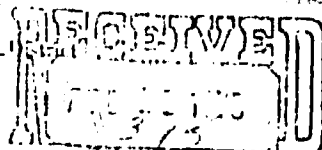


1243-2

1. Considered 3-19 1975
2. Name of Applicant NOVOTNY BROS.
3. Post Office Address COLOME
4. Amount of water claimed 1.0 (250 AC. FT. STORAGE)
5. Source of water supply GROUND WATER
6. Water to be used for IRRIGATION
- Acres to be irrigated 232.8
7. Water to be diverted and used in TRIPP county
about 6.5 miles of WINNER
8. Proof of Publication Received 1ST
Not received _____
9. Application Approved _____
Subject to _____
Not Approved _____
Action deferred _____
10. Remarks: WALT REICHLING - MAYOR
CITY OF WINNER
892-0424

No. 1243-2Map No. 1052-2 Water Division No. 2 WHITE RIVER
(Blanks to be Filled by the Engineer for the W. R. C.)

APPLICATION FOR PERMIT

STATE WATER RIGHTS COMMISSION

To Appropriately Water within the State of South Dakota

(NOTE—Draw a line through item not applicable)

1. Name of Applicant Novotny Bros.
Post-office address Colome 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) Contract and Direct Labor
3. Name of diversion work Novotny Storage Project
4. Amount of water claimed (cubic feet per second) 1.00
5. Source of water supply ground water
6. Location of point of diversion North 84° West, 800 feet from the SE Corner, Section 20, T98N, R76W (also see attachment)
County Tripp
7. Annual period or periods during which water is to be used year around
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 232.8

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 attachment</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 Appropriately Water publication Winner Advocate, Winner, S.D.
12. Principal Features of the Proposed Water Supply System.

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

Existing well
Pumps and motors or engines

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

Mainline pipe
From storage dam to irrigated areas
From well part way to dam site

C. Works proposed to apply water to beneficial use.

Existing center pivot system
Plus new sprinkler system

Estimated Total Cost \$ 20,000.00

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 Tripp

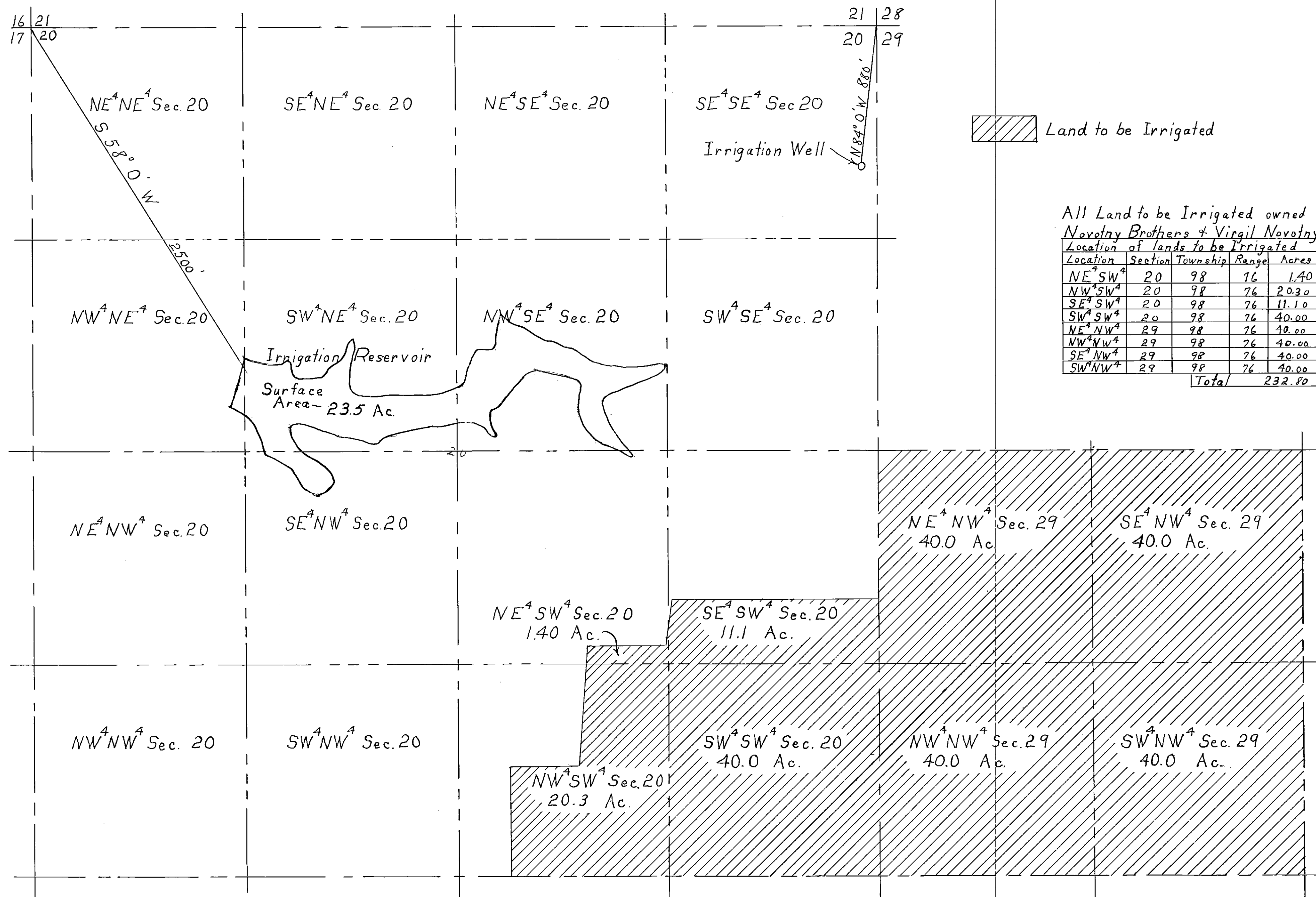
I, Novotny Bros. the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.

Subscribed and sworn to before me this 11th day of February 1975

Notary Public (or other qualified officer)

Samuel H. Clark

Novotny Brothers Irrigation Project
in SW⁴ Sec. 20 + NW⁴ Sec. 29 - T 98 N - R 76 W - Tripp County, S.D.
Scale 1" = 400'



I hereby certify that the map and plans of the Novotny Brothers Irrigation Project consisting of this sheet is an accurate representation of the survey made under my direction and supervision.
Dated December 7, 1974.

Engineer
Harry Sandstrom 2-7-75

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 1243-2

NAVATNY BROS.

(Applicant)

COLOME

(Post Office Address)

SOUTH DAKOTA 57528

(State)

With the following modifications:

The irrigation well approved under this Permit will be located near domestic wells and other irrigation wells which may obtain water from the same aquifer. The irrigation well owner, under this Permit, shall control his irrigation withdrawals so there is not a reduction of needed water supplies in existing domestic wells or in irrigation wells having prior water rights.

THE IRRIGATION WELL OWNER UNDER THIS PERMIT SHALL NOT WITHDRAW WATER FOR STORAGE WHEN THE WATER TABLE IN CITY OBSERVATION WELL NO 10 IS AT A LEVEL OF 19 FEET OR LOWER, EXCEPT DURING THE MONTHS OF JULY & AUGUST, WITHDRAWALS FROM THE IRRIGATION WELL SHALL NOT BE MADE WHEN THE WATER LEVEL IN CITY OBSERVATION WELL NO 10 IS AT A LEVEL OF 16 FEET OR LOWER.

IF DEEMED ADVISABLE BY THE COMMISSION, IN THE BEST PUBLIC INTEREST, THE PERMIT HOLDER SHALL REDUCE OR STOP WITHDRAWALS OF WATER FROM THE IRRIGATION WELL FOR ANY PERIOD SPECIFIED BY THE COMMISSION.

THIS PERMIT AUTHORIZES THE STORAGE OF UP TO 250 ACRES FEET OF WATER.

Date of first receipt of application FEBRUARY 11 19 75

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

Date of receipt of corrected application _____ 19 _____

Approved MARCH 19 19 75 Recorded in Book 13 Page 241

WATER RIGHT PERMIT NO. 1243-2

The Water Rights Commission hereby grants and issues this Water Right Permit No. 1243-2 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 FEBRUARY 11 19 75
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before SEPTEMBER 19 19 77
3. The whole of said work is to be completed on or before MARCH 19 19 80
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is MARCH 19 19 84
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 1.0 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 MARCH 19 19 84; said water to be used during the following described annual period: YEAR AROUND

Witness my hand this 9TH day of APRIL 19 75

WATER RIGHTS COMMISSION

By:

Donald Driscoll

Chief Engineer, Executive Officer

Certificate of Construction Issued _____ 19 _____

Water License Issued _____ 19 _____

Attachment - Novotny Bros., Colome, S.D.

This water right application proposes to use the existing irrigation well constructed as authorized in Water Permit No. 1047-2. The proposal is to pump from the well on a year around basis to the extent needed, with the water being pumped into a storage dam, located near the NS 1/16 line in NE $\frac{1}{4}$ Section 20, T98N, R76W. From the storage dam, the water will be pumped as a supplemental source of water to the 160 acres in the NW $\frac{1}{4}$ of Section 29, T98N, R76W. Also it is proposed to irrigate the following additional lands in the SW $\frac{1}{4}$ of Section 20, T98N, R76W from the stored water

NW $\frac{1}{4}$ SW $\frac{1}{4}$	20.3 acres
SW $\frac{1}{4}$ SW $\frac{1}{4}$	40.0 acres
SE $\frac{1}{4}$ SW $\frac{1}{4}$	11.1 acres
NE $\frac{1}{4}$ SW $\frac{1}{4}$	1.4 acres

12. Principal Features of the Proposed Water Supply System (continued.)

D. Well Information or Estimates

(1) Drill Hole, Diameter _____, Depth _____

(2) Casing, Type _____, Diameter _____, Thickness _____
(wood, concrete, steel, etc)

(3) Perforated Screen, _____

Type _____, Diameter _____, Length _____

(4) Gravel Pack, Thickness _____, Length of gravel pack _____

E. Dugout Information or Estimates.

(1) Surface dimensions _____, Depth _____

F. Fill out for Either a Well or a Dugout.

(1) Water Bearing Materials (Please attach a copy to test well log if available.)

Character of Water bearing materials _____

Depth to top of water bearing material _____

Depth to bottom of water bearing material _____

Thickness of water bearing material _____

Depth to water (ground surface to water level) _____

(2) Distance to nearest existing household or livestock watering wells.

On same owner's property _____ rds. On property owned by others _____ rds.

G. Water Storage Dams.

If the proposed water use system contains one or more water storage dams, please show in the space below, the height, maximum water depth, surface area and storage capacity of each storage dam. The location of each water storage dam should be shown on the water right map.

HEIGHT 35'

WATER DEPTH 27'

SURFACE AREA 23 1/2 AC

STORAGE CAPACITY 250 AC-FT.

Mervyn Brown
Signature of Applicant

FEB 04 1975
DEPT. OF NATURAL
RESOURCE DEVELOPMENT

January 29, 1975



Novotny Bros.
Coloma, SD 57528

Dear Sirs:

Your WI #1 form has been received and is being sent along with a copy of this letter and a copy of the water analysis to the State Conservation Commission.

The water quality is satisfactory for use on the soils indicated on your WI #1 form. In other words there should be no salt accumulation problem or sodium-caused dispersion of clays with the use of this water.

I am enclosing a copy of Extension Circular 654 with the approximate quality of the water designated by an encircled red cross on the outside back cover. Your attention to the information contained therein is invited.

With best wishes for success in your irrigation venture.

Sincerely yours,

L. O. Fine
L. O. Fine
Water Quality Lab

LOF:MRB
Enclosure
CC: /State Conservation Commission
Keith Jennings, Tripp County Agent
Darrel Pahl

Conservation
Commission
Form WI #1

STATE CONSERVATION COMMISSION
SUPPORTING INFORMATION
FOR APPROPRIATION OF GROUND WATER IN ACCORDANCE
WITH SDCL 46-6-3 AS AMENDED
(This Form Required for Proposed Well Irrigation Only)

FOR COMMISSION USE ON

Irrigation System: _____

Water Quality: _____

Soils Capability: _____

Approved: WCS Affy

Disapproved: _____

NAME: Novotny Bros
ADDRESS: Colome, S. Dak
COUNTY: Tripp

LEGAL DESCRIPTION

1. WELL LOCATION: SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 20 98-76
2. AREA TO BE IRRIGATED: Portion of SW $\frac{1}{4}$ 20-98-76 + NW $\frac{1}{4}$ 29-98-76

TYPE OF IRRIGATION

3. GRAVITY ☒ SPRINKLER (Indicate Type): Center pivot
4. CROPS TO BE IRRIGATED: Corn, alfalfa

LAND CAPABILITY FOR IRRIGATION

5. PERCENTAGE OF SLOPE: 0-3%
6. PHYSICAL SOILS CLASSIFICATION FOR IRRIGATION: FAKA LOAM - INTAKE
Family D.5 M2

WATER QUALITY (TO BE COMPLETED BY COMMISSION)

7. SAMPLE NO.: 74-1022
8. SALINITY: EC = 516 micro-mhos/cm (medium-low)
9. SODIUM: Sodium Adsorption Ratio = 0.61 (low)
No residual carbonate

I do hereby certify that a chemical analysis of the ground water to be acquired for irrigation from South Dakota State University and:

the land capability for irrigation information has been acquired from

local SCS office by Frank Hacer

and:

that the legal description for the location of the well and land to be irrigated is true and correct.

Notary Pro Virgil J. Notary

Subscribed and sworn before me this

21 day of February 1975.

Notary Public

Notary Public

(Title)

REPORT OF ANALYSIS
Water Quality Laboratory
Water Resources Research Institute
South Dakota State University
Brookings, South Dakota 57006

Submitted by: Marolyn Price
 Address: Coloma, SD 57523

Date Rec'd: December 30, 1974
 Sample No.: 74-1682
 Identification: _____

WATER ANALYSIS

Calcium (Ca)	70	ppm*	3.50	me/l**
Magnesium (Mg)	12	ppm	0.93	me/l
Sodium (Na)	21	ppm	0.91	me/l
Potassium (K)	17	ppm	0.44	me/l
Sulfate (SO ₄)	42	ppm	0.87	me/l
Nitrate (as N)		ppm		me/l
Chloride (Cl)	14	ppm	0.41	me/l
Bicarbonate (HCO ₃)	239	ppm	3.92	me/l
Carbonate (CO ₃)		ppm		me/l
Iron (Fe)		ppm		me/l
Fluoride (F)		ppm		me/l
Hardness (EDTA as CaCO ₃)		ppm		g.p.g.***
Alkalinity (Methyl Orange)	196	ppm (as CaCO ₃)		
Alkalinity (Phenolphthalein)	0	ppm (as CaCO ₃)		
Electrical Conductivity	516	micromhos per cm at 25° C.		
Sodium Adsorption Ratio	0.61			
Sodium	15.60	% of cations		
Residual sodium carbonate	2.00	me/l		
pH	7.42			
Others:				

*ppm=parts per million

**me/l=milliequivalents per liter

***g.p.g.=grains per gallon

COMMENTS: Total cations 5.23 me/l
 Total anions 5.20 me/l

By: Harley Eitzen

Service Performed	Amount Due
Iron, titration analysis	\$6.00 PAID

Make checks payable to: Water Quality Laboratory

Cut along dotted line and return the lower portion with payment

Sample No. 74-1682

Amount Enclosed \$ _____

Signed _____

Form 5 - Notice of Intent to Appropriate Water

No. 1243-2

Publish first publication, on or before March 5, 1975

NOTICE
INTENT TO APPROPRIATE WATER

Pierre, South Dakota 57501

February 28, 1975

Notice is hereby given that Novotny Bros.

whose post office address is Colome, 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

1.0 cubic feet of water per second of time from the ground water through the their existing irrigation well, the point of diversion of which is to be located in the xxx

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 20, T98N, R76W

Said water is to be pumped into a storage reservoir with a capacity of 1050 cubic feet and xxx

of providing irrigation of the following described land:

SW $\frac{1}{4}$, Section 20, and supplemental irrigation on the NW $\frac{1}{4}$, Section 29, T98N, R76W

This application No. 1243-2 will be considered by the Water Rights Commission at its office at Pierre upon the 19th day of March, 1975, at 2:30 P. M. All interested persons may appear and be heard.

WATER RIGHTS COMMISSION

By:

BURTON F. JONES,
Water Rights Specialist

BFJ/bw
cc: Novotny Bros., Colome, S.D. 57528

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

No. 1243-2

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Texas) ss.

