

Water Right No. 1739-2

1. Considered January 28 19 81 VESTED RIGHT
2. Name of Applicant Maynard Downen
3. Post Office Address Box 1, Fairburn, S.D. 57738
4. Amount of Water Claimed 2.1
5. Source of Water Supply French Creek
6. Water to be used for IRR
7. Acres to be irrigated 146 maximum acre feet
8. Water to be diverted and used in Custer County about 2 miles West of FAIRBURN

9. PROOF OF PUBLICATION Received _____

Not Received _____

APPLICATION

Approved 1/28/81

Subject to Canals 0111-2 / 67-2

Not Approved _____

Action deferred _____

Priority 1890-212B Date Received 12/11/80 Application Complete yes xx no _____ FEE 13.00

Remarks upon approval will cancell 67-2 & 0111-2 as

this V/R covers these two permits

Date Information and/or fee or corrected Application received _____
Period of Annual use March thru October (when available)

WATER QUALITY

Received yes _____ no _____ APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as application yes _____ no _____ Remarks _____

n/a

Disapproved _____

Returned _____

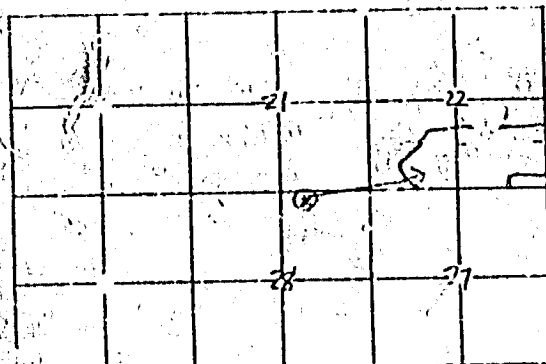
Diversion Point _____

NW 1/4, Section 28-T4S-R7E

Lands to be irrigated _____

Portions of the S_{1/2}, Section 22-

T4S, R7E



WELL LOG

Remarks _____

Driller _____ Licensed yes _____ no _____

Depth _____

MAP Map No. 1000-2 Map located in Water Right X Map file _____
Type of Map Drawn // Prepared by LeRoy Mernaugh, Engr.

+++++

REVIEWED This Application was reviewed within 30 days of date received, accepted as complete, Number assigned and written up for advertisement before the Board on 1/28/81

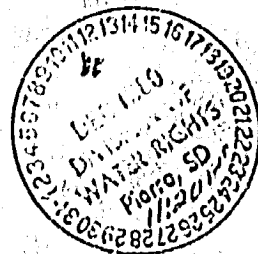
[Signature]
(Signed)

+++++

PROTESTS Letters/Petitions in File - yes _____ no _____ Remarks _____

REMARKS Date _____
F.F. & C Final Decision, including F.F. & C of Law were adopted _____
OF LAW Date _____
FINAL Final Decision mailed to parties and/or parties notified that Final Decision
DECISIONS was adopted _____
ETC. _____

Remarks _____



No. 1739-2
 Map No. 1000-2 Water Division No. 2 UPPER CHEYENNE District
 Above for Office Use 10120109
VESTED RIGHT

APPLICATION FOR PERMIT To appropriate Water within the State of South Dakota

Check one of the following:

New Vested Right XX Future Use Change in Diversion Additional Diversion Change in Acreage Additional Acreage 1. Name of Applicant Maynard Downen Phone No. Post Office Address Box 1, Fairburn State South Dakota 57783
 (Street, RR, or Box) (Town) (Zip Code)If a corporation show date and place of incorporation completed2. Method of accomplishing work (contract, employment of others, or by direct labor) completed3. Name of diversion work 4. Amount of water claimed (cubic feet per second) 2.15. Source of water supply French Creek6. Location of point of diversion 60'S and 370'E of the NW corner, Section 28, T4S, R7E
(NW 1/4 NE 1/4)County Custer7. Annual period or periods during which water is to be used March thru October8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) irrigation9. For irrigation use, Total number of acres to be irrigated 146

