

Considered: _____

WATER PERMIT NO. 2223-2

Phone: 842-0424

Name of Applicant: Virgil Novotny & Novotny Bros. Inc.

Post Office Address: RR 3, Box 24, Colome SD 57538

Amount of Water Claimed: 270 add'l ac-ft Total Acres: no add'l

Source of Water Supply: groundwater & dry draw dam

Water to be used for: irrigation County: Tripp

About 6 miles South of Winner

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

F.F. & C/.L. Adopted _____ Not Approved _____ Deferred _____

PRIORITY _____ Date Received: 1-3-92 Fee: \$250 Remarks Increase

storage capacity of dam authorized by Permit 1243-2 & add use of dam to Permit No. 1047-2

Corrected Application Received _____ Period of Annual Use Jan 1- Dec 31

WATER QUALITY APPROVAL RECEIVED 3-9-92 APPROVED/CONDITIONAL (Circle one)

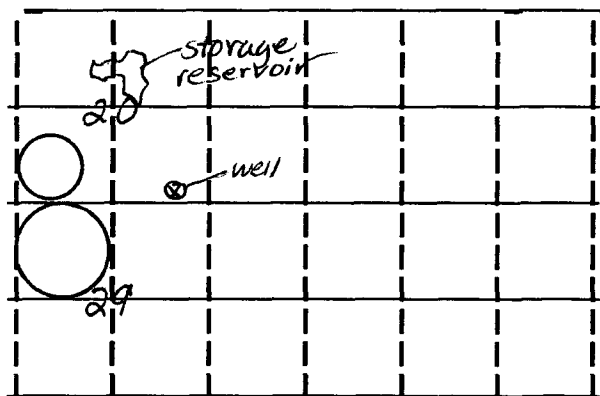
WI-1 Description same as Application YES X NO _____ REMARKS _____

Diversion Point: well - SE 1/4 SE 1/4

dam - W 1/2 NE 1/4, Sec 20-T98N-R76W

Land to be Irrigated: NW 1/4 Sec 29; SW 1/4 Sec 20

all in T98N-R76W



Well Log: Driller: _____

Licensed YES _____ NO _____

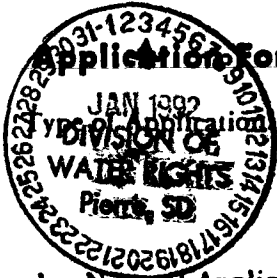
Depth of Well: _____ REMARKS _____

Type of Map: aerial PREPARED BY: Tim Schaal Reviewed and the Number

Assigned on 3-10-92 By Karen Schlaak

(See instructions)

No. 2223-2 Hydrologic Unit 10140204
Basin White River
Newspaper Winner Advocate, Box 71, Winner



Application For Soil/Water Compatibility Permit and Permit To Appropriate Water

- ☒ New ☐ Vested Right ☐ Amend Permit No. _____
☐ Change Acreage ☐ Change diversion point(s) ☐ Add diversion point(s)
☐ Add Acreage ☐ Increase diversion rate ☐ Other _____

- Name of Applicant Virgil Novotny & Novotny Bros., Inc. Phone No. 842-0424
Post Office Address RR 3 Box 24 & Box 26 Colome State SD 57538
(Street, RR or Box) (City) Zip Code
- Amount of water claimed (c.f.s) 270 Ac-Ft add'l Total acres irrigated 181 (No Add'l)
- Source of Water supply Groundwater & Dry Draw Dam
- Location of point of diversion Well-165 ft. North & 850 ft. West of the SE corner (SE 1/4 SE 1/4) and
Dam-1320 ft. North & 500 ft. East of the center of Sec. 20-T98N-R76W (W 1/2 NE 1/4)
County Tripp
- Counties where water will be used Tripp
- Annual period during which water is to be used January 1 thru December 31
- 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.
NW 1/4 NW 1/4 Sec. 29-T98N-R76W	32.5
NE 1/4 NW 1/4 " "	32.5
SW 1/4 NW 1/4 " "	32.5
SE 1/4 NW 1/4 " "	32.5

Land Description	No. Acres Irr.
SW 1/4 SW 1/4 Sec. 20-T98N-R76W	35
SE 1/4 SW 1/4 " "	8
NW 1/4 SW 1/4 " "	7
NE 1/4 SW 1/4 " "	1

Attach sheet if more space is needed

- Type of Irrigation: Gravity: _____ Towline: _____ Center Pivot: XX Gun: _____ Other: _____
(Specify) _____
- Crops to be Irrigated: Corn, Alfalfa, Small Grain
- Give a description of proposed project. (Attach sheet if more space is needed)

This application is to add 270 Ac-Ft additional storage in the Novotny Irrigation Dam, which was authorized by Water Permit No. 1243-2 and to add the use of the dam to Water Permit No. 1047-2. The dam was originally authorized to store 250 Ac-Ft and it now stores 520 Ac-Ft.

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach maps, soils information and any other technical information.

STATE OF SOUTH DAKOTA)
County of TRIPP)^{ss}

I, Virgil J. Novotny, the applicant, certify that I have read this application and examined the attached maps, that the water sample, if needed, has been taken by the required procedures and has not been adulterated or tampered with and is truly representative of the water to be used, and that the matters stated in this application are true and correct.