I, D. L. J. Hansen hereby
certify that the annexed print copy of Notice of Intent to Appropriate

Water was taken from the Winnipeg Advocate

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 Winnipeg

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

March 5, 1975

March 12, 1975

D. L. J. Hansen
(Signature)

Publisher
(Title)

March 18, 1975
(Date Signed)

No. 1243-2
NOTICE
INTENT TO APPROPRIATE
WATER

Pierre, South Dakota 57501
February 28, 1975

Notice is hereby given that
Novotny Bros., whose post office
address is Colome, 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 1.0 cubic feet of
water per second of time from
the ground water through their
existing irrigation well, the point
of diversion of which is to be
located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section
20, T98N, R76W. Said water is to
be pumped into a storage reservoir
with a capacity of 250 acre
feet and to be used for the
purpose of providing irrigation
on a portion of the following
described land:

SW $\frac{1}{4}$, Section 20, and supplemental
irrigation on the NW $\frac{1}{4}$,
Section 29, T98N, R76W.

This application No. 1243-2 will
be considered by the Water
Rights Commission at its office
at Pierre upon the 10th day of
March, 1975, at 3:30 p.m. All
interested persons may appear
and be heard.

WATER RIGHTS COMMISSION
By: Burton J. Jones
BURTON J. JONES
Water Rights Specialist (10-11)

1091-2
1092-2
1243-2

February 27, 1975

Mr. William J. Sratka, Jr., Attorney
222 E. Capitol
Pierre, South Dakota 57501

Dear Mr. Sratka:

In a letter to you dated June 27, 1973, I told you that you would be advised when the Novotny Brothers water right applications would be scheduled for reconsideration by the Water Rights Commission.

Consideration of water right applications involving the Novotny Brothers has been scheduled for hearing by the Water Rights Commission. These applications will be considered by the Water Rights Commission at 3:30 p.m., DST, on March 19, 1975, at its office in Pierre, South Dakota.

Enclosed for distribution as you deem advisable are seven copies of the report of the Commission staff pertaining to these Novotny Brothers water right applications.

Sincerely,

Donald Driscoll
Chief Engineer
Water Rights Commission

RICHARD O'BRYAN

Broker

Res. Phone 605-842-3404

Lenker Agency

Real Estate - Insurance - Bonds - Land Management

Phone 605-842-3212

P. O. Box 746

226 E. 2nd

WINNER, SOUTH DAKOTA 57500

Salesman

Res. Phone 605-842

April 21, 1975

Vern Butler
Dept. of Water Resources
Pierre, South Dakota 57501

Dear Vern:

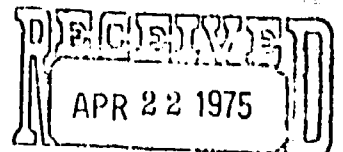
As I am running into some controversy with some things that have gone through your office up there, and need some direct answers, mainly in regards to what was agreed upon at the meeting regarding the Novotny Bros. reservoir. Also, when they can pump, when they have to shut off. Just about all that was discussed and put down on their application for approval. In otherwords, a copy of the minute's if at all possible.

I also, heard that Jorgensen Bros. have applied for application for approval for water, of what I understand is rural water district wells, with temporary application #12-56-2. I would like to know if this is in our area. If so what the description of the property is, as I would like to check the location, as I know they have land in the Brookings area and feel this application may be for this area. Please inform!

Yours truly

[Signature]

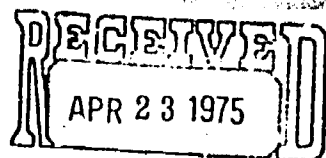
Richard O'Bryan



STATE WATER RIGHTS COMM.
PIERRE, SOUTH DAKOTA

Colome, South Dakota

April 22, 1975



STATE WATER RIGHTS COMM
PIERRE, SOUTH DAKOTA

State Water Resources Commission
Pierre, South Dakota

Dear Sir:

I am wanting some answers to some questions from the meeting on the approval of the Novotny Irrigation system which was approved on March 19, 1975.

- 1) Will they be allowed to pump into the irrigation system all year around?
- 2) Is it true that if the number 10 well is below the set level they will not be allowed to pump into both the diversion dam and the irrigation system or just the irrigation system.
- 3) Was there any restriction placed on the approval of the irrigation system?

I would also like a minutes of the meeting to sent to me for my information. of March 19, 1975,

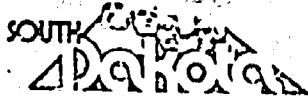
Thank you.

Sincerely yours,

Davis C'Bryan

I would like to know where the location of the Rural Water system District Wells are located which have been applied for JoJorgensen Brothers. The temporary number is 1256-2.

Thank you,



1243-3 & 1256-3

Department of Natural Resource Development

WATER RIGHTS COMMISSION

Office Building Number 2, Pierre, South Dakota 57501

Phone 605/224-3151

April 28, 1975

Mr. Richard O'Bryan
P.O. Box 746
Winner, South Dakota 57580

Dear Mr. O'Bryan:

Reference is made to your letter dated April 21, 1975, to Mavis O'Bryan's letter dated April 22, 1975 and to my telephone call to you on April 22, 1975.

The Water Rights Commission, on March 19, 1975, approved Water Right Application No. 1243-2 (Novotny Brothers) to divert up to 1 cubic foot per second of water from the existing irrigation well into a storage dam having a capacity of 250 acre feet, with the stored water then to be used as a supplemental source of water for existing irrigation in the NW $\frac{1}{4}$ of Section 29, T98N, R76W, plus additional irrigation of 72.6 acres in the SW $\frac{1}{4}$ of Section 20, T98N, R76W. Quoted for your information are the special qualifications included in approved Water Permit No. 1243-2.

"The irrigation well approved under this Permit will be located near domestic wells and other irrigation wells which may obtain water from the same aquifer. The irrigation well owner, under this Permit, shall control his irrigation withdrawals so there is not a reduction of needed water supplies in existing domestic wells or in irrigation wells having prior water rights.

The irrigation well owner under this Permit shall not withdraw water for storage when the water table in City Observation Well No. 10 is at a level of 19 feet or lower, except during the months of July and August, withdrawals from the irrigation well shall not be made when the water level in City Observation Well No. 10 is at a level of 16 feet or lower.

If deemed advisable by the Commission, in the best Public Interest, the Permit Holder shall reduce or stop withdrawals of water from the irrigation well for any period specified by the Commission.

This Permit authorizes the storage of up to 250 acre feet of water."

Mr. Richard O'Bryan

Page 2.

April 28, 1975

Water Permit No. 2211-3 of Martin Jorgenson, Jr. was approved by the Water Rights Commission on March 19, 1975. It authorized the diversion of up to 3.30 c.f.s. of ground water to irrigate up to 234 acres of land at a location approximately seven miles south of Brookings, South Dakota.

Water Right Application No. 1256-2 has been received from the Tripp County Rural Water District. It proposes to divert up to 0.8 c.f.s. (360 g.p.m.) from two or more wells (approximately 160 foot depth) in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 32, T98N, R76W to be used for a rural and suburban water supply system in northern Tripp County. This Water Right application No. 1256-2 will be considered by the Water Rights Commission at its office in Pierre upon the 21st day of May, 1975 at 2:30 P.M.

After the March 19-20 minutes have been approved by the Water Rights Commission on May 21, 1975, a copy of the minutes will be sent to you.

Sincerely,

DONALD DRISCOLL
Chief Engineer
WATER RIGHTS COMMISSION

DD/bw

NOVOTNY BROTHERS WATER RIGHT APPLICATION NO. 1243-2

At its November 1971 meeting the Commission considered Water Right Application No. 1091-2 and 1092-2 of Novotny Brothers for ground water irrigation. The proposed locations were in the general area of Winners' East City Well Field, located about seven miles south of Winner. Previously Water Right Application No. 1047-2 of Novotny Brothers had been approved authorizing the diversion of up to 2.0 cubic feet per second of water to irrigate up to 160 acres of land.

Water Right Application No. 1091-2 proposed to divert up to 0.66 cubic feet per second of water from a 135 foot deep well to irrigate up to 46½ acres of land. Water Right Application No. 1092-2 proposed to divert up to 2 c.f.s. of ground water from a 135 foot deep well to be located near the existing irrigation well, to furnish supplemental water to existing Water Permit No. 1047-2 lands plus the irrigation of an additional 75 acres of land. A number of written objections were received and a number of people were at the November 1971 meeting to express their concern that approval of the applications would be harmful to domestic water supplies in the area. The Commission deferred further consideration to allow observation wells to be placed in the area and pending investigation by the Commission Staff.

Now Novotny Brothers have submitted Water Right Application No. 1243-2 and requested that their Water Right Application No. 1091-2 be withdrawn from consideration. Water Right Application No. 1243-2 proposes that a dam be constructed (storage capacity 250 acre feet) and that water from the existing irrigation well (Water Permit No. 1047-2) be withdrawn on a year around basis (to the extent needed) and be stored in the proposed dam. From the dam, the water would then be pumped as a supplemental source of water to the 160 acre tract being irrigated under Water Permit No. 1047-2 plus irrigation of the other 75 acres included in Water Right Application No. 1092-2. Existing Water Permit No. 1047-2 authorized the diversion of 2. c.f.s. of water but the well constructed produced a maximum of about 1 c.f.s. and that is the diversion rate applied for in the new Water Right Application No. 1243-2.

There are a number of attachments to this report to aid in explaining the situation:

Attachment A is a sketch map showing the locations of the different wells, areas and other involved topography;

Attachment B is a profile sheet indicating the ground surface and water table elevations of the well sites;

Attachment C shows surface geology of the area as contained in Special Report 36, Ground Water Supply for the City of Winner prepared by the State Geological Survey;

Attachment D contains graphs showing measurements of Water Rights Commission Wells, T72A, T72B, T72C, T72D and T72E - City Observation Well No. 10 and the Jelinek Domestic well. These measurements as shown are from the top of the casing, or other measuring point and in most cases is not the depth of water from the ground surface.

Following is a summary of some of the data obtained on the different observation wells.

Well	Cased Depth of Well	Depth of Saturated Sands	Highest Depth of Water Level	Lowest Depth of Water Level	Difference between Highest and Lowest Depth Measurement
T72A	71'	14'	60.3'	63.9'	3.6'
T72B	86'	82'	27.2'	28.7'	1.5'
T72C	59'	30'	21.4'	27.0'	5.6'
T72D	65'	80'	8.5'	18.1'	9.6'
T72E	44'	100'	5.1'	8.2'	3.1'
City Well 10	45'	-	7.9'	22.1'	14.2'
Jelinek Well	34'	14'	5.5'	16.3'	10.8'

Based on the information contained in the attachments and from field observations the following assumptions and conclusions are made.

Observation Well T72A is located about 800 feet east of the existing irrigation well. If the water levels in T72A are affected by the irrigation withdrawals the effect is very slight. The domestic well located about 1000 feet west of the irrigation well has sand depths and pumping rates which indicate no irrigation potential at that location. It appears that the Novotny irrigation well is located in a narrow width of fairly deep, saturated, permeable sands. The irrigation well is reported to be about 135 feet deep with a depth to water of about 65 feet.

Observation well T72B is not affected by either the irrigation pumping or pumping from the Winner East Well Field.

Observation well T72C is affected by pumping of the Winner East Well Field. However it appears that this effect does not occur until the water table in the east well field as measured by City Well No. 10 is lowered to a considerable extent.

Observation well T72D is affected by pumping of the Winner East Well Field and there is a relationship between the water levels in T72D and City Observation Well No. 10.

Observation well T72E is not affected by the irrigation pumping and if there is any effect from the pumping of the east well field, it is very slight.

Withdrawals from the irrigation well do not result in definite recognizable effects on the Jelinek Domestic well.

Attachment C is a copy of the surface geology map of the involved area prepared by the State Geological Survey. Note how the Novotny irrigation well is near the north border of the Valentine Formation, which is the aquifer from which water is pumped in the Winner East Well Field. This is a generalized map and the area of the Valentine Formation as shown does not consist entirely of permeable and saturated sands and gravels. The Commission Staff is aware of a number of test holes which indicate little or no saturated sands. It seems that the Valentine Formation contains saturated sand beds of unpredictable size, porosity, depth and location until carefully surveyed.

Measurements of City Observation Well No. 10 together with measurements of the Water Rights Commission Observation Wells indicate that the maximum drawdown occurs in a relatively narrow width in the Winner East Well Field. The Commission Staff believes it generally takes surface runoff in Mud Creek through this area to cause a substantial recharge in the drawn down portion of the aquifer. In addition to the water withdrawn by pumping there are spring areas downstream along Mud Creek which are presumably fed by water from this aquifer.

It is also presumed that the existing Novotny Irrigation well taps the same aquifer that supplies the Winner East Well Field. It has not been determined by what path water reaches the existing Novotny Irrigation Well but it appears that the irrigation well is located near the north edge of the aquifer, has a steep water table gradient (35 feet drop per mile) sloping downwards towards the north.

To date there is no positive evidence that withdrawals from the Novotny Irrigation Well has any effects on any existing water supply systems. However if Water Right Application No. 1243-3 is approved, the Commission Staff believes it should have qualifications stating that withdrawals of water being pumped into storage can be restricted if the withdrawals do start affecting existing water supply systems. The Commission Staff also believes, at least until further information

is obtained, that water from the irrigation well should not be made when the water table in the Winner East Well Field is at a unusually low level.

The recommendation of the Commission Staff is that Water Right Application No. 1243-2 be approved containing the following qualification:

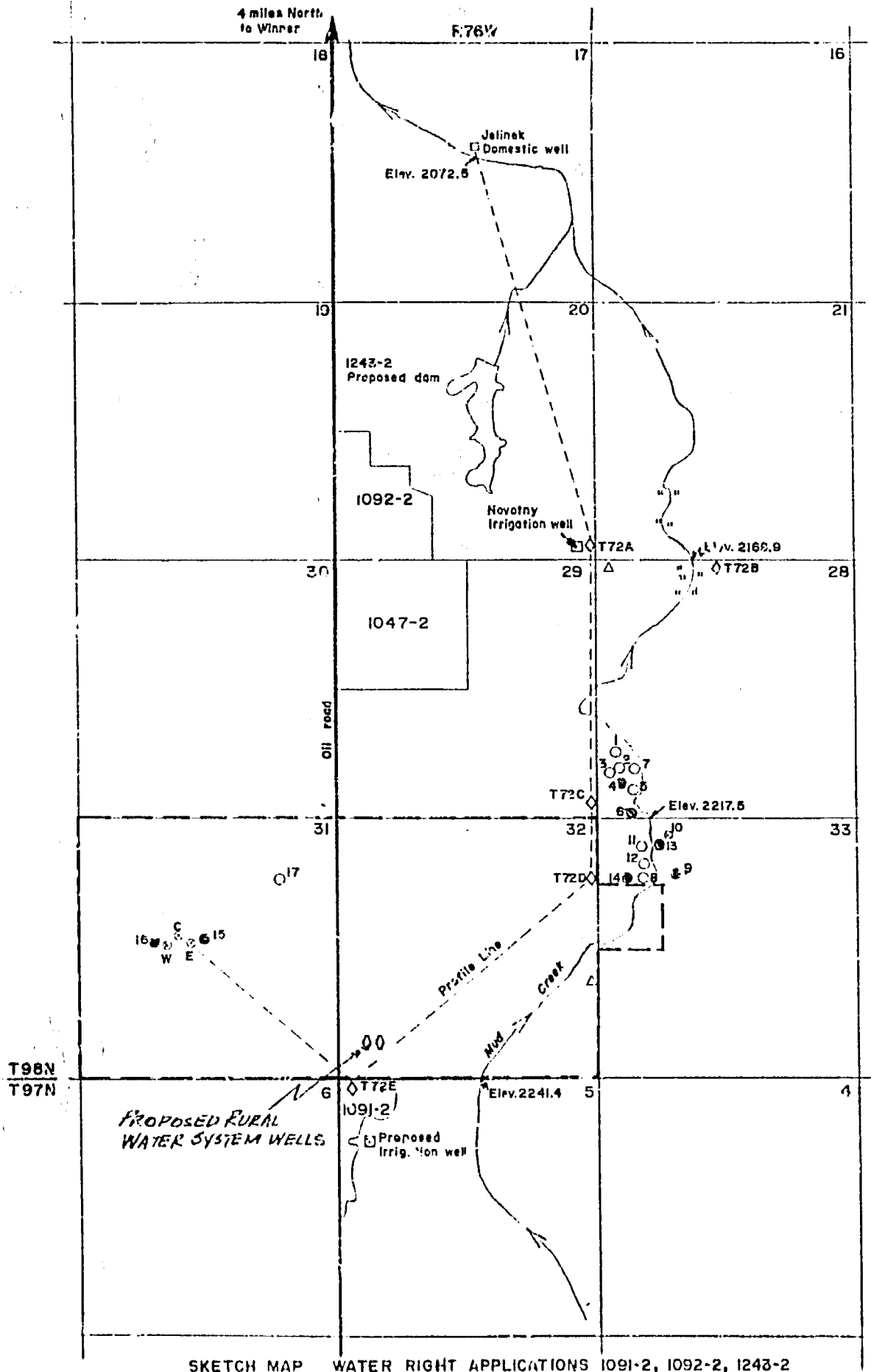
The irrigation well approved under this Permit is located near domestic wells and other wells which may obtain water from the same aquifer. The irrigation well owner, under this Permit, shall control his irrigation withdrawals so there is not a reduction of needed water supplies in existing domestic wells or in other wells having prior water rights;

The irrigation well owner under this Permit shall not withdraw water for storage when the water table in City Observation Well No. 10 is at a level of 19 feet or lower;

This Permit authorizes the storage of up to 250 acre feet of water.

