

WATER PERMIT NO. 2311-2

Phone: 433-5433

Name of Applicant: Kelly Fortune

Post Office Address: Box 44, Interior SD 57750

Amount of Water Claimed: 2.08 cfs Total Acres: 145.6 acres

Source of Water Supply: runoff - Cut Creek

Water to be used for: irrigation County: Jackson

About 5 miles NE of Interior

PRIORITY Date Received: 3-18-94 Fee: \$250.00 Remarks: _____

Corrected Application Received: _____ Period of Annual Use: Mar 1 - Oct 31

WATER QUALITY APPROVAL RECEIVED: _____ APPROVED/CONDITIONAL (Circle one)

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

Diversion Point: existing dams - NW 1/4 NE 1/4

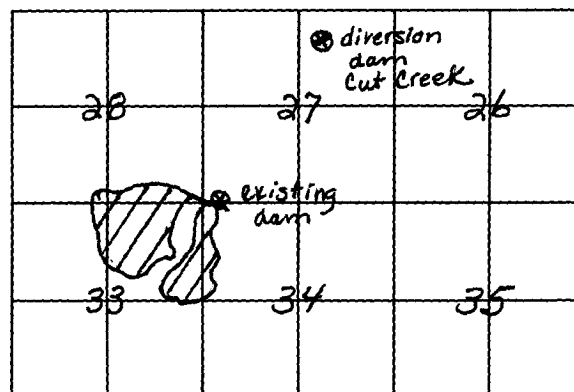
Sec 27 and quarter-quarter line between SW 1/4

SW 1/4 Sec 27 and NW 1/4 NW 1/4 Sec 28; all in
T3S-R19E

Land to be Irrigated: S 1/2 SE 1/4, SE 1/4 SW1/4,

Sec 28, E 1/2 NW 1/4, NE 1/4 Sec 33, W 1/2 NW 1/4

Sec 34; all in T3S-R19E



Well Log: Driller: _____ Licensed YES _____ NO _____

Depth of Well: _____ REMARKS: _____

Type of Map: serial PREPARED BY: Gerald Magelky Reviewed and the Number

Assigned on: 3-21-94 By: Karen Schlaak

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

(See instructions)

No. 2311-2 Hydrologic Unit: 10140202
Basin White River
Newspaper Kadoka Press

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

Type of Application: ☒ 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 Kelly Fortune Phone No. 433-5433Post Office Address Box 44 Interior State SD 57750
(Street, RR or Box) (City) (Zip Code)2. Amount of water claimed (c.f.s.) 2.08 Total acres irrigated 145.63. Source of Water supply Runoff in Sec 27 & 28 T3S R19E from Cut Creek4. Location of point of diversion Existing dam on Cut Creek 52 Rods South 130 Rods West of the
(NW1/4 NE1/4) NE corner of S27 T3S R19E and 3 Rods East and 0 Rods North of the SW corner S27
T3S R19E of no name creek on quarter-quarter line between SW1/4 SW1/4
Section 27 and the NW1/4 NW1/4 Section 34; all in T3S-R19E County Jackson5. Counties where water will be used Jackson6. Annual period during which water is to be used March/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.
SESE S28 T3S R19E	2.3
SWSE S28 T3S R19E	9.1
SESW S28 T3S R19E	1.4
NENW S33 T3S R19E	12.2

See attached sheet

Attach sheet if more space is needed

Land Description	No. Acres Irr.
NWNE S33 T3S R19E	38.8
NENE S33 T3S R19E	33.5
SENE S33 T3S R19E	14.7
SWNE S33 T3S R19E	12.2

8. Type of Irrigation: Gravity: X Towline: _____ Center Pivot: _____ Gun: _____ (Specify) _____ Other: _____9. Crops to be Irrigated: Grass10. Give a description of proposed project. (Attach sheet if more space is needed)
Water to be diverted into level lip ditches to spread over grass to produce
more hayAttachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach maps, soil
information and any other technical information.STATE OF SOUTH DAKOTA)
County of Jackson) ssI, Kelly Fortune, 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 Kelly FortuneSubscribed and sworn to before me this 10th day of March 19 94Janet Magee
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

