

8382

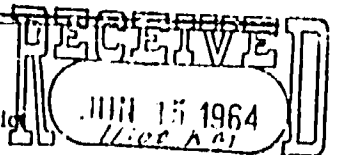
1. Considered 7-15, 1961
2. Name of Applicant Orville Kiel
3. Post Office Address Cottonwood
4. Amount of Water Claimed 2.80 (.46 1/2)
5. Source of water supply dry draw
6. Water to be used for irrigation
Acres to be irrigated 146.5
7. Water to be diverted and used in Haskell County about
5N 13W Miles of Philip
8. Proof of Publication Received DE 1/24
Not Received
9. Application Approved
Subject to
Not Approved
Action deferred

10. Remarks:

No. ~~XXXXXX~~ 838-2

Water Division No. 2 Bad River
(Blanks to be filled by the Engineer for the W. R. C.)

District



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.)

1. Name of applicant Orville M. Kiel
Postoffice address Cottonwood, County Harrison, State S. Dak.

- 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 work (Whether by contract, employment of others, or by direct labor)
Contract
- (b) Cash on hand, \$ Adequate (c) Treasury stock, \$
- (d) Bonds to be issued, \$ (e) Other resources, \$

2. Name of diversion work Kiel Waterspreading Project
3. Amount of water claimed 2.46 cfs tested right
2.34 cfs cubic feet per second
4. Source of water supply dry draw
5. Location of point of diversion See attachment
on right bank Harrison County.
6. Annual period or periods during which water is to be used when available

7. To be used for:

- I. Irrigation or domestic use: Gravity, overhead sprinkling or combination system? Gravity
- (a) Number of acres to be irrigated 196.8 acres.

(b) Legal subdivisions to be irrigated See attachment
(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

122-2
Map No 614

8. Estimated cost of work:

(a) Head Gates, \$.....

(b) Pumping plant, \$.....

(c) Fluming, \$.....

(d) Canal-earth, \$.....

Rock, \$.....

(e) Other structures

Total, \$ 12200.00

9. Description of diversion works:

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

Three existing dams, location Notices 7949-2, 7950-2, plus existing & new ditches

II. Dimensions of works.

(a) Dam: Height.....feet; length at bottom.....feet; length at top.....feet; thickness at bottom.....feet; thickness at top.....feet; slope at front water face.....; slope at back face.....material used in construction.....

(b) Reservoir: Capacity when filled.....acre feet. Surface area at highwater mark.....acres.

DEPTH AT OUTLET-Feet	SURFACE AREA AT EACH DEPTH AT OUTLET--ACRES	ACRE-Feet CAPACITY
<u>Dam No 1</u>		<u>6.7</u>
<u>Dam No 2</u>		<u>10.0</u>

(c)* Head gate: Width 1.15" dia Tube feet; height.....feet; Material.....

(d) Canal: Total length.....miles.

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER-LINE	GRADE PER MILE
At <u>0</u> Mile	<u>2</u> feet	<u>2</u> feet	<u>6</u> feet	
At Mile				
At Mile				
At Mile				
At Mile				
At Mile				
At Mile				

(Give dimensions where reductions in size are made.)

10. Time required for completion of work 3 years.

11. Time required for complete application of water to the proposed beneficial use 1 years.

12. Choice of newspaper for publication of notice of intention to appropriate.....

Pioneer Review, Philip, S. Dak

STATE OF SOUTH DAKOTA

County of Hughes

I, Orville Kiel

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, 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 Orville Kiel

Subscribed and sworn to before me this 15th day of June 1969.

