

772-1

1. Considered 7-20, 1966
2. Name of Applicant James L. Anker Jr.
3. Post Office Address New Underwood.
4. Amount of water claimed 3.2
5. Source of water supply Ferris Creek
6. Water to be used for irrigation

Acres to be irrigated 226

7. Water to be diverted and used in Meade County about 5 N 3 1/2 miles E of New Underwood

8. Proof of Publication Received ☒

Not Received ☐

9. Application Approved ☐

Subject to ☐

Not Approved ☐

Action deferred ☐

10. Remarks:

See Letter

No.

772-1

Water Division No.

1 Elk Creek

District

(Blanks to be Filled by the Engineer for the W. R. C.)

APR 29 1966

5:03 am

STATE WATER RESOURCES COMMISSION
PIERRE, SOUTH DAKOTAAPPLICATION FOR PERMIT
To Appropriate Water within the State of South Dakota

(NOTE--Draw a line through items not applicable.)

1. Name of applicant JAMES L. AIKER,
Postoffice address NEW UNDERWOOD, County MEADE, State S.D.

I. If a corporation

(a) Name of same

(b) Date and place of incorporation

(c) Amount of capital stock

(d) Amount paid in

(e) Names and addresses of directors

(NOTE--A certified copy of articles of incorporation must accompany the application.)

II. Method of accomplishing the work and financial resources of the applicant:

(a) Method of accomplishing work (Whether by contract, employment of others, or by direct labor)

Direct labor and the employment of others

(b) Cash on hand, \$

(c) Treasury stock, \$

(d) Bonds to be issued, \$

(e) Other resources, \$

2. Name of diversion work THE AIKER SPREADER PROJECT3. Amount of water claimed 3.77 cubic feet per second4. Source of water supply Ferrie Creek5. Location of point of diversion N. 72° W. 1155' from the E. 1/4 Cor. Sec. 34, T.3 N., R. 11 E. on Rt. (East) bank Meade County.6. Annual period or periods during which water is to be used April 1st thru Oct. 30th

7. To be used for:

I. Irrigation or domestic use: Gravity, overhead sprinkling or combination system? Gravity(a) Number of acres to be irrigated 226 acres.NW-NE 27th ao., NE-NE-19 ao., SW-NE 30 ao., SE-NE 23 ao., { 199 ao. Sec. 27
NW-SE-34 ao., NE-SE 38 ao., SW-SE-5 ao., SE-SE-23 ao., { 7.6 R., R. 11

NE-NE 27 ao., Sec. 34, T.3 N., R. 11 E. 2 Grand total 226 ao.

II. Stockwatering, mining, milling, power, fish culture, fire protection and public recreation:

(a) Nature of use Stockwatering and irrigation

Name any of the above uses claimed

(b) Amount of power to be generated None horse power.Amount claimed for engine cooling None(c) Location of plant None(d) Method of developing power None

(e) Point where water will be returned to stream

MAP NO 648-1

8. Estimated cost of work:

(a) Head Gates, \$..... (b) Pumping plant, \$.....
 (c) Fluming, \$..... (d) Canal-earth, \$..... Rock, \$.....
 (e) Other structures Dikes, ditches, leveling \$ 2000.00 Total, \$.....

9. Description of diversion works:

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

Water to be carried by dikes and ditches from spillway of present
stockwater dugout, to floodable areas.

II. Dimensions of works. A Great Plains Project.

(a) Dam: Height.....feet; length at bottom.....feet; length at top.....feet; thickness at bottom.....feet; thickness at top.....feet; slope at front water face.....; slope at back face.....
 material used in construction.....
 (b) Reservoir: Capacity when filled No storage acre feet. Surface area at highwater mark.....acres.

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

(c)* Head gate: Width.....feet; height.....feet;
 Material.....
 (d) Canal: Total length.....miles.

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER-LINE	GRADE 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 3 1/2 years.
 11. Time required for complete application of water to the proposed beneficial use 5 years.
 12. Choice of newspaper for publication of notice of intention to appropriate.....
Sturgis Tribune, Sturgis, S.D.

STATE OF SOUTH DAKOTA

County of Meade } ss.

I, JAMES L. AUKER, Jr.

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 James L. Aufer Jr.

Subscribed and sworn to before me this April 8th day of 1966 19

CARL M. CORNELL
 Notary Public, Sturgis Co., S. D.
 My commission expires April 13, 1967

Notary Public CARL M. CORNELL

*Each diversion must have a headgate or measuring device. Carl M. Cornell.

PLAT OF
THE JAMES L. ANKER, JR. SPREADER PROJECT IN SEC. 27 & 34, T. 3 N., R. 11 E., Meade Co., So. Dak.
Scale 8 inches = 1 mile.

- Surveyor's Certificate -

I, Carl M. Cornell, Licensed Surveyor in and for the State of South Dakota, do hereby certify that, at the request of James L. Anker, Jr. of Cottonwood, Meade County, South Dakota, I have made a survey and prepared this plat for the purpose of showing the irrigable tracts which are embraced in The Anker Spreader Project and furnishing the required map as a part of his Application for a Permit to appropriate Water for Irrigation Purposes.

I further certify that the bearings and lengths of all lines shown and their location, with reference to the Government Land Corners shown, are correct, to the best of my knowledge and belief.

Subscribed and sworn to at Buffalo, South Dakota this 20th day of April 1966.

