

379-2

1. Considered 3-16, 1946
2. Name of Applicant JAMES DUBEL
3. Post Office Address BURTON, NEB
4. Amount of water claimed 1.50
5. Source of water supply KEYAPAH RIVER
6. Water to be used for IRRIGATION
Acres to be irrigated 104.6
7. Water to be diverted and used in TRIPP County about
1 miles 5 of WENELA
8. Proof of Publication Received ☒
Not Received ☐
9. Application Approved ☒
Subject to ☐
Not Approved ☐
Action deferred ☐
10. Remarks:

No. 879-2

Water Division No. 2 KEYAPAH RIVER District
(Blanks to be Filled by the Engineer for the W. R. C.)

JUN 28 1903
1:30 am

WATER RESOURCES CENTER

APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

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

1. Name of applicant Richard Kirsch
Postoffice address Burton, County Keya Paha, State Nebraska

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)
Direct labor

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

2. Name of diversion work Centrifugal pump
3. Amount of water claimed 1.50 MAXIMUM ALLOWABLE
2.25 cubic feet per second

4. Source of water supply Keya Paha River

5. Location of point of diversion BETWEEN A POINT IN THE SW 1/4 Sec 31 T95N R 78W, SE 1/4 Sec 31

T 95N R 78W on north bank Tripp County.

6. Annual period or periods during which water is to be used April through October

7. To be used for:

I. Irrigation or domestic use: Gravity, overhead sprinkling or combination system? Irrigation & sprinkling

(a) Number of acres to be irrigated 104.6
110 acres.

(b) Legal subdivisions to be irrigated See attached list

(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 _____

MAP NO 758-2

8. Estimated cost of work:

(a) Head Gates, \$ _____ (b) Pumping plant, \$ _____
 (c) Fluming, \$ _____ (d) Canal-earth, \$ _____ Rock, \$ _____
 (e) Other structures _____ \$ _____ Total, \$ _____

9. Description of diversion work

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

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

(c)* Head gate: Width _____ feet; height _____ feet:
 Material _____

(d) Canal: Total length _____ miles.

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
At _____ Mile	_____ feet	_____ feet	_____ feet	_____ feet

(Give directions 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 _____ 5 _____ years.

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

STATE OF NEBRASKA
 STATE OF SOUTH DAKOTA

County of _____ Cherry _____ ss.

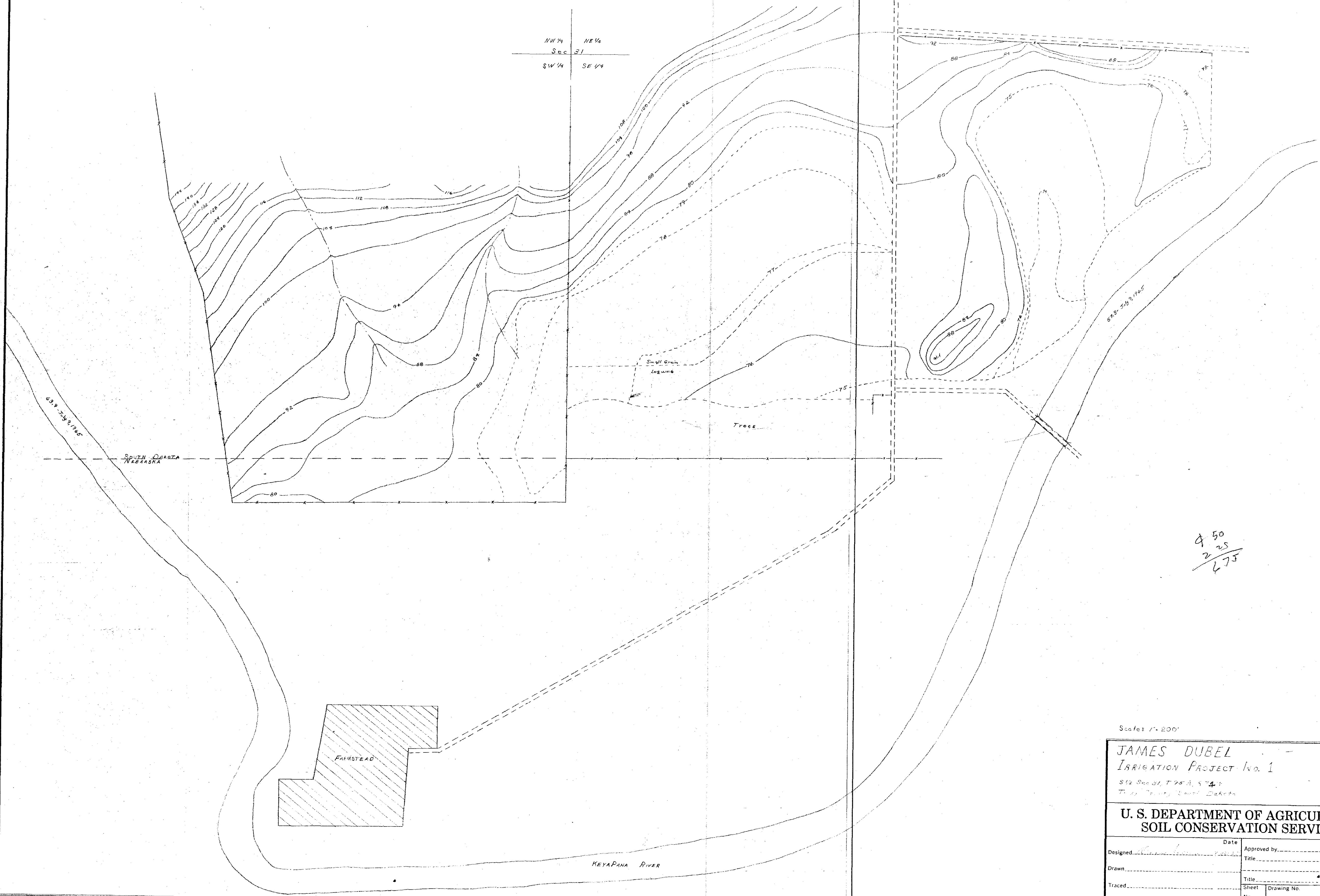
I, _____ James Dubel _____, being first duly sworn on my oath depose and say: That my relation to the above described undertaking is that of owner, that I have read the above foregoing statement, examined the map accompanying the same, and that I know of my own personal knowledge that the matters therein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

Signed _____

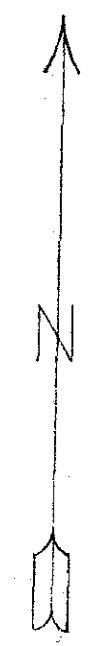
Subscribed and sworn to before me this _____ 27th _____ day of _____ January _____ 1966.

Notary Public (or other qualified officer.)

NW 1/4 NE 1/4
 Sec 31
 SW 1/4 SE 1/4



4 50
 2 25
 675



Scale: 1" = 200'

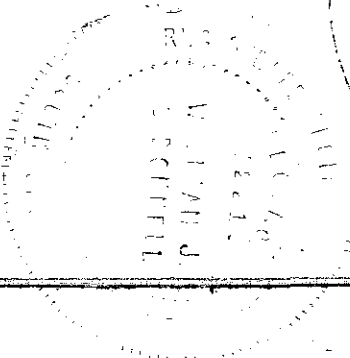
JAMES DUBEL IRRIGATION PROJECT No. 1 S1/2 Sec 31, T 25 N, R 14 W T 25 N, R 14 W, South Dakota	
U. S. DEPARTMENT OF AGRICULTURE SOIL CONSERVATION SERVICE	
Designed by _____ Drawn _____ Traced _____ Checked _____	Date _____ Approved by _____ Title _____ Title _____ Sheet _____ Drawing No. _____ No. _____ of 2

MAP NO. 158-2 APPL. NO. 879-2 SCS-313B (APRIL 1963)

ENGINEER'S CERTIFICATE
I, WILLIAM J. O'DONNELL, SOUTH DAKOTA REGISTERED PROFESSIONAL ENGINEER AND LAND SURVEYOR
B-1221, CERTIFY THAT THIS PLAN IS A TRUE AND CORRECT DELINEATION OF
IRRIGATION PUMP SITES LOCATED IN THE SW¹/₄ and SE¹/₄ of SECTION 31 T 95N
R 75 W OF THE 5TH P.M. TRIPP COUNTY, SOUTH DAKOTA. THE ABOVE
DESCRIBED LAND BEING OWNED BY JAMES DUBEL.

