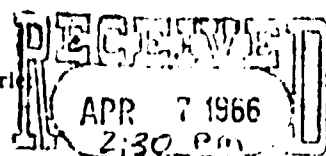


1272-3

1. Considered 5-18, 1966
2. Name of Applicant John Sutton & Sons
3. Post Office Address Agar
4. Amount of water claimed 14.44
5. Source of water supply Missouri River
6. Water to be used for irrigation
 Acres to be irrigated 1011.0
7. Water to be diverted and used in Sully County about
12W 2N miles of Agar
8. Proof of Publication Received 1st
 Not Received _____
9. Application Approved _____
 Subject to _____
 Not Approved _____
 Action deferred _____

10. Remarks,

No. 1272-3Water Division No. 3 MISSOURI RIVER District
(Blanks to be Filled by the Engineer for the W. R. C.)

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

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

1. Name of applicant JOHN SUTTON & SONS
Postoffice address AGAR, County SULLY, 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 & DIRECT LABOR

- (b) Cash on hand, \$
- ADEQUATE
- (c) Treasury stock, \$ _____

- (d) Bonds to be issued, \$ _____ (e) Other resources, \$ _____

2. Name of diversion work SUTTON IRRIGATION PROJECT #13. Amount of water claimed 14.44 cubic feet per second4. Source of water supply MISSOURI RIVER5. Location of point of diversion N 86° W 2700' FROM THE SE CORNER, SECTION 4, T116N, R79W on LEFT bank SULLY County.6. Annual period or periods during which water is to be used APRIL THRU OCTOBER

7. To be used for:

- I Irrigation or domestic use: Gravity, overhead sprinkling or combination system?
- COMBINATION

- (a) Number of acres to be irrigated
- 1011
- 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, _____

MAP NO 888-3

ALL LAND OWNED BY JOHN SUTTON & SONS
ALL IN T116N, R79W

LOCATION	SECTION	ACREAGE
NW ⁴	2	160
SW ⁴	2	160
NE ⁴ NE ⁴	3	20
SE ⁴ NE ⁴	3	20
NE ⁴ SE ⁴	3	20
SE ⁴ SE ⁴	3	20
NW ⁴ SW ⁴	3	3
NE ⁴ SW ⁴	3	2
SW ⁴ SW ⁴	3	9
SE ⁴ SW ⁴	3	21
NW ⁴ NE ⁴	9	2
NE ⁴ NE ⁴	9	3
SW ⁴ NE ⁴	9	7
SE ⁴ NE ⁴	9	30
NE ⁴ NW ⁴	10	38
SW ⁴ NW ⁴	10	34
SE ⁴ NW ⁴	10	38
NW ⁴ NE ⁴	10	33
NE ⁴ NE ⁴	10	35
SW ⁴ NE ⁴	10	40
SE ⁴ NE ⁴	10	40
NW ⁴ SW ⁴	10	40
NE ⁴ SW ⁴	10	40
SE ⁴ SW ⁴	10	40
NW ⁴ SE ⁴	10	38
NE ⁴ SE ⁴	10	40
SW ⁴ SE ⁴	10	40
SE ⁴ SE ⁴	10	38
	TOTAL	1011

8. Estimated cost of work:

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

9. Description of diversion works:

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

PUMP, PIPE, SPRINKLER SYSTEM

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 filledacre feet. Surface area at highwater markacres.

DEPTH AT OUTLET-Feet	SURFACE AREA AT EACH DEPTH AT OUTLET—ACRES	FEET	ACRE-Feet CAPACITY

(c)* Head gate: Width.....feet; heightfeet;
Material

(d) Canal: Total lengthmiles.

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 dimensions where reductions in size are made.)

10. Time required for completion of work5.....years.

11. Time required for complete application of water to the proposed beneficial use4..... years.

12. Choice of newspaper for publication of notice of intention to appropriate
ONIDA WATCHMAN, ONIDA, S. DAK

STATE OF SOUTH DAKOTA

County of Hughes } ss.

