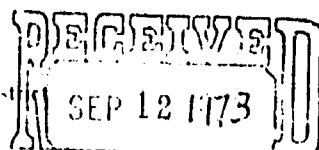


Water Right Number 954-1

1. Considered November 14, 1973
2. Name of Applicant Kennedy Brothers
3. Post Office Address Philip, S.D.
4. Amount of water claimed 15.0
5. Source of water supply Moreau River
6. Water to be used for Irrigation
- Acres to be irrigated 1136
7. Water to be diverted and used in Perkins County
about 16N 10W Miles of FAITH
8. Proof of Publication Received X 10/15/73
Not received
9. Application Approved
Subject to
Not approved
Action deferred
10. Remarks:

FLOW MEASUREMENT
ON MOREAU RIVER

Low Flow

No. 994-1Map No. 822-1 Water Division No. 1 MOREAU RIVER
(Blanks to be Filled by the Engineer for the W. R. C.)

APPLICATION FOR PERMIT

STATE WATER RIGHTS 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 Kennedy Brothers
 P. O. office address Philip State S. Dak.
 If a corporation show date and place of incorporation _____
2. Method of accomplishing work (contract, employment of others, or by direct labor) _____
3. Name of diversion work Irrigation Project No. 1
4. Amount of water claimed (cubic feet per second) 16 cfs
5. Source of water supply Moreau River
6. Location of point of diversion 10 pump sites as shown on the plat on the Moreau River
 _____ County PERMITS
7. Annual period or periods during which water is to be used WHEN AVAILABLE
8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) irrigation
9. For irrigation use, _____ Total number of acres to be irrigated 1136 Acres

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>see attached sheet</u>			

Attach sheet if more space is needed

10. Time required to complete construction of water supply system 5 years. Additional time required to complete application of water to the proposed beneficial use 4 years.
11. Choice of newspaper for Notice of Intent to Appropriate Water publication BISON GAZETTE, PIERRE, S.D.
12. Principal Features of the Proposed Water Supply System.

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

B. Works proposed to transport water to place of use.

C. Works proposed to apply water to beneficial use.

Estimated Total Cost \$ _____

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

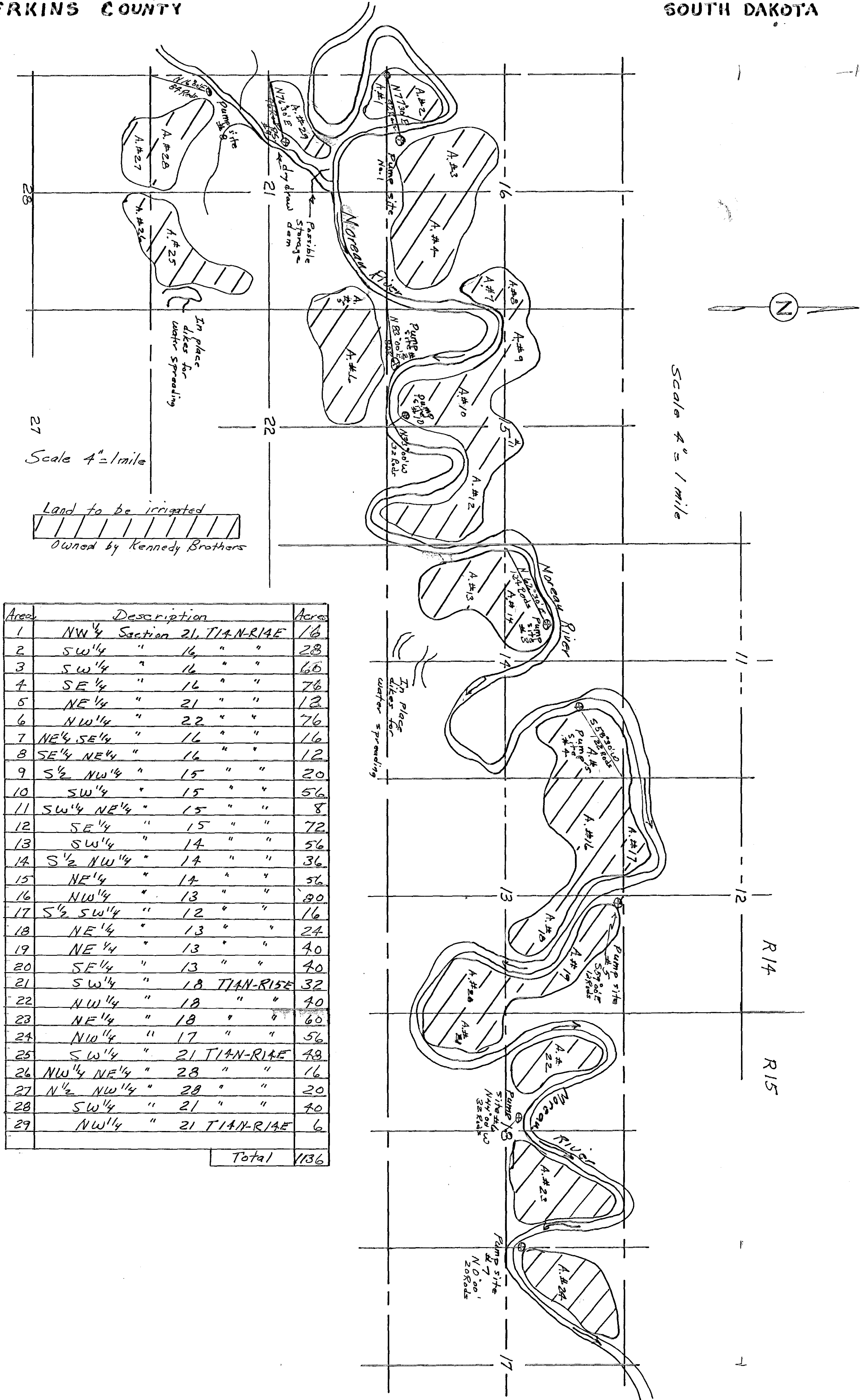
County of HaakonI, Wayne Kennedy, & Howard Kennedy to applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.Signed Wayne Kennedy

