

Considered: _____

WATER PERMIT NO. 2233-2

Phone: 859-2516

Name of Applicant: Theodore Kjerstad

Post Office Address: HC 84, Box 40, Quinn SD 57775

Amount of Water Claimed: 0.67 Total Acres: 47

Source of Water Supply: Dirty Woman Draw

Water to be used for: irrigation County: Haakon

About 14 miles West, 9 North of Philip

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

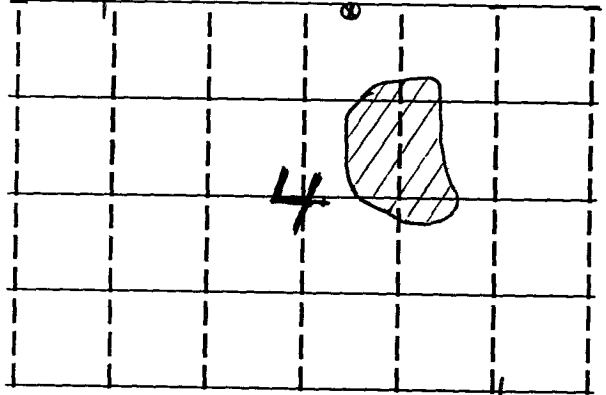
PRIORITY Date Received: 5-27-92 Fee: \$150 Remarks _____

Corrected Application Received 6-5-92 Period of Annual Use April 1 - October 31

WATER QUALITY APPROVAL RECEIVED 6-19-92 APPROVED/CONDITIONAL (Circle one)

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

Diversion Point: NW 1/4 NE 1/4 Sec 4-T2N-R18E



Land to be Irrigated: NE 1/4, N 1/2 SE 1/4

Sec 4-T2N-R18E

Well Log: Driller: NA Licensed YES _____ NO _____

Depth of Well: _____ REMARKS _____

Type of Map: aerial PREPARED BY: Gerald Magelly, SCS Reviewed and the Number

Assigned on 6-22-92 By Karen Schlaak

Exhibit "E"
Mail to: Water Rights Div
525 E. Capitol
Pierre, SD 57501
605-773-3352

(See instructions)

No. 2233-2 Hydrologic Unit: 10140102
Basin Bad River
Newspaper The Pioneer Review, Box 788

Philip

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 _____

1. Name of Applicant Theodore Kjerstad Phone No. 386-2131
Post Office Address HC 84, Box 40, Quinn State S.D. 57775
(Street, RR or Box) (City) Zip Code
2. Amount of water claimed (c.f.s.) 0.67 Total acres irrigated 47
3. Source of Water supply Runoff from Dirty Woman Draw
4. Location of point of diversion 127 Rods West, 0 Rods South of the North East corner of
Section 4 T2N R18E (NW 1/4 NE 1/4)
County Haakon
5. Counties where water will be used Haakon
6. Annual period during which water is to be used April/Thru October 31
7. 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.
Field #1 NWNE S4 T2N R18E	0.75
Field #1 NENE S4 T2N R18E	2.50
Field #1 SWNE S4 T2N R18E	18.30
Field #1 SENE S4 T2N R18E	19.30

Land Description	No. Acres Irr.
Field #1 NWSE S4 T2N R18E	0.40
Field #1 NESE S4 T2N R18E	5.75

Attach sheet if more space is needed

8. Type of Irrigation: Gravity: X Towline: _____ Center Pivot: _____ Gun: _____ Other: _____
(Specify)
9. Crops to be Irrigated: Alfalfa
10. Give a description of proposed project. (Attach sheet if more space is needed)
To distribute runoff from Dirty Woman Draw using Level Lip ditches.
Diversion will be Base Grade with Diversion Channel.

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 Haakon, ss

I, Theodore Kjerstad, 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 Theodore Kjerstad

Subscribed and sworn to before me this 26th day of May 1992

Neal B. Brumby
Notary Public

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

Gerard L. Magelky CET
Kadoka, S. Dak.

b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____
 If Pipe, diameter _____

