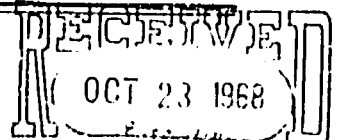


No. 852-1

Water Division No. 1 Box Elder Creek District
(Blanks to be filled by the Engineer for the W. R. C.)



APPLICATION FOR PERMIT

STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

To Appropriate Water within the State of South Dakota

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

1. Name of applicant ARTHUR SCHAFER
Postoffice address BOX ELDER, County MEADE, SOUTH DAKOTA, State SD
Phone 342-1467

- I. ~~Is 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)
 - (b) Cash on hand, \$
 - (c) Treasury stock, \$
 - (d) Bonds to be issued, \$
 - (e) Other resources, \$

2. Name of diversion work Schaffers Spreader Project
3. Amount of water claimed 2.9 cubic feet per second 1305 GPM.
4. Source of water supply Surface Draw (A dry draw.)
5. Location of point of diversion S 63° E. from the S 1/4 Cor. Sec. 21, T.3 N. R. 9 E. - PM
on both bank Meade County.

6. Annual period or periods during which water is to be used March 30 thru Oct. 15th

7. To be used for: Gravity - spreader

I. Irrigation or domestic use: Gravity, overhead sprinkling or combination system?

(a) Number of acres to be irrigated 203 acres.

NW-NW-8 ac., NE-NW-6 ac., SW-NW-38 ac., SE-NW-7 ac., SW-NE-24 ac.,

SE-NE-13 ac., NW-SW-20 ac., NE-SW-26 ac., NW-SE-33 ac., NE-SE-26 ac.

Sec. 21, T.3 N., R.9 E.-PM Total area 203 ac.

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

(a) Nature of use None
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 x

MAP NO 711-1

8. Estimated cost of work:

(a) Head Gates, \$----- (b) Pumping plant, \$-----
 (c) Fluming, \$----- (d) Canal-earth, \$150.00 -1810 ft. Rock, \$-----
 (e) Other structures Earth dam 1500 yds \$225.00 Total, \$375.00

9. Description of diversion works:

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

1500 yd. spreader dam (reservoir capacity approx. 4 sq. ft.)
 1810 ft. canals for spreading, with numerous small dikes and ditches
 II. Dimensions of works which may have been done as maintenance over the years

(a) Dam: Height 10 feet; length at bottom 160 feet; length at top 150 feet; thickness at bottom 75 feet; thickness at top 10 feet; slope at front water face 2 1/2:1; slope at back face 1 1/2:1; material used in construction earth (Dam well sodded)
 (b) Reservoir: Capacity when filled 4 sq. ft. acre feet. Surface area at highwater mark 3.9 acres. Reservoir deeply silted

DEPTH AT OUTLET-FEET	SURFACE AREA AT EACH DEPTH AT OUTLET--ACRES	ACRE-FOOT CAPACITY
	THE OPERATOR CLAIMS A VESTED RIGHT	
	TO THE WATER DESCRIBED IN THIS APPLICATION	

(c)* Head gate: Width none feet; height feet:
 Material

(d) Canal: Total length 1810 feet 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.)
 Diversion work completed but operator will add some soil erosion
 10. Time required for completion of work years. control and addition dikes
 and ditches at time to time to make more economical use of water
 11. Time required for complete application of water to the proposed beneficial use years.
 12. Choice of newspaper for publication of notice of intention to appropriate

Sturgis Tribune, Sturgis, So. Dak.

STATE OF SOUTH DAKOTA
 County of Pennington ss.

I, Arthur Shaffer, 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 Arthur Shaffer
 Arthur Shaffer October 19 68
 Subscribed and sworn to before me this 17 day of

Notary Public (or other authorized officer):

Arthur Shafer Box Elder SD

THE SHAFFER SPREADER PROJECT; ARTHUR SHAFFER, OWNER, BOX ELDER, MEADE COUNTY, SOUTH DAKOTA. SECTION 21, T.3 N., R.9 E.-NW.

SCALE = 1 inch = 660 FT.
3 INCHES = 1 mile.