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.
SW 1/4 SW 1/4 22, T4S, R7E	11
NE 1/4 SW 1/4 "	9
SE 1/4 SW 1/4 "	40
NW 1/4 SW 1/4 "	9

Land Description	No. Acres Irr.
NE 1/4 SE 1/4 22, T4S, R7E	9
SW 1/4 SE 1/4 "	40
SE 1/4 SE 1/4 "	28

Attach sheet if more space is needed

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

12. Principal Features of the Proposed Water Supply System.

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

diversion dam with 30" CMP with headgate

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

diversion ditches

C. Works proposed to apply water to beneficial use.

diversion dikes and ditches and spreader ditchesEstimated Total Cost \$

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

STATE OF SOUTH DAKOTA)

County of Custer) ss.I, Maynard Downen 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 Maynard DownenSubscribed and sworn to before me this 10th day of Dec, 1987

Notary Public (or other qualified officer)

WATER RIGHT APPLICATION APPROVAL

The Water Management Board hereby approves Water Right Application No. 1739-2
Maynard Downen Box #1, Fairburn

(Applicant) (Post Office Address)
South Dakota 57738 With the following qualifications:
 (State)

"Vested Right" claimed

Date of first receipt of application December 11, 1980
 Date of return to applicant for correction, amendments or changes required , 19
 Date of receipt of corrected application January 28, 1981
 Approved , 19 Recorded in Book 21 Page 329

WATER RIGHT PERMIT NO. 1739-2

The Water Management Board hereby grants and issues this Water Right Permit No. 1739-2 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as qualified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is April 10, 1909, 19
2. The equivalent of at least one-fifth of the work above specified is ~~to be completed on or before~~ , 19
3. The whole of said work is ~~to be completed on or before~~ , 19
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is , 19
5. The water appropriated shall be used for the purpose of IRRIGATION

6. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.

7. The amount of the appropriation herein granted shall not exceed 2.1 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 irrigation purposes said appropriation must be limited to not more than 2 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

This Date , 19 ; said water to be used during the following described annual period: March thru October (when available)

Witness my hand this 4th day of February, 1981

THE WATER MANAGEMENT BOARD

By: John Hatch
 Chief Engineer, Water Rights

Certificate of Construction Issued FEBRUARY 4, 1981

Water License Issued FEBRUARY 4, 1981

NOTE

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

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

Name of Applicant (Same as Form 2) MAYNARD DownenPost Office Address Box 1 FAIRBURN, State SOUTH DAKOTA

57738

If a Corporation show date and place of incorporation _____

13. Notice of Appropriation (If available)

Date of Posting ? Date of Recording ?Recording Date ?14. Date of start of construction of water supply system Late 1800's15. Date that water was first applied to beneficial use 1890's16. Name of owner of original water supply system J. M. Daniel17. Amount of water originally applied to beneficial use 2.1 c.f.s.

18. Present Use of Water

Amount of water now being used 1.5 c.f.s. when water is availableDate that this amount of water was first used Since the system was built when the water is available

19. Chronological History of Water Use

This water was originally used by J. M. Daniel, then by my grandfather Lewis Osborn Sr. after buying the land about 1900. - My father, Lewis Osborn Jr. from 1932 - 1950. Then by myself Maynard Downen from 1950 to present time.

French creek has become an intermittent stream since the building of Stockade Lake near Custer and the practice of digging the beaver in the sink hole area in Custer State Park so my irrigation can not be constant because of the lack of water at times.