f) Secondary Spillway Capacity _____
 Spillway width _____

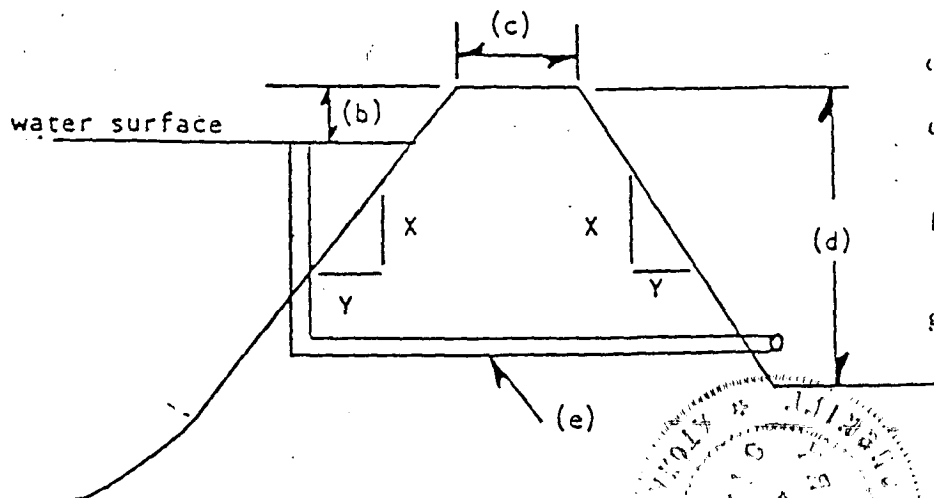
g) X & Y Slope
 Upstream _____

Downstream _____

Surface Area of Impoundment _____

Storage _____ acre feet

Drainage area above dam _____



Signature of Applicant

**SOUTH DAKOTA
WATER PERMIT No. 2233-2 FOR IRRIGATION**

Date of first receipt of application May 27, 1992.

Date Soil/Water Compatibility Permit received June 19, 1992.

Date of return to applicant for corrections, amendments or changes May 27, 1992.

Date of receipt of corrected application June 5, 1992.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2233-2 to Theodore Kjerstad, HC 84, Box 40, Quinn SD 57775 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. 2233-2 appropriates 0.67 cubic feet of water per second from Dirty Womans Draw located in the NW 1/2 NE 1/4 Section 4 to irrigate 47 acres located in the NE 1/4, N 1/2 SE 1/4 Section 4; all in T2N-R18E.
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: April 1 - October 31.
3. The date from which applicant may claim right is May 27, 1992.
4. The date of approval of Permit No. 2233-2 is September 30, 1992.
5. One-fifth of the construction is to be completed on or before March 30, 1995.
6. All construction is to be completed on or before September 30, 1997.
7. Water is to be put to beneficial use on or before September 30, 2001.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.
2. Approval of Permit No. 2233-2 is subject to construction of a control structure to allow water to be bypassed, prior to any diversion for irrigation under this permit, for downstream domestic use and prior water rights.

WATER MANAGEMENT BOARD

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

MAR 12 1993

date

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

440285

Pierre, _____, June 5, 19 92

RECEIVED OF Theodore Kjerstad, HCR 3 Box 6, Quinn, SD 57775

the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. <u>2233-2</u> to Appropriate Water, to construct works and to put water to beneficial use _____	150	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	150 00

By John H. Hetcher
Chief Engineer

Department of Agriculture
WI#1
5/87

SOIL/WATER COMPATIBILITY PERMIT
Division of Conservation



Office Use Only

4712

WR#

OWNERS NAME: KJERSTAD, THEODORE

OWNERS ADDRESS: HC 84 BOX 40
QUINN SD 57775

COUNTY LAND LOCATED IN: HAAKON PHONE: 386-2131

DIRTY WOMAN DRAW

LEGAL DESCRIPTION:

1. LOCATION NW $\frac{1}{4}$ NE $\frac{1}{4}$ 4-T2N-R18E

☐ Well

☒ Surface

Depth: _____

Legal Description	Acres	Legal Description	Acres
NW $\frac{1}{4}$ NE $\frac{1}{4}$ 4-T2N-R18E	0.75	NW $\frac{1}{4}$ SE $\frac{1}{4}$ 4-T2N-R18E	0.40
NE $\frac{1}{4}$ NE $\frac{1}{4}$ 4-T2N-R18E	2.50	NE $\frac{1}{4}$ SE $\frac{1}{4}$ 4-T2N-R18E	5.75
SW $\frac{1}{4}$ NE $\frac{1}{4}$ 4-T2N-R18E	18.30		
SE $\frac{1}{4}$ NE $\frac{1}{4}$ 4-T2N-R18E	19.30		

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

3. CROPS TO BE IRRIGATED: ALFALFA

WATER QUALITY:

4. WATER SAMPLE NUMBER: DIRTY WOMAN DRAW ADJUSTED (SAR): _____
5. SALINITY (EC X 10⁶): _____ 8. PERCENT SODIUM: _____
6. SODIUM (SAR): _____

Requirements:

A water sample shall be submitted when water is flowing in the draw.

Adequate protection shall be provided to prevent additional erosion to the adjacent draws.

Director, Division of Conservation

JUNE 18, 1992

Date

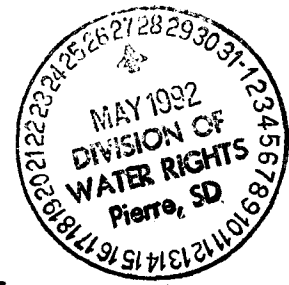
XXX APPROVED

DISAPPROVED

WAIVER

XXX REQUIREMENTS

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



181A=Ottumwa-Capa complex

Composition

Ottumwa soil and similar inclusions: 50 to 60 percent

Capa soil and similar inclusions: 20 to 40 percent

Contrasting inclusions: 5 to 10 percent

Setting

Landform: residual upland plain

Landscape position: Ottumwa=foot slope; Capa=foot slope

Slope range: Ottumwa=0 to 3 percent; Capa=0 to 3 percent

Shape of areas: irregular

Size of areas: 10 to 300 acres

Typical Profile

Ottumwa

Surface layer:

0 to 6 inches=dark grayish brown silty clay

Subsoil:

6 to 15 inches=dark grayish brown clay

15 to 26 inches=grayish brown, calcareous clay

26 to 39 inches=grayish brown, calcareous clay

39 to 51 inches=light brownish gray, calcareous silty clay

Underlying layer:

51 to 60 inches=light brownish gray, calcareous silty clay loam

Capa

Surface layer:

0 to 2 inches=gray silt loam

Subsoil:

2 to 7 inches=grayish brown clay

7 to 14 inches=grayish brown, calcareous silty clay

14 to 28 inches=grayish brown, calcareous silty clay

Underlying layer:

28 to 60 inches=grayish brown, calcareous silty clay

Soil Properties and Qualities

Drainage class: Ottumwa=well drained; Capa=moderately well drained

Depth to bedrock: Ottumwa=deep; Capa=deep

Depth to contrasting or impervious layer: Ottumwa=greater than 60 inches; Capa=40 to greater than 60 inches over shale

Depth to water table: Ottumwa=greater than 6 feet;

Capa=greater than 6 feet

Flooding: Ottumwa=none; Capa=none

Permeability: Ottumwa=slow; Capa=very slow

Available water capacity: Ottumwa=moderate; Capa=low

Organic matter content: Ottumwa=medium; Capa=low

Surface runoff: Ottumwa=slow; Capa=slow

Inclusions

Contrasting inclusions:

The moderately well drained, stratified Wendte soils on flood plains

The moderately deep Lakoma soils on upper back slopes and summits

The poorly drained Kolls soils in basins

Similar inclusions:

Soils that contain more clay throughout

Soils that have dark colors extending below a depth of 20 inches

Use and Management

Cropland and Pasture

Main crops: Winter wheat and alfalfa

Suitable pasture plants: Alfalfa, crested wheatgrass, intermediate wheatgrass, pubescent wheatgrass, and smooth brome grass

Management concerns: Productivity is severely restricted in areas of the Capa soil because of the dense claypan subsoil, the high concentration of salts in the subsoil, and low available water capacity. Wind erosion, slow rate of water intake and poor tilth are also limitations

Management measures:

Timely tillage, minimizing tillage, leaving crop residue on the surface, and including grasses and legumes in the cropping sequence help to conserve moisture, control wind erosion, increase permeability, and improve tilth. Stripcropping and field windbreaks help to control wind erosion

Interpretive Groups

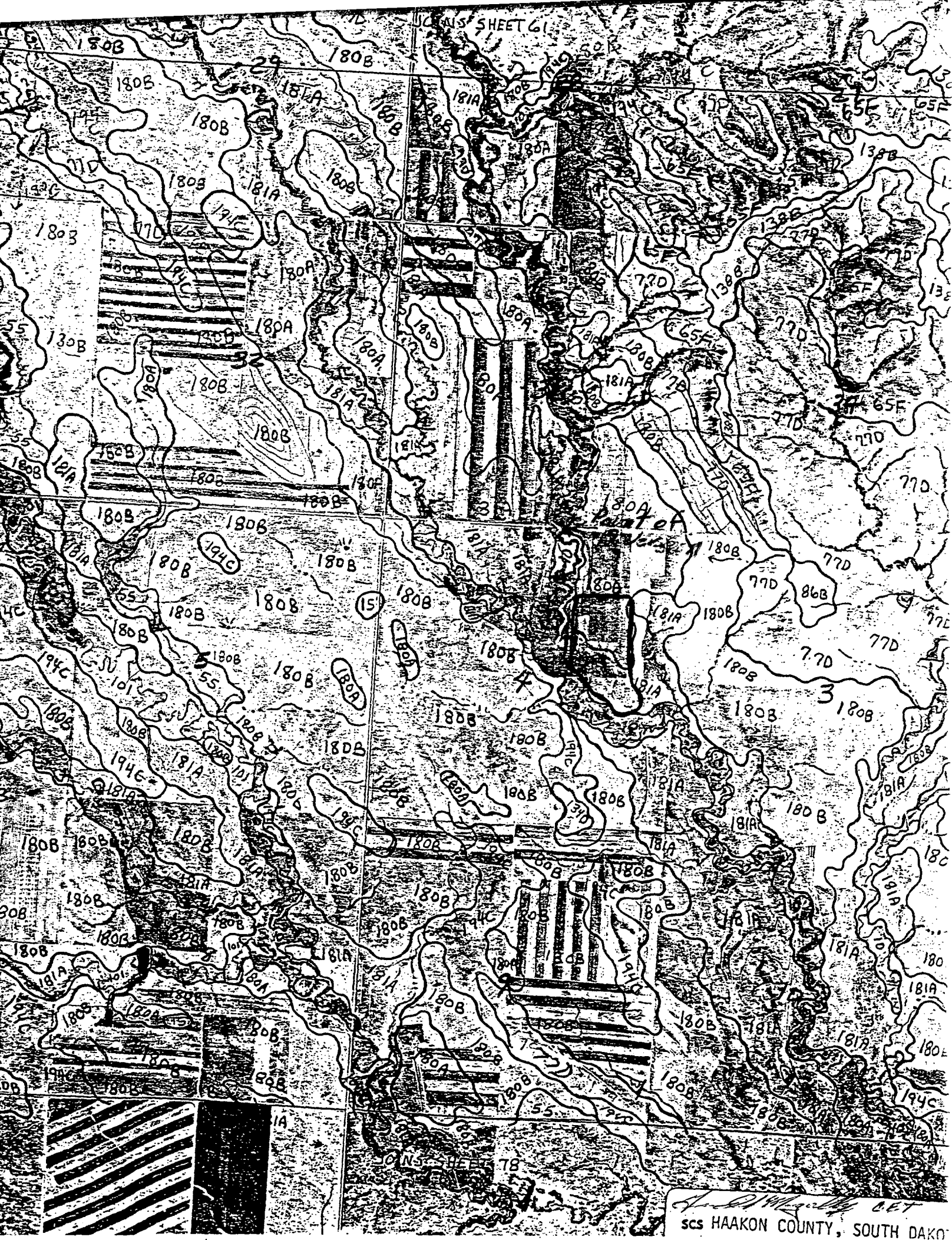
Land capability classification: Ottumwa=IIIs-3; Capa=VIS-1