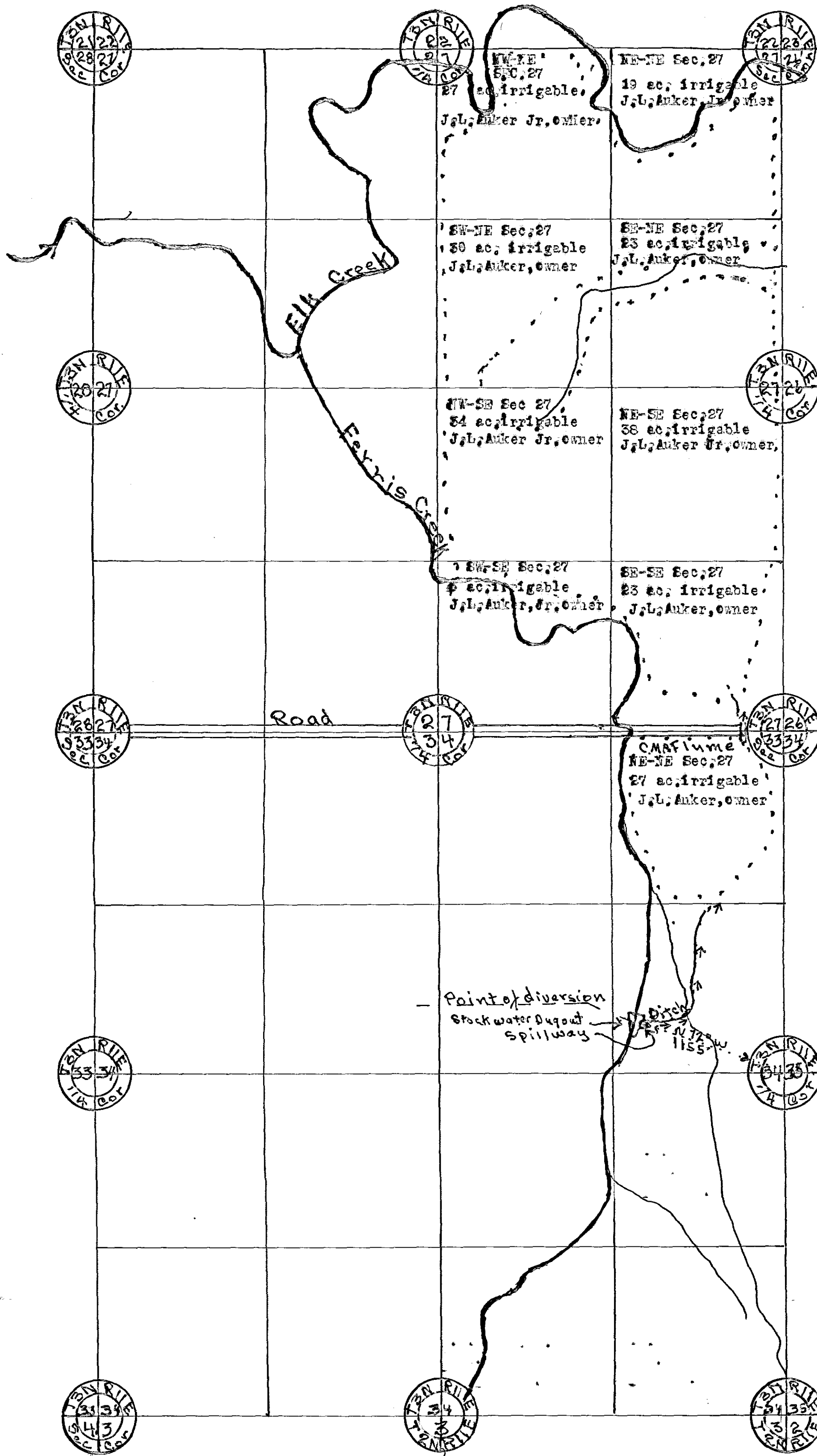
Signed: *Carl M. Cornell*

Carl M. Cornell, Licensed Surveyor No. 144 (SEAL)

Subscribed and sworn to before me at Buffalo, South Dakota this 20th day of April 1966;

Eleanor Lindholm

Notary Public. (SEAL)



MAP N° 648-1

(APPL N° 772-1)

Remarks by State Water Resources Commission:

"VESTED RIGHT" CLAIMED FOR A PORTION OF THIS PERMIT

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 SEPTEMBER 16, 1966

This is to certify that the foregoing application was received by the Commission at 8:05 o'clock

9 a.m. upon the 29TH day of APRIL, 1966

State Water Resources Commission

By:

Burton J. Jones
for Chief Engineer, Executive Officer

Number of permit 772-1

Date of first receipt of application APRIL 29, 1966

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

Date of receipt of corrected application _____, 1954

Date from which applicant may claim right 3:30 P.M. APRIL 29, 1966

Approved SEPTEMBER 16, 1966, Recorded in Book 9 Page 157

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 _____

MARCH 16, 1969

2nd. The whole of said work is to be completed on or before SEPTEMBER 16, 1971

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

SEPTEMBER 16, 1971

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 3.77 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 SEPTEMBER 16, 1971; said water to be used during the following described annual period:

APRIL 1 THRU OCTOBER 30

Witness my hand this 16TH day of SEPTEMBER, 1966

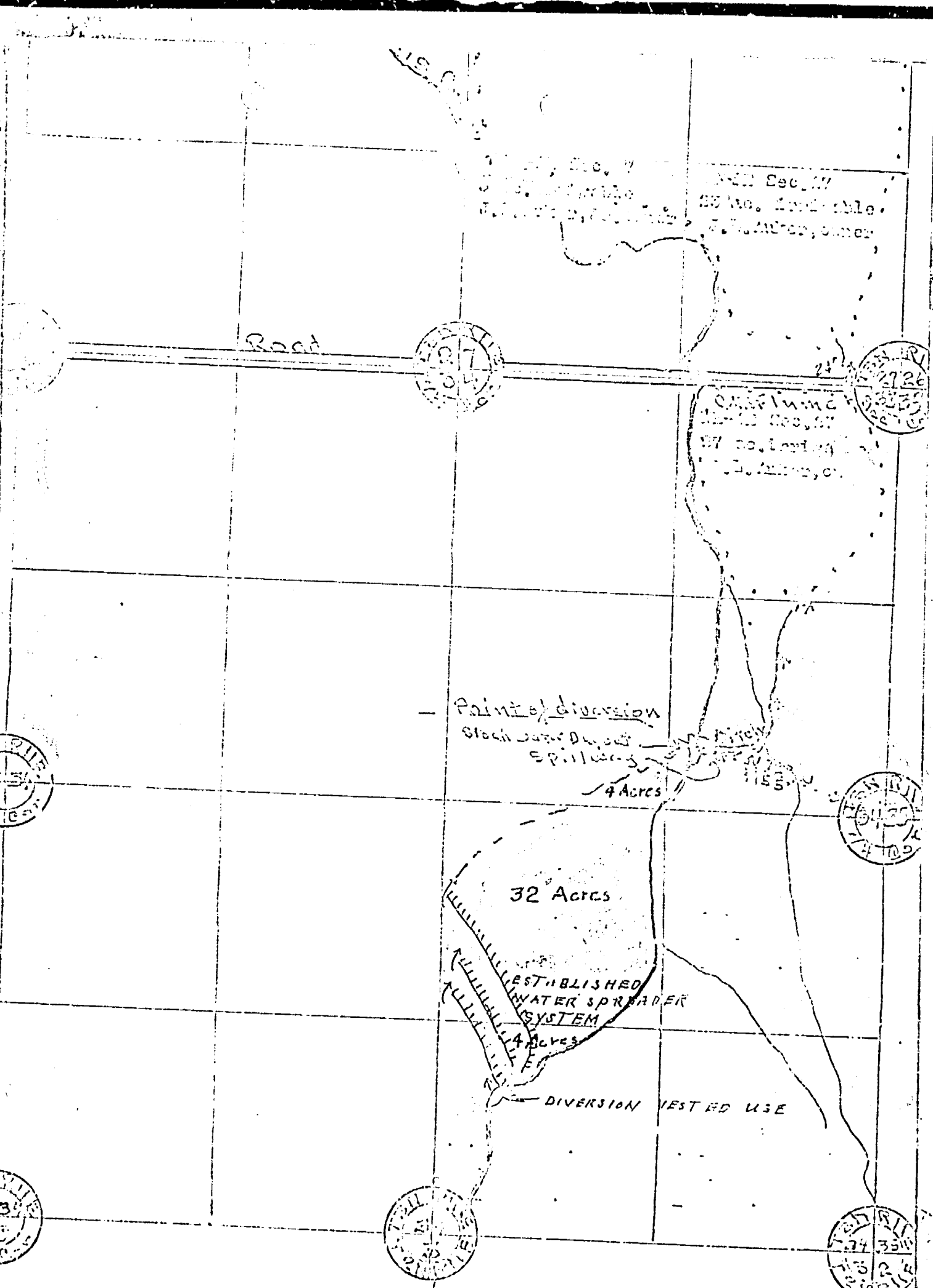
State Water Resources Commission

By:

C. C. Jones
Chief Engineer, Executive Officer

Certificate of Construction Issued _____, 19____

Water License Issued _____, 19____



JAMES L. AUKER, VESTED RIGHT

Irrigated Areas indicated by Red Color.

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 772-1

(1) WHEREAS, On the 29th day of April A. D. 19 66
James L. Auker, Jr.

made Water Right Application No. 772-1 for a permit to use 3.77 cubic feet per second of the waters
of Forris Creek
County of Deade State of South Dakota, for irrigation
purposes; and

(2) WHEREAS, On the 15th day of September A. D. 19 66
Permit No. 772-1, with a date of priority of 1954 and April 29, 1960
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 15th day of September A. D. 19 71 and for the
application to beneficial use of said water on or before the 15th day of September A. D. 19 71

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 3.77 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 T3N, R11E

Section	NE 1/4 NE 1/4	ACRES
Section 27	NE 1/4 NE 1/4	27
	NE 1/4 NE 1/4	27
	SE 1/4 NE 1/4	30
	SE 1/4 NE 1/4	23
	NE 1/4 SE 1/4	34
	NE 1/4 SE 1/4	38
	SW 1/4 SE 1/4	3
	SE 1/4 SE 1/4	23
Section 34	NE 1/4 NE 1/4	27
	SW 1/4 NE 1/4	4
	NE 1/4 SE 1/4	32
	SW 1/4 SE 1/4	4
Total		266 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 _____ **James L. Auker, Jr.**

_____ of **New Underwood**

the holder _____ and owner _____ of said permit No. **772-1** a water right, dating from **1954 and April 29, 1966**

_____ to use of **3.77** cubic feet per second of the waters

of **Ferris Creek**

in the County of **Meade** and State of South Dakota, or so much thereof as may be necessary for the

purposes hereinbelow mentioned, to be diverted **Main diversion - North 72° West, 1155 ft. from the E½**

Corner, and dikes on draws in the SW¼ SW¼ and NE¼ NE¼, Section 34, and a point in the

NE¼ SE¼, Section 27, all in T3N, R11E

and conduct to and upon **portions of Sections 27 and 34, T3N, R11E, more fully described on the**
face of this license

for the purpose of **irrigation**

Subject to any limitations listed in Water Right Permit No. **772-1** and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this **2nd** day of **August** A. D.
Nineteen Hundred and **Seventy-four**

WATER RESOURCES COMMISSION

By: _____
Chief Engineer, Executive Officer **DONALD DRISCOLL**

Form 15.