b) Freeboard _____

c) Crest Width _____

Crest Length _____
Cut creek dam *diversion dam*

d) Height ≈ 10 ft ≈ 4 ft

e) Primary Outlet Capacity _____
 If Pipe, diameter _____

f) Secondary Spillway Capacity _____
 Spillway width _____

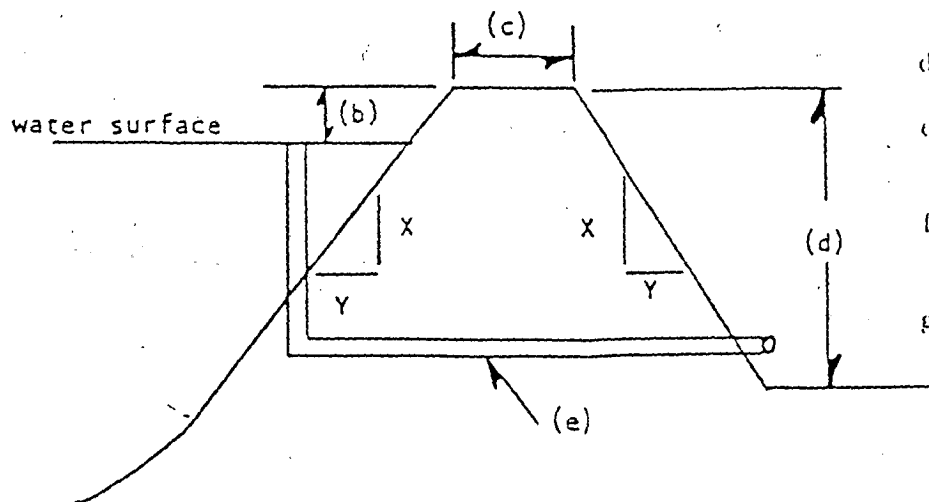
g) X & Y Slope
 Upstream _____

Downstream _____

Surface Area of Impoundment _____

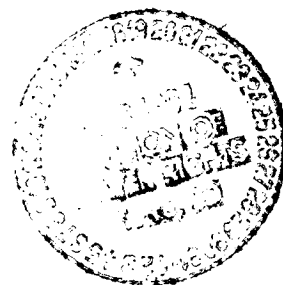
Storage no storage
either dam acre feet

Drainage area above dam _____



Signature of Applicant _____

<u>LAND DESCRIPTION</u>	<u>NO. ACRES IRR.</u>
SE1/4 S33 T3S R19E	0.6
N1/4 S34 T3S R19E	11.7
SW1/4 S34 T3S R19E	9.1



**SOUTH DAKOTA
WATER PERMIT NO. 2311-2**

Date of first receipt of application March 18, 1994.

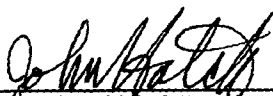
The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2311-2 to Kelly Fortune, Box 44, Interior SD 57750 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 2311-2 appropriates 2.08 cubic feet of water per second from 2 existing diversion dams. The first dam is located in the NW 1/4 NE 1/4 Section 27 and the other dam is located on the quarter-quarter line between the SW 1/4 SW 1/4 Section 27 and the NW 1/4 NW 1/4 Section 34 to irrigate 145.6 acres located in the S 1/2 SE 1/4, SE 1/4 SW 1/4 Section 28; E 1/2 NW 1/4, NE 1/4 Section 33, W 1/2 NW 1/4 Section 34; all in T3S-R19E. Water is to be diverted into level lip ditches to waterspread over grass.
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: March 1 - October 31.
3. The date from which applicant may claim right is March 18, 1994.
4. The date of approval of Permit No. 2311-2 is June 13, 1994.
5. One-fifth of the construction is to be completed on or before December 13, 1996.
6. All construction is to be completed on or before June 13, 1999.
7. Water is to be put to beneficial use on or before June 13, 2003.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATION

Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.

