

- 1366.2
1. Considered MAY 20, 1976
2. Name of Applicant BLUM Bros.
3. Post Office Address RELIANCE
4. Amount of water claimed 1.14
5. Source of water supply MISSOURI RIVER
6. Water to be used for IRRIGATION
- Acres to be irrigated. 800
7. Water to be diverted and used in LYMAN county  
about 10 N miles of OSCOMA
8. Proof of Publication Received 5-17-76  
Not Received \_\_\_\_\_
9. Application Approved \_\_\_\_\_  
Subject to \_\_\_\_\_  
Not Approved \_\_\_\_\_  
Action deferred \_\_\_\_\_

10. Remarks:

No. 1364-2  
 Map No. 1157-2 Water Division No. 2 WHITE RIVER District 1  
 (Blanks to be Filled by the Engineer for the W. R. C.)

## APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

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

1. Name of Applicant Blum Brothers  
 Postoffice address Reliance, State SD 57569  
 If a corporation show date 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) 1.5 cubic ft per second for each qt.  
 5. Source of water supply Missouri River  
 6. Location of point of diversion Twp 155 N. R. 71 W. about the center of SW 1/4 of Section 5  
 County Lynn

7. Annual period or periods during which water is to be used May 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 1280

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 | Land Description | No. Acres Irr. |
|---------------------------|-----------|------------------|----------------|
| West 1/2 of SE 1/4 Sec. 6 | 80        |                  |                |
|                           |           |                  |                |
|                           |           |                  |                |
|                           |           |                  |                |

Attach sheet if more space is needed

10. Time required to complete construction of water supply system 3 yr years. Additional time required to complete application of water to the proposed beneficial use 4 yr or less years.  
 11. Choice of newspaper for Notice of Intent to Appropriate Water publication Advocate Leader Kennelworth SD  
 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 Brule

I, Blum Bros. by Bert Blum 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 Blum Bros. by Bert BlumSubscribed and sworn to before me this 8 day of March 1976

Notary Public (or other qualified officer)

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 1366-2

BLUM BROS

(Applicant)

RELIANCE

(Post Office Address)

SOUTH DAKOTA 57569

(State)

With the following modification:

Date of first receipt of application MARCH 15, 1976

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

Date of receipt of corrected application \_\_\_\_\_, 19\_\_\_\_

Approved MAY 20, 1976, Recorded in Book 15 Page 71

WATER RIGHT PERMIT NO. 1366-2

The Water Rights Commission hereby grants and issues this Water Right Permit No. 1366-2 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 MARCH 15, 1976
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before NOVEMBER 20, 1977
3. The whole of said work is to be completed on or before MAY 20, 1979
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is MAY 20, 1981
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 1.14 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 MAY 20, 1981; said water to be used during the following described annual period: MAY THRU AUGUST

Witness my hand this 21<sup>ST</sup> day of MAY, 1976

WATER RIGHTS COMMISSION

By:

John H. Hatch  
Chief Engineer, Executive Officer

Certificate of Construction Issued \_\_\_\_\_, 19\_\_\_\_

Water License Issued \_\_\_\_\_, 19\_\_\_\_

No. 1366-2

Publish first publication, on or before May 6, 19 76

**NOTICE  
INTENT TO APPROPRIATE WATER**

Pierre, South Dakota 57501

April 9, 19 76

Blum Bros.

Notice is hereby given that \_\_\_\_\_  
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  
1.14 cubic feet of water per second of time from the Missouri River through the  
Blum Bros. #2, the point of diversion of which is to be located in the \_\_\_\_\_

near the center of the SW 1/4

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

W 1/2 SW 1/4, Section 6, T105N, R71W

This application No. 1366-2 will be considered by the Water Rights Commission at their office at  
Pierre upon the 20th day of May, 19 76, at 1:00 P. M. All interested  
persons may appear and be heard.

**WATER RIGHTS COMMISSION**

by:

BURTON F. JONES  
Water Rights Specialist

BFJ/bw  
cc:

Blum Bros., Reliance, S.D. 57569





United States Department of the Interior  
OFFICE OF THE SOLICITOR

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

May 19, 1976



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 May 20, 1976, a Hearing will be held at 1 p.m. by the Water Rights Commission at their office at Pierre, South Dakota, on the application of the Blum Brothers, Reliance, South Dakota, for a permit to appropriate for beneficial use 1.14 cubic feet of water per second of time from the Missouri River through the Blum Bros. # 2, the point of diversion being near the center of the SW $\frac{1}{4}$  of Sec. 5, T. 105 N., R 71W. for the purpose of irrigation.

