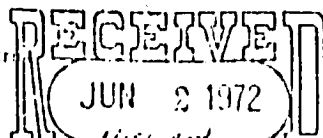


Map No. V/R Water Division No. 1 ELK CREEK District

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

VESTED RIGHTAPPLICATION FOR V PERMITSTATE 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 Everett N. Madsen
 Postoffice address New Underwood State South Dakota

If a corporation show date and place of incorporation _____

2. Method of accomplishing work (contract, employment of others, or by direct labor) completed3. Name of diversion work Everett Madsen Spreader System4. Amount of water claimed (cubic feet per second) 0.935. Source of water supply Dry Draws6. Location of point of diversion 600 feet South and 1000 feet West of the East $\frac{1}{2}$ Corner of Section 2, T2N, R11ECounty Meade7. Annual period or periods during which water is to be used when available8. Use to be made of water (irrigation, industrial, municipal, commercial, recreation, etc.) spreader irrigation9. For irrigation use, Total number of acres to be irrigated 65

List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each

Land Description	No. Acres Irr.	Land Description	No. Acres Irr.
<u>NE$\frac{1}{4}$ NE$\frac{1}{4}$, Sec. 2, T2N, R11E</u>	<u>30</u>		
<u>SE$\frac{1}{4}$ NE$\frac{1}{4}$, Sec. 2, T2N, R11E</u>	<u>30</u>		
<u>SE$\frac{1}{4}$ SE$\frac{1}{4}$ Sec. 35, T3N, R11E</u>	<u>35</u>		

Attach sheet if more space is needed

10. Time required to complete construction of water supply system completed years. Additional time required to complete application of water to the proposed beneficial use N/A years.11. Choice of newspaper for Notice of Intent to Appropriate Water publication N/A

12. Principal Features of the Proposed Water Supply System.

A. Works proposed to divert water from its natural source.

The water is diverted by a stock dam on the main dry draw indicated as the diversion point and is then carried to a smaller dam on a small tributary at a location about 300 feet north and 600 feet east of the main diversion dam. Thence the water is carried by a ditch to a spreader ditch running mainly in a easterly direction across the south end of the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 2, T2N, R11E, and thence flows by gravity across the described 65 acres.

B. Works proposed to transport water to place of use

C. Works proposed to apply water to beneficial use

Estimated Total Cost \$ 2,000.00

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water is proposed. Attach map.
 (See instructions concerning preparation.)

STATE OF SOUTH DAKOTA

County of MeadeI, EVERETT N. Madsen the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.Signed Everett N. MadsenSubscribed and sworn to before me this 2 day of June 1972

Donell W. Madsen
 Notary Public for other qualified officers
 Deputy Chief Engineer
 Water Resources Commission

WATER RIGHT APPLICATION APPROVAL

The Water Resources Commission hereby approves Water Right Application No. 965-1
EVERETT N. MADSEN NEW UNDERWOOD
 (Applicant) (Post Office Address)
SOUTH DAKOTA With the following modifications:
 (State)

"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.

Date of first receipt of application JUNE 2 19 72
 Date of return to applicant for correction, amendments or changes required — 19 —
 Date of receipt of corrected application — 19 —
 Approved JULY 12 19 72 Recorded in Book 12 Page 122

WATER RIGHT PERMIT NO. 965-1

The Water Resources Commission hereby grants and issues this Water Right Permit No. 965-1 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as modified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is 1949 19 —
2. The equivalent of at least one-fifth of the work above specified is ~~not~~ completed — 19 —
3. The whole of said work is ~~not~~ completed — 19 —
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is COMPLETED 19 —
5. The water appropriated shall be used for the purpose of IRRIGATION

6. 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.

7. The amount of the appropriation herein granted shall not exceed .93 cubic feet per second; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for beneficial uses served, and if for the irrigation purposes said appropriation must be limited to not more than 3 acre feet per acre per year and 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 ^{was} actually and beneficially applied for irrigation on or before JUNE 30 19 55 said water to be used during the following described annual period: WHEN AVAILABLE

Witness my hand this 13TH day of JULY 19 72

WATER RESOURCES COMMISSION

By: [Signature]
 Chief Engineer, Executive Officer

Certificate of Construction Issued JULY 13 19 72
 Water License Issued JULY 13 19 72

NOTE: This Form is supplemental to Form 2, and is to be used when an affidavit pertaining to construction and water use, already completed, is needed.