DATE 1-27-66

William J. O'Donnell
William J. O'Donnell, 1221



PUMP SITE "A"

SOUTH DAKOTA
WETASKAN

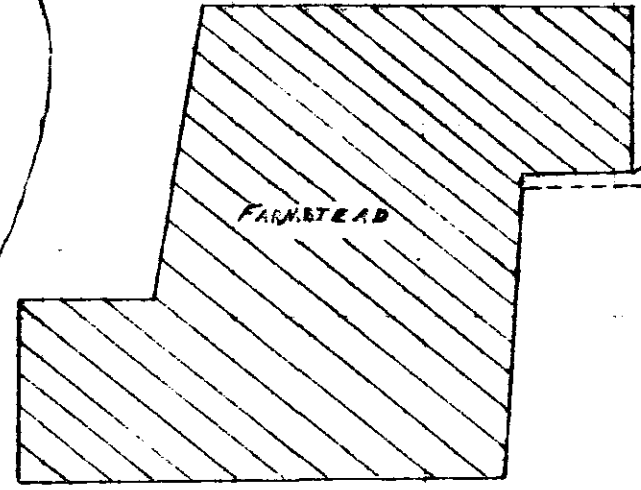
5.4 AC.± TO BE IRRIGATED

36.7 AC.± TO BE IRRIGATED

39.9 AC.± TO BE IRRIGATED

28.0 AC.± TO BE IRRIGATED

PUMP SITE "B"



KEYAPPA RIVER

NW 1/4 NE 1/4
Sec 31
SW 1/4 SE 1/4
50° 30' 65° 30'

Small Grub
Log Cabin

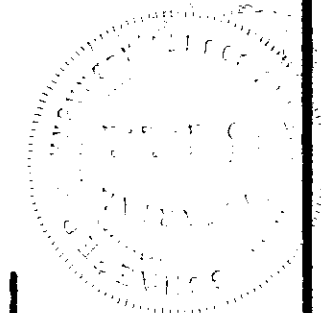
Tree

ACKNOWLEDGMENT

STATE OF NEBRASKA
COUNTY OF CHERRY

ON THIS 27th DAY OF January 1966 BEFORE ME, A NEBRASKA PUBLIC, DULY COMMISSIONED
AND QUALIFIED IN AND FOR SAID COUNTY APPEARED James Dubel WHO IS PERSONALLY
KNOWN TO ME TO BE THE SAME AND HE ACKNOWLEDGED THE SIGNING OF SAID ENGINEER'S CERTIFICATE
TO BE HIS VOLUNTARY ACT AND DEED. WITNESS MY HAND AND OFFICIAL SEAL AT VALENTINE, NEBRASKA,
IN CHERRY COUNTY, THE AFORESAID DATE.
My commission expires on the 22nd day of May 1966

Ray Schaefer
Notary Public



Scale 1"=200'

JAMES DUBEL IRRIGATION PROJECT No. 1 3 1/2 Sec 31, T 95 N, R 75 W Tripp County, South Dakota	
U. S. DEPARTMENT OF AGRICULTURE SOIL CONSERVATION SERVICE	
Designed <u>James Dubel</u>	Date _____
Drawn _____	Approved by _____
Trace _____	Title _____
Checked _____	Sheet _____
	Drawing No. _____
	No. _____
	of _____

MAP NO 758-2 (APPL 879-2)

SC-113B (APRIL 1963)

Remarks by State Water Resources Commission:

STATE OF SOUTH DAKOTA

County of

HUGHES

ES.

Pierre, South Dakota,

MARCH 17

1966

This is to certify that the foregoing application was received by the Commission at 1:30 o'clock

P

m. upon the

28TH

day of

JANUARY

1966

State Water Resources Commission

By:

for Chief Engineer, Executive Officer

Number of permit

879-2

Date of first receipt of application

JANUARY 28

1966

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

JANUARY 28

1966

Approved

MARCH 16

1966

Recorded in Book

9

Page

92

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

SEPTEMBER 16, 1967

71

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

MARCH 16

1967

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

MARCH 16

1967

73 EXTENSION APPROVED 3-18-70

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 1.50 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 MARCH 16, 1971; said water to be used during the following described annual period:

APRIL THRU OCTOBER

Witness my hand this

17TH

day of

MARCH

1966

State Water Resources Commission

By:

for Chief Engineer, Executive Officer

Certificate of Construction Issued

JULY 24

1972

Water License Issued

JULY 24

1972

Acres	Land	Legal Description
36.7	SW $\frac{1}{4}$	of Section 31 T 95N R 75W -- 5th P.M.
39.9	SW $\frac{1}{4}$ SE $\frac{1}{4}$	of Section 31 T95N R 75W -- 5th P.M.
28.0	SE $\frac{1}{4}$ SE $\frac{1}{4}$	of Section 31 T 95N R 75W -- 5th P.M.
25.4	Lot 6 of Section 23, T 95N R 75W	-- 5th P.M.

* In Keya Paha County, Nebraska

Above land owned by James Dubel

Sprinkler heads to be Rainbird operating at 40 PSI.
Discharge 10 GPM.

Maximum length of run 2640'

WATER LICENSE NO. 879-2

(1) WHEREAS, On the 28th day of January, A. D. 19 66
James Dubé

made Water Right Application No. 879-2 for a permit to use 1.5 cubic feet per second of the waters of Keyapaha River

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

(2) WHEREAS, On the 17th day of March, A. D. 19 66
 Permit No. 879-2, with a date of priority of January 28, 1966

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 16th day of March, A. D. 19 71 and for the application to beneficial use of said water on or before the 16th day of March, A. D. 19 73

and whereas, on the 22nd of January, 1970, the Permit was transferred to
Richard Kirsch,

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 1.50 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 Section 31, T95N, R75W

<u>SW$\frac{1}{4}$</u>	<u>36.7 acres</u>
<u>SW$\frac{1}{4}$ SE$\frac{1}{4}$</u>	<u>39.9 acres</u>
<u>SE$\frac{1}{4}$ SE$\frac{1}{4}$</u>	<u>28.0 acres</u>
<u>Total</u>	<u>104.6 acres</u>

(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 _____ Richard Kirach

_____ of Burton, Nebraska

the holder _____ and owner _____ of said permit No. 879-2 a water right, dating from January 28, 1966

_____ to use of 1.5 cubic feet per second of the waters of the Keyapaha River

in the County of Tripp and State of South Dakota, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted at between a point in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 31, and a point in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 31, T95N, R74W

and conduct to and upon portions of Section 31, T95N, R75W, more fully described on the face of this license

for the purpose of irrigation

Subject to any limitations listed in Water Right Permit No. 879-2 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this 24th day of July A. D.
Nineteen Hundred and Seventy-two

WATER RESOURCES COMMISSION

By:

Chief Engineer, Executive Officer J.W. CRIMES

Form 15.

Permit No. 879-2

Water Diversion No. 2 KENAPAH RIVER Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That Richard Kirsch

_____ the holder _____ of
Permit No. 879-2, issued upon Application No. 879-2, bearing date of priority of January 28,
1966 authorizing the diversion of 1.50 cu. ft. per second of the waters of _____
Kenapah River County of Tripp, State of South Dakota at _____
between a point in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 31, and a point in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 31,
T95N, R74W

_____, for irrigation

purposes, has _____ 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 1.69 cu. ft. per second of water.

Date July 26, 1972

WATER RESOURCES COMMISSION

By.

J.W. CRINES, Executive Officer

or before February 24 1966
(First Publication)

APPROPRIATION OF WATER

Office of State Water Resources Commission,

Pierre, S. Dak., February 1, 1966

Notice is hereby given that James Dubel whose postoffice address is Furlon, Nebraska ~~XXXXX~~, has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 1.5 cubic feet of water per second of time from the Keyapaha River through the Dubel Pump Project, the point of diversion of which is to be located on the left bank of said stream between a point in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, and a point SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 31 Twp. 95N Range 74W portions of. Said water to be used for the purpose of providing irrigation on the following described land:

SW $\frac{1}{4}$ and SE $\frac{1}{4}$, Section 31, T95N, R74W

~~XXXXX~~ purposes:

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 16th day of March 66 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: Mr. D. L. Johannsen, Publisher
Winner Advocate
Winner, S.D.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA }
County _____ } ss.

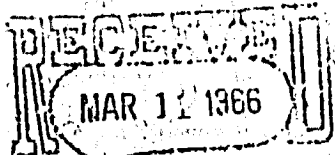
D. L. Johansson being duly sworn, deposes and says the annexed printed copy of Notice of Intention to Appropriate Water was taken from the _____ Wannan Advocate a newspaper which during the whole time of publication of said notice herein after stated, has been and is printed and published in the _____ city of Wannan County of Tripp and State of South Dakota; that the said notice was published in said newspaper on the following dates:

February 10, 1966
February 17, 1966
February 24, 1966
March 3, 1966

in each and every issue of the full number thereof, the first publication being made on the 10th day of February 1966 and the last publication on the 3rd day of March 1966, upon which days or times of publication aforesaid the newspaper was regularly published, and that during the whole time of said publication he was _____ the printer and publisher of the said newspaper.