WATER MANAGEMENT BOARD

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

AUG 19 1994
date

RECEIPT

414095

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____ March 18, 19 94

RECEIVED OF Kelly E. Fortune, Box 44, Interior, SD 57750

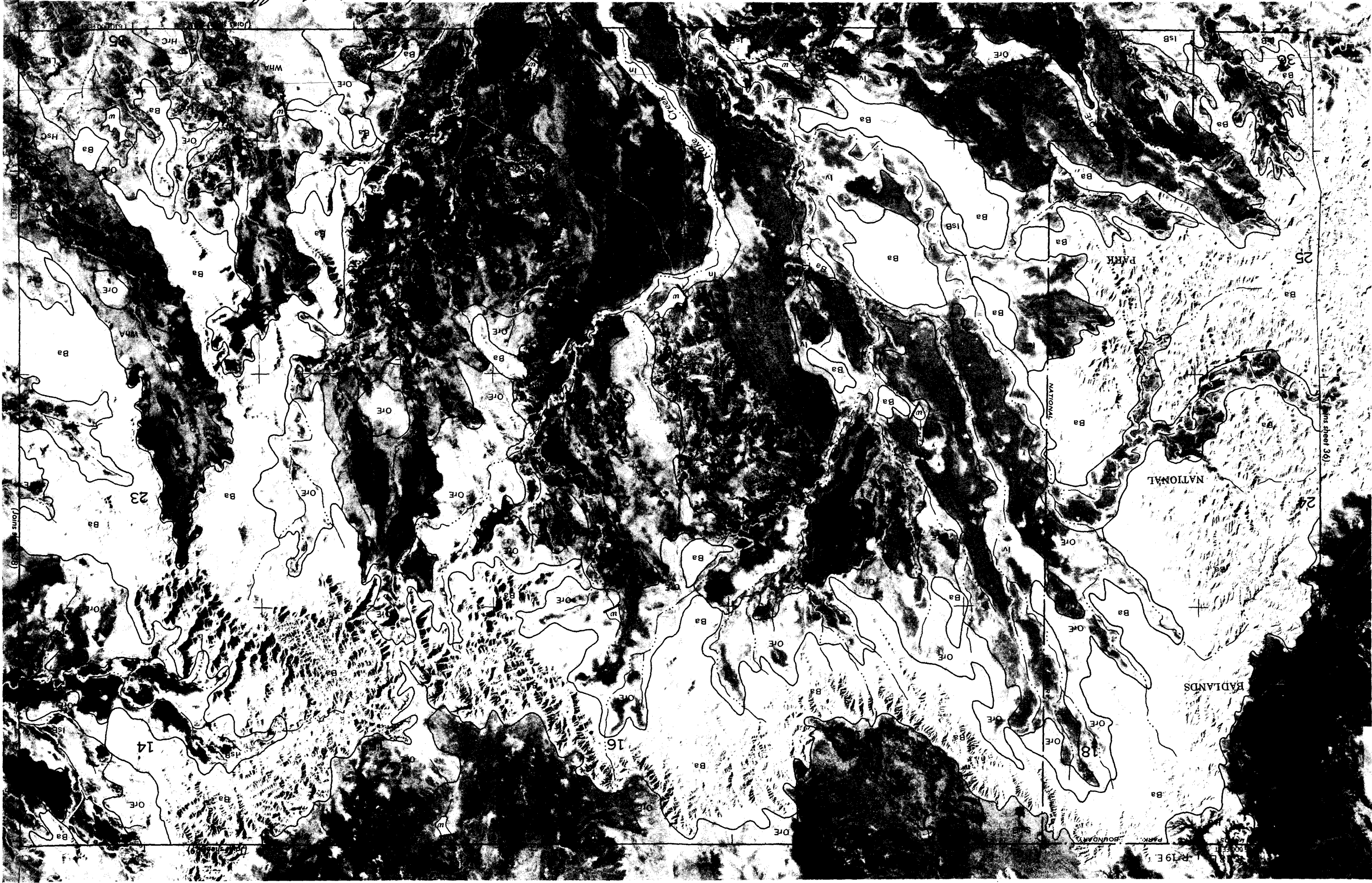
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use _____	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 _____		

(Any Other Work Provided by Law)	Total	250 00

By John Hatala
Chief Engineer

This map is compiled on 1977 aerial photography by the U. S. Department of Agriculture, Soil Conservation Service and cooperating agencies.
Coordinates and ticks and grid division corners, if shown, are approximately positioned.