Subscribed and sworn to

day of Sept 1973Keith C. Mesner
Notary Public (or other qualified officer)My Comm. expires 10/9/76

KENNEDY BROTHERS
IRRIGATION PROJECT No. 1

PERKINS COUNTY **SOUTH DAKOTA**



Area	Description	Acres
1	NW 1/4 Section 21, T14N-R14E	16
2	SW 1/4 " 16 " "	28
3	SW 1/4 " 16 " "	60
4	SE 1/4 " 16 " "	76
5	NE 1/4 " 21 " "	12
6	NW 1/4 " 22 " "	76
7	NE 1/4 SE 1/4 " 16 " "	16
8	SE 1/4 NE 1/4 " 16 " "	12
9	S 1/2 NW 1/4 " 15 " "	20
10	SW 1/4 " 15 " "	56
11	SW 1/4 NE 1/4 " 15 " "	8
12	SE 1/4 " 15 " "	72
13	SW 1/4 " 14 " "	56
14	S 1/2 NW 1/4 " 14 " "	36
15	NE 1/4 " 14 " "	56
16	NW 1/4 " 13 " "	80
17	S 1/2 SW 1/4 " 12 " "	16
18	NE 1/4 " 13 " "	24
19	NE 1/4 " 13 " "	40
20	SE 1/4 " 13 " "	40
21	SW 1/4 " 18 T14N-R15E	32
22	NW 1/4 " 18 " "	40
23	NE 1/4 " 18 " "	60
24	NW 1/4 " 17 " "	56
25	SW 1/4 " 21 T14N-R14E	48
26	NW 1/4 NE 1/4 " 28 " "	16
27	N 1/2 NW 1/4 " 28 " "	20
28	SW 1/4 " 21 " "	40
29	NW 1/4 " 21 T14N-R14E	6
Total		1136

SURVEYOR'S CERTIFICATE

I, R. V. Summerside, Registered Land Surveyor, State of South Dakota, do hereby certify that, at the direction of Kennedy Brothers, I have surveyed the tract of land as shown, and that the above drawn plat is a reasonably accurate description of the land of the proposed irrigation project. In witness whereof I have set my hand and seal this 31st day of August, 1973, A.D.