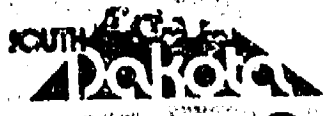
This letter will serve as our written objection to such application for a permit to appropriate ground water from within the boundaries of the Lower Brule Reservation. The issuance of such permit would be contrary to established law, which declares that the State lacks jurisdiction with respect to the 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 783; United States v. McIntire, 101 F. 2d 650; and United States v. Alexander, 131 F. 2d 357.

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. Sunker*  
Wallace G. Sunker  
Field Solicitor

cc: Area Director  
Superintendent, Lower Brule Agency, Lower Brule SD 57548  
Mr. Farnell Hagen, Area Soil Conservationist, B.I.A.  
Blum Brothers, Reliance, SD 57569



# Department of Water & Natural Resources

Joe Foss Building  
523 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.



## 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."

**Permit No. 1366-2**  
**White River - Water District**

**Report Of Examination Of Works And/Or Application of Water To  
Beneficial Use**

TO: Chief Engineer, Water Rights Program, DENR, Foss Bldg., Pierre, SD 57501

On, September 2, 1998, I made a thorough examination of the water use system constructed by Bart Blum of Reliance SD holder of Permit Nos. 1273-2, bearing the priority of July 2, 1975 authorizing the diversion of 2.2 cu. ft. per second and 1366-2, bearing the priority of March 15, 1976 authorizing the diversion of 1.14 cu. ft. per second of the waters of the Missouri River for irrigation purposes, in Lyman County.

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

- A. Works used to divert the water:  
2 pumps and motors
- B. Works used to transport water to place of use:  
8" Aluminum pipe
- C. Works used to apply water to beneficial use:  
Center Pivot and Traveling Gun

The system is in the following condition Very Good. The point of diversion is located 1530' north and 2330' east of the SW corner of Section 5 T105N-R71W. The works are capable of diverting and conveying to the place of use 2.73 cu. ft. per second of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

|                   |            |
|-------------------|------------|
| <b>T105N-R71W</b> |            |
| NW ¼ SE ¼ Sec 6   | 22.5 acres |
| NE ¼ SE ¼ Sec 6   | 37.4 acres |
| SW ¼ SE ¼ Sec 6   | 22.2 acres |
| SE ¼ SE ¼ Sec 6   | 30.8 acres |
| SE ¼ NE ¼ Sec 6   | 14.4 acres |
| NW ¼ SW ¼ Sec 5   | 29.5 acres |
| NE ¼ SW ¼ Sec 5   | 14.1 acres |

comprising a total of 170.9 acres of land and the license should be issued for 2.44 cfs.

Applicable permit qualifications have been complied with: Yes

Exceptions to compliance are: none

Jeff Shafer  
 Jeff Shafer  
 Natural Resources Engineer  
 DENR, Water Rights Program

9/28/98  
 Date

**REPORT ON INSPECTION OF PERMIT NO. 1366-2**

**DATE OF INSPECTION:** September 2, 1989

Other permit(s) associated with the project: 1273-2

Contact Person & Address: Bart Blum, HC 5 Box 16, Reliance SD 57569

**DIVERSION POINT LEGAL LOCATION:** NW 1/4 SW 1/4 Section 5 T105N-R71W

**WATER SUPPLY**      Source: Missouri River

**Pump No. 1:**

- |                         |                            |
|-------------------------|----------------------------|
| 1) Make <u>Berkeley</u> | 2) Model <u>B3JOBM</u>     |
| 3) Size <u>13 1/2"</u>  | 4) Capacity <u>775</u> GPM |

**Motor No. 1:**

- |                                    |                                |
|------------------------------------|--------------------------------|
| 1) Make <u>John Deere</u>          | 2) Model No. <u>Industrial</u> |
| 3) Horsepower rating <u>120</u> hp |                                |

**Pump No. 2:**

- |                        |                            |
|------------------------|----------------------------|
| 1) Make <u>Cornell</u> | 2) Model <u>4H-1-2</u>     |
| 3) Size <u>8"</u>      | 4) Capacity <u>450</u> GPM |