Permit No. 772-1

Water Diversion No. 1 SLK CREEK Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That James L. Auken, Jr.

_____ the holder _____ of
Permit No. 772-1, issued upon Application No. 772-1, bearing date of priority of 1954 and
April 29, 1966 authorizing the diversion of 3.77 cu. ft. per second of the waters of _____
Ferris Creek County of Meade, State of South Dakota at _____
Main diversion-N.72° West, 1155 ft. from the E $\frac{1}{2}$ Corner, and dikes on draws in the
S $\frac{1}{4}$ S $\frac{1}{4}$ and NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 34, and a point in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 27, all in
T $\frac{1}{2}$ N. R11E _____, 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 10 cu. ft. per second of water.

Date August 2, 1974

By: WATER RIGHTS COMMISSION

DONALD DRISCOLL, Chief Engineer

Permit No. 772-1Water Division 1 ELK CREEK Water DistrictREPORT 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 JAMES L. AUKER, JR. of NEW UNDERWOOD holder of Permit No. 772-1, bearing date of priority of 3.20 FROM APRIL 29, 1954 authorizing the diversion of 3.77 cu. ft. per second of the waters of FERRIS CREEK for IRRIGATION purposes, in MEADE 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:

3 MAIN DIKES ON FERRIS CREEK- SMALL STOCK DAM WITH DITCH RUNNING FROM OVERFLOW

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

APPROXIMATELY 300 RODS OF MAIN DICES & 1 1/2 MILES OF V- DITCHES

C. Works used to apply water to beneficial use.

SPREADER DITCHES & V- DITCHES SPREAD WATERThe system is in the following condition: FAIR TO GOOD

The point of diversion is located MAIN DIVERSIONS- N72°W, 116S' FROM E 1/4 CORNER SECTION 34, T3N, R11E
& A POINT IN THE SW 1/4, SEC. 34, T3N, R11E. & NE 1/4 SEC 30, T3N, R11E
DIKES ON TWO DRAINS IN NE 1/4 SEC 27

The works are capable of diverting and conveying to the place of use UP TO 10cu. ft. per second of water which is to be used for IRRIGATIONWater has been put to beneficial use to the maximum extent as follows: ALL IN T3N, R11E

SECTION 27		SECTION 34		SECTION 30	
NW 1/4 NE 1/4	27 AC.	NW 1/4 SE 1/4	34 AC.	NE 1/4 NE 1/4	27 AC.
NE 1/4 NE 1/4	19 AC.	NE 1/4 SE 1/4	38 "	SW 1/4 NE 1/4	4 "
SW 1/4 NE 1/4	30 "	SW 1/4 SE 1/4	5 "	NW 1/4 SE 1/4	32 "
SE 1/4 NE 1/4	23 "	SE 1/4 SE 1/4	23 "	SW 1/4 SE 1/4	4 "

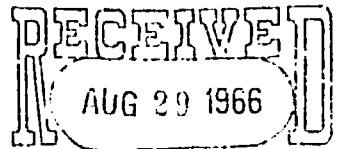
comprising a total of 2166 acres of land.

SOUTH END OF PROJECT IS WELL DEVELOPED.
CAN GET WATER TO NORTHERN PORTIONS, BUT NEEDS
MORE WORK TO BETTER DISTRIBUTE THE WATER.

Date: JULY 11, 1974

**OVERSIZE
DOCUMENT IS
SUPPLEMENTARY
TO MICROFILM FILE**

Location No. _____


 Water Division No. _____ Water District STATE WATER RESOURCES COMM.
 PIERRE SOUTH DAKOTA

Proof of Application of Water to Beneficial Use

PETITION OF HOLDER

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

 Ans. JAMES L. AUKER, JR., RANCHER
NEW UNDERWOOD, 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. FERRIS CREEK DIVERTED IN
SE¹/₄, NW¹/₄, SW¹/₄, SE¹/₄ SECTION 34, T.3N, R.1E

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. 80 Rods of DIKE IN W¹/₂ SE¹/₄ SECTION
34, T.3N, R.1E PLUS DIVERSION DAM

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 ON LAND IN SEC. 34, T.3N, R.1E AS
FOLLOWS
SW¹/₄ NE¹/₄ 4 ACRES
NW¹/₄ SE¹/₄ 32 ACRES
SW¹/₄ SE¹/₄ 4 ACRES

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. 0.57 CUBIC FEET PER SECOND

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. SYSTEM WAS CONSTRUCTED IN 1954
AND HAS BEEN USED AS WATER IS
AVAILABLE SINCE THAT DATE

(Sign) James T. Anderson

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 Newell, S.D. County of Pennington

State of South Dakota, on this 27th day of August A. D. 1966

Allen D. Hootman Notary Public
Commission Expires May 27
1971

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.