Signed

Virgil J. Novotny

Subscribed and sworn to before me this 30th day of December, 19 91

Ruben L. O'Donoghue
Notary Public

My Commission Expires: 2/28/97

SOUTH DAKOTA
WATER PERMIT No. 2223-2 FOR IRRIGATION

Date of first receipt of application January 3, 1992.

Date Soil/Water Compatibility Permit received March 9, 1992.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2223-2 to Virgil Novotny, RR 3, Box 24, Colome SD 57538 and Novotny Brothers, Inc., c/o Steve Novotny, Box 26, Colome SD 57538 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 2223-2 increases the storage capacity of an existing dam and adds the use of the water from the dam to the lands irrigated by Water Permit No. 1047-2. Water Permit No. 1047-2 appropriates 2.0 cubic feet of water per second (cfs) from a well located in the SE 1/4 SE 1/4 Section 20 to irrigate 156 acres located in the NW 1/4 Section 29; all in T98N-R76W. Water Permit No. 1243-2 appropriates 1.0 cfs from the existing well authorized under Water Permit No. 1047-2 to be pumped into a reservoir with a storage capacity of 250 acre feet. The reservoir is located in the W 1/2 NE 1/4 and impounds water in the W 1/2 NE 1/4, E 1/2 NW 1/4, all in Section 20-T98N-R76W. Water Permit No. 1243-2 authorizes the irrigation from the reservoir, of 72.8 acres located in the SW 1/4 Section 20-T98N-R76W and the 156 acres authorized by Water Permit No. 1047-2. This permit increases the storage capacity of the existing dam an additional 270 acre-feet for a total of 520 acre-feet and allows irrigation of lands authorized by Water Permit No. 1047-2 from the dam. No increase in the diversion rate or number of acres being irrigated is authorized by this permit.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: January 1 - December 31.
3. The date from which applicant may claim right is March 9, 1992.
4. The date of approval of Permit No. 2223-2 is June 2, 1992.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

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

(continued)

2. The irrigation well owner under this Permit shall not withdraw water for storage when the water level in City of Winner 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 the City of Winner observation well No. 10 is at level of 16 feet or lower.
3. If deemed advisable by the Water Management Board, 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 Board.
4. Approval of Permit No. 2223-2 authorizes storage of an additional 270 acre-feet annually. Total combined storage authorized by Permit Nos. 1243-2 and 2223-2 is up to 520 acre-feet annually.

WATER MANAGEMENT BOARD

By: _____

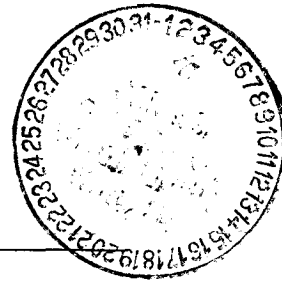
John Hatch, Chief Engineer, Water Rights Division
Department of Environment and Natural Resources

NOV 17 1992

date

Supplemental Information

(type or print in ink)



1. Well Information - Proposed construction

- a) Drill Hole Diameter _____ Depth _____
- b) Casing Type _____ Diameter _____ Thickness _____
- c) Screen Type _____ Diameter _____ Thickness _____
- d) Gravel Pack Thickness _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth to Water (ground surface to water level) _____
- g) Distance to nearest existing domestic well:
- On applicants property _____ On property owned by others _____

2. Dugout Information Estimates

- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

3. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below. The locations of each dam should be shown on the map submitted with the application.

- a) If a private engineering firm or government agency was involved in the design of this dam please give their name and address

b) Freeboard 8 ft.

c) Crest Width 20 ft.

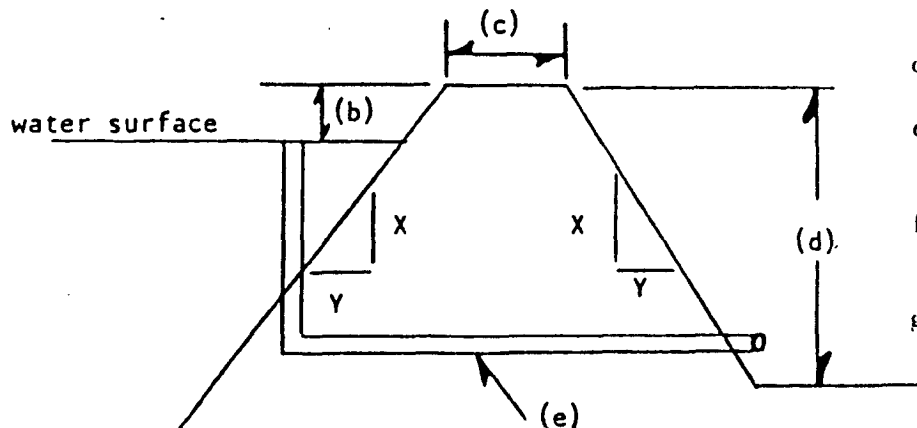
Crest Length 600 ft.

d) Height 45 ft.

e) Primary Outlet Capacity 5900 cfs
 If Pipe, diameter _____

f) Secondary Spillway Capacity _____
 Spillway width _____

g) X & Y Slope
 Upstream _____
 Downstream _____



Surface Area of Impoundment 18 acres

Storage 520 acre feet

Drainage area above dam Approx. 300 ac.