D. L. Johansson

Subscribed and sworn to before me this 3rd day of March A. D. 1966



STATE WATER RESOURCES COMMISSION
PIERRE, SOUTH DAKOTA

Notary Public M. V. Hieton County, S. D.

No. 875-2

APPROPRIATION OF WATER
Office of State Water Resources
Commission

Pierre, S. D., February 1, 1966

Notice is hereby given that James Dubel, whose postoffice address is Burlington, Nebraska, has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 1.5 cubic feet of water per second of time from the Keyapaha River through the Dubel Pump Project,

the point of diversion of which is to be located on the left bank of said stream between a point in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, and a point in the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 31 Twp. 95N Range 74W. Said water to be used for the purpose of providing irrigation on portions of the following described land: SW $\frac{1}{4}$ and SE $\frac{1}{4}$, Section 31, T95N, R74W, N. 1174.

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 16th day of March, 1966, 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 (12-15)

APPLICATION FOR EXTENSION OF TIME

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

Date January 5, 1970

Dear Sirs:

In Water Right Permit No. 879-2 it is specified that the water diversion system is to be completed by March 16, 19 69 and that the water is to be put to the limit of beneficial use by March 16, 19 71.

I hereby request that the date for completing the diversion system be extended to March 16, 19 71 and that the date for putting the water to the limit of beneficial use be extended to March 16, 19 73.

The extension of time for the completion of these works is requested for the following reasons: _____

Have just purchased this property and am just getting lined up for
irrigation

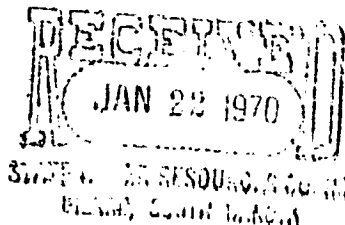
Enclosed herewith is a fee of \$1.00 to pay the cost of filing this request for extension of time.

Richard Kirsch
(Signed) 879-2
Holder of Permit No. _____

APPROVED:

WATER RESOURCES COMMISSION

By:



NOTICE OF TRANSFER OF WATER PERMIT

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

Date January 5, 1970

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

SE $\frac{1}{4}$ SW $\frac{1}{4}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$, Section 31, T95N, R74W

formerly owned by James Dubel, Burton Nebraska

has been transferred to Richard Kirsch, Burton, Nebraska

together with any rights in the beneficial use of water thereon as evidenced by Water Right Permit No. 879-2 as provided for in Section 61.0127 of the 1960 Supplement to the South Dakota Code of 1939.

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

A fee of one dollar is hereto attached to cover filing fees as required under Section 61.0159 of the 1960 Supplement to the South Dakota Code of 1939.

STATE OF ^{NEBRASKA}~~SOUTH DAKOTA~~)
County of Keya Paha) ss.

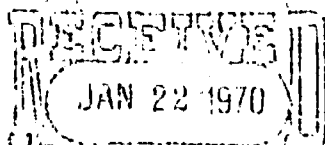
I, Richard Kirsch, being first duly sworn on my oath depose and say: That my relation to the above described undertaking is that of Owner, that I have read the above foregoing statement, and I know of my own personal knowledge that the information herein stated is true.

Richard Kirsch
(Signed)

Subscribed and sworn to before me this 19th day of January, 19 70.

Harvey L. Neal
(Notary Public)

Com Exp 10-14-1990



STATE OF SOUTH DAKOTA
PIERRE, SOUTH DAKOTA

Permit No. 879-2
 Water Division 2 KEYAPAH RIVER 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 Richard Kirsch
 of Burton, Nebraska 68721 holder
 of Permit No. 879-2, bearing date of priority of January 28, 1966
 authorizing the diversion of 1.50 cu. ft. per second of the waters of Keyapaha River
 for irrigation purposes, in Tripp 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:

Berkeley Centrifugal - 3 inch pump - Mod. B3JGBM
 Allis Chalmers Industrial Motor - Diesel - Mod. 2800, 50 H.P.

B. Works used to transport water to place of use,
 3000 feet of 6 inch aluminum main line

C. Works used to apply water to beneficial use.

Vermeer Circular boom-Mod. L-180

The system is in the following condition: very good

The point of diversion is located between a point in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 31, and a point in
the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 31, both in T95N, R74W

The works are capable of diverting and conveying to the place of use 1.69
 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: All in Section 31, T95N, R75W

SW $\frac{1}{4}$	36.7 acres
SW $\frac{1}{4}$ SE $\frac{1}{4}$	39.9 acres
SE $\frac{1}{4}$ SE $\frac{1}{4}$	28.0 acres

As shown in Water Right Map No. 758-2

comprising a total of 104.6 acres of land.

Date July 14, 1972

Donald Driscoll
 (Signature)

DONALD DRISCOLL, Deputy Chief Engineer, W.R.C.

**SOUTH DAKOTA Department of
Water & Natural Resources**
Joe Foss Building Division of Water Rights
Pierre, South Dakota 57501 (605) 773-3352

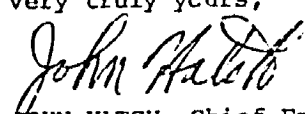
August 11, 1980

Because of the existing deficient supply of water in the Keyapaha River (2.3 cfs at Wewela gage August 6, 1980) to provide water for domestic use including livestock watering, it is ordered that all withdrawals of water from the Keyapaha River for irrigation purposes cease effective 12:00 noon August 14, 1980 until January 1, 1981 or until further notice.

This order is issued in accordance with the South Dakota Water Laws which require the Water Management Board to control and regulate all waters of the State to assure water for domestic supplies and prior water rights.

Please govern your use of irrigation water under your Water Right in accordance with this order. You will be notified if the water supplies of the Keyapaha River become sufficient to permit irrigation water withdrawals again during 1980. If there are any questions on this order, please let me know.

Very truly yours,



JOHN HATCH, Chief Engineer
Water Rights Division

JH/gy

Equal Opportunity Employer

South Dakota

GREAT FACES. GREAT PLACES.

DEPARTMENT OF WATER & NATURAL RESOURCES

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

January 11, 1991

879-2

NOTICE

TO: Richard Kirsch
HC 80 Box 49
Springview, NE 68778

FROM: John Hatch, Chief Engineer
Water Rights Division
605 773-3352

John Hatch

SUBJECT: Amendment of Water Permit No. (879-2) Qualification Regarding
Cutt Off Periods

Notice is given that the Water Management Board will consider adding the following qualifications to Water Permit No. 879-2.

Qualification to be added:

Low flows as needed for downstream domestic use, including livestock watering, and prior water rights must be by-passed. This permit does not authorize the diversion of water from the Keya Paha River or contributing tributaries when the flow in the Keya Paha River at the USGS gaging station located at Wewela is 10 cfs or less, unless written authorization is received from the Chief Engineer. Diversion under this permit shall be in accordance with any written orders issued by the Chief Engineer.

The hearing to consider amendment of Water Permit No. 879-2 to add the above qualifications will be held February 27, 1991 at 11:30 am, Meeting Room, Governors Inn, 700 West Sioux Avenue, Pierre, SD 57501. The agenda time is an estimate and may be delayed due to prior agenda items. The hearing will be held pursuant to the provisions of SDCL 46-1-14 and 46-2-17.

The hearing is based on the review of Keya Paha River Water Permits/Rights and historic flow records of the Keya Paha River. The attached report summarizes the current water permits/rights on the Keya Paha River and contributing tributaries. Also enclosed is a notice of hearing that will be published in the Winner Advocate for two consecutive weeks. The Board has legal authority and jurisdiction to consider this matter pursuant to SDCL 46-2-9 and 46-2-11.

After all evidence is taken at the hearing, the Board may issue a decision to delete and add the above qualifications, postpone any action or take no action. This hearing is an adversary proceeding. Any party has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

Attachment

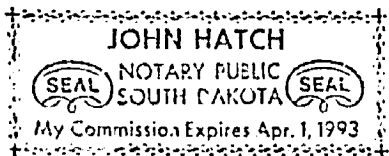
8779-2

Richard Kirsch, HC 80 Box 49, Springview NE 68778

Marie R. Arthur
Secretary

Sworn to, before me, this 15th day of January, 1991.

Notary Public



879-2

STATE OF SOUTH DAKOTA
BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF THE APPLICATION	)	FINDINGS OF FACT
TO AMEND WATER PERMITS AND WATER	)	CONCLUSION OF LAW
RIGHTS WHOSE WATER SOURCE IS THE	)	AND FINAL DECISION
KEYA PAHA RIVER, IN PARTICULAR,	)	
WATER PERMITS AND RIGHTS NOS. 281-2	)	
282-2 AND 710-2, CHARLES RICHEY;	)	
NO. 369-2, VICTOR WAICKUM; NO. 414-2	)	
H.W. CARLSON; NO. 465-2 LUCILE RICHEY;	)	
NOS. 835-3 AND 959-2 ALVA WILEY;	)	
NO. 1530-2, VERN KESZLER; NO. 879-2,	)	
RICHARD KIRSCH; NO. 931-2,, LLOYD	)	
BLOMSTROM NO. 1107-2, STANLEY HANSON;	)	
NO. 1108-2, CARNET SARGENT;	)	
NO. 1128-2, CHARLES HELLMANN; AND	)	
NO. 2122-2 RODNEY HOFELDT	)	



FINDINGS OF FACT

I

This is an application by the Chief Engineer to establish a more manageable "cutoff" system on the Keya Paha River.