**AFFIDAVIT OF CONSTRUCTION OF WATER USE
SYSTEM AND APPLICATION OF WATER TO BENEFICIAL USE**

Name of Applicant (Same as Form 2) Everett N. Madsen
Post Office Address New Underwood, State South Dakota
If a Corporation show date and place of incorporation _____

13. Notice of Appropriation (If available)

Date of Posting _____ Date of Recording _____
Recording Date _____

14. Date of start of construction of water supply system 194915. Date that water was first applied to beneficial use 194916. Name of owner of original water supply system Mell Hamilton17. Amount of water originally applied to beneficial use up to 15 c. f. s.

18. Present Use of Water

Amount of water now being used up to 15 c. f. s.
Date that this amount of water was first used 1949

19. Chronological History of Water Use

The system was constructed as indicated on attached Form 2, and has been used when water is available since that date.

Attach to this Form 2B, any copies of notices, postings, filings, publications, affidavits, or other records that apply. You may also attach any written statement by you, or by others, that you deem pertinent.

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

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

Signed Everett N. Madsen

Subscribed and sworn to before me this 24th day of June, 1972.

Donald Driscoll
(Notary Public or other qualified Officer)

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

Melvin Hamilton

WATER LICENSE NO. 965-1

(1) WHEREAS, On the 2nd day of June A. D. 1972
Everett N. Madsen

made Water Right Application No. 965-1 Vested Right
for permit to use .93 cubic feet per second of the waters
of dry draws
County of Meade State of South Dakota, for irrigation

purposes; and
(2) WHEREAS, On the 13th day of July A. D. 1972

Vested Right Permit No. 965-1 with a date of priority of 1949
recognizing
was issued to said applicant for the diversion of said water, and for the completion of construction of the water
supply system therein described and for the
application to beneficial use of said water

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 .93 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 Section 2, T2N, R11E

NE 1/4 NE 1/4	30 acres
SE 1/4 NE 1/4	30 acres
Total	65 acres
SE 1/4 SE 1/4, Sec 35, T2N, R11E 35 ACRES	

This change represents
the actual acres irrigated,
and is a correction to original
application

[Signature]

(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 Everett N. Madary

_____ of New Underwood
the holder _____ and owner Vested Right
_____ of said permit No. 965-1 a water right, dating from 1949
_____ to use of .93 cubic feet per second of the waters
of dry draws

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 at a point 600 ft. South and 1000' West of the E $\frac{1}{2}$
Corner, Section 2, T2N, R11E

and conduct to and upon portions of the E $\frac{1}{2}$ NE $\frac{1}{4}$, Section 2, T2N, R11E

for the purpose of irrigation

Subject to any limitations listed in Water Right Permit No. 965-1 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this 13th day of July A. D.
Nineteen Hundred and Seventy-two

WATER RESOURCES COMMISSION

By:

Chief Engineer, Executive Officer J.W. GRIMES

(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 Everett N. Madsen

_____ of New Underwood
the holder _____ and owner _____ Granted Right
of said permit No. 965-1 a water right, dating from 1949
_____ to use of .93 cubic feet per second of the waters
of dry draws

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 at a point 600 ft. South and 1000' West of the E½
Corner, Section 2, T2N, R11E

and conduct to and upon portions of the E½ NE¼, Section 2, T2N, R11E

for the purpose of irrigation

Subject to any limitations listed in Water Right Permit No. 965-1 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this 13th day of July A. D.
Nineteen Hundred and Seventy-two

WATER RESOURCES COMMISSION

By:

Chief Engineer, Executive Officer J.W. GRIMES

Permit No. 965-1Water Diversion No. 1 ELK CREEK Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That Everett N. Madsen

the holder of
Vested Right
 Permit No. 965-1, issued upon Application No. 965-1, bearing date of priority of 1949
 authorizing the diversion of .93 cu. ft. per second of the waters of
dry draws County of Meade, State of South Dakota at
a point 600' South and 1000' West of the E $\frac{1}{2}$ Corner, Section 2, T2N, R11E
 for irrigation

purposes, has ^s 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 ~~XXXXXX~~ **recognized as** satisfactory
~~XXXXXX~~ for diverting and conveying to the place of intended use .93 cu. ft. per second of water.