Range site: Ottumwa=Cy; Capa=TCp

Windbreak suitability group: Ottumwa=4C; Capa=10

Pasture suitability group: Ottumwa=I; Capa=NS





180A=Ottumwa silty clay, 0 to 2 percent slopes
Composition
Ottumwa soil and similar inclusions: 65 to 90 percent
Contrasting inclusions: 5 to 15 percent
Setting
Landform: residual upland plain
Landscape position: Lower back slope and foot slope
Slope range: 0 to 2 percent
Shape of areas: irregular
Size of areas: 10 to 500 acres
Typical Profile
Surface layer:
0 to 6 inches=dark grayish brown silty clay
Subsoil:
6 to 15 inches=dark grayish brown clay
15 to 26 inches=grayish brown, calcareous clay
26 to 39 inches=grayish brown, calcareous clay
39 to 51 inches=light brownish gray, calcareous silty clay
Underlying layer:
51 to 60 inches=light brownish gray, calcareous silty clay
loam
Soil Properties and Qualities
Drainage class: Well drained
Depth to bedrock: Deep
Depth to contrasting or impervious layer: Greater than 60
inches
Depth to water table: Greater than 6 feet
Flooding: None
Permeability: Slow
Available water capacity: Moderate
Organic matter content: Medium
Surface runoff: Slow
Inclusions
Contrasting inclusions:
The poorly drained Kolls soils in basins
The moderately well drained sodium affected Capa soils on
lower foot slopes
Similar inclusions:
Soils with lighter colored surface layers
Soils that contain more clay throughout
Soils that have dark colors extending below a depth of 20
inches
Soils that have shale within a depth of 40 inches
Use and Management
Cropland and Pasture
Main crops: Winter wheat, grain sorghum, corn, oats, and
alfalfa
Suitable pasture plants: Alfalfa, crested wheatgrass,
intermediate wheatgrass, pubescent wheatgrass, and smooth
brome grass
Management concerns: Conserving moisture and controlling
wind erosion
Management measures:



Timely tillage, minimizing tillage, leaving crop residue on the surface, and including grasses and legumes in the cropping sequence helps to conserve moisture and control wind erosion

Stripcropping and field windbreaks help to control wind erosion

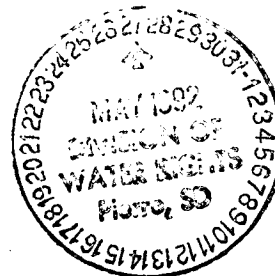
Interpretive Groups

Land capability classification: IIIs-3

Range site: Cy

Windbreak suitability group: 4C

Pasture suitability group: I





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Management measures:

Timely tillage, minimizing tillage, leaving crop residue on the surface, and including grasses and legumes in the cropping sequence help to conserve moisture, control wind erosion, increase permeability, and improve tilth

Stripcropping and field windbreaks help to control wind erosion

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Windbreak suitability group: Ottumwa=4C; Capa=10

Pasture suitability group: Ottumwa=I; Capa=NS



Chapter 43-17 Water Boundaries and Riparian Lands (High and Low water marks).

Chapters 46-1 thru 46-10A Water Rights Laws.

