

560-1

1. Considered 7-19 1961
2. Name of Applicant Herman Kubiach
3. Post Office Address Orona
4. Amount of water claimed 1.77 ~~1.77~~
5. Source of water supply Dry Draws
6. Water to be used for irrigation
Acres to be irrigated 124
7. Water to be diverted and used in Douglas County about
45 10.5 miles of ORONA
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 Diversion Dikes \$ 800.00 Total, \$.....

9. Description of diversion works:

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

Storage Reservoir for vested area. Diversion Dikes for proposed area

II. Dimensions of works.

(a) Dam: Height 20 feet; length at bottom 100 feet; length at top 700 feet; thickness at bottom 110 feet; thickness at top 10 feet; slope at front water face 3:1; slope at back face 1:1 material used in construction Earth
 (b) Reservoir: Capacity when filled 90 acre feet. Surface area at highwater mark 15 acres. (Vested)

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

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

Material

(d) Canal: Total lengthmiles.

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER-LINE	GRADE Feet per Mile
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet

(Give dimensions where reductions in size are made.)

10. Time required for completion of work 1-5 years.

11. Time required for complete application of water to the proposed beneficial use 24 years.

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

STATE OF SOUTH DAKOTA.

County of PERKINS }

I, HERMAN KAUBISCH, 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.

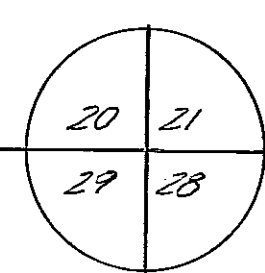
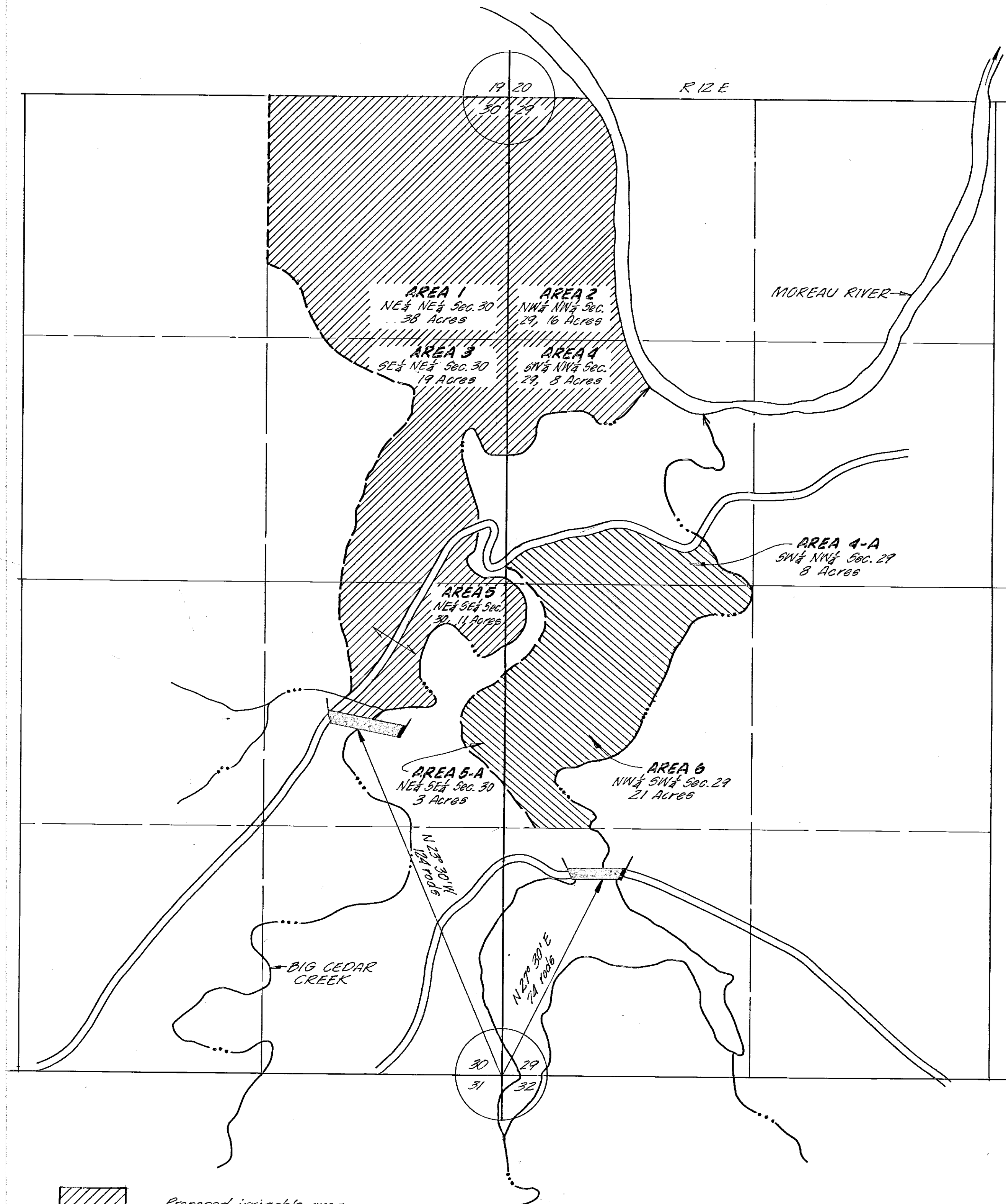
Signed Herman Kaubisch

