

OFFICE OF STATE ENGINEER
PIERRE, SOUTH DAKOTA

RECORD OF PROCEEDINGS

Application No. 60

Water Div. No. 8 Fall River Water Dist.

Application Received September 10, 1908

Maps Received September 10, 1908

Acknowledgment September 11, 1908

Notice for Pub. Mailed September 24, 1908

Receipt from Newspaper October 6, 1908

Copy of Newspaper Rec'd.

Notice of Correction

Proof of Pub. Rec'd. October 24, 1908

Hearing November 23, 1908

Approved

Recorded and Filed

REMARKS

Protest from John Langan received Oct. 24, 1908 and protest from J. L. Maxson received Nov. 16, 1908. These protests were duly considered at the hearing. In the case of Langan, owner ship of land is cited as constituting a right to prevent use of water. Since the matter of right of way over land does not come under jurisdiction

OFFICE OF STATE ENGINEER
PIERRE, SOUTH DAKOTA

RECORD OF PROCEEDINGS

Application No. 11

Water Div. No. Water Dist.

Application Received

Maps Received

Acknowledgment

Notice for Pub. Mailed

Receipt from Newspaper

Copy of Newspaper Rec'd.

Notice of Correction

Proof of Pub. Rec'd.

Hearing

Approved

Recorded and Filed

REMARKS (cont.)

of this office no action can be taken thereupon.

In reply to the protest of J. L.

Maxson it is stated that all surplus water from Engelbrecht's ditch will be returned to creek above Maxson's ditch, the two being six miles apart.

No. 60

Water Division No. 2 Fall River Water District

(Blanks to be filled by the State Engineer.)

COPY

APPLICATION FOR A PERMIT To appropriate Water Within the State of South Dakota

(NOTE—Draw a line through items not applicable.)

1. Name of applicant Henry Engelbrecht EstatePostoffice address Buffalo Gap County Quater, State S. Dakota

I. If a corporation:

(a) Name of same

(b) Date and place of incorporation

(c) Amount of capital stock

(d) Amount paid in

(e) Names and addresses of directors

(NOTE—A certified copy of articles of incorporation must accompany the application.)

II. Method of accomplishing the work and financial resources of the applicant:

(a) Method of accomplishing the work. (Whether by contract, employment of others, or by direct labor.) By direct labor

(b) Cash on hand, \$

(c) Treasury stock, \$

(d) Bonds to be issued, \$ none

(e) Other resources, \$

2. Name of diversion works Engelbrecht3. Quantity of water claimed 8 cubic feet per second.4. Source of water supply Lame Johnny Creek5. Location of point of diversion From East end of dam NE Cor. Sec 3 BearsN 57° 15' E 936 ft. st. on left bank.
(Right or left bank looking down stream.)6. Annual periods during which water is to be used April to November7. To be used for: Irrigation

I. Irrigation or domestic use:

(a) Number of acres to be irrigated 520 acres.(b) Legal subdivisions to be irrigated SE 1/4 SW 1/4 Sec 2 NE 1/4 SW 1/4 Sec 2 N 1/2 Sec 11

NOTE—A list of lands to be irrigated, giving each subdivision and fraction with acreage thereof, should be written here, or may be appended as a part of this application. Same must also be shown on accompanying map.

(c) Statement as to domestic use (giving location, etc.)

II. Mining, power, manufacturing, transportation, or other purposes:

(a) Nature of use

(b) Amount of power to be generated horse power.

(c) Location of plant

(d) Method of developing power

(e) Point where water will be returned to stream

8. Estimated cost of works:

(a) Head gates, \$.....100..... (b) Pumping plant, \$.....
 (c) Fluming, \$.....none..... (d) Canal-earth, \$.....600..... Rock, \$.....
 (e) Other structures.....none..... \$..... Total, \$.....700.....

9. Description of diversion works:

I. Nature of works: (Reservoir, dam, ditch, flume, pumping plant, etc.)

Dam 8 ft high 20 ft wide across the creek

II. Dimensions of works:

(a) Dam: Height.....2..... feet; length at bottom.....15..... feet; length at top.....20..... feet; thickness at bottom.....10..... feet; thickness at top.....8..... feet; slope of front (water) face.....; slope of back face.....; material used in construction Stone and Brush

(b) Reservoir: Capacity when filled.....acre feet. Surface area at highwater mark.....none..... acres.

DEPTH AT OUTLET-FEET	SURFACE AREA AT EACH.....FEET OF DEPTH AT OUTLET-ACRES	CAPACITY- ACRE-FEET

(c) Head gate: Width.....6..... feet; height.....3..... feet;
 Material Wood plank

(d) Canal: Total length.....4600 ft.....

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER LINE	GRADE PER MILE
At.....mile	feet	feet	feet	feet
At.....mile	feet	feet	feet	feet
At.....mile	feet	feet	feet	feet
At.....mile	feet	feet	feet	feet
At.....mile	feet	feet	feet	feet

(Give dimensions where reductions in size are made.)