II

The existing water permits and water rights on the Keya Paha River have various cutoff dates. The first three permits issued on the Keya Paha River have a 10 cfs bypass at the Wewela Gauging Station. Eight permits, issued in the 1950s and 1960s, do not have a specific low flow bypass or cutoff date, but do have a requirement to bypass water for downstream domestic use and prior water rights. Three permits, issued in the 1970's, have a June 15 cutoff date. The most recent permit granted in the Keya Paha system provides a May 20 cutoff date.

III

Keya Paha system includes not only diversions from the Keya Paha River itself, but from its tributaries.

IV

The Keya Paha River is a spring fed river.

V

The Wewela Gaging Station is located at a point downstream of most of the water permits at issue. Statistics developed at the Wewela Gaging Station demonstrate that for the past thirty-nine years there were at least 10 cfs water at Wewela 90% of the time during the driest months of July, August and September. The same gaging station statistics indicate that there was a 70% chance that there would be at least 20 cfs of water at Wewela during the driest months of August and September.

VI

That Wewela Gaging Station thus reflects the situation which has existed given actual diversions. The Wewela station statistics do not reflect, however, the withdrawals of the latest appropriator whose Water Permit Application No. 2122-2 was approved May 23, 1990. That permit was for 4.57 cfs of water from a dug out located on a spring fed draw and supplemental water from Lost Creek, a tributary of the Keya Paha River. That permit has a May 20 cutoff for the portion of the diversion from Lost Creek.

VII

At least one domestic user downstream of the Wewela Gaging Station has testified that even when there are 18 cfs of water in the stream, there is insufficient water for his livestock. His cattle are located several miles below Wewela.

VIII

The Board finds that a 10 cfs bypass at Wewela is insufficient to provide reasonable protection to downstream domestic use, including livestock watering and prior water rights. The Board finds, furthermore, that reasonable protection is provided, on the basis of data now available, by a 15 cfs bypass requirement.

IX

The Board of Water Management has jurisdiction to impose amendments on existing permits to protect downstream domestic use, including livestock watering and to protect prior water rights. Such amendments are justified by the Water Management Board's statutory authority and duty to protect such prior rights.

X

The rights of the prior appropriators are not unlawfully impaired by the exercise of this authority by the Board, especially when the amendment provides for exceptions upon written authorization from the Chief Engineer. Moreover, when it is reasonable to allow exceptions despite the 15 cfs bypass requirement, senior appropriators will be

allowed by the Chief Engineer to irrigate beyond the cutoff date before junior appropriators.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter.
2. The Board has general authority to amend existing water permits pursuant to SDCL 46-2A-12.
3. The amendment set out in the Final Decision does not unlawfully impair existing rights. This is so because the existing rights are all subject to downstream domestic use including livestock watering and, of course, prior water rights. Moreover, even when the flow is 15 cfs or less, any appropriator may receive written permission from the Chief Engineer to appropriate water and such permission shall be granted, insofar as reasonably possible under the circumstances, first to senior appropriators and then to later appropriators.
4. The cutoff requirement set out in the Final Decision provides reasonable direction to the Chief Engineer in his management of the Keya Paha system. The proposed amendment to the permits is for beneficial purposes and is in the public interest.
5. The Board has jurisdiction to provide for a 15 cfs bypass requirement despite the fact that the advertisement provided for a 10 cfs requirement. The Chief Engineer's recommendation, as advertised and served upon the present water right holders, authorized the Board to approve the recommendation with "additional qualifications. . . ."

This language vests the Board with the power to make reasonable modifications in the recommendation.

6. The Department of Game, Fish and Parks requested a 16 cfs bypass for fish and wildlife purposes. The Board, having determined to adopt a 15 cfs requirement, concludes that it is unnecessary to consider whether it is appropriate or lawful to impose new bypass requirements on existing permits for fish and wildlife purposes and therefore declines to act upon the GF&P suggestion.

FINAL DECISION

Each of the rights and permits identified in the caption of this proceeding is herewith amended to remove any previous cutoff dates and bypass requirements and the following qualification is hereby added to each of the above-identified water rights and water permits.

Low flows as needed for downstream domestic use, including livestock watering, and prior water rights must be bypassed. This permit does not authorize the diversion of water from the Keya Paha River or contributing tributaries when the flow in the Keya Paha River at the USGS gaging station located at Wewela is 15 cfs or less, unless written authorization is received from the chief engineer. Diversions under this permit shall be in accordance with any written orders issued by the chief engineer.

BY THE BOARD

Chairman
Water Management Board

m-pld51.jpg

South Dakota

GREAT FACES. GREAT PLACES.

June 13, 1991

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

879-2

NOTICE

Richard Kirsch
HC 80, Box 49
Springview NE 68778

Dear Mr. Kirsch:

This letter is in response to action taken by the Water Management Board to amend Water Right No. 879-2. The Board amended Water Right No. 879-2 by adding the qualification on the enclosed "Attachment" which should be placed with the water right. The action was taken pursuant to the notice to you dated January 11, 1991.

Very truly yours,

John Hatch

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

enclosure

ATTACHMENT TO WATER RIGHT NO. 879-2

RICHARD KIRSCH

The Water Management Board amended Water Right No. 879-2 at the February 27, 1991 Board meeting to add the following qualification:

Qualification added:

Low flows as needed for downstream domestic use, including livestock watering, and prior water rights must be by-passed. This permit does not authorize the diversion of water from the Keya Paha River or contributing tributaries when the flow in the Keya Paha River at the USGS gaging station located at Wewela is 15 cfs or less, unless written authorization is received from the Chief Engineer. Diversion under this permit shall be in accordance with any written orders issued by the Chief Engineer.

CERTIFICATION

I hereby certify that on June 17, 1991 I have personally deposited with the U.S. Mail postage prepaid envelopes containing a Notice of action taken by the Water Management Board to amend Water Right No. 879-2 addressed as stated below:

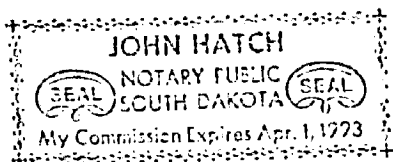
Richard Kirsch, HC 80, Box 49, Springview, NE 68778.

Cheryl T Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 12th day of June, 1991.



John H. Galt
Notary Public

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

I have this day made a thorough examination of the water use system constructed by Richard Kirsch

_____ of HC 80 Box 49 Springview, NE holder of

Permit No. 879-2, bearing the priority of January 28 1966 authorizing

the diversion of 1.50 cu. ft. per second of the waters of Kayapa River

for Irrigation purposes, in Tripp County.

A. Works used to divert the water:

Berkeley Centrifugal Pump - Model # B3JOBM with
Allis Chalmers Motor - Model 2800, 50 H.P., 6 cyl. Diesel

3000 ft. - 6 inch Aluminum Pipe.

Nelson Big Gun, Model P200, Serial #0F911107

The system is in the following condition Good

The point of diversion is located 570 ft. North and 430 ft. West of the SE corner of Sec. 31-T95N-R74W.

The works are capable of diverting and conveying to the place of use 1.50

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: Section 31-T95N-R74W.

Lot 3 - 28 Acres

lot 4 - 40

6345 - 33

6. f 6 - 7

comprising a total of 105 acres of land and the license should be issued for 1.50 cfs

Applicable permit qualifications have been complied with X Yes No

Exceptions to compliance are: _____ Date August 28, 1990

Timothy L. School

LICENSE FOR PERMIT NUMBER 879-2

1. Legal location of wells: Diversions from Keyapaha River - point
located 570 ft. North & 430 ft. West of the SE corner
dams & structures: of Sec. 31-T95N-R74W.