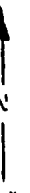
####

ATTACHMENT A

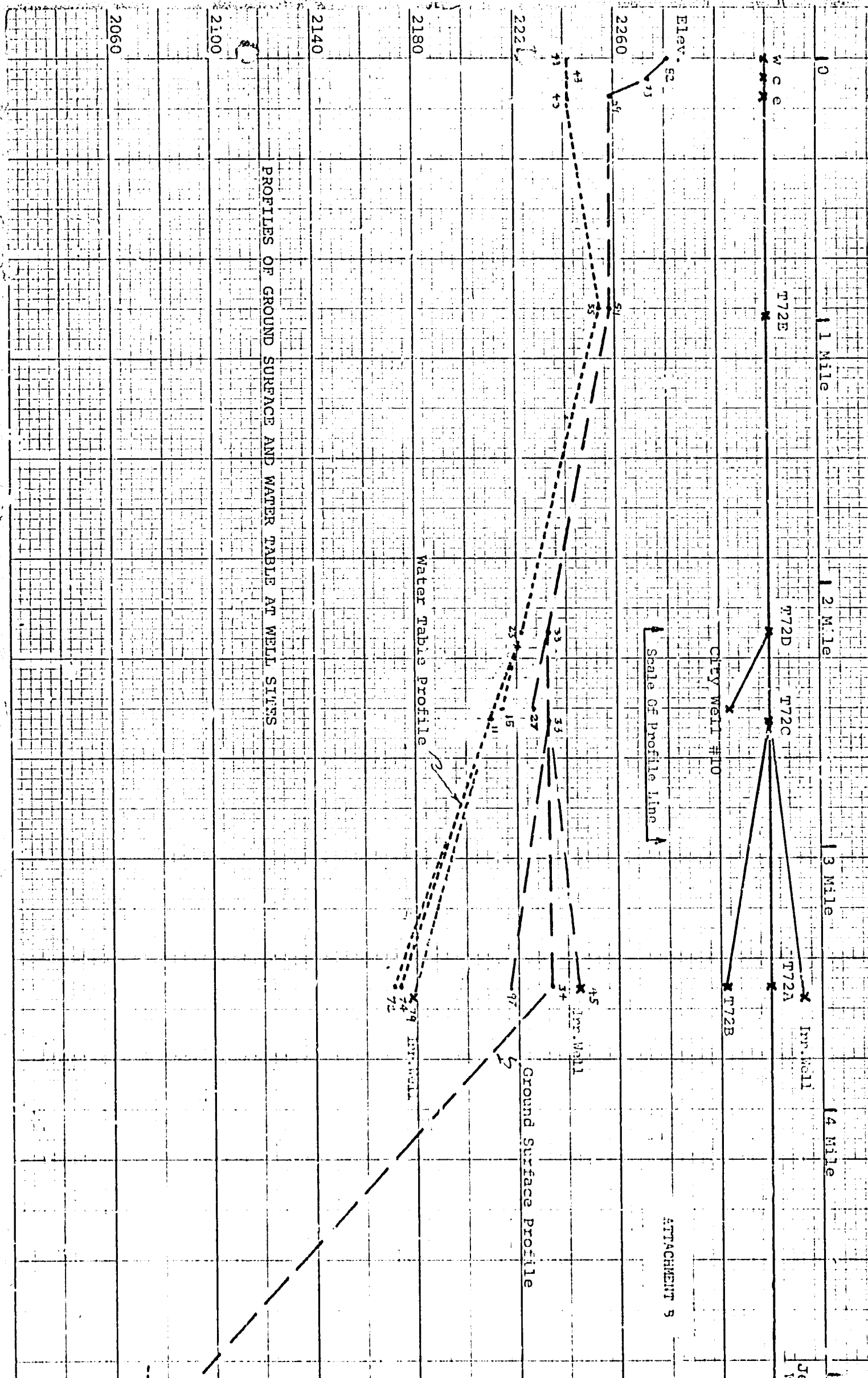


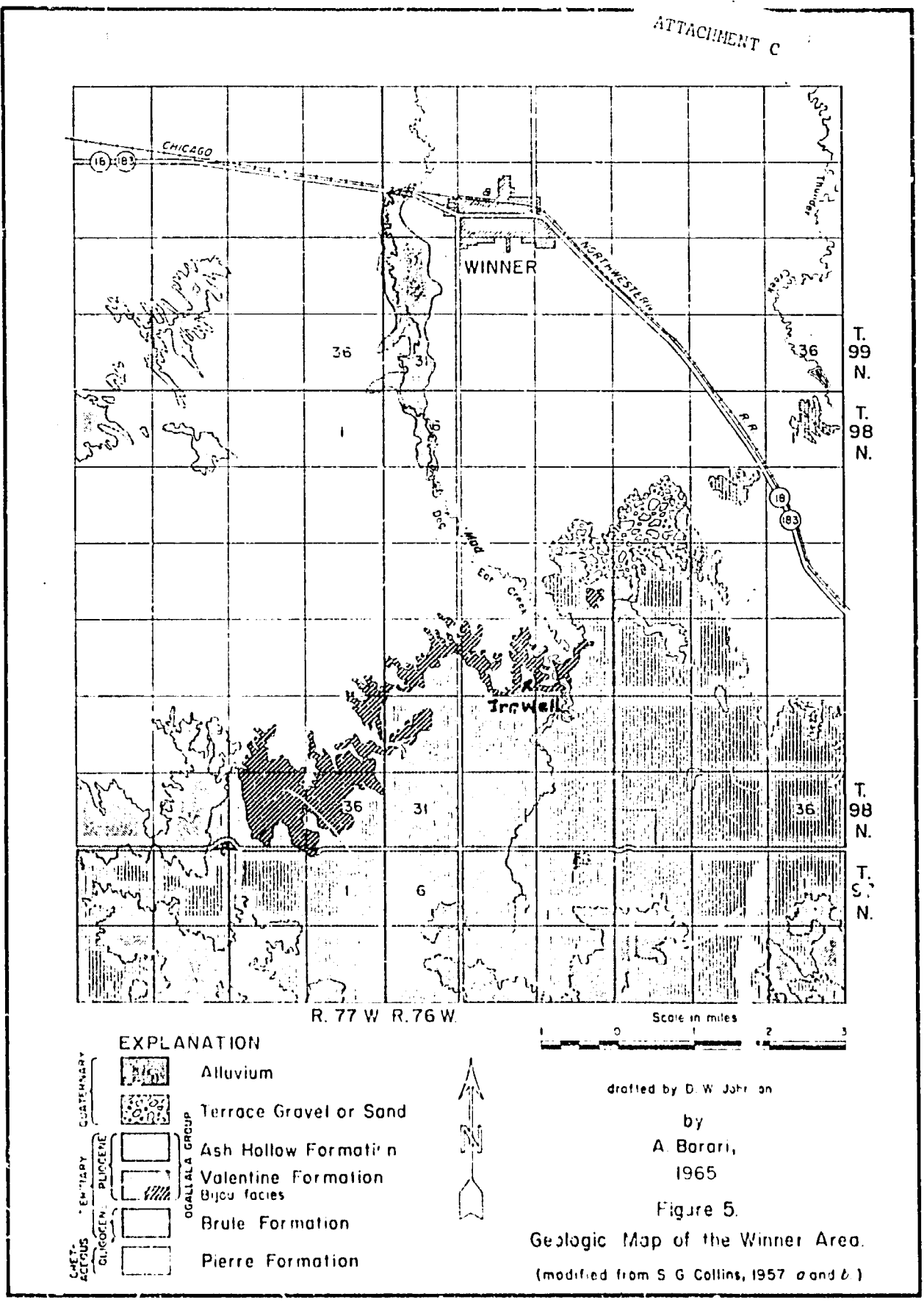
SYMBOLS

- Active City Well
- Inactive City Well
- ⊙ City Observation Well
- ⊕ W.R.C. Observation Well
- △ W.R.C. Dry Test Hole
- Boundary-Winner Future Use W.R. Area
- " " Spring Area



Scale: 2" = 1 Mile





drafted by D. W. Johnson
by
A. Borari,
1965
Figure 5.
Geologic Map of the Winner Area.
(modified from S. G. Collins, 1957 a and b)

Formation and the Pliocene Ogallala Group respectively, which is represented in the Winner area by the Valentine Formation (and Bijou facies) and the Ash Hollow Formation (fig. 5).

The Ash Hollow Formation consists of medium gray to light olive-greenish calcareous sandstones forming caps on the buttes and the high undrained divides. The thickness of this unit in the Winner area is 35 feet (Collins, 1957b).

The Valentine Formation is a greenish-tan to tan, fine to medium grained, poorly consolidated arkosic sandstone. This formation is at the surface throughout much of the southern part of the study area (fig. 5). The thickest sequence of this formation penetrated in test drilling was less than 100 feet, although Collins (1957a) lists the maximum thickness as 140 feet. Included in the Valentine Formation is the Bijou facies, a gray to greenish fine grained opaline arkosic sandstone which is silica cemented. Maximum thickness of this unit is 5 feet (Collins, 1957a).

The Pierre Shale is a dark, platy marine clay shale, calcareous in the lower part and contains thin layers of dark limestone and siderite. Maximum exposed thickness is 398 feet (Collins, 1957a), although the total thickness may be as much as 1000 feet in the Winner area.

Subsurface Bedrock

The subsurface information is extrapolated to the Winner area from the Kucera #1 Bartels oil test, six miles north of Winner.

Cretaceous Sediments

The Niobrara Formation consists mostly of light- to medium-gray, white speckled calcareous shale or marl and is approximately 140 feet thick.

The Carlile Shale is a light- to medium-gray, plastic shale and is about 280 feet thick.

The Greenhorn Limestone ranges between a nearly white fragmental limestone and a medium gray, very calcareous shale and is 40 feet thick.

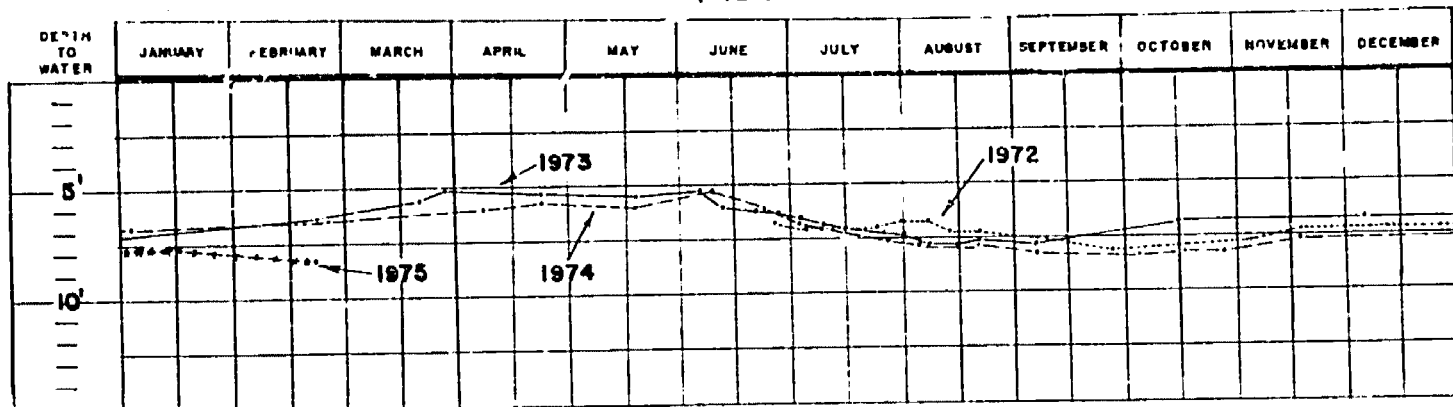
The Belle Fourche Shale is about 150 feet thick and consists of medium gray shale.

The Dakota Formation, made up of alternating shale and sandstone, is nearly 420 feet thick in the Winner area; the lower 130 feet is mostly sandstone.

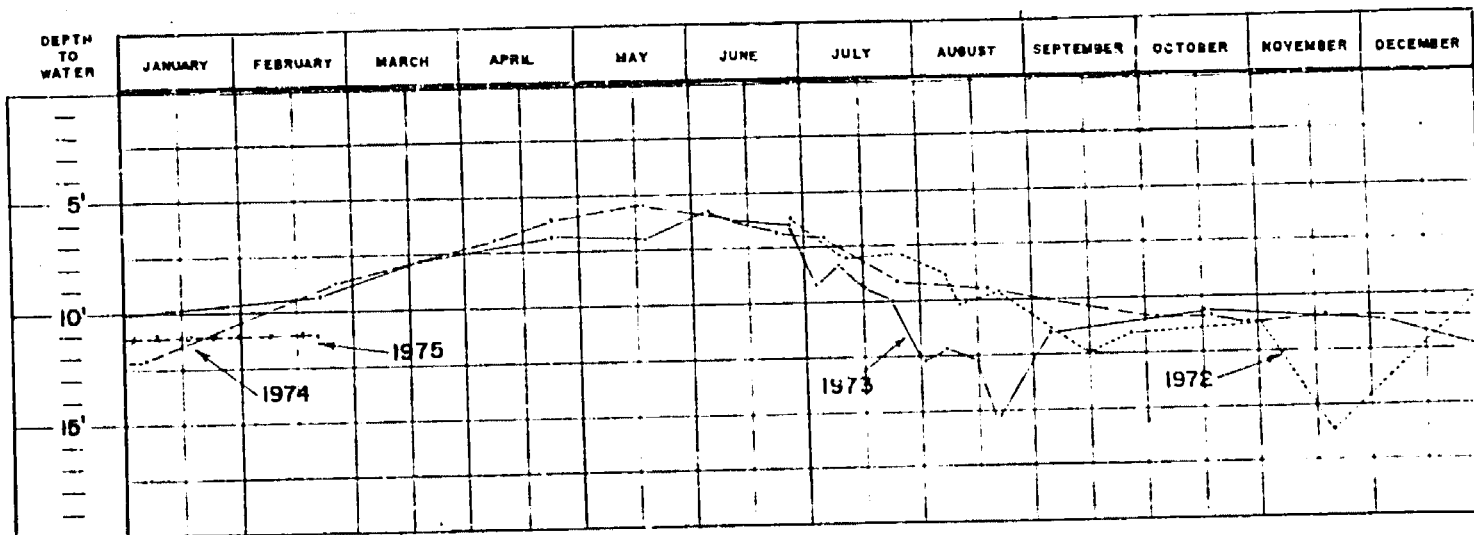
The Skull Creek Shale is a medium gray shale and is approximately 40 feet thick.

The Inyan Kara Group consists of alternating beds of shale and sandstone and is at least 300 feet thick.