Virgil Moroty
 Signature of Applicant

Department of Agriculture
WI#1
5/87

SOIL/WATER COMPATIBILITY PERMIT
Division of Conservation

Office Use Only

WR#

OWNERS NAME: VIRGIL BROWN & DOROTHY BROWN, INC. OWNERS ADDRESS: Box 1, Box 24
COLUMBIA SD 57530

COUNTY LAND LOCATED IN: TRIPP PHONE: 342-3424

LEGAL DESCRIPTION:

☒ Well

☐ Surface

1. LOCATION Well-165' North & 550' West of the SE corner (SW $\frac{1}{4}$ SW $\frac{1}{4}$) and

Depth Das-1320' North & 500' East of the center of Section 20-T98N-R76W (SW $\frac{1}{4}$ SW $\frac{1}{4}$)

Legal Description	Acres	Legal Description	Acres
NE $\frac{1}{4}$ SW $\frac{1}{4}$ 20-T98N-R76W	32.5	SW $\frac{1}{4}$ SW $\frac{1}{4}$ 20-T98N-R76W	32.5
NE $\frac{1}{4}$ NW $\frac{1}{4}$ 20-T98N-R76W	32.5	SW $\frac{1}{4}$ SW $\frac{1}{4}$ 20-T98N-R76W	32.5
SW $\frac{1}{4}$ NW $\frac{1}{4}$ 20-T98N-R76W	32.5	NW $\frac{1}{4}$ SW $\frac{1}{4}$ 20-T98N-R76W	32.5
SW $\frac{1}{4}$ NW $\frac{1}{4}$ 20-T98N-R76W	32.5	NE $\frac{1}{4}$ SW $\frac{1}{4}$ 20-T98N-R76W	32.5

2. TYPE OF IRRIGATION: GRAVITY: _____ TOWLINE: _____ CENTER PIVOT: _____ GUN: _____ (Specify) _____

3. CROPS TO BE IRRIGATED: CORN, ALFALFA, SMALL GRAIN

WATER QUALITY:

4. WATER SAMPLE NUMBER: 91-0532

7. ADJUSTED (SAR): 0.67

5. SALINITY (EC X 10⁶): 520

8. PERCENT SODIUM: 6.91

6. SODIUM (SAR): 0.32

Requirements:

The intermittent drainageway found in section 29 shall be maintained in permanent vegetation.

The area mapped as Anselmo-Russel fine sandy loam, 10-20% slope (AtD) shall not be irrigated and maintained in permanent vegetation.



Russell J. Stone

Director, Division of Conservation

MARCH 5, 1992

Date

☒ APPROVED

☐ DISAPPROVED

☐ WAIVER

☐ REQUIREMENTS

Soil/water permits will be recorded by the Department of Agriculture, with the County Register of Deeds.

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

412992

Pierre, _____ January 3, 19 92

RECEIVED OF Virgil or Delores 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. <u>2223-2</u> to Appropriate Water, to construct works and to put water to beneficial use _____	250	00
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	250 00

By John H. [Signature]
Chief Engineer

NOT TO SCALE

23.6

23.6

13.0

15.4

98.76

Timothy K. Nelson
November 21, 1991

SCALE

(131-L)

20

91.4

NE 1/4

2.7
3.2
Well

850'

(131-L)

Timothy A. Federal
November 21, 1978

5



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

GREAT FACES. GREAT PLACES.

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

South Dakota

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

GREAT FACES. GREAT PLACES.

November 25, 1991

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

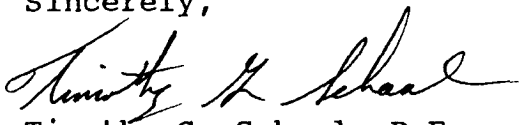
Dear Mr. Novotny:

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

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2223-2, Virgil Novotny & Novotny Brothers, Inc.

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Environment and Natural Resources concerning Water Permit Application No. 2223-2, Virgil Novotny & Novotny Bros, Inc., RR 3 Box 24, Colome, SD 57538.

The Chief Engineer is recommending APPROVAL of Application No. 2223-2 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The irrigation well owner under this Permit shall not withdraw water for storage when the water level in City of Winner 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 the City of Winner observation well No. 10 is at a level of 16 feet or lower.
3. If deemed advisable by the Water Management Board, 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 Board.
4. Approval of Permit No. 2223-2 authorizes storage of an additional 270 acre-feet annually. Total combined storage authorized by Permit Nos. 1243-2 and 2223-2 is up to 520 acre-feet annually.

See report on application for additional information.



JOHN HATCH, Chief Engineer
April 20, 1992

REPORT ON
WATER PERMIT APPLICATION NO. 2223-2
VIRGIL NOVOTNY & NOVOTNY BROTHERS INC.
APRIL 15, 1992

Water Permit Application No. 2223-2 was filed by Virgil Novotny and Novotny Brothers Inc. to add 270 acre-feet additional storage to the Novotny Irrigation Dam which was authorized by Water Permit No. 1243-2 and to add the use of the dam to Water Permit No. 1047-2. The dam is located in the W 1/2 NE 1/4 of Section 20-T98N-R76W in Tripp County.

