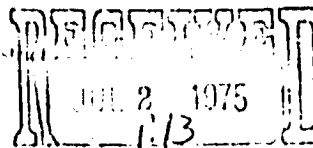


Water Right Number 1273-2

1. Considered JULY 24, 19 75
2. Name of Applicant BLUM BROS.
3. Post Office Address RELIANCE
4. Amount of Water claimed 2.70
5. Source of Water supply MISSOURI RIVER
6. Water to be used for IRRIGATION
- Acres to be irrigated 160
7. Water to be diverted and used in LYMAN County
about 3N, 11E miles of RELIANCE
8. Proof of Publication Received 7-18-75
Not Received _____
9. Application Approved _____
Subject to _____
Not Approved _____
Action Deferred _____

10. Remarks:

No. 1273-2
 Map No. 1079-2 Water Division No. 2 WHITE RIVER
 (Blanks to be filled by the Engineer for the W. R. C.)


APPLICATION FOR PERMIT

STATE WATER RIGHTS COM.
PIERRE, SOUTH DAKOTA

To Appropriate Water within the State of South Dakota

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

1. Name of Applicant B. H. M. Brothers
 Postoffice address Reliance State South Dakota 57569
 If corporation, show state and place of incorporation _____
2. Method of accomplishing work (contract, employment of others, or by direct labor) Contract & direct labor
3. Name of diversion work Irrigation
4. Amount of water claimed (cubic feet per second) 2.2 cubic ft per second for each ft
5. Source of water supply Missouri River
6. Location of point of diversion TWSP 105N R71W about the
center of SW 1/4 of section 5
 County Hyman
7. Annual period or periods during which water is to be used March Thru Aug.
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 160

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.
NE 1/4 SE 1/4 of Sec 6	40		
SE 1/4 of SE 1/4 of Sec 6	40		
SE 1/4 of NE 1/4 of Sec 6	40		
NW 1/4 of SW 1/4 of Sec 5	40		

Attach sheet if more space is needed

10. Time required to complete construction of water supply system 3 years. Additional time required to complete application of water to the proposed beneficial use 1 yearless years.
11. Choice of newspaper for Notice of Intent to Appropriate Water publication Advocate Leader - Kennebec
12. Principal Features of the Proposed Water Supply System.

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

Pump

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

pipe line

C. Works proposed to apply water to beneficial use.

sprinkler or flood.
at this time we are still investigating a system that
would be most practical for our
operation.
Estimated Total Cost \$ 50,000
 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 BhuleI, B. H. M. Brothers, the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.Signed B. H. M. Brothers by Barth B. M. BrothersSubscribed and sworn to before me this 30th day of July, 1975

Notary Public (or other qualified officer)

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application

1273-2BLUM BROS.

(Applicant)

RELIANCE

(Post Office Address)

SOUTH DAKOTA 57569

(State)

With the following modifications:

Date of first receipt of application JULY 2 19 75Date of return to applicant for correction, amendments or changes required --- 19 ---Date of receipt of corrected application --- 19 ---Approved JULY 24 19 75 Recorded in Book 13 Page 339WATER RIGHT PERMIT NO. 1273-2

The Water Rights Commission hereby grants and issues this Water Right Permit No. 1273-2 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 JULY 2 19 75
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before JANUARY 24 19 77
3. The whole of said work is to be completed on or before JULY 24 19 78
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is JULY 24 19 79
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 2.2 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 JULY 24 19 79; said water to be used during the following described annual period: MARCH THRU AUGUST

Witness my hand this 30TH day of JULY 19 75

WATER RIGHTS COMMISSION

Wm. W. Butler

Chief Engineer, Executive Officer

Certificate of Construction Issued --- 19 ---Water License Issued --- 19 ---

July 11, 1975

Harley D. Zephier, Director
Bureau of Indian Affairs
115 4th Avenue S.E.
Aberdeen, South Dakota 57401

Dear Mr. Zephier:

Enclosed is a copy of the Notice of Intent to Appropriate Water for Blum Brothers (Application No. 1273-2). Land covered under the application is within the exterior boundaries of the Lower Brule Indian Reservation.