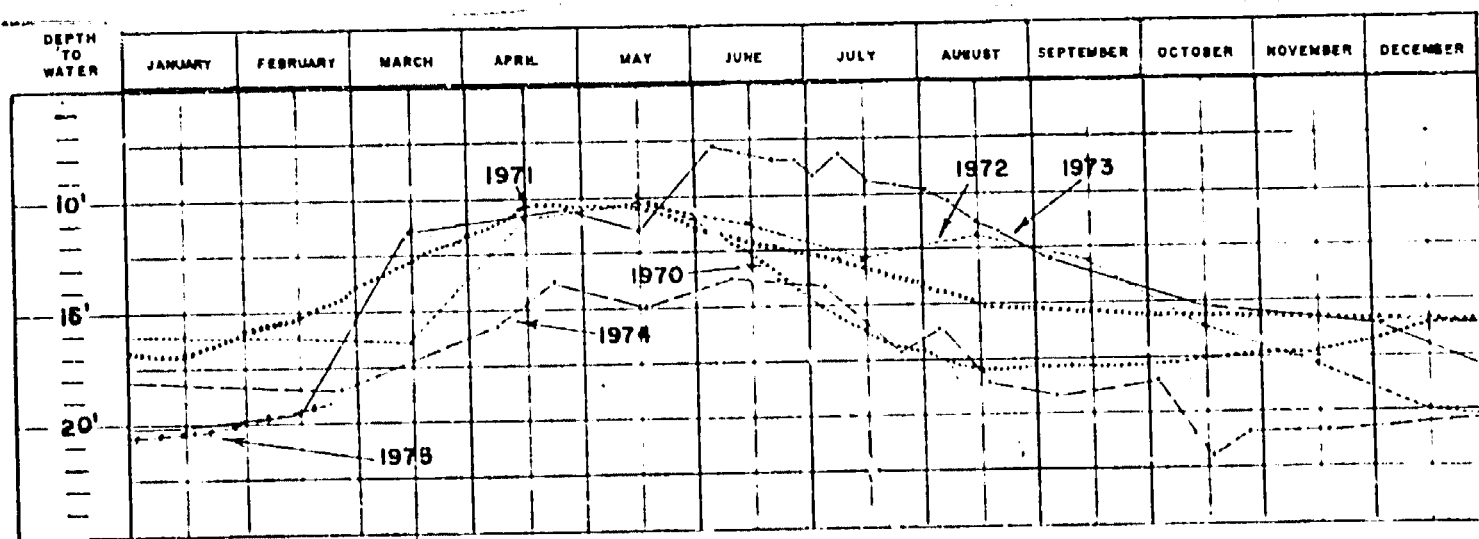
T 72 E



JELINEK

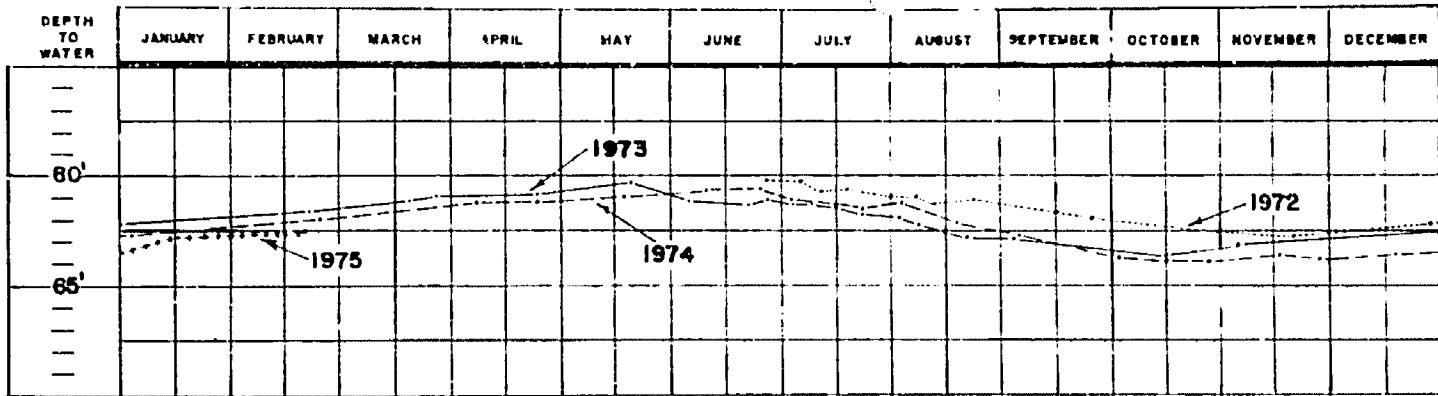


CITY NO. 10

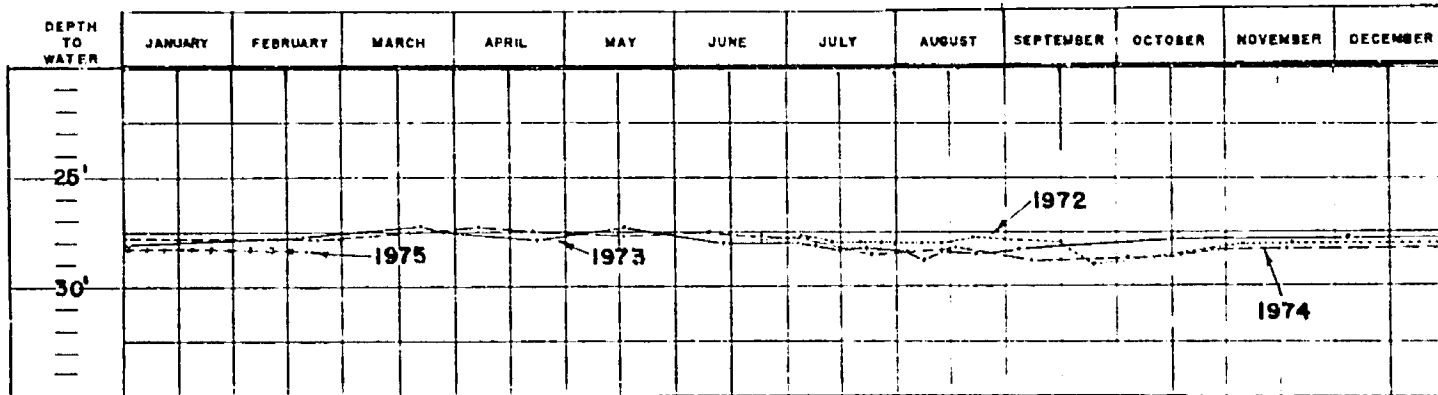


T 72 A

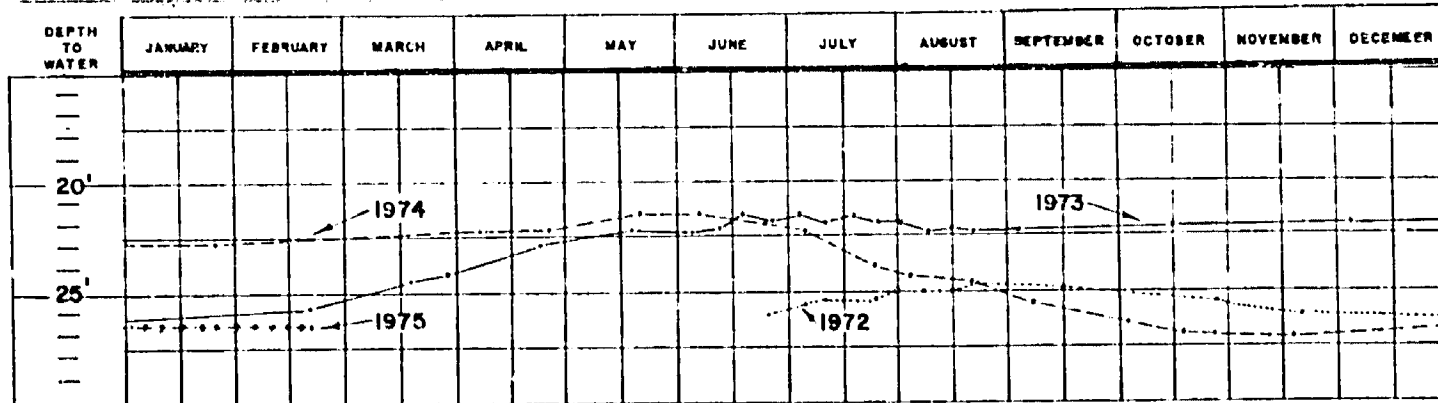
ATTACHMENT D



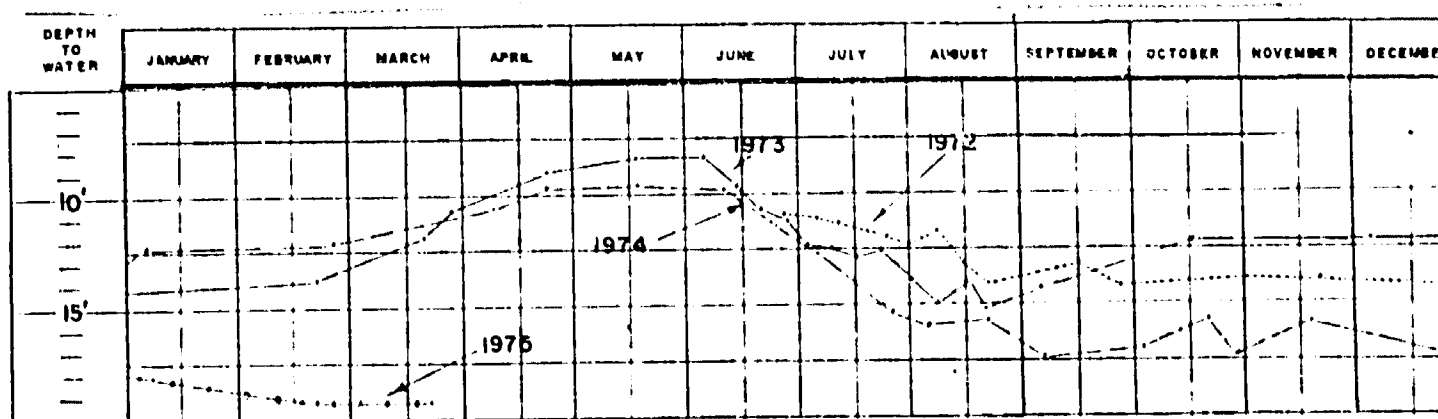
T 72 B

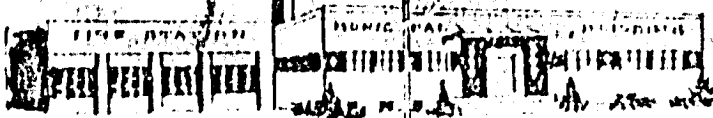


T 72 C



T 72 D





CITY OF WINNER

217 East Third Street, Winner, South Dakota 57581

"In the Heart of the Blackfoot"

July 13, 1976

Mr. Virgil Novotny
RR
Colome, S.D. 57520

Dear Mr. Novotny:

Attached is a copy of your irrigation permit
#1243-2 from Water Rights Commission.

We ask that you operate your pumping system in
compliance with the stipulation in attached
permit.

As you know our #16 well level is at 25'1" and
has been below 10' since early in this year.

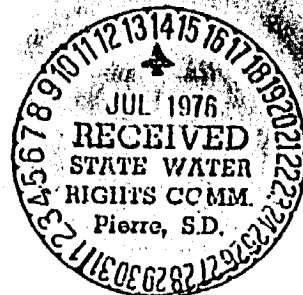
Yours truly,

Clair Turgeon, Utilities Supt.
CITY OF WINNER

CT:de

Enclosure 1

CC: South Dakota State Water Rights Commission



W. R. 1243-2

June 28, 1976

Dale Nagel
Colomo
South Dakota 57528

Dear Mr. Nagel:

As reported to your wife over the telephone late Friday afternoon,
the Novotny Brothers ceased pumping under W. R. # 1243-2
June 16, 1976.

Very truly yours,

Vern W. Butler
Secretary

VWB:nrf

CC: Albert Novotny
Winner, South Dakota

SAFETY OF DAMS QUESTIONNAIRE NR 1243-2.

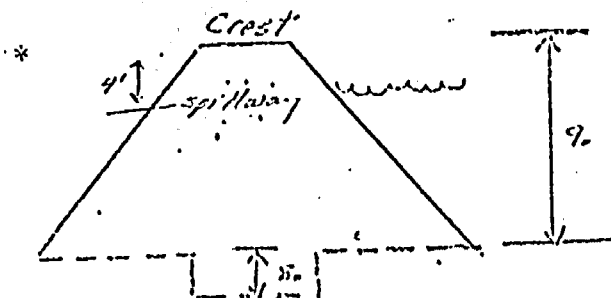
1. Name of dam -
2. Popular name -
(if different from above)
3. Name of impoundment -
(official name of reservoir)
4. River or stream - *dry draw*
5. Type of dam -
(earth, concrete, etc.)
6. Year completed - *1975*
7. Use (Irrigation, etc.) -
- * 8. Trench depth - *varies 8' - 27' are =*
(if part of design)
- * 9. Hydraulic height - *41.6*
10. Impounding acre feet
a. maximum - *575 5.55*
b. normal - *475 22.6 acres*
11. Crest length - *603'*
(includes spillway(s)).
excludes
12. Spillway
a. type - *natural saddle*
b. width - *side slopes 4 to 5:1*
13. Volume of dam - *58,130*
(in cubic yards).
14. Owner - *Novelty Bros Inc*
15. Designed by - *L. Anderson*
16. Construction by - *Schweitzer Const.*
17. Legal description - *NW NE 20-98N-76W*
(section - township - range)

$$S = .03$$

$$n = .035$$

$$Q = \frac{1.486}{.035} (232) (3.017)^{2/3} (.03)^{1/2}$$

$$= 3536$$



No trick tube



1247-27

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

November 25, 1991

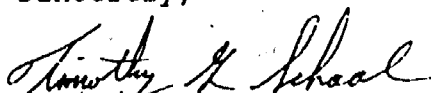
Virgil Novotny
RR 3, Box 24
Colome, SD 57538

Dear Mr. Novotny:

Enclosed is an application to add the additional storage in your irrigation dam as we discussed earlier. This application will also add the use of the dam in Water Permit No. 1047-2. Previously, the dam was only mentioned in Water Permit No. 1243-2. Please review the information, and if everything looks correct, return the forms to us, signed and notarized, along with the filing fee of \$250.00.

If you have any questions, please feel free to contact me.

Sincerely,


Timothy G. Schaal, P.E.
Natural Resources Engineer
Water Rights Division
(605) 773-3352

encl.

cc: Steve Novotny

1243-2



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 25, 1991

Novotny Brothers, Inc.
% Steve Novotny
RR 3, Box 26
Colome, SD 57538

Dear Mr. Novotny:

Enclosed is a copy of the letter and application form I sent to Virgil Novotny concerning the additional storage in the irrigation dam. According to my calculations, I could not come up with more than the 520 Ac-Ft. of storage. I talked to Virgil and he thought that sounded about right.

Also, we still need to receive the \$50.00 inspection fee for Water Permit No. 1243-2. This permit was inspected in September 1983, and several letters were sent requesting this fee (Copy enclosed).

If you have any questions, please feel free to contact me.

Sincerely,

Timothy G. Schaal, P.E.
Natural Resources Engineer
Water Rights Division
(605) 773-3352

encl

cc: Virgil Novotny

AGREEMENT

This Agreement made and entered into this 1st day of July, 1976, by and between Novotny Bros., Inc., a South Dakota Corporation by Virgil J. Novotny, President and Dorothy M. Novotny, Secretary, hereinafter referred to as the First Party and Virgil J. Novotny and Dolores Novotny, also known as Dolores A. Novotny, husband and wife, hereinafter referred to as the Second Party all of Colome, South Dakota, WITNESSETH:

Whereas, the First Party is presently the owner of the North Half (N $\frac{1}{2}$) of Section Twenty (20), Township Ninety-eight (98) North, Range Seventy-six (76), West of the 5th P.M., Tripp County, South Dakota, upon which is situated a dam used for impoundment of water which said water is used for recreational, irrigation and livestock purposes and, whereas, the Parties hereto desire to set forth the terms of their usage of said dam.

Now, Therefore, It is hereby agreed that in partial consideration of the Second Parties transfer to the First Party of all shares owned by the Second Parties in the First Party, the Second Parties shall have equal rights to the use with First Party of the water stored in said dam for irrigation and personal recreational purposes.

As further consideration for this said Agreement, the Parties hereto agree that the cost of pumping water into said dam will be shared on the basis of the amount of water pumped by the respective Parties from said dam, it being further understood that each Party hereto shall be liable and responsible for any damages sustained to the property of the other in conjunction with the usage of the water from said dam for irrigation and recreational purposes.

As further consideration in the premises, It is agreed that the irrigation well which is located in Novotny's Outlot "B" in the Southeast Quarter (SE $\frac{1}{4}$) of Section Twenty (20), Township Ninety-eight (98) North, Range Seventy-six (76), West of the 5th P.M., together with the pumps and motors shall be owned one-half by First Party and one-half by Second Party and that the cost of pumping from said irrigation well shall be shared by each Party hereto according to the amount of their usage of said irrigation well.

To fulfill the terms of this Agreement, the Parties hereto also agree to execute Agreements one to the other conveying easements and rights of way, and water rights over and across that real estate herein described.

It is also understood between the Parties hereto that the water in the dam above described shall never be drawn up so as to cause the water to be less than 15' in depth.

The Parties hereto further agree that no water or water rights to any of the land owned by either Party hereto which may be located in Section Twenty (20), Township Ninety-eight (98) North, Range Seventy-six (76), West of the 5th P.M., Tripp County, South Dakota, shall be sold by either Party to third persons without the written consent of the other Party hereto.