Date July 13, 1982

WATER RESOURCES COMMISSION

By:

J.W. GRIMES, Executive Officer



Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501
Phone 605/224-3151

May 3, 1978

Clarence Humphrey Jim Madsen
New Underwood, and New Underwood,
South Dakota South Dakota

Dear Mr. Humphrey & Mr. Madsen:

I have checked the records of the Division of Water Rights for any Location Notices which may have been filed on the diversion works for your diversion dams and ditches. Apparently no filings were made on the systems when they were installed. Therefore I am assuming that both vested rights as filed in this office were constructed and operated at approximately the same time and therefore have a common priority.

The vested right of Mr. Humphrey's contains the information as follows:

1.93 cubic feet per second to irrigate 135 acres from Crow Draw holding a priority date of 1949.
and
5.57 cubic feet per second from Crow Draw and Elk Creek holding a priority date of July 6, 1965.

The vested right of Mr. Madsen's contains the information as follows:

0.93 cubic feet per second to irrigate 65 acres from Crow Draw holding a priority date of 1949.

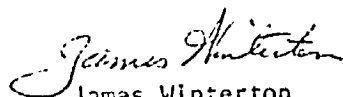
Since there is common priority, during low flows it would require that Madsen bypass any water above 0.93 cfs. However the diversion limitation of 1 cubic foot per second for each seventy acres does not apply to this Dry Draw irrigation diversion during periods of flood flows, when such flows are in excess of the amount of water required to satisfy Mr. Humphreys domestic use requirements and the 7.5 cubic feet per second of irrigation rights held by him.

• Mr. Humphrey & Mr. Madsen
May 3, 1978
Page Two

The corrugated metal culvert which was inspected on the diversion of Mr. Madsen's was found to be 15 inches in diameter and capable of diverting an estimated 8.0 cfs into the ditch with the pressure head provided at the spillway elevation. This would exceed the allowed 0.93 cfs diversion rate during low flows. During flood flows running the culvert full open would be allowed however I suggest strongly that a gate valve be placed on the culvert to limit the diversion to the 0.93 cfs during low flow periods.

Please advise this office of any further questions.

Sincerely,



James Winterton
Water Rights Engineer III

JW:plh

South Dakota
Department of
Water & Natural Resources

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

September 21, 1988

NOTICE

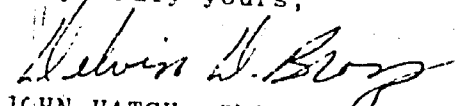
James Madsen
Rt 1, Box 48
New Underwood SD 57761

Dear Mr. Madsen:

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). 965-1 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,

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



Conversation or File Documentation

NAME OF PERSON OR FILE: Kenneth MadsenADDRESS: _____ COUNTY MeadeDATE: 4-11-89 TELEPHONE 754-6510RE: Validation of Vested Right No. "965-1"

COMMENTS:

On this date I spoke with Kenneth Madsen and inspected the spreader system. The related land used to be owned by Kenneth's Father, but he now owns the land (Transfer required). The system is used when water is available from the dam. The dam has a gated Culvert through it.

There is a discrepancy concerning the ~~was~~ number of acres irrigated and the location of those acres. The actual irrigated acreage is listed below:

SE¹/₄ SE¹/₄ Sec. 35, T3N, R11E - 38 acres

NE¹/₄ NE¹/₄ Sec. 2, T2N, R11E - 26 acres

SE¹/₄ NE¹/₄ Sec. 2, T2N, R11E - 6 acres

70 acres

These descriptions are somewhat different than actually licensed. (See V.R. No. 965-1).

Kenneth Madsen may need an additional permit.

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. Wenth



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 17, 1994

Kenneth Madsen
Rt 1, Box 48
New Underwood SD 57761

Dear Mr. Madsen:

I am writing concerning your Vested Water Right Claim No. 965-1 for irrigation of 65 acres from a dry draw dam. This letter may be somewhat confusing so please contact me if you want further information.