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

STATE OF SOUTH DAKOTA)

County of Custer) ss.I, Maynard Downen, the applicant, certify that I have read the foregoing and that the matters therein stated are true.Signed Maynard DownenSubscribed and sworn to before me this 10th day of Dec, 1980

(Notary Public or other qualified Officer)

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

Michael J. Jorin

Permit No. 1739-2

Water Diversion No. 2 Upper Cheyenne Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify That Maynard Dowmen

vested
right

the holder of
Permit No. 1739-2, issued upon Application No. 1739-2, bearing date of priority of April 10, 1909
authorizing the diversion of 2.1 cu. ft. per second of the waters of
French Creek County of Custer, State of South Dakota at a
point 60 feet south and 370 feet east of the NW corner of Section 20 - T4S - R7E

for irrigation

purpose, has 5 complied with the provisions of the laws of the State of South Dakota relating to proof of
completion of the works of diversion set out and described in said Permit; that said works ^{recognized as} ~~are~~ ^{are} satisfactory
condition for diverting and conveying to the place of intended use 10 cu. ft. per second of water. (estimate)

Date February 4, 1901

John Hatch
JOHN HATCH, Chief Engineer
Water Rights Division

Permit No. 1739-2

Water Diversion No. 2 Upper Cheyenne Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That Maynard Downen

vested
right

the holder of
Permit No. 1739-2 upon Application No. 1739-2, bearing date of priority of April 10, 1979
authorizing the diversion of 2.1 cu. ft. per second of the waters of

French Creek County of Cluster, State of South Dakota at a
point 60 feet south and 370 feet east of the NW corner of Section 28 - T4S - R7E.

for irrigation

purposes, has 5 complied with the provisions of the laws of the State of South Dakota relating to proof of
completion of the works of diversion set out and described in said Permit; that said works are ~~in~~ ^{recognized as} satisfactory
condition for diverting and conveying to the place of intended use 10 cu. ft. per second of water. (estimate)

Date February 4, 1981

John Hatch
JOHN HATCH, Chief Engineer
Water Rights Division

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 1739-2.

(1) WHEREAS, On the 11th day of December A. D. 19 80
Maynard Downen

made Water Right Application No. 1739-2 vested right for ~~permit to use~~ 2.1 cubic feet per second of the waters
of French Creek
County of Custer State of South Dakota, for irrigation
purposes; and

(2) WHEREAS, On the 28th day of January A. D. 19 81
vested right Permit No. 1739-2, with a date of priority of April 10, 1909
was issued to said applicant recognizing the completion of construction of the water
supply system therein described ~~XX~~ and for the
application to beneficial use of said water ~~XX~~

and:

(3) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota
relating to completion of the construction of the water supply system and is entitled to divert 2.1 cubic feet
per second of water for beneficial use and,

(4) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota
relating to the application of water to beneficial use of the following extent,

to irrigate the following lands all in Section 22 - T4S - R7E

		Acres	
SW $\frac{1}{4}$ SW $\frac{1}{4}$	11	Water	The applicable portions of Permits No. 67-2 and 0111-2 have been incorporated into this License No. 1739-2 and Permits Nos. 67-2 and 0111-2 have been placed in a cancelled status.
NE $\frac{1}{4}$ SW $\frac{1}{4}$	9		
SE $\frac{1}{4}$ SW $\frac{1}{4}$	40		
NW $\frac{1}{4}$ SE $\frac{1}{4}$	9		
NE $\frac{1}{4}$ SE $\frac{1}{4}$	9		
SW $\frac{1}{4}$ SE $\frac{1}{4}$	40		
SE $\frac{1}{4}$ SE $\frac{1}{4}$	28		
Total		146	

(5) NOW, THEREFORE, by the virtue of the authority vested in us by the laws of the State of South Dakota, We hereby grant and confirm to Maynard Downen

of Fairburn, S.D.
the holder vested right and owner of said permit No. 1739-3 a water right, existing from April 10, 1909 to use of 2.1 cubic feet per second of the waters of of

in the County of Custer and State of South Dakota, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted at a point 60 feet south and 370 feet east of the NW corner of Section 28 - T4S - R7E

and conducted to and upon portions of land in Section 22-T4S-R7E, more fully described on the face of this License

for the purpose of irrigation

This Water License No. 1739-2 is based on a Vested Right Claim recorded and filed by the Water Management Board.