Paul E. Madison
Carl Humphrey

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 _____
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on or before
(First Publication June 23, 1966)

APPROPRIATION OF WATER

Office of State Water Resources Commission,

Pierre, S. Dak., June 9, 1966

Notice is hereby given that James L. Auker, Jr. whose postoffice address is New Underwood 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 3.2 cubic feet of water per second of time from ~~xxx~~ Ferris Creek through the Auker Spreader Project, the point of diversion of which is to be located on the right bank of said stream in the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 34 Twp. 3N Range 11E portions of said water to be used for the purpose of providing irrigation on the following described land:
NE $\frac{1}{4}$, SE $\frac{1}{4}$, Section 27; NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 34, T3N, R11E

XXXXXX and for _____ purposes.

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 20th day of July, 1966, 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

CC: Morris G. Hallock, Publisher
Sturgis Tribune
Sturgis, S.D.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA }
 County Deade } ss.

Sue North being duly sworn, deposes and says the annexed printed copy of Notice of Intention to Appropriate Water was taken from the _____
Sturgis Tribune a newspaper which during the whole time of publication of said notice herein after stated, has been and is printed and published in the _____
city of Sturgis County of _____
Deade and State of South Dakota; that the said notice was published in said newspaper on the following dates:

June 15, 1966

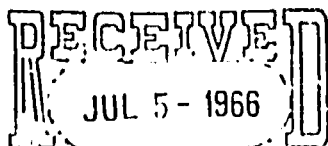
June 22, 1966

June 29, 1966

in each and every issue of the full number thereof, the first publication being made on the 15 day of June 1966 and the last publication on the 29 day of June 1966, upon which days or times of publication aforesaid the newspaper was regularly published, and that during the whole time of said publication he was bookkeeper the printer and publisher of the said newspaper.

Sue North

Subscribed and sworn to before me this 30 day of June, A. D. 1966



STATE WATER RESOURCES COMM
 PIERRE, SOUTH DAKOTA

APPROPRIATION OF WATER
 Office of State
 Water Resources Commission,
 Pierre, S. Dak.
 June 8, 1966
 Notice is hereby given that James L. Auker, Jr., whose post-office address is New Underwood, 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 3.2 cubic feet of water per second of time from Ferris Creek through the Auker Spreader Project, the point of diversion of which is to be located on the right bank of said stream in the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 34 Twp. 3N Range 11E. Said water to be used for the purpose of providing irrigation on portions of the following described land: NE $\frac{1}{4}$, SE $\frac{1}{4}$, Section 27, NE $\frac{1}{4}$, NE $\frac{1}{4}$, Section 34, T3N, R11E.
 This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 20th day of July, 1966, 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 E. JONES
 Water Right Specialist
 P31 J-15-22-29

Notary Public Deade County, S. D.

Water Rights Division
(605) 773-3352

755-1
772-1
759-1

August 4, 1981

Mr. Dale Madsen
New Underwood, SD 57761

Dear Mr. Madsen:

This letter is to inform you that our office has received several complaints on the construction work you and Mr. Jim Aucker have done on Elk Creek just north of Mr. Aucker's home.

The complaints were that you and Mr. Aucker are holding back downstream domestic water supplies. We investigated the situation on July 29, 1981 and have decided to wait until there is a larger runoff into the creek to evaluate the situation. If it is determined that the construction change on Elk Creek is interfering with downstream domestic water you will be instructed to correct the problem.

Would you please send a letter to this office stating the purpose for the construction of these dykes and if you or Mr. Aucker have any future plans for irrigating using this construction change.

If you have any questions, please call this office.

Sincerely,

TIMOTHY G. SCHWAL
Water Resources Engineer

TGS/bat

cc: Mr. James L. Aucker, Jr.
New Underwood, SD 57761

(605) 773-3352
Water Rights Division

755-1
772-1
759-1

August 4, 1981

Mr. Clarence Humphrey
New Underwood, SD 57701

Dear Mr. Humphrey:

After our meeting on July 29, 1981 concerning the situation with Mr. Dale Madsen and Mr. Jim Aucker on Elk Creek, we decided to wait until there is sufficient runoff into Elk Creek to effectively evaluate the situation. Since the creek has been dry for sometime it will take a large runoff to fill all the natural pot holes in the creek before it will run. If it is determined that the construction change on Elk Creek is interfering with the downstream domestic water supply, Mr. Madsen and Mr. Aucker will be instructed to correct the problem.

If you have any questions, please call the office.

Sincerely,

TIMOTHY G. SCHAAL
Water Resources Eng.

TGS/bat

SOUTH DAKOTA Department of
Water & Natural Resources

Jon Foss Building

Water Rights Division

Pierre, South Dakota 57501

(605) 773-3352

October 29, 1981

Mr. Clarence Humphrey
New Underwood, SD 57761

Dear Mr. Humphrey:

On October 27, 1981, we met with Mr. Aucker and Mr. Malsen at the site of their erosion control project. The creek was completely dry and the situation could be clearly evaluated. We took some elevations of the creek bed and the bypass channel and determined that the bottom of the bypass channel was essentially the same elevation as the creek bed. After this visit to the project, we have decided not to take any action on this matter.

Elk Creek has had very little runoff into it for several years. It will take a large snow fall in the Black Hills area to fill all the natural pot holes and restore Elk Creek. Hopefully, this winter we will get the snow fall needed to fulfill this task.

If you have any questions on this matter, please call this office.

Sincerely,

TIMOTHY G SCHAAL
Water Resources Engineer

cc: Mr. James L Aucker, Jr.
New Underwood, SD

TGS/gy

Equal Opportunity Employer

**South Dakota Department of
Water & Natural Resources**

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

Division of Water Rights
605 773-3352

No. 772-1

Zach Word //
Federal Land Bank //
PO Box 1157 //
Rapid City, South Dakota 57709

Dear Mr. Word:

Please find enclosed a copy of a Notice of Transfer of Water Permit form. This form must be signed by the owner before a notary and returned to this office with a filing fee of \$2.50.