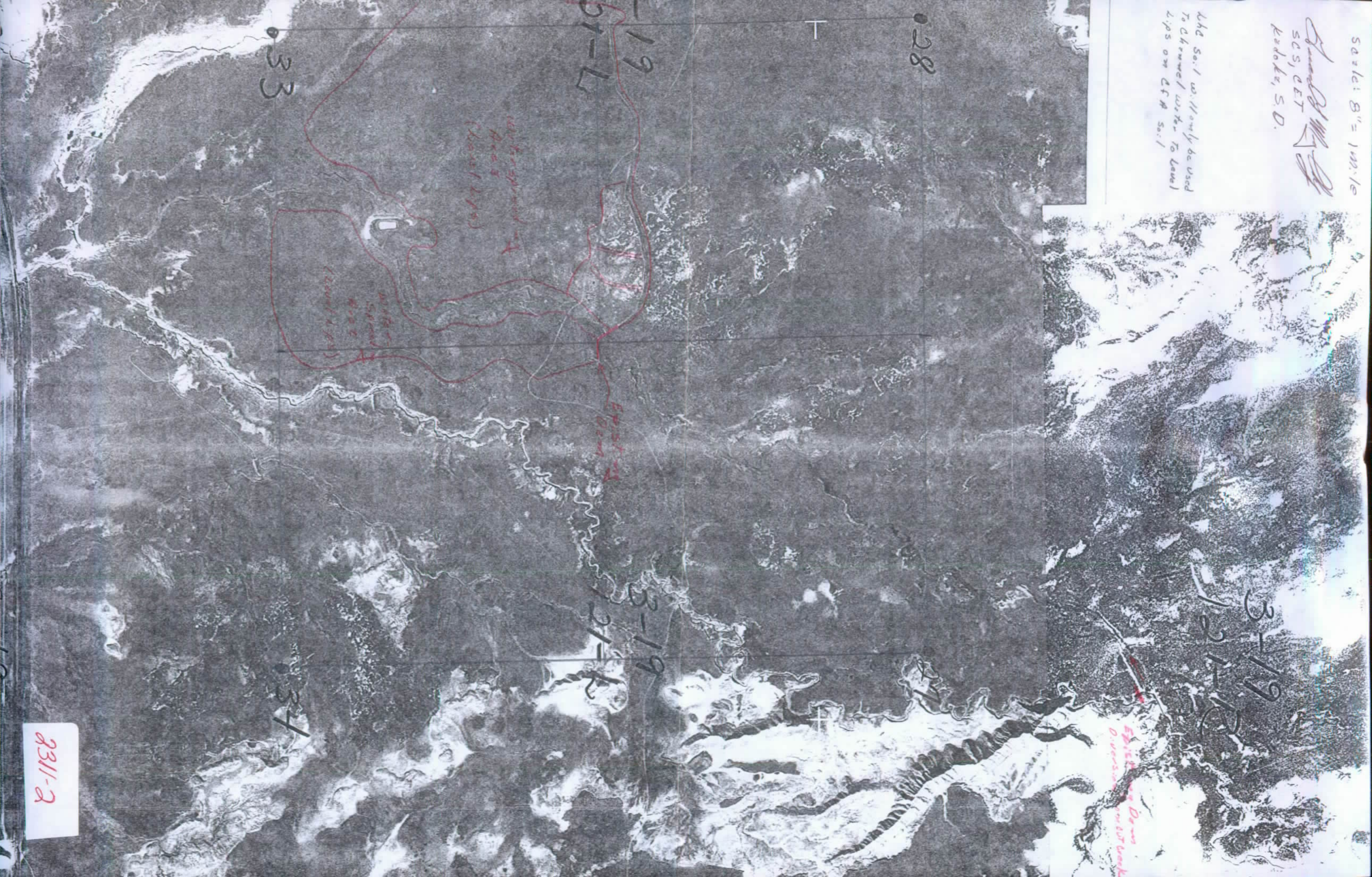
JACKSON COUNTY, NORTHERN PART, SOUTH DAKOTA - SHEET NUMBER 37

Donald J. Magallon
S.C.S. DET
K220622, S. D. 7

Scale: 8" = 1 m. / e

Donald W. J. St.
SCS, CET
Kadoka, S.D.

The Soil will only be used
To Channel water To lower
lips on CF# Soil



2311-2

about 14 inches thick. The underlying material to a depth of 60 inches is very pale brown and light brownish gray, calcareous, stratified very fine sandy loam, silty clay loam, loam, and silt loam. In places the surface layer and the upper part of the subsoil are dark gray or dark grayish brown.

Included with this soil in mapping are small areas of Denby, Interior, and Norrest soils. These soils make up less than 15 percent of any one mapped area. Denby soils contain more clay throughout than the Cedarpass soil. Also, they are slightly lower on the landscape. Interior soils are stratified throughout. They are along drainageways. Norrest soils are 20 to 40 inches deep over bedrock. They generally are higher on the landscape than the Cedarpass soil.

The content of organic matter is moderate and fertility medium in the Cedarpass soil. Tilth is good. Available water capacity is moderate or high. Permeability is moderate. Runoff is slow. The shrink-swell potential is moderate.

Most of the acreage supports native grasses and is used for grazing. No major hazards or limitations affect the use of this soil for range. Proper stocking rates and timely deferment of grazing or rotation grazing help to maintain maximum productivity.

This soil is suited to cultivated crops and to tame pasture and hay, but the high content of lime in the surface layer adversely affects the availability of plant nutrients after the soil is plowed. The high content of sodium in the lower part of the subsoil also is a limitation. Alfalfa, green needlegrass, and pubescent wheatgrass are suitable pasture plants. Measures that control wind erosion and conserve moisture are the main management needs in cultivated areas. Examples are including grasses and legumes in the cropping system, leaving crop residue on the surface, and minimizing tillage.