2. Well Information: Well Drilling Firm _____

Completion Report Yes ___ No ___ No. of Wells _____ Depth _____

Casing a) diameter _____ Screen a) type _____

b) length _____ b) length _____

c) type _____ Static Water Level _____

Pump a) make Berkley Centrifugal Motor a) make Allis Chalmers 6 cyl.

b) model B310BM b) model No. #2800 Diesel

c) size 3 in / 6 out c) horsepower rating 50

d) capacity ≈ 650 gpm

e) turbine pump - no. of stages _____

f) operating PSI _____

3. Distribution lines or canals

a) size 6 inch

b) type Aluminum

c) length ≈ 3000 feet

4. Dam Information:

a) height to crest _____ m) Outlet tubes:

b) height to primary spillway _____ 1) diameter _____

c) height to secondary spillway _____ 2) type _____

d) crest width _____ 3) valved (Y/N) _____

e) crest length _____ 4) valve type _____

f) spillway length _____ 5) location on structure _____

g) spillway width _____

h) approx. storage _____ n) Category of Dam _____

i) approx. storage to crest _____

j) date constructed _____

k) inspection sheet completed (Y/N) _____

l) Name of Contractor _____

:

5. System Type a) sideroll:

- 1) length _____ feet
- 2) diameter of pipe _____
- 3) make, model & number of sprinklers _____
- 4) spacing of sprinklers _____
- 5) nozzle size _____

c) gun

- 1) make Nelson Big Gun
- 2) nozzle size Mod P200
- 3) capacity (GPM) ≅ 650
- 4) hose size 6 inch
- 5) hose length 1320 ft

e) gated pipe

- 1) length _____
- 2) diameter _____
- 3) spacing of gates _____

f) portable boom

- 1) make _____
- 2) nozzle size _____
- 3) capacity (GPM) _____

b) towline:

- 1) length _____ feet
- 2) make, model & number of sprinklers _____
- 3) spacing of sprinklers _____
- 4) nozzle size _____

d) center pivot

- 1) make _____
- 2) number of towers _____
- 3) distance between towers _____
- 4) overall length _____
- 5) end gun (Y/N) _____
- 6) high or low pressure _____
- 7) make & size of nozzles _____
- 8) capacity (GPM) _____

g) siphons

- 1) size _____
- 2) number _____

NOTE: For Permits with additional wells or changes in well locations, record the following for each well: pumping capacity, date constructed, well driller and if a well log is available.

Indicate any other permit(s) which are associated with project _____

Yes	No	Check Items
<u>NA</u>		1. Soil and water permit lands agree with lands being irrigated and lands listed on permit?
<u>NA</u>		2. Special qualifications to permit being abided by?
<u>NA</u>		3. All structures, wells and lands on map?
<u>NA</u>		4. Irrigation Questionnaires checked to determine if permit owner started irrigation by end of construction period?
<u>X</u>		5. Is chemigation used?
		6. If yes, does equipment comply with chemigation rules?

REMARKS:

STATE OF SOUTH DAKOTA

REISSUED WATER LICENSE NO. 879-2

(1) Richard Kirsch of HC 80, Box 49, Springview, NE 68778 was issued Water License No. 879-2, July 24, 1972 for a water right to appropriate 1.50 cubic feet of water per second from the Keyapaha River, Tripp County, South Dakota for irrigation purposes. Water License No. 879-2 with a priority date of January 28, 1966 was issued to applicant(s) for diversion of water with construction of the described water supply system completed and the application to beneficial use of said water completed.

Water License No. 879-2 is being reissued based upon an August 28, 1990 inspection of the water use system.

(2) It is certified that the applicant has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 1.50 cubic feet of water per second for beneficial use. The location of the diversion point is: 570'N and 430'W of the SE corner of Section 31, T95N, R74W (Lot 3).

(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate the following land:

T95N, R74W Section 31	Lot 3	28 Acres
	Lot 4	40 Acres
	Lot 5	33 Acres
	Lot 6	4 Acres
	Total ---	105 Acres

(4) Pursuant to Section 46-5-30.1 Richard Kirsch of HC 80, Box 49, Springview, NE 68778 the holder(s) and/or owner(s) of Water Right No. 879-2 is issued a license to appropriate water, the right to use 1.50 cubic feet of water per second from the Keyapaha River with a priority date of January 28, 1966 from the location specified in (2) of this license. The water is to be conducted to and upon lands specified in (3) of this license for the purpose of irrigation. This license is subject to any limitations or qualifications listed in Water Permit No. 879-2 and subject to South Dakota State Law.


MAY 28 1991
JOHN HATCH, Chief Engineer
Water Rights Division
Department of Water and Natural
Resources

South Dakota

DEPARTMENT OF WATER & NATURAL RESOURCES

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

GREAT FACES. GREAT PLACES.

MAY 28 1991

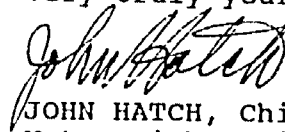
Richard Kirsch
HC 80, Box 49
Springview, NE 68778

Dear Mr. Kirsch:

Enclosed is Reissued Water License No. 879-2. This is the final water right document completing your process of obtaining a water right.

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

Very truly yours,



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

enclosures



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

August 29, 1991

NOTICE

PERMIT NO(S). 879-2

TO: Richard Kirsch
HC 80, Box 49
Springview, NE* 68778

FROM: JOHN HATCH, Chief Engineer
Water Rights Division
(605) 773-3352

Delvin D. Brosz

SUBJECT: Shutoff Order for Water Diversions from the
Keyapaha River.

The flows in the Keyapaha River are below 15 cubic feet per second (cfs) at the Wewela gaging station. Therefore, to protect domestic use (livestock watering), effective immediately, no pumping of water is authorized from the Keyapaha River or contributing tributaries until January 1, 1992 or until further notice.

The following is the latest flow (cfs information on the river:

GAGE	3/27/91	3/28/91	3/29/91
Wewela	15.9	13.5	12.6

If you have any questions, please contact Tim Schaal or Del Brosz, Division of Water Rights, Joe Foss Building, Pierre, SD 57501, phone (605) 773-3352.

5279-2

CERTIFICATION

I hereby certify that on August 29, 1991 I have personally deposited with the U.S. Mail postage prepaid envelopes containing a Notice of Shutoff Order for Water Diversions from the Keyapaha River addressed as stated below:

Garnet Sargent, RR, Clearfield, SD 57581

Rodney Hofeldt, RR 5, Box 89, Millboro, SD 57554

Stanley Hanson, RR 5, Box 63, Millboro, SD 57554

Lloyd Blomstrom, P.O. Box 623, Winner, SD 57580.

Vern Keszler, HC 88, Box 12, Clearfield, SD 57581.

~~Dale Heese, SR Box 36, Millboro, SD 57554.~~

Charles Hellman, RR 5, Box 84, Millboro, SD 57554.

Alva Wily, SR 10, Box 34, Millboro, SD 57554.

Richard Kirsch, HC 80, Box 49, Springview, NE 68778.

Charles Richey, HC 88, Box 47, Wewela, SD 57578.

Lucile Richey, RR 10, Box 46, Wewela, SD 57578.

Victor Weickum, Wewela, SD 57578.

H. W. Carlson, RR 1, Box 32, Colome, SD 57528.

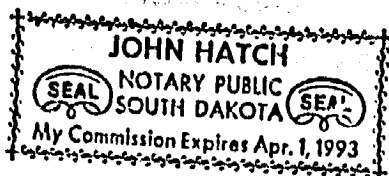
Cheryl F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 30th day of August, 1991.

John H. H. H.
Notary Public





879-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 9, 1998

NOTICE

TO: RICHARD KIRSCH, HC 80 BOX 49, SPRINGVIEW, NE 68778

FROM: Ron Duvall, Natural Resources Engineer
for John Hatch, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 1997 Irrigation Questionnaire(s)

Our records indicate that the 1997 Irrigation Questionnaire has not been submitted for Permit No(s) 879-2. The request for the Questionnaire was dated October 17, 1997. The Water Management Board has directed that owners of water permits who have not submitted the 1997 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

The hearing will be held at 9:45 am, February 25, 1998, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 879-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaire(s) is(are) received in this office on/or before February 20, 1998, your name will be deleted from the Board agenda. If you have any questions or need assistance with completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

Note: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete Items 1 and/or 2 for additional services.
- Complete Items 3, 4a, and 4b.
- 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.

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

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

Consult postmaster for fees.

3. Article Addressed to:

8792

RICHARD KIRSCH
HC 80 BOX 49
SPRINGVIEW NE 68778

4a. Article Number
2179157241

4b. Service Type

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

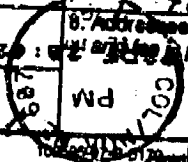
7. Date of Delivery
6-12-97

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

NORFOLK
NE 68701

5. Received By (Print Name)
[Signature]

6. Signature (Addressee or Agent)
[Signature]



PS Form 3811, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

579-2



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 23, 1998

879-2

Richard Kirsch
HC 80 Box 49
Springview, NE 68778

Dear Mr. Kirsch

I am writing to acknowledge receipt of your 1997 irrigation questionnaire. You may disregard the January 9, 1998, "Notice" concerning reporting requirements for Water Permit No. 879-2.

The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352



October 25, 2000

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

879-2

Jeff Kirsch
HC 80 Box 49
Springview, NE 68778

Dear Mr. Kirsch:

Thank you for contacting me about the ownership change for Water Right No. 879-2.