It is further understood between the Parties hereto that the terms and conditions of this Agreement shall run with the land and shall inure to the benefit of the Parties, their heirs, successors and assigns.

The Parties hereto bind their heirs, successors, and assigns and personal representatives to the faithful performance of the terms and conditions of this said Agreement.

NOVOTNY BROS., INC.

WITNESSES:

By

Virgil J. Novotny
President

Dorothy M. Novotny
Secretary

Virgil J. Novotny
Virgil J. Novotny

Delores Novotny
Delores Novotny

STATE OF SOUTH DAKOTA)
COUNTY OF TRIPP) 65

On this the 1st day of June, 1976, before me, the undersigned officer, personally appeared Virgil J. Novotny and Dorothy M. Novotny who acknowledged themselves to be the President and Secretary respectively of Novotny Bros., Inc., a South Dakota Corporation and that they as such President and Secretary, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the Corporation by themselves as President and Secretary.

In Witness Whereof I hereunto set my hand and official seal:

Ruben O. Maulis
Notary Public

My Commission Expires: 2/19/81

STATE OF SOUTH DAKOTA)
COUNTY OF TRIPP) 65

On this the 1st day of June, 1976, before me, the undersigned officer, personally appeared Virgil J. Novotny and Delores Novotny, known to me or satisfactorily proven to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same for the purposes therein contained.

In Witness Whereof I hereunto set my hand and official seal.

Ruben O. Maulis
Notary Public

My Commission Expires: 2/19/81

566306
 State of South Dakota,
 County of Tripp, ss. Clerk of District
 Filed for record this 29 day of
Sept. A.D. 1976, at 10:30
 o'clock, A.M., and recorded in book 24
 of Waco pages 482
 on partition.
 By James H. Reynolds
 Register of Deeds.
 Deputy

Joe & Bob Fack
 1100 Throckmorton
 Waco

Microfilmed	☒
Compared	☒
Grantor	☒
Grantee	☒
Indexed	☒
Noted	☒
Release	☐
Transfer	☐
Report	☒

STOCK REDEMPTION AGREEMENT

This Agreement made and entered into this day of , 1976, by and between Virgil J. Novotny and Delores Novotny, also known as Delores A. Novotny, hereinafter referred to as the "Stockholders" and Novotny Bros., Inc., a South Dakota Corporation, hereinafter referred to as the "Corporation", all of Colome, South Dakota, WITNESSETH:

Whereas, the Stockholders own shares of capital stock of the Corporation which the Stockholders desire to sell and, whereas, it is determined to be in the best interests of the Corporation to restrict the transfer of the capital stock of the Corporation in such a manner that it shall not find its way into the hands of persons who might be opposed to the best interest of the Corporation and its business.

Now, Therefore, in consideration of the premises, the parties hereto do mutually covenant and agree that the Corporation shall redeem and the Stockholders shall sell and transfer their shares of stock in the Corporation in the manner and upon the terms hereinafter provided:

- 1) The Corporation shall issue to the Stockholders a good and sufficient Quit Claim Deed to that property referred to as the Albaugh Ranch consisting of 1520 acres, more or less, subject only to the unpaid balance of the purchase price and the unpaid balance of the debts for which said property has been given as security. - It is also understood, however, that the Corporation shall issue its Promissory Note to the Stockholders in the amount of Thirty Five Thousand Eight Hundred Eighty Four and 35/100 (\$35,884.35) Dollars which Note shall provide for six annual payments of Five Thousand Nine Hundred Eighty and 72/100 (\$5,980.72) Dollars each plus the accumulated interest at the rate of 6 1/2 per annum. The first of said annual payments shall be due on June 1, 1977, and interest shall begin on June 1, 1976. Said Promissory Note shall be co-signed by Steven Novotny, Dorothy M. Novotny, and Robert Novotny.
- 2) The Corporation shall convey to the Stockholders, by means of a good and sufficient Quit Claim Deed, Novotny's Outlot "B" in the Southeast Quarter (SE 1/4) of Section Twenty (20), Township Ninety-eight (98) North, Range Seventy-six (76), West of the 5th P.M., Tripp County, South Dakota.
- 3) The Corporation shall convey to the Stockholders, by means of a good and sufficient Quit Claim Deed, the East 447.9' of Outlot "A" in the Northeast Quarter (NE 1/4) of Section Twenty-nine (29), Township Ninety-eight (98) North, Range Seventy-six (76), West of the 5th P.M., Tripp County, South Dakota.
- 4) The Corporation shall convey, by means of a good and sufficient Bill of Sale, five grain bins located on the Southeast Quarter of the Southwest Quarter (SE 1/4 SW 1/4) of Section Twenty (20), Township Ninety-eight (98) North, Range Seventy-six (76), West of the 5th P.M., Tripp County, South Dakota, together with an Easement upon said property for the location of said bins and for the purpose of

ingress and egress to said bins which said Easement shall remain in full force and effect so long as the bins remain on the premises.

- 5) The two domestic or livestock wells, one of which presently is located on the West one-fourth (W $\frac{1}{4}$) of Novotny's Outlot "B" above described and the other being located on the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section Twenty-nine (29), Township Ninety-eight (98) North, Range Seventy-six (76), West of the 5th P.M., Tripp County, South Dakota, shall be available for the equal usage of each party hereto, however, the cost of maintenance and repairs shall be shared on a 50-50 basis. Neither party hereto shall excessively use the water from said wells so as to deprive the other party of water for domestic purposes.
- 6) Each party hereto shall have an equal right to use the water storage reservoir or dam located on the North Half (N $\frac{1}{2}$) of Section Twenty (20), Township Ninety-eight (98) North, Range Seventy-six (76), West of the 5th P.M., Tripp County, South Dakota, for irrigation and personal recreational and wild life purposes it being understood, however, that the cost of pumping into the dam will be shared on the basis of the amount of water used by the parties from said dam.
- 7) The reservoir shall never be pumped below a depth of 15 feet by either party hereto. The irrigation well located on Novotny's Outlot "B" above described shall be owned by both parties on an equal basis and the cost of pumping including repairs shall be shared according to use by the respective party of water from the reservoir above described. The pump and motor on the irrigation well shall also be equally owned and the cost of operation and repair shared on the same basis as with the irrigation well; however, each party shall own their own irrigation equipment and the parties hereto shall have or give to the other party the necessary water rights and easements.
- 8) Neither party hereto shall convey water rights or easements to third persons without the consent of the other to any part of portion of the real estate owned by either of said parties in Section Twenty (20) and in the Northwest Quarter (NW $\frac{1}{4}$) of Section Twenty-nine (29), Township Ninety-eight (98) North, Range Seventy-six (76), West of the 5th P.M., Tripp County, South Dakota.
- 9) The Stockholders shall have the personal usage of the scale house located on the South Half (S $\frac{1}{2}$) of Section Twenty (20) above described on condition that they pay one-half of the inspection fees.
- 10) The livestock owned by the Corporation shall be divided equally between the parties hereto and the Corporation has assigned a brand owned by the Corporation to the Stockholders.
- 11) The Stockholders shall convey to the Corporation by means of a good and sufficient Quit Claim Deed all of their right, title, and interest in and to Section Twenty (20), Township Ninety-eight (98) North, Range Seventy-six (76), West of the 5th P.M., less the

North 1020.7 feet of the West 818.6 feet of the Northwest Quarter (NW $\frac{1}{4}$) of said Section Twenty (20) and less the North 470 feet of the West 600 feet of the Southwest Quarter (SW $\frac{1}{4}$) of said Section Twenty (20) and less Novotny's Outlot "B" in the Southeast Quarter (SE $\frac{1}{4}$) of said Section Twenty (20) all in Township Ninety-eight (98) North, Range Seventy-six (76), West of the 5th P.M., and the Northwest Quarter (NW $\frac{1}{4}$) of Section Thirteen (13), Township Ninety-eight (98) North, Range Seventy-seven (77), West of the 5th P.M., and all of Outlot "A" in the Northeast Quarter (NE $\frac{1}{4}$) of Section Twenty-nine (29), Township Ninety-eight (98) North, Range Seventy-six (76), West of the 5th P.M., except the East 447.0 feet thereof.

- 12) The Stockholders shall give a good and sufficient Bill of Sale to the Corporation for the fertilizer business of Novotny Bros., Inc. including but not exclusive of all machinery and equipment used in conjunction with the fertilizer business and all of the fertilizer inventory.
- 13) The parties shall divide the ownership of all of the machinery of the Corporation and execute the necessary Bills of Sale to effect the division.
- 14) Each Party shall have a reasonable time to remove the personal property owned by the respective party from the property whether previously owned by the other party or hereby acquired by the other party.
- 15) The Stockholders shall assign all of their shares in Novotny Bros., Inc. to the Corporation.

The Parties hereto bind their heirs, successors, and assigns to the faithful performance of the terms and conditions of this Agreement.

In Witness Whereof the Parties hereto set their hands the day and year first above written.

WITNESSES:

Ruben G. Maulis

William S. Novotny

STOCKHOLDERS:

Virgil J. Novotny
Virgil J. Novotny

Delores Novotny
Delores Novotny

CORPORATION:

NOVOTNY BROS., INC.

By Virgil J. Novotny
President

Delores Novotny
Secretary

CASEMENT

Novotny Bros., Inc., a South Dakota Corporation of Tripp County, South Dakota, Grantor, for and in consideration of One and No/100 (\$1.00) Dollar & OVC does hereby unconditionally give, convey, and grant unto Virgil J. Novotny And Delores Novotny, husband and wife, of Colome, South Dakota, Grantees. an Easement to lay, construct, maintain, repair and otherwise use water lines and water mains for domestic use and irrigation use across the following described real estate located in the County of Tripp, State of South Dakota, to-wit:

All of Section Twenty (20), except the North 1020.7 feet of the West 818.6 feet of the Northwest Quarter (NW $\frac{1}{4}$) of said Section Twenty (20) and less the North 470 feet of the West 600 feet of the Southwest Quarter (SW $\frac{1}{4}$) of said Section Twenty (20) and less Novotny's Outlot "B" in the Southeast Quarter (SE $\frac{1}{4}$) of said Section Twenty (20) and all of Outlot "A" in the Northeast Quarter (NE $\frac{1}{4}$) of Section Twenty-nine (29), except the East 447.9 feet thereof all in Township Ninety-eight (98) North, Range Seventy-six (76), West of the 5th P.M.

That in giving this said Easement it is understood that the term of this Easement shall be perpetual; that this said Easement does hereby run with the said real estate and all subsequent conveyances of the above described property shall be subject to this said Easement; it is further understood that the Grantee herein, after any construction, repair, maintenance, or the like in said Easement area will restore said area to a usable condition so far as is reasonably possible.

Dated this 1st day of June, 1976.

NOVOTNY BROS., INC.

By Virgil W. Neering
President

Samuel W. Neering
Secretary

(CORPORATE SEAL)

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF TRIPP)

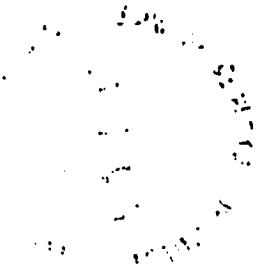
On this the 14 day of June, 1976, before me, the undersigned officer, personally appeared Virgil J. Novotny and Dorothy M. Novotny, who acknowledged themselves to be the President and Secretary respectively of Novotny Bros., Inc., a South Dakota Corporation and that they as such President and Secretary, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the Corporation by themselves as President and Secretary.

In Witness Whereof I hereunto set my hand and official seal.

John L. Sullivan
Notary Public

My Commission Expires: 2/19/81

456,310
 Filed for record 29
 Sept. 1976 10:35
 of ...
 on ...



By *[Signature]*
 Deputy

See B-200 Ford
Pat D - Vigil Monitoring
Calson

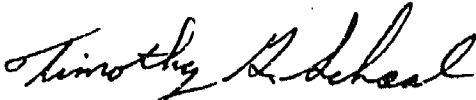
Microfilm	☒
Computer	☒
Granter	☒
Witness	☒
Indexed	☒
Filed	☒
Release	☒
Transfer	☒
Report	☒

ATTACHMENT

Permit Nos. 1047-2 & 1243-2

Permit No. 1047-2 was issued to Novotny Bros. (Edmund & Virgil) in January, 1971 for 2 cfs of groundwater to irrigate 156 acres in the NW¼ of Section 29, T98N, R76W. Permit No. 1243-2 was issued to Novotny Bros. (Edmund & Virgil) in March, 1975 for 1 cfs of groundwater with a 250 acre foot storage dam to irrigate 160 acres in the NW¼ of Section 29, T98N, R76W and 72.8 acres in the SW¼ Section 20, T98N, R76W.

Edmund Novotny is now deceased and the Novotny Bros. property had been divided between Virgil and Edmund's sons (who operate under Novotny Bros, Inc. & Steve Novotny). The storage dam will be included on Permit No. 1047-2 and will be transferred to Virgil Novotny, and Permit No. 1243-2 will stay in Novotny Bros. The irrigation well and storage dam are owned by both parties on an equal basis (see paragraphs 5, 7 & 8 of enclosed legal agreement).



TIMOTHY G SCHAAL
December 15, 1983



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

Division of Water Rights
605 773-3352

No. 1243-2

January 27, 1984

Novotny Brothers, Inc.
c/o Steve Novotny
RR#3, Box 26
Colome, South Dakota 57528

Dear Sir:

The inspection of your water use system and inspection of the extent of the application of water to beneficial use, as developed under your Water Right No. 1243-2 has been completed. Your final water right document, the Water License, can now be issued.

Statutes require that we charge a \$50.00 fee for the inspection and issuing of the Water License. Upon receipt of the \$50.00 fee from you, your Water License will be sent to you.

South Dakota Water Law 46-5-30.1 requires that a permit holder may not divert water until this \$50.00 license fee has been paid. Please contact us if you have any questions.

Sincerely,

Maxine Stirling
Staff Assistant

ms/

NOTE: On form of payment, please include the number of the water permit. This insures proper handling of the fee.

SECOND NOTICE

September 4, 1984

Permit No. 1243-2

NOTICE OF WATER LICENSE INSPECTION FEE REQUIREMENT

Novotny Brothers, Inc.
c/o Steve Novotny
RR#3, Box 26
Colome, South Dakota 57528

Dear Mr. Novotny:

January 27, 1984 you were notified the final inspection fee of \$50.00 is due before Water License No. 1243-2 can be issued. As of this date, the fee has not been received.

The fee is a final step in the legal process of obtaining and perfecting a water right and is required by SDCL 46-2-13(3). Upon receipt of the \$50.00 fee, your Water License will be sent to you. This is the final document for the perfection of your Water Right. A perfected water right is similar to a property right and once a water right is perfected, it cannot be lost as long as the water is used.

South Dakota Water Law 46-5-30.1 requires that a permit holder may not divert water until the License fee has been paid. Please submit the required fee immediately to avoid jeopardizing your water permit.

Very truly yours,

John Hatch, Chief Engineer
Water Rights Division
Phone: (605) 773-3352

ES08.17R

1245-1

PS Form 3811, (Rev. 1980)

● **SENDER:** Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
☒ Show to whom and date delivered
☐ Show to whom, date, and address of delivery.. ..

2. ☐ **RESTRICTED DELIVERY**
(The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL 1

3. **ARTICLE ADDRESSED TO:**
Novotny Bros. Inc.
c/o Steve Novotny
RR # 3, Box 26
Colonia, NJ 07053-5758

4. **TYPE OF SERVICE:**
☒ REGISTERED ☐ INSURED
☐ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER
P404 786 677

(Always obtain signature of addressee or agent)
I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent
Steve Novotny
(For CP DELIVERY)
9-7-84

POSTMARK

5. **ADDRESSEE'S ADDRESS (Only if required)**

7. **UNABLE TO DELIVER REASON:**

7a. **DELIVERER'S INITIALS**

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL



Department of Water & Natural Resources

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

Water Rights Division
605 773-3352

January 24, 1985

THIRD NOTICE
Permit No. 1243-2

NOTICE OF ORDER TO STOP DIVERTING WATER UNDER PERMIT NO. 1243-2 FOR FAILURE TO SUBMIT WATER LICENSE INSPECTION FEE

Novotny Brothers, Inc.
%Steve Novotny
RR 3, Box 26
Colome SD 57528

Dear Mr. Novotny:

January 27, 1984 and September 4, 1984 you were notified the final inspection fee of \$50.00 is due before Water License No. 1243-2 can be issued. To date, the fee has not been received.