This claim (copy enclosed), along with all other vested right claims in Meade County, were published in the Meade County Times-Tribune in 1988 for purposes of validating the claims. Validation of all vested right claims in the state was required by legislation enacted in 1986. In response to publication of your claim, the Water Rights Division opposed validation of your claim only for purposes of completing an onsite inspection. The inspection was completed by Jim Wendte, staff engineer, on April 11, 1989, to determine if the acreage being irrigated and diversion point (dam site) matched the areas described on your claim. A map is enclosed outlining the irrigated area.

According to the inspection by Mr. Wendte, 70 acres are being irrigated which are outlined by the black lines on the aerial photo. This is 5 more acres than the 65 acres identified on the original claim (see enclosed application and water license). We can not validate your vested right claim for more than the 65 acres specified on the original claim. This leaves one of two options for us to pursue:

- 1) The exact number of acres irrigated by a water spreading system can be difficult to determine. The area irrigated depends on the topography and the amount of flow available to spread on the acreage. On the enclosed map, I have slightly reduced the irrigated area (area outlined in red) to cover 65 acres. If you believe the irrigated area does not exceed 65 acres, then we can readvertise your claim to clarify the location of the irrigated area to include the SE1/4 NE1/4 section 2 (5 acres) which was not published in the 1988 publication. After readvertisement, we could proceed with issuing a validation for 65 acres.
- 2) If you believe the actual number of irrigated acres is 70 acres, you may apply for another vested right claim to add 5 acres to the 65 acres listed on the original claim. This will require filling out an application form and publishing a notice in the local newspaper.

February 17, 1994
Kenneth Madsen
Page 2 of 2

This claim should also be transferred to your name if you are now the property owner. A transfer of ownership form can be forwarded to you once we know which of the above two options you wish to pursue.

Please review the enclosed information carefully and let me know if you have any questions (605 773-3352).