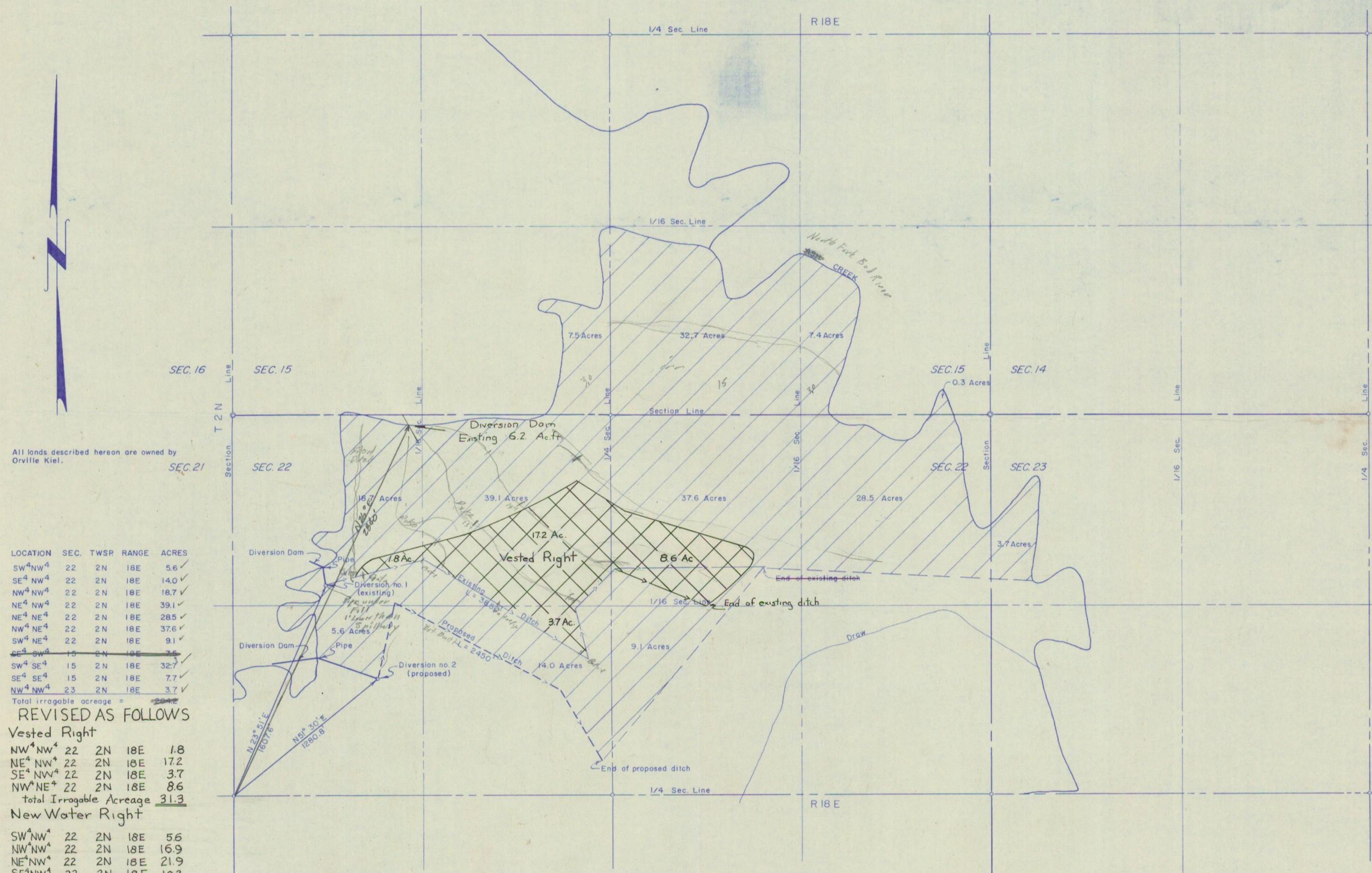
Notary Public
Notary Public (or other qualified officer.)

PLAT SHOWING

Division points and lands to be irrigated in those portions of sections 15, 22 and 23 in T2N-R18E, B.H.M. as shown hereon.

HAAKON COUNTY, SOUTH DAKOTA

Scale 1" = 400'



All lands described hereon are owned by Orville Kiel.

LOCATION	SEC.	TWSP	RANGE	ACRES
SW ⁴ NW ⁴	22	2N	18E	5.6 ✓
SE ⁴ NW ⁴	22	2N	18E	14.0 ✓
NW ⁴ NW ⁴	22	2N	18E	18.7 ✓
NE ⁴ NW ⁴	22	2N	18E	39.1 ✓
NE ⁴ NE ⁴	22	2N	18E	28.5 ✓
NW ⁴ NE ⁴	22	2N	18E	37.6 ✓
SW ⁴ NE ⁴	22	2N	18E	9.1 ✓
SE ⁴ SW ⁴	15	2N	18E	7.5 ✓
SW ⁴ SE ⁴	15	2N	18E	32.7 ✓
SE ⁴ SE ⁴	15	2N	18E	7.7 ✓
NW ⁴ NW ⁴	23	2N	18E	3.7 ✓

Total irrigable acreage = 165.4

REVISED AS FOLLOWS

Vested Right

NW ⁴ NW ⁴	22	2N	18E	1.8
NE ⁴ NW ⁴	22	2N	18E	17.2
SE ⁴ NW ⁴	22	2N	18E	3.7
NW ⁴ NE ⁴	22	2N	18E	8.6

Total Irrigable Acreage 31.3

New Water Right

SW ⁴ NW ⁴	22	2N	18E	5.6
NW ⁴ NW ⁴	22	2N	18E	16.9
NE ⁴ NW ⁴	22	2N	18E	21.9
SE ⁴ NW ⁴	22	2N	18E	10.3
NW ⁴ NE ⁴	22	2N	18E	29.0
NE ⁴ NE ⁴	22	2N	18E	28.5
SW ⁴ NE ⁴	22	2N	18E	9.1
SW ⁴ SE ⁴	15	2N	18E	32.7
SE ⁴ SE ⁴	15	2N	18E	7.7
NW ⁴ NW ⁴	23	2N	18E	3.7
SE ⁴ SW ⁴	15	2N	18E	7.5