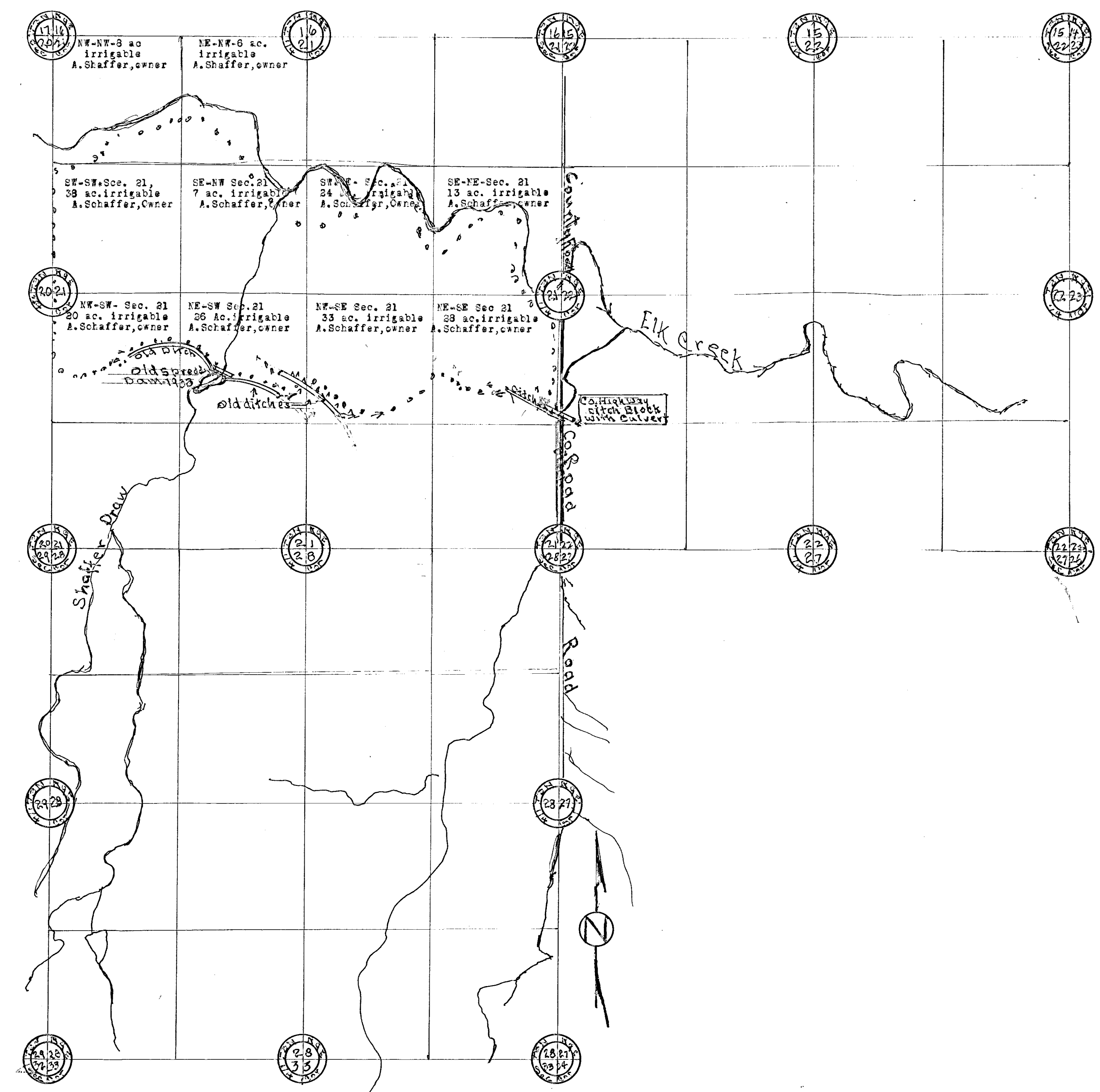
- - - SURVEYOR'S CERTIFICATE - - -
I, Carl M. Cornell, Licensed Surveyor in and for the State of South Dakota do hereby certify that, at the request of Arthur Schaffer, of Box Elder, Meade County, South Dakota, I have made a survey and prepared this plat of the area to be embraced in his Application for Permit to Appropriat Water from Schaffer Draw (a dry draw) for irrigation purposes.
I further certify that that the bearings and lengths of all lines shown and their location with reference to the Government Land Corner shown, are correct to the best of my knowledge and belief.

Subscribed and sworn to at Buffalo, South Dakota this 6th day of October 1968.

Carl M. Cornell, Licensed Surveyor # 144 (SEAL)

Subscribed and sworn to before me at Buffalo, South Dakota this 6th day of October, 1968.

M. P. Hamm
NOTARY PUBLIC (SEAL)



Remarks by State Water Resources Commission:

"VESTED RIGHT" CLAIMED

STATE OF SOUTH DAKOTA
County of HUGHES } ss.