**Motor No. 2:**

- |                                    |                                |
|------------------------------------|--------------------------------|
| 1) Make <u>John Deere</u>          | 2) Model No. <u>Industrial</u> |
| 3) Horsepower rating <u>120</u> hp |                                |

**DISTRIBUTION LINES OR CANALS:**

- |                         |                         |                            |
|-------------------------|-------------------------|----------------------------|
| 1) Type <u>Aluminum</u> | 2) Size <u>8</u> inches | 3) Length <u>4000</u> feet |
|-------------------------|-------------------------|----------------------------|

**SYSTEM TYPE:**

**Center pivot:**

- |                                     |                                    |
|-------------------------------------|------------------------------------|
| 1) Make <u>Reinke</u>               | 2) Overall length <u>1320</u> feet |
| 3) Number of towers <u>9</u>        | 4) End gun <u>Yes</u>              |
| 5) High or low pressure <u>High</u> | 6) Capacity <u>775</u> GPM         |

**Gun:**

- |                            |                                      |
|----------------------------|--------------------------------------|
| 1) Make <u>Aggrain</u>     | 2) Nozzle size <u>unknown</u> inches |
| 3) Capacity <u>450</u> GPM | 4) Hose size <u>unknown</u> inches   |

**CHEMIGATION EQUIPMENT:**

- |                             |
|-----------------------------|
| 1) Does chemigate <u>No</u> |
|-----------------------------|

**PERMIT QUALIFICATIONS AND REGULATIONS:**

- 1) Special qualifications to permit being abided by Yes
- 2) All structures, wells and lands on map Yes
- 3) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Yes



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3181  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

October 20, 1998

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.

# RECEIPT

## Water Rights Program

South Dakota Department of Environment and Natural Resources

N<sup>o</sup> 415991

Pierre, December 28, 1998

RECEIVED OF Blum Brothers Ranches, HCR 5, Box 16, Reliance, SD 57569  
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. 136602

50 00

Fee for Filing Transfer Form \_\_\_\_\_

Fee for Filing Extension Request \_\_\_\_\_

Fee for \_\_\_\_\_

(Any Other Work Provided by Law)

Total

50 00

By \_\_\_\_\_



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3181  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

APR 26 1999

1366-2

Blum Brothers  
%Bart Blum  
HCR 5, Box 15  
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) 733-3352

ks  
enclosure.

**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.

# STATE OF SOUTH DAKOTA

## WATER LICENSE NO. 1366-2

(1) Blum Brothers, HCR 5, Box 16, Reliance SD 57569 made Application No. 1366-2, March 15, 1976 for a water permit to divert 1.14 cubic feet of water per second (cfs) from the Missouri River, Lyman County, South Dakota for irrigation purposes. Permit No. 1366-2, with a priority date of March 15, 1976 was approved May 20, 1976 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before May 20, 1979 and for the application to beneficial use of said water on or before May 20, 1981.

Water Permit No. 1273-2 with a July 2, 1975 priority date authorized diversion of 2.2 cfs from the Missouri River to irrigate 160 acres. The applicable portions of No. 1273-2 are incorporated into this Water License No. 1366-2.

An investigation conducted for licensing purposes found acreage developed for irrigation outside of the area described on the permits. Pursuant to SDCL 46-5-30.5, the Chief Engineer makes a finding that existing water rights will not be impaired and the overall project, as developed, is consistent with the original application.

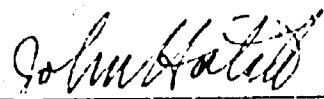
The investigation also found the diversion point developed was not in the location authorized by the permits. Pursuant to SDCL 46-5-13.1, the Chief Engineer makes a finding that the change in location of the diversion point does not increase the potential for interference with existing water rights.

(2) It is certified that the water right holder 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 2.44 cubic feet of water per second for beneficial use. The location of the diversion point is 1,530 feet north and 2,330 feet east of the southwest corner of Section 5-T105N-R71W (NE ¼ S ¼ ¼).