Sincerely,



Ron Duvall
Natural Resources Engineer
Water Rights Division

enclosures

RECEIVED

SEP 5 1995

Water Rights Division -DENR
Conversation or File Documentation

NAME OF PERSON OR FILE: Everett Madsen

ADDRESS: New Underwood

COUNTY: Meade

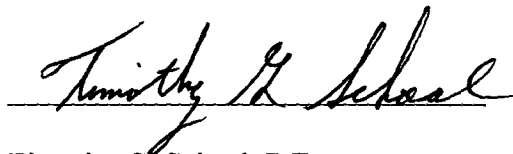
DATE: March 25, 2002

TELEPHONE: XXXXXXX

RE: Inspection of Vested Right Claim No. 965-1

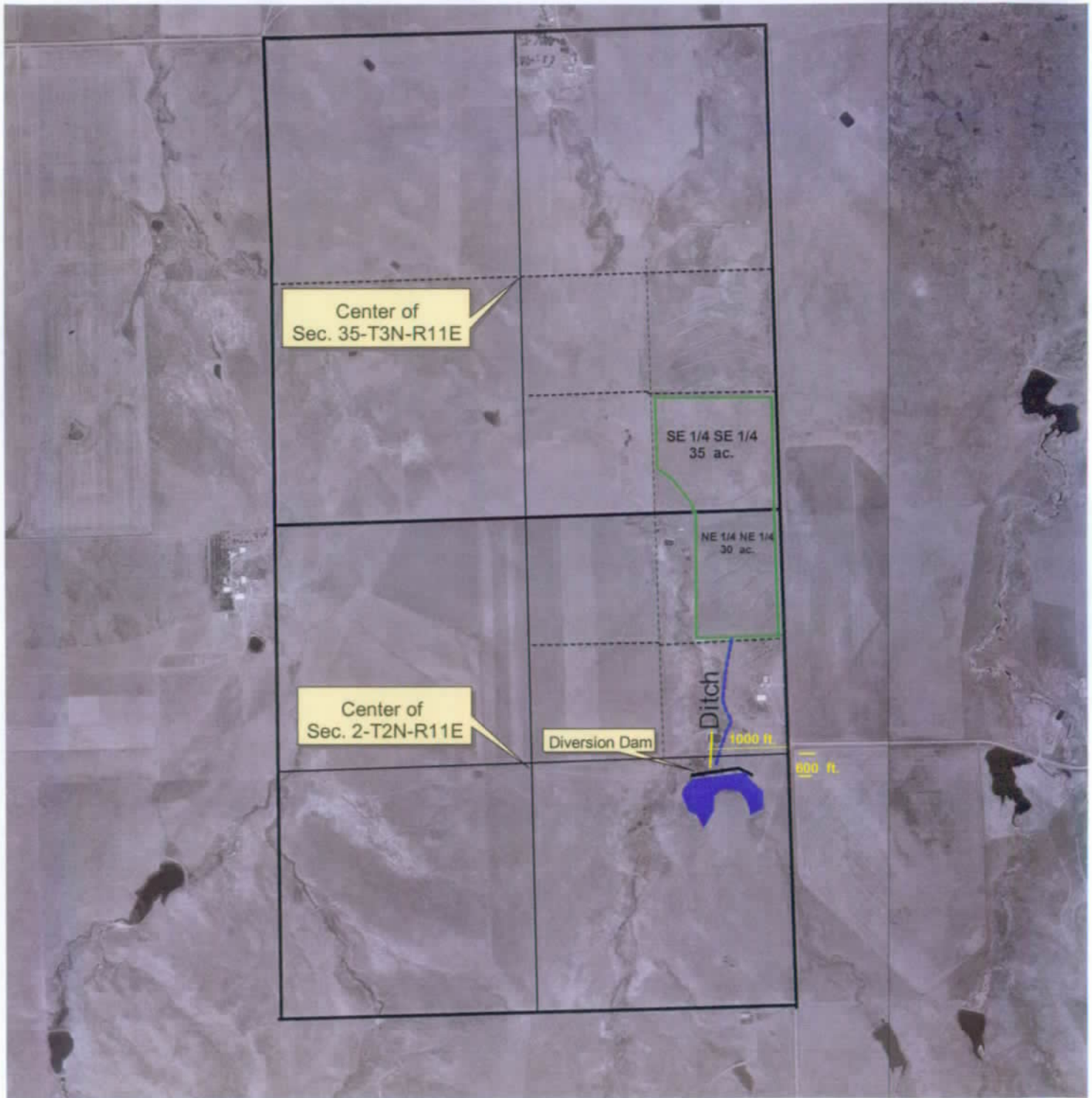
On August 29, 2001, I talked to Jim Madsen and inspected Vested Right Claim No. 965-1. This project still exists as originally claimed, except there was a land description error on the application that was corrected when the claim was licensed 1972. The original application listed 35 acres located in the NE 1/4 NE 1/4 and 30 acres located in the SE 1/4 NE 1/4 of Section 2-T2N-R11E. The actual description of the irrigated land is 35 acres located in the SE 1/4 SE 1/4 of Section 35-T3N-R11E and 30 acres located in the NE 1/4 NE 1/4 of Section 2-T2N-R11E.

The project is now owned by Travis Madsen, 22335 Red Top Road, New Underwood, SD 57761 and should be transferred to him.

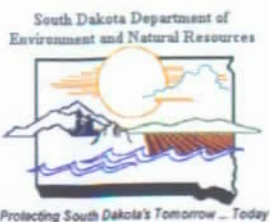
A handwritten signature in cursive script, reading "Timothy G. Schaal", written over a horizontal line.

Timothy G. Schaal, P.E.
Natural Resources Engineer Specialist
Water Rights Program

Vested Right Claim No. 965-1



0.5 0 0.5 1 Miles



Timothy G. Schaal
Timothy G. Schaal, P.E. 3/25/02
Natural Resources Engineer Specialist
Water Rights Program



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

March 29, 2002

No. 965-1

Travis Madsen
22335 Red Top Road
New Underwood SD 57761

Dear Mr. Madsen:

Enclosed is a partially completed "Notice of Transfer" form for use in filing an ownership change on Water Right No. 965-1. The water right is currently listed in the name of James Madsen.