Subject to any limitations listed in Water Right Permit No. 1739-2 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this 4th day of February A. D.
Nineteen Hundred and Eighty-one

WATER MANAGEMENT BOARD

By:

John Hatch
Chief Engineer, Executive Officer JOHN HATCH

November 13, 1980

Maynard Downen
Box 1
Fairburn SD 57783

Dear Mr. Downen:

On July 12, 1980 in the process of making a final inspection on the May J. Downen Water Right Permit No. 67-2, I find that the point of diversion is from a point other than in No. 67-2 and also most of the land you are irrigating is not covered under No. 67-2. However there is an old J.M. Danil Permit No. 0111-2 that indicated irrigation from your point of diversion. It does not specify the area to be irrigated.

We are asking you to file for a vested right for the area you are actually irrigating. In this manner you will have a modern permit. Enclosed are two completed copies of Form 2, "Application for Permit to Appropriate Water". Would you please check it over and make any corrections necessary. Also complete the Form 2B, "Affidavit of Water Use". Bear in mind the chronological history will determine the priority date on the Vested Rights. Then sign and notarize both sets of forms and return them to this office with a check for \$13.00 to cover the cost of the filing fees, inspection and license. Enclosed also is a map of your irrigation project. If there are no corrections to this you may keep it for your files.

After approval of your Vested Right by the Water Management Board and at a later date Permits No. 67-2 and 0111-2 will be presented to the Board for cancellation as all pertinent data is on the Vested Right. You will be notified when they are up for cancellation.

If you have any questions regarding the matter, please feel free to contact this office.

Sincerely,

LERoy J. HERNAUGH
Water Resources Engineer

LJM:kw

enclosures

RECEIPT
WATER RIGHTS COMMISSION
State of South Dakota

No 4 7819

PIERRE, December 15, 1930

RECEIVED OF Maynard Downen, Box 1, Fairburn, SD 57738
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit to appropriate Water No. (examination, processing, recording and filing)	3 00
Fee for inspecting Construction, and issuing Cert. of Construction No.	2 50
Fee for inspecting Beneficial Use, and issuing Water License No.	2 50
Fee for issuing Location Certificate-Dry Draw, No.	
Fee for filling	
Fee for certified copy of	
Fee for Print copy of map	
Fee for Certifying	
Fee for (any other work as provided by law)	
TOTAL	13 00

WATER RIGHTS COMMISSION

By *John Hatch*
Chief Engineer, Executive Officer
JOHN HATCH / 108

Permit No.

1739-2

Water Division

2UPPER Cheyenne

Water District

**REPORT OF EXAMINATION OF WORKS
AND/OR APPLICATION OF WATER TO BENEFICIAL USE**

TO: Water Resources Commission, State Office Building No. 2, Pierre, South Dakota 57501

I have this day made a thorough examination of the water use system constructed by Maynard
Downer of Box 1, Fairbury, S. Dak. holder
of Permit No. 1739-2, bearing date of priority of April 10, 1909, 19____
authorizing the diversion of 2.1 cu. ft. per second of the waters of French Creek
for Irrigation purposes, in Custer County.

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

The Water Use System consists of:

A. Works used to divert the water:

Diversion Dam with 30" CMP and Headgate

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

Diversion Ditches

C. Works used to apply water to beneficial use:

Diversion Dikes and Ditches
and Spreader DitchesThe system is in the following condition: FairThe point of diversion is located 60 ft S and 370 ft E of the N 1/4
Cor of Sec. 28, T4S R7EThe works are capable of diverting and conveying to the place of use 10/cfs (Est)
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: All in Sec. 28, T4S R7E

<u>SW 1/4 SW 1/4 - 40 Ac.</u>	<u>NE 1/4 SW 1/4 - 9 Ac.</u>	<u>SE 1/4 SW 1/4 - 40 Ac.</u>
<u>NW 1/4 SE 1/4 - 9 Ac.</u>	<u>NE 1/4 SE 1/4 - 9 Ac.</u>	<u>SW 1/4 SE 1/4 - 40 Ac.</u>
<u>SE 1/4 SE 1/4 - 28 Ac.</u>		

comprising a total of 146 acres of land.