Total Irrigable Acreage 172.9

165.4

SURVEYOR'S CERTIFICATE

STATE OF SOUTH DAKOTA
COUNTY OF HUGHES

I, Robert M. Whyte, a Registered Land Surveyor, do hereby certify that at the request of, Orville Kiel, the owner, that the survey and plat here-with were performed under my supervision and direction and is in all respects true and correct.

Robert M. Whyte
Registered Land Surveyor

On this the 5th day of November 1963, before me, *Edgar W. Payson*, the undersigned officer, personally appeared, Robert M. Whyte, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained. In witness whereof I hereunto set my hand and official seal.

Edgar W. Payson
Notary Public

Map No 722-2 (Appl No 838)

~~Map No 676-1 Appl No~~

Remarks by State Water Resources Commission:

The diversion rate limitation of 1 cubic foot per second for each 70 acres irrigated shall not apply to this Dry Draw irrigation diversion during periods of flood flows, when such flows are in excess of the amount of water required to satisfy domestic use requirements and other water rights.

STATE OF SOUTH DAKOTA
County of Hughes } ss.

Pierre, South Dakota, August 10, 1964

This is to certify that the foregoing application was received by the Commission at 11:00 o'clock
9 a.m. upon the 15th day of June, 1964

State Water Resources Commission

By:

Durton Z. Jones
for Chief Engineer, Executive Officer

Number of permit 838-2

Date of first receipt of application June 15, 1964

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

Date of receipt of corrected application 46 from October 19, 1953

Date from which applicant may claim right 2.34 from June 15, 1964

Approved July 15, 1964 Recorded in Book 8 Page 226

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 January 15, 1966

2nd. The whole of said work is to be completed on or before July 15, 1967

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

July 15, 1968

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 2.80 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

and beneficially applied for irrigation on or before July 15, 1968; said water to be used during the following described annual period:

when available

Witness my hand this 10th day of August, 1964

State Water Resources Commission

By:

John B. Jones
Chief Engineer, Executive Officer

Certificate of Construction issued NOVEMBER 3, 1971

Water License issued NOVEMBER 3, 1971

Attachments:

Diversion #1 1627.6' N 73°51'E of the SW cor, Section 22, T2N, R18E

Diversion #2 1280.3' N 51°30'E of the SW cor, Section 22, T2N, R18E

Diversion #3 2840' N 76°E of the SW cor, Section 22, T2N, R18E

Lands to be irrigated:

all in T2N, R18E

Section 15	SW ⁴ SE ⁴	32.7 acres
	SE ⁴ SE ⁴	9.7 "
Section 22	SW ⁴ NW ⁴	5.6 "
	SE ⁴ NW ⁴	14.0 "
	NW ⁴ NW ⁴	18.7 "
	NE ⁴ NW ⁴	39.1 "
	NW ⁴ NE ⁴	37.6 "
	SW ⁴ NE ⁴	9.1 "
	NE ⁴ NE ⁴	26.5 "
Section 23	NW ⁴ NW ⁴	3.7 "
Total		196.7 acres

STATE OF SOUTH DAKOTA

WATER LICENSE NO. . . . 838-2

(1) WHEREAS, On the 15th day of June, A. D. 1954
Orville M. Kiel

made Water Right Application No. 838-2 for a permit to use 2.80 cubic feet per second of the waters of a dry draw

County of Haskell, State of South Dakota, for irrigation purposes and

(2) WHEREAS, On the 19 10th day of August, A. D. 1964
 Permit No. 838-2, with a date of priority of October 19, 1953 and June 15, 1964

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 15th day of July, A. D. 1967 and for application to beneficial use of said water on or before the 15th day of July, A. D. 1968

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 2.19 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:

for irrigating the following land in T2N, R18E

		Acrea
Section 15	SE $\frac{1}{4}$ SW $\frac{1}{4}$	3.0
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	15.0
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	3.0
Section 22	NE $\frac{1}{4}$ NE $\frac{1}{4}$	28.5
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	36.0
	NE $\frac{1}{4}$ NW $\frac{1}{4}$	37.1
	NW $\frac{1}{4}$ NW $\frac{1}{4}$	17.8
	SW $\frac{1}{4}$ NW $\frac{1}{4}$	5.6
Section 23	SE $\frac{1}{4}$ NW $\frac{1}{4}$	3.7
	NW $\frac{1}{4}$ NW $\frac{1}{4}$	3.7
Total		153.4 acres