Pierre, South Dakota, MAY 5, 1969

This is to certify that the foregoing application was received by the Commission at 3:00 o'clock
am. upon the 28th day of OCTOBER, 1968

State Water Resources Commission

By:

Burton
Chief Engineer, Executive Officer

Number of permit 852-1

Date of first receipt of application OCTOBER 28, 1968

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 1938

Approved MARCH 26, 1969, Recorded in Book 10 Page 346

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~~ _____

2nd. The whole of said work is ~~to be~~ completed ~~on or before~~ _____

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

COMPLETED

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 2.9 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 was

and beneficially applied for irrigation on or before JUNE 30, 1955; said water to be used during the following described annual period:

MARCH 30 THRU OCTOBER 15

Witness my hand this 5th day of MAY, 1969

State Water Resources Commission

By:

Stallman
Chief Engineer, Executive Officer

Certificate of Construction issued MAY 5, 1969

Water License issued MAY 5, 1969

STATE OF SOUTH DAKOTA

WATER LICENSE No. 852-1

WHEREAS, On the 28th day of October A. D. 1968
Arthur Schaffer

of Box elder County of Meade and State of
South Dakota duly made application (No. 852-1 Vested Right 2.9
cubic feet per second of the waters of Schaffer Draw
County of Meade, State of South Dakota, for irrigation
purposes; and

WHEREAS, On the 5th day of May A. D. 1969
Vested Right recognizing
Permit No. 852-1 was issued to said applicant for the diversion of said water, ~~xxxxxxx~~ the
completion of the works of diversion therein described ~~xxxxxxx~~
~~xxxxxxx~~ and ~~xxx~~ the application to beneficial use of said
water ~~xxxxxxx~~ ~~xxxxxx~~ ~~xxxxxxx~~
and,

WHEREAS, On the 28th day of October A. D. 1968
the holder of said permit duly made proof of the completion of adequate works for the diversion of 2.9
cubic feet per second of said waters, as evidenced by our Certificate No. 852-1
dated May 5, 1969 confirming the completion of works of sufficient capacity for
diverting and conveying to the place of intended use 2.9 cubic feet per second of water, with date of
priority of 1933 ~~xxxx~~ and,

WHEREAS, On the 28th day of October A. D. 1968
proof was duly made of the application to beneficial use of 2.9 cubic feet per second of said water;
for irrigation of 203 acres in a portion of Section 21, T3N, R9E

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 Arthur Schaffel
of Boxelder the holder and owner Vested Right of said Acmt No. 652-1
a water right, dating from 1938 to the use of 2.9
cubic feet per second of the waters of Schaffer Draw
In the County of Meade and State of South Dakota, or so much thereof as may be
necessray for the purposes hereibelow mentioned, to be diverted at a point S 63° E. 1420' from
the W 1/2 Corner, Section 21, T3N, R9E.
and conducted to and upon a portion of Section 21, T3N, R9E, more specifically
described in the Certificate of Complstion of Works.

for the purpose of irrigation, subject to any limitations listed in the
Permit to Appropriate Water, and

subject, however, to the laws of the State of South Dakota applicable to a license for the use of the waters of the
State, and subject, also to the local or community customs rules and regulations which have been or may be
adopted from time to time by a majority of the users from a common source of supply, canal or lateral from
which such water may be taken, when such rules and regulations have for their object the economical use of such
water.

WITNESS, My hand and seal of our office at Pierre, South Dakota,
this 5th day of May A. D. Nineteen
Hundred and Sixty-Nine

State Water Resources Commission

By:

J.W. GRIMES
Chief Engineer, Executive Officer

STATE OF SOUTH DAKOTA

Water License No. _____

To _____

Source of Supply _____

County _____

Am't _____ c. f. s.

Point of Diversion _____

Place of Use _____

Purpose _____

Date of Priority _____

Recorded _____

In Book _____ of _____ Page _____

Permit No. 852-1

BOXEIDDER

Water Division No. 1 CREEK Water District

Certificate of Completion of Works

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That Arthur Schafferof Boxelder, County of Meade, and State ofSouth Dakota, the holder of Vested Right of Permit No. 852-1, issued upon ApplicationNo. 852-1, bearing date of priority of 1938, authorizing the diversion of2.9 cu. ft. per second of the waters of Schaffer DrawCounty of Meade, State of South Dakota, at a point S 63° E.1920' from the W $\frac{1}{2}$ Corner, Section 21, T3N, R9E.for Irrigation

purposes, has fully 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 recognized as satisfactoryfor diverting and conveying to the place of intended use 2.9 cu. ft.