Upon receipt of the enclosed form and the \$2.50 filing fee the permit will be transferred to the proper name. South Dakota Water Law 46-5-30.3 requires Notice of any sale, grant, lease, conveyance or other transfer of a Water Permit or Water Right to appropriate water to be filed with this office within ninety days.

Please advise if you have any questions.

Sincerely,

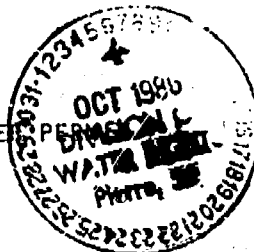
Maxine Stirling
Secretary

ms/
Enc.

NOTE: You may keep the enclosed copy of Water License No. 772-1 for your records.

NO. 772-1

NOTICE OF TRANSFER OF WATER PERMIT



TO: Water Rights
Foss Building
Pierre, SD 57501

Date: September 22, 1986

This is to notify you that the title to the lands described as follows:

266 Acres - E $\frac{1}{2}$ Section 27; NE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 34, all in T3N, R11E

formerly owned by James L. Auken, Jr.

has been transferred to Federal Land Bank Association, PO Box 1157, 1715 Cambell Dr.,
(please include complete mailing address) Rapid City, SD
together with any rights to the beneficial use of water thereon as evidenced by 57709

Water Right Permit No. 772-1 as provided for in SDCL 46-5-32 and 46-5-33.

You are therefore hereby requested to file this "Notice of Transfer of Water Permit" in its appropriate file at the Div. of Water Rights, Water Management Board as evidence of the change of ownership.

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

STATE OF SOUTH DAKOTA)
) ss.
County of Pennington)

I, Zack R. Word 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 I know of my own personal knowledge that the information herein stated is true.

I am the Acquired Property Manager for the
Federal Land Bank of Omaha and that Federal
Land Bank's

Federal Land Bank of Omaha

Zack R. Word

Zack R. Word (Signed) Acquired Property Manager

Subscribed and sworn to before me this 22 Day of September, 1986.

Shari Larsen

(Notary Public) Shari Larsen

My Commission Expires: November 2, 1988

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

410587

Pierre, October 6, 19 86

RECEIVED OF Federal Land Bank, Association, PO Box 1157, Rapid City, SD 57709

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. _____		
Fee for Filing Transfer Form <u>772-1</u>	2	50
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 50

By John Hatch
Chief Engineer JOHN HATCH (CS)

South Dakota Department of
Water & Natural Resources

Joe Foss Building Water Rights Division
Pierre, South Dakota 57501

Phone (605) 773-3352

October 7, 1986

Federal Land Bank Association
PO Box 1157
Rapid City, South Dakota 57709

ATTENTION: Zack Word

Dear Mr. Word:

Enclosed is receipt No. 410587 in the amount of \$ 2.50 which you
paid for transfer of Water Right No. 772-1.
Our records now show ~~you~~ **Federal Land Bank Association** as the owner of this Water Right.

Sincerely,

Maxine Stirling
Secretary

ms/
Enc.

772-1

Telephone

Rapid City (605) 343-5707

Wall (605) 279-2263

Law Offices of
Louis K. Freiberg

First Federal Plaza

909 St. W #420

Rapid City, South Dakota 57701-1153

February 13, 1987

South Dakota Department of
Water and Natural Resources
Water Rights Division
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181



RE: Cox, Donald J. and Pamela J.
Our File #87-115

Gentlemen:

Please advise as to the water rights, including any permits that have been issued, on the S1/2 of the NW1/4, the SW1/4 of the NE1/4, the W1/2 of the SE1/4 and the S1/2 of the SW1/4 of Section 28, Township 3 North, Range 11 East of the Black Hills Meridian, Meade County, South Dakota. The property is now owned by the Federal Land Bank of Omaha, Omaha, Nebraska. Our clients, Donald J. Cox and Pamela J. Cox, his wife, are prospective purchasers. Prior to the Federal Land Bank ownership, the property was owned by a James L. Auken, Jr., and Caroline E. Auken, his wife. We think there are water rights and we would like to have you forward the proper assignment forms from the last owner showing in your office to prospective buyers, who are our client, the Coxes.

Advise us as to the procedure required to complete transfer if there are water rights.

Sincerely,

Louis K. Freiberg
Louis K. Freiberg
Attorney at Law

LKF/pam

772-1

SOUTH DAKOTA Department of
Water & Natural Resources
Joe Foss Building WATER RIGHTS DIVISION
523 East Capitol (605) 773-3352
Pierre, South Dakota 57501-3181

February 18, 1987

Louis K. Freiberg
Attorney at Law
First Federal Plaza
909 St. Joe #420
Rapid City, South Dakota 57701-1159

RE: Yourfile No. 87-115

Dear Mr. Freiberg:

With reference to your letter of February 13, 1987, I was unable to find any water rights for the legal description you inquired about. However, I did find a water right formerly owned by James Auker, Jr. and transferred to Federal Land Bank of Omaha.

Enclosed is a copy of Water Right No. 772-1 and the last transfer filed. Is this the water right you referred to? If so, I have enclosed a "Notice of Transfer" to be filed with our office for a change of ownership. A \$2.50 filing fee is required for filing the transfer.

If I can answer any questions, please contact me.

Sincerely,

Genny McMath
Natural Resources Analyst

GH:ms
Enc.