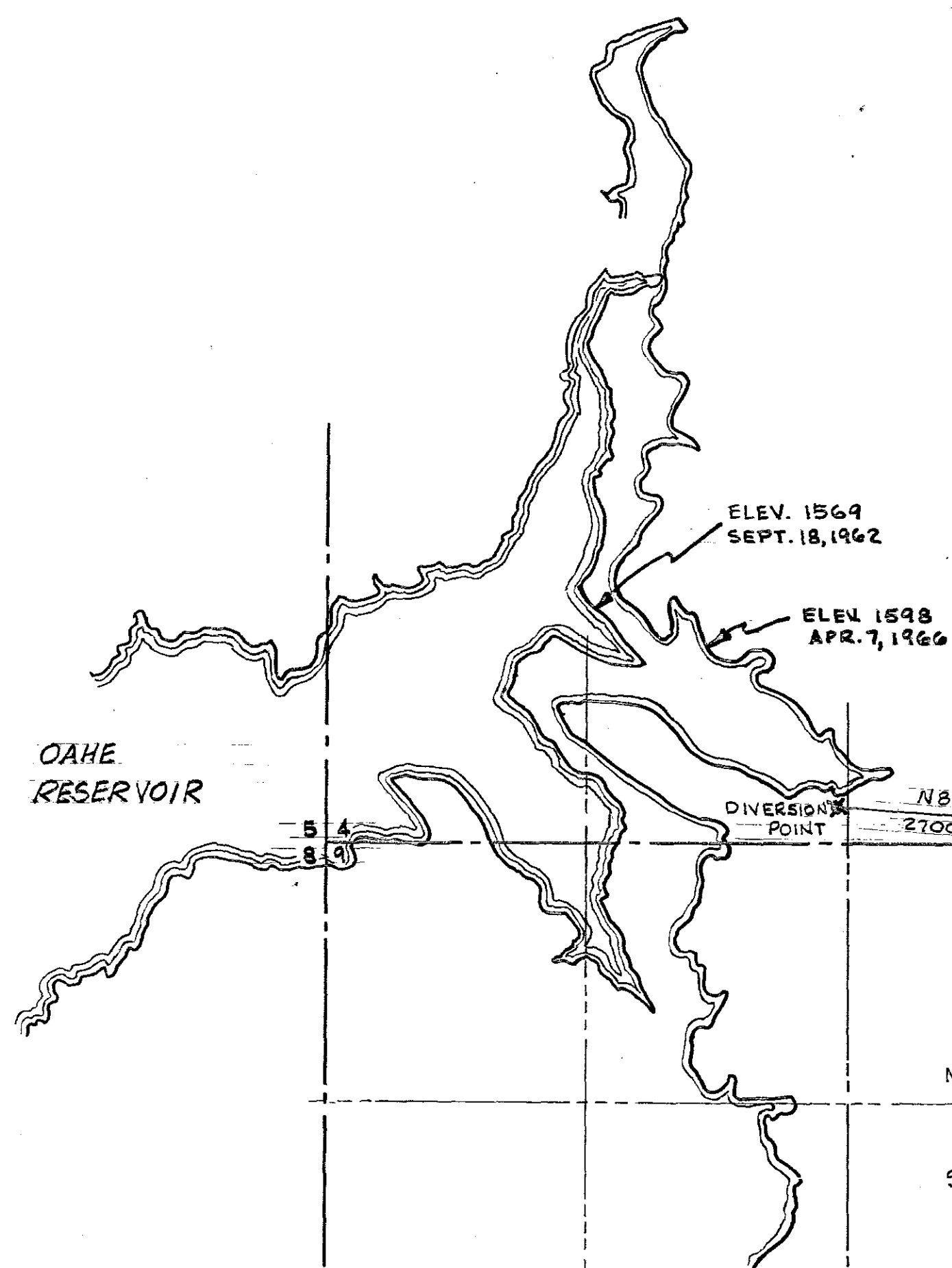
I, John Sutton Jr., being first duly sworn on my oath depose and say That my relation to the above described undertaking is that of owner, that I have read the above foregoing statement, examined the map accompanying the same, and that I know of my own personal knowledge that the matters therein stated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

Signed John E. Sutton, Sr. By John J.

Subscribed and sworn to before me this 7TH day of April 1966

Alvin H. Keller
Notary Public (or other qualified officer.)

*Each diversion must have a headgate or measuring device.