Discussion:

Water Permit No. 1047-2 was issued to Novotny Brothers (Edmund & Virgil) in January, 1971 for 2 cfs from a well in the SE 1/4 SE 1/4 of Section 20-T98N-R76W to irrigate 156 acres in the NW 1/4 of Section 29-T98N-T76W. Water Permit No. 1243-2 was issued to Novotny Brothers (Edmund & Virgil) in March, 1975 for 1.0 cfs of groundwater from the existing well authorized under Water Permit 1047-2 to be pumped into a reservoir with a storage capacity of 250 acre-feet. Water Permit No. 1243-2 authorizes the irrigation of 72.8 acres in the SW 1/4 of Section 20-T98N-R76W and the 156 acres authorized by Water Permit No. 1047-2.

Edmund Novotny has since deceased and the Novotny Brothers property has been divided between Virgil and Edmund's sons (who operate under Novotny Brothers, Inc. % Steve Novotny). Virgil Novotny irrigates the land authorized under Water Permit No. 1047-2. Novotny Brothers Inc. irrigate the land authorized under Water Permit No. 1243-2. The well and storage dam are owned by both parties.

An inspection of Water Permits No. 1047-2 and 1243-2 for licensing purposes found the storage dam capable of storing an additional 270 acre-feet for a total storage capacity of 520 acre-feet.

The Novotny Irrigation Dam is located on a dry draw tributary to Mud Creek. The dam was constructed in 1975 and is 45 feet high with a normal storage capacity of 520 acre-feet and a maximum storage capacity of 700 acre-feet. It is classified as a Intermediate size, Category 3 dam. A Category 3 dam constructed before 1986 is exempt from the Safety of Dams Rules; however, this dam has a spillway capacity of approximately 5900 cfs and has a drainage area of only 300 acres.

The dam is located on a dry draw tributary to Mud Creek. Water Permit No. 1577-2 exists at the confluence of Mud Creek and Dog Ear Creek approximately 3 miles downstream with a priority date of March 1, 1977. Water Permit No. 1577-3 appropriates 4.0 cfs from both Mud Creek and Dog Ear Creek; however, an inspection found they only utilize 0.86 cfs.

Conclusion:

1. Water Permit Application No. 2223-2 should be approved. Since the dam has a drainage area of only 300 acres, it mainly stores only groundwater; therefore, interference with downstream domestic use or prior Water Permits should not be a problem.
2. Water Permit Application No. 2223-2 does not increase the diversion rate or number of acres being irrigated by Water Permits No. 1047-2 and 1243-2.



Timothy G. Schaal, P.E.
Natural Resources Engineer III

Approved by:



Gale N. Selken, P.E.
Natural Resources Engineer IV

References:

DENR, Division of Water Rights, Water Permit/Right Files, 1992, Joe
Foss Building, Pierre, SD



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPER RIGHT AWAY.

April 30, 1992

Virgil Novotny
RR 3 Box 24
Colome, SD 57538

Dear Mr. Novotny:

Water Permit Application No. 2223-2 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Winner Advocate printed at Winner, SD (Ph # 842-1481). For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice of Hearing and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. The newspaper has been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.

cc: Novotny Bros, Inc., Box 26, Colome, SD 57538



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 30, 1992

Winner Advocate
Box 71
Winner, SD 57580

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 2223-2 to be published twice. Please publish the first notice on May 6, 1992, with the second publication 7 days later.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is Virgil Novotny and Novotny Brothers, Inc., RR 3 Box 24, Colome, SD 57538 (Ph # 842-0424).

A copy of BOTH publications must be SENT to the WATER RIGHTS DIVISION. IMMEDIATELY return the FIRST publication with the FIRST Transmittal form on the bottom of this page. The first copy is needed to check the publication for errors so any corrections can be made in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. No action may be taken on the permit application until proof of publication has been received.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

FIRST TRANSMITTAL NOTICE

TO: Eric Gronlund
Water Rights Division
Joe Foss Building
Pierre SD 57501-3181

No. _____

Date _____

We are in receipt of your letter of _____ enclosing Notice of Hearing to
Appropriate Water by Application No. _____ which was first published in our issue
of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper

Instruction to Newspaper - Publish first Notice on May 6, 1992, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 2223-2 to Appropriate Water
and to Amend Water Permit Nos. 1047-2 and 1243-2

Notice is given that Virgil Novotny and Novotny Brothers, Inc., RR 3 Box 24, Colome, SD 57538 have filed an application for a water permit to increase the storage capacity of an existing dam and to add the use of the water from the dam to the lands irrigated by Water Permit No. 1047-2. Water Permit No. 1047-2 appropriates 2.0 cubic feet of water per second (cfs) from a well located in the SE 1/4 SE 1/4 Section 20 to irrigate 156 acres located in the NW 1/4 Section 29; all in T98N-R76W. Water Permit No. 1243-2 appropriates 1.0 cfs from the existing well authorized under Water Permit No. 1047-2 to be pumped into a reservoir with a storage capacity of 250 acre-feet. The reservoir is located in the W 1/2 NE 1/4 and impounds water in the W 1/2 NE 1/4, E 1/2 NW 1/4; all in Section 20-T98N-R76W. Water Permit No. 1243-2 authorizes the irrigation from the reservoir, of 72.8 acres located in the SW 1/4 Section 20-T98N-R76W and the 156 acres authorized by Water Permit No. 1047-2. This application increases the storage capacity of the existing dam an additional 270 acre-feet for a total of 520 acre-feet and allows irrigation of lands authorized by Water Permit No. 1047-2 from the dam. No increase in the diversion rate or number of acres being irrigated is authorized by this application.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2223-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. Unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Water Management Board will NOT CONDUCT a HEARING to consider this application and the chief engineer will issue the permit as recommended. Petitions filed in support of the application will NOT require the Board to hear the application.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 26, 1992. The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