The transfer form should be checked over for accuracy and signed by the new owner in the presence of a notary public. Upon completion, return the form to our office with a required filing fee of \$2.50.

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.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak
Water Rights Program
605 773-3352

enclosure



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

September 5, 2002

965-1

Travis Madsen
22335 Red Top Road
New Underwood SD 57761

Dear Mr. Madsen:

I am writing as a reminder that we have not yet received the Notice of Transfer of Ownership form from you for transferring Vested Water Right Claim No. 965-1. No. 965-1, listed in the name of Everett Madsen describes irrigation of land in the SE ¼ SE ¼ Section 35, T3N, R11E and the NE ¼ NE ¼ Section 2, T2N, R11E.

Our forms have changed slightly since our first correspondence to you back in March. Enclosed is a new "Notice of Transfer of Ownership form" A notary signature is no longer required. Please review the form and complete as needed. Upon completion, please sign the form and return it to our office with a required filing fee of \$2.50. The check or money order for the fee can be made payable to the Water Rights Program.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

enclosure

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date SEPTEMBER 11, 2002

RECEIVED OF TRAVIS MADSEN, 22335 RED TOP ROAD, 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 and to put water to beneficial use	2.50	
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>965-1</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____	2.50	
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	2.50

No.

000278

By

Darland Ebele
Chief Engineer *gm*

NOTICE OF TRANSFER OF OWNERSHIP

To: Chief Engineer
Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

No. 965-1

Date: 9-10-02

I/We request that Vested Water Right Claim No. 965-1

formerly owned by: Everett Madsen

be transferred to: (name & address)

Travis E. Madsen

22335 Red Top Rd

New Underwood SD 57761

Telephone No. 605-754-6790

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

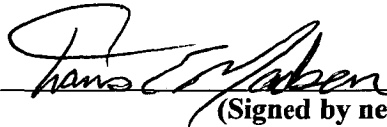
65 acres – SE ¼ SE ¼ Section 35, T3N, R11E and NE ¼ NE ¼ Section 2, T2N, R11E

I/We understand that the validity of Vested Water Right Claim No. 965-1 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 with the Water Rights Program, as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

I/We Travis E. Madsen, the new owner, certify that the above information is true and correct.


(Signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a 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.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

September 12, 2002

965-1

Travis E Madsen
22335 Red Top Rd
New Underwood, SD 57761

Dear Mr. Madsen:

Thank you for following up on the ownership change for Vested Water Right Claim No. 965-1. The transfer has been completed. No. 965-1, formerly held by Everett Madsen, is listed in your name.

Vested Water Right Claim No. 965-1 is now ready for validation by the Water Management Board. The Board's next meeting at which the validation could be scheduled is in December, 2002. You will be notified of the time, date, and place of the hearing once it is scheduled.

Enclosed is your Receipt No. 000278 in the amount of \$2.50 which you paid for filing the ownership change. You may keep this for your records.

If we can answer any questions for you, please let us know.

Sincerely,

A handwritten signature in cursive script that reads "Genny McMath".

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352

enclosure



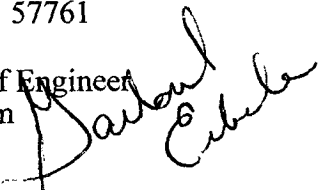
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

October 23, 2002

NOTICE

TO: Travis Madsen
22335 Red Top Road
New Underwood SD 57761

FROM: Garland Erbele, Chief Engineer
Water Rights Program
605 773-3352 

SUBJECT: Hearing to Consider Validation of Recognized Vested Right Claim No. 965-1

Vested Right Claim No. 965-1 authorizes 0.93 cubic feet of water per second (cfs) from a dam located in the NE ¼ SE ¼ Section 2-T2N-R11E to irrigate 65 acres located in the SE ¼ SE ¼ Section 35-T3N-R11E and the NE ¼ NE ¼ Section 2-T2N-R11E.

A Notice of Intent to validate Claim No. 965-1 was published on June 22 and 29, 1988 in the Meade County Times-Tribune. The Water Rights Program postponed validation of No. 965-1 for purposes of completing an on-site investigation of the claim. The investigation of Claim No. 965-1 was completed on August 29, 2001, by Tim Schaal, staff engineer. The investigation found this claim still exists as originally published in 1988.