Subscribed and sworn to before me this 24 day of MARCH 1966

Robert M. Kerz
 Notary Public (or other qualified officer.)

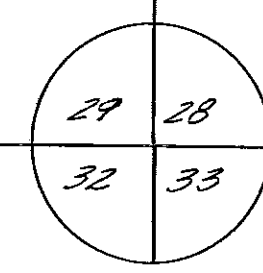
*Each diversion must have a headgate or measuring device.

My Commission Expires 6-22-67



T 14 N

Scale: 1"=400'



LAND TO BE IRRIGATED

AREA	LOCATION	SECTION	TOWNSHIP	RANGE	ACRES
1	NE 1/4 NE 1/4	30	14N	12E	38
2	NW 1/4 NW 1/4	29	14N	12E	16
3	SE 1/4 NE 1/4	30	14N	12E	19
4	SW 1/4 NW 1/4	29	14N	12E	8
5	NE 1/4 SE 1/4	30	14N	12E	11
TOTAL					92

VESTED AREA

4-A	SW 1/4 NW 1/4	29	14N	12E	8
5-A	NE 1/4 SE 1/4	30	14N	12E	3
6	NW 1/4 SW 1/4	29	14N	12E	21
TOTAL					32

SURVEYOR'S CERTIFICATE

I, KENNETH L. HUBER DO HEREBY CERTIFY THAT THIS MAP IDENTIFIES A REASONABLY ACCURATE RECORD OF THE LAND OF THE HERMAN KAUBISCH IRRIGATION PROJECT NO. 1 AND HAS BEEN PREPARED BY THE SOIL CONSERVATION SERVICE FOR THE PERKINS COUNTY SOIL CONSERVATION DISTRICT.

SIGNATURE: Kenneth L. Huber
 TITLE: AGRICULTURAL ENGINEER
 U. S. DEPARTMENT OF AGRICULTURE
 SOIL CONSERVATION SERVICE

SUBSCRIBED AND SWORN TO BEFORE ME THIS 24 DAY OF MARCH, 1967, A.D.

Robert M. Hering
 NOTARY PUBLIC

MY COMMISSION EXPIRES June 22, 1967.

- Proposed irrigable area
- Vested area
- Farm road
- Proposed diversion
- Existing dam
- Natural drainage

HERMAN KAUBISCH 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: <u>1-67</u>	Sheet <u>1</u> of <u>1</u>	Drawing No. _____

Remarks by State Water Resources Commission:

Partial "vested right" claimed

The diversion rate limitation of 1 cubic foot per second for each 70 acres irrigated shall not apply to this Dry Draw irrigation diversion during periods of flood flows, when such flows are in excess of the amount of water required to satisfy domestic use requirements and other water rights.

STATE OF SOUTH DAKOTA
County of Hughes } ss.

Pierre, South Dakota, July 28, 1961

This is to certify that the foregoing application was received by the Commission at 8:30 o'clock
a.m. upon the 12th day of April, 1961.