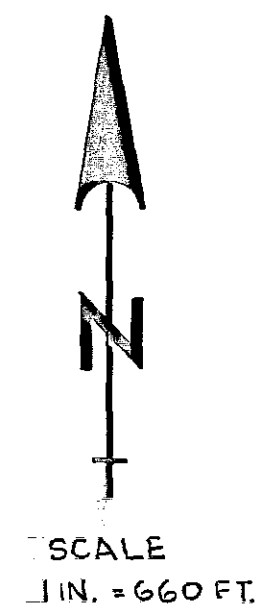
ALL LAND OWNED BY JOHN SUTTON & SONS
ALL IN T116N, R79W

LOCATION	SECTION	ACREAGE
NW ⁴	2	160
SW ⁴	2	160
NE ⁴ NE ⁴	3	20
SE ⁴ NE ⁴	3	20
NE ⁴ SE ⁴	3	20
SE ⁴ SE ⁴	3	20
NW ⁴ SW ⁴	3	3
NE ⁴ SW ⁴	3	2
SW ⁴ SW ⁴	3	9
SE ⁴ SW ⁴	3	21
NW ⁴ NE ⁴	9	2
NE ⁴ NE ⁴	9	3
SW ⁴ NE ⁴	9	7
SE ⁴ NE ⁴	9	30
NE ⁴ NW ⁴	10	38
SW ⁴ NW ⁴	10	34
SE ⁴ NW ⁴	10	38
NW ⁴ NE ⁴	10	33
NE ⁴ NE ⁴	10	35
SW ⁴ NE ⁴	10	40
SE ⁴ NE ⁴	10	40
NW ⁴ SW ⁴	10	40
NE ⁴ SW ⁴	10	40
SE ⁴ SW ⁴	10	40
NW ⁴ SE ⁴	10	38
NE ⁴ SE ⁴	10	40
SW ⁴ SE ⁴	10	40
SE ⁴ SE ⁴	10	38
TOTAL		1011

R79W

4 3
9 10

4 10
10 15



I, J.W. GRIMES DO HEREBY CERTIFY THAT THIS
MAP IDENTIFIES A REASONABLY ACCURATE RECORD
OF THE LANDS PROPOSED FOR IRRIGATION UNDER
THE JOHN SUTTON & SONS IRRIGATION PROJECT

SIGNATURE: *J.W. Grimes*
TITLE: *Reg. Eng., 744*

SUBSCRIBED AND SWORN TO BEFORE ME THIS
26 DAY OF APRIL, 1966

Alvin H. Allen
NOTARY PUBLIC

JOHN SUTTON & SONS
IRRIGATION PROJECT
SULLY COUNTY

NOT TO SCALE

NOT TO SCALE

(11-17) 4R
John E. Sutton

John E. Sutton

4R

181.5 transferred to Potter Co
out

John E. Sutton, Jr.

(27-29)
Velmer E. Ward

(27-30)
Orville A. Wagne

(27-17)
John E. Sutton

4R (27-19)

John E. Sutton

(27-19)
John E. Sutton

27-43
(1-172)
James L. Sutton

Rm Duvall
Water Resources Eng
6/25/85

Electro
12 line
1000
12000 gm

11/6/79

3 EI

Remarks by State Water Resources Commission:

STATE OF SOUTH DAKOTA
County of HUGHES ss.

Pierre, South Dakota, MAY 19, 1966

This is to certify that the foregoing application was received by the Commission at 2:30 o'clock
P.m. upon the 7TH day of APRIL, 1966

State Water Resources Commission

By:

Burton Jones
for Chief Engineer, Executive Officer

Number of permit 1272-3

Date of first receipt of application APRIL 7, 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 APRIL 7, 1966

Approved MAY 18, 1966, Recorded in Book 9 Page 115

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 NOVEMBER 18, 1968

2nd. The whole of said work is to be completed on or before MAY 18, 1971

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

MAY 18, 1975

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 14.44 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 MAY 18, 1975; said water to be used during the following described annual period:

APRIL THRU OCTOBER

Witness my hand this 19TH day of MAY, 1966

State Water Resources Commission

By:

Bill Jones
Chief Engineer, Executive Officer

Certificate of Construction Issued _____, 19____

Water License Issued _____, 19____

On or before April 21, 1966
(First Publication)

APPROPRIATION OF WATER

Office of State Water Resources Commission,

Pierre, S. Dak., April 13, 1966

Notice is hereby given that John Sutton and Sons, whose postoffice address is Agar, have made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 14.44 cubic feet of water per second of time from the Missouri River through the Sutton Irrigation Project, the point of diversion of which is to be located on the left bank of said stream in the SE 1/4 of the SW 1/4 of Section 4, T116N, R79W, all or portions of Twp. Range 79W. Said water to be used for the purpose of providing irrigation on the following described land:

W 1/2 Section 2; E 1/2 E 1/2, SW 1/4, Section 3; NE 1/4 Section 9; Section 10, T116N, R79W

~~XXXXXX~~

XXXXXX
purposes.

