. Kolb started construction on a small dam, (approximately 10 feet high and 30 feet wide) in Antelope Creek in 1954 for the purpose of irrigating 71 acres of land and completed his system in 1956. The purpose of the dam is to cause flood water to back up and overflow on the 71 acres, which are diked to hold the flood waters. Excess flows to those needed for irrigation continue on downstream. Under the 1955 water laws this is classified as a vested water right which the State Water Resources Commission is to recognize.

In Application No. 538-1 Mr. Kolb proposes to increase the acres to be irrigated by 66 acres using the same diversion structure, but adding the additional acres. I am sure there are times when these flood waters are available and

our records do not indicate that they are being appropriated downstream.

One requirement is that the low flows of line streams must by-pass diversion structures be he allowed to flow downstream for domestic use purposes. At the time I inspected Mr. Kolbs diversion structure, the low flows were being by-passed due to the porous condition of the dam foundation and because the shut-gate could not shut off the entire flow of the creek.

It is suggested that application 538-6 be approved with the stipulation that low flows of the stream must always be allowed to by-pass the diversion structure.

At ^{the} May 1961 meeting, application No. 538-1 of Ernest Kolb was considered by the Commission and any action was deferred pending further investigation.

Three men touching on Antelope ^{Creek} below the Kolb place appeared before the Commission protesting the application and the following questions were raised:

- 1 The springs downstream had been buying up. A number of pot holes, formerly quite deep were now filled with silt. The possibility existed that silt was stored in Kolb's dam and when the gate was opened in the bin the silt was carried downstream to fill the pot holes and plug up the springs.
- 2 There was considerable doubt that Mr. Kolb had started construction of a dam in Antelope Creek in 1954 before the 1955 water laws became effective.
- 3 Prior water right holders downstream had written that there was insufficient water to satisfy their water right amounts.

The area was ~~again~~ inspected on July 5 and the following observations were made:

Antelope Creek for at least 4 miles above and below Kolb's Dam did not have a sustained flow. In several places small springs started a flow in the creek bed but then flow soon disappeared either in the dry creek bed or in pools at the numerous beaver dams.

The flow of water out of Kolb's Dam on Rabbit Creek was much larger than the flow of Rabbit Creek above the dam. This flow estimated at 2.50 gpm had diminished to less than 20 gpm three miles downstream from the Kolb Dam.

Inspection of Kolb's Dam indicated that silt was not stored in the dam and then washed downstream when the dam was opened.

~~There were no indications that silt was being stored in the dam.~~
Holes in the stream bed filled with silt.

There was no proof, but that spring flows in the creek had been greatly reduced.

Mr. Kolb said he had been mistaken in stating that he had started construction of the dam on Antelope Creek in 1954. He had started to build a small dam on a tributary to divert water onto his irrigated area in 1954 but had not started the dam on Antelope Creek until 1956.

Judging

From records on file in the office of the Water Resources Commissioner and from field inspections no active water right out of Antelope Creek exists below the Kolb Dam on Antelope Creek. Active water rights probably do exist on Rabbit Creek below its junction with Antelope Creek. This junction is eight miles straight east of the Kolb Dam.

The conclusion of the staff of the Water Resources Commission are;

The drainage area above the Kolb Dam covers over

100 square miles. This area during times of average spring runoff and during periods of flood would provide stream flows much in excess of what Mr Kolb can utilize with his diversion and irrigation system.

Mr Kolb's Dam on Antelope Creek has not been an important factor in the existing silt problems on Antelope Creek. A large stream flow will do much to cleanse the stream bed. Mr Kolb's Dam will not prevent such a large stream flow.

Mr Kolb's Dam has not been an important factor in the drying up of springs along the stream bed. Again large stream flows and general precipitation in the area is needed to improve this situation.

Mr Kolb cannot claim a vested right with a priority date of 1958 for any portion of his irrigation out of Antelope Creek.

Mr Kolb's dam will not have a material effect on prior water rights holders downstream.

Mr Kolb's dam will not have a detrimental effect on downstream domestic supplies of water if the low stream flows bypass his dam on Antelope Creek.

538-1

May 22, 1962

Mr. Ernest K. Kolb
Bison, South Dakota

Dear Mr. Kolb:

Enclosed herewith is your water right permit #538-1 to divert 1.93 cfs of flows of Antelope Creek for irrigation of 137 acres of land. The priority date for this water right permit is February 10, 1961.

This permit has been approved subject to the following provisions:

1. Low flows of Antelope Creek (3 cfs or less) must be allowed to flow past the diversion structure without being stored or diverted.
2. Diversion or storage of water can be made only when the flow of water in Antelope Creek, below the diversion structure, is greater than 3 cfs.

Inasmuch as your water right application proposes only temporary storage of water, provision No. 1 means that when there are low flows in Antelope Creek, the gate on the outlet tube should be set so that there will be a flow of at least 3 cfs immediately below the dam before the level of the water behind the dam begins to raise.