State Water Resources Commission

By: Burton Jones

Chief Engineer, Executive Officer

Number of permit 560-1

Date of first receipt of application April 12, 1961

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

Date of receipt of corrected application 46 cfs 1947, 19____

Date from which applicant may claim right 131 cfs April 12, 1961

Approved July 19, 1961, Recorded in Book _____ Page 280

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 4, 1964

2nd. The whole of said work is to be completed on or before July 19, 1966

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

July 19, 1970

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 1.77 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 19, 1970; said water to be used during the following described annual period:

when available during annual period

Witness my hand this 28th day of July, 1961.

State Water Resources Commission

By: J. Williams

Chief Engineer, Executive Officer

Certificate of Construction issued APRIL 29, 1971

Water License issued APRIL 29, 1971

APPLICATION FOR
PERMIT
HERMAN KAUBISCH

5. Location of points of Diversion

124 Rods $N 23^{\circ} 30' W$ of SE Corner of Sec 30-T14N-
R12E (Proposed)

74 Rods $N 27^{\circ} 30' E$ of SW Corner of Sec 29-T14N-
R12E (Vested)

7.

I.

(b) legal subdivisions to be irrigated

LAND TO BE IRRIGATED					
AREA	LOCATION	SECTION	TOWNSHIP	RANGE	ACRES
1	NE ⁴ NE ⁴	30	14 N	12 E	38
2	NW ⁴ NW ⁴	29	14 N	12 E	16
3	SE ⁴ NE ⁴	30	14 N	12 E	19
4	SW ⁴ NW ⁴	29	14 N	12 E	8
5	NE ⁴ SE ⁴	30	14 N	12 E	11
TOTAL					92

VESTED AREA					
4-A	SW ⁴ NW ⁴	29	14 N	12 E	8
5-A	NE ⁴ SE ⁴	30	14 N	12 E	3
6	NW ⁴ SW ⁴	29	14 N	12 E	21
TOTAL					32

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 560-1

(1) WHEREAS, On the 12th day of April A. D. 19 61

Hermen Kaubisch

made Water Right Application No. 560-1 for a permit to use 1.77 cubic feet per second of the waters of surface runoff

County of Perkins, State of South Dakota, for irrigation

purposes; and

(2) WHEREAS, On the 28th day of July A. D. 19 61

Permit No. 560-1, with a date of priority of 1947 and April 12, 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 19th day of July A. D. 19 66 and for the application to beneficial use of said water on or before the 19th 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 1.77 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,

for irrigating the following land in T14N, R12E

Section 30	NW 1/4 NW 1/4	38 acres
	SE 1/4 NW 1/4	30 acres
	NE 1/4 SE 1/4	33 acres
Section 29	NW 1/4 NW 1/4	16 acres
	SW 1/4 NW 1/4	16 acres
	NE 1/4 SW 1/4	21 acres
Total		154 Acres

(5) NOW, THEREFORE, By the virtue of the authority vested in us by the laws of the State of South Dakota, We hereby grant and confirm to Herman Kaubisch

_____ of Faith, South Dakota
the holder _____ and owner _____ of said permit No. 560-1 a water right, dating from 1947 and
April 12, 1961 to use of 1.77 cfs per second of the waters
of surface runoff

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 (Vested) North 27°30' East, 74 rods. (1961 Priority)
North 23°30' West, 124 rods, both from the SE Corner, Section 30, T14N, R12E

and conduct to and upon portions of Sections 29 and 30, T14N, R12E, described on the
face of this license

for the purpose of irrigation

Subject to any limitations listed in Water Right Permit No. 560-1 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this 29th day of April A. D.
Nineteen Hundred and Seventy-one

WATER RESOURCES COMMISSION

By:

Chief Engineer, Executive Officer, JW.GRIMES

Form 15.

Permit No. 560-1

Water Diversion No. 2 MOREAU RIVER Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That Herman Kaubisch

_____ the holder _____ of
Permit No. 560-1, issued upon Application No. 560-1, bearing date of priority of 1947 and
April 12, 1961 authorizing the diversion of 1.77 cu. ft. per second of the waters of _____
surface runoff County of Perkins, State of South Dakota at _____
(Vested) N. 27°30' East, 74 rods. (1961 priority) North 23°30' West, 124 rods,
both from the SE Corner, Section 30, T14N, R12E
_____, for irrigation

_____ purposes, has _____ 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 10 cu. ft. per second of water.

Date April 29, 1971

WATER RESOURCES COMMISSION

By:

J.W. GRIMES, Executive Officer

Permit No. 560-1Water Division 1 MOREAU RIVER Water District*Letter sent
4-16-71*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 Herman Kaubisch
of Faith, South Dakota holder
 of Permit No. 560-1, bearing date of priority of 1947 and April 12, 1967
 authorizing the diversion of 1.77 cu. ft. per second of the waters of surface runoff
 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:
 1961 W.R. application
 Dam on Big Cedar Creek (No storage)
 containing 24" gated pipe spillway,
 24" overflow pipe and gated drawdown
 structure for release of irrigation
 water

1947 "Vested Right"
 700' long dam, 20 feet high culvert spill-
 way, and valved steel drawdown works for
 release of irrigation waters. Pond covers
 15 acres with capacity of 90 acre feet.