South Dakota Water Law 46-5-30.1 requires that a permit holder may not divert water until the License fee has been paid. Pursuant to SDCL 46-2-17 and 46-2-18, you are ordered to stop diverting any water authorized by Permit No. 1243-2 until the \$50.00 fee is paid.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division

JH:GM:ks

FD Form 3811, Dec. 1980

- **SENDER:** Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one):
- ☒ Show to whom and how delivered —f
- ☐ Show to whom, date, and address of delivery.. —f
2. ☐ **RESTRICTED DELIVERY** —c
(The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL \$

3. **ARTICLE ADDRESSED TO:**

Norotny Bros. & Steve Norotny
RR 3, Box 26
Colmae SD 57528

4. **TYPE OF SERVICE:**

- ☐ REGISTERED ☐ INSURED
☐ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER

P404 786679

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

Chuck Norotny

DATE OF DELIVERY

1-25-85

POSTMARK

6. **ADDRESSEE'S ADDRESS** (Only if requested)

7. **UNABLE TO DELIVER BECAUSE:**

7a. **EMPLOYEE'S INITIALS**

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

Permit No. 1243-2White River Water District**Report Of Examination Of Works And/Or Application Of Water To Beneficial Use**

TO: Chief Engineer, Division of Water Rights, DWNR, Foss Bldg., Pierre, SD 57501

I have this day made a thorough examination of the water use system constructed by Novotny Bros., Inc.
40 Steve Novotny of RR #3 Box 26 Coloma, SD holder of
 Permit No. 1243-2, bearing the priority of February 11 1975 authorizing
 the diversion of 1.0 cu. ft. per second of the waters of Groundwater Storage Dam
 for Irrigation purposes, in Tripp County.

I have to report on the conditions of the same as follows:

A. Works used to divert the water:

At Well: 60 HP Western Land Roller
Turbine Pump, Ser. No. C71205 & 30 HP
U.S. Elec. Motors, Model No. R-1707-01-171

At Dam: 60 HP Berkeley Centrifugal
Model B4EPB2, Serial No. 7736034
8 1/2" Imp Dia with 60 HP U.S.
Elec. Motors, Model 326 TP

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

1600 ft. Buried 8" PVC &
3300 ft. - 6" Aluminum

C. Works used to apply water to beneficial use:

Reinke 6 tower Minigator Center Pivot

The system is in the following condition Good

The point of diversion is located Well - 165 ft. North & 850 ft. West of the SE corner
(SE 1/4 SE 1/4) & Dam - 1320 ft. North & 500 ft. East of the Center (W 1/4 NE 1/4)
of Sec. 20-T98N-R76W

The works are capable of diverting and conveying to the place of use 0.78 (See Attachment)cu. ft. per second of water which is to be used for IrrigationWater has been put to beneficial use to the maximum extent as follows: Section 20-T98N-R76W

SW 1/4 SW 1/4 - 35 Ac.

SE 1/4 SW 1/4 - 8 Ac.

NW 1/4 SW 1/4 - 7 Ac.

NE 1/4 SW 1/4 - 1 Ac.

comprising a total of 51 acres of land and the license should be issued for 0.78 cfs } 0.73 cfs based on acreage. (Dr)

Applicable permit qualifications have been complied with X Yes No

Exceptions to compliance are: Date July 31, 1991
originally Inspected Sept 26, 1988

Timothy M. Schaefer
 (signature)

LICENSE FOR PERMIT NUMBER 1243-2 Sec # 1947-2

1. Legal location of wells: 165 ft. North & 850 ft. West of the SE corner
(SE 1/4 SE 1/4) & Dam - 1320 ft. North & 500 ft. East of the Center (W 1/2 NE 1/4)
dams & structures: Section 20-T18N-R76W

2. Well Information: Well Drilling Firm Chas. Drilling

Completion Report Yes No X No. of Wells 1 Depth 135 feet
Casing a) diameter 14 inch Screen a) type Slotted Pipe
b) length 115 ft. b) length 20 ft.
c) type Steel Static Water Level ≈ 110'
Pump a) make Western Gear Roller Motor a) make U.S. Electric
b) model C 71205 b) model No. R-1797-01-171
c) size 60 HP c) horsepower rating 30 Hp
d) capacity 250 gpm
e) turbine pump - no. of stages _____
f) operating PSI _____

3. Distribution lines or canals Well to Dam:

a) size 8"
b) type Buried PVC
c) length ≈ 1600'

Dam to Pivot:

6"
Aluminum
≈ 3300'

4. Dam Information:

a) height to crest 45'
b) height to primary spillway 38'
c) height to secondary spillway _____
d) crest width 20'
e) crest length 600'
f) spillway length 250'
g) spillway width 100'

m) Outlet tubes:

1) diameter NA
2) type _____
3) valved (Y/N) _____
4) valve type _____
5) location on structure _____

h) approx. storage 520 A.-Ft
i) approx. storage to crest 700 A.-Ft
j) date constructed 1975

n) Category of Dam 3, Low Head

k) inspection sheet completed (Y/N) No
l) Name of Contractor Peterson

5. System Type a) sideroll:

- 1) length _____ feet
- 2) diameter of pipe _____
- 3) make, model & number of
sprinklers _____
- 4) spacing of sprinklers _____
- 5) nozzle size _____

c) gun

- 1) make _____
- 2) nozzle size _____
- 3) capacity (GPM) _____
- 4) hose size _____
- 5) hose length _____

e) gated pipe

- 1) length _____
- 2) diameter _____
- 3) spacing of gates _____

f) portable boom

- 1) make _____
- 2) nozzle size _____
- 3) capacity (GPM) _____

b) towline:

- 1) length _____ feet
- 2) make, model & number of
sprinklers _____
- 3) spacing of sprinklers _____
- 4) nozzle size _____

d) center pivot

- 1) make Rain-Minigator
- 2) number of towers 6
- 3) distance between towers _____
- 4) overall length ≈ 800'
- 5) end gun (Y/N) Yes Rainbird
- 6) high or low pressure High
- 7) make & size of nozzles
Rainbird
- 8) capacity (GPM) 350

g) siphons

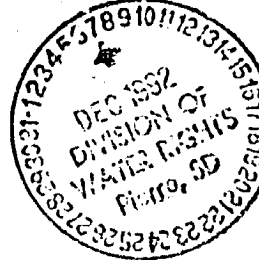
- 1) size _____
- 2) number _____

NOTE: For Permits with additional wells or changes in well locations, record the following for each well: pumping capacity, date constructed, well driller and if a well log is available.

Indicate any other permit(s) which are associated with project 1243-2

Yes	No	Check Items
<u>NA</u>		1. Soil and water permit lands agree with lands being irrigated and lands listed on permit?
<u>X</u>		2. Special qualifications to permit being abided by?
<u>X</u>		3. All structures, wells and lands on map?
<u>X</u>		4. Irrigation Questionnaires checked to determine if permit owner started irrigation by end of construction period?
<u>X</u>		5. Is chemigation used?
<u>NA</u>		6. If yes, does equipment comply with chemigation rules?

REMARKS: Pump at Dam: Berkley Centrifugal Pump, Model B 4E-PB1
Serial No. 7736034, 8 1/2 Imp. Dia. 60 HP with
60 HP 1.5 Electric M.I. 1 326 JF



I enclosed is ch
for Water License
No. 1243 -2.

Thank you
Virgil Hovatt
R.R. 3, Box 24
Colome, S.D. 57525

RECEIPT

413524

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____, December 7, 19__92

RECEIVED OF Virgil Novotny, RR 3 Box 24, Colome, SD 57528

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. 1243-2

Fee for Filing Transfer Form _____

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

50 00

50 00

Virgil Novotny



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

SEP 24 1998

1243-2
2223-2

Steve Novotny
RR 2 Box 26
Colome, SD 57538

Dear Mr. Novotny:

Enclosed is your Water License No. 1243-2.

The applicable portions of Water Permit No. 2223-2 which authorized an increase in the storage capacity of the dam has been incorporated into Water License No. 1243-2. The remaining portions of Water Permit No. 2223-2 which authorized irrigation from the storage dam of land described in No. 1047-2 was incorporated into Water License No. 1047-2, held by Virgil Novotny.

As long as you beneficially use the water for the purpose it was appropriated, SD Water Laws provide that you have a continuing right to the use of the water.

If you have any questions concerning the enclosed water license, please contact Genny McMath with our program, at (605) 773-3352.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Program

enclosure

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 1243-2

(1) Novotny Brothers, Inc., (formerly Novotny Brothers) %Steve Novotny, RR 3 Box 26, Colome, SD 57528 made Application No. 1243-2, February 11, 1975 for a water permit to divert 1.00 cubic feet of water per second (cfs) from ground water (one existing well) to a 250 acre feet storage dam, Tripp County, South Dakota for irrigation purposes. Permit No. 1243-2, with a priority date of February 11, 1975 was approved March 19, 1975 and issued to the applicants for diversion of water with construction of the described water supply system to be completed on or before March 19, 1980 and for the application to beneficial use of said water on or before March 19, 1984.

Water Permit No. 1243-2, held by Novotny Brothers, Inc., authorizes diversion of water from an existing well (described in No. 1047-2 - held by Virgil Novotny) to a 250 acre feet storage dam for supplemental irrigation of 156 acres in the NW ¼ Section 29 (described in No. 1047-2) and irrigation of 73 acres in the SW ¼ Section 20, all in T98N, R76W.

Water Permit No. 2223-2 was issued to Virgil Novotny and Novotny Brothers, Inc., authorizing an increase in the storage capacity of an existing dam from 250 acre feet to 520 acre feet. The additional 270 acre feet of water retains a March 9, 1992, priority date.

Water Permit Nos. 1047-2 and 1243-2 are held by different owners and will be licensed separately.

The applicable portions of Water Permit No. 2223-2 which increased the storage capacity of the dam has been incorporated into this license*. A priority date of February 11, 1975, is retained for the first 250 acre feet (as established under No. 1243-2) and a priority date of March 9, 1992, for the additional 270 acre feet of water held in storage (as established under No. 2223-2).

* The remaining portions of Water Permit No. 2223-2 which authorized an increase in storage capacity of the existing dam to irrigate land described in No. 1047-2 is incorporated into Water License No. 1047-2, held by Virgil Novotny.

(2) It is certified that the applicant has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 0.73 cubic feet of water per second for beneficial use. The location of the diversion points are: well - 165'N and 850'W of the SE corner of Section 20, T98N, R76W (SE ¼ SE ¼) and dam (storage capacity of 520 acre feet) - 1,320'N and 500'E of the center of Section 20, T98N, R76W (W ½ NE ¼).

(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate the following land:

Section 20, T98N, R76W			
SW ¼ SW ¼	35.0 acres	SE ¼ SW ¼	8.0 acres
NW ¼ SW ¼	7.0 acres	NE ¼ SW ¼	1.0 acre
Total acres - 51.0			

(4) Pursuant to South Dakota Water Law 46-5-30.1 Novotny Brothers, Inc., %Steve Novotny, RR #3 Box 26, Colome, SD 57528 the holders and/or owners of Incorporated Water Permit No. 1243-2 are issued a license to appropriate water, the right to use 0.73 cubic feet of water per second from ground water (one well) and a storage dam (520 acre feet capacity) with priority dates of February 11, 1975 (250 acre feet) and March 3, 1992 (270 acre feet) from the locations specified in (2) of this license. The water to be conducted to and upon lands specified in (3) of this license for the purpose of irrigation. This license is subject to any limitations or qualifications listed in Incorporated Water Permit No. 1243-2 and subject to South Dakota State Law.

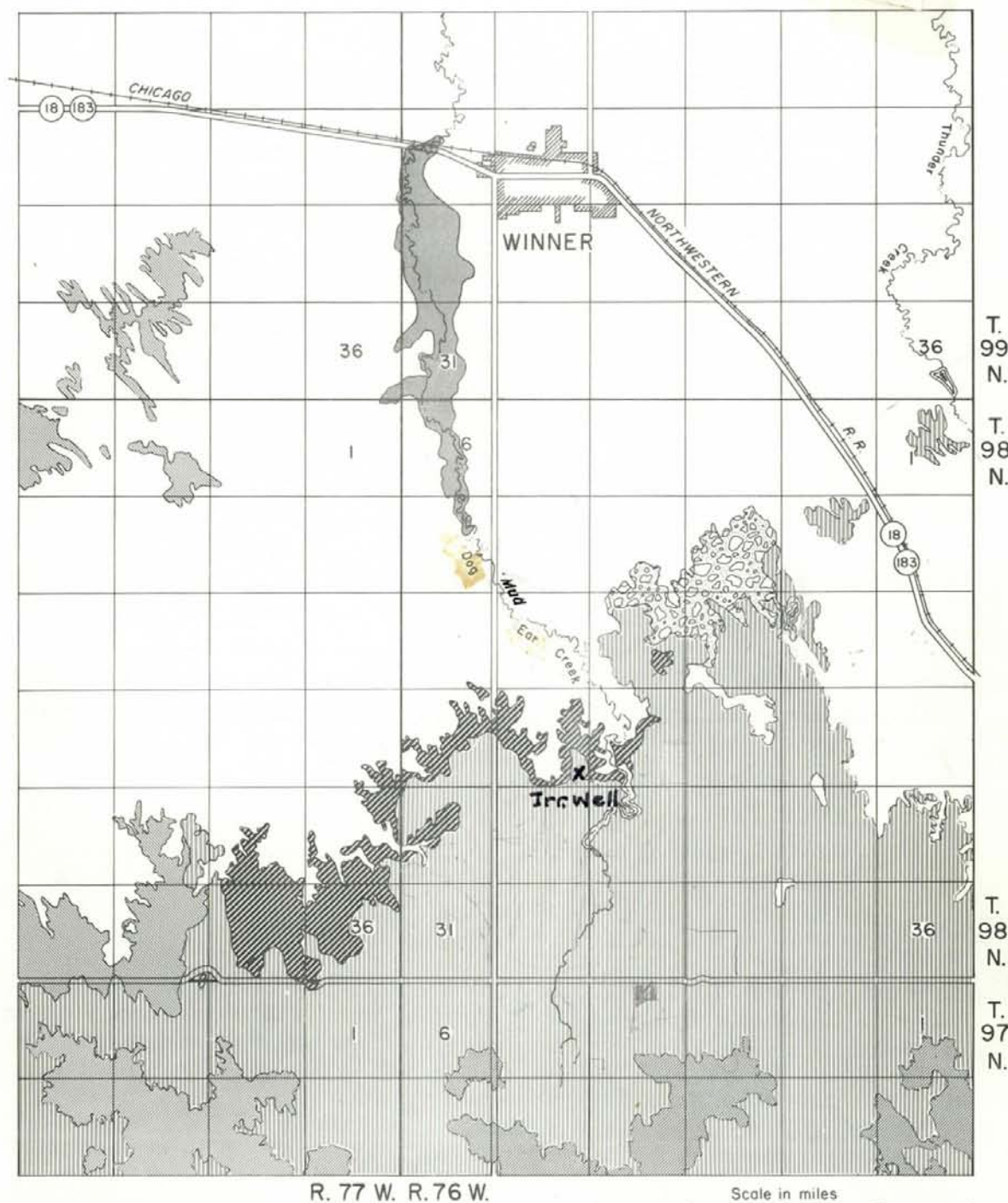


JOHN HATCH, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

SEP 24 1998

date





EXPLANATION	
QUATERNARY	Alluvium
	Terrace Gravel or Sand
TERTIARY	Ash Hollow Formation
	Valentine Formation
	Bijou facies
CRETACEOUS	Brule Formation
	Pierre Formation



drafted by D. W. Johnson

by
A. Barari,
1965

Figure 5.
Geologic Map of the Winner Area.
(modified from S. G. Collins, 1957 a and b.)

Formation and the Pliocene Ogallala Group respectively, which is represented in the Winner area by the Valentine Formation (and Bijou facies) and the Ash Hollow Formation (fig. 5).

The Ash Hollow Formation consists of medium gray to light olive-greenish calcareous sandstones forming caps on the buttes and the high undrained divides. The thickness of this unit in the Winner area is 35 feet (Collins, 1957b).

The Valentine Formation is a greenish-tan to tan, fine to medium grained, poorly consolidated arkosic sandstone. This formation is at the surface throughout much of the southern part of the study area (fig. 5). The thickest sequence of this formation penetrated in test drilling was less than 100 feet, although Collins (1957a) lists the maximum thickness as 140 feet. Included in the Valentine Formation is the Bijou facies, a gray to greenish fine grained opaline arkosic sandstone which is silica cemented. Maximum thickness of this unit is 5 feet (Collins, 1957a).

The Pierre Shale is a dark, platy marine clay shale, calcareous in the lower part and contains thin layers of dark limestone and siderite. Maximum exposed thickness is 398 feet (Collins, 1957a), although the total thickness may be as much as 1000 feet in the Winner area.