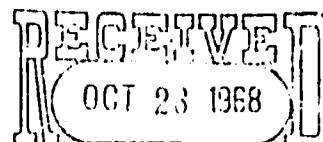
per second of water; and that the lands proposed to be irrigated by the use of said water are described as follows,

to-wit: All in Section 21, T3N, R9E.NW $\frac{1}{4}$ NW $\frac{1}{4}$ 8 acresNE $\frac{1}{4}$ NW $\frac{1}{4}$ 6 acresSW $\frac{1}{4}$ NW $\frac{1}{4}$ 38 acresSE $\frac{1}{4}$ NW $\frac{1}{4}$ 7 acresSW $\frac{1}{4}$ NE $\frac{1}{4}$ 24 acresSE $\frac{1}{4}$ NE $\frac{1}{4}$ 13 acresNW $\frac{1}{4}$ SW $\frac{1}{4}$ 20 acresNE $\frac{1}{4}$ SW $\frac{1}{4}$ 26 acresNW $\frac{1}{4}$ SE $\frac{1}{4}$ 32 acresNE $\frac{1}{4}$ SE $\frac{1}{4}$ 28 acresTotal 203 AcresWitness my hand this 5th day of May, A. D. 1969

State Water Resources Commission

By:

J.W. GRIMES
Chief Engineer, Executive Officer



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. ARTHUR SHAFFER, BOX ELDER, STOCKMAN, BOX ELDER, BRADY COUNCIL, SO. DAK.
57719

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. Private enterprise

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

Ans. Original construction in 1938

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

Ans. Shaffer Draw. Diversion 8.63⁰ E. 1914 ft. from the west 1/4 cor.

Sec. 21, T.3 N., R.9 E-ENH. in SE 1/4 SW- Sec. 21- Both banks

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. One spreader dam on Shaffer Draw; length 160 ft., height 10 ft.,
with spreader channels on each side of draw with total length of
1810 ft. capable of conveying 3 second feet of water. Originally
constructed in 1938 and in use when floods occurred since that time.

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.)

Water is used at times for stock but storage capacity is limited
(due partially to silting and poor water retaining soil.)

Ans. NW-14-11 ac., NE-NW-6 ac., SW-NW-38 ac., SE-NW-7 ac., SW-NE-24 ac.,
SE-NE-13 ac., NW-SE-20 ac., NE-SW-26 ac., NW-SE-33 ac., NE-SE-28 ac. 120 ac
Sec. 21, T.3 N., R.9 E-ENH

Total irrigable area - - - - - 203 ac.

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

Ans. None

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

Ans. 2.9 aca. 1/2

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. Y X X

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

Ans. ~~Flood water has been used at every opportunity~~ ^{when} ~~high flooding~~
~~was possible by runoff since the project was originally constructed~~
~~in 1938~~

X (Sign) Arthur Shaffer
Arthur Shaffer

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 Buffalo, County of Harding

State of South Dakota, on this 6th day of October, 1968 A. D. 1968

Carl M. Cornell
CARL M. CORNELL, Notary Public, Harding Co., S. D. Carl M. Cornell,
My Commission expires April 10, 1975 Notary Public.

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.

X H. R. Norman
X Floyd E. Smith

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 _____

 **Department of
Water & Natural Resources**

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

September 21, 1988

NOTICE

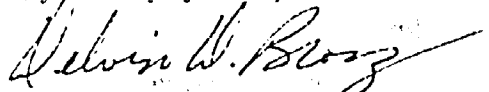
Equitable Life Assurance Soc.
11020 King St
Overland Park KS 66210

Dear Sir:

I am writing to notify you that pursuant to the Notice of Intent to Validate Vested Water Right Claims dated June 20, 1988 that I intend to oppose validation of your water right claim No(s). 852-1 until a field inspection has been completed. The claim has either never been inspected or an inspection was conducted so long ago that a new inspection is needed. An inspection is needed to determine the current state of your vested water right claim.

A staff member from the Division of Water Rights will be contacting you and scheduling an inspection of your water project. If we can answer any questions, please contact us.

Very truly yours,



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



EQUITABLE AGRI-BUSINESS, INC.



11020 King Street, Suite 250
Overland Park, Kansas 66210
P.O. Box 2926
Overland Park, Kansas 66201-1326
(913) 469-6301
(913) 469-6429 Telecopier



Ross F. Caton
Regional Vice President
Charles W. Prince
Assistant Regional Vice President
H. L. Todd
Regional Manager
Richard E. Henderson, Jr.
Regional Manager —
Commercial Agribusiness Investments

September 23, 1988

Mr. John Hatch
South Dakota Dept. of Water & Natural Resources
Joe Foss Bldg.
523 East Capitol
Pierre, SD 57501-3181

Re: Water Right Claim No. 852-1

Dear Mr. Hatch:

I am writing regarding your letter of September 21, 1988.

