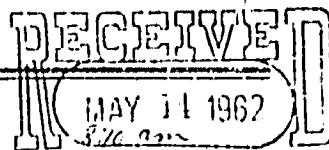


No. 767-2
 Water Division No. 2 WHITE RIVER District
 (Blanks to be filled by the Engineer for the W. R. C.)

 STATE WATER RESOURCES COMM.
 PIERRE, SOUTH DAKOTA

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

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

I. Name of applicant Carl L. Johnson
 Postoffice address Martin, County Bennett, State S. Dak.

1. 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 work (Whether by contract, employment of others, or by direct labor)

- (b) Cash on hand, \$
- (c) Treasury stock, \$
- (d) Bonds to be issued, \$
- (e) Other resources, \$

2. Name of diversion work Ruff Ditch
3. Amount of water claimed 2.59 cubic feet per second
4. Source of water supply Lake Creek and tributaries
5. Location of point of diversion S 61° W 1,000' from the NE 1/4, Sec. 20, T36N, R37W; N 40° E, 2,400' from SW Corner Sec. 21, T36N, R37W
6. Annual period or periods during which water is to be used April to November
7. To be used for:

 I. Irrigation or domestic use: Gravity, overhead sprinkling or combination system? gravity
(a) Number of acres to be irrigated 180 acres.

(b) Legal subdivisions to be irrigated (see back)

(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. Stockwatering, mining, milling, power, fish culture, fire protection and public recreation:

(a) Nature of use

Name any of the above uses claimed

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

Amount claimed for engine cooling

(c) Location of plant

(d) Method of developing power

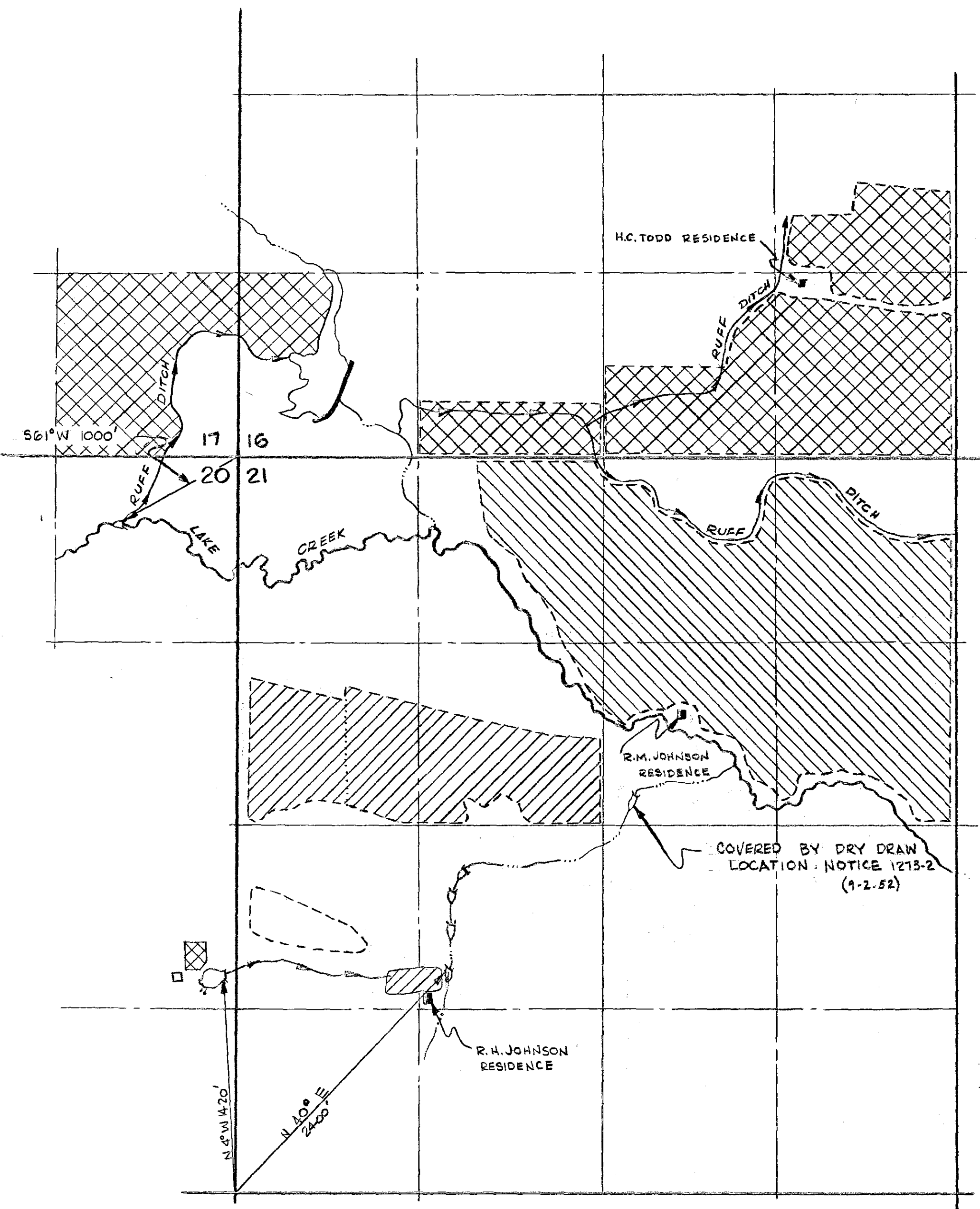
(e) Point where water will be returned to stream