Sincerely,

BURTON F. JONES
Water Rights Specialist

BFJ/bw
Encl: As stated



United States Department of the Interior
OFFICE OF THE SOLICITOR

ROOM 211 - FEDERAL BUILDING
P.O. BOX 519
ABERDEEN, SOUTH DAKOTA 57101

Reference:
Water Rights
Lower Brule

JUL 17 1975

RECEIVED

JUL 21 1975

DEPT. OF THE INTERIOR
RESOURCES MANAGEMENT

Mr. Burton F. Jones
Water Rights Specialist
Water Rights Commission
Pierre, South Dakota 57501

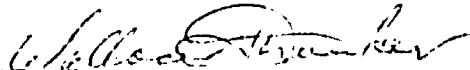
Dear Mr. Jones:

The Area Director, Bureau of Indian Affairs, has advised that on July 24, 1975, at 2:30 p.m., a Hearing will be held by the Water Rights Commission at the North Lounge, Surbeck Center, South Dakota School of Mines, at Rapid City, South Dakota, on the application of the Blum Brothers, of Reliance, South Dakota, for a permit to appropriate for beneficial use 2.2 cubic feet of water per second of time from the Missouri River, the point of diversion being in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 5, T. 105 N., R. 71 W., for the purpose of irrigation.

This letter will serve as our written objection to such application for a permit to appropriate river water from the Missouri River, which adjoins the boundary of the Lower Brule Indian Reservation. The issuance of such permit would be contrary to established law, which declares that the State lacks jurisdiction with respect to the adjudication of the waters of, or the lands within, the exterior boundaries of an Indian Reservation. See 25 U.S.C.A., Sec. 381; Winters v. United States, 207 U.S. 564, 28 S.Ct. 207; United States v. Powers, 94 F.2d 763; United States v. McIntire, 101 F.2d 650; and United States v. Alexander, 131 F.2d 359.

In filing this objection to the issuance of such proposed permit and in writing this letter to you, we do not waive our right to challenge the State's jurisdiction by legal action or otherwise, and merely intend to call the State's attention to the fact that the State lacks jurisdiction in this matter.

Very truly yours,


Wallace G. Dunker
Field Solicitor

cc: Office of the Area Director, Aberdeen, South Dakota
Superintendent, Lower Brule Agency, Lower Brule, S. D. 57548
Mr. Parnell Eagen, Area Soil Conservationist, BIA, Aberdeen, S.D.
Blum Brothers, Reliance, South Dakota 57569

Form 6. - Notice of Intent to Appropriate Water

No. X28 1273-2

Publish first publication, on or before

July 10, 1975

NOTICE OF INTENT TO APPROPRIATE WATER

Pierre, South Dakota 57501

July 2, 1975

Notice is hereby given that Blum Brothers

whose post office address is Reliance, 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 2.2 cubic feet of water per

second of time from the Missouri River through the

Blum Bros fl., the point of diversion of which is to be located in the

a point in the NW $\frac{1}{4}$ SW $\frac{1}{4}$

of Section 5, Twp. 105N, Range 71W. Said water to be used for the purpose of providing irrigation on the following described land:

NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 5; E $\frac{1}{2}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 6, T105N, R71W

This application No. 1273-2 will be considered by the Water Rights Commission at the North Lounge, Surbeck Center, S.D. School of Mines, at Rapid City, S.D. upon the 24th day of July, 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:

Blum Brothers, Reliance, S.D. 57569

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

No. 1273-2

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County LYMAN) ss.

I, E. J. Buckingham, Jr. hereby
certify that the annexed printed copy of Notice of Intent to Appropriate
Water was taken from the The Advocate-Lenore

A newspaper which during the whole time of publication of said notice
herein after stated, has been and is printed and published in the
Town of Kennett

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

Thursday, July 12, 1975
Thursday, July 17, 1975

E. J. Buckingham, Jr.
(Signature)

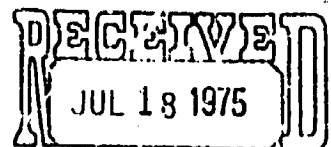
Publisher
(Title)

July 17, 1975
(Date Signed)