R. V. Summerside
 REGISTERED LAND SURVEYOR

WATER RIGHT APPLICATION APPROVAL

The Water Resources Commission hereby approves Water Right Application No. 994-1

KENNEDY BROS.
(Applicant)

PHILIP
(Post Office Address)

SOUTH DAKOTA With the following modifications:
(State)

**FLOWS AS NEEDED FOR DOWNSTREAM DOMESTIC USE,
INCLUDING LIVESTOCK WATERING, AND PRIOR WATER RIGHTS
MUST BE BY-PASSED**

Date of first receipt of application SEPTEMBER 12 19 73

Date of return to applicant for correction, amendments or changes required — 19 —

Date of receipt of corrected application — 19 —

Approved NOVEMBER 14 19 73 Recorded in Book 12 Page 261

WATER RIGHT PERMIT NO. 994-1

The Water Resources Commission hereby grants and issues this Water Right Permit No. 994-1 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 SEPTEMBER 12 19 73
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before MAY 14 19 76
3. The whole of said work is to be completed on or before NOVEMBER 14 19 78
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is NOVEMBER 14 19 82
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 16.0 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 is actually and beneficially applied for irrigation on or before NOVEMBER 14 19 82; said water to be used during the following described annual period: WHEN AVAILABLE

Witness my hand this 15TH day of NOVEMBER 19 73

WATER RESOURCES COMMISSION

By: Donald Driscoll
Chief Engineer, Executive Officer

Certificate of Construction Issued _____, 19 _____

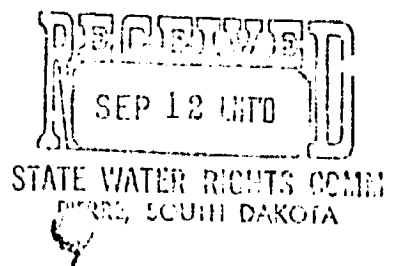
Water License Issued _____, 19 _____

Kennedy Brothers
Irrigation Project No 1.

Parkins County

South Dakota

Area	Description			Acres
1	NW ¹ / ₄	Section 21, T14N-R14E		16
2	SW ¹ / ₄	" " " "		16
3	SW ¹ / ₄	" " " "		28
4	SE ¹ / ₄	" " " "		60
5	NE ¹ / ₄	" " " "		76
6	NW ¹ / ₄	" " " "		12
7	NE ¹ / ₄ SE ¹ / ₄	" " " "		76
8	SE ¹ / ₄ NE ¹ / ₄	" " " "		16
9	S ¹ / ₂ NW ¹ / ₄	" " " "		12
10	SW ¹ / ₄	" " " "		20
11	SW ¹ / ₄ NE ¹ / ₄	" " " "		56
12	SE ¹ / ₄	" " " "		8
13	SW ¹ / ₄	" " " "		72
14	S ¹ / ₂ NW ¹ / ₄	" " " "		56
15	NE ¹ / ₄	" " " "		36
16	NW ¹ / ₄	" " " "		56
17	S ¹ / ₂ SW ¹ / ₄	" " " "		80
18	NE ¹ / ₄	" " " "		16
19	NE ¹ / ₄	" " " "		24
20	SE ¹ / ₄	" " " "		40
21	SW ¹ / ₄	" " " "		40
22	NW ¹ / ₄	" " " "		32
23	NE ¹ / ₄	" " " "		40
24	NW ¹ / ₄	" " " "		60
25	SW ¹ / ₄	Section 21, T14N-R14E		56
26	NW ¹ / ₄ NE ¹ / ₄	" " " "		48
27	N ¹ / ₂ NW ¹ / ₄	" " " "		16
28	SW ¹ / ₄	" " " "		20
29	NW ¹ / ₄	" " " "		40
		T14N-R14E		6
Total				1136



Form 8 - Proof of Publication - Notice of
Intent to Appropriate Water

No. 994-1

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Perkins) ss.

I, Lonnie Webb hereby
certify that the annexed printed copy of Notice of Intent to Appropriate
Water was taken from the Bison Courier

A newspaper which during the whole time of publication of said notice
hereinafter stated, has been and is printed and published in the Bison

Town of Bison
County of Perkins and State of South Dakota;
that the said notice was published in said newspaper on the following
two dates:

Oct. 4th and Oct.
11th.