For purposes of publishing 1) the notice of hearing on Application No. 2223-2 and 2) the chief engineer's recommendation, a meeting at the Division of Water Rights office to hear this application is scheduled for June 2, 1992, at 9:00 am in Room 413, Joe Foss Building, 523 E Capitol, Pierre SD. If this application is opposed or the recommendation is contested, the June 2, 1992, hearing date will be rescheduled for a regularly scheduled Board meeting. Notice of the time and place of the rescheduled hearing before the Board will be given by First Class Mail to the applicant and persons filing petitions. Anyone not filing a petition, but interested in attending the hearing, may contact the Division of Water Rights to confirm a hearing date and location. The June 2, 1992, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by May 26, 1992.

If a hearing is held, the Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. Any hearing will be an adversary proceeding. Any person filing a petition and/or the

applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact the Water Rights Division to request copies of information pertaining to this application or to assure access to the hearing by the handicapped.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

PROOF OF PUBLICA

STATE OF SOUTH DAKOTA)

County Tripp)

ss.

I, Carol Bruck

certify that the attached printed Notice wa

from the Winner AdvocateA newspaper which during the whole time of publi
said notice herein after stated, has been and is pri
published in the Winner Advocateof WinnerCounty of Tripp and State of South
that the said notice was published in said newspap
following two dates:May 12, 1992May 13, 1992Carol Bruck

(Signature)

Office Manager

(Title)

May 14, 1992

(Date Signed)

Cost of Printing: \$100.00Notice of hearing on Application No. 2223-2
to appropriate water and to amend
water permit nos. 1047-2 and 1243-2

Notice is given that Virgil Novotny and Novotny Brothers, Inc., RR 3 Box 24, Colome, SD 57528 have filed an application for a water permit to increase the storage capacity of an existing dam and to add the use of the water from the dam to the lands irrigated by Water Permit No. 1047-2. Water Permit No. 1047-2 appropriates 2.0 cubic feet of water per second (cfs) from a well located in the SE 1/4 SE 1/4 Section 20 to irrigate 156 acres located in the NW 1/4 Section 29; all in T98N-R76W, Water Permit NO. 1243-2 appropriates 1.0 cfs from the existing well authorized under Water Permit No. 1047-2 to be pumped into a reservoir with a storage capacity of 250 acre-feet. The reservoir is located in the W 1/2 NE 1/4 and impounds water in the W 1/2 NE 1/4, E 1/2 NW 1/4; all in Section 20-T98N-R76W. Water Permit No. 1243-2 authorizes the irrigation from the reservoir, of 72.8 acres located in the SW 1/4 Section 20-T98N-R76W and the 156 acres authorized by Water Permit No. 1047-2. This application increases the storage capacity of the existing dam an additional 270 acre-feet for a total of 520 acre-feet and allows irrigation of lands authorized by Water Permit No. 1047-2 from the dam. No increase in the diversion rate or number of acres being irrigated is authorized by this application.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2223-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. Unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Water Management Board will NOT CONDUCT a HEARING to consider this application and the chief engineer will issue the permit as recommended. Petitions filed in support of the application will NOT require the Board to hear the application.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E. Capitol, Pierre, SD 57501 (605) 773-3352" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by May 26, 1992. The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

For purposes of publishing 1) the notice of hearing on Application No. 223-2 and 2) the chief engineer's recommendation, a meeting at the Division of Water Rights office to hear this application is scheduled for June 2, 1992, at 9:00 a.m. in Room 413, Joe Foss Building, 523 E. Capitol, Pierre, SD. If this application is opposed or the recommendation is contested, the June 2, 1992, hearing date will be rescheduled for a regularly scheduled Board meeting. Notice of the time and place of the rescheduled hearing before the Board will be given by First Class Mail to the applicant and persons filing petitions. Anyone not filing a petition, but interested in attending the hearing, may contact the Division of Water Rights to confirm a hearing date and location. The June 2, 1992, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by May 26, 1992.