10. Time required for completion of work.....2..... years.

11. Time required for complete application of water to the proposed beneficial use.....2..... years.

12. Choice of newspaper for publication of notice of intention to appropriate.....Buffalo Gap
Republican

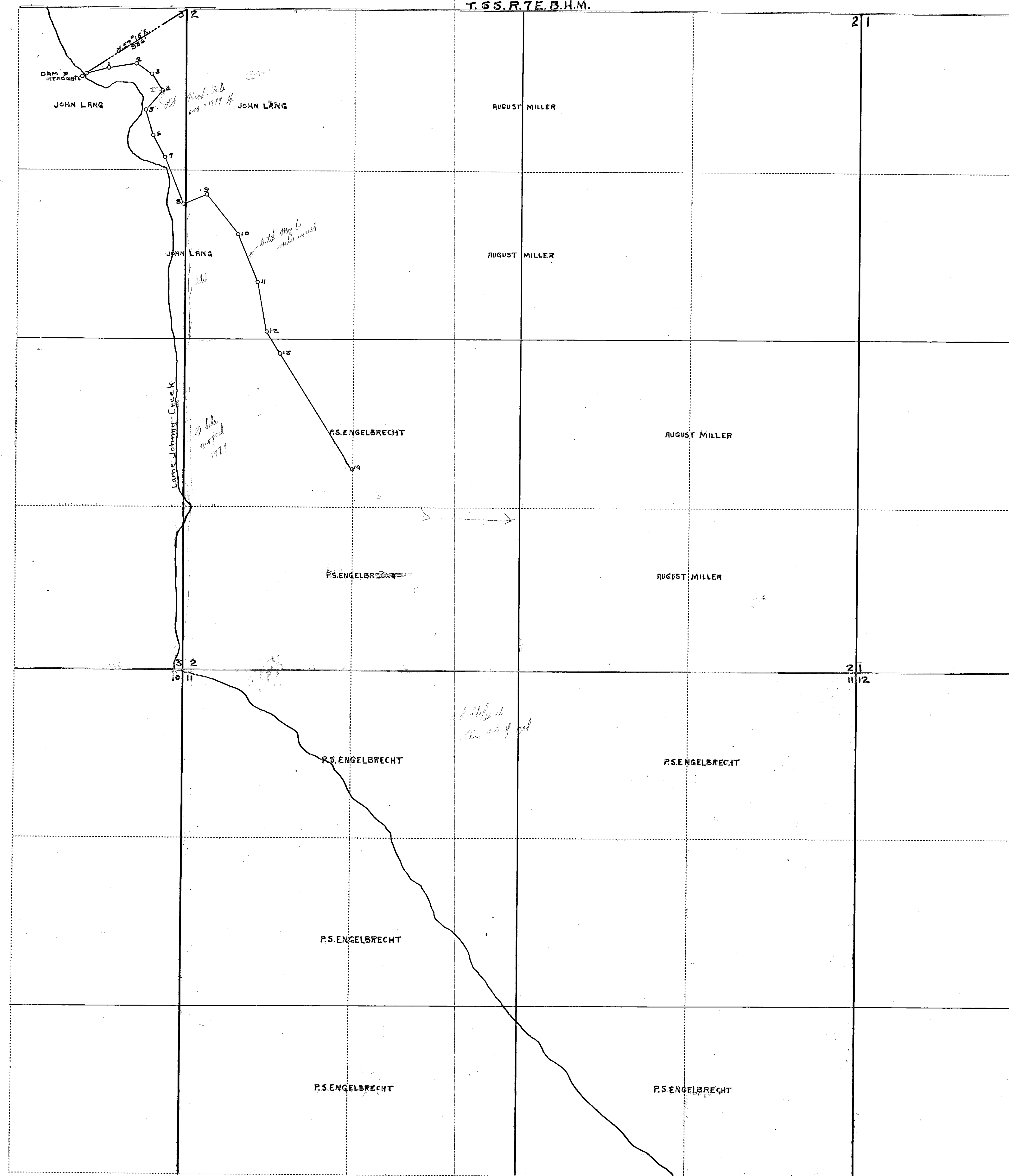
STATE OF SOUTH DAKOTA

County of Pennington

I, James Hartgoring, being first duly sworn on my oath depose and say: That my relation to the above described undertaking is that of Engineer, that I have read the above and foregoing statement, and examined the map accompanying the same, and that I know of my own personal knowledge that the matters therein stated and shown are true.

Signed.....James Hartgoring.....Subscribed and sworn to before me this.....5th..... day of.....September..... 1908.....

Fred C. Adams
 Notary Public (or other qualified officer.)



MAP OF
ENGELBRECHT WATER RIGHT

State of South Dakota ss.
County of Pennington ss.

I, James Hartgering, being duly sworn, upon my oath say, that I am the engineer of the Engelbrecht Ditch; that the survey and map thereof were made by me, and that I have read the accompanying statement and know of my own knowledge that the statements therein made are true.

James Hartgering
Engineer
Subscribed and sworn to before me this day of September 1908.

W. A. Stewart
Notary Public

Map 1369-2 (W12-60-2)

Remarks by State Engineer:

This application is granted subject to the express provision that the prior rights of John L. Maxson, under permit No. 55, shall not be injuriously affected by this appropriation.

STATE OF SOUTH DAKOTA }
County of Hughes } ss

Pierre, South Dakota, November 25, 1908.

This is to certify that the foregoing application was received at this office at 4 o'clock P. M. upon the 10th day of Sep. 1908 and that after examination it was found to comply with the provisions of the Water Laws of South Dakota. Notice of intention to appropriate was advertised, proof of publication was filed, and a hearing was held in this office November 23, 1908, at which protests were duly considered and appropriate action was taken.

Samuel H. Lea
State Engineer.

By B. B. Lea Deputy.

Number of permit 60

Date of first receipt of application September 10, 1908

Date of return to applicant for correction - - - - - 190 - -

Date of receipt of corrected application - - - - - 190 - -

Date from which applicant may claim right September 10, 1908

Approved November 23, 1908, Recorded in Book 1- Page 104-

This is to certify that I have examined the foregoing application for a permit to appropriate water of the state of South Dakota, and I hereby grant the same as stated herein, subject, however, to the following limitations and conditions.

1st. The equivalent of at least one-fifth of the work above specified is to be completed on or before November 23, 1909.

2d. The whole of said work is to be completed on or before November 23, 1910.

3d. The limit of time for proof of beneficial use of water appropriated in accordance herewith is November 23, 1911.

4th. The water appropriated shall be used for the purpose of Irrigation

5th. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.

6th. The amount of the appropriation herein granted shall not exceed 7 1/2 cubic feet of water per second of time; neither shall it exceed the capacity of the above described system of diversion works, nor the least amount of water that experience may hereafter indicate as necessary for the production of crops in the exercise of the best husbandry; and further, said appropriation must be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for irrigation on or before November 23, 1911; said water to be used during the following described annual periods.

April to November

Witness my hand this 25th day of November 1908.