I would like for you to contact our area representative as to scheduling an inspection of this project.

Please contact him as follows:

Mr. Kent Rasmussen
P. O. Box 366
Rapid City, SD 57709

Phone: (605) 341-3503

I would ask that you furnish Mr. Rasmussen with a legal description of the property on which this claim is situated.

Thank you for your consideration on this matter.

Sincerely,

R. E. Henderson, Jr.
Regional Manager —
Commercial Agribusiness Investments

pc: Kent Rasmussen
Area Investment Manager

 **Department of
Water & Natural Resources**

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

852-1

September 26, 1988

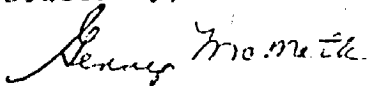
Kent Rasmussen
PO Box 886
Rapid City, SD 57709

Dear Mr. Rasmussen:

In response to a request from R E Henderson, Jr., enclosed is a copy of Vested Water Right Claim No. 852-1. Our office will be contacting you to schedule an inspection of the water use system described in No. 852-1.

If you have any questions, please contact us.

Sincerely,



GENNY MCMATH
Natural Resources Analyst

enclosure



Water Rights Division - DVNR

File No. 852-1

Conversation or File Documentation

NAME OF PERSON OR FILE: Equitable Life Assurance Soc.ADDRESS: 11021 King St Overland Park, KS⁶⁶²¹⁰ COUNTY Meade (Irrigated Land)DATE: 4-13-89 TELEPHONE _____RE: Validation of Vested Right No. 852-1

COMMENTS:

On this date I inspected the V.R. with Gerald Dewey who now leases the land (and owned ~~the~~ the land in the past). The diversion dam is in the correct place but the ditches are in slightly different locations which causes different acreages (or amounts of acreages) to be irrigated. However, the total number of acres irrigated is the same. The irrigated acreage is listed below: All in Section 31, T3N, R9E:

NW ¹ / ₄ NW ¹ / ₄ - 5 acres	NW ¹ / ₄ SW ¹ / ₄ - 7 acres
NE ¹ / ₄ NW ¹ / ₄ - 3 "	NE ¹ / ₄ SW ¹ / ₄ - 26 "
SW ¹ / ₄ NW ¹ / ₄ - 25 "	NW ¹ / ₄ SE ¹ / ₄ - 40 "
SE ¹ / ₄ NW ¹ / ₄ - 27 "	NE ¹ / ₄ SE ¹ / ₄ - 26 "
SW ¹ / ₄ NE ¹ / ₄ - 24 "	SW ¹ / ₄ SE ¹ / ₄ - 4 "
SE ¹ / ₄ NE ¹ / ₄ - 11 "	SE ¹ / ₄ SE ¹ / ₄ - 5 "

203
total

The contact for Equitable is:

Kent Rasmussen

P.O. Box 866

Rapid City, SD 57709

(605) 341-3503

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: James L. Wendt

852-1

FILE DOCUMENTATION

NAME: Equitable Agri-Business, Inc. No. 852-1

ADDRESS: PO Box 2926, Overland Park, KS 66201-1326

SUBJECT: Validation of Vested Right Claim No. 852-1

DATE: January 11, 1993

According to an inspection of Vested Right Claim No. 852-1 completed by Jim Wendt on April 13, 1989, a portion of the irrigated acreage is not located within the area described on No. 852-1 (application or map). The total number of irrigated acres is the same as originally claimed. The irrigated area not included on the original claim is located in the S1/2 SE1/4 section 21-T3N-R9E (9 acres). The location of the diversion point is correctly described on No. 852-1.

An application for a vested right needs to be filed for the 9 acres not covered by No. 852-1. Upon validation of the claim for 9 acres, No. 852-1 can be incorporated into the vested right for the 9 acres.

Vested Right Claim No. 852-1 needs to be validated for the acreage that is located within the area described on the vested right. Notice of hearing needs to be given to the claim holder of the proposed action.