Enclosed is a partially completed "Notice of Transfer of Ownership" form for use in filing the ownership change. Please review the form and make any necessary changes. Upon completion, please sign the form in the presence of a notary public and return it to our office with a required filing fee of \$2.50. The check or money order for the fee can be made payable to the Water Rights Program.

I have included a copy of the water license and examination of works. You may keep these for your records.

If you have any questions concerning the water right or completion of the transfer form, please get in touch with me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352

enclosures

NOTICE OF TRANSFER OF OWNERSHIP

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



No. 879-2

Date: 11-2-2000

I/We request that Water Right No. 879-2

formerly owned by: Richard Kirsch

be transferred to: (name & address) Jeff Kirsch, HC 80 Box 49, Springview, NE 68778

Telephone No. _____

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

105 acres in Lots 3, 4, 5, & 6 of Section 31, T95N, R74W

I/We understand that the validity of Water Right No. 879-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

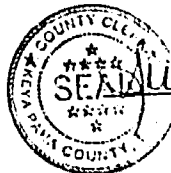
STATE OF SOUTH DAKOTA)

County of Tripp)

I/We Jeff Kirsch 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 that I know of my own personal knowledge that the information herein stated is true.

Jeff Kirsch
(Signed)

Subscribed and sworn to before me this 2nd day of November, 2000.



Shirley Wentworth deputy
(Notary Public) County Clerk

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

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

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

N2 416719

Pierre, December 27, 2000

RECEIVED OF Jeff Kirsch, HC 80 Box 45, Springview NE 68778

the following amount in fees for services rendered as provided for by law: (Richard Kirsch)

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 879-2

Fee for Filing Extension Request _____

Fee for _____

2 50

(Any Other Work Provided by Law)

Total

2 50

By Darlene Eide
Chief Engineer

gno



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

December 28, 2000

879-2

Jeff Kirsch
HC 80 Box 49
Springview, NE 68778

Dear Mr. Kirsch:

Thank you for following up on the ownership change for Water Right No. 879-2. The transfer has been completed and the water right is now listed in your name.

Enclosed is your Receipt No. 416719 in the amount of \$2.50, which you paid for filing the transfer of ownership. You may keep this for your records.

If you have any questions concerning the water right, please get in touch with me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352

enclosure

Township No. 95 North, Range No. 74 West, 5

G

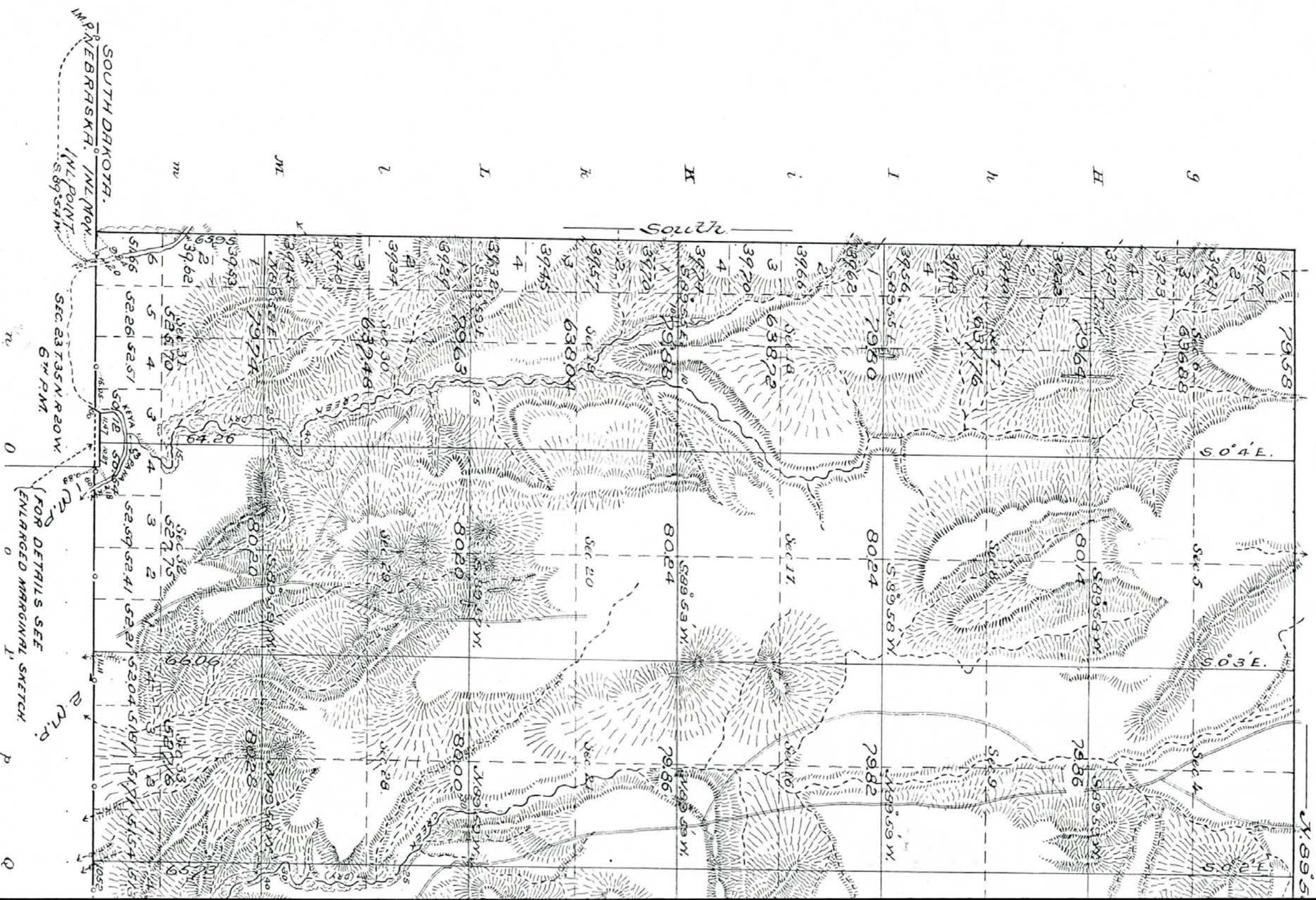
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Water Surface,