NO. 772-1

NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Rights
Foss Building
Pierre, SD 57501

Date: April 7, 1987

This is to notify you that the title to the lands described as follows:

266 Acres - E $\frac{1}{2}$ Section 27; NE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ Section 34, all in T3N, R11E

formerly owned by Federal Land Bank Association

has been transferred to Dennis J. Coy and Pamela J. Coy as joint tenants
(please include complete mailing address)
together with any rights to the beneficial use of water thereon as evidenced by

Water Right Permit No. 772-1 as provided for in SDCL 46-5-32 and 46-5-33.

You are therefore hereby requested to file this "Notice of Transfer of Water Permit" in its appropriate file at the Div. of Water Rights, Water Management Board as evidence of the change of ownership.

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

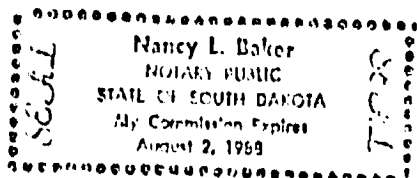
STATE OF SOUTH DAKOTA)
County of Pennington) ss.

I, Zack R. Word 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 I know of my own personal knowledge that the information herein stated is true.

(Corp. Seal)

Federal Land Bank Association
by Zack R. Word
(Signed)
its Acquired Property Specialist

Subscribed and sworn to before me this 7th Day of April, 1987.



Nancy L. Baker
(Notary Public)
South Dakota



*Law Offices of
Louis K. Freiberg*

*Telephone
Rapid City (605) 343.5767
Wall (605) 279.2263*

*First Federal Plaza
509 N. Joe #429
Rapid City, South Dakota 57701.1159*

April 15, 1987

South Dakota Department of Water
and Natural Resources
Water Rights Division
Joe Foss Building
523 East Capital
Pierre, SD 57501-3181

RE: Cox, Donald J. and Pamela J.
Our File #87-115

Gentlemen:

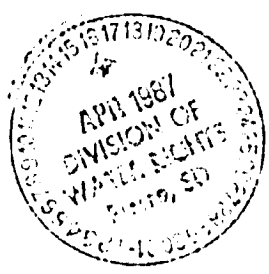
Enclosed is Donald J. Cox's check for the amount of \$2.50 for
filing fees. Please register this transfer and return it to
my office.

Sincerely,

[Handwritten Signature]
Louis K. Freiberg
Attorney at Law

LKF/tmm

Enclosure



RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

Pierre, April 10, 1937

RECEIVED OF Don Cox, RR 1, Box 54, New Underwood, SD 57761

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. _____		
Fee for Filing Transfer Form 772-1	2	50
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 50

By John Hatch
Chief Engineer JOHN HATCH (ms)

No. 772-1

 **Department of
Water & Natural Resources**

Joe Foss Building
Pierre, South Dakota 57501

Water Rights Division

Phone (605) 773-3352

May 1, 1987

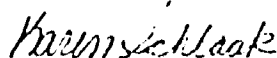
Donald J and Pamela J Cox
RR 1, Box 54
New Underwood SD 57761

Dear Mr. & Mrs. Cox:

Enclosed is receipt No. 410830 in the amount of \$ 2.50 which you
paid for transfer of Water Right No. 772-1.

Our records now show you as the owner of this Water Right

Sincerely,



KAREN SCHLAACK
Senior Secretary

enclosure

cc: Louis K Freiberg, Attorney



772-1

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 28, 1993

Donald J and Pamela Cox
Rr 1, Box 54
New Underwood SD 57761

Dear Mr. & Mrs. Cox:

The original Notice of Intent to Validate your Vested Water Right Claim No 772-1 was published with errors. The number of acres being irrigated and the location of the diversion point were incorrect. Therefore, the notice needs to be readvertised to correct the errors. The Readvertisement of the Notice of Intent to Validate Vested Water Right Claims has been sent to the Publisher of the printed at SD. For your information, a copy of the notice is enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

The cost of publication of this notice will be paid by the Division of Water Rights. Please contact Ron Duvall, if you have any questions.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosure

Water right claims

READVERTISEMENT OF NOTICE OF INTENT TO VALIDATE VESTED WATER RIGHT CLAIMS

Notice is given that the following vested water right claims in Meade County are eligible for

validation by the Water Management Board pursuant to SDCL 46-2A-17 without a hearing unless, a petition to oppose the validation is filed pursuant to SDCL 46-2A-22. Readvertisement of the original notice of intent to validate these claims, as published on June 22 and 29, 1988 in the Meade County Times-Tribune, is necessary to correct errors in the previously published notice.

Vested Water Right No. 432-1, Kenneth Casteel, RR 1, Box 43, Vale, SD 57788, appropriates 1.67 cubic feet of water per second (cfs) from the Belle Fourche River, Casteel Draw and a dry draw storage dam (43 acre-foot storage capacity) to irrigate 116.7 acres. The point of diversion is located between the NE 1/4 SE 1/4 Section 20 and the NE 1/4 NW 1/4 Section 28 and the NW 1/4 NE 1/4 Section 29; all in T7N-R8E. The irrigated lands are located in the E 1/2 SE 1/4 Section 20 and the N 1/2 NW 1/4, NW 1/4 NE 1/4 Section 29; all in T7N-R8E. The priority date is 4/12/51.

Vested Water Right No. 441-1, Sturgis Water Works, 1025 1st St., Sturgis SD 57785, appropriates 0.89 cubic feet of water per second from groundwater. The location of the point of diversion is the NE 1/4 SE 1/4 Section 16-T5N-R5E. The priority date is 1/1/1948.