Water Management Board Rules:

Chapter 74:02:01 General Rules

Chapter 74:02:04 South Dakota Well Construction Standards

Chapter 74:02:05 Regulation of Groundwater

Chapter 74:02:06 Administrative Appeals

Chapter 74:02:08 Safety of Dams

You want a copy of the above laws or rules or application forms, please contact:

Water Rights Division, DWNR
Joe Foss Building
Pierre, South Dakota 57501
Phone: (605) 773-3352

*Corps of Engineers
Jim Suckekamp
224-8531*

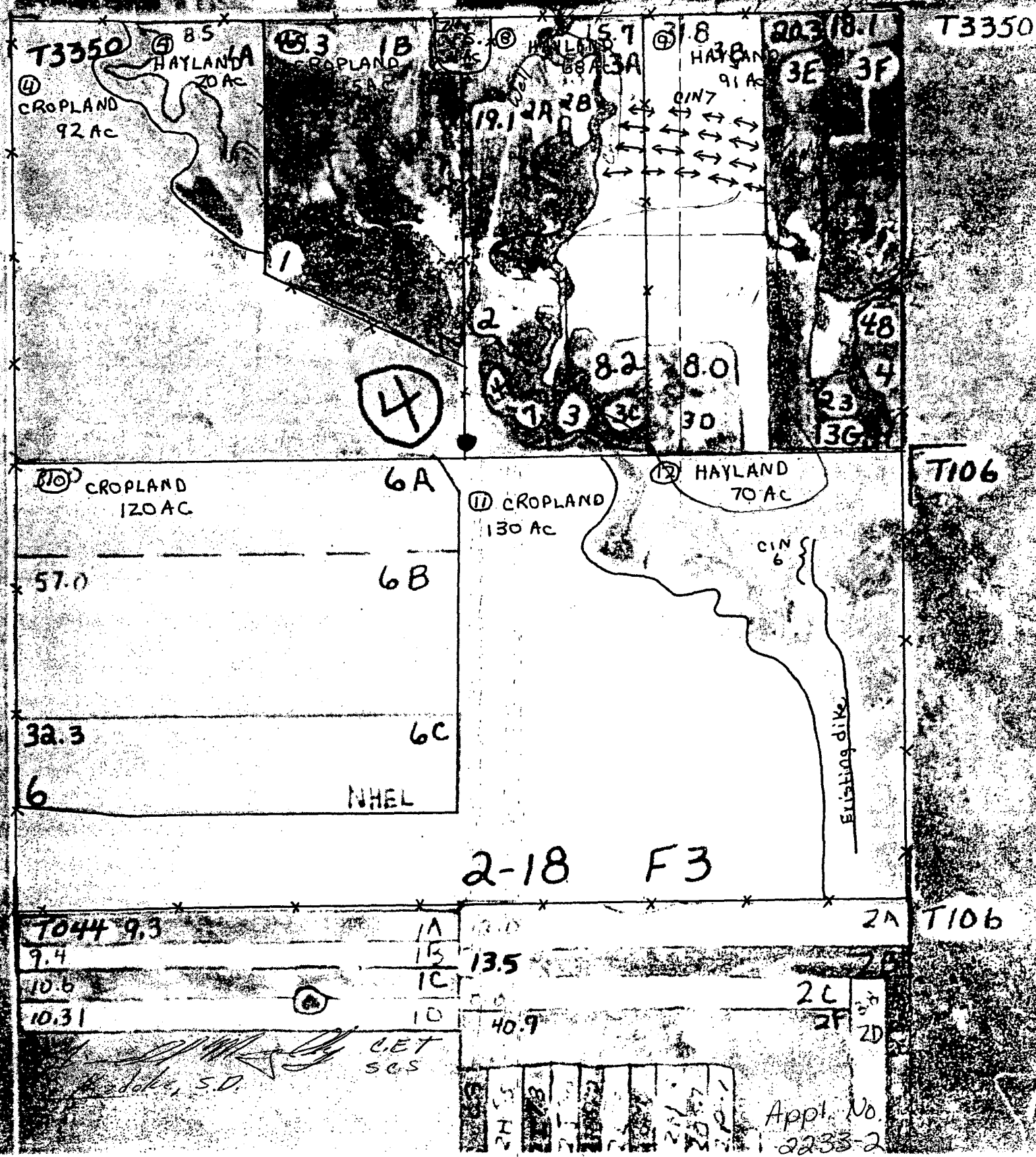
You have questions on soil-water compatibility or if you want application forms, please contact:

Conservation Division
Department of Agriculture
Anderson Building
Pierre, South Dakota 57501
Phone: (605) 773-3259





NOT TO SCALE





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 27, 1992

Theodore Kjerstad
HC 84, Box 40
Quinn SD 57775

Dear Mr. Kjerstad:

In regard to your water permit application received on May 27, 1992, the following information needs to be submitted in order to process your application.

1. On the application, Item No. 2 you indicated the amount of water claimed to be 30. Under State Statutes you are allowed 1 cubic feet of water per second (cfs) for each 70 acres irrigated. This would mean that you are allowed 0.67 cfs for the 47 acres to be irrigated. The 0.67 cfs does not apply during flood flows. Please let us know if you concur with this change. *This is a dry draw.*
2. If you are going to construct a dike across the channel, please complete Item No. 3 on the Supplemental Information form, regarding the size of the dike (whatever information applies). *There won't be a Dike.*
3. The filing fee for this application will be \$150.00.

The water permit application can not be considered until the application is complete and a soil/water permit is obtained from the Department of Agriculture. Upon receipt of the above, further processing of your application will continue.

If you have any questions, please contact this office.