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

Canal-1 1/2 mile long
 Ditches

Canal 1/4 mile long
 Ditches

C. Works used to apply water to beneficial use.

Dikes
 Land Leveling

Dikes
 Land Leveling

Excellent

The system is in the following condition.

(Vested) N.27° 30' E., 74 rds. (1961 Priority) N.23° 30' W.
 The point of diversion is located
 124 rds, both from SE Corner of Section 30, T14N, R12E

The works are capable of diverting and conveying to the place of use Vested- 1 c.f.s.
1961 priority - up to 10 c.f.s.
 cu. ft. per second of water which is to be used for irrigation

Water has been put to beneficial use to the maximum extent as follows: all in T14N, R12E

1961 Priority			
NE 1/4 NE 1/4, Sec. 30	38 acres	SW 1/4 NW 1/4, Sec. 29	8 acres
SE 1/4 NE 1/4, Sec. 30	30 acres	NW 1/4 SW 1/4, Sec. 29	21 acres
NE 1/4 SE 1/4, Sec. 30	30 acres	NE 1/4 SE 1/4, Sec. 30	3 acres
NW 1/4 NW 1/4, Sec. 29	16 acres		
SW 1/4 NW 1/4, Sec. 29	16 acres		
comprising a total of <u>92</u> acres of land.			

About 18 more acres of land have been added to the Vested right area since 1955.

Date April 13, 1971

Donald Driscoll
 (Signature)
 DONALD DRISCOLL
 Deputy Chief Engineer, Water Resources Commission

Permit No. 560-1Water Division No. 1 Moravia River Water District
STATE WATER RESOURCES COMMISSION
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.)

(P. O.) Faith, S. Dak.(Date) March 13, 1964

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

DEAR SIRE: Notice is hereby given that on the 13 day of March
1964, at NW 1/4 Sec 29 T 14-12 County of Perkins State of South Dakota,
 before _____ proof will be submitted of the application to beneficial use
 (Examining Engineer or Officer)
 of 1.31 cubic feet per second of the waters of Big Cedar Creek, dry
draw. In accordance with the terms and conditions of Permit No. 560-1
 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 _____

Herman Kaubisch
Faith, S. Dak.

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

3. The amount applied to beneficial use is _____

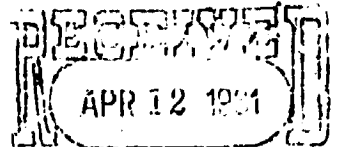
4. The place where said water is used is (if for irrigation, give full and accurate description of the lands irrigated) for irrigation in Sec 30 and 29 T 14-12
as shown by Map No 476-1
attached to application.

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

Big Cedar Creek, dry

6. The right to take the water from such works is based upon permit No. 560-17. The source of supply from which such water is diverted is surface drainage water.8. The date of priority which said user is prepared to establish is April 12, 1961(Sign) Herman Kaubisch

Location No. _____



Water Division No. _____

Water District _____

STATE WATER RESOURCES DEPT.
SIOUX FALLS, S.D.

Proof of Application of Water to Beneficial Use

PETITION OF HOLDER

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

Ans. Herman Kaubisch, Rancher, Teona, South Dakota

Ques. 2. If you are 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 stored in Reservoir

7 1/2 rods N27°30'W of SE corner of Sec. 29, T 14N, R 12E

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. Surface runoof is stored in Peservoir, water is then taken from the

Reservoir through a 6" steel casing onto the vested area shown. Improvements made
on the dam in 1911.

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. IRRIGATION: SW 1/4 of Sec. 29, 8. Acres

NE 1/4 of Sec. 30, 3. Acres

NE 1/4 of Sec. 29, 21. Acres All in T 14N, R 12E.

Ques. 7. If for other than irrigation purpose, state how applied, amount of horse power generated, etc.