Vested Water Right No. 527-1, Edgar Harrington, 2718 Eden Lane, Rapid City SD 57701, appropriates 3.85 cfs from Antelope Creek and dry draws located in the NW 1/4, W 1/2 NE 1/4, N 1/2 S 1/2 Section 21 to irrigate 269.45 acres located in the NW 1/4, NE 1/4, N 1/2 S 1/2 Section 21; all in T4N-R8E. The priority date is 1/1/1940.

Vested Water Right No. 772-1, Donald J and Pamela Cox, RR 1, Box 54, New Underwood SD 57761, appropriates 0.57 cfs of water from Ferris Creek to irrigate 40 acres. The point of diversion is located in the W 1/2 SE 1/4 Section 34-T3N-R11E. The irrigated lands are located in the SW 1/4 NE 1/4 and the SW 1/4 NE 1/4 and the W 1/2 SE 1/4 Section 34-T3N-R11E. The priority date is 1/1/1954.

Any person who wishes to oppose validation of any of the readvertised vested right claims shall file a petition of intent to oppose the validation by February 22, 1993 with the Chief Engineer, Water Rights Division, Department of Environment and Natural Resources, Joe Foss Building, 523 East Capitol, Pierre, SD 57501-3181 (666 773-3352) and with the vested right holder at the listed address. The petition may be informal, but it must include a statement describing the petitioner's interest in the vested water right claim, the reasons for the petitioner's opposition to the claim, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained.

If a petition of intent to oppose the validation of a recognized vested water right claim is filed, the Water Management Board will conduct a hearing on the opposed claim at 10:00 am, March 3, 1993, at the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD. The March 3, 1993 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by February 22, 1993.

If no person opposes validation of a recognized vested water right claim pursuant to SDCL 46-2A-16, the Water Management Board will issue an order pursuant to SDCL 46-2A-17, validating the vested water right claim.

These validations are made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-14; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-2A-16 thru 46-2A-18, 46-2A-22; 46-5-1 thru 46-5-6.1, 46-5-8.2, 46-5-13 thru 46-5-15, 46-5-30.2 thru 46-5-37.1, 46-5-46, 46-5-49; 46-6-1 thru 46-6-3, 46-6-6, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-21, 46-7-1 thru 46-7-5.3, 46-7-12, 46-7-14, 46-7-15 and Board Rules ARSD 74:02:01:01 thru 74:02:01:05.03 and 74:02:01:20 thru 74:02:01:22.

Contact Eric Gronlund by February 22, 1993, at the above Water Rights Division address to: 1) re-

quest copies of information pertaining to a vested right claim or a copy of the vested water right claim list for another county; 2) obtain a summary of South Dakota Water Law and Water Rights Information; 3) to assure access to the hearing by the handicapped; or 4) obtain an interpreter for the hearing impaired.

Robert E. Roberts, Secretary,
Department of Environment and
Natural Resources

Publ. Feb. 3 & 10, 1993
Meade County Times-Tribune



170-1



AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA

COUNTY OF MEADE

Faye D. Pate, being duly sworn, says: That the Meade County Times-Tribune, is and, during all the times hereinafter mentioned, was a legal newspaper as defined in SDCL 17-2-2, as amended, published at Sturgis, Meade County, South Dakota, by Allison Publishing, Inc.; that affiant is and, during all of said times, was employed as an accountant by the publisher of such newspaper and has personal knowledge of the facts stated in this affidavit; that the notice, order or advertisement, a printed copy of which is attached, was published in said newspaper for successive issues, bearing the following dates:

February 3	1993	199
February 10	1993	199
	199	199
	199	199
	199	199

that the full amount of the fee charged for publishing the same, to-wit, the sum of \$76.21, inures solely to the benefit of the publisher of said newspaper; that no agreement or understanding for the division of the fee has been made with any person, and that no part of the fee has been agreed to be paid to any other person.

Faye D. Pate

Subscribed and sworn to before me this

10 day of February, 1993

[Signature]

Notary Public, South Dakota

SOUTH DAKOTA

VESTED WATER RIGHT NO. 772-1 FOR IRRIGATION

VESTED WATER RIGHT NO. 772-1 FOR IRRIGATION

Date of Receipt of Claim April 29, 1966.

Date of Validation March 3, 1993.

The Water Management Board validated Vested Water Right Claim No. 772-1 for irrigation purposes for Donald J. and Pamela Cox, RR 1, Box 54, New Underwood, SD, 57761 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 772-1 appropriates 0.57 cubic feet per second of water from Ferris Creek to irrigate 40 acres. The point of diversion is located in the W1/2 SE1/4 SEC 34, T3N, R11E. The irrigated lands are located in the SW1/4 NE1/4 and the W1/2 SE1/4 SEC 34; all in T3N, R11E.
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: April 1 to October 30.
3. The priority date of the Vested Water Right is January 1, 1954.
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.

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: April 1 to October 30.

3. The priority date of the Vested Water Right is January 1, 1954.

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.

QUALIFICATIONS

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. Cole*
Chief Engineer

APR 1 1993

date

Division of Water Rights
Dept. of Environment and Natural Resources

Division of Water Rights
Dept. of Environment and Natural Resources

NOTE: Vested Water Right No. 772-1 is also included as a part of Water Right License No. 772-1 for a total of 3.77 cubic feet of water per second to irrigate 266 acres.



772-1

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

APR 1 1993

Donald J and Pamela Cox
RR 1, Box 54
New Underwood SD 57761

Dear Mr. & Mrs. Cox:

The Water Management Board has validated the enclosed Vested Water Right No. 772-1. 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