Sincerely,

Karen Schlaak

Karen Schlaak
Natural Resources Analyst
605 773-3352

enclosure

Water Rights Division - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Theodore Kjerstad

ADDRESS: HC 84, Box 40 COUNTY: Haakon

DATE: 6/1/92 TELEPHONE: _____

RE: _____

COMMENTS:

Mr. Kjerstad called in response to our letter on completing his water permit application. Mr. Kjerstad agreed that the amount of water claimed should be 0.67 cfs in accordance with the statutory limit. He also stated that no dike or dam would be put across the channel. Finally, Mr. Kjerstad will be submitting the \$150 application filing fee.

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: Eva Greenland

Report on Water Permit Application No. 2233-2
Theodore Kjerstad
August 12, 1992

Background

Water Permit Application No. 2233-2 requests appropriation of 0.67 cubic feet of water per second (cfs) from Dirty Womans Draw. The diversion point is located in the NW1/4 NE1/4 Section 4, T2N-R18E, in Haakon County. Water will be used to irrigate 47 acres located in the NE1/4 and N1/2 SE1/4 Section 4, T2N-R18E.

Discussion

Dirty Womans Draw is a tributary of the North Fork Bad River. There is no historical flow record for the draw. Water will be used whenever it is available. A gravity system of irrigation will be used to apply water to the land. No structure will be constructed across the draw.

Information in the application does not indicate construction of a control structure to regulate diversions from the draw into the applicant's diversion channel.

Existing Water Rights

There are three irrigation projects on Dirty Womans Draw downstream from the proposed diversion point for Water Permit Application No. 2233-2. These are as follows:

Vested Right Claim No. 662-1, Theodore Kjerstad, claims 0.48 cfs of water for irrigation of 33.4 acres. The diversion point is located in the SE1/4 Section 4, T2N-R18E.

Water Right No. 661-2, Kennedy T/J Ranch, is authorized to divert 1.55 cfs for irrigation of 108.7 acres. The diversion point is located in the NW1/4 Section 10, T2N-R18E.

Water Right No. 885-2, Bert Humbert, is authorized to divert 1.6 cfs for irrigation of 112.0 acres. The diversion points are located in the SE1/4 Section 10 and NE1/4 Section 15, T2N-R18E.

The drainage area above the applicant's proposed diversion point is approximately 6.5 square miles. The 2 year event (once in 2 years) runoff from this watershed estimated to be approximately 200 acre feet. The runoff volume estimate increases to approximately 310 acre feet for the 5 year event (once in 5 years) and about 500 acre feet for the 10 year event (once in 10 years).

The total drainage area for Dirty Womans Draw that contributes to the downstream irrigation projects, is approximately 17 square miles. The 2 year event runoff from this watershed is estimated to be approximately 400 acre feet.

Total acreage irrigated from Dirty Womans Draw, including the acreage in the application, is 301.1 acres. The 2 year runoff event, for the Dirty Womans Draw watershed would provide about 1.32 feet of water to irrigate the 301.1 acres.

Conclusions and Recommendation

1. Water will be used whenever it is available.
2. No dike will be constructed across the draw.
3. Watershed runoff estimates show that there is a reasonable probability that water is available for the applicant and the downstream water right users.
4. If Water Permit Application No. 2233-2 is approved, the following qualifications should be included:

Flows must be by-passed for downstream domestic water use and senior water rights.

A control structure must be installed so that water can be bypassed for downstream water rights.



M. RASSOOL AHADI
Natural Resources Engineer III

Approved By;



DELVIN D. BROSZ, P.E.
Natural Resources Engineer IV

Reference:

United States Geological Survey, **Techniques for Estimating Flood Peak, Volumes, and Hydrographs on Small Streams in South Dakota.**, Water Resources Investigations 80-80, September 1980.

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2233-2, Theodore Kjerstad

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. 2233-2, Theodore Kjerstad, HC 84 Box 40, Quinn, SD 57775.

The Chief Engineer is recommending APPROVAL of Application No. 2233-2 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. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.
2. Approval of Permit No. 2233-2 is subject to construction of a control structure to allow water to be bypassed, prior to any diversion for irrigation under this permit, for downstream domestic use and prior water rights.

See report on application for additional information.



JOHN HATCH, Chief Engineer
August 14, 1992



GREAT FACES. GREAT PLACES.

**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.

August 25, 1992

Theodore Kjerstad
HC 84 Box 40
Quinn, SD 57775

Dear Mr. Kjerstad:

Water Permit Application No. 2233-2 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 Pioneer Review printed at Philip, SD (Ph # 859-2516). 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.



GREAT FACES. GREAT PLACES.

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 25, 1992

The Pioneer Review
Box 788
Philip, SD 57567

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 2233-2 to be published twice. Please publish the first notice on September 3, 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 Theodore Kjerstad, HC 84 Box 40, Quinn, SD 57775 (Ph # 859-2516).

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 September 3, 1992, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 2233-2 to Appropriate Water

Notice is given that Theodore Kjerstad, HC 84 Box 40, Quinn, SD 57775 has filed an application for a water permit to appropriate 0.67 cubic feet of water per second from Dirty Womans Draw located in the NW 1/4 NE 1/4 Section 4 to irrigate 47 acres located in the NE 1/4, N 1/2 SE 1/4 Section 4; all in T2N-R18E.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2233-2 with qualifications 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 September 21, 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.