Lonnie Webb
(Signature)

Editor
(Title)

10-11-73
(Date Signed)

NOTICE INTENT TO APPROPRIATE
WATER

Notice is hereby given that Kennedy Bros., whose post office address is Phillip, South Dakota, has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 16,000 cubic feet of water per second of time from the Moreau River and a dry draw through the Kennedy Moreau River Project, the point of diversion of which is to be located from the Moreau River between points in the SE 1/4, SW 1/4, Section 16, T14N, R14E, and in the SW 1/4 NW 1/4, Section 17, T14N, R15E; and from a dry draw between points in the SW 1/4 SW 1/4 and SE 1/4 NW 1/4, of Section 21, T14N, Range 14E. Said water to be used for the purpose of providing irrigation on portions of the following described land: S1/2 S 1/4, Section 12, E1, and N 1/4, Section 13; NE 1/4 and W 1/2, Section 14; S1/2 and S1/2 N1/2, Section 15; S1/4 and E1/2 NE 1/4, Section 16; Section 21, N 1/4, Section 22 and N1/2 N1/2, Section 28, all in T14N, R14E; and NW 1/4, Section 17; NE 1/4 and W 1/2, Section 16, T14N, R15E.

This application No. 994-1 will be considered by the Water Rights Commission at their office at Pierre upon the 14th day of November, 1973, at 2:30 p.m. All interested persons may appear and be heard.

WATER RIGHTS COMMISSION
BY:
BURTON F. JONES,

Water Rights Specialist
Pub. 27, 1, 11

RECEIVED
OCT 15 1973

STATE WATER RIGHTS COMM.
PIERRE, SOUTH DAKOTA

Publish first publication, on or before October 25, 1973

**NOTICE
INTENT TO APPROPRIATE WATER**

Pierre, South Dakota 57501

September 18, 1973

Kennedy Bros.

Notice is hereby given that _____

where post office address is Philip, South Dakota, has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 16.0

16.0 cubic feet of water per second of time from the Moreau River and a dry draw through the Kennedy Moreau River Project

_____, the point of diversion of which is to be located from the Moreau River between points in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 16, T14N, R14E, and in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 17, T14N, R15E, and from a dry draw between points in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 17, T14N, R15E.

of Section 21, T14N, Range 14E. Said water to be used for the purpose of providing irrigation on the following described land:

SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 12; E $\frac{1}{2}$ and NW $\frac{1}{4}$, Section 13; NE $\frac{1}{4}$ and W $\frac{1}{2}$, Section 14; S $\frac{1}{2}$ and SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 15; S $\frac{1}{2}$ and SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 16; Section 21; NW $\frac{1}{4}$, Section 22 and N $\frac{1}{2}$ N $\frac{1}{4}$, Section 28, all in T14N, R14E; and NW $\frac{1}{4}$, Section 17; NE $\frac{1}{4}$ on W $\frac{1}{2}$, Section 18, T14N, R15E.

This application No. 99401 will be considered by the Water ~~Resources~~ ^{Rights} Commission at their office at Pierre upon the 14th day of November, 1973 at 2:30 P. M. All interested persons may appear and be heard.

~~WATER RESOURCES COMMISSION~~
WATER RIGHTS COMMISSION

By:

BURTON P. JONES, Water Rights Specialist

BPJ/bw

cc: Kennedy Brothers, Philip, S.D. 57567

NO. 994-1

NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Rights
Foss Building
Pierre, SD 57501

Date: _____

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

85.2 Acres located in NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 14; NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$,

Section 13; SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 12; all in T14N, R14E

formerly owned by Kennedy Brothers

has been transferred to Trusts Created by Last Will and Testament of Wayne C.
(please include complete mailing address) Kennedy
together with any rights to the beneficial use of water thereon as evidenced by

Water Right Permit No. 994-1 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 Paakon) ss.

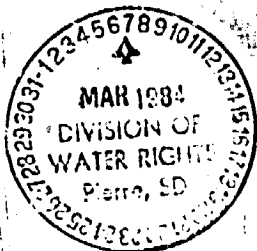
I, Janie Ferguson being first duly sworn on my oath despose and say:
That my relation to the above described undertaking is that of Owner, that I have read the above foregoing statement, and I know of my own personal knowledge that the information herein stated is true.

Janie Ferguson
(Signed) Exec.

Subscribed and sworn to before me this 2nd Day of March, 1984.