(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 Orville M. Kiel

_____ of Cottonwood, S.D.

the holder _____ and owner _____ of said permit No. 838-2 a water right, dating from October 19, 1953 and
June 15, 1964 to use of 2.19 cubic feet per second of the waters

of a dry draw

in the County of Haakon and State of South Dakota, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted at points #1, North 23° 51' East, 1607.6 feet and #2
North 26° East, 2840 feet, both from the W½ Corner, Section 22, T2N, R18E

and conduct to and upon portions of Sections 15, 22 and 23, T2N, R18E, more fully described
on the face of this License

for the purpose of irrigation

Subject to any limitations listed in Water Right Permit No. 838-2 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this 3rd day of November A. D.
Nineteen Hundred and Seventy-one

WATER RESOURCES COMMISSION

By: _____
Chief Engineer, Executive Officer J.W. GRIMES

Permit No. 838-2Water Diversion No. 2 BAD RIVER Water District

CERTIFICATE OF CONSTRUCTION

Orville M. Kiel

This is to Certify, That _____

_____ the holder _____ of
 Permit No. 838-2, issued upon Application No. 838-2, bearing date of priority of October 19, 1953
and June 15, 1964 authorizing the diversion of 2.80 cu. ft. per second of the waters of _____
a dry draw _____ County of Haskell, State of South Dakota at _____
points #1, North 23° 51' East, 1607.6 feet and #2, North 26° East, 2840 feet,
both from the W½ Corner, Section 22, T2N, R18E
 _____, for irrigation

purposes, has ⁸ 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 cu. ft. per second of water.

Date November 3, 1971

WATER RESOURCES COMMISSION

By:

J.W. GRIMES, Executive Officer

on or before June 18, 1964
(First Publication June 18, 1964)

APPROPRIATION OF WATER

Office of State Water Resources Commission,

Pierre, S. Dak., June 15, 1964

Notice is hereby given that Orvillo Kiel whose postoffice address is Cottonwood S. Dak., has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 2.80 cubic feet of water per second of time from ~~the~~ a dry draw through the Kiel Waterspreading Project the point of diversion of which is to be located on the right bank of said stream in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 22, and a point portions of Twp. 2N Range 18E. Said water to be used for the purpose of providing irrigation on the following described land:

SW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 22, S $\frac{1}{2}$ SE $\frac{1}{4}$, Section 15; and NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 23, all

in T2N, R18E

~~XXXXXX~~

~~XXXXXX~~

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 15th day of July 19 64 at 2 P. M. All interested persons may appear and be heard.

Appropriate action will be taken by the Water Resources Commission after suitable time has elapsed for the consideration of any or all information presented.

State Water Resources Commission

By:

BURTON F. JONES
Water Right Specialist

CC: Les Ravellette, Publisher
Pioneer Review
Philip, S. Dak.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA }
County Haukon } ss.

Les Savellatto being duly sworn, deposes and says the annexed printed copy of Notice of Intention to appropriate Water was taken from the _____
The Pioneer-Bavlon a newspaper which during the whole time of publication of said notice herein after stated, has been and is printed and published in the
City of Philip County of Haukon and State of South Dakota; that the said notice was published in said newspaper on the following dates:

June 13, June 25July 2 July 9

in each and every issue of the full number thereof, the first publication being made on the 13 day of June 1964 and the last publication on the 9 day of July 1964, upon which days or times of publication aforesaid the newspaper was regularly published, and that during the whole time of said publication he was owner and the printer and publisher of the said newspaper.

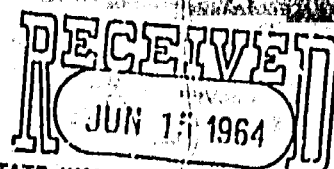
Les SavellattoSubscribed and sworn to before me this 10 day of July A. D. 1964Notary Public Haukon County, S. D.

APPROPRIATION OF WATER
 Office of State Water Resources
 Commission, Pierre, S. Dak.
 June 15, 1964.
 Notice is hereby given that Orville Kiel whose address is Cottonwood, S. Dak., has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 2.80 cubic feet of water per second of time from a dry draw through the Kiel Water-spreading Project, the point of diversion of which is to be located on the right bank of said stream, between a point in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 22, and a point in the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 22 Twp. 2N, Range 18E. Said water to be used for the purpose of providing irrigation on portions of the following described land:
 SW $\frac{1}{4}$, NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 22, S $\frac{1}{2}$ SE $\frac{1}{4}$, Section 15; and NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 27, all in T2N, R18E.
 This application will be taken up by the State Water Resources Commission at their office at Pierre, for consideration upon the 15th day of July, 1964, at 2 p.m. All interested persons may appear and be heard. Appropriate action will be taken by the Water Resources Commission after suitable time has elapsed for the consideration of any information presented.
 State Water Resources Commission
 By: BURTON F. JONES
 Water Right Specialist
 (June 18, 24; July 1 & 9)

RECEIVED
AUG 3 1964STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

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. Orville Kiel, rancher, Cottonwood, S.D.