If a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Board will consider this application at 10:00 am, September 30, 1992, Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, SD. 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. The September 30, 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 September 21, 1992.

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 Eric Gronlund by September 21, 1992, at the above Water Rights Division address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

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, 46-2A-20, 46-2A-21; 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; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. Robert E. Roberts, Secretary, Department of Environment and Natural Resources.

PUBLISHER'S AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA

)ss

COUNTY OF HAAKON

Andrea Cook

, of said County and State, being duly sworn, on oath says: **THE PIONEER REVIEW** is a weekly newspaper of general circulation, printed and published in **PHILIP**, in said County and State and has been such newspaper during the times hereinafter mentioned; that the said **PIONEER REVIEW** is a legal newspaper and has been in existence for more than one year immediately preceding the first publication herein mentioned; and has more than 200 bona fide subscribers; that I, the undersigned, am Editor

, of said newspaper, and in charge of the advertising department thereof, and have personal knowledge of all facts stated in this affidavit; and that the advertisement headed Notice of Hearing

, a printed copy of which is hereto attached, was printed and published in said newspaper for 2 successive issues, the first publication being on the 3rd day of September, 19 92 and the last publication on the 10th day of September, 19 92; that \$ 29.70 being the full amount of the fee for publication of the annexed notice insures solely to the benefit of the publishers of the said newspaper; that no arrangement or understanding for a division thereof has been made with any person and that no part thereof has been agreed to be paid to any other person whomsoever.

Andrea Cook

Subscribed and swore to before me this 21st day of

September, 19 92

Lucy Lavelle

Notary Public, Haakon County

My commission expires
September 30, 1994



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 Eric Gronlund by September 21, 1992, at the above Water Rights Division address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

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[Publish Sept. 3 & 10, 1992]

Notice of Hearing

NOTICE OF HEARING
on Application No. 2233-2
to Appropriate Water

Notice is given that Theodore Kjerstad, HC 84 Box 40, Quinn, SD 57775 has filed an application for a water permit to appropriate 0.67 cubic feet of water per second from Dirty Womans Draw located in the NW1/4NE1/4 Section 4 to irrigate 47 acres located in the NE1/4, N1/2SE1/4 Section 4; all in T2N-R18E.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2233-2 with qualifications 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 September 21, 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.

If a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Board will consider this application at 10:00 a.m., September 30, 1992, Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, SD. 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. The September 30, 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 September 21, 1992.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

GREAT FACES. GREAT PLACES.

August 25, 1992

Bert Humbert
RR 9, Box 602-59
Rapid City, SD 57701

Dear Mr. Humbert:

I am writing in regards to a water permit application from Dirty Womans Draw in Haakon County for Theodore Kjerstad. This water permit, if approved has a diversion point upstream of your existing Water Right No. 885-2. Please find enclosed a copy of the notice of hearing, report and recommendation for this application.

If you have any questions regarding the application, feel free to contact Rassool Ahadi or myself at 773-3352.

Sincerely,

A handwritten signature in cursive script that reads "Eric Gronlund".

Eric Gronlund
Water Rights Division
605 773-3352.

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

GREAT FACES. GREAT PLACES.

August 25, 1992

Mike Kennedy
Kennedy T/J Ranch
HCR 71, Box 67
Faith, SD 57626

Dear Mr. Kennedy:

I am writing in regards to a water permit application from Dirty Womans Draw in Haakon County for Theodore Kjerstad. This water permit, if approved has a diversion point upstream of your existing Water Right No. 661-2. Please find enclosed a copy of the notice of hearing, report and recommendation for this application.

If you have any questions regarding the application, feel free to contact Rassool Ahadi or myself at 773-3352.

Sincerely,

A handwritten signature in cursive script, appearing to read "Eric Gronlund".

Eric Gronlund
Water Rights Division
605 773-3352.

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

GREAT FACES. GREAT PLACES.

August 31, 1992

Judy Papousek
Box 1A
Quinn, SD 57775

Dear Mrs. Papousek:

I am writing regarding our phone conversation last Friday on Water Right No. 885-2, in the name of Bert Humbert. As I stated, we contacted the county assessor's office to find out owner of the land covered by Water Right No. 885-2. I was told you and your husband are the current owners of this land previously owned by Bert Humbert.

The reason for contacting you is there a pending new water permit application filed by Theodore Kjerstad upstream of a water right that was held by Mr. Humbert for lands now owned by you and your husband. I am enclosing a copy of the notice of hearing, report and recommendation that was prepared for this new water permit application.

From our phone conversation, you seemed somewhat surprised to discover that a portion of the land purchased from the late Bert Humbert had an existing water right. I have enclosed a copy of Water License No. 885-2 for these lands. This permit could possibly be subject to cancellation if water has not been beneficially used. South Dakota Codified Law 46-5-37 states:

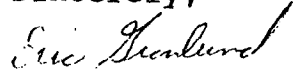
Failure to use beneficially appropriated water -- Forfeiture for nonuse -- Reversion to public. When any person entitled to the use of appropriated water fails to use beneficially all or any part of such water for the purpose for which it was appropriated, for a period of three years, such unused water shall revert to the public and shall be regarded as unappropriated public water.