Becky Buchmann
(Notary Public)

My Commission Expires: 1-15-89



WNR-820-9/83

Notice of Transfer of Water Permit

RECEIPT

Division of Water Rights

No 4 9576

South Dakota Department of Water and Natural Resources

Pierre, March 7, 1984

RECEIVED OF Wayne C. Kennedy Trust c/o Janie Ferguson, PO Box 965, Philip, SD 57567
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>994-1</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

No. 994-1

SOUTH DAKOTA Department of
Water & Natural Resources
Joe Foss Building Water Rights Division
Pierre, South Dakota 57501 Phone (605) 773-3352

March 8, 1984

Wayne C. Kennedy Trust
c/o Janie Ferguson
PO Box 965
Phillp, South Dakota 57567

Dear Mrs. Ferguson:

Enclosed is receipt No. 4-9576 in the amount of \$ 2.50 which you
paid for transfer of Water Right No. 994-1.

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

Sincerely,

Maxine Stirling
Staff Assistant

ms/
Enc.

SOUTH DAKOTA
Department of
Water & Natural Resources

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

January 29, 1988

KENNEDY TRUST %JANIE FERGUSON
PO BOX 965
PHILIP, SD 57567

NOTICE

Re: Violation of Requirement To Submit 1987 Irrigation Questionnaire

Our records indicate that the 1987 Irrigation Questionnaire has not been submitted for Permit No(s). 994-1. The request for the Questionnaire was dated October 8, 1987. The Water Management Board has directed that owners of water permits who have not submitted 1987 Irrigation Questionnaires be given notice of hearing(s) to be held by the Board to determine if any action is to be taken concerning the violation.

The hearings will be held at 9:00 am, March 2, 1988 in Room 216, Joe Foss Building, 523 E Capitol, Pierre SD.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to procedures contained in SDCL 1-26. Following the hearing(s), the Water Management Board can:

1. Amend Permit No(s). 994-1 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action;
3. Take no action.

The hearing(s) is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

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

NOTE: If the questionnaire(s) is received in this office before the March 2 hearing date, your name will be deleted from the agenda for the hearing.

SOUTH DAKOTA
**Department of
Water & Natural Resources**

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3101

February 16, 1988

994-1

Kennedy Trust
% Janie Ferguson
PO Box 365
Philip SD 57567

Dear Ms. Ferguson:

I am writing to acknowledge receipt of your 1987 Irrigation Questionnaire(s). A notice was sent to you January 29, 1988 regarding the requirement to submit the Irrigation Questionnaire(s) for Water Permit No. 994-1 and the hearing date before the Water Management Board.

Since your questionnaire was received prior to the March 2, 1988 Water Management Board Meeting, your name has been deleted from the Board Meeting agenda. If you have any questions, please contact us.

Very truly yours,

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

Ralph A. Kemnitz
Thomas C. Barnett, Jr.

Legal Assistant
Becky Buhmann, P.L.S. CLA

KEMNITZ & BARNETT

ATTORNEYS AT LAW

P.O. BOX 489

PHILIP, SOUTH DAKOTA 57567

December 13, 1988



Philip, SD
(605) 659-2540

Wall, SD
(605) 279-2575

Kadoka, SD
(605) 837-2146

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

Re: Wayne C. Kennedy Trust
Water Permit No. 994-1
Water Permit No. 1434-1

Dear Sirs:

We would appreciate it very much if you would make all mailings in connection with the above Trust and Water Permits to the following address:

Wayne C. Kennedy Trust
c/o Becky Buhmann, Co-Trustee
P.O. Box 489
Philip, SD 57567

Thank you very much.

Sincerely yours,

Becky Buhmann

Becky Buhmann
Co-Trustee
Wayne Kennedy Trust



Department of Water & Natural Resources

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

1434-1

SEP 14 1989

Wayne C. Kennedy Trust
c/o Becky Buhmann
P.O. Box 489
Philip, SD 57557

Dear Ms. Buhmann:

Enclosed is Water License No. 1434-1. This is the final water right document completing your process of obtaining a water right. Enclosed is Receipt No. 411898 in the amount of \$50.00 which you paid for the inspection and issuance of this water license.

As long as you use the water beneficially, as state in the Water License, the State Water Law provide that you have a continuing right to use the water.

Very truly yours,

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

enclosures

NOTE: The applicable portions of Water Permit No. (994-1) are incorporated into this Water License No. 1434-1.