R37W

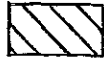
INDIAN LANDS LISTED UNDER NAME- EDNA RUFF JOHNSON

LANDS IRRIGATED FROM RUFF (ROLFE) DITCH

DESCRIPTION	ACREAGE	IRRIGATOR
SEC 21 NW ⁴ SW ⁴	6.0	R. H. JOHNSON
SW ⁴ NW ⁴	25.0	" " "
SE ⁴ NW ⁴	19.0	" " "
SE ⁴ NE ⁴	34.0	R. M. JOHNSON
NE ⁴ NE ⁴	29.0	" " "
NW ⁴ NE ⁴	26.0	" " "
SW ⁴ NE ⁴	21.0	" " "
SE ⁴ NW ⁴	3.0	" " "
NE ⁴ NW ⁴	17.0	" " "
SEC 16 SE ⁴ SW ⁴	10.0	H. C. TODD
SW ⁴ SE ⁴	24.0	" " "
SE ⁴ SE ⁴	26.0	" " "
E ² SE ⁴	18.4	" " "



T36N

-  R.H. JOHNSON IRRIGATION
-  R.M. JOHNSON IRRIGATION
-  H.C. TODD IRRIGATION

(W.R.#768-2) 767-2

Remarks by State Water Resources Commission:

"VESTED RIGHT CLAIMED"

THIS PERMIT RECOGNIZES YOUR "VESTED RIGHT" CLAIM AS PROVIDED IN STATE LAW, WITH THE PRIORITY INDICATED BASED ON AFFIDAVITS SUBMITTED WITH THE APPLICATION.

STATE OF SOUTH DAKOTA
County of HUGHES } ss.

Pierre, South Dakota, MAY 31, 1962

This is to certify that the foregoing application was received by the Commission at 8:10 o'clock

4 a.m. upon the 14TH day of MAY, 1962.

State Water Resources Commission

By:

[Signature]
for Chief Engineer, Executive Officer

Number of permit 767-2

Date of first receipt of application MAY 14, 1962

Date of return to applicant for correction, amendments or changes required as follows: -, 19-

Date of receipt of corrected application -, 19-

Date from which applicant may claim right 1898, 1962

Approved MAY 31, 1962, Recorded in Book 7 Page 118

This is to certify that we have examined the foregoing application for a permit to appropriate water of the State of South Dakota, and we 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~~

10 10
2nd. The whole of said work is ~~to be~~ completed ~~on or before~~ 10

3rd. The limit of time for ~~pro~~ of beneficial use of water appropriated in accordance herewith is

COMPLETED 10
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 2.59 cubic feet per second; 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 was

and beneficially applied for irrigation on or before JUNE 30, 1955; said water to be used during the following described annual period:

APRIL TO NOVEMBER

Witness my hand this 31ST day of MAY, 1962.

State Water Resources Commission

By:

[Signature]
Chief Engineer, Executive Officer

Certificate of Construction Issued MAY 31, 1962

Water License Issued MAY 31, 1962

Remarks by the Applicant:

R. H. JOHNSON

SE $\frac{1}{4}$	NW $\frac{1}{4}$	34	acres
NE $\frac{1}{4}$	NE $\frac{1}{4}$	29	"
NW $\frac{1}{4}$	NE $\frac{1}{4}$	26	"
SW $\frac{1}{4}$	NE $\frac{1}{4}$	21	"
SE $\frac{1}{4}$	NW $\frac{1}{4}$	3	"
NE $\frac{1}{4}$	NW $\frac{1}{4}$	17	"
		<u>130</u>	"

R. H. JOHNSON

NW $\frac{1}{4}$	SW $\frac{1}{4}$	6	acres
SW $\frac{1}{4}$	NW $\frac{1}{4}$	25	"
SE $\frac{1}{4}$	NW $\frac{1}{4}$	19	"
		<u>50</u>	"

STATE OF SOUTH DAKOTA

WATER LICENSE No. 767-2

WHEREAS, On the 14th day of May A. D. 1962
R. H. and R. M. Johnson

of Martin County of Bennett and State of
South Dakota duly made application (No. 767-2) to us for a vested right
2.59
cubic feet per second of the waters of Lake Creek and tributaries
County of Bennett, State of South Dakota, for irrigation and fish culture
purposes; and

WHEREAS, On the 31st day of May A. D. 1962
Vested Right recognizing the
/ Permit No. 767-2 was issued to said applicant for the diversion of said water, ~~and conveying to~~
completion of the works of diversion therein described ~~XXXXXX~~ ~~XXXXXX~~
~~XXXXXX~~ and ~~XXXXXX~~ application to beneficial use of said
water ~~XXXXXX~~ ~~XXXXXX~~ ~~XXXXXX~~
and,

WHEREAS, On the 14th day of May A. D. 1962
the holder of said permit duly made proof of the completion of adequate works for the diversion of 2.59
cubic feet per second of said waters, as evidenced by our Certificate No. 767-2
dated May 31, 1962 confirming the completion of works of sufficient capacity for
diverting and conveying to the place of intended use 2.59 cubic feet per second of water, with date of
priority of 1898 ~~XXXXXX~~ and,