Samuel H. Lea
State Engineer.

By B. B. Lea Deputy.

STATE OF SOUTH DAKOTA
COUNTY OF HUGHES.

I hereby certify that the within and foregoing instrument is a true, correct and complete transcript of the instrument which it purports to be, as the same was filed for record in the office of the State Engineer.

Witness my hand and official seal, done at my office in Pierre, State of South Dakota this 12 day of January 1909.

Samuel H. Lee
State Engineer.

By B. B. Lee
Deputy.

No. 60

Division No. 2

Fall River Water District.

PERMIT

to appropriate water from Lane

Johnny Creek.

Custer County, South Dakota

Name of applicant Phillip S. Engelbrecht

Name of diversion works Engelbrecht

Date of receipt at office of State Engineer September 10, 1908

Returned to applicant for Correction
1908

Corrected application received
1908

Date of water right
September 10, 1908

Recorded in Book 1 Page 104

One-fifth of work to be completed
November 23, 1909

Whole work to be completed
November 23, 1910

Final proof of use of water
November 23, 1911

Approved November 23, 1908

Samuel H. Lee
State Engineer.

By B. B. Lee
Deputy.

WATER LICENSE NO. 60-2

(1) WHEREAS, On the 10th day of September A. D. 19 68
Philip H Engelbrecht
 made Water Right Application No. 60-2 for a permit to use 7.50 cubic feet per second of the waters
 of Jamez Johnny Creek
 County of Custer State of South Dakota, for Irrigation
 purposes; and

(2) WHEREAS, On the 23rd day of November A. D. 19 08
 Permit No. 60-2 with a date of priority of September 10, 1908
 was issued to said applicant for the diversion of said water, and provided for the completion of construction of the water
 supply system therein described on or before the 22nd day of November A. D. 19 09 and for the
 application to beneficial use of said water on or before the 23rd day of November A. D. 19 10

WHEREAS, on the 13th day of October, 1981 this Permit was transferred to the
Henry Engelbrecht Estate, Buffalo Gap, South Dakota,

and:

(3) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota
 relating to completion of the construction of the water supply system and is entitled to divert 5.36 cubic feet
 per second of water for beneficial use and,

(4) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota
 relating to the application of water to beneficial use of the following extent,
 to irrigate the following lands all in T6S, R7E

Section 2		Section 11	
SW $\frac{1}{4}$ NW $\frac{1}{4}$	10 acres	SE $\frac{1}{4}$ NE $\frac{1}{4}$	40 acres
NW $\frac{1}{4}$ SW $\frac{1}{4}$	26 "	NW $\frac{1}{4}$ SE $\frac{1}{4}$	14 "
NE $\frac{1}{4}$ SW $\frac{1}{4}$	5 "	NE $\frac{1}{4}$ SE $\frac{1}{4}$	28 "
SW $\frac{1}{4}$ SW $\frac{1}{4}$	31 "		
SE $\frac{1}{4}$ SW $\frac{1}{4}$	38 "	TOTAL	375 acres
Section 11			
NW $\frac{1}{4}$ NW $\frac{1}{4}$	12 "		
NE $\frac{1}{4}$ NW $\frac{1}{4}$	39 "		
SE $\frac{1}{4}$ NW $\frac{1}{4}$	33 "		
NW $\frac{1}{4}$ NE $\frac{1}{4}$	39 "		
NE $\frac{1}{4}$ NE $\frac{1}{4}$	30 "		
SW $\frac{1}{4}$ NE $\frac{1}{4}$	30 "		

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

of Buffalo Gap, South Dakota

the holder _____ and owner _____ of said permit No. 60-2 a water right, dating from September 10, 1908

_____ to use of 5.36 cubic feet per second of the waters of Lame Johnny Creek

in the County of Custer and State of South Dakota, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted at a point 1200' south and 200' west of the NW corner of Section 2, T6S, R7E (AA, Sec 3, T6S, R7E)

and conducted to and upon portions of land in Sections 2 and 11, T6S, R7E more fully described on the face of this license.

for the purpose of Irrigation

Subject to any limitations listed in Water Right Permit No. 60-2 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota

this 23rd day of October A. D.

Nineteen Hundred and Eighty-one

WATER MANAGEMENT BOARD

By:

John Hatchett
Chief Engineer, Executive Officer

Permit No. 60-2

Water Diversion No. 2 Upper Cheyenne Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That Henry Engelbrecht Estate

_____ the holder _____ of
Permit No. 60-2, issued upon Application No. 60-2, bearing date of priority of _____
September 10, 1908 authorizing the diversion of 5.36 cu. ft. per second of the waters of _____
Lame Johnny Creek County of Custer, State of South Dakota at _____
a point 1200' south and 200' west of the NW corner of Section 2, T6S, R7E
(AA, Sec 3, T6S, R7E)
_____, for Irrigation

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

Date October 23, 1981

John Hatch
JOHN HATCH, Chief Engineer
Water Rights Division

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA

County of Custer } ss

L. C. Weeks being duly sworn, deposes and says the annexed printed copy of Notice Intention to appropriate Water was taken from the Buffalo Gap Republican a newspaper which during the whole time of publication of said notice herein after stated, has been and is printed and published in the Journal of L. C. Weeks County of Custer and State of South Dakota,

That the said notice was published in said newspaper on the following dates:

Oct 3 - Oct 7 - Oct 10 - 4
Oct 21

in each and every issue of the full number thereof, the first publication being made on the 3rd day of October, 1908 and the last publication on the 21st day of October, 1908, upon which days or times of publication aforesaid the newspaper was regularly published, and that during the whole time of said publication he was L. C. Weeks the printer and publisher of the said newspaper.

Subscribed and sworn to before me this

21st day of October, A. D. 1908Notary Public Custer County, S. D.

RECEIVED

NOV 23 1908

OFFICE OF STATE ENGINEER,
PIERRE, S. DAK.