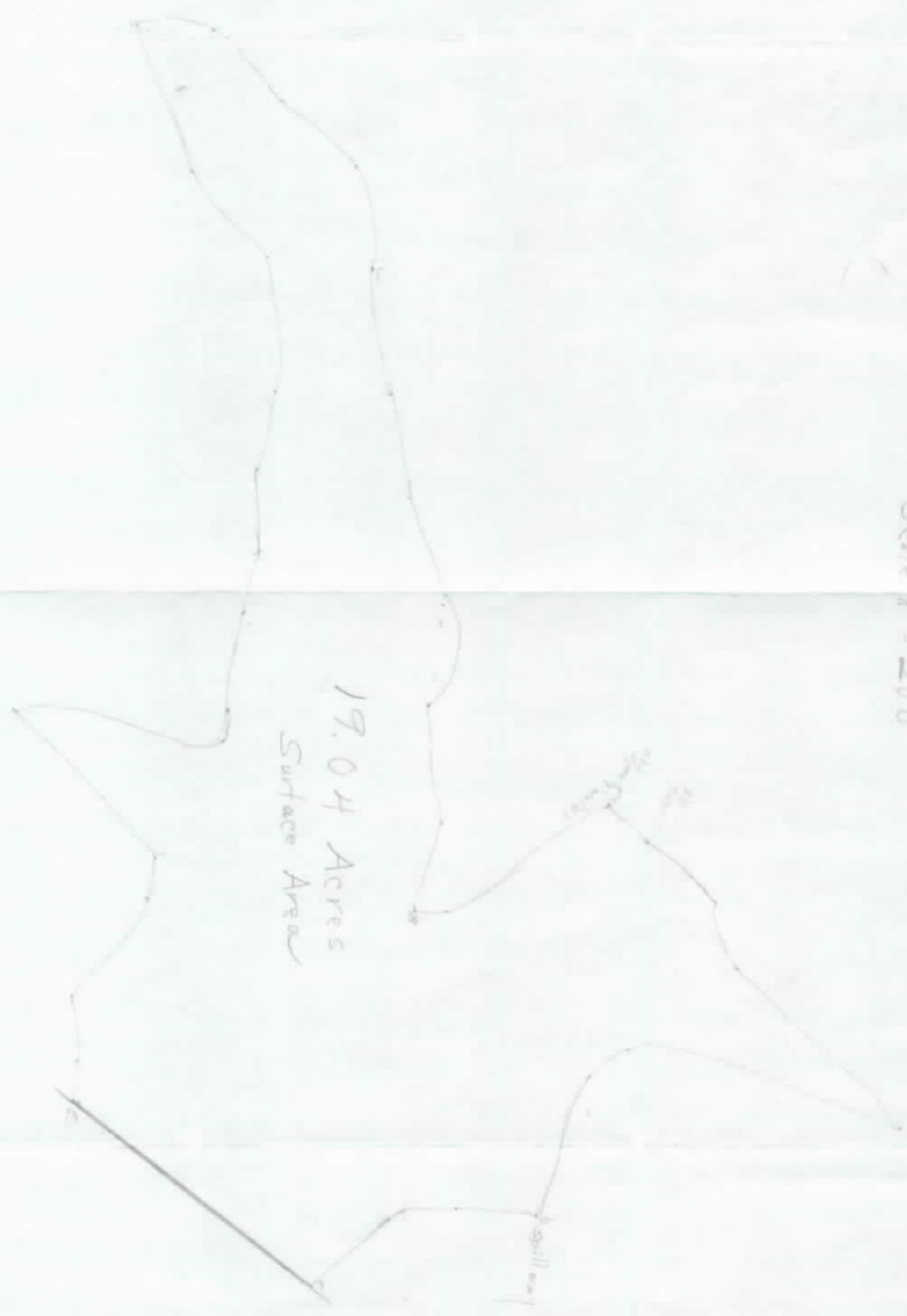
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This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

(19-20 1497)

Neotoma
Scale 1" = 200'

19.04 Acres
Surface Area



Water Rights Division - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Steve Novotny - Water Permit Application No. 2223-2

ADDRESS: Box 26, Colome, SD 57538 COUNTY: Tripp

DATE: May 8, 1992 TELEPHONE: _____

RE: Discussion with Steve Novotny

COMMENTS:

Mr. Novotny called regarding who filed Water Permit Application No. 2223-2. Steve Novotny stated that Virgil Novotny did not have signature authority for Novotny Brothers, Inc. and that Virgil Novotny had no right to apply for this permit since he does not hold the rights to irrigate. Steve Novotny stated that he had no knowledge of this application until it was published in the newspaper. I state that a copy of the notice, report and recommendation was sent to him on April 30, 1992 inwhich he responded he didn't receive it until yesterday. After the phone call, I checked with Tim Schaal, who inspected the Novotny Brothers permit which prompted this application, and Tim stated that he had talked to Steve Novotny about the application.

I told Steve Novotny that I would send him a copy of the application, report and recommendation and a copy of his other permits as he requested.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: Eric Krenlund



NOV 17 1992

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Virgil Novotny
RR 3 Box 24
Colome, SD 57538

Steve Novotny
Novotny Brothers
Box 26
Colome, SD 57538

Dear Virgil and Steve:

Enclosed is Water Permit No. 2223-2 authorizing your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Water Licenses for Nos. 1047-2 and 1243-2 are ready to be issued. A \$50.00 fee is required for issuance of Water License No. 1243-2. The fee for Water License No. 1047-2 has already been paid.

Very truly yours,

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

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 6, 1997

Water Right No. 1047-2

2223-2

Virgil Novotny
RR 3, Box 24
Colome SD 57528

Dear Mr. Novotny:

I am writing in response to our phone conversation and your August 1, 1997 letter. As we discussed, you were investigating what sort of equipment you need in order to apply fertilizer through your irrigation system in the NW¼ section 29-T98N-R76W. Thank you for sending the aerial photo and description.