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. _____

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

Ans. Location Notices 7944-2 & 7950-2

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

Ans. Dry draw - 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. Three small dams w/ gals

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. irrigation of 31.3 acres all in Sec 22, T2N, R18ENW¹NE¹, 1.8 ac; NE¹NW¹, 17.2 ac; SE¹NW¹, 3.7 ac and
NW¹NE¹, 8.6 ac.

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

Ans. _____

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

Ans. .50

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. _____

Ques. 16. State when, how, in what amount and to what extent, the water diverted under above mentioned permit has been used.

Ans. Location notice on two dams filed October 19, 1953, water has been used when available for irrigation of 313 acres since system was constructed.

(Sign) Orville Kiel

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 _____, County of _____

State of South Dakota, on this _____ day of _____ A. D. 19____

Witnesses.

H. E. Boxer, Notary Public

My Commission Expires _____

I, the undersigned, do hereby certify that I am a duly qualified electrician 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.

Location No. _____	PROOF OF APPLICATION OF WATER TO BENEFICIAL USE	PETITION OF HOLDER	Amount of Water _____ c. & s.	Source _____	County _____	Purpose _____	Place of Use _____	Date of recording _____	Received and filed _____
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RECEIVED 20000 BYRD
STATE OF SOUTH DAKOTA

Permit No. _____

Water Division _____ Water District _____

REPORT 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 _____ of _____ holder _____ of Permit No. _____, bearing date of priority of _____, 19____ authorizing the diversion of _____ cu. ft. per second of the waters of _____ for _____ purposes, in _____ 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:

1. 1/2 mile long ditch from river to farm

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

2. 1/2 mile long ditch from river to farm

C. Works used to apply water to beneficial use.

3. 1/2 mile long ditch from river to farm

The system is in the following condition: _____

The point of diversion is located _____

The works are capable of diverting and conveying to the place of use _____ cu. ft. per second of water which is to be used for _____

Water has been put to beneficial use to the maximum extent as follows: _____

5. 1/2 mile long ditch from river to farm

6. 1/2 mile long ditch from river to farm

comprising a total of _____ acres of land.

Date _____

(Signature) _____

**South Dakota Department of
Water & Natural Resources**

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

September 21, 1988

NOTICE

Orville M. Kiel
St Rt, Box 35
Cottonwood SD 57728

Dear Mr. Kiel:

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 Nc(s). 838-2 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 *Delvin H. Brogg*
JOHN HATCH, Chief Engineer
Water Rights Division
605 773-3352



File No. 838-2

**Water Rights Division
File Documentation**

NAME OF PERSON OR FILE: Loren E. Kiel

ADDRESS: HC 84 Box 36, Quinn, SD 57775 COUNTY: Haakon

DATE: November 3, 1993 TELEPHONE: (605) 859-2326

RE: Inspection of Vested Right Claim 838-2

COMMENTS:

On June 10, 1992, I met with Mr. Loren Kiel, the owner of the land this Vested Right/Water Right covers (Orville M. Kiel is deceased). Together, we inspected the irrigation system developed under Water Right/Vested Right Claim No. 838-2. The irrigation system is located in Section 22, T2N-R18E, (nothing was developed in Section 15, or Section 23, T2N-R18E). It appears that the Vested Right Claim can be validated. The portion of this system with a June 15, 1964 priority date was not developed to the full extent of what was originally applied for and the Water Right should be reduced to reflect this. A report of Examination of Works which accompanies, describes the system.



Ken Buhler
Natural Resources Engineer

Permit No. 838-2
Bad River - Water District

Report Of Examination Of Works And/Or Application of Water To Beneficial Use

TO: Chief Engineer, Division of Water Rights, DENR, Foss Bldg., Pierre, SD 57501

I have this day June 10, 1992, made a thorough examination of the water use system constructed by Orville M. Kiel of Cottonwood, SD holder of Permit No. 838-2, bearing the priority of 0.46 cfs from October 19, 1953; and 2.34 cfs from June 15, 1964 authorizing the diversion of 2.80 cu. ft. per second of the waters of a dry draw for irrigation purposes, in Haakon County.