Date

July 10, 1980
Barry J. Menaugh
(Signature)

SOUTH DAKOTA

VESTED WATER RIGHT NO. 1739-2 FOR IRRIGATION

Date of Receipt of Claim December 11, 1980.

Date of Validation May 6, 1992.

The Water Management Board validated Vested Water Right Claim No. 1739-2 for irrigation purposes for Maynard Downen, Box 1, Fairburn SD 57738 with the following limitations, conditions and qualifications:

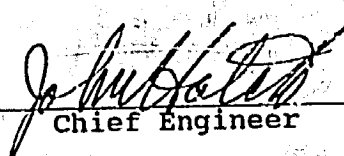
1. Vested Water Right No. 1739-2 appropriates 2.1 cubic feet of water per second from French Creek located in the NW 1/4 NE 1/4 Section 28-T4S-R7E to irrigate 146 acres located in the S 1/2 SW 1/4, NE 1/4 SW 1/4, SE 1/4, Section 22-T4S-R7E.
2. The appropriation may not exceed the amount of water needed for beneficial use for irrigation. The appropriation may not exceed 3 acre feet per irrigated acre per year. Water is to be used during the following annual period: March 1 - October 31.
3. The priority date of the Vested Water Right is April 10, 1909.
4. The water use system has been constructed and water has been applied to beneficial use.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATION

Validation of No. 1739-2 incorporates the applicable portions of Water Right No. 67-2 and Water Right Filing No. 0111-2 into No. 1739-2 and cancels the abandoned or forfeited portions of Water Right No. 67-2 and Water Right Filing No. 0111-2.

WATER MANAGEMENT BOARD

By: _____


Chief Engineer

DEC 24 1992

date

Division of Water Rights
Dept. of Environment and Natural Resources



DEC 24 1992

1739-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3161

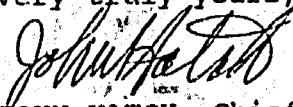
Maynard Downen
Box 1
Fairburn SD 57738

Dear Mr. Downen:

The Water Management Board has validated the enclosed Vested Water Right No. 1739-2. This validation gives legal status to the claim and is the final document for your vested right.