After reviewing the topography of the area being irrigated, we can not grant a partial variance to the requirements of the chemigation rules. I have enclosed a copy of the topographical map to help show why the variance can not be granted. Depending on the position of the center pivot, it is possible for water to run past the vacuum relief valve. Part of the pivot is higher than the vacuum relief valve when the end of the pivot is situated to either the north end or west end of the NW¼. Under these conditions, a water/fertilizer mixture could flow back past the vacuum relief valve if the pivot stopped running. The chemigation rules (copy enclosed) do not allow granting a variance unless protection equivalent to the rules is provided by your current irrigation setup. The enclosed copy of the rules provides directions and a diagram of how your system needs to be modified for application of fertilizer or other chemicals.

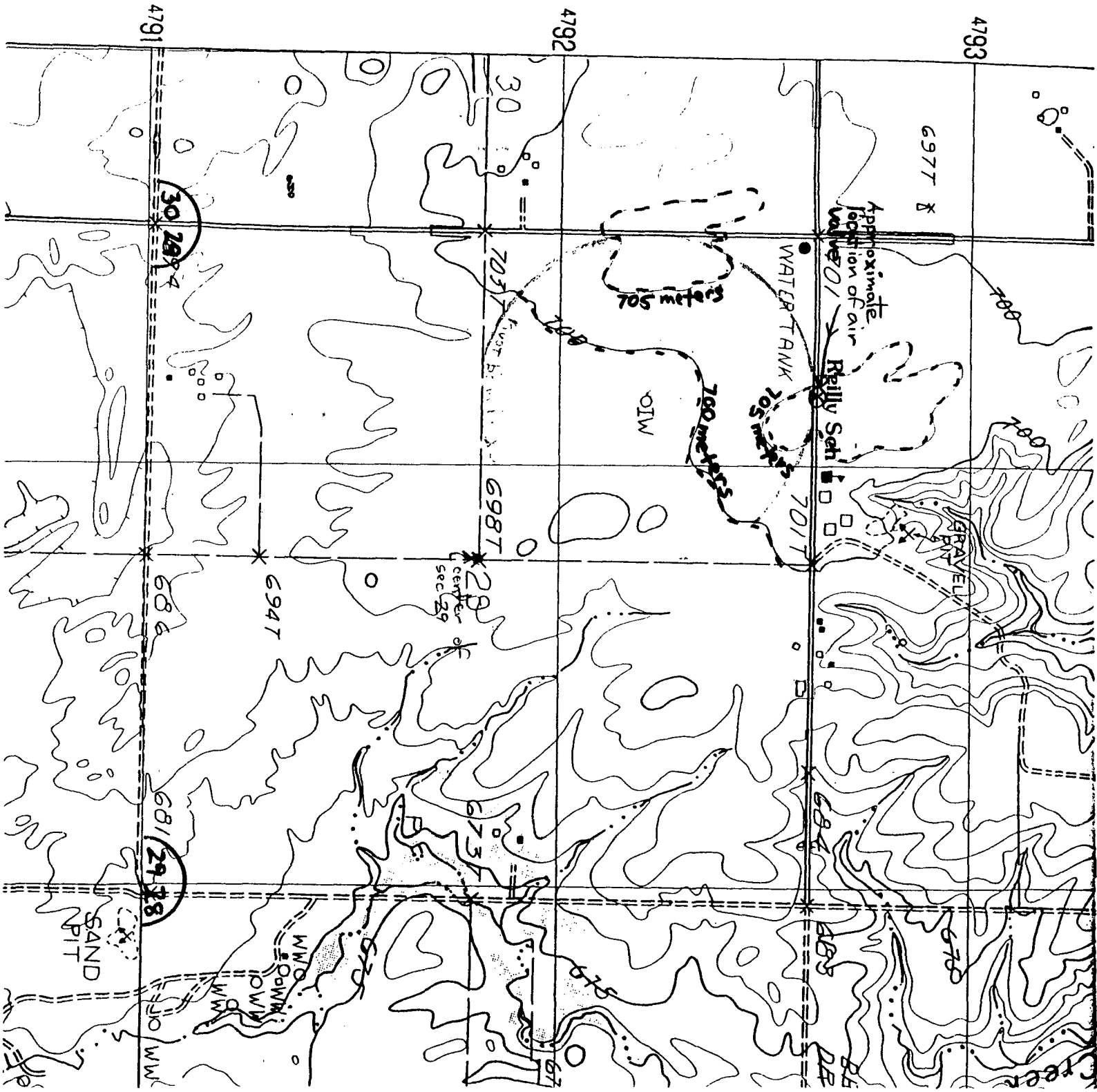
Please contact me at (605) 773-3352 if you have further questions or concerns regarding this issue. Thank you again for taking the time to check into this. Unfortunately, we can not grant a variance for your situation.