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

- A. Works used to divert the water: A diversion dam, with a maximum depth of 10 feet and a surface area of approximately 6 acres, located in the SW 1/4 NW 1/4 Sec. 22, T2N-R18E, diverts water through two 15-inch diameter outlet tubes located 3425 feet N10°E and 3385 feet N8°E respectively.
- B. Works used to transport water to place of use: Water is transported through a contoured supply ditch approximately 3,750 feet long with 2 flood gates and 3 culverts 15-inch diameter leading to areas to be irrigated.
- C. Works used to apply water to beneficial use: Water is spread through a series of seven dikes of the following approximate lengths: Dike 1 = 1,560 feet; Dike 2 = 510 feet; Dike 3 = 830 feet; Dike 4 = 1145 feet; Dike 5 = 1,885 feet; Dike 6 = 1,905 feet; Dike 7 = 1,275 feet. The dikes contain 15-inch diameter culverts to drain excess water onto lower fields.

The system is in the following condition Good. The point of diversion is located 3385 feet N8°E, and 3425 feet N10°E, from the SW Corner of Sec. 22, T2N-R18E. The works are capable of diverting and conveying to the place of use 1.31 cu. ft. per second of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

for irrigating the following land in Section 22, T2N-R18E

NW 1/4 NW 1/4	18.4 acres
NE 1/4 NW 1/4	2.9 acres
SE 1/4 NW 1/4	1.5 acres
NW 1/4 NE 1/4	31 acres
NE 1/4 NE 1/4	8.5 acres
SW 1/4 NE 1/4	0.5 acres

comprising a total of 91.9 acres of land and the license should be issued for 0.46 cfs with a October 19, 1953 priority date and 0.86 cfs with a June 15, 1964 priority date.

Applicable permit qualifications have been complied with: Yes ☒ No ☐

Exceptions to compliance are:

Date: November 3, 1993



Ken Buhler
 Natural Resources Engineer
 DENR, Water Rights Division

Permit No. 338-2
ATTACHMENT

Acreage breakdown from Permit Application of applicable land parcels:
all land is located in Section 22, T2N-R18E

Area	October 19, 1953	June 15, 1964
NW1/4 NW1/4	1.8 acres	16.9 acres
NE1/4 NW1/4	17.2 acres	21.9 acres
SE1/4 NW1/4	3.7 acres	10.3 acres
NW1/4 NE1/4	8.6 acres	29.0 acres
NE1/4 NE1/4		28.5 acres
SW1/4 NE1/4		9.1 acres
TOTAL	31.3 acres	115.7 acres

Therefore, Acreage Breakdown from Examination of Works:
all land is located in Section 22, T2N-R18E

Area	October 19, 1953	June 15, 1964
NW1/4 NW1/4	1.8 acres	16.6 acres
NE1/4 NW1/4	17.2 acres	11.8 acres
SE1/4 NW1/4	3.7 acres	0.8 acres
NW1/4 NE1/4	8.6 acres	22.4 acres
NE1/4 NE1/4		8.5 acres
SW1/4 NE1/4		0.5 acres
TOTAL	31.3 acres	60.6 acres



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

December 21, 1993

No. 838-2

Loren E. Kiel
HC 84, Box 36
Quinn, SD 57775

Dear Mr. Kiel:

Enclosed is a partially completed "Notice of Transfer" form for use in filing an ownership change on Water Right Claim No. 838-2. The water right claim is currently listed in the name of Orville M. Kiel.

The transfer form should be checked over for accuracy and signed by the new owner in the presence of a notary public. Upon completion, return the form to our office with a required filing fee of \$2.50.

South Dakota Water Law 46-5-30.3 requires Notice of any sale, grant, lease, conveyance or other transfer of a water permit or water right to appropriate water to be filed with this office within ninety days.

Also enclosed is a map which was given to Ken Buhler at the time he did an inspection on the water permit. You had requested that this map be returned to you.

If you have any questions, please contact me.

Sincerely,

Cheryl F. Frost
Secretary
Water Rights Division
(605) 773-3352

enclosures

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



Date: Jan 25, 1994

(Telephone No)

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

RECEIPT

Division of Water Rights

414014

South Dakota Department of Environment and Natural Resources

Pierre, January 27, 1994

RECEIVED OF Loren E. Kiel, EC 84 Box 36, Quinn, SD 57775

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: _____		
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>Vested Right Claim No. 338-2</u>		2 50
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	2 50

By John W. Hildbrand
Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

January 31, 1994

No. 838-2

Loren E. Kiel
HC 24, Box 36
Quinn, SD 57775

Dear Mr. Kiel:

Enclosed is a receipt in the amount of \$2.50 which you paid for the transfer of Vested Right Claim No. 838-2.

Our records now show you as the owner of Vested Right Claim No. 838-2.