Subsurface Bedrock

The subsurface information is extrapolated to the Winner area from the Kucera #1 Bartels oil test, six miles north of Winner.

Cretaceous Sediments

The Niobrara Formation consists mostly of light- to medium-gray, white speckled calcareous shale or marl and is approximately 140 feet thick.

The Carlile Shale is a light- to medium-gray, plastic shale and is about 280 feet thick.

The Greenhorn Limestone ranges between a nearly white fragmental limestone and a medium gray, very calcareous shale and is 40 feet thick.

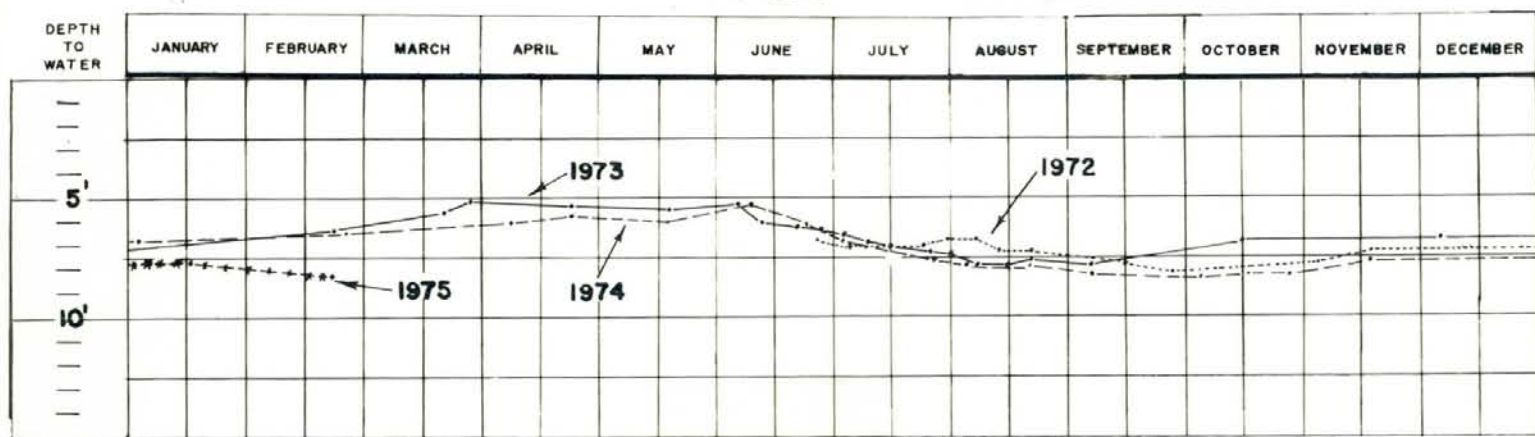
The Belle Fourche Shale is about 150 feet thick and consists of medium gray shale.

The Dakota Formation, made up of alternating shale and sandstone, is nearly 420 feet thick in the Winner area; the lower 130 feet is mostly sandstone.

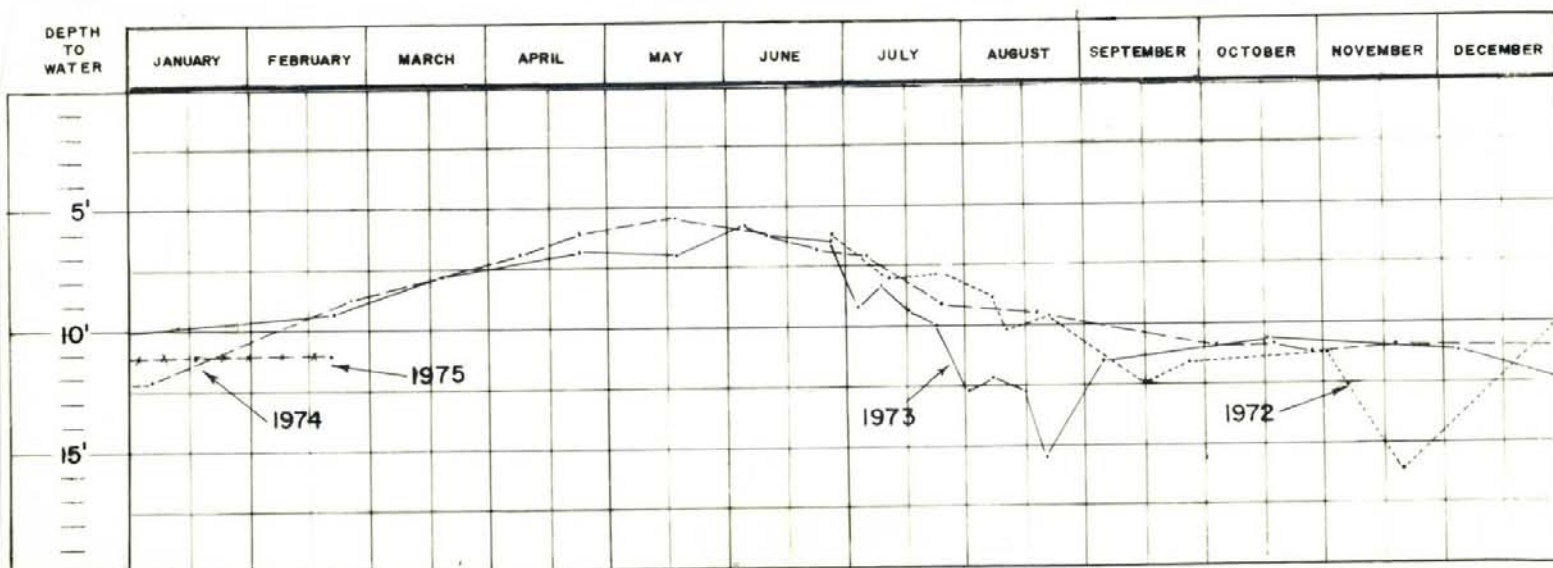
The Skull Creek Shale is a medium gray shale and is approximately 40 feet thick.

The Inyan Kara Group consists of alternating beds of shale and sandstone and is at least 300 feet thick.

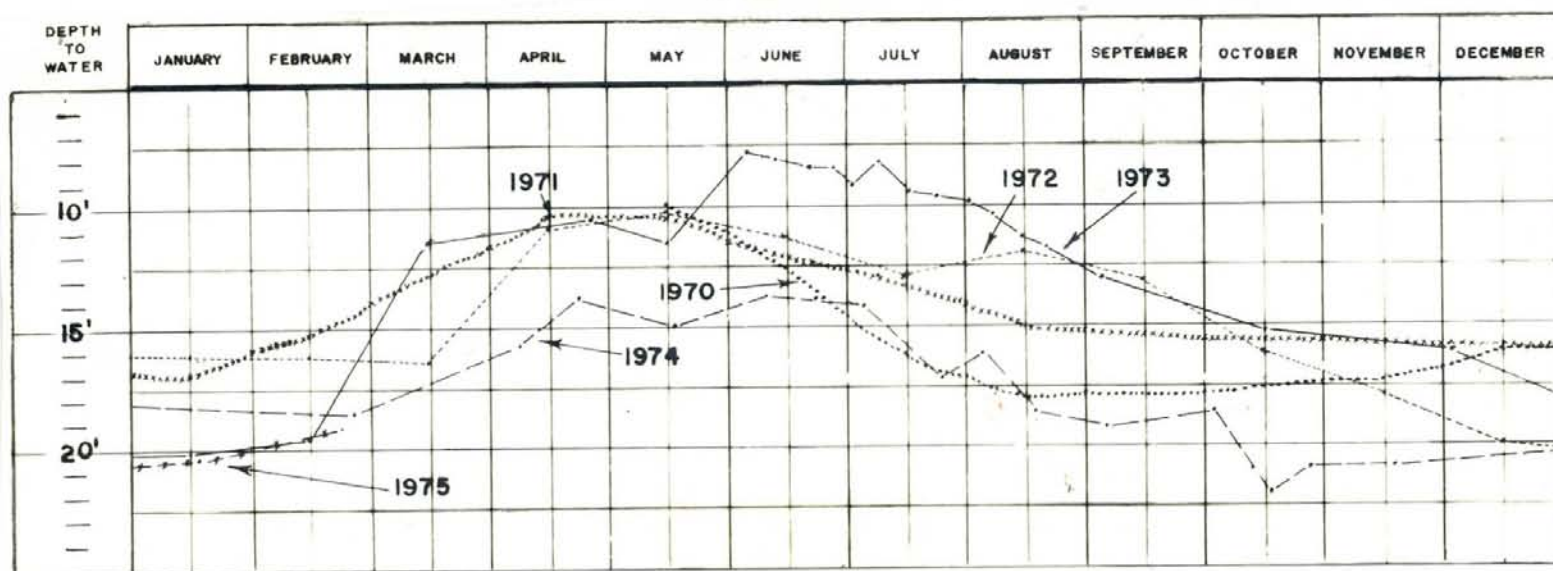
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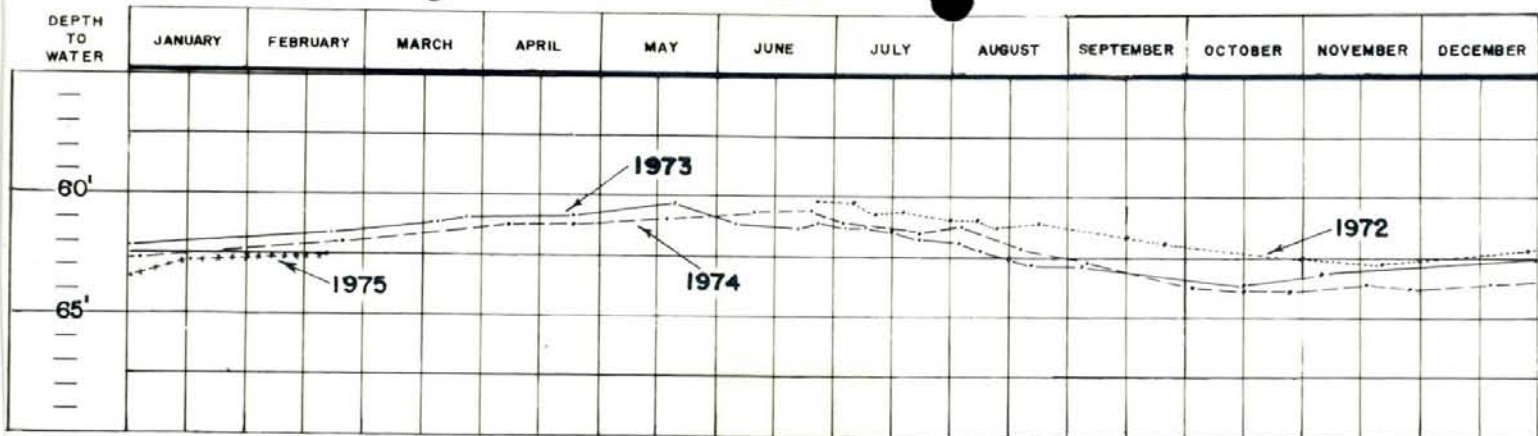