Ans. _____

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

Ans. 146 cfs. or 26 ac. ft. min.

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. Water has been taken from the Reservoir through a 6" steel casing onto the vested area shown whenever ample surface runoff occurred.

(Sign) Herman Raulbach

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 _____, County of _____

State of South Dakota, on this _____ day of _____ A. D. 19____

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 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 _____

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA.

County of Perkins

SS.

Lloyd I. Sudlow of the said County and State, being first duly sworn on his oath says: That THE BISON COURIER is a weekly newspaper of general circulation printed and published in Bison, in said County and State, by the Bison Publishing Company, Inc., and has been such newspaper during the times hereinafter mentioned; and that I, Lloyd I. Sudlow, the undersigned, am Editor of the said newspaper in charge of the advertising department thereof, and have personal knowledge of all the facts stated in this affidavit; and that the advertisement headed _____

APPROPRIATION OF WATER No 560-1

a printed copy of which is herewith attached, was printed and published in the regular and entire issue of said newspaper, and not in a supplement, once each week for Five successive weeks, the first publication being made on the 15 day of June, 1961, and the last publication on the 13 day of July, 1961;

The first publication being made on the 15 day of June, 1961;

The second publication being made on the 22 day of June, 1961;

The third publication being made on the 29 day of June, 1961;

The fourth publication being made on the 6 day of July, 1961;

The fifth publication being made on the 13 day of July, 1961;

The sixth publication being made on the _____ day of _____, 1961;

The seventh publication being made on the _____ day of _____, 1961;

The eighth publication being made on the _____ day of _____, 1961;

The ninth publication being made on the _____ day of _____, 1961;

The tenth publication being made on the _____ day of _____, 1961;

That said newspaper is a legal newspaper, and has a bona fide circulation of more than two hundred copies, and has been published in the English language within the said County of Perkins for more than one year prior to the first publication of said notice, and is printed in whole in an office maintained in Bison, South Dakota, the place of publication of said newspaper. That the full amount of the fee paid for the publication of the annexed notice is \$ 20.99,

which inures solely to the benefit of said publisher; that no agreement or understanding for a division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever.

Subscribed and sworn to before me this 13 day of July, 1961.

Notary Public, Perkins County, S. D.

APPROPRIATION OF WATER

Office of State Water Resources Commission, Pierre, S. Dak., May 21, 1961.

Notice is hereby given that Herman Kaubisch, whose postoffice address is Zeona, 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 1.17 (.32 vested right) cubic feet of water per second of time from the Big Cedar Creek and dry draws

through the Kaubisch Irrigation Project No. 1, the point of diversion of which is to be located on both banks of said stream between a point in the NE1/4, Section 20, and a point in the NW1/4 of the SW1/4 of Section 29, Twp. 14 N, Range 12 E. Said water to be used for the purpose of providing irrigation on the following described land:

W1/4NW1/4 and NW1/4SW1/4, Section 29; E1/4NW1/4 and NE1/4SW1/4, Section 30, all in T 14 N, 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 July, 1961, at 2 P. M. All interested persons may appear and be heard.

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

State Water Resources Commission,
By: Burton F. Jones,
Water Right Specialist. J16J14

RECEIVED
JUL 14 1961

STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

Publication Fees \$ _____

Received Payment,

BISON PUBLISHING CO., Inc.,

By _____

(First Publication on or before June 22, 1961)

APPROPRIATION OF WATER

Office of State Water Resources Commission,

Pierre, S. Dak., May 21, 1961

Notice is hereby given that Herman Kaubisch whose postoffice address is Zeona 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 1.77 (-32 vested right) cubic feet of water per second of time from the Big Cedar Creek and dry draws through the Kaubisch Irrigation Project #1, the point of diversion of which is to be located on both banks of said stream in the NE 1/4 of the SW 1/4 of Section 29 Twp. 11N Range 12E. Said water to be used for the purpose of providing irrigation on the following described land:

W 1/2 NE 1/4 and NW 1/4 SW 1/4, Section 29; E 1/2 NW 1/4 and NE 1/4 SE 1/4, Section 30, all in

T 11N, T 12E.

~~Notice~~

~~purpose~~

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 19th day of July, 1961, at 2 P. M. All interested persons may appear and be heard.