Sincerely,

A handwritten signature in cursive script that reads 'Cheryl F. Frost'.

Cheryl F. Frost
Secretary
Water Rights Division
(605) 773-3352

enclosure

SOUTH DAKOTA

VESTED WATER RIGHT NO. 838-2 FOR IRRIGATION

Date of Receipt of Claim June 15, 1964.

Date of Validation April 6, 1994.

The Water Management Board validated Vested Water Right Claim No. 838-2 for irrigation purposes for Loren E. Kael, HC 84, Box 36, Quinn SD 57775 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 838-2 appropriates 0.46 cubic feet of water per second from dry draws located in the NW 1/4 NW 1/4 Section 22 to irrigate 31.3 acres located in the N 1/2 NW 1/4, SE 1/4 NW 1/4, NW 1/4 NE 1/4, Section 22; all in T2N-R18E.
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: January 1 - December 31.
3. The priority date of the Vested Water Right is October 19, 1953.
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.

QUALIFICATION

The diversion rate limitation of 1 cubic foot per second for each 70 acres irrigated shall not apply to this dry draw irrigation diversion during periods of flood flows, when such flows are in excess of the amount of water required to satisfy domestic use requirements and other water rights.

NOTE: Vested Water Right No. 838-2 is also included as part of Water License No. 838-2 for a total of 1.32 cfs to irrigate 91.9 acres.

WATER MANAGEMENT BOARD

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

NOV 14 1994

date

STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 838-2 FOR IRRIGATION

(1) Orville M. Kiel of Cottonwood SD. made Application No. 838-2, June 15, 1954 for validation of a vested right claim to appropriate 2.80 cubic feet of water per second from a dry draw, Haakon County, South Dakota, for irrigation purposes. Vested Water Right No. 838-2 was validated April 6, 1994 with a priority date of October 19, 1953. 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.

Vested Water Right No. 838-2 was transferred January 27, 1994 to Loren E. Kiel.

The original water license issued November 3, 1971 described irrigation of 153.4 acres in portions of Section 15, 22 and 23; all in T2N-R18E. A field inspection conducted of the water use system found a total of 91.9 acres still being irrigated. Based upon the inspection and subsequent validation of the vested right claim, the license is being reissued to the extent of what is actually being irrigated. Priority dates, as they pertain to the acres irrigated, are described in (3) of this license.

(2) The vested right owner is entitled to divert 1.32 cubic feet of water per second for beneficial use. The location of the diversion points is: 3385 feet North 8 degrees East and 3425 feet North 10 degrees East from the Southwest corner Section 22-T2N-R18E (NW 1/4 NW 1/4).

The location of the irrigated acreage is:

All located in Section 22-T2N-R18E

Area	Priority date October 19, 1953	Priority date June 15, 1964
NW 1/4 NW 1/4	1.8 acres	16.6 acres
NE 1/4 NW 1/4	17.2 acres	11.8 acres
SE 1/4 NW 1/4	3.7 acres	0.8 acres
NW 1/4 NE 1/4	8.6 acres	22.4 acres
NE 1/4 NE 1/4		8.5 acres
SW 1/4 NE 1/4		0.5 acres
Total	31.3 acres	60.6 acres

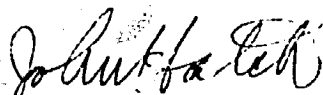
(continued)

Vested Right Water License No. 838-2

Loren E. Kiel

Page 2

(3) Pursuant to Section 46-5-30.1 Loren E. Kiel of HC 84, Box 36, Quinn SD 57775 the holder and/or owner of Vested Water Right No. 838-2 is issued a license to appropriate 1.32 cubic feet of water per second from a dry draw with priority dates of October 19, 1953 (0.46 cfs) and June 15, 1974 (0.86 cfs) 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. 838-2 and subject to South Dakota State Law.



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

NOV 14 1994

date

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838-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

NOV 14 1994

Loren E. Kiel
HC 84, Box 36
Quinn SD 57775

Dear Mr. Kiel:

The Water Management Board has validated the enclosed Vested Water Right No. 838-2. 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

enclosures

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Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