This soil is suited to windbreaks and environmental plantings, but the high content of sodium in the lower part of the subsoil is a limitation. Windbreaks can be established, but optimum growth and vigor are unlikely.

The capability unit is IVe-8; Silty range site; windbreak suitability group 8.

CfA—Cedarpass-Denby complex, 0 to 4 percent slopes. These deep, well drained, nearly level and gently sloping soils are on uplands and fans. The Cedarpass soil is in smooth areas and on low ridges. The Denby soil is in smooth areas or shallow swales. Areas are elongated and 10 to several hundred acres in size. They are 40 to 60 percent Cedarpass soil and 20 to 40 percent Denby soil. The two soils occur as areas so closely intermingled or so small that mapping them separately is not practical.

Typically, the surface layer of the Cedarpass soil is brown silt loam about 3 inches thick. The subsoil is light brownish gray, pale brown, and very pale brown, friable,

calcareous silt loam about 14 inches thick. The underlying material to a depth of 60 inches is very pale brown and light brownish gray, calcareous, stratified silty clay loam, very fine sandy loam, loam, and silt loam. In some places the surface layer and the upper part of the subsoil are dark gray and dark grayish brown. In other places bedrock is at a depth of 20 to 40 inches.

Typically, the surface layer of the Denby soil is light brownish gray, calcareous silty clay about 5 inches thick. The subsoil is about 22 inches thick. It is light brownish gray, firm, calcareous silty clay in the upper part and very pale brown, friable, calcareous silty clay loam in the lower part. The underlying material to a depth of 60 inches is very pale brown, gray, and light gray, calcareous silty clay, silty clay loam, and silt loam. In places bedrock is at a depth of 20 to 40 inches.

Included with these soils in mapping are small areas of Interior, Norrest, and Wortman soils. These included soils make up less than 20 percent of any one mapped area. Interior soils are more stratified in the upper part than the Cedarpass and Denby soils. They are along drainageways. Norrest and Wortman soils are 20 to 40 inches deep over siltstone. They generally are on the higher parts of the landscape.

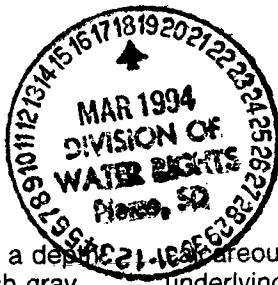
The content of organic matter is moderate in the Cedarpass soil and low in the Denby soil. Fertility is medium in the Cedarpass soil and low in the Denby soil. Tilth is good in the Cedarpass soil and poor in the Denby soil. Available water capacity is moderate or high in the Cedarpass soil and moderate in the Denby soil. Permeability is moderate in the Cedarpass soil and slow in the Denby soil. Runoff is slow on both soils. The shrink-swell potential is moderate in the Cedarpass soil. It is high in the subsoil of the Denby soil and moderate in the underlying material.

Most of the acreage supports native grasses and is used for grazing. No major hazards or limitations affect the use of the Cedarpass soil for range. Compaction is a problem on the Denby soil. Proper stocking rates and timely deferment of grazing or rotation grazing help to maintain maximum productivity.

These soils are suited to cultivated crops and to tame pasture and hay. Alfalfa, green needlegrass, intermediate wheatgrass, and pubescent wheatgrass are examples of suitable pasture plants. Winter wheat and oats are the best suited crops. The Denby soil becomes compacted if tilled when wet and is difficult to till when dry. Measures that control wind erosion, conserve moisture, and improve tilth are the main management needs. Examples are including grasses and legumes in the cropping system, leaving crop residue on the surface, and minimizing tillage.

These soils are suited to windbreaks and environmental plantings. The high content of sodium in the subsoil of the Cedarpass soil and the clayey subsoil of the Denby soil are limitations.

The Cedarpass soil is in capability unit IVe-8, Silty range site, and windbreak suitability group 8; the Denby soil is in capability unit IVs-6, Clayey range site, and windbreak suitability group 4C.



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REPORT ON WATER PERMIT APPLICATION NO. 2311-2
KELLY FORTUNE
APRIL 25, 1994

Application No. 2311-2, Kelly Fortune, to appropriate 2.08 cubic feet of water per second (cfs) from two existing diversion dams. The first dam is located in the NW1/4 NE1/4 Section 27 and the second dam is located on the quarter-quarter line between the SW1/4 SW1/4 Section 27 and NW1/4 NW1/4 Section 34. The water is to be used to irrigate 145.6 acres located in the S1/2 SE1/4, SE1/4 SW1/4 Section 28; E1/2 NW1/4, NE1/4 Section 33, W1/2 NW1/4 Section 34; all in T3S-R19E. Water is to be diverted into level lip ditches to waterspread over grass.