WHEREAS, On the 14th day of May A. D. 1962
proof was duly made of the application to beneficial use of 2.59 cubic feet per second of said water;
for irrigation on 180 acres in the W $\frac{1}{2}$ and NE $\frac{1}{4}$, Section 21, T36N, R37W

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 **R. H. and R. M. Johnson**

of **Martin** the holder^s and owner^s of said **Vested Right** No. **767-2**

a water right, dating from **1898** to the use of **2.50**

cubic feet per second of the waters of **Lake Creek and Tributaries**

In the County of **Bennett** and State of South Dakota, or so much thereof as may be

necessary for the purposes hereinbelow mentioned, to be diverted at **a point in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec.**

20, and a point in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 21, T36N, R37W

and conducted to and upon **portions of the W $\frac{1}{2}$ and NE $\frac{1}{4}$ Section 21, T36N, R37W,**

more specifically described in the Certificate of Completion of Works

for the purpose^s of **irrigation and fish culture**

subject, however, to the laws of the State of South Dakota applicable to a license for the use of the waters of the State, and subject, also to the local or community customs, rules and regulations which have been or may be adopted from time to time by a majority of the users from a common source of supply, canal or lateral from which such water may be taken, when such rules and regulations have for their object the economical use of such water.

WITNESS, My hand and seal of our office at Pierre, South Dakota,
this **31st** day of **May** A. D. Nineteen
Hundred and **sixty-two**

State Water Resources Commission

By:

Chief Engineer, Executive Officer
J. W. GRIMES

STATE OF SOUTH DAKOTA

Water License No. -----

To -----

Source of Supply -----

County -----

Am't ----- c. f. s.

Point of Diversion -----

Place of Use -----

Purpose -----

Date of Priority -----

Recorded -----

In Book ----- of ----- Page -----

Permit No. 767-2

Water Division No. 2 White River Water District

Certificate of Completion of Works

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That R. H. and R. M. Johnson

of Martin County of Bennett, and State of
South Dakota, the holder of Vested Right Permit No. 767-2, issued upon Application
No. 767-2 bearing date of priority of 1898, authorizing the diversion of

2.59 cu. ft. per second of the waters of Lake Creek and tributaries
County of Bennett, State of South Dakota, at a point S61° W, 1000'
from the NE corner Section 20, T36N, R37W & a point N40° E 2400' from
the SW corner, Sec. 21, T36N, R37W for irrigation

purposes. ha^{ve} fully complied with the provisions of the laws of the State of South Dakota relating to proof of **recognized as satisfactory.**

~~needed~~ for diverting and conveying to the place of intended use 2.59 cu. ft.

per second of water; and that the lands proposed to be irrigated by the use of said water are described as follows,

to-wit: all in Section 21, T36N, R37W

SE $\frac{1}{4}$ NE $\frac{1}{4}$ 34 acres

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 29 "

NW $\frac{1}{4}$ NE $\frac{1}{4}$ 26 "

SW $\frac{1}{4}$ NE $\frac{1}{4}$ 21 "

SE $\frac{1}{4}$ NW $\frac{1}{4}$ 3 "

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 17 "

NW $\frac{1}{4}$ SW $\frac{1}{4}$ 6 "

SW $\frac{1}{4}$ NW $\frac{1}{4}$ 25 "

SE $\frac{1}{4}$ NW $\frac{1}{4}$ 19

186

Witness my hand this 31st day of May A. D. 1962

State Water Resources Commission

142

Chief Engineer, Executive Officer
J. W. GAINES

SOUTH

EMMA RUFF

MARY RUFF

WEST

GEOFFREY RUFF

BUILT
1895
DITCH

DAM
DAM
DAM
DAM

20

21

DAM

DAM

DITCH

DAM

WASTE DITCH

DITCH
BUILT
1898

DAM

RANGE-37
TOWNSHIP-36

GRACE RUFF

16

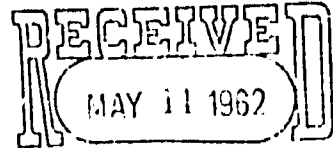
17

North

Location No. _____

Water Division No. _____

Water District _____

STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

Proof of Application of Water to Beneficial Use

PETITION OF HOLDER

Ques. 1. State your name, residence, occupation and postoffice address.

Ans. R.H. and R.M. JOHNSON

Ques. 2. If acting in behalf of a corporation, state its name, principal place of business (if a foreign corporation, give name and postoffice of statutory agent,) your position with reference to same, and your authority for appearing in its behalf.

Ans. not applicable

Ques. 3. State date of posting and date of recording notices of appropriation.

Ans. Until recently it was supposed by the applicant that this was recorded at Pierre, but no record of it could be found.

Ques. 4. State source of water supply and give exact location of point of diversion.

Ans. Lake Creek and tributaries see application

Ques. 5. Describe your works of diversion giving length and height of each dam and state amount of water they are capable of conveying from point of diversion to place of use, and give name of canal or ditch or other works by which water is conducted to such place of use, and date of completion of same.

Ans. Water is diverted from Lake Creek through the Ruff (Rolfe) Ditch and from the tributaries by a series of small dikes for impounding water for domestic use and irrigation of adjacent hay meadows.