JELINEK

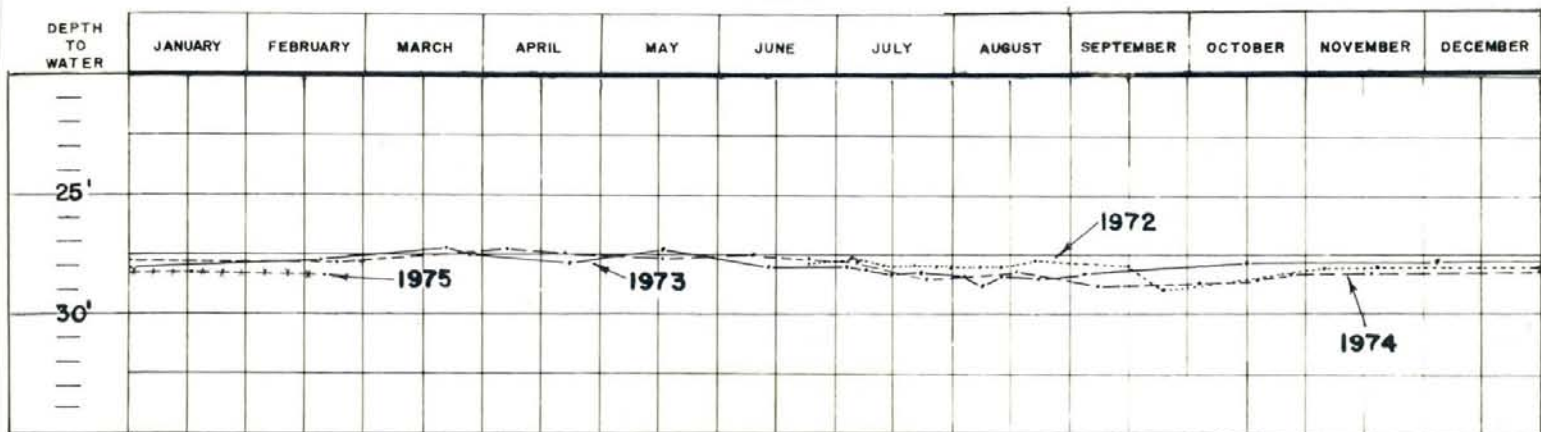


CITY NO. 10

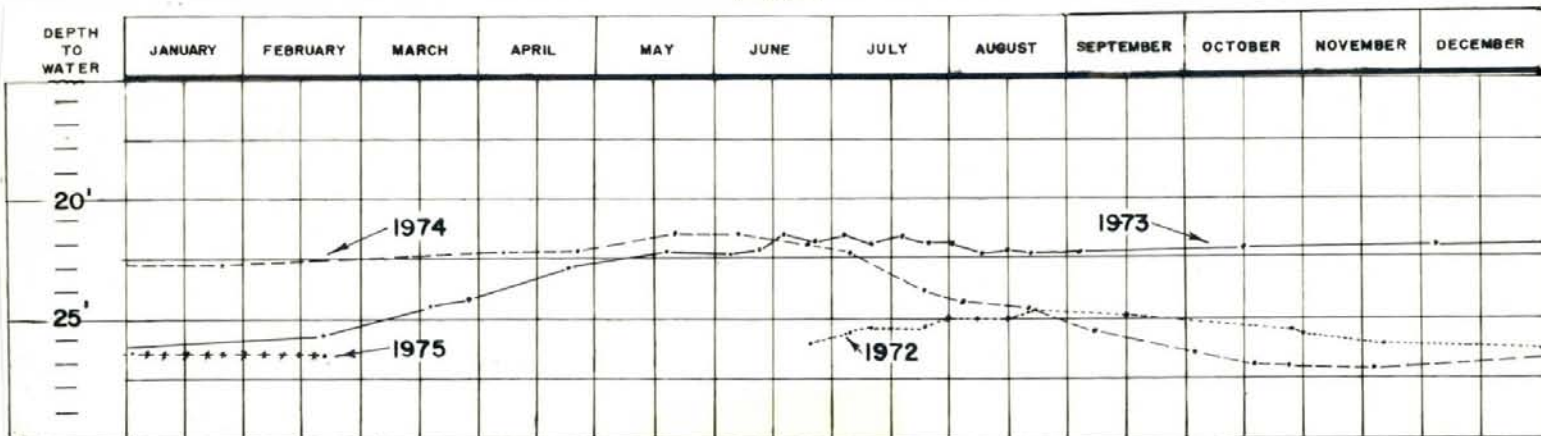




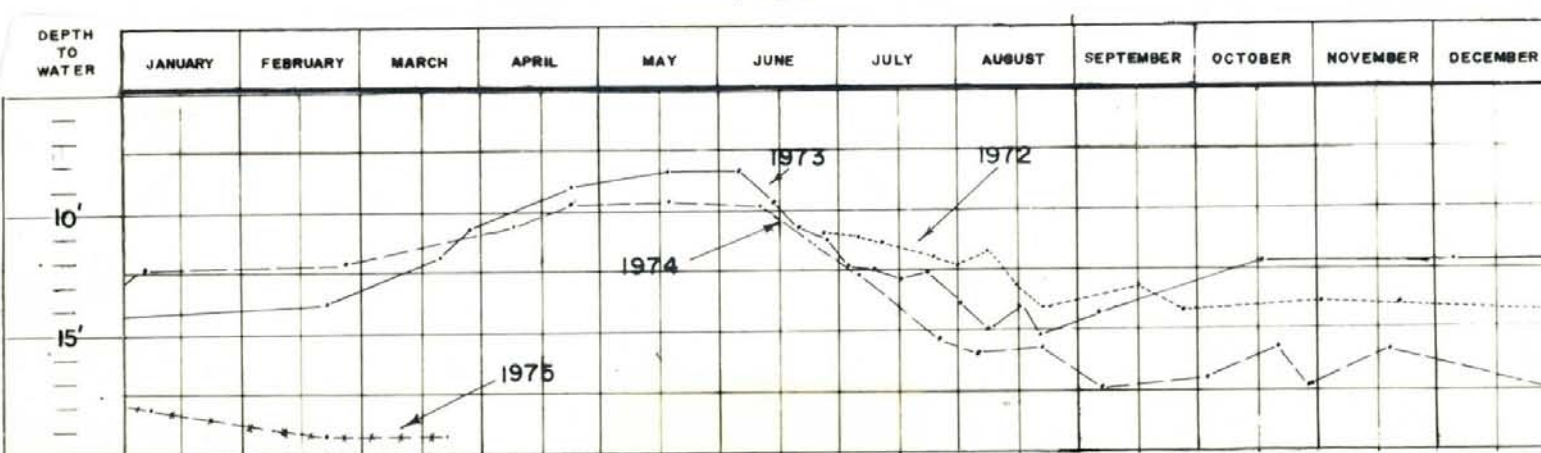
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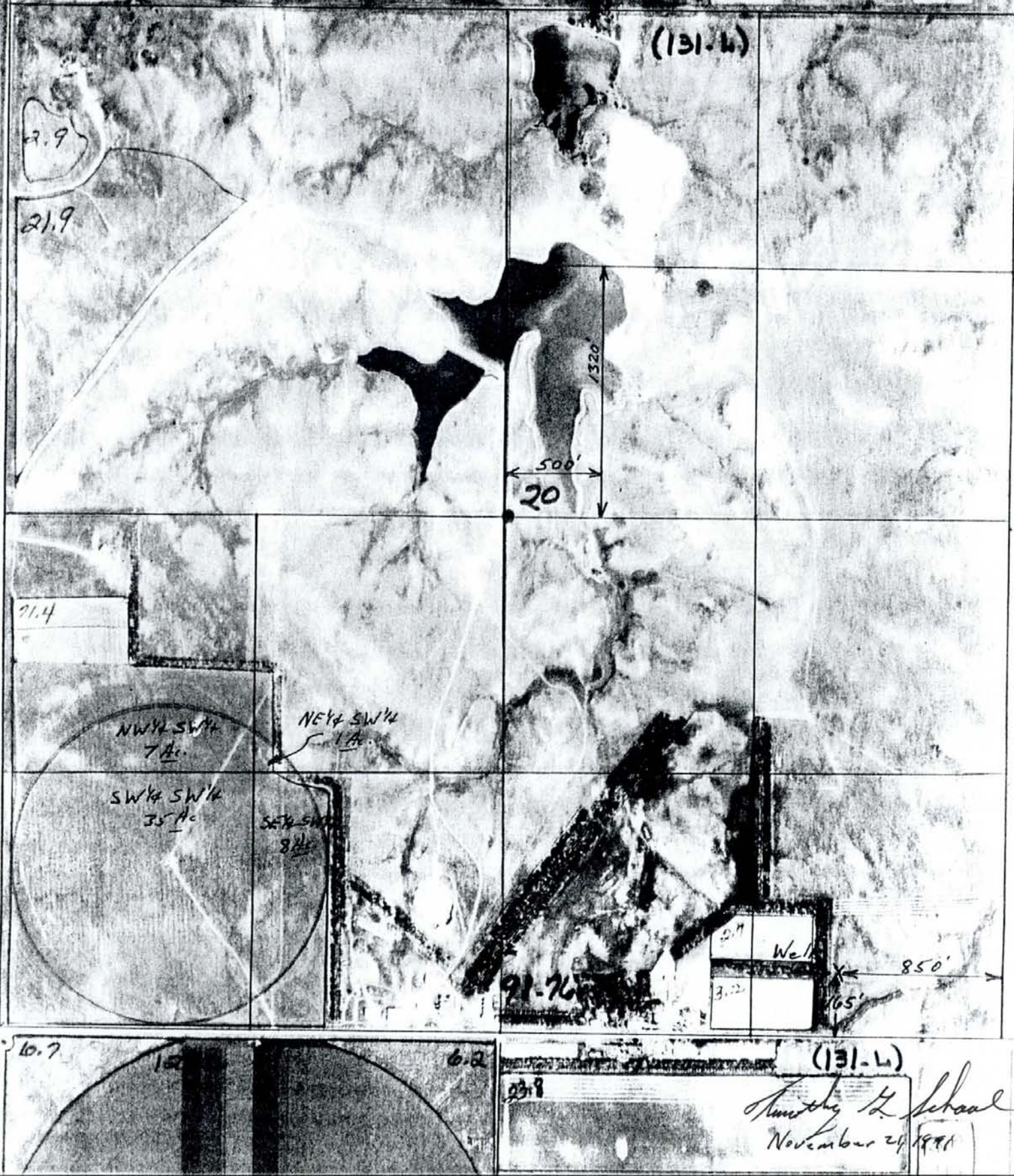
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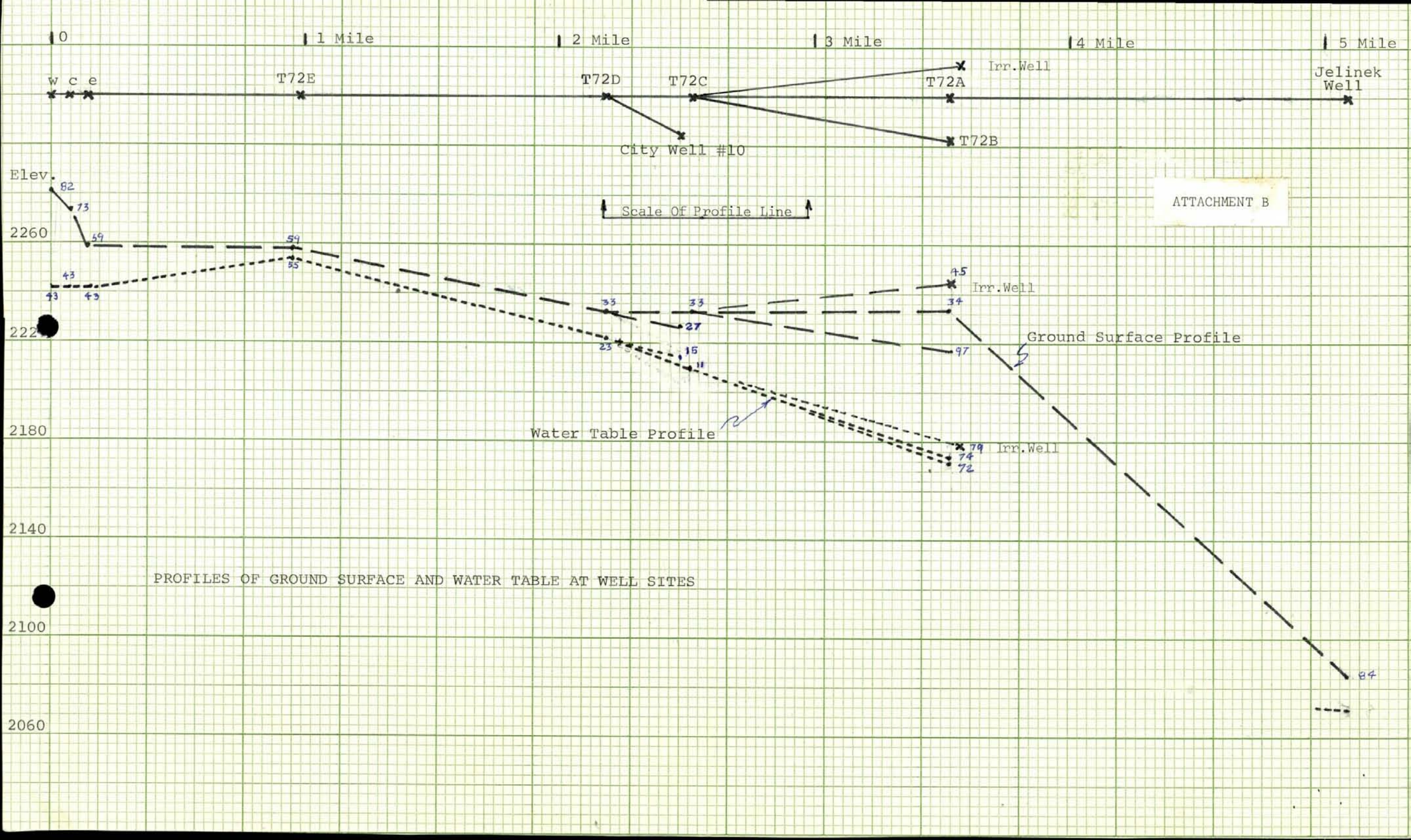


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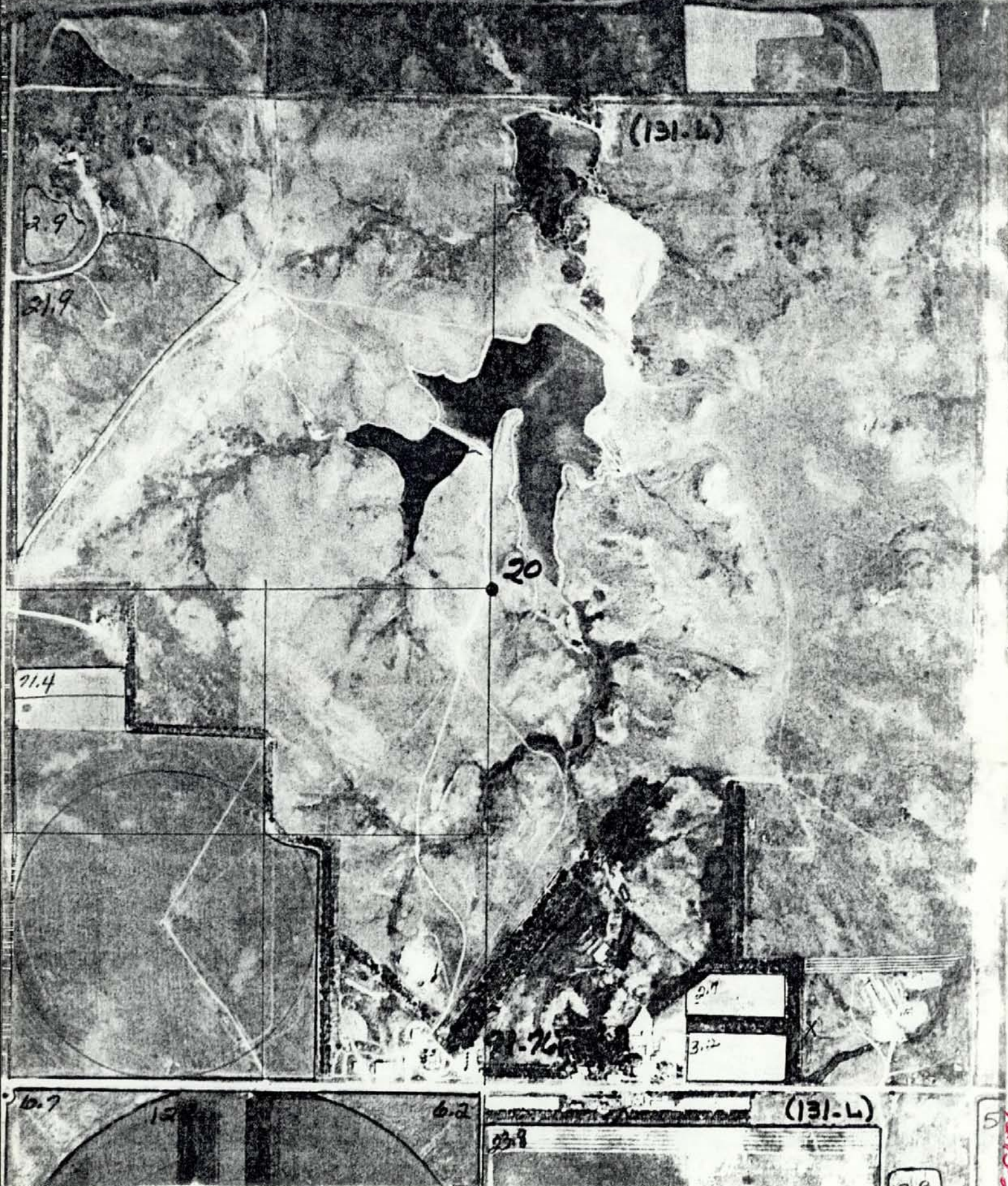


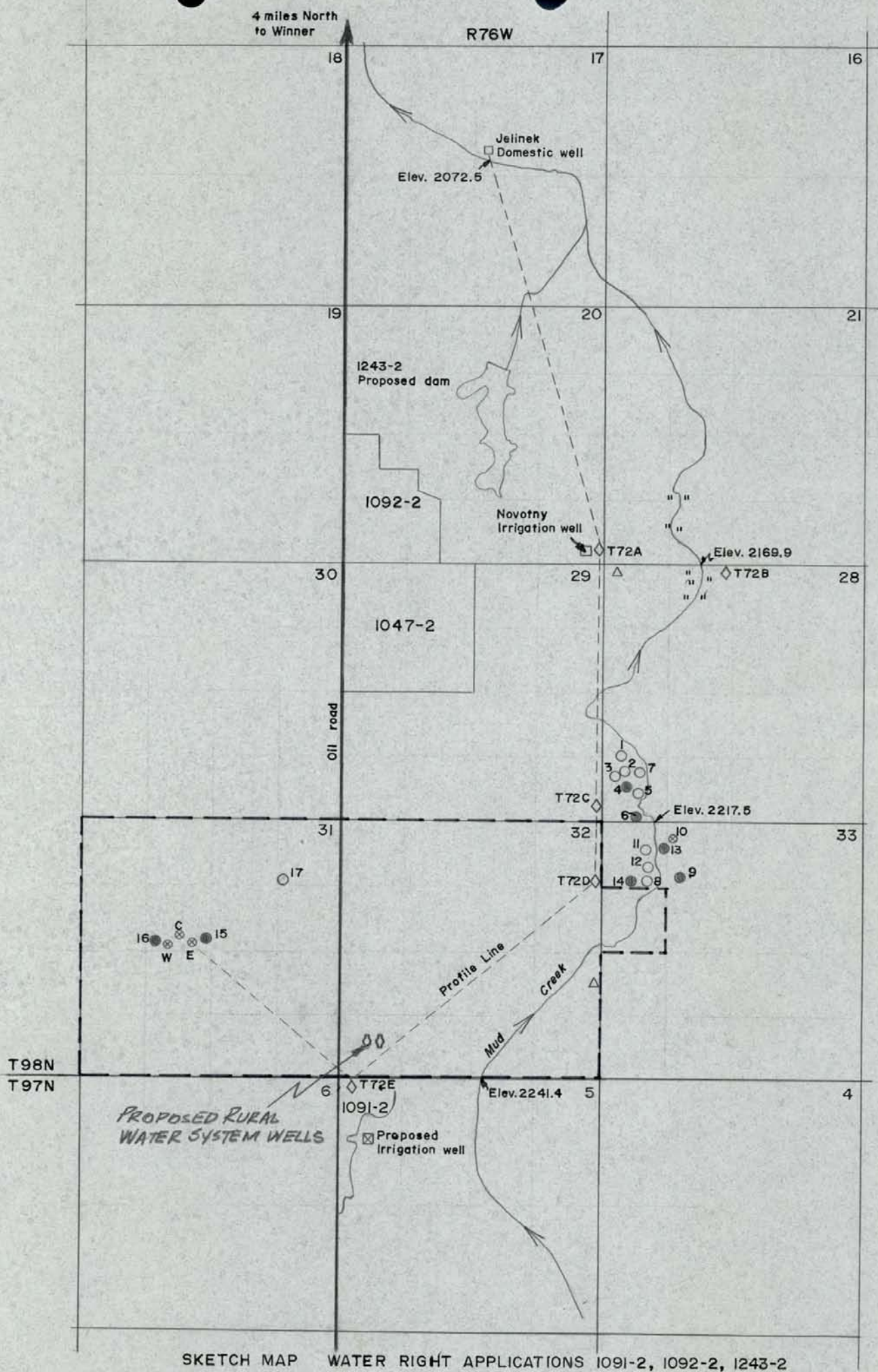
NOT TO SCALE





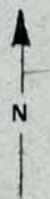
NOT TO SCALE





SYMBOLS

- Active City Well
- Inactive City Well
- ⊗ City Observation Well
- ◇ W.R.C. Observation Well
- △ W.R.C. Dry Test Hole
- Boundary—Winner Future Use W.R. Area
- " " Spring Area



Scale: 2" = 1 Mile