(First Publication Oct. 3, 1908.)
APPROPRIATION OF WATER.
Office of the State Engineer, Pierre, S. D.
September 21, 1908.
Notice is hereby given that Phillip S. Engelbrecht, whose postoffice address is Buffalo Gap, Custer County, S. D., has made an application in accordance with the provisions of the Irrigation laws of South Dakota for a permit to appropriate for beneficial use 8 cubic feet of water per second of time from Lamo-Johny Creek through the Engelbrecht Diversion Works, the point of diversion of which is to be located upon the left bank of said stream in the NW 1/4 of the NE 1/4 of section 3, township 6 S, range 7 E, T. H. M., said water to be used for the purpose of irrigation upon the SW 1/4 of sec. 2, NW 1/4 SW 1/4 sec. 2, NW 1/4 sec. 11, and NW 1/4 sec. 11, township 6 S, range 7 E, T. H. M.
This application will be taken up by the State Engineer at his office at Pierre for consideration and appropriate action upon the 23rd day of November, 1908, at 9 a. m., at which time all persons who believe that the prior rights would be injuriously affected, or that the allowance of the permit would be detrimental to the public welfare, and also parties making the application, and to be benefited, are notified to be present either by sworn affidavits or by relative testimony.
SAMUEL H. LEAF
State Engineer.

(First Publication Oct. 3, 1908.)
APPROPRIATION OF WATER.
Office of the State Engineer, Pierre, S. D.
September 21, 1908.
Notice is hereby given that Phillip S. Engelbrecht, whose postoffice address is Buffalo Gap, Custer County, S. D., has made an application in accordance with the provisions of the Irrigation laws of South Dakota for a permit to appropriate for beneficial use 8 cubic feet of water per second of time from Lamo-Johny Creek through the Engelbrecht Diversion Works, the point of diversion of which is to be located upon the left bank of said stream in the NW 1/4 of the NE 1/4 of section 3, township 6 S, range 7 E, T. H. M., said water to be used for the purpose of irrigation upon the SW 1/4 of sec. 2, NW 1/4 SW 1/4 sec. 2, NW 1/4 sec. 11, and NW 1/4 sec. 11, township 6 S, range 7 E, T. H. M.
This application will be taken up by the State Engineer at his office at Pierre for consideration and appropriate action upon the 23rd day of November, 1908, at 9 a. m., at which time all persons who believe that the prior rights would be injuriously affected, or that the allowance of the permit would be detrimental to the public welfare, and also parties making the application, and to be benefited, are notified to be present either by sworn affidavits or by relative testimony.
SAMUEL H. LEAF
State Engineer.

(First Publication 1908.....)

APPROPRIATION OF WATER

Office of the State Engineer,

Pierre, S. D., September 24, 1908

Notice is hereby given that Phillip B. Engolbracht
whose postoffice address is Buffalo Gap
Custer County, S. D., has made an application in
accordance with the provisions of the irrigation laws of South Da-
kota for a permit to appropriate for beneficial use 8 cubic
feet of water per second of time from Lamo Johnny Creek
through the Engolbracht Diversion Works the point of diversion of which
is to be located upon the left bank of said stream in the N E
1/4 of the N E 1/4 of section 3 township 6 S range 7 E BDM said water
to be used for the purpose of irrigation
upon the S 1/2 SW 1/4 Section 2,
NW 1/4 SW 1/4 Section 3, N 1/2 Section 11, and N 1/2 of S 1/2 Section 11, Township
6 S, Range 7 E. B. H. H.

This application will be taken up by the state engineer at his
office at Pierre for consideration and appropriate action upon the
23rd day of November 1908, at 9 a. m., at which time all
persons who believe that the prior rights would be injuriously af-
fected, or that the allowance of the permit would be detrimental
to the public welfare, and also parties making the application, and
to be benefited, are notified to be present either by sworn affi-
davit or in person for the purpose of presenting any relative tes-
timony.