Ques. 6. State for what purpose water is used and describe place of use. (If for irrigation, name each subdivision in which used, and number of acres in each subdivision that have ACTUALLY been irrigated with said water.)

Ans. The ditch was constructed in the 1890's for irrigation, and has been used by the original owners and his children since its construction for irrigation of the lands described in the application.

Ques. 7. If for other than irrigation purpose, state how applied, amount of horse power generated, etc.

Ans. domestic and trout hatchery operation

Ques. 8. What is the minimum amount of water required for the use specified above?

Ans. 2.00 cfs

Ques. 9. If you are not the person or representative of the corporation to whom above mentioned permit was originally issued, please state how ownership was acquired by present holder.

Ans. Original owner was the father of Mrs. R.H. Johnson

Ques. 10. State when, how, in what amount and to what extent, the water diverted under above mentioned permit has been used.

Ans. ~~The ditch was originally constructed by Arthur Rolfe (Wiff) for irrigation purposes in 1898. The series of small dams was constructed in 1895 for irrigation. The system has been operated continually since that time, and the lands shown on the map accompanying the application indicates the extent of the present system.~~

(Sign) Virgil H. Johnson

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Martin, County of Bennett

State of South Dakota, on this Tenth day of May A. D. 1912
Betty L. Johnson } Witnesses. Mary B. Long
R. H. Johnson } Mary B. Long

I, the undersigned, do hereby certify that I am a duly qualified elector residing in the immediate vicinity of the diversion works designated in the foregoing testimony, that I have no interest in the works, water or land above described, that I have read the foregoing testimony and that I know of my own personal knowledge that the matters therein stated are true.

Henry Lott
Martin, S. Dak.

Location No.-----	
PROOF OF APPLICATION OF WATER TO BENEFICIAL USE	
PETITION OF HOLDER	
Amount of Water ----- c. f. s.	
Source -----	
County -----	
Purpose -----	
Place of Use -----	
Date of recording -----	
Received and filed -----	

June 4, 1962

Mr. R. M. Johnson
Martin, South Dakota

Dear Mr. Johnson:

At the time we sent your water right papers, I omitted enclosing the corrected map. I am enclosing two copies for your files.

You will note the present map shows the small dam next to the springs in Section 20, from which you get water for your garden area. It also deletes the ditch we had shown on the original map as extending southeasterly from the Lake Creek diversion point. Field inspections indicate this ditch does not exist.

Sincerely,

BURTON F. JONES
Water Right Specialist

BFJ:mf
Encls: 2 copies Map

COMMISSION

John Garhart, Spearfish
~~XXXXXXXXXXXXXX~~

Lester Brue, Parker
 Carl Cronin, Gettysburg
 Lauren A. Davis, Belle Fourche
 Milton E. Fischer, Milbank
 Richard Lommen, Harrisburg
 Clarence D. Mortenson, Hayes

Dick Fisher, Cresbard

South Dako.

WATER RESOURCES COMMISSION

STATE OFFICE BUILDING

PIERRE, SOUTH DAKOTA 57501

265-2; 573-2; 767-2; 768-2
 and US. 2-2

J. W. Granes

Chief Engineer
 and
 Executive Officer

Phone
 224-5911 Ext. 343
 Area Code 605

September 5, 1967

Mr. John D. Umberger, Regional Engineer
 Fish and Wildlife Service
 1006 West Lake Street
 Minneapolis, Minnesota 55408

Re: EH-WR-LaCreek

Dear Mr. Umberger:

This is in answer to your request for a list of water right filings in the White River Water District and above the LaCreek Wildlife Refuge. This summer we have undertaken an investigation of our water right filings in Water Division #2 which includes the White River and its tributaries. For the White River Water District, this investigation is now about three-fourths completed and should be finished by the middle of December. After its completion, we will be able to give you a much better list of valid water rights than we can at this time. In our investigation we are cancelling all those water rights that have been forfeited and all those where no construction has taken place. We would hope that we can defer sending you the list of filings until this investigation is completed.

The following is a list of the current water rights on file for the watershed above the LaCreek Refuge.

Permit No.	Name	Priority	Sec. Twp. R. & E.	Am't	Purpose
265-2	Cedar Creek Ranch	5/20/33	25 36 37 30 36 36	4.45	Irr.
573-2	Carl A. Mickeel	Sept. 1950	23/24/26-36-38	6.06	Irr.
767-2	R.H. & R.M. Johnson	1998	21 36 37	2.59	Irr.
768-2	H.C. & Nellie Todd	1998	16/17/20-36-37	1.70	Irr.

Mr. John Umberger

Page 2.

September 5, 1967

Our investigation has indicated that the above are valid rights and have been in continuous use. It is our understanding that the owner of the Cedar Creek Ranch, Mr. Gene Brown, has made an arrangement with the Department of Interior concerning withdrawals of water from Lake Creek. Mr. Brown is currently in the process of furnishing this office with a copy of this agreement which will be incorporated in his water right file.

The Mickel filing is the only one junior to the Refuge but covers only the use of flood waters for waterspreading from Dry Draws.

The Johnson and Todd filings have been perfected under the Vested Right portion of the South Dakota water laws and the priority is based upon an old irrigation Location Notice filed in 1898.