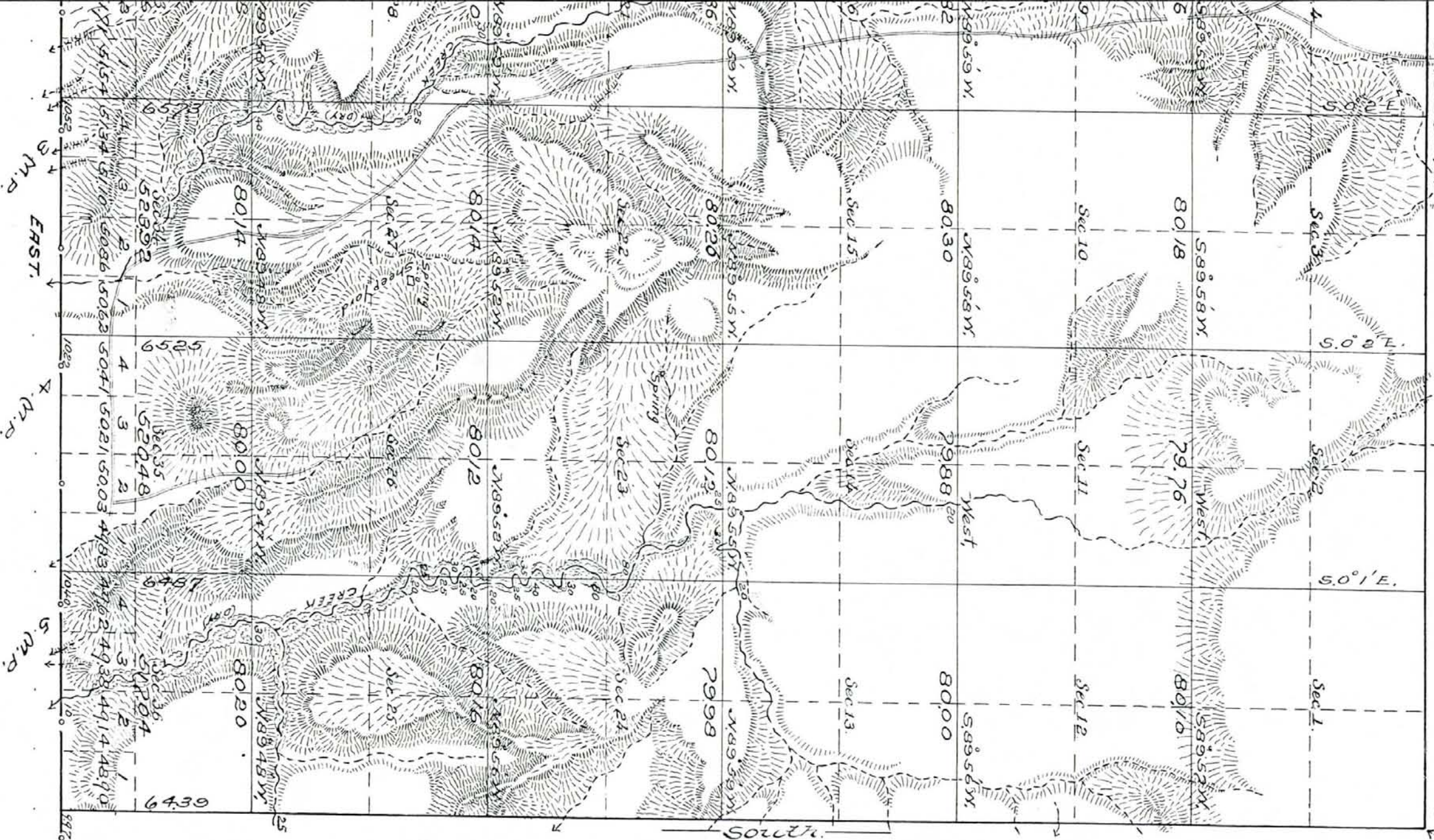
Total Area 22330.9

Surveys Designated	By Whom Surveyed.	Contract		Amount of Surveys			When Secured
		No.	Date.	Acres.	Chs.	In.	
<i>Subdivisions.</i>	<i>JM Daugherty</i>	122	July 24 1896	59	07	04	Sept 15 "
<i>Connections</i>	" "	"	" "		52	52	70 Ju
<i>NEWY. Tr. lines</i>	" "	"	" "				Aug-
<i>State Bdry line</i>	<i>J. M. Jenkins</i>		May 20 1893				Sep.
<i>FRAC. BOUNDARIES</i> 135 N. R. 20 W. 6 PM }	<i>ROBERT HARVEY</i>	107	April 3 " 1895.				May.

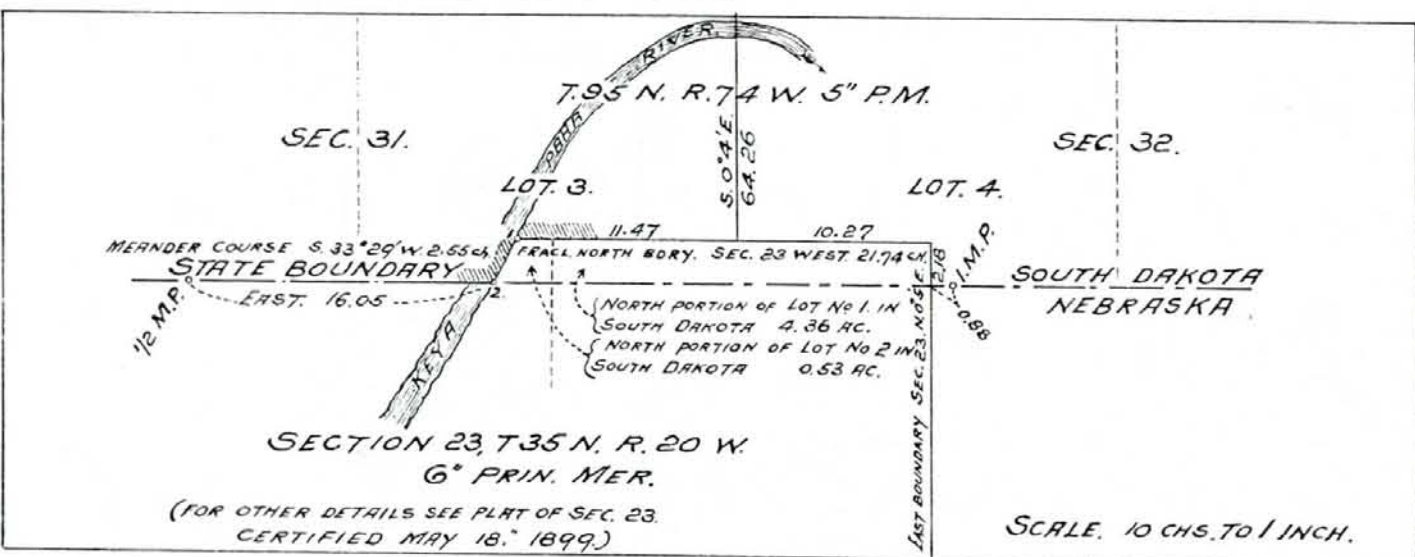


Nest, 5" Principal Meridian, South Dakota.

LATITUDE. 43°05' N.
LONGITUDE. 99°32' W.
MEAN MAG. DECL. 12°33' E



Tenth Guide Meridian, W.



Latitude _____
Longitude _____
Mean mag. decl. _____

June 8. 1899

Area 22330.93 Acres.

When Surveyed.	
Sept 15 - 1896	4
To June 5 1897	
Aug - Sept 1896	
Sept. 1893	
May. 8 - 1892	

The above Map of Township No. 95 North, of Range No. 74 West of the 5th Principal Meridian, South Dakota, is strictly conformable to the field notes of the survey thereof on file in this Office, which have been examined and approved.

U. S. Surveyor Generals Office

Heron S. Dak MAY 23 1899.

U. S. Surveyor General,



NOT TO SCALE



Tripp Co. 241-L
NEBRASKA
Timothy Kirsch
August 28, 1990
No. 879-2



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 17, 2006

**KEYA PAHA RIVER WATER RIGHT QUALIFICATION REMINDER
WATER RIGHT NO(s) (879-2)**

To: JEFF KIRSCH
HC 80 BOX 49
SPRINGVIEW NE 68778

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

Subject: Keya Paha River Qualification Reminder for Permit No(s) 879-2

Qualifications on your water right indicate that you are not authorized to divert Keya Paha River water when the stream flow is 15-cfs or less at the USGS Wewela, SD gage, unless written authorization is received by the Chief Engineer. Please, consider this a reminder as flow in the Keya Paha River has dropped to the point where domestic use of water, which includes livestock watering from the river, has become a concern. On July 17, 2006, the stream flow at the Wewela gage dropped to 14-cfs.

For your information, the real-time stream flow data can be found on the USGS web-site at <http://waterdata.usgs.gov/sd/nwis/current/?type=flow>. If you have any questions, please feel free to contact Mike DeFea or Mark Rath at 773-3352.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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www.state.sd.us/denr

January 26, 2007

NOTICE

TO: JEFF KIRSCH, HC 80 BOX 49, SPRINGVIEW, NE 68778

FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2006 Irrigation Questionnaire(s)

Our records indicate that the 2006 Irrigation Questionnaire has not been submitted for Permit No(s) 879-2. The request for the Questionnaire was dated October 20, 2006. The Water Management Board has directed that owners of water permits who have not submitted the 2006 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

The hearing will be held at 10:30 am, March 7, 2007, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 879-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaire(s) is(are) received in this office on/or before March 1, 2007, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352. If you prefer, you can complete the questionnaire on-line at the following link:

<https://www.state.sd.us/eforms/secure/eforms/E0455V5-IQ.pdf>

Note: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

879-2

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Search Results

Label/Receipt Number: 2303 2160 0000 0799 6668
Status: **Delivered**

Your item was delivered at 1:40 PM on January 29, 2007 in
SPRINGVIEW, NE 68778. The item was signed for by J KIRSCH.

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Signature Confirmation Receipt

SIGNATURE CONFIRMATION NUMBER:
2303 2160 0000 0799 6668

JEFF KIRSCH
HC 80 BOX 49
SPRINGVIEW NE 68778

Waiver of Signature ☐ YES ☐ NO

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Access internet web site at
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and NATURAL RESOURCES

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www.state.sd.us/denr

January 29, 2007

879-2

Jeff Kirsch
HC 80 Box 49
Springview NE 68778

Dear Mr. Kirsch:

I am writing to acknowledge receipt of your 2006 irrigation questionnaire. You may disregard the January 26, 2007, "Notice" concerning reporting requirements for Water Right No. 879-2.

The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

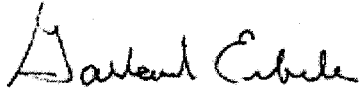
Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352

July 16, 2007

KEYA PAHA RIVER WATER RIGHT QUALIFICATION REMINDER
WATER RIGHT NO(s) 879-2

To: JEFF KIRSCH
HC 80 BOX 49
SPRINGVIEW, NE 68778



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

Subject: Keya Paha River Qualification Reminder for Permit No(s). 879-2

Qualifications on your water right indicate that you are not authorized to divert Keya Paha River water when the stream flow is 15-cfs or less at the USGS Wewela, SD gage, unless written authorization is received by the Chief Engineer. Please, consider this a reminder as flow in the Keya Paha River has dropped to the point where domestic use of water, which includes livestock watering from the river, has become a concern. On July 16, 2006, the stream flow at the Wewela gage dropped to 13-cfs.