3. Article Addressed to:

Loren E. Kiel
HC 8th, Box 36
Quinn, SD 57775

5. Signature (Addressee)
Loren E. Kiel

6. Signature (Agent)

838-2

4a. Article Number

P 318 052 637

4b. Service Type

- ☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

3-22

8. Addressee's Address (Only if requested and fee is paid)

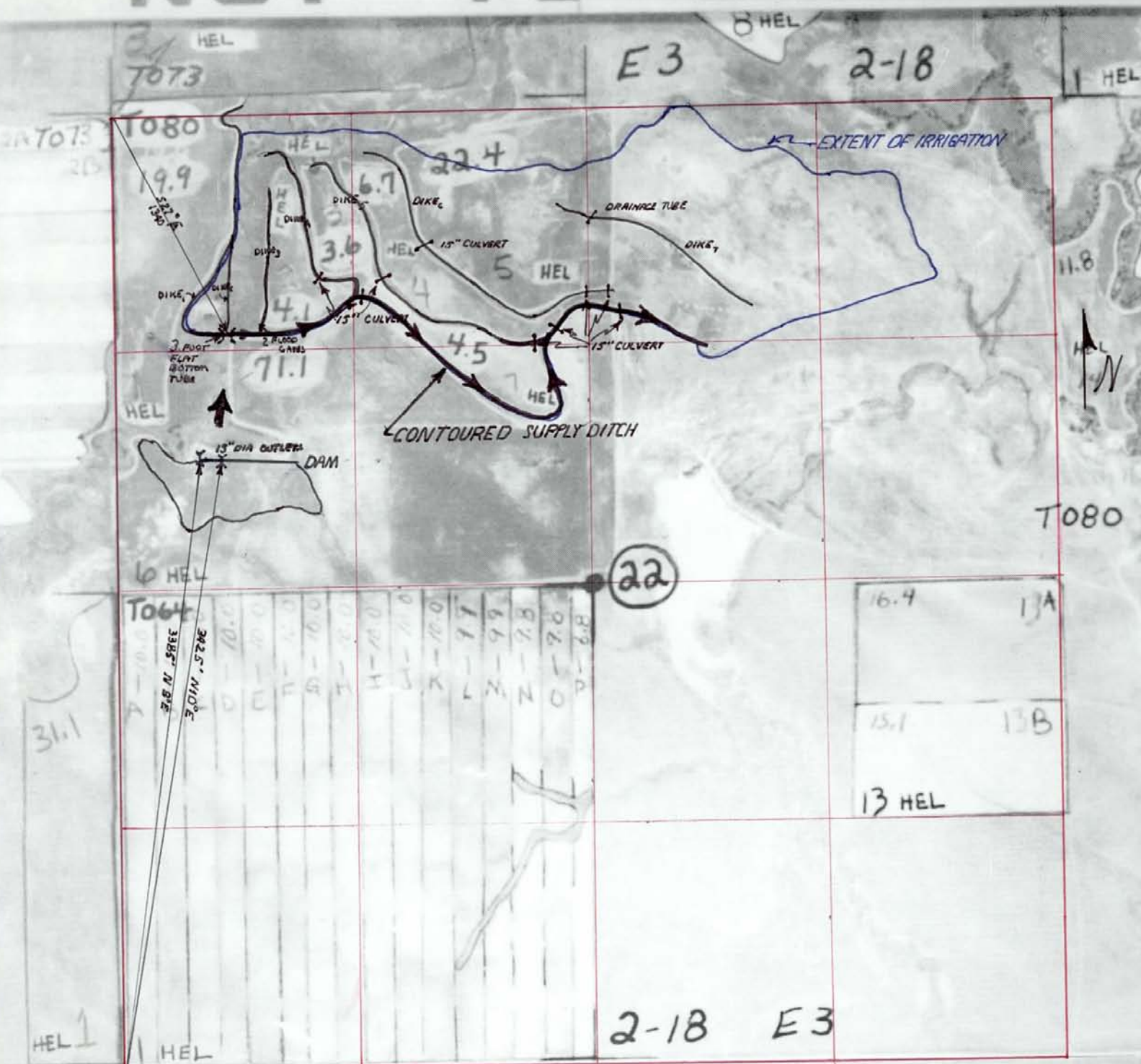
I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

Thank you for using Return Receipt Service.

NOT TO SCALE



K. Bull 11/3/93
NATURAL RESOURCES ENGINEER
DENR - WATER RIGHTS DIVISION

E3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

May 21, 2025

838-2

Darrel & Deeta Terkildsen
20836 E Grindstone Rd
Quinn SD 57775

Dear Mr. & Ms. Terkildsen:

I am writing you today in regard to SD Water Right No. 838-2, which is presently held in the name of Loren Kiel, and authorizes the impoundment of water in a dam for irrigation purposes.

The property on which the dam and authorized acres are located is now reflected as being owned by you, although recent aerial imagery suggests the dam has been breached and subsequently dry for many years, with no signs of continued irrigation.

With this letter, I intend to confirm whether you are the current property owners of the dam and authorized land, located in portions of the N ½ Section 22, T2N, R18E, Haakon County, South Dakota, and the status of the dam and irrigation system.

Please contact me via email or telephone to discuss.

Sincerely,

Amanda Dewell
Permitting Administrator
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us