Please feel free to call upon us if this office can be of any further assistance.

Sincerely,

RICHARD SCHMOYER
Water Rights Specialist
Water Resources Commission

RS/bw

RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

No 4 7408

PIERRE, March 10, 1937

Carl L Johnson, Martin, SD 57551

RECEIVED OF 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. _____		2 50
Fee for filing transfer of water right No. 767-2		
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 John Hatch
Chief Engineer, Executive Officer

JOHN HATCH 99

FORM 20

NO. 767-2



NOTICE OF TRANSFER OF WATER

TO: Water Rights
Foss Building
Pierre, SD 57501

Date: 3-5-80

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

W $\frac{1}{2}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ all in Section 21, T36N, R37W

formerly owned by P. H. & R. M. Johnson

has been transferred to Carl L. Johnson

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

Water Right Permit No. 767-2 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 the Board of Water Management 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 Bennett) ss.

I, Carl L. Johnson 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.

Carl L. Johnson
(Signed)

Subscribed and sworn to before me this 5 Day of March, 1980

Paul G. [Signature]
(Notary Public)



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

September 21, 1988

NOTICE

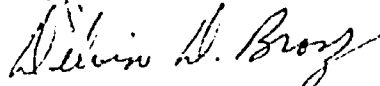
Carl L. Johnson
Martin SD 57551

Dear Mr. Johnson:

I am writing to notify you that pursuant to the Notice of Intent to Validate Vested Water Right Claims dated June 20, 1988 that I intend to oppose validation of your water right claim No(s). 767-2 until a field inspection has been completed. The claim has either never been inspected or an inspection was conducted so long ago that a new inspection is needed. An inspection is needed to determine the current state of your vested water right claim.

A staff member from the Division of Water Rights will be contacting you and scheduling an inspection of your water project. If we can answer any questions, please contact us.

Very truly yours,

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



Conversation or File Documentation

NAME OF PERSON OR FILE: Carl Johnson
ADDRESS: Martin, SD 57551 COUNTY: Bismuth
DATE: December 19, 1989 TELEPHONE: 685-6621
RE: Validation of Vested Right Claim No. 767-2

COMMENTS:

On May 23, 1989, I made an investigation of Vested Right Claim No. 767-2. Mr. Carl Johnson accompanied me on the inspection. The project appeared to be as described on the original application and license with the exception of a few less acres being irrigated.

The following irrigated lands are located in
Section 21-T36N-R37W

NW $\frac{1}{4}$ SW $\frac{1}{4}$ - 6 Acres

SW $\frac{1}{4}$ NW $\frac{1}{4}$ - 25

SE $\frac{1}{4}$ NW $\frac{1}{4}$ - 21

NE $\frac{1}{4}$ NW $\frac{1}{4}$ - 17

NN $\frac{1}{4}$ NE $\frac{1}{4}$ - 26

NE $\frac{1}{4}$ NE $\frac{1}{4}$ - 29

SE $\frac{1}{4}$ NE $\frac{1}{4}$ - 34

SW $\frac{1}{4}$ NE $\frac{1}{4}$ - 18

176 Acres

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:

Timi Schaal



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 24, 1992

NOTICE

TO: Carl Johnson
Martin SD 57551

FROM: Ron Duvall, Natural Resources Engineer
for John Hatch, Chief Engineer
Water Rights Division
605 773-3352

SUBJECT: Hearing to Consider Validation of Recognized Vested Right Claim No. 767-2,
Carl Johnson

A Notice of Intent to validate Claim No. 767-2 was published on June 8 and 15, 1988 in the Bennett County Booster II. The Water Rights Division opposed validation of No. 767-2 for purposes of completing on-site inspection of the claim. The inspection of Claim No. 767-2 was completed on May 23, 1989, by Tim Schaal, staff engineer. The inspection found that the number of acres being irrigated has been reduced from 180 acres to 176 acres. The diversion rate is to be reduced, accordingly, from 2.59 cubic feet of water per second (cfs) to 2.51 cfs. This reduced diversion rate is based on the statutory application rate of 1 cfs per 70 acres ($176 \text{ acres} / 70 = 2.51 \text{ cfs}$).

The Water Management Board will consider validation of Claim No. 767-2 at 10:00 am, March 4, 1992, Floyd Matthew Training Center in the Joe Foss Building, 523 E Capitol, Pierre SD. The agenda time is an estimate. The actual time of the hearing may be later than 10:00 am due to prior agenda items.

Pursuant to the findings of the on-site inspection, validation of Claim No. 767-2 is recommended for a diversion rate of 2.51 cfs from Lake Creek to irrigate 176 acres. Following the hearing, the Board is authorized to 1) validate the claim as recommended for 176 acres and 2.51 cfs, 2) validate the claim as licensed prior to the on-site inspection, 3) validate the claim based on evidence presented at the public hearing, or 4) defer validation of the claim. Applicable provisions of the published notice of intent to validate Claim No. 767-2 will still apply at this hearing. A copy of the June 8 and 15, 1988, publication is available upon request.

This hearing is an adversary proceeding. You have the right to be represented by a lawyer. 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.

cc: Diane Best, Assistant Attorney General

L

Carl Johnson, Martin, SD 57551.