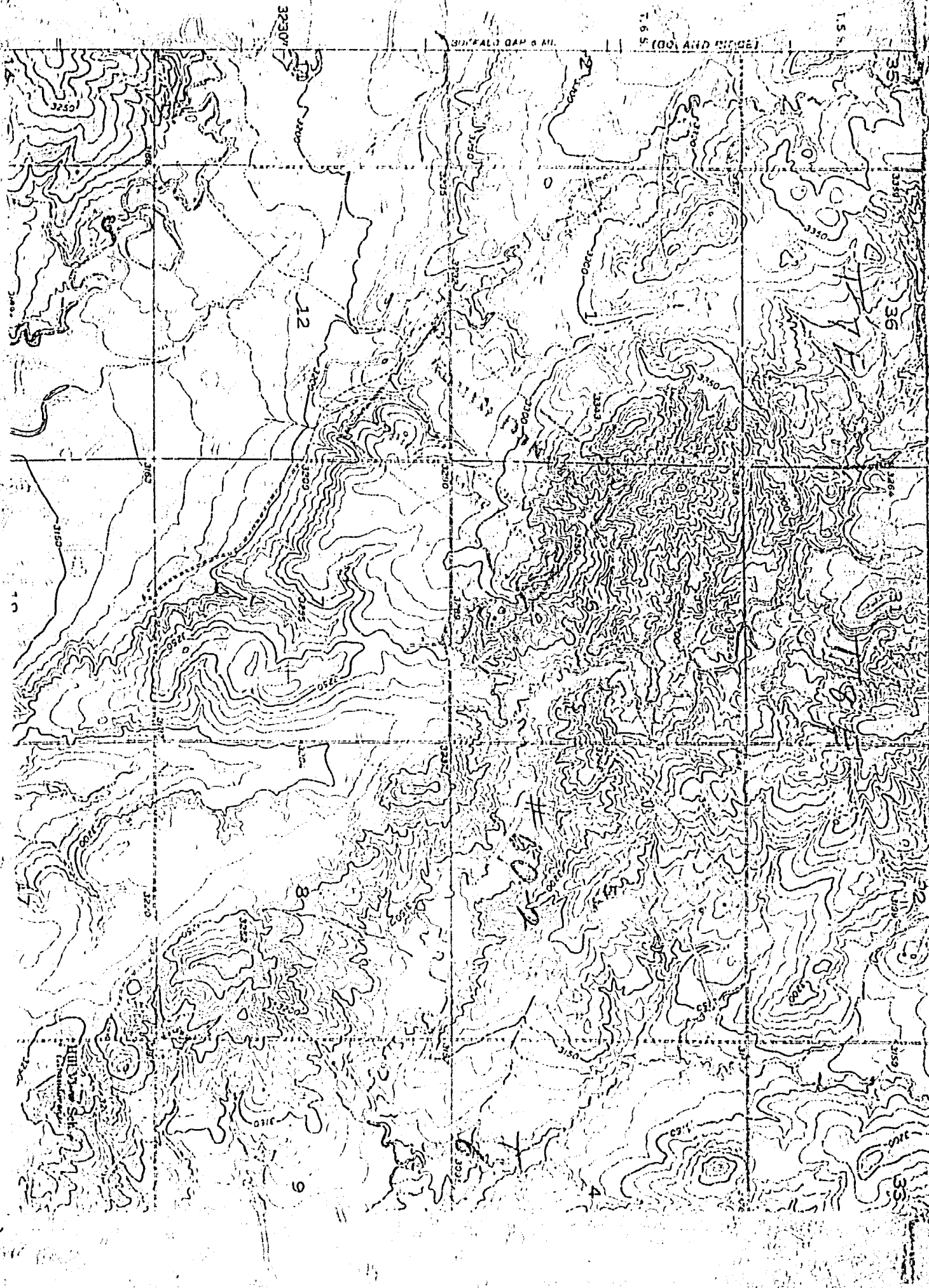
State Engineer

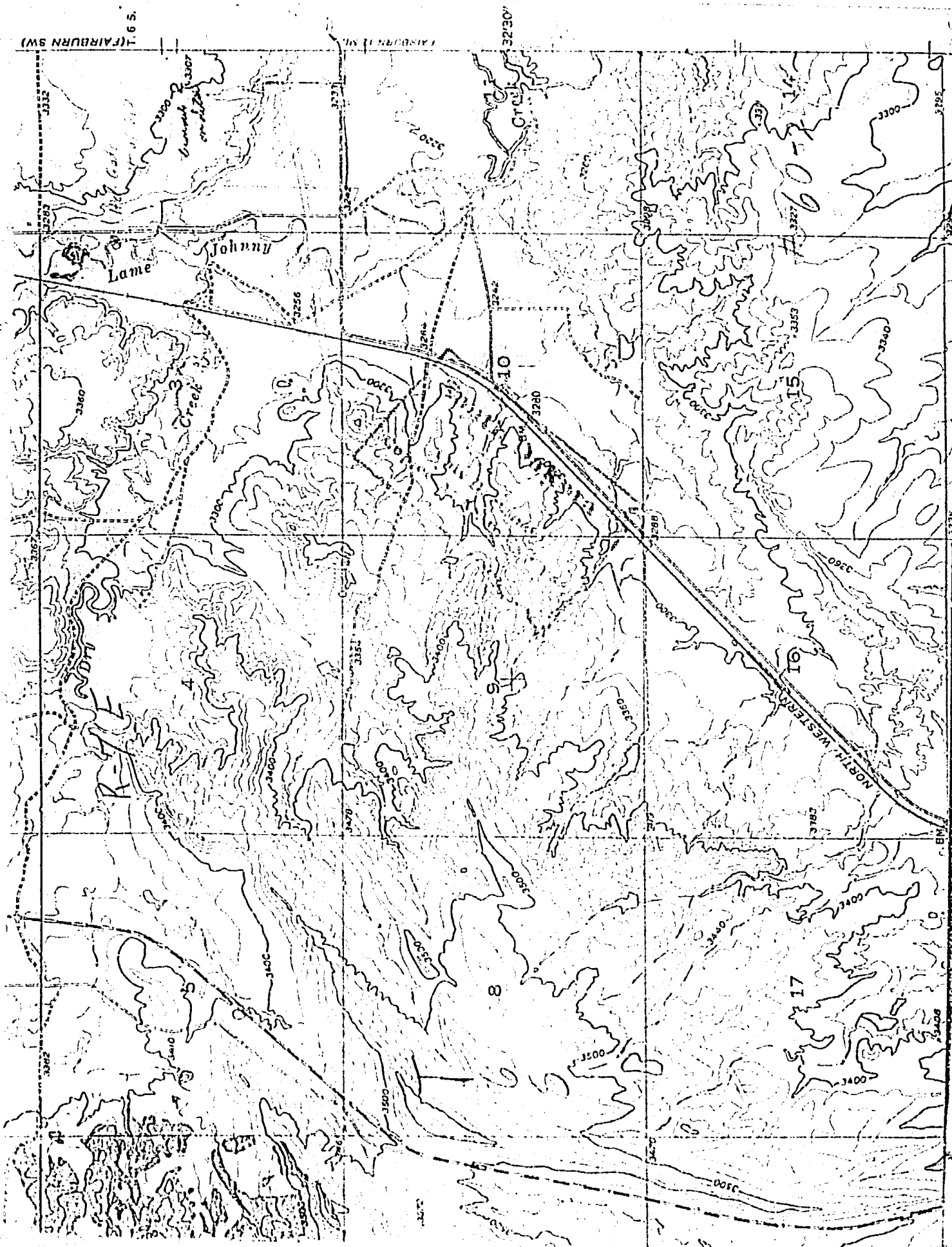
OVERSIZE

DOCUMENT IS

SUPPLEMENTARY

TO MICROFILM FILE





1-28-79. Stopped here on the way to the

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from [unclear] [unclear] [unclear] [unclear]

from [unclear]

from [unclear]

from [unclear] [unclear] [unclear] [unclear]

from [unclear]

Note Change Ownership at time of Leasing

Note that we 10 Ac. in SW $\frac{1}{4}$ NW $\frac{1}{4}$ and
5 Ac. in NE $\frac{1}{4}$ SW $\frac{1}{4}$ that are not on
original permit. It has been used so
long that he could cover the 15 ac. with
a V Right. The original was for 570 Ac.
so plenty of acre to cover this.