Review of the Water Source and Existing Water Rights

The source of water for this proposed project is from surface water runoff into the two storage dams which are located on tributaries to Rake Creek which is a tributary to the White River. Surface runoff into the dams will only be available during periods when runoff occurs such as spring thaws and large precipitation events. There are no existing water rights located downstream of the proposed project to the White River. If this application is approved it should contain the low flow qualification.

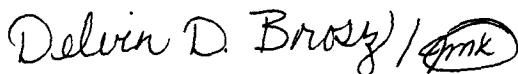
Conclusions

1. This application proposes to appropriate 2.08 cfs for the irrigation of 145.6 acres.
2. The source of water will be surface runoff into two existing diversion dams.
3. If approved the permit should contain the low flow qualification.



Mark D. Rath
Natural Resources Engineer III

Approved by:



Delvin D. Brosz, P.E.
Natural Resources Engineer IV

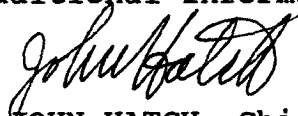
RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2311-2, Kelly Fortune

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. 2311-2, Kelly Fortune, Box 44, Interior, SD 57750.

The Chief Engineer is recommending APPROVAL of Application No. 2311-2 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) in the public interest with the following qualification:

Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.

See report on application for additional information.



JOHN HATCH, Chief Engineer
May 12, 1994



**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.**

May 20, 1994

Kelly Fortune
Box 44
Interior, SD 57750

Dear Mr. Fortune:

Water Permit Application No. 2311-2 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 Kadoka Press printed at Kadoka, SD (Ph # 837-2259). 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
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.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 20, 1994

Kadoka Press
Box 309
Kadoka, SD 57543-0309

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 2311-2 to be published twice. Please publish the first notice on May 26, 1994, 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 Kelly Fortune, Box 44, Interior, SD 57750 (Ph # 433-5433).

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
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 26, 1994, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 2311-2 to Appropriate Water

Notice is given that Kelly Fortune, Box 44, Interior, SD 57750 has filed an application for a water permit to appropriate 2.08 cubic feet of water per second from 2 existing diversion dams. The first dam is located on Cut Creek in the NW 1/4 NE 1/4 Section 27 and the other dam is located on the quarter-quarter line between the SW 1/4 SW 1/4 Section 27 and the NW 1/4 NW 1/4 Section 34 to irrigate 145.6 acres located in the S 1/2 SE 1/4, SE 1/4 SW 1/4 Section 28; E 1/2 NW 1/4, NE 1/4 Section 33, W 1/2 NW 1/4 Section 34; all in T3S-R19E. Water is to be diverted into level lip ditches to waterspread over grass.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2311-2 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. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and chief engineer. The applicant must file a petition if contesting 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 June 13, 1994.

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. Contact Eric Gronlund at the above Water Rights Division address to request copies of information pertaining to this application. Russell L. Stone, Acting Secretary, Department of Environment and Natural Resources.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Jackson) ss

I, Ronda K. Dennis

certify that the attached printed Notice was

taken from the Kadoka Press

printed and published in Kadoka

County of Jackson and State of

South Dakota. The notice was published in
the newspaper on the following two dates:

May 26, 1994

June 2, 1994

Cost of Printing: 42.92

Ronda K. Dennis
(Signature)

Legal Advertising Manager
(Title)

June 10, 1994
(Date Signed)



NOTICE
NOTICE OF APPLICATION
NO. 2311-2
TO APPROPRIATE WATER

Notice is given that Kelly Fortune, Box 44, Interior, SD 57750 has filed an application for water permit to appropriate 2.08 cubic feet of water per second from two existing diversion dams. The first dam is located on Cut Creek in the NW 1/4 NE 1/4 Section 27, and the other dam is located on the quarter-quarter line between the SW 1/4 SW 1/4 Section 27 and the NW 1/4 NW 1/4 Section 34 to irrigate 145.6 acres located in the S 1/2 SE 1/4, SE 1/4 SW 1/4 Section 28; E 1/2 NW 1/4, NE 1/4 Section 33, W 1/2 NW 1/4 Section 34; all in T3S, R19E. Water is to be diverted into level lip ditches to waterspread over grass.

Pursuant to SDCL 46-2A-2, the chief engineer recommends APPROVAL of Application No. 2311-2 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. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and file a petition if contesting 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 June 13, 1994.

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. Contact Eric Gronlund at the above Water Rights Division address to request copies of information pertaining to this application.