Ron Duvall, Natural Resources Engineer



852-1

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 27, 1993

Gregor B. McFarland
HC 80, Box 747
Piedmont SD 57769

Dear Mr. McFarland:

I am writing in regard to Vested Water Right Claim No. 852-1 for irrigation of property owned by you. The vested right is for irrigation of 203 acres of land in Meade county, South Dakota. This letter was initially sent to Equitable Agri-business, Inc. (former property holder). A copy of this letter was also sent to Kent Rasmussen from Rapid City, area representative for Equitable Agri-business. A transfer of ownership form is enclosed to transfer No. 852-1 to your name. A filing fee of \$2.50 is also needed.

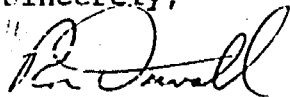
An inspection of Claim No. 852-1 by James Wendt, staff engineer, on April 13, 1989, found that 9 acres of the irrigated area are not located within the area specified on No. 852-1. Enclosed is a copy of the original map submitted with No. 852-1 and a map completed by Jim Wendt. The 9 acres not covered by No. 852-1 is outlined in red. The following action is needed to cover the 9 acres omitted from No. 852-1:

1. Enclosed is a partially completed application for a vested right claim to cover the 9 acres. The forms are nearly all completed except for names and mailing addresses. The Affidavit of Water Use was completed using information taken from No. 852-1 since the project was likely completed as a unit even though a portion of the legal description of the irrigated acreage (9 acres) was omitted. Any additional information that is available concerning the Affidavit of Water Use should be added to the form.
2. The existing claim (No. 352-1) will be scheduled for validation by the Water Management Board for the developed acreage that is covered by the legal descriptions included on the claim. A copy of No. 852-1 is included for your reference. A Notice of Hearing will be sent to you in advance of the hearing date that will detail what action is being recommended to the Board.
3. A combined water license for No. 852-1 and the enclosed vested right application for 9 acres will be issued, assuming the vested right application and No. 852-1 are both validated by the Board.

January 27, 1993
Gregor B. McFarland
Page 2 of 2

Please contact me if you have any questions concerning this letter or completion of the application forms.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ron Duvall".

Ron Duvall
Natural Resources Engineer
Water Rights Division
605 773-3352

enc.



852-1

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 4, 1993

NOTICE

TO: Gregor B. McFarland
HC 80, Box 747
Piedmont SD 57769

FROM: John Hatch, Chief Engineer
Water Rights Division
605 773-3352

SUBJECT: Hearing to Consider Validation of Recognized Vested Right Claim No. 852-1

A Notice of Intent to validate Claim No. 852-1 was published on June 22 and 29, 1988 in the Meade County Time-Tribune, Sturgis SD. The Water Rights Division opposed validation of No. 852-1 for purposes of completing on on-site inspection of the claim. The inspection of Claim No. 852-1 was completed on April 13, 1989, by Jim Wendte, staff engineer. The inspection found that the number of acres being irrigated has been reduced from 203 acres to 194 acres within the area covered by Claim No. 852-1. The 9 acres located in the S 1/2 SE 1/4 Section 21-T3N-R9E were not included on the original permit application or map (see enclosed maps). The diversion rate is to be reduced, accordingly, from 2.9 cubic feet of water per second (cfs) to 2.77 cfs. This reduced diversion rate is based on the statutory application rate of 1 cfs per 70 acres (194 acres/70 = 2.77 cfs).

The Water Management Board will consider validation of Claim No. 852-1 at 10:00 am, March 3, 1993, in the Floyd Matthews Training Center, Joe Foss Building, 523 E Capitol, Pierre SD. The agenda time is an estimate. The actual time of the hearing may be later than 10:00 am due to prior agenda items. Prior to February 22, 1993, contact the Water Rights Division, 523 E Capitol, Pierre SD 57501-3181 (605 773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

Pursuant to the findings of the on-site inspection, validation of Claim No. 852-1 is recommended for a diversion rate of 2.77 cfs from dry draws to irrigate 194 acres. Following the hearing, the Board is authorized to 1) validate the claim as recommended for 194 acres and 2.77 cfs, 2) validate the claim as licensed prior to the on-site inspection, 3) validate the claim based on evidence presented at the public hearing, or 4) defer validation of the claim. Applicable provisions of the published notice of intent to validate Claim No. 852-1 will still apply at this hearing. A copy of the June 22 and 29, 1988, publication is available upon request.

This hearing is an adversary proceeding. You have the right to be represented by a lawyer. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

cc: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on February 4, 1993, I have personally deposited with the United States Mail at Pierre, South Dakota, First Class postage, prepaid envelopes containing a Notice dated February 4, 1993, regarding Hearing to Consider Validation of Recognized Vested Right Claim No. 852-1 addressed to:

Gregor B McFarland
HC PO Box 747
Pie Mt, SD 57769

Jia R Konop

JACI R. KONOP
Senior Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 5th day of February, 1993.