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

Very truly yours,


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

enclosure

Maynard Bownen
Permit # 67-2

R7E

T
4
S

old ditch

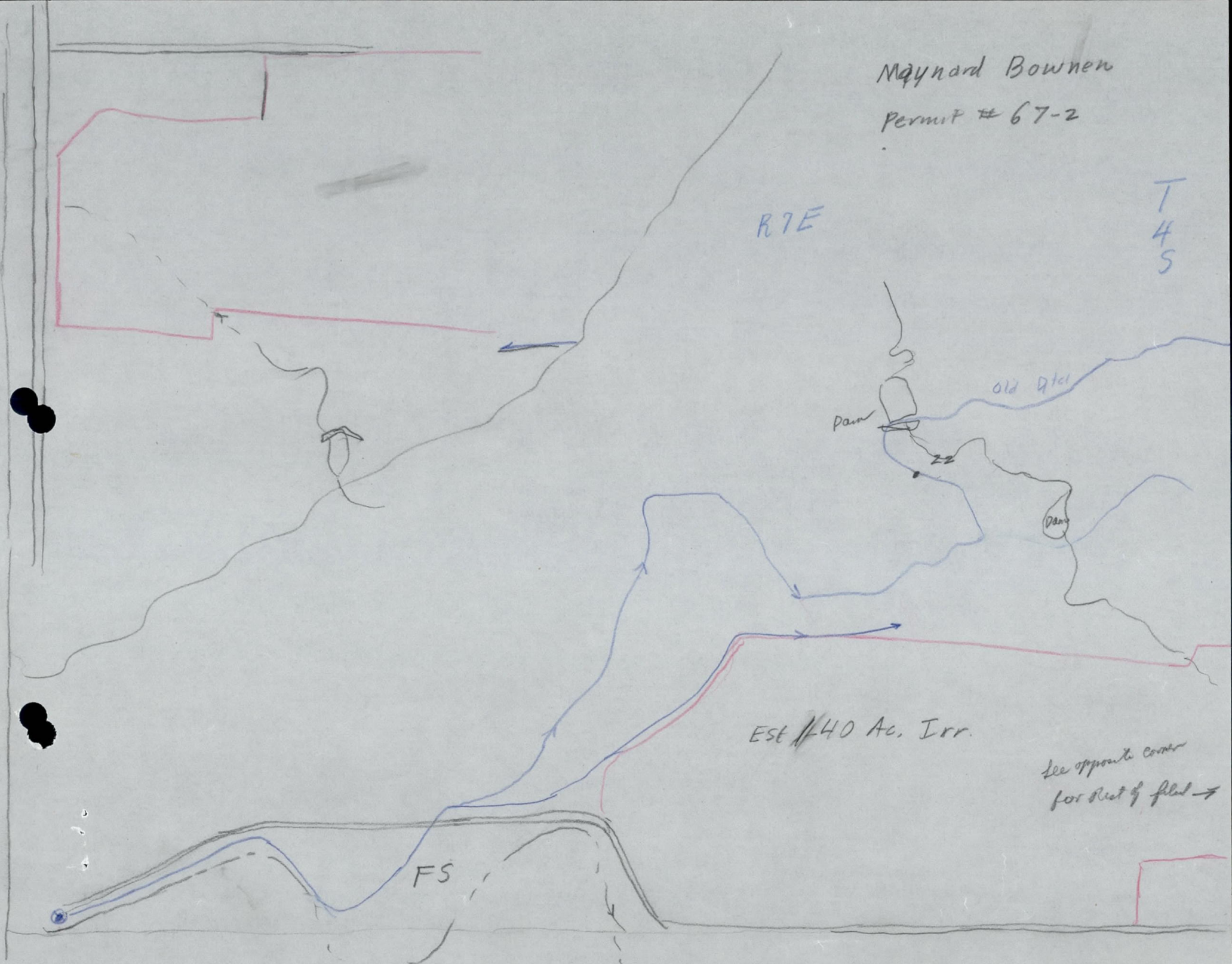
pan