Russell L. Stone,
Acting Secretary
Department of Environment
and Natural Resources

PUBLISH: May 26 & June 2, 1994



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

AUG 19 1994

Kelly Fortune
Box 44
Interior, SD 57750

Dear Mr. Fortune:

Enclosed is Water Permit No. 2311-2 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.

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 2311-2

I have this day, November 10, 2016, made a thorough examination of the water use system constructed by Kelly Fortune, PO Box 44, Interior, So. Dak. 57750 of Permit No. 2311-2, bearing the priority of 3/18/1994 authorizing 2.08 cubic feet per second of water for 145.6 acres of irrigation from an existing dam on Cut Creek and an existing dam on an unnamed tributary to Cut Creek in Jackson County.

Inspection contact & relationship to permit holder, if applicable: **Kelly Fortune, owner**
605-433-5464

A. Works used to divert the water:

Cut Creek Diversion Dam:

- 1) Height to crest 10.0 ft.
- 2) Height to earth spillway 8 ft.
- 3) Fill length 1,015 ft.
- 4) Date constructed: prior to 1984

Unnamed Tributary Diversion

- Height to crest 4 ft.
Height to earth spillway 3 ft.
Fill length 1,850 ft.
Date constructed: prior to 1984

Comments: The diversion structures were in existence at the time of the permit application. They are located on lands now part of a road-less area of the Buffalo Gap National Grasslands. The Cut Creek diversion dam diverts flow into an unnamed tributary. The structure was not inspected and information shown was obtained from the permittee. The unnamed tributary is then diverted and spread to either side of the draw into level lip ditches on deeded land.

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

- 1) Type natural draw and earth fill diversion

Comments:

C. Works used to apply water to beneficial use:

- 1) Irrigation type Waterspreading system 2) Spreading method level lip ditch
- 3) area spread 138.3 acres

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by Yes

If no, describe:

- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period N/A

List any extended period of nonuse: **none**

- 3) Exceptions to compliance are: **none**

E. Condition and Location:

1. The system is in **good** condition with the point of diversion located as follows:

Cut Creek diversion dam

705' S and 2,040' W of the NE corner Section 27 T3S R19E (43.761510, -101.827943)

Unnamed tributary diversion

56' N and 433' E of the SW corner Section 27 T3S R19E (43.748989, -101.839085)

2. The works are capable of diverting and conveying to the place of use water which is to be used for surface **irrigation** (water spreading). Water has been put to beneficial use to the maximum extent as follows:

Section 33 T3S R19E

NE ¼ NW ¼ 21.7 ac.

NW ¼ NE ¼ 38.5 ac.

NE ¼ NE ¼ 27.8 ac.

SE ¼ NW ¼ 2.1 ac.

SW ¼ NE ¼ 22.7 ac.

SE ¼ NE ¼ 5.7 ac.

Section 34 T3S R19E

NW ¼ NW ¼ 16.7 ac.

SW ¼ NW ¼ 3.1 ac.

comprising a total of **138.3** acres of land and the license should be issued for **2.0** cfs.

All structures, diversions and lands on map **Yes**

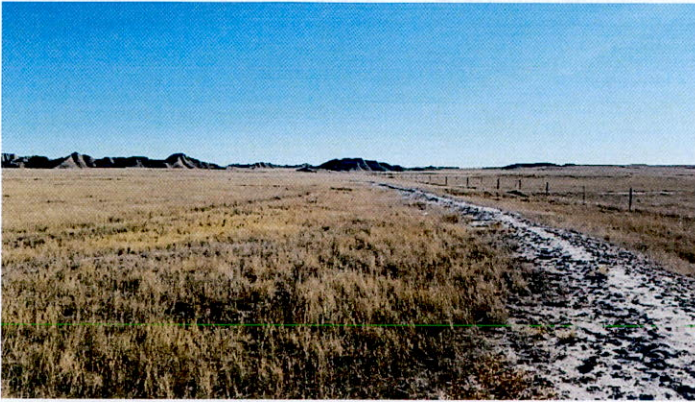
F. Comments or other permit(s) associated with the project: none

SDCL 46-5-6 allows a greater diversion rate if the method of irrigation so requires. This system requires a greater diversion rate due to the method of irrigation. During peak flows this system is capable of diverting in excess of 2.0 cfs., however the maximum licensed diversion rate is 2.0 cfs. based on the statutory limit of 1 cfs for each 70 acres.