Sincerely,

Ron Duvall
Natural Resources Engineer
for
John Hatch, Chief Engineer
Water Rights Program

enclosures

5 meters $\approx$ 1/6 feet





8-1-97

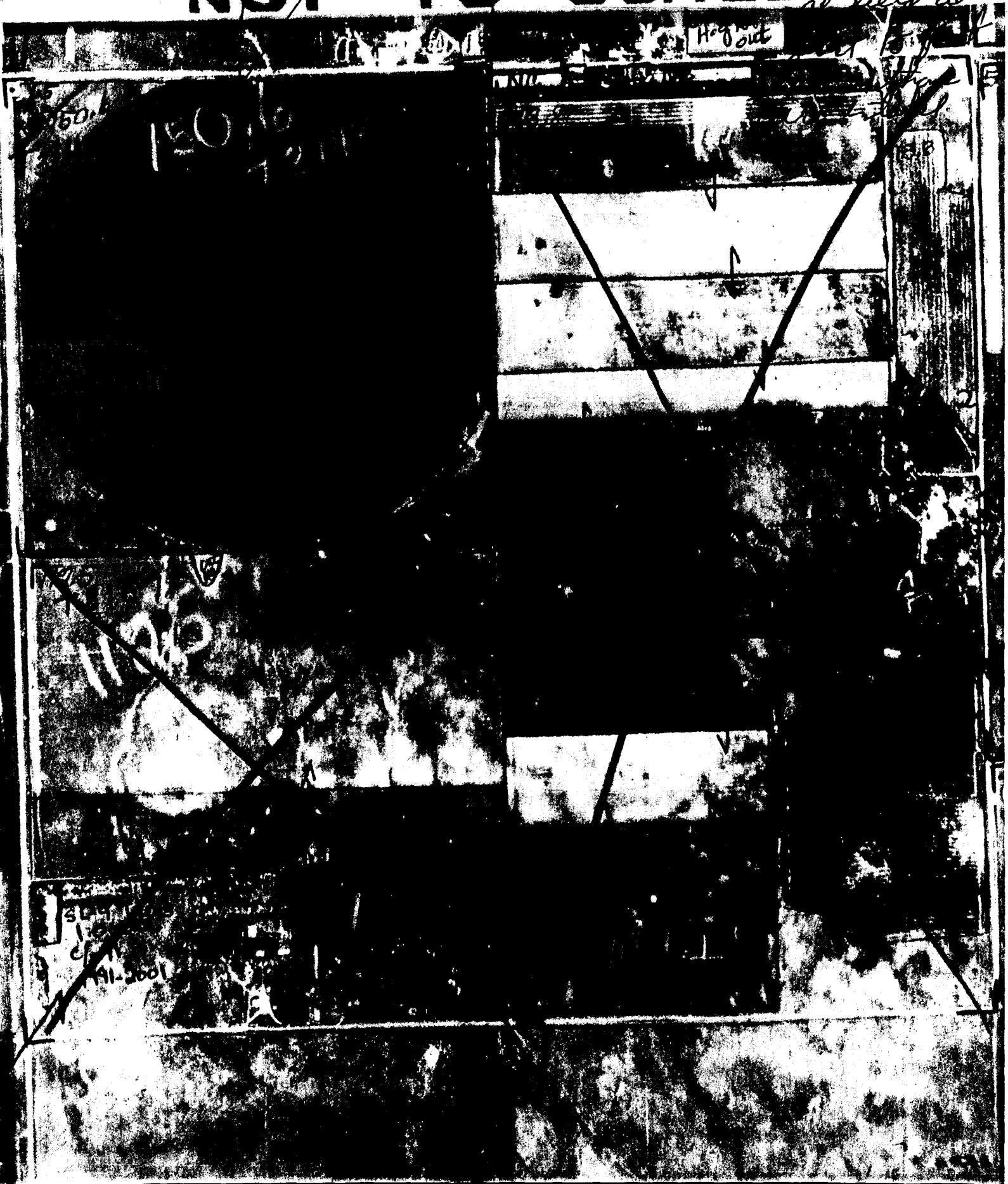
Dear Ron,

I am sending you a ASCS map of the quarter of where I am going to inject fertilizer into the pivot. It shows a sketch of the north part of the field where the underground irrigation pipe goes the marking showing the air intake valve that comes out of the ground. and the pivot is at least 15 maybe 20 feet below the air intake valve. if the pump at the dam should happen to stop all of the water from this point flows towards the pivot. there is no chance of any of it going back to the dam site.

Sincerely
 Virgil Novotny
 RR3, Box 24
 Colome, S.D. 57528
 TEL #1-605-842-0424

air intake valve at north side of
field at high point gradually slope
to south center of field at

NOT TO SCALE





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

SEP 23 1998

1047-2
2223-2

Virgil Novotny
RR 2 Box 24
Colome, SD 57538

Dear Mr. Novotny:

Enclosed is your Water License No. 1047-2 and receipts for fees you paid for the investigation and licensing of Nos. 1047-2 and 1243-2.

The applicable portions of Water Permit No. 2223-2 which allowed use of water from the 520 acre feet storage dam to irrigate land described in Water Permit No. 1047-2, has been incorporated into No. 1047-2. The remaining portions of Water Permit No. 2223-2 which authorized an increase in storage capacity of the dam were incorporated into Water License No. 1243-2, held by Novotny Brothers Inc., % Steve 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

**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