Simply stated, if irrigation of these acres described in the water right once in any three year period, without legal excuse, then the water right is subject to cancellation.

If irrigation has taken place, the water right should be transferred to you as the current owner. Please find enclosed a Notice of Transfer of Ownership form for you to complete and submit to this office.

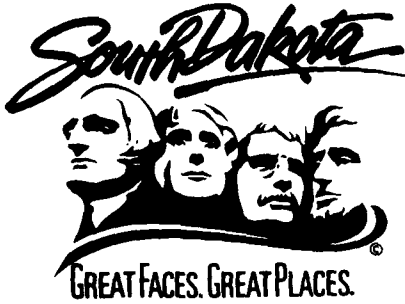
I realize this may be somewhat confusing, so feel free to contact me with any questions you may have. Please advise if you feel this water right is subject to cancellation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Eric Gronlund".

Eric Gronlund
Water Rights Division
605 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

MAR 12 1993

Theodore Kjerstad
HC 84 Box 40
Quinn SD 57775

Dear Mr. Kjerstad:

Enclosed is Water Permit No. 2233-2 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Also enclosed is Form 10, Notice of Completion of Works and Application of Water to Beneficial Use, which you are to complete and submit to the Chief Engineer when you have completed the system and/or have put the water to beneficial use. An inspection can then be scheduled so that the Water License may be issued, thus completing your acquisition of a Water Right.

Very truly yours,

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

enclosures

PLEASE NOTE: Certain changes can be made in your permit within the five year construction period, usually without affecting the priority date provided an application to amend your permit is made within the five year period - i.e. changes in location or number of diversion points (wells) or location of land to be irrigated. Well locations for wells into the same aquifer can be moved up to 660 feet without application.

Applications to amend a permit after the five year construction period will be assigned a new priority date. Applications to change water sources, to add lands or increase original diversion rates, if approved will usually receive the date of the new application as a priority date regardless of the five year construction period.

RECEIPT

WATER RIGHTS PROGRAM
South Dakota Department of Environment and Natural Resources

RECEIVED OF Reclining G Game Farm, 1719 W Main St/ Rapid City SD 57702-2564 Date November 11, 20 03

The following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ and to put water to beneficial use _____	to Appropriate Water, to construct _____	2	50
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 <u>Water Permit No. 2233-2</u>			
Fee for _____			
Fee for Issuing New Well Driller's License No. _____	for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____	for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____	for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____	for C.Y. _____		
(Any Other Work Provided by Law)			
TOTAL		2	50

No.

000914

By

Garland Erbele

Chief Engineer

GARLAND ERBELE

(Signature)

NOTICE OF TRANSFER OF OWNERSHIP

To: Chief Engineer
Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

No. 2233-2

Date: Nov. 5, 2003

I/We request that Water Permit No. 2233-2

formerly owned by: Theodore Kjerstad

be transferred to: (name & address)

Joseph GRAZIANO
1719 West MAIN STREET
Rapid City S.D. 57702 Telephone No. 605-342-8596

Title to the following described land(s)/property has been transferred as described above:

47 acres in the NE ¼, N ½ SE ¼ Section 4, T2N, R18E

I/We understand that the validity of Water Permit No. 2233-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

I/We Joseph GRAZIANO by Sam Jimiga POA, the new owner, certify that the above information is true and correct.

Joseph GRAZIANO by Sam Jimiga POA
(Signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.

2233-2



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

December 22, 2003

662-2
2280-2
2233-2

Joseph Graziano
1719 W Main St
Rapid City SD 57702

Dear Mr. Graziano:

I am writing to acknowledge receipt of the "Notice of Transfer of Ownership" forms and filing fees you submitted for changing ownership on Water Permit Nos. 2280-2 and 2233-2. The transfers have been completed. The water permits, formerly held by Theodore Kjerstad, are now listed in your name.

Enclosed are your Receipt Nos. 000913 and 000914 in the amount of \$2.50 each which you paid for filing the ownership changes. You may keep them for your records.

While transferring the water permits, I found a vested water right for Mr. Kjerstad in the same area as those just transferred to your name. I am enclosing a copy of Vested Water Right No. 662-2 and a transfer form in the event you also own this land. If you do not own the land, disregard the form. The process for transferring the vested right is the same as for the other permits. Please complete and sign the form prior to returning it to us with a \$2.50 filing fee.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

enclosures

25% COTTON

2233-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020

JOE FOSS BUILDING

523 EAST CAPITOL

PIERRE, SOUTH DAKOTA 57501-3182

www.state.sd.us/denr



MAY 10 2004

2280-2

Joseph Graziano
% Sam Zimiga
Reclining G Game Farm
1719 W Main Street
Rapid City SD 57702-2564

Dear Mr. Zimiga:

Enclosed is Water License No. 2280-2. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 001208 in the amount of \$50.00 which you paid for the investigation and issuance of the Water License.

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.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

NOTE: The applicable portions of No. 2233-2 are incorporated into Water License No. 2280-2

enclosures