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

CC: Lloyd I. Sudlow - Publisher

State Water Resources Commission

Bison Courier
Bison, South Dakota

By:

~~Chief Engineer, Executive Officer~~
Burton F. Jones
Water Right Specialist

**OVERSIZE
DOCUMENT IS
SUPPLEMENTARY
TO MICROFILM FILE**

2-17-91

Dear Sirs,

Could you please send me information on water rights that are filed for this land. We recently purchased the property and are interested in transferring the water rights.

Thank you,

Richard Blair
1001 LaZelle St.
Sturgis, S.D. 57785



SHORT FORM ESCROW CONTRACT FOR DEED

THIS AGREEMENT, made and entered into this 4th day of May, 1990, by and between HERMAN E. KAUBISCH, a/k/a HERMAN KAUBISCH and CLARA N. KAUBISCH, a/k/a CLARA KAUBISCH, a/k/a CLARICE N. KAUBISCH, husband and wife, whose address for the purpose of this agreement is HCR 55, Box 234, Sturgis, South Dakota 57785, hereinafter referred to as SELLERS, and BLAIR BROTHERS, a partnership whose only partners are Edward T. Blair and Richard E. Blair, whose address for the purpose of this agreement is R.R. 3, Box 23, Vale, South Dakota 57788, referred to as BUYERS.



W I T N E S S E T H

The parties enter into this agreement for the purposes of placing of public record the fact that the SELLERS have sold and the BUYERS have purchased the following described real property:

TOWNSHIP 13 NORTH (T13N), RANGE TWELVE EAST (R12E), BLACK HILLS MERIDIAN, PERKINS COUNTY, SOUTH DAKOTA:

Section 4: Lot 4 (NW1/4NW1/4)
Section 5: Lots 1, 2, 3, and 4; S1/2N1/2 (N1/2).

TOWNSHIP 14 NORTH (T14N), RANGE TWELVE EAST (R12E), BLACK HILLS MERIDIAN, PERKINS COUNTY, SOUTH DAKOTA:

Section 32: All.
Section 21: E1/2SE1/4.
Section 22: All.
Section 23: W1/2.
Section 26: W1/2W1/2.
Section 27: E1/2 NW1/4; E1/2SW1/4.
Section 28: E1/2NE1/4.
Section 29: Lots 1 and 2; SE1/4NW1/4; SW1/4, less a 3.86 acre tract in the SW1/4 deeded to Perkins County.
Section 30: E1/2NE1/4; E1/2SW1/4; SE1/4, less a 2.60 acre tract in the SE1/4 deeded to Perkins County.
Section 31: Lots 3 and 4; E1/2SW1/4.
Section 33: N1/2.
Section 34: N1/2.

Excepting therefrom all highway rights of way, including that right of way across Sections 27 through 34, taken by the United States of America by condemnation action as shown by instruments recorded in Misc. Book 209, Page 547 and Misc. Book 215, Page 293. Said right of way was granted to Perkins County by Quit Claim Deed recorded in Deed Book 242, Page 48

RECORDED BK 317 PAGE 38

South Dakota



GREAT FACES. GREAT PLACES.

DEPARTMENT OF WATER & NATURAL RESOURCES
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

February 26, 1991

Richard Blair
1001 LeZelle Street
Sturgis, SD 57785

Dear Mr. Blair:

As you requested, enclosed are copies of Water Right Nos. 446-1 (Edgar Johnson) and 560-1 (Herman Kaubisch). These water rights are all we have on file containing the legal descriptions you inquired about in your letter of February 12, 1991 (with the exception of Water Right No. 88-1B already mailed to you).

Enclosed are two "Notice of Transfer of Ownership" forms. Please complete them and then sign in the presence of a notary public. Upon completion, return them to our office with a required filing fee of \$2.50 each. If you do not own all of the land described in Water Right Nos. 446-1 and 560-1, please attach a separate sheet (when returning the transfer forms) with the name and address of the remaining landowner(s).

If you have any questions, please contact me.