NOTICE OF INTENT
TO APPROPRIATE WATER
Pierre, South Dakota 57501
July 2, 1975

Notice is hereby given that
Blum Brothers whose post of-
fice address is Reliance, South
Dakota, has made an application
in accordance with the provi-
sions of the water laws of South
Dakota for a permit to appropri-
ate for beneficial use 2.2 cubic
feet of water per second of
time from the Missouri River
through the Blum Bros. #1, the
point of diversion of which is to
be located in a point in the
NW1/4 SW1/4 of Section 5, Twp.
165N, Range 71W. Said water to
be used for the purpose of pro-
viding irrigation on the follow-
ing described land: NW1/4 SW1/4, Section 5; E1/2
SE1/4 and SE1/4 NE1/4, Sec-
tion 6, T105N, R71W.
This application No. 1273-2
will be considered by the Water
Rights Commission at the North
Lounge, Surbeck Center, S. D.
School of Mines, at Rapid City,
S. D., upon the 24th day of July,
1975, at 2:30 p.m. All interested
persons may appear and be
heard.

WATER RIGHTS COMMISSION
By: BURTON F. JONES
Water Rights Specialist
(July 10 -17)



STATE WATER RIGHTS COM
PIERRE, SOUTH DAKOTA

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

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

April 15, 1985

Blum Brothers
RR 5 Box 16
Reliance SD 57569

Notice

Re: Violation of Requirement To Submit 1984 Irrigation Questionnaire

Our records indicate that the 1984 Irrigation Questionnaire has not been submitted for Permit No(s) 1273-2, 1366-2. The request for the Questionnaire was dated October 17, 1984. The Water Management Board has directed that owners of water permits who have not submitted 1984 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 10:30 a.m., May 15, 1985 in the Civil Defense Room, State Capitol Building, Pierre, South Dakota.

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) 1273-2, 1366-2 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.

Sincerely,

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

NOTE: If the questionnaire(s) is received in this office before the May 15th hearing date, your name will be deleted from the agenda for the hearings.



Department of Water & Natural Resources

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

June 12, 1985

Notice of Amendment to Water Permit(s)

To: Blum Brothers
RR #5, Box 16
Reliance, SD 57569

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

SUBJECT: Amendment to Water Permit No(s). 1366-2 and 1273-2.

Pursuant to the provisions of the notice dated April 15, 1985, and following the Hearing May 15, 1985, the Water Management Board has amended Water Permit No(s). 1366-2 and 1273-2 to add the following qualification:

"This permit is subject to the Irrigation Water Use Questionnaire being submitted each year."

The addition of this qualification to your Permit means that failure to submit the required Irrigation questionnaire in the future could result in suspension of the water permit and no use of water for up to one year for the first violation. Please include the enclosed attachment with your permit.

South Dakota Department of
Water & Natural Resources

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

Attachment to Water Permit No(s). 1366-2 and 1273-2

Pursuant to the provisions of the notice dated April 15, 1985, and following the Hearing May 15, 1985, the Water Management Board has amended Water Permit No(s). 1366-2 and 1273-2 to add the following qualification:

"This permit is subject to the Irrigation Water Use Questionnaire being submitted each year."

Licensing of Acreage Outside of Permitted Area

NAME: Blum Bros

ADDRESS: Bart Blum, HC 5 Box 16, Reliance SD 57569

DATE: September 15, 1998

COUNTY: Lyman

TELEPHONE:

AUTHORITY

Pursuant to SDCL 46-5-30.5, acreage developed for irrigation outside of the area described on the permit may be licensed provided the following conditions are met:

NO INCREASE IN PERMITTED ACREAGE OR WATER APPROPRIATED:

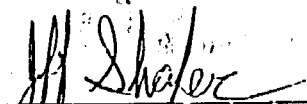
The acreage developed for irrigation is 126.2 acres as compared to 160 acres authorized by the permit. Licensing of the permit will result in a reduction in the amount of water appropriated.

UNPERMITTED ACREAGE:

- **Contiguous to Permitted Acreage**
Yes, 14.1 acres in the NE ¼ SE ¼ of Section 5 T105N-R71W
- **Owned by Same Property Owner**
Yes
- **Developed Prior to Expiration of Construction Period**
Yes

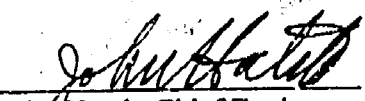
RECOMMENDED ACTION

Based on the above criteria, it is recommended that the 14.1 acre area be included in the water license.