The Water Management Board will consider validation of Claim No. 965-1 at 10:00 am, December 4, 2002, in the Floyd Matthew Training Center, Joe Foss Bldg. 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.

Pursuant to the findings of the on-site investigation, validation of Claim No. 965-1 is recommended for a diversion rate of 0.93 cfs from a dam to irrigate 65 acres. Following the hearing, the Board is authorized to 1) validate the claim as recommended for 65 acres and 0.93 cfs, 2) validate the claim based on evidence presented at the public hearing, or 3) defer validation of the claim. Applicable provisions of the published notice of intent to validate Claim No. 965-1 will still apply at this hearing. A copy of the June 22, 1988, publication is available upon request.

This hearing may be an adversarial 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. Contact Eric Gronlund by November 25, 2002 at the above Water Rights Program address to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

c: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on October 23, 2002 , I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated October 23, 2002 regarding Notice of Hearing to Consider validation of Recognized Vested Right Claim No. 965-1 addressed as stated below:

Travis Madsen
22335 Red Top Road
New Underwood SD 57761

A copy of the above described Notice was sent Inter-office to:

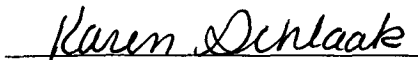
Diane Best, Assistant Attorney General, Capitol Building



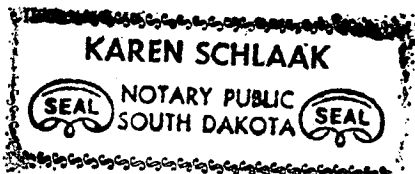
Eric Gronlund
Natural Resource Engineer
Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 25th day of October, 2002.



Karen Schlaak
Notary Public
My Commission expires April 1, 2007





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

MAR 13 2003

Travis Madsen
22335 Red Top Road
New Underwood SD 57761

Dear Mr. Madsen:

The Water Management Board has validated the enclosed Vested Water Right No. 965-1. 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.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program
605 773-3352

enclosure

SOUTH DAKOTA

VESTED WATER RIGHT NO. 965-1 FOR IRRIGATION

Date of Receipt of Claim June 2, 1972.

Date of Validation December 4, 2002.

The Water Management Board validated Vested Water Right Claim No. 965-1 for irrigation purposes for Travis Madsen, 22335 Red Top Road, New Underwood SD 57761 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 965-1 authorizes 0.93 cubic feet of water per second (cfs) from a dam located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 2-T2N-R11E to irrigate 65 acres located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 35-T3N-R11E and the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 2-T2N-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. The water is to be used during the following annual period: January 1 – December 31.
3. The priority date of the Vested Water Right is January 1, 1949.
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.

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

Garland Erbele

Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

MAR 13 2003

date



REISSUED

STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 965-1 FOR IRRIGATION

(1) Everett N. Madsen, New Underwood SD was issued Vested Water Right No. 965-1, July 13, 1972 for a vested right claim to appropriate 0.93 cubic feet of water per second from a dry draw, Meade County, South Dakota, for irrigation purposes. Vested Water Right No. 965-1 was issued with a priority date of 1949.

On September 11, 2002, the vested right was transferred to Travis Madsen, 22335 Red Top Road, New Underwood SD.

On December 4, 2002, the Water Management Board validated Vested Water Right No. 965-1. The water license is being reissued to reflect the correct acres irrigated and the ownership change.

(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, the holder and/or owner of Vested Water Right No. 965-1 is reissued a license, bearing a priority date of January 1, 1949 to appropriate 0.93 cubic feet of water per second from a dry draw to irrigate 65 acres.

The diversion point (dam) is located: NE ¼ SE ¼ Section 2-T2N-R11E The acres authorized for irrigation are as follows:

35 acres - SE ¼ SE ¼ Section 35-T3N-R11E

30 acres – NE ¼ NE ¼ Section 2-T2N-R11E

(3) This reissued license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 965-1 including the following 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.