Therefore I included in the Lease.
Hope this is OK

Permit No. 60-2Water Division 2 Fall River Water DistrictREPORT OF EXAMINATION OF WORKS
AND/OR APPLICATION OF WATER TO BENEFICIAL USE

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

I have this day made a thorough examination of the water use system constructed by Henry Engelbrecht Estate of Buffalo Gap, S.Dak holder of Permit No. 60-2, bearing date of priority of September 10, 1908 authorizing the diversion of 7.5 cu. ft. per second of the waters of Lame Johnny Creek for Irrigation purposes, in Custer county.

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

The Water Use System consists of,

A. Works used to divert the water:

Wooden Headgate in Lame Johnny Creek.

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

Open Ditches

C. Works used to apply water to beneficial use.

Diversion Ditches and Dikes
level DitchesThe system is in the following condition: Fair To PoorThe point of diversion is located 1700' S and 200' W of the NW Cor. of sec. 2, T 6 S, R 7 EThe works are capable of diverting and conveying to the place of use 10 cfs Estcu. ft. per second of water which is to be used for IrrigationWater has been put to beneficial use to the maximum extent as follows: The following in sec. 2,T 6 S R 7 E. NW 1/4 NW 1/4 - 10 Ac., NW 1/4 SW 1/4 - 26 Ac., NE 1/4 SW 1/4 - 3 Ac.SW 1/4 SW 1/4 - 31 Ac., SE 1/4 SW 1/4 - 38 Ac. The following in sec. 11, T 6 SR 7 E. NW 1/4 NW 1/4 - 12 Ac., NE 1/4 NW 1/4 - 39 Ac., SE 1/4 NW 1/4 - 33 Ac.NW 1/4 NE 1/4 - 39 Ac., NE 1/4 NE 1/4 - 30 Ac., SW 1/4 NE 1/4 - 30 Ac., SE 1/4 NE 1/4 - 40 Ac.NW 1/4 SE 1/4 - 14 Ac., NE 1/4 SE 1/4 - 28 Ac.comprising a total of 375 acres of land.

$$375 \div 70 = 5.36$$

license for 5.36 cfs.

Date July 8 1980
Leroy J. Hennigh
(Signature)

STATE OF SOUTH DAKOTA)

COUNTY OF CUSTER)

Before me John F. Baker a Notary Public,
Within and for the County of Custer, Personally appeared John, Lungen,
personally known to me to be the person described in and who executed
the foregoing instrument, who says that he is the sole owner of
the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of section 3- township 6-S, Range 7-E, R,H,M,
and that Phillip S, Engelbrech, whos post office adress is BufaloGap,
Custer County S,D, has filed in the Office of the state Engineer, at
Pierre S,D, an application to take out a water right permit, and to
take the water out of the stream in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section
3 S Range 7 E ,R,H,M, and as I am the sole owner of this land, I
Seriousley object to the granting of this permit, as it will damage
this tract of land by cutting it up with ditches and causing an over
flow, of water, which will forme a lake that will stand the year round
on at least 20 acres of the NE $\frac{1}{4}$ - of the NE $\frac{1}{4}$ of section 3 Town 6S
7 E ,R,H,M, and I Protest a gainst the granting of this Permit to
Phillip S Engelbrecht, or any other partes, as I have never given to
Phillip S, Engelbrecht or any othe partes any purmission to take out
any water rights through any part of my lands, *****

Subscribed and Sworn to, this 22nd day of October, A.D 1908

Notary Public

RECEIVED

OCT 24 1908

OFFICE OF STATE ENGINEER,
PIERRE, S. DAK.

RECEIVED

NOV 12 1908

OFFICE OF STATE ENGINEER,
PIERRE, S. DAK.

7ED

908

ENGINEER,
DAK.

W. J. G. S. S.
Nov 12 08

Mr. Spinner, S. D.
Dear Sir:

I send in herewith inclosed a
clipping of Mr. Augustus
application regarding which
I wish to state that there is now
8 cubic feet of water per second of time
in Lamborn creek once at some
rare and strange flood time
further he could not handle that
amount of water if he could get it
and I believe that our right
would be worth less without it

He is not allowed at all for
anything. About 1000 in the same
creek. And I am spending
several thousand dollars on
and in connection with our right
W. J. G. S. S.

Yours and is in the
W. J. G. S. S.

PROTEST AGAINST APPLICATION

of Phillip S. Engelbrecht, of
Buffalo Gap, S.Dak.

Filed in the Office of the
STATE ENGINEER

by

John L. Maxson, of Buffalo
Gap, S. Dak.

Hearing at 9 A.M., upon the
23rd day of November, 1908.

RECEIVED

NOV 16 1908

OFFICE OF STATE ENGINEER,
PIERRE, S. DAK.

STATE OF SOUTH DAKOTA, }
COUNTY OF HUGHES. } ss
OFFICE OF STATE ENGINEER.

Filed for record this 16th day of

November A. D. 1908

at 3:30 o'clock P.M. and recorded in

FILE 5-3 ON PAGE 1

Samuel H. Lea.
STATE ENGINEER.

By _____
DEPUTY.

FILED
NOV 16 1908

SAMUEL H. LEA, State Engineer.

In the Matter of Water Right Application by

Phillip S. Engelbrecht, of Buffalo Gap, S.D.

PROTEST AGAINST GRANTING APPLICATION:

STATE OF SOUTH DAKOTA,) (SS.
County of Custer.)