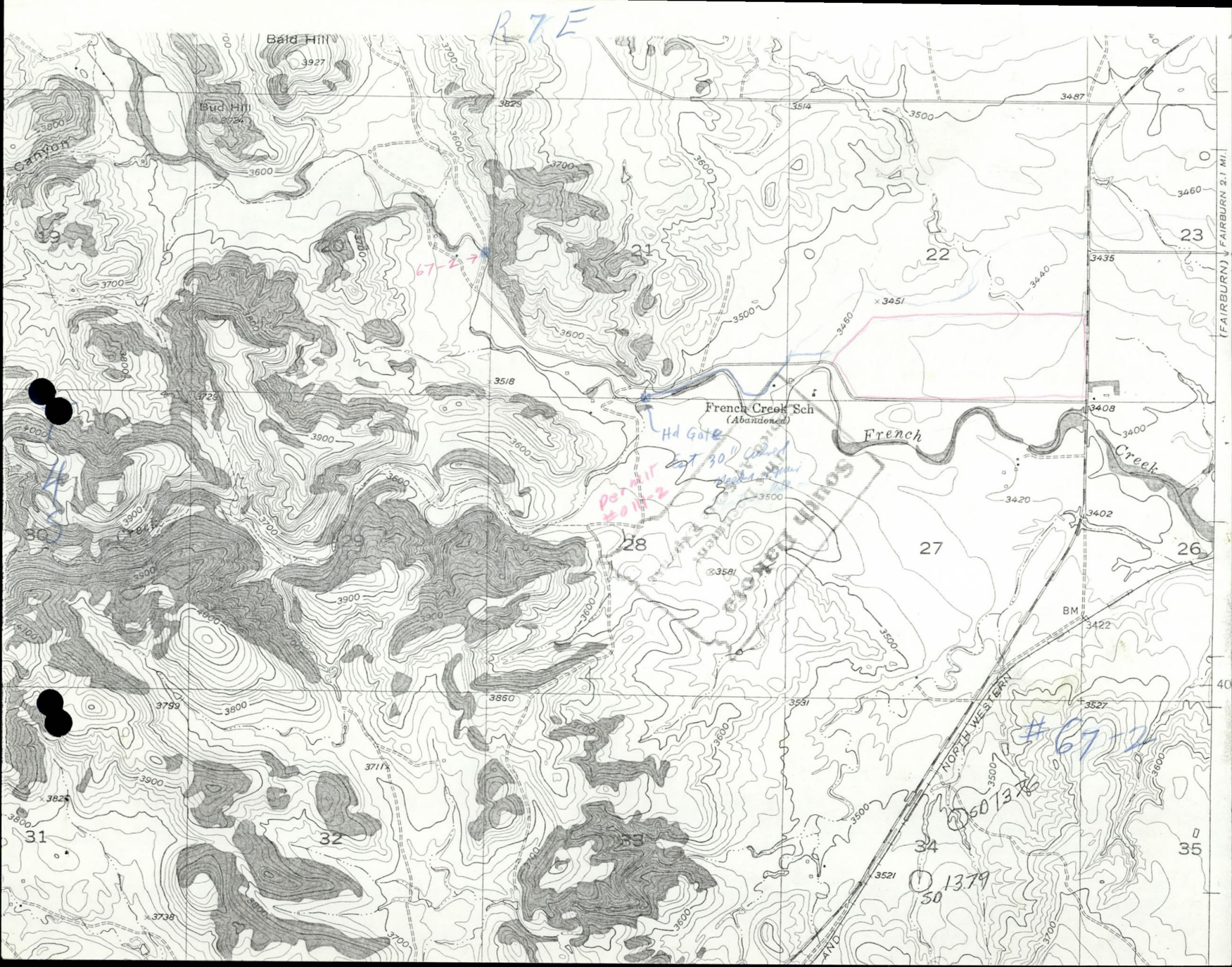
pan

Est 1/40 Ac. Irr.

See opposite cover
for rest of filed →

FS





R 7 E

(BUTCHER HILL)

CHICAGO

19

Fairburn

20

Fairburn
Cem

French

Creek

South Dakota

30

29

31

32

36

23

24

26

25

35

40'