Garland Erbele

Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

MAR 13 2003

date



965-1

NOT TO SCALE

7580

(116)

(117)

SECTION 2
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41.1

3-11

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35

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20.2
20.4
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30.1
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center of
Section 2

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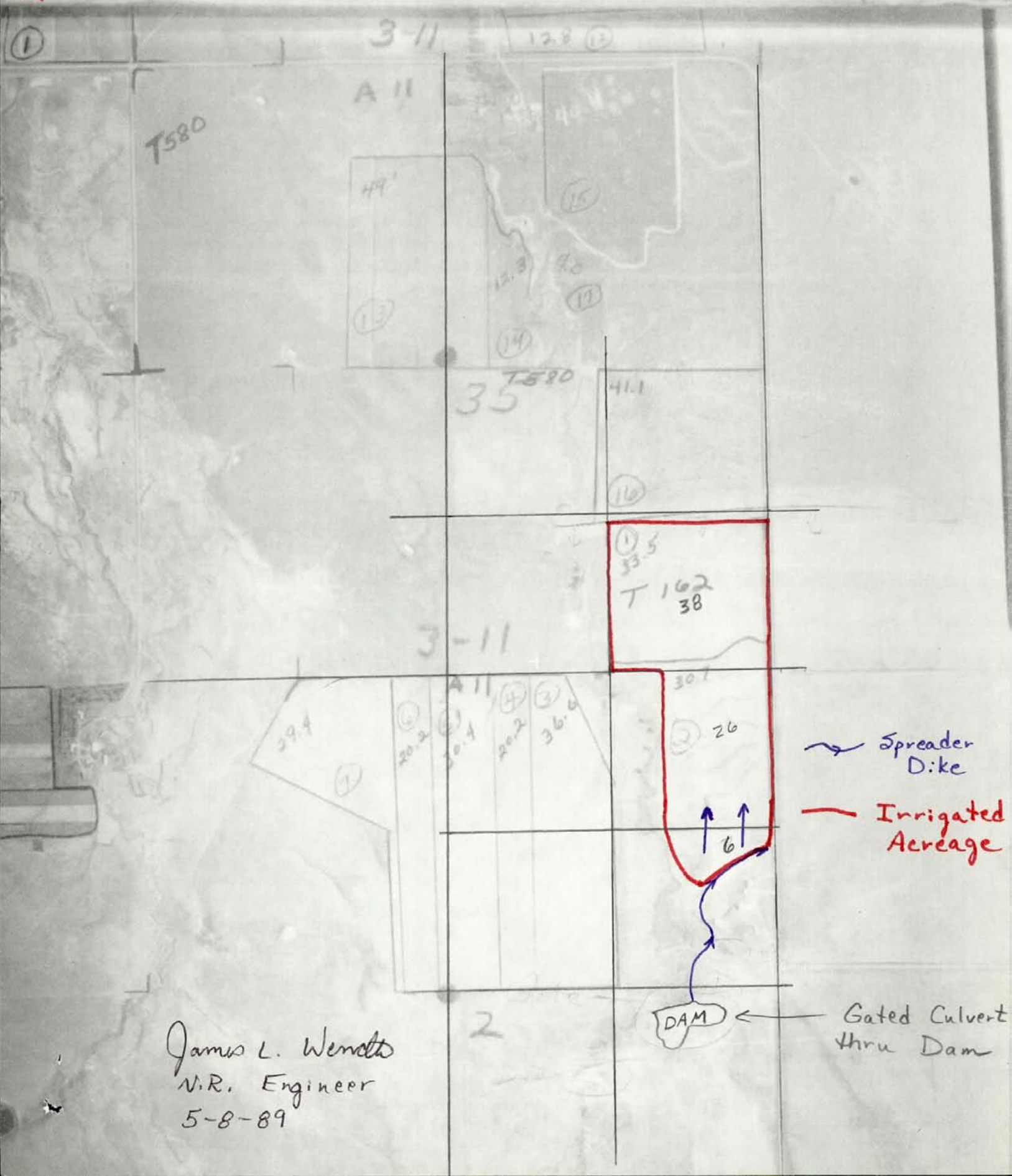
DAM

Gated Culvert
thru Dam

James L. Wendt
N.R. Engineer
E-O-09

965-1

NOT TO SCALE



James L. Wendt
N.R. Engineer
5-8-89