 Jeff Shafer, Natural Resources Engineer
 Water Rights Program

The Chief Engineer makes a finding pursuant to SDCL 46-5-30.5 that:

This acreage change does not impair existing water rights and the overall project, as developed, is consistent with the original application. Licensing of the unpermitted acreage may occur without application or publication pursuant to SDCL 46-2A-4.

 9-28-98
 John Hatch, Chief Engineer
 Water Rights Program



October 20, 1998

1273-2
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Permit No. 1366-2

Bart Blum
Blum Brothers
HCR 5, Box 16
Reliance, SD 57569

Dear Mr. Blum:

The investigation of your water use system was conducted on September 2, 1998, by Jeff Shafer, staff engineer. The investigation included the extent of application of water to beneficial use, as developed under Water Permit Nos. 1273-2 and 1366-2. Your final water right document, the Water License, can now be issued. Upon licensing, the applicable portions of Water Permit No. 1273-2 will be incorporated into 1366-2.

Statutes require that we charge a \$50.00 fee for the investigation and issuance of the Water License. Upon receipt of the \$50.00 fee from you, we will begin processing your Water License.

**Please remit fee to:
Department of Environment & Natural Resources
Water Rights Program
523 E. Capitol
Pierre, SD 57501-3181**

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

Sincerely,

Cheryl F. Frost
Secretary
Water Rights Program
(605) 773-3352

NOTE: On check or money order, please specify your permit number. This will insure proper handling of the fee.

NAME: Blum Brothers

ADDRESS: HCR 5, Box 16, Reliance SD 57569

DATE: 2/3/99 **COUNTY:** Lyman

AUTHORITY:

Pursuant to SDCL 46-5-13.1, the location of a diversion point may be changed or additional diversion points may be licensed provided the following conditions are met and the potential for interference with other existing diversions is not increased:

- Developed water source same as permitted source and no additional water appropriated

Yes, Missouri River

- If irrigation, no new land is irrigated

No new land is irrigated

- Review of Existing Diversions

Water Permit Nos. 1273-2, Blum Brothers, authorizes diversions from the Missouri River for irrigation. Permit No. 1273-2 was advertised for the NW ¼ SW ¼ of Section 5, T105N-R71W. Upon investigation the actual diversion point for this water system was found to be in the NE ¼ SW ¼ of Section 5, T105N-R71W.

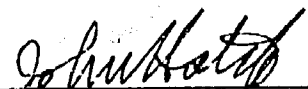
RECOMMENDED ACTION

Based on the above criteria, it is recommended that the diversion point(s) be licensed as developed.

 2/3/99
Tom Shafer, Natural Resources Engineer
Water Rights Program

The Chief Engineer makes a finding pursuant SDCL 46-5-13.1 and ARSD 74:02:01:14.01 that:

This change in location and/or additional diversion point(s) does not increase the potential for adverse effects to existing diversions.

 2-3-99
John Hatch, Chief Engineer
Water Rights Program



1273-2
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

APR 26 1999

1366-2

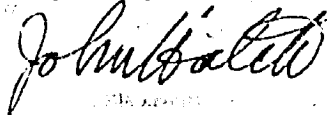
Blum Brothers
%Bart Blum
HCR 5, Box 16
Reliance, SD 57569

Dear Mr. Blum:

Enclosed is Water License No. 1366-2 and Receipt No. 415991 for \$50.00 which was assessed for an investigation and issuance of the license. Water License No. 1366-2 is the final document which completes the process of obtaining a water right.