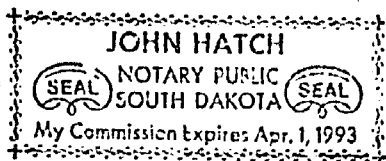
Diane Beatty, Assistant Attorney General, Capitol Building.

Chas. H. Frost

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 27th day of January, 1992.

John H. Bates
Notary Public



STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 767-2 FOR IRRIGATION

(1) Carl L. Johnson of Martin, SD 57551 made Application No. 767-2, May 14, 1962 for validation of a vested right claim to appropriate 2.59 cubic feet of water per second from Lake Creek and tributaries, Bennett County, South Dakota for irrigation purposes. Vested Water Right No. 767-2 was validated March 4, 1992 with a priority date of January 1, 1898. Construction of the described water supply system and application of water to beneficial use has been completed and complies with applicable provisions of South Dakota State Law.

A May 23, 1989, inspection of the water use system found the number of acres being irrigated had been reduced from 180 to 176. The diversion rate was reduced upon validation, from 2.59 cfs to 2.51 cfs to correspond with the acreage.

(2) The applicant is entitled to divert 2.51 cubic feet of water per second for beneficial use. The location of the diversion points are at points in the NE 1/4 NE 1/4 Section 20 and NW 1/4 SW 1/4 Section 21, T36N, R37W.

The location of the irrigated acreage is:

T36N, R37W Section 21	NW 1/4 SW 1/4	6 Acres
	SW 1/4 NW 1/4	25 Acres
	SE 1/4 NW 1/4	21 Acres
	NE 1/4 NW 1/4	17 Acres
	NW 1/4 NE 1/4	26 Acres
	NE 1/4 NE 1/4	29 Acres
	SE 1/4 NE 1/4	34 Acres
	SW 1/4 NE 1/4	18 Acres
Total-----		176 Acres

(3) Pursuant to Section 46-5-30.1 Carl L. Johnson of Martin, SD 57551 the holder(s) and/or owner(s) of Vested Water Right No. 767-2 is issued a license to appropriate 2.51 cubic feet of water per second from Lake Creek and tributaries with a priority date of January 1, 1898 from the location specified in (2) of this license. The water is to be used for the purpose of irrigation. This license is subject to any limitations, conditions or qualifications listed in Vested Water Right No. 767-2 and subject to South Dakota State Law.


JOHN HATCH, Chief Engineer
Water Rights Division
Department of Environment and
Natural Resources

MAY 12 1992

SOUTH DAKOTA

VESTED WATER RIGHT NO. 767-2 FOR IRRIGATION

Date of Receipt of Claim May 14, 1962.

Date of Validation March 4, 1992.

The Water Management Board validated Vested Water Right Claim No. 767-2 for irrigation purposes for Carl Johnson, Martin SD 57551 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 767-2 appropriates 2.51 cubic feet of water per second from Lake Creek and tributaries to irrigate 176 acres. Water is diverted at a point in the NE 1/4 NE 1/4 Section 20 and at a point in the NW 1/4 SW 1/4 Section 21; all in T36N-R37W. The lands irrigated are located in the NW 1/4 SW 1/4, NE 1/4 NW 1/4, S 1/2 NW 1/4, NE 1/4 Section 21-T36N-R37W.
2. The appropriation may not exceed the amount of water needed for beneficial use for irrigation. The appropriation may not exceed 3 acre feet per irrigated acre per year. Water is to be used during the following annual period: April 1 - November 30.
3. The priority date of the Vested Water Right is January 1, 1898.
4. The water use system has been constructed and water has been applied to beneficial use.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

By: _____

John Hatch
Chief Engineer

MAY 12 1992

date

Division of Water Rights
Dept. of Environment and Natural Resources



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

MAY 12 1992

Carl Johnson
Martin SD 57551

Dear Mr. Johnson:

The Water Management Board has validated the enclosed Vested Water Right No. 767-2. This validation gives legal status to the claim and is the final document for your vested right. Enclosed is the reissued water license which reflects the acreage and diversion rate as validated by the Board.