For your information, the real-time stream flow data can be found on the USGS web-site at <http://waterdata.usgs.gov/sd/nwis/current/?type=flow>. If you have any questions, please feel free to contact Mike DeFea or Mark Rath at 773-3352.



February 22, 2008

JEFF KIRSCH
HC 80 BOX 49
SPRINGVIEW, NE 68778

Dear Water Right Holder:

Due to the ongoing drought, I would like to remind you of the qualification that exists on your water right. All water right holders who divert water from the Keya Paha River and its tributaries have water rights with a 15 cubic feet of water per second (cfs) bypass qualification. The qualification states that diversion of water is not authorized when the stream flow at the USGS Wewela, SD gaging station is 15 cfs or less, unless written authorization is received by the Chief Engineer.

In the past, we have sent a letter to water right holders reminding them of the 15 cfs bypass qualification. However, some water right holders misinterpreted the "reminder letter" as a "shut-off order" and discontinued irrigation for the rest of the season, which is the reason for this letter.

As stated above, water may not be diverted when flow at the USGS Wewela, SD gaging station is 15 cfs or less. However, when flow at the gage is greater than 15 cfs, you are authorized to divert water from the river or its tributaries.

I hope this removes any confusion some may have regarding the "reminder" letter. If you have any questions, please contact Mike DeFea or Mark Rath at (605) 773-3352.

Sincerely,

Garland Erbele
Chief Engineer
DENR, Water Rights Program

879-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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DEPARTMENT of ENVIRONMENT
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denr.sd.gov

July 10, 2012

KEYA PAHA RIVER WATER RIGHT QUALIFICATION REMINDER

To: JEFF KIRSCH
44326 905th RD
SPRINGVIEW NE 68778

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

Subject: Keya Paha River Qualification Reminder for Permit No(s) 879-2

This is a **reminder** to water right holders along the Keya Paha River and its tributaries that the dry weather and low flows create a potential for shutoff orders to be issued. A qualification on your water right states that diversions are not authorized when the stream flow is 15 cfs or less at the USGS Wewela, SD gaging station. This letter is only intended to give you advanced warning that your ability to divert water may be cut short this year. In the meantime, water right holders can help by closely monitoring water usage and trying to avoid wasting water.

Currently the stream flow at the Wewela gage is at 21 cfs. Only when flow in the Keya Paha River is greater than 15 cfs at the USGS Wewela, SD gage, are you authorized to divert water. This is **not** a shut-off order. However, if flows continue to drop, a shut-off order may be issued.

If you are interested, the US Geological Survey has an Internet site showing real-time river flows at 153 stream gauging stations across the state including two gaging stations on the Keya Paha River. To access this information go to <http://waterdata.usgs.gov/sd/nwis/rt> and click on the link "Statewide Streamflow Current Conditions Table".

If you have any questions, please feel free to contact Mark Rath or Lynn Beck at (605) 773-3352.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

NOTICE OF SHUTOFF ORDER

July 17, 2012

TO: JEFF KIRSCH
44326 905th RD
SPRINGVIEW NE 68778

FROM: GARLAND ERBELE, Chief Engineer
SD DENR Water Rights Program

SUBJECT: Keya Paha River Shutoff Order for Junior Priority Date Water Rights

Shutoff Order for Water Right Nos. (879-2)

The flows in the Keya Paha River are below 15 cubic feet per second (cfs) at the USGS gaging station at Wewela, SD. Therefore to protect domestic use which includes livestock watering, the department is issuing shutoff orders for the Keya Paha River from the Todd-Tripp county line to the South Dakota-Nebraska border. Effective immediately, no diversions of water from the Keya Paha River is authorized under your Keya Paha River water rights.

Flow in the Keya Paha River has dropped to the point where domestic use of water, which includes livestock watering from the river, has become a concern. This order will be rescinded as soon as conditions improve.

If conditions do not improve, this order will remain in effect until **December 31, 2012**.

The USGS maintains a website where you can view real-time stream flow measurements at several sites along the river, the web address is:

<http://waterdata.usgs.gov/sd/nwis/rt>

I am asking for your cooperation in complying with this shutoff order. The ongoing drought is creating hardship for all the water right holders along the river.

If you have any questions, please contact Mark Rath or Lynn Beck (605- 773-3352) with the Water Rights Program. Thank you.

CERTIFICATION

I hereby certify that on July 17, 2012, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated July 17, 2012 regarding shutoff order for Keya Paha River addressed as stated below:

PERMIT NO	PN02	FIRST NAME	LAST NAME	CONTACTOWN	ADDRESS2	CITY	STATE	ZIP
1107-2		ROBERT/KIMBERLY	HANSON		29445 303 AVE	WINNER	SD	57580
2141-2		CORY C	SARGENT		29461 304th AVE	WINNER	SD	57580
1128-2	2581-2	JOE	ANDERSON	OPERATOR	29694 312th AVE	WINNER	SD	57580
414-2		H W OR BRAD	CARLSON		29716 315TH AVE	COLOME	SD	57528
835-2	959-2	ALVA LEE	WILEY		31450 301 ST	WINNER	SD	57580
710-2		JIM	RICHEY		30099 318TH AVE	WEWELA	SD	57580
465-2		E LUCILE	RICHEY		31856 RICHEY RD	WEWELA	SD	57578
369-2			HARTLAND FARMS INC	CORWIN HARTHOORN	88809 429TH AVE	AINSWORTH	NE	69212
931-2		VERNON & JEAN	VAN EPPS		93925 908TH RD	SPRINGVIEW	NE	68778
879-2		JEFF	KIRSCH		44326 905th RD	SPRINGVIEW	NE	68778

Gail Jacobson

Gail Jacobson
Secretary/Water Rights

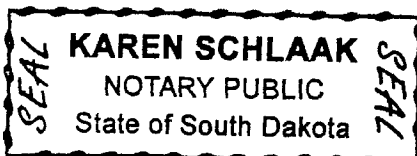
STATE OF SOUTH DAKOTA)
) SS

COUNTY OF HUGHES)

Sworn to, before me, this 17th day of July, 2012.

Karen Schlaak

Karen Schlaak
Notary Public
My Commission expires April 1, 2013





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 16, 2022

JEFF KIRSCH
44326 905th RD
SPRINGVIEW, NE 68778

Dear Keya Paha River Water Right Holder:

I am writing to remind Keya Paha River water right holders and operators of the bypass qualification that was placed on your water permit by the Water Management Board in 1991:

A minimum flow of 15 cubic feet of water per second (cfs) shall be maintained at Gage No. 06464500 – Keya Paha River near Wewala, SD to insure flows for domestic use and prior existing water rights.

Recently, river flows measured at **USGS Gage No. 06464500 – Keya Paha River near Wewala, SD** have been nearing the 15 cfs cutoff and when it does, diversion of water for irrigation purposes shall cease. This 15 cfs limit is in place to protect domestic use, including livestock watering and those water rights that are most senior.

Realtime flows in the in Keya Paha River can be monitored by going to the following website:

<https://waterdata.usgs.gov/sd/nwis/current/?type=flow>

USGS Stream Gage No. 06464500 – Keya Paha River near Wewala, SD

Thank you for your cooperation. If you have any questions, please contact Mark Rath, or Nakaila Steen at (605) 773-3352.

Sincerely,

Eric Gronlund, Chief Engineer
Water Rights Program



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

RAPID CITY ONE-STOP
221 MALL DRIVE, SUITE 201
RAPID CITY, SD 57701
danr.sd.gov

August 7, 2026

Permit No. 879-2

JEFF KIRSCH
44326 905TH RD
SPRINGVIEW, NE 68778

Dear Appropriators:

I am writing to remind Keya Paha River Water Right holders and operators of the bypass qualification that was placed on your water permit by the Water Management Board in 1991:

A minimum flow of 15 cubic feet of water per second (cfs) shall be maintained at Gage No. 06464500 - Keya Paha River near Wewala, SD to ensure flows for domestic use and prior existing water rights.

Recently, river flows measured at USGS Gage No. 06464500 – Keya Paha River near Wewala, SD have been as low as 25 cfs. If flows decrease to 15 cfs, diversion of water for irrigation purposes are required to cease. The 15 cfs limit is in place to protect domestic use, including livestock watering and those water rights that are most senior.

Realtime flows in the in Keya Paha River can be monitored by going to the following website:

<https://waterdata.usgs.gov/sd/nwis/current/?type=flow>

USGS Stream Gage No. 06464500 – Keya Paha River near Wewala, SD

Thank you for your cooperation. If you have any questions, please contact Nakaila Steen or another member of the DANR-Water Rights Program at (605) 394-2229 (Rapid City Office) or (605) 773-3352 (Pierre Office). We would appreciate it if you would call Nakaila in our Rapid City office and provide an up-to-date phone number and email for faster communication on this matter.

Sincerely,

Adam Mathiowetz, PE
Chief Engineer
Water Rights Program