Steven Quissell
Water Rights Inspector
DENR, Water Rights Program

Date report completed: **11/14/2016**



diversion at extreme SW corner section 27



typical level lip ditch in foreground extending toward buttes

Water Right # 2311-2
Kelly Fortune
11/10/2016

Sec 21
T003S
R19E

Sec 22
T003S
R19E

Sec 23
T003S
R19E

Sec 29
T003S
R19E

Sec 28
T003S
R19E

Sec 27
T003S
R19E

Sec 26
T003S
R19E

unnamed tributary

Unnamed Tributary Diversion
Lat: 43.748989
Lon: -101.839085

Cut Creek

level lip ditches

NE NW S33
21.7 ac.

NW NE S33
38.5 ac.

NE NE S33
27.8 ac.

NW NW S34
16.7 ac.

spreading area

SE NW S33
2.1 ac.

SW NE S33
22.7 ac.

SE NE S33
5.7 ac.

SW NW S34
3.1 ac.

Sec 32
T003S
R19E

Sec 33
T003S
R19E

Sec 34
T003S
R19E

Sec 35
T003S
R19E

Cut Creek

Steven Quissell

Steven Quissell
Water Rights Inspector
DENR Water Rights Program

Sec 5
T004S
R19E



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

November 15, 2016

2311-2

Kelly Fortune
PO Box 44
Interior SD 57750

Dear Mr. Fortune:

On November 10, 2016 the investigation of your water use system, including the extent of application of water to beneficial use, as developed under Water Permit No. 2311-2, was completed by Steven Quissell, a staff engineer with our program. Your final water right document, the water license, can now be issued.

State law requires that we charge a \$50.00 fee for the investigation and issuance of the water license. Upon receipt of the fee, we will complete processing your water license. The check or money order for the fee should be made payable to the "Water Rights Program".

Your licensed water right will be similar to a property right that can not be lost as long as the water use continues and you abide by the permit requirements.

If you have any questions regarding the water permit, investigation of your water use system or payment of the fee, please contact Genny McMath with our program at (605) 773-3352.

Sincerely,

Karen Schlaak
Water Rights Program
(605) 773-3352

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 11/28, 20 16

RECEIVED OF Kelly E Fortune PO Box 44 Interior SD 57750

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50 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. <u>2311-2</u>		
Fee for Filing Transfer Form _____		
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	50 00

No. **07959**

By *[Signature]*
J. E. Goodman
Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

2311-2

JAN 30 2017

Kelly Fortune
PO Box 44
Interior SD 57750

Dear Mr. Fortune:

Enclosed is Water License No. 2311-2. This is the final water right document completing your process of obtaining a Water Right. Enclosed is the receipt for \$50.00 which you paid for the investigation and issuance of the Water License. Also, included with your license is a map prepared by the staff engineer who conducted the investigation.

As long as you use the water beneficially, as stated in the Water License, the State Water Laws provide that you have a continuing right to use the water. If you have any questions, please contact our office.

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 2311-2

(1) Kelly Fortune, PO Box 44, Interior SD 57750 made Application No. 2311-2, March 18, 1994 for a water permit to divert 2.08 cubic feet of water per second from runoff into two diversion dams, Jackson County, South Dakota for irrigation purposes. Permit No. 2311-2, with a priority date of March 18, 1994 was approved June 13, 1994 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before June 13, 1999 and for the application to beneficial use of water on or before June 13, 2003.

(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, the holder and/or owner of Water Right No. 2311-2 is issued a license, bearing a priority date of March 18, 1994 to appropriate 1.98 cubic feet of water per second from runoff into two diversion dams located along Cut Creek and an unnamed tributary of Cut Creek to irrigate 138.3 acres via a water spreading system.

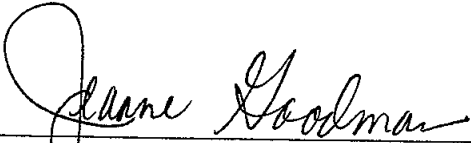
The diversion points are located: Cut Creek diversion dam – 705 feet S and 2,040 feet W of the NE corner Section 27-T3S-R19E and unnamed tributary to Cut Creek diversion dam – 56 feet N and 433 feet E of the SW corner Section 27-T3S-R19E.

The acres authorized for irrigation are as follows:

<u>Section 33-T3S-R19E</u>		<u>Section 34-T3S-R19E</u>	
NE 1/4 NW 1/4	21.7 acres	NW 1/4 NW 1/4	16.7 acres
SE 1/4 NW 1/4	2.1 acres	SW 1/4 NW 1/4	3.1 acres
NW 1/4 NE 1/4	38.5 acres		
NE 1/4 NE 1/4	27.8 acres		
SW 1/4 NE 1/4	22.7 acres		
SE 1/4 NE 1/4	5.7 acres		
		Total 138.3 acres	

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 2311-2 including the following qualification:

- Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.



Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JAN 30 2017

date