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

Very truly yours,

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

enclosure

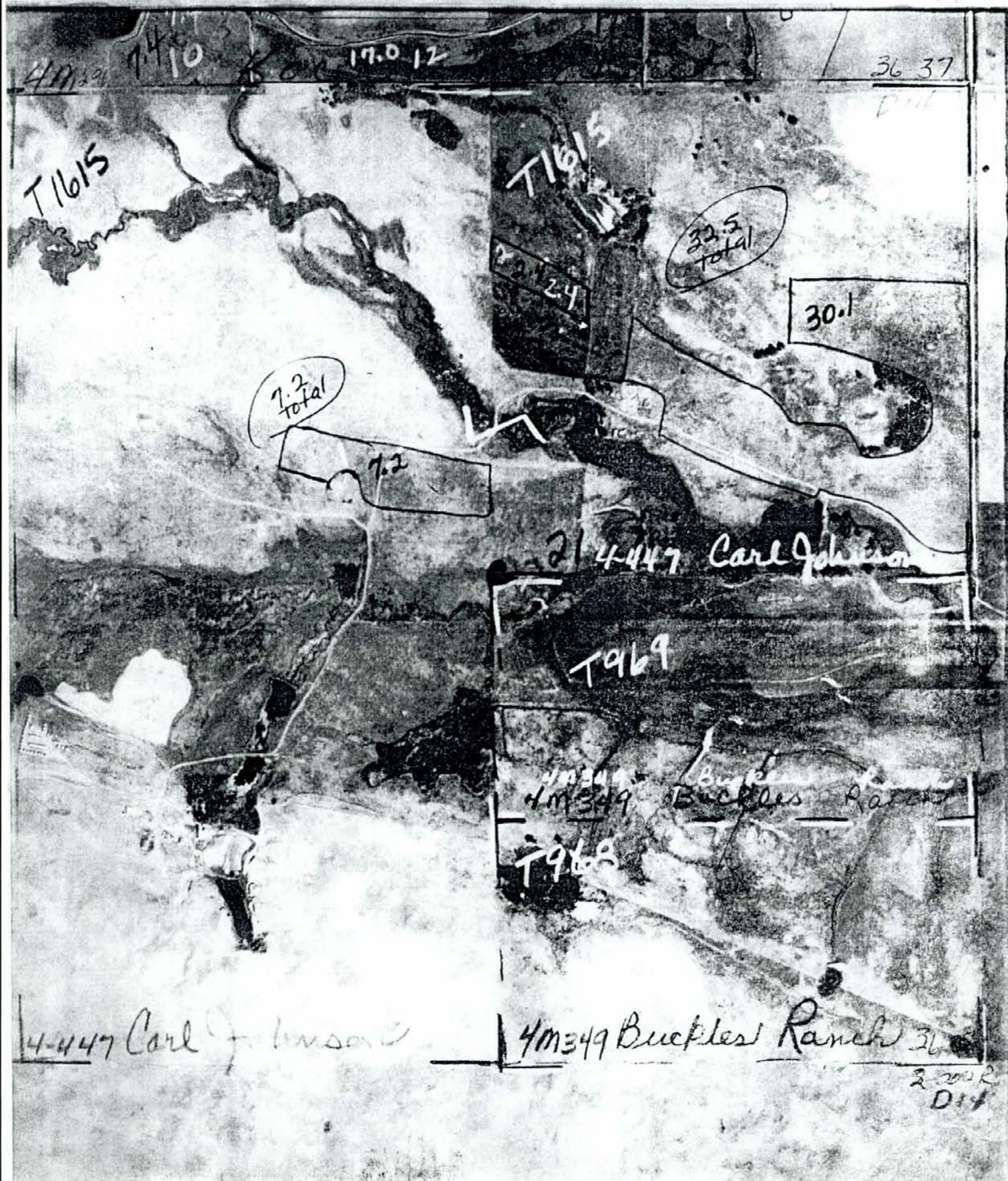