Sincerely,

Genny McMath

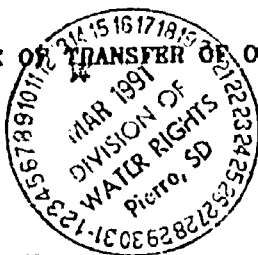
Genny McMath
Natural Resource Analyst
(605) 772-3352

enclosures

NOTICE OF TRANSFER OF OWNERSHIP

No. 560-1

TO: Chief Engineer
Water Rights Division, DWNH
523 East Capitol
Pierre, SD 57501-3181



Date: March 11, 1991

I/We request that Water Permit/Right No. 560-1

formerly owned by: Herman Kaubisch

be transferred to: (name & address) Blair Brothers RR3-Box 23

Vale, South Dakota 57788 (telephone No.) 347-2190

Title to the following described land(s)/property has been transferred as described above:

154 acres - NE1/4NE1/4, SE1/4NE1/4, NE1/4SE1/4, Section 20 and NW1/4NW1/4, SW1/4NW1/4, NW1/4SW1/4, Section 29, T14N, R 12E

I/We understand that the validity of Water Permit/Right No. 560-1 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

You are requested to file this "Notice of Transfer" in the appropriate file at the Division of Water Rights, as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is attached to cover the filing fees as required under SDCL 46-2-13.

STATE OF SOUTH DAKOTA)
County of Meade)

I/We Blair Brothers being first duly sworn on my oath depose and say that my relation to the above described undertaking is that of Owner, that I have read the above foregoing statement, and that I know of my own personal knowledge that the information herein stated is true.

Richard Blair plus
(Signed)

Subscribed and sworn to before me this 11 day of March, 1991.

Deputy Notary
(Notary Public)

NOTE: Water permits may be cancelled for nonconstruction within the five year construction period. Once a water permit is developed and the water used, the permit becomes a water right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.



April 11, 1991

DEPARTMENT OF WATER & NATURAL RESOURCES

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

No. 88-1B

560-1

Blair Brothers
RR 3, Box 23
Vale, SD 57788

Dear Sirs:

Enclosed are receipts in the amount of \$2.50 each which you paid for the transfer of Water Water Right No. 88-1B and Water Right No. 560-1.

Our records now show you as the owner of Water Right No. 88-1B and Water Right No. 560-1.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cheryl F. Frost".

Cheryl F. Frost
Secretary
Water Rights Division
605 773-3352

enclosure

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

412584

Pierre, March 13, 19 91

RECEIVED OF Richard Blair (Blair Brothers) RR 3 Box 2, Vale, SD 57788
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct works and to put water to beneficial use _____		
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. _____	2	50
Fee for Filing Transfer Form, <u>Water Right No. 560-1</u>		
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____ (Any Other Work Provided by Law)		
Total	2	0

By John Hatch
Chief Engineer

560-1

SOUTH DAKOTA

VESTED WATER RIGHT NO. 560-1 FOR IRRIGATION

Date of Receipt of Claim April 12, 1961.

Date of Validation September 30, 1992.

The Water Management Board validated Vested Water Right Claim No. 560-1 for irrigation purposes for the Blair Brothers, RR 3, Box 23, Vale, South Dakota, 57788 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 560-1 appropriates 0.46 cubic feet per second of water from a dry draw dam (90 acre-feet storage capacity) to irrigate 32 acres. The point of diversion is located in the SW1/4 SW1/4 Section 29, T14N, R12E. The irrigated lands are located in the SW1/4 NW1/4, NW1/4 SW1/4 Section 29; and in the NE1/4 SE1/4 Section 30; all in T14N, R12E.
2. The appropriation may not exceed the amount of water needed for beneficial use for irrigation. The appropriation may not exceed 3 acre feet per irrigated acre per year. Water is to be used during the following annual period: January 1 to December 31.
3. The priority date of the Vested Water Right is: January 1, 1947
4. The water use system has been constructed and water has been applied to beneficial use.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATION

The diversion rate limitation of 1 cubic foot per second for each 70 acres irrigated shall not apply to this Dry Draw irrigation diversion during periods of flood flows, when such flows are in excess of the amount of water required to satisfy domestic use requirements and other water rights.

WATER MANAGEMENT BOARD

By: _____

John H. Felt
Chief Engineer

MAR 17 1993

_____ date

Division of Water Rights
Dept. of Environment and Natural Resources

NOTE: Vested Water Right No. 560-1 is also included as part of Water License No. 560-1 for a total of 1.77 cfs to irrigate 154 acres.



560-1

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

MAR 17 1993

Blair Brothers
RR 3, Box 23
Vale SD 57738

Dear Sirs:

The Water Management Board has validated the enclosed Vested Water Right No. 560-1. This validation gives legal status to the claim and is the final document for your vested right.

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

Very truly yours,

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

enclosure