John L. Maxson, whose postoffice address is Buffalo Gap, South Dakota, being duly sworn, deposes and says: That upon the 7th day of August, 1908, himself and wife, Grace M. Maxson, through their engineer, Ivan E. Goodner, of Rapid City, S.D., made a joint application for permit to appropriate water from Lame Johnny Creek through the Maxson Irrigation System; that receipt of that application was acknowledged by the State Engineer upon the 19th day of August, 1908; that said application has been diligently prosecuted according to the process provided by law; that all matters in connection therewith are a matter of public record and on file in the office of the State Engineer; that it is not necessary to here set forth in detail all the events in connection with the establishment of said application and the right of the affiant thereunder, but that such record shows in itself that this affiant and said Grace M. Maxson are the joint owners of an existing valid right to use of waters from said creek, and that until such rights have been forfeited by some future non-compliance with the laws and regulations governing irrigation rights, such right is prior and superior to any right subsequently initiated.

Affiant further states that it is a matter of public record that one Phillip S. Engelbrecht, whose postoffice address is Buffalo Gap, South Dakota, has made an application for permit to appropriate eight (8) cubic feet of water per second from said creek, at a point which is but a few miles up said creek above the point of diversion claimed under application of this affiant, and that records thereof are on file in the office of the State Engineer, and need not be repeated here in detail.

Affiant further states that during a large portion of each year the stream flow in said Lame Johnny Creek is not sufficient to supply the amount of water claimed by said Engelbrecht; that his claim will take the entire flow of said creek during a long period of the summer of each year, and that there will therefore be no water left to supply the rights of this affiant and others upon said creek below said Engelbrecht diversion point.

Affiant therefore respectfully protests against the granting of the application of said Phillip S. Engelbrecht upon the ground that affiant has a prior right which will be seriously damaged and injured and rendered of no avail thereby.

Affiant further petitions that if any permit whatsoever is granted to said Phillip S. Engelbrecht under his said application that it be made expressly incumbent upon said Engelbrecht to provide a free passageway through and under his proposed dam or other means of diversion whereby the water claimed by this affiant and his wife, Grace M. Maxson, under their joint application, namely 3.25 second-feet of water, will be permitted to continuously flow for the beneficial use and enjoyment of the right acquired under the application for the Maxson Irrigation System.

John L. Maxson

Personally appeared before me, at my office in Buffalo Gap, Custer County, State of South Dakota, the above affiant, John L. Maxson, and acknowledged under oath his execution of the above affidavit.

Lyman Baccan
Notary Public

Buffalo Gap SD Nov 14th 1908

JAMES HARTGERING

U. S. MINERAL SURVEYOR

Mining and Mechanical Engineering

Designs and Superintends the Erection of Mining
Hydraulic and Irrigation Plants

Office
Farlow Block

Rapid City, S. D., November 21 1908 1908

Samuel H. Lea

State Engineer

Dear Sir: REplying to yours of 12th. inst. in reference to P.S. Engelbrecht Water Right on Lame Johnny Creek, I don't understand why Mr. Maxson should object to the Engelbrecht water right as he is at least 6 miles below, there should be plenty water for both and for others besides, also the water from the Engelbrecht ditch will be returned to the creek a long distance above the Maxson dam.

I take it that Lame Johnny Creek is very much like Boxelder Creek in amounts of available water supply. On Boxelder Creek there are many water rights and there does not seem to be any conflict between the owners.

I think that it would be a sad plight for the farmers on Lame Johnny Creek if one man should be allowed to monopolize the whole creek

Yours truly

James Hartgering

RECEIVED
NOV 23 1908
OFFICE OF STATE ENGINEER,
PIERRE, S. DAK.

Pierre, S. D. Nov. 23, 1908.

James Hartgering,
U.S. Mineral Surveyor,
Rapid City, So. Dak.

Dear Sir:

Your letter of the 21st inst. referring to the application of P. S. Englebrecht for a water right on Lane Johnny Creek has been received and will be given due consideration. I note what you say about the objection of Mr. Maxson and will take same into consideration in deciding upon the application referred to.

Yours very truly,

State Engineer.

Received
Nov 24 1908
Chief Engineer

February 11, 1931

Henry Engelbrecht
Buffalo Gap, S. D.

Dear Sir;

Replying to your letter of the 3rd inst., our records show that water right number 60-2 was applied for by Phillip S. Engelbrecht, Buffalo Gap, the point of diversion being on Lane Johnny Creek in the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 4, Township 6 S., Range 7 E. for the purpose of irrigating upon the SE $\frac{1}{4}$, SW $\frac{1}{4}$, sec. 2; NW $\frac{1}{4}$, SW $\frac{1}{4}$ sec. 2; N $\frac{1}{2}$ sec. 11, and N $\frac{1}{2}$ of S $\frac{1}{2}$ sec. 11, Township 6 S., Range 7 E., B.H.H.

Upon examining the records in regard to water right number 78-2 applied for by Engelbrecht Irrigation Company, Buffalo Gap, S. D., we find that the point of diversion is to be on Lane Johnny Creek S. 46 $^{\circ}$ 11' 78 ft. from NW cor. of Sec. 2, Township 6 S., R. 7 E., which description locates the point of diversion in the NE $\frac{1}{4}$, NE $\frac{1}{4}$ of sec. 3, Township 6 S., Range 7 E., B.H.H. The lands to be irrigated, according to the "Water License" are SW $\frac{1}{4}$ Sec. 2; E $\frac{1}{2}$, SE $\frac{1}{4}$ Sec. 3; E $\frac{1}{2}$ NE $\frac{1}{4}$ Sec. 10; N $\frac{1}{2}$, Sec. 11; NE $\frac{1}{4}$, SE $\frac{1}{4}$ Sec. 11; and N $\frac{1}{2}$, NE $\frac{1}{4}$ Sec. 11, Township 6 S., Range 7 E., B.H.H.

You state that "77-2 is not completed". Our records show water right number 77-2 to be in the name of Alice O. Reder, and marked "Abandoned".