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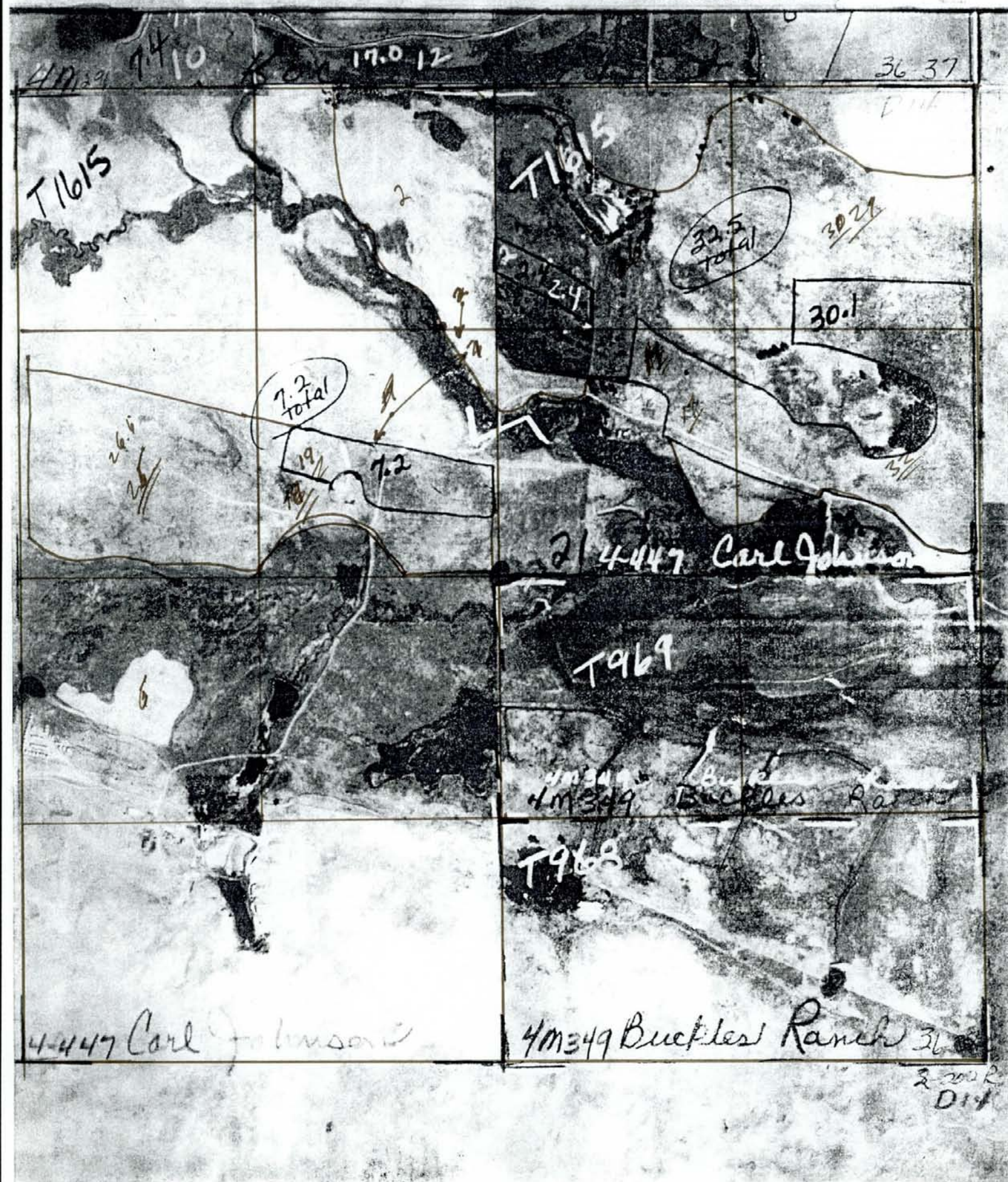
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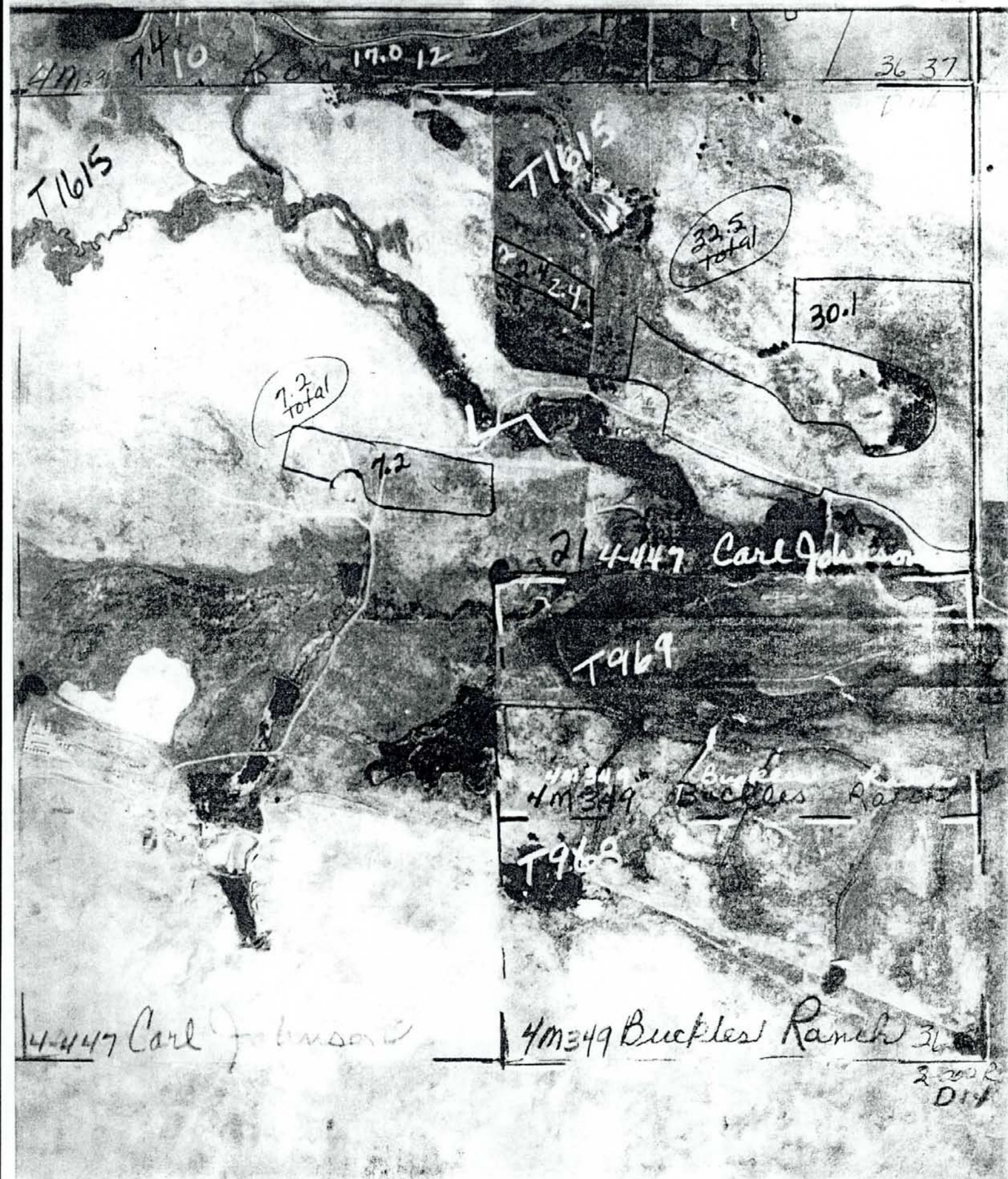
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