John B. [Signature]
Notary Public

NOTICE OF TRANSFER OF OWNERSHIP

No. 852-1

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

Date: 4-22-93I, We request that Water Permit/Right No. 852-1

formerly owned by: _____

be transferred to: (name & address) Kenneth E. McFarland & Gregor McFarland
Hc 80 Box 747 Piedmont SD 57769 (telephone No.) 605-787-4277

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

I, We understand that the validity of Water Permit/Right No. _____ has not been determined by this transfer action. 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)

Kenneth E. McFarland and
Gregor B. McFarland 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 foregoing statement, and that I know of my own personal knowledge that the information herein stated is true.

Kenneth E. McFarland
KENNETH E. MCFARLANDGregor B. McFarland
GREGOR B. MCFARLAND (Signed)Subscribed and sworn to before me this 13 day of April, 1993.

Debra L. Powers
(Notary Public)

Debra L. Powers
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.

RECEIPT

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, April 26, 1993

852-1
413740

RECEIVED OF Triple Creek Ranch, IC 75 Box 324, Sturgis SD 57785

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct 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 Vested Right Claim No. 852-1	2	50
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	2 50

By [Signature]
Chief Engineer



852-1

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

April 26, 1993

Kenneth E McFarland
HC 80, Box 747
Piedmont SD 57769

Dear Mr. McFarland:

In regard to your water permit application received on April 23, 1993, the following information needs to be completed in order to process the application.

Enclosed is the Application and Affidavit. Please complete Item No. 1 of the application which lists who the permit holder(s) is and the mailing address. The same information is needed on the affidavit. Both forms must be signed by a notary public.

Regarding the Notice of Transfer of Ownership form submitted for Vested Right No. 852-1, it is noted that both Kenneth McFarland and Gregor McFarland signed the form. Would you like this vested right listed in both of your names, with the correspondence sent to your address?

Upon receipt of the above, further processing of the vested right application will continue.

If you have any questions, please contact this office.

Sincerely,

Karen Schlaak

Karen Schlaak
Natural Resources Analyst
605 773-3352

enclosure

852-1



I would request that
Vested Right # 852-1 be
registered to Kenneth +
Gwen McFarland. C. & S.
Correspondence can be sent
to Kenneth McFarland
Hc 80 Box ~~747~~ 747
fiedmont SD. 57769

852-1



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

OCT 15 1993

Gregor B. & Kenneth E. McFarland
HC 90 Box 747
Piedmont, SD 57769

Dear Gregor and Kenneth:

Enclosed is Water License No. 1578-1. The applicable portions of Vested Right No. 852-1 are incorporated into this Vested Right License No. 1578-1.

Also enclosed is the receipt for the Notice of Transfer filed to transfer No. 852-1 to your names.

Very truly yours,

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

enclosures

SOUTH DAKOTA

VESTED WATER RIGHT NO. 852-1 FOR IRRIGATION

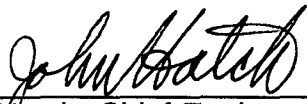
Date of Receipt of Claim October 23, 1968.

Date of Validation March 3, 1993.

The Water Management Board validated Vested Water Right Claim No. 852-1 for irrigation purposes for Gregor B. McFarland, HC 80, Box 747, Piedmont SD 57769 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 852-1 appropriates 2.77 cubic feet of water per second of water from Schaffer Draw located in the NE 1/4 SW 1/4 Section 21 to irrigate 194 acres located in the NW 1/4, S 1/2 NE 1/4, N 1/2 SW 1/4, N 1/2 SE 1/4 Section 21; all in T3N-R9E.
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. The water is to be used during the following annual period: March 30 - October 15.
3. The priority date of the Vested Water Right is January 1, 1938.
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 must not be unlawfully impaired by this appropriation.