Since the name "Henry Engelbrecht" does not appear on our water right records (we do find this name on our dry draw records) we should like to have you advise us, as a matter of record, whether the above mentioned water rights have been transferred to you. Can you give us similar information on water rights numbers 224-2 and 225-2, both in the name of Mary L. Engelbrecht, and both on Lane Johnny Creek, the first point of diversion being in the SE $\frac{1}{4}$, SW $\frac{1}{4}$ Sec. 16, Twp. 5 S., Range 7 E., B.H.H., and the second point of diversion being in the SE $\frac{1}{4}$, NE $\frac{1}{4}$, Sec. 17, Twp. 5 S., R. 7 E., B.H.H. Your cooperation in these matters will be sincerely appreciated as we are very desirous of having these water rights properly recorded in our files.

Very truly yours,

-ent/mb

Charles A. Trimmer
State Engineer

RECEIVED

FEB 26 1931

Chas. A. OFFICE OF STATE ENGINEER
PIERRE, S. DAK.

Offals. S. D.
D. Ch.
Jan 22-31

Dear Sir:

I have your letter of the 11th. Philip S. Engelbrecht is dead. The Company ditch or water right 28-2 is all that is in good working order, and also an other irrigation works. The point of diversion is about the center of the S.E. 1/4 of Sec 11, T6 R7. I don't think that this has been noted any thing ever filed with the state.

The water rights 224-2 and 225-2 are on the land of Mary Engelbrecht and they are her rights. One of the rights has been abandoned as she stated on the paper one returned

OFFICE OF STATE ENGINEER
PIERRE, S. DAK.

to you.

The Company of the water right 78-2 intends to desolve and turn the right to the land. it is used now, can this be done with out changing the date of water right.

You state that water right 60-2 is in section 4 T6 on same Johny buck but must be seen sec 8 if this land has been covered by water right 78-2 any way this right 60-2 is not around and I don't think it can be done to the water in sec 11 for it lays to far down in creek to water all the land south of some under the ditch.

Yours truly
Henry Engelbrecht

Buffalo, N.Y.
Feb 3-31

State Engineer

Pierre S.D.

Dear Sir:

I would like to hear from you stating where the point of diversion is for water right 69-2 and description of land to be irrigated and also description of land to be irrigated by right 77-2. ~~Water~~ Water right 78-2 is complete and in working order and also will state that 77-2 is not complete.

Yours Truly
Henry Engelbrecht

5-13-31
+ 224-2 in the same place
Dec 10, 1907 55 Dec 8, 1907

RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

No 4 8506

Philip M. Engelbrecht, Executor/ for:

PIERRE,

October 7, 1981

RECEIVED OF Henry Engelbrecht Estate, (P.O. Box 2183) Buffalo Gap, SD 57720
(Rapid City, SD 57709)

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

Fee for Application for Permit to Appropriate Water No. (examination, processing, recording and filing)		
Fee for inspecting Construction, and Issuing Cert. of Construction No.		
Fee for inspecting Beneficial Use, and Issuing Water License No.		
Fee for Issuing Location Certificate-Dry Draw, No.		
Fee for filing transfer of WR# 60-2		2.50
Fee for certified copy of		
Fee for Print copy of map		
Fee for Certifying		
Fee for		
(any other work as provided by law)		
TOTAL		2.50

WATER RIGHTS COMMISSION

By

Chief Engineer, Executive Officer
JOHN HATCH / (bt)

RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

No 4 8507

Philip M. Engelbrecht, Executor/

PIERRE,

OCTOBER 7, 1981

RECEIVED OF for Henry Engelbrecht Estate, P.O. Box 2183, Rapid City, SD 57709

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

Fee for Application for Permit to Appropriate Water No. (examination, processing, recording and filing)		
Fee for inspecting Construction, and Issuing Cert. of Construction No. 60-2		12.00
Fee for inspecting Beneficial Use, and Issuing Water License No. 60-2		
Fee for Issuing Location Certificate-Dry Draw, No.		
Fee for filing		
Fee for certified copy of		
Fee for Print copy of map		
Fee for Certifying		
Fee for		
(any other work as provided by law)		
TOTAL		12.00

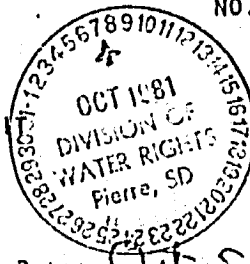
WATER RIGHTS COMMISSION

By

Chief Engineer, Executive Officer
JOHN HATCH / (bt)

NO. 60-2

NOTICE OF TRANSFER OF WATER PERMIT



TO: Water Rights
Foss Building
Pierre, SD 57501

Date: Oct 5, 1981

This is to notify you that the title to the lands described as follows:

375 acres - SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, Sec. 2; N $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$, N $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 11, T6S. R7E

formerly owned by Philip S Engelbrecht

has been transferred to Henry Engelbrecht Estate, Buffalo Gap, SD 57720

together with any rights to the beneficial use of water thereon as evidenced by

Water Right Permit No. 60-2 as provided for in SDCL 46-5-32 and 46-5-33.

You are therefore hereby requested to file this "Notice of Transfer of Water Permit" in its appropriate file at the Office of Water Rights, Water Management Board as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is hereto attached to cover filing fees as required under SDCL 46-2-13.

STATE OF SOUTH DAKOTA)
County of Custer) ss.

I, Philip S. Engelbrecht being first duly sworn on my oath depose and say:
That my relation to the above described undertaking is that of Owner, that I have read the above foregoing statement, and I know of my own personal knowledge that the information herein stated is true.

Philip S. Engelbrecht, Exec.
(Signed)

Subscribed and sworn to before me this 5 Day of October, 1981.

[Signature]
(Notary Public)

Diversion Points
for 60-2 & 78-2 seem to be
the same.

78-2
seems to cover
all of 60-2
P.D. 60-2 = 9/10/1908

E 1/2 SE 1/4
78-2

E 1/2 NE 1/4
78-2

NE 1/4 SW 1/4
78-2

Henry Engelbrecht Estate

Permit # 60-2

Overlay of 8" Aerial map
1" = 660' 10" = 10 Ac

(W 1/2 60-2)
Map # 69-2