Provision No. 2 means that a flow of at least 3 cfs must be flowing downstream from your dam while you are filling your dam, or diverting water for irrigation. In other words, you have the right to use only those flows in excess of 3 cfs.

To give you some idea of how much water 3 cfs is, a 21 inch diameter culvert laid on a level grade with flow 3.3 cfs when the outlet of the culvert is not under water and the culvert is flowing just full at the entrance.

When you have completed your project and have put the water to beneficial use, this office should be notified so that inspections may be made with a view to issuing you a final water license.

For your convenience, we are enclosing blank forms which you may wish to use when notifying us that you are ready for the inspection of your irrigation works and beneficial use of water.

Sincerely,

J. W. GRIMES, Chief Engineer
and Executive Officer

JWG/DB/mf
2 Encls. as above

CC: Mr. D.R. Burdine
Mr. Raymond Saxton
Mr. Duane Hibner

Antelope Creek

Ernest Kolb

W/R 538-1







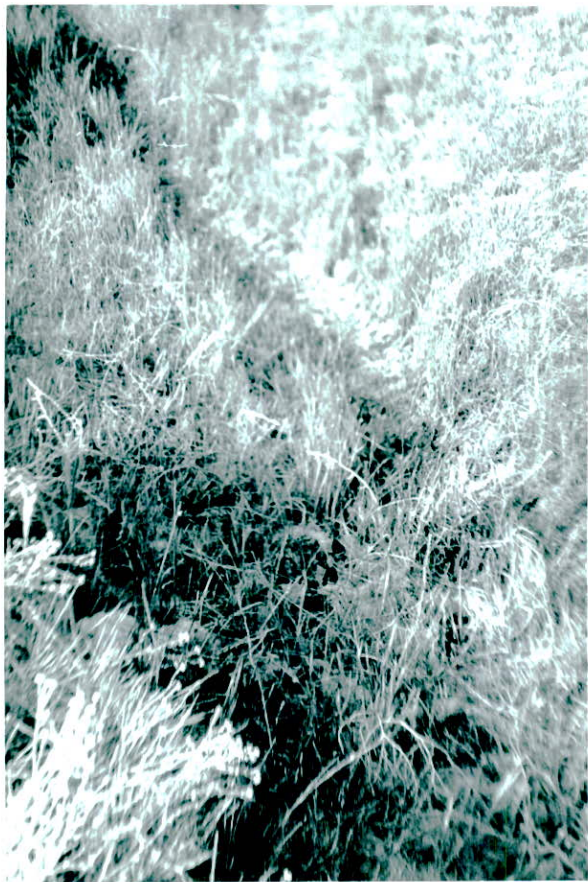


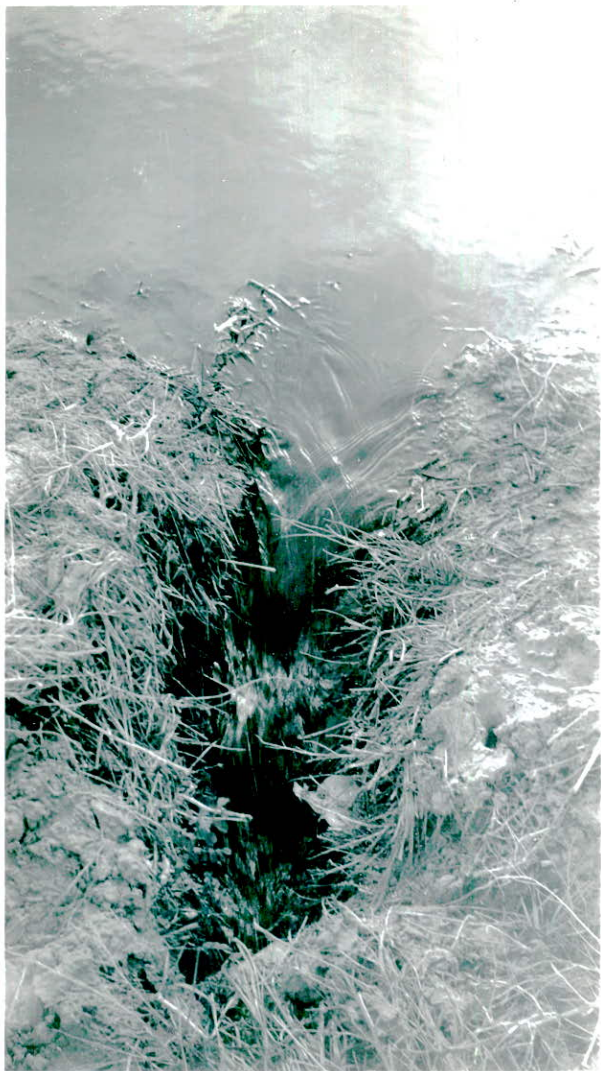














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