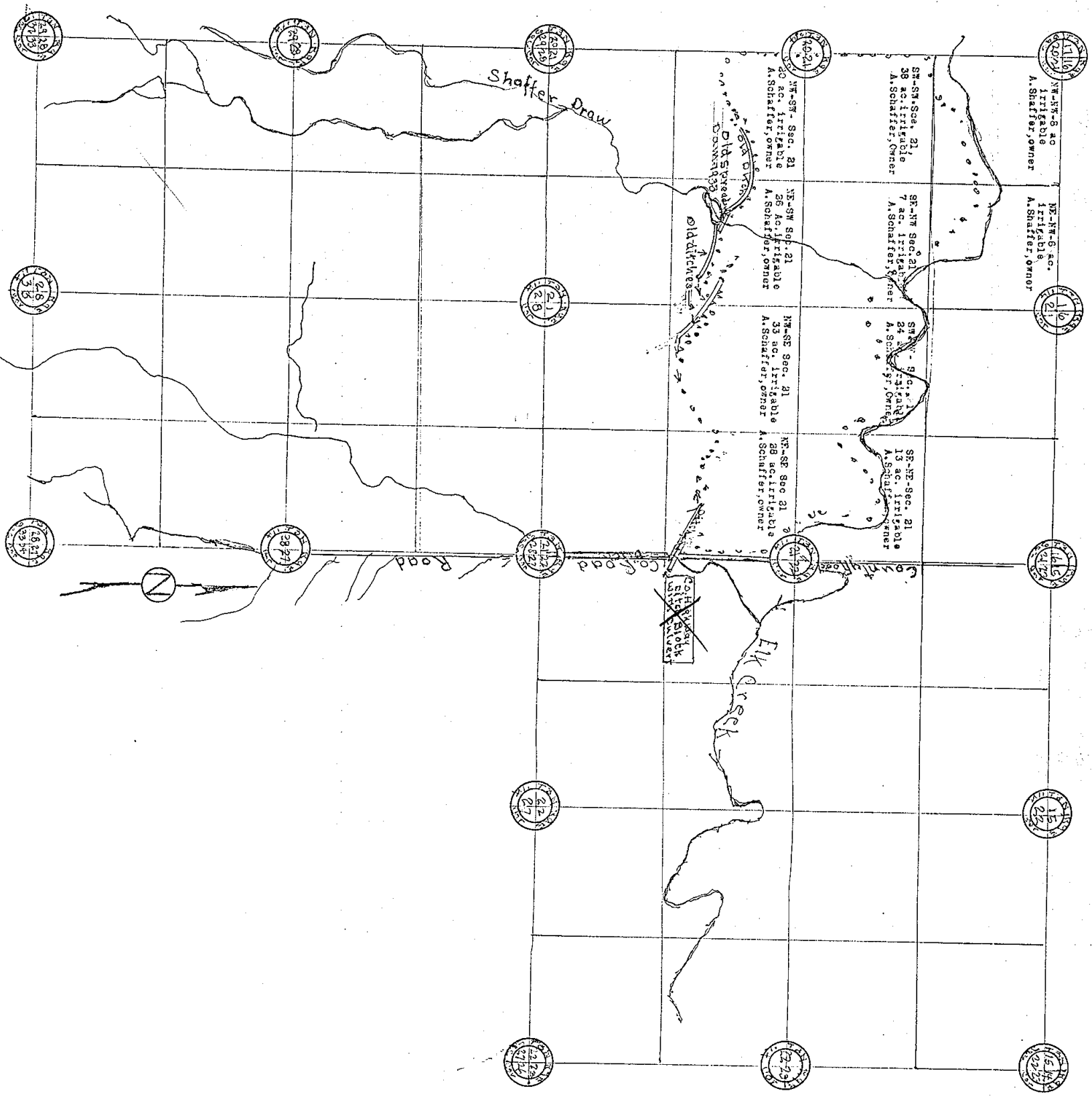
WATER MANAGEMENT BOARD

By: 
John Hatch, Chief Engineer
Water Rights Division
Department of Environment and
Natural Resources

OCT 15 1993
date

PLAT OF
THE SHAFER SPREAD PROJECT, ARTHUR, SHAFER, OWNER, FOX ELDER, NEAR E. COUNTY,
SOUTH DAKOTA, SECTION 21, T. 13 N., R. 8 E., 18th.

SCALE = 1 inch = 660 FT.
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 Arthur Schaffer, of Fox Elder, Leade County, South Dakota, I have made a survey and prepared this plat of the area to be embraced in his Application for Permit to Appropriation Water from Shaffer Draw (a dry draw) for irrigation purposes. I further certify that the bearings and lengths of all lines shown and the area in reference to the Government Land Corner shown, are correct to the best of my knowledge and belief.

Subscribed and sworn to at Buffalo, South Dakota, this 6th day of October, 1968.

Carl M. Cornell, Licensed Surveyor (SPL)

Subscribed and sworn to before me at Buffalo, South Dakota, this 6th day of October, 1968.

NOTARY PUBLIC (SPL)

MANA N-911-1 (APPL N-852-1)