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

Very truly yours,

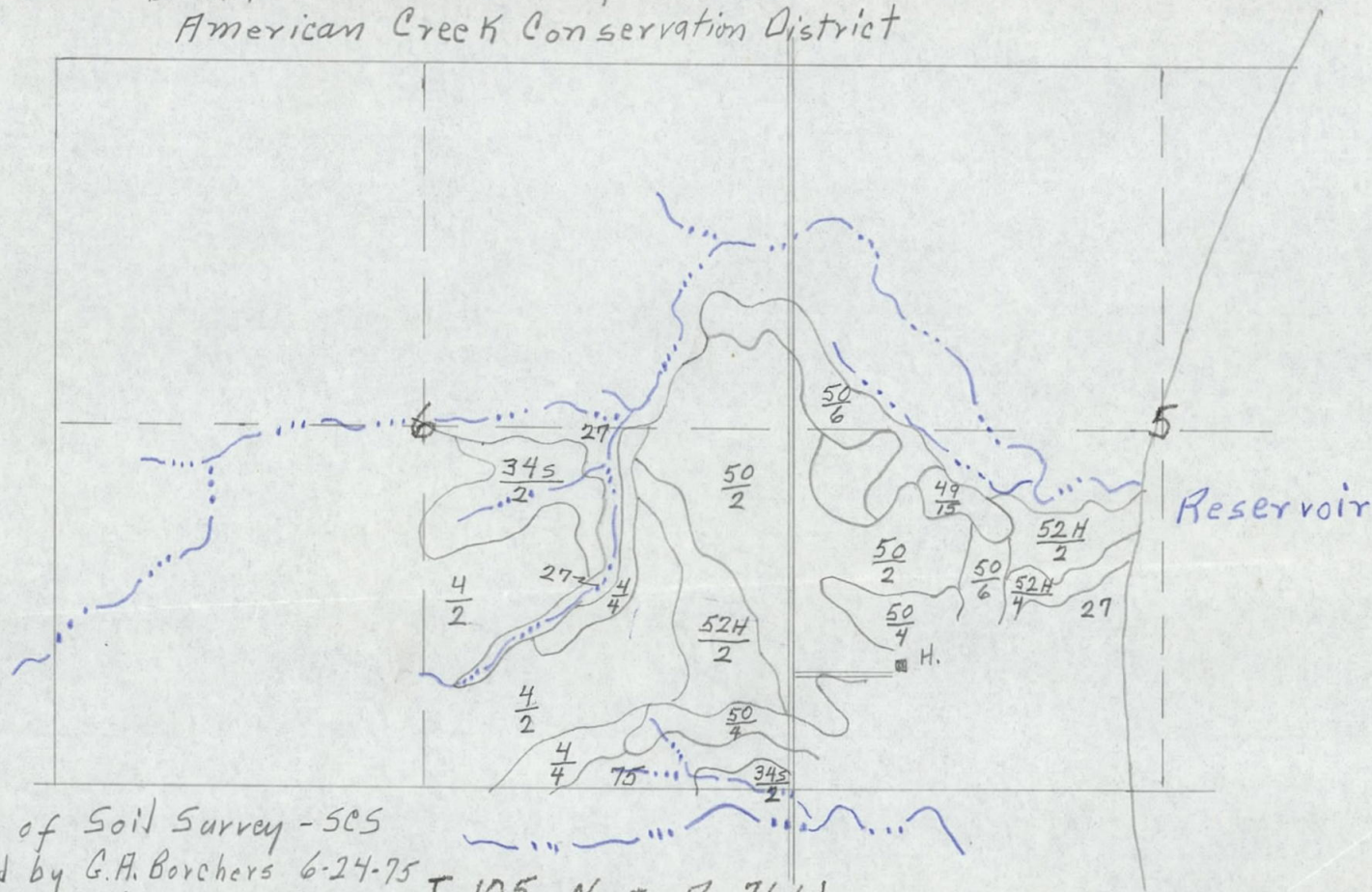

JOHN HATCH, Chief Engineer
Water Rights Program
(605) 773-3352

ks
enclosures

NOTE: The investigation found your irrigation system is capable of diverting 2.73 cubic feet of water per second (cfs) which is equivalent to approximately 1,225 gallons per minute. The statutory limit for 170.9 acres is 2.44 cfs (equivalent of 1095 gpm). Diversion of water under this water license is limited to 2.44 cfs.

NOTE: The applicable portions of 1273-2 are incorporated into this Water License No. 1366-2.

Blum Bros. Reliance, S.D.
American Creek Conservation District



Overlay of Soil Survey - SCS

Prepared by G.A. Borchers 6-24-75

Copied by G. Bierwagen 6-27-75 T. 105 N. - R. 71 W.

1273-2