3427

3298

3288

3300

3488

3500

x3536

3518

3424

3346

BM 3312

3289

BM

3347

3258

3240

x3498

3379

3399

3384

3281

3214

3329

3706

x3665

3231

67-2

4
5

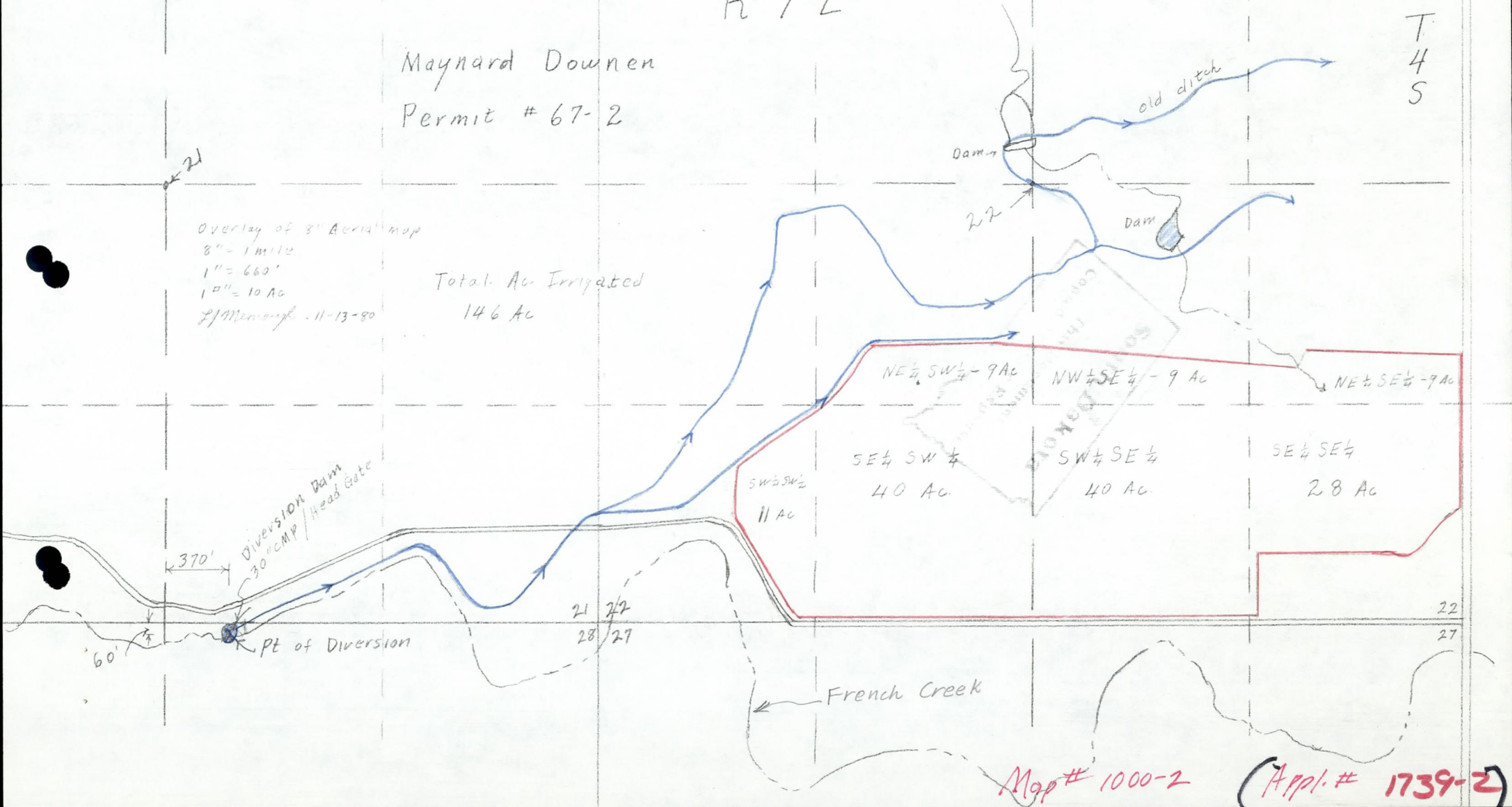
R 7 E

T 4 S

Maynard Downen
Permit # 67-2

Overlay of 3" Aerial map
8" = 1 mile
1" = 660'
1" = 10 Ac
L/Memo. 11-13-80

Total Ac Irrigated
146 Ac



Map # 1000-2

(Appl. # 1739-2)

21 22

22

R 7 E

Maynard Downen
Permit # 67-2

T
4
S

Overlay of 8" Aerial map
8" = 1 mile
1" = 660'
1" = 10 Ac
LJ/Memo 11-13-80

Total Ac Irrigated
146 Ac

Dam

22

old ditch

Dam

NE $\frac{1}{4}$ SW $\frac{1}{4}$ - 9 Ac

NW $\frac{1}{4}$ SE $\frac{1}{4}$ - 9 Ac

NE $\frac{1}{4}$ SE $\frac{1}{4}$ - 9 Ac

SE $\frac{1}{4}$ SW $\frac{1}{4}$
40 Ac

SW $\frac{1}{4}$ SE $\frac{1}{4}$
40 Ac

SE $\frac{1}{4}$ SE $\frac{1}{4}$
28 Ac

SW $\frac{1}{2}$ SW $\frac{1}{2}$
11 Ac

370'

Diversion Dam
30" CMP / Head Gate

60'

Pt of Diversion

21 22

28 27

French Creek

22

27

Map # 1000-2 Appl 1739-2 v/r