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

| All in T105N-R71W |           |            |           |           |            |
|-------------------|-----------|------------|-----------|-----------|------------|
| Section 6         | NW ¼ SE ¼ | 22.5 acres | Section 5 | NW ¼ SW ¼ | 29.5 acres |
|                   | NE ¼ SE ¼ | 37.4 acres |           | NE ¼ SW ¼ | 14.1 acres |
|                   | SW ¼ SE ¼ | 22.2 acres |           |           |            |
|                   | SE ¼ SE ¼ | 30.8 acres |           |           |            |
|                   | SE ¼ NE ¼ | 14.4 acres |           |           |            |
| Total 170.9 acres |           |            |           |           |            |

(4) Pursuant to South Dakota Water Law 46-5-30.1 Blum Brothers, HCR 5, Box 16, Reliance SD 57569 the holder and/or owner of Incorporated Water Right No. 1366-2 is issued a license to appropriate water, the right to use 2.44 cubic feet of water per second from the Missouri River with priority dates of 2.2 cfs (July 2, 1975) and 0.24 cfs (March 15, 1976) from the location 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 Right No. 1366-2 and subject to South Dakota State Law.

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

APR 26 1999

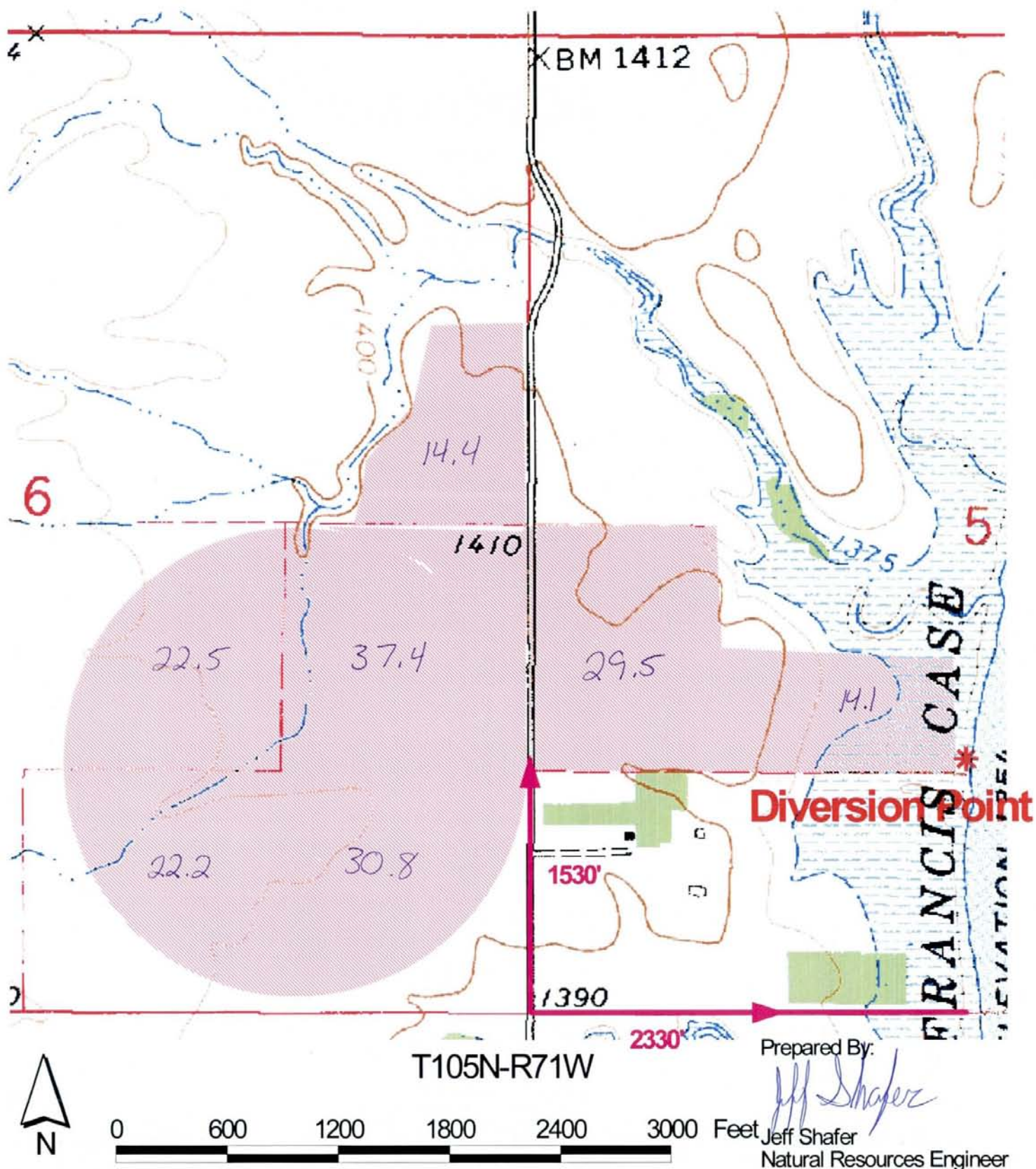
date



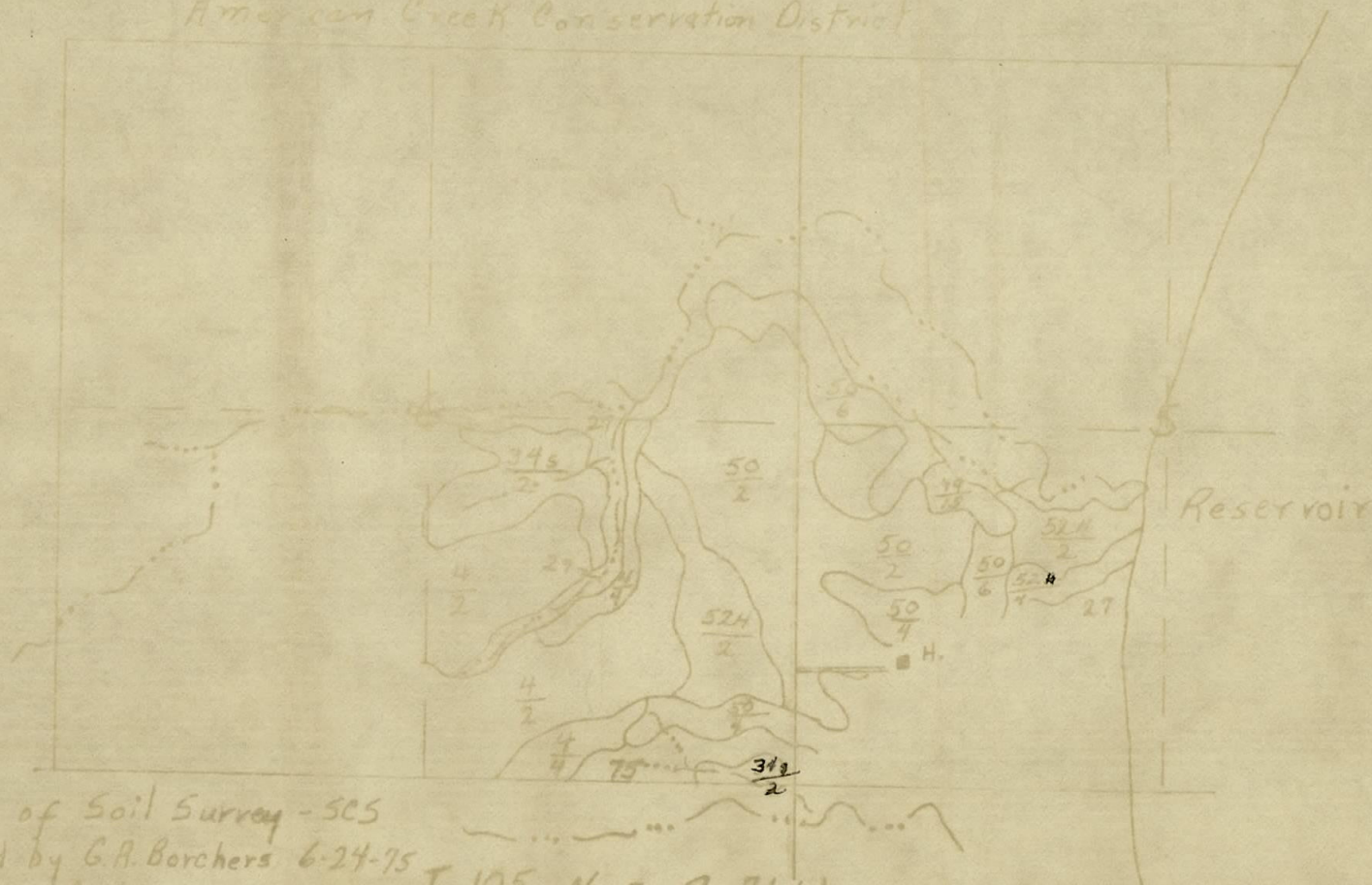
# Inspection Map Water Permit No. 1366-2

9/14/98

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.

MAP N<sup>o</sup> 1157-2 (APPL N<sup>o</sup> 1366-2)