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 13th day of May, 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:
BUFTON F. JONES
Water Right Specialist

CC: E. L. Thompson, Publisher
Onida Watchman
Onida, S.D.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA }

County Sully } ss.E. F. Thompson being duly sworn, deposes and says the annexed printed copy of Notice

of Intention to Appropriate Water was taken from the -----

Omaha Watchman a newspaper which during the whole time of publication of said notice herein after stated, has been and is printed and published in theCity of Omaha County ofSully and State of South Dakota;

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

April 21, 1966April 28, 1966May 5, 1966May 12, 1966

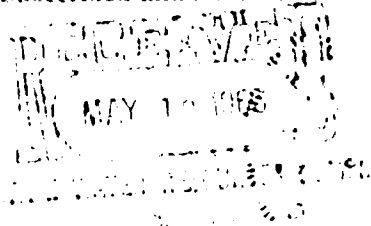
in each and every issue of the full number thereof, the first

publication being made on the 21st day of April1966 and the last publication on the 12th day ofMay 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 owner ~~the printer~~ and publisher of

the said newspaper.

E. F. ThompsonSubscribed and sworn to before me this 18 day of May A. D. 1966Notary Public W. L. Jones County, S. D.

WATER RIGHTS No. 1772-3
APPROPRIATION OF WATER

Office of State Water Resources Commission, Pierre, S. Dak., April 13, 1966.

Notice is hereby given that John Sutton and Sons, whose postoffice address is Agar, S. Dak., have made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 14.44 cubic feet of water per second of time from the Missouri River through the Sutton Irrigation Project, the point of diversion of which is to be located on the left bank of said stream in the SE1/4 of the SW1/4 of Section 4, Twp. 116N, Range 79W. Said water to be used for the purpose of providing irrigation on all or portions of the following described land: W1/2 Section 2; E1/2 E1/2, SW1/4, Section 3; NE1/4 Section 9; Section 10, T116N, R79W.

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 18th day of May, 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

11-14

DEPARTMENT OF THE ARMY
EASEMENT FOR RIGHT OF WAY
(PIPELINE)

ON Oahe Dam and Reservoir Project

NO. DACW45-2-67-5170

THE SECRETARY OF THE ARMY, under and by virtue of the authority vested in him by Title 10, United States Code, Section 2669, hereby grants to

John B. Sutton, Jr, an individual, doing business as, John Sutton & Sons Ranch, Agar, South Dakota

hereinafter designated as the grantee, for a period not exceeding ^{Permit} coextensive with State Water/
~~coextensive with State Water/~~ an easement for a right of way for an Irrigation Pump
and Irrigation Pipeline

over, across, in, and upon land under the control of the Secretary of the Army at the location shown in red on Exhibit A - Oahe Reservoir Real Estate Map, Segment "J" attached hereto and made a part hereof, and described as follows:

A parcel of land in the S $\frac{1}{2}$ of the S $\frac{1}{2}$ of Section 4, Township 116 North, Range 79 West of the 5th Principal Meridian, Sully County, South Dakota being of varying width and lying equidistant on each side of the following described line; beginning at a point on the east line of the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of the SE $\frac{1}{4}$, said point being 132 feet north of the SE $\frac{1}{4}$ of said SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ in Section 4; thence north 45° west, for a distance of 660 feet. The strip of land shall be 66 feet in width, lying 33 feet on each side of the line last described; thence continuing north parallel to the east line of said section 4 to the shoreline of the Oahe Reservoir; the last described course shall be 330 feet in width, lying 165 feet on each side of said line, containing 2.25 acres, more or less.

THIS EASEMENT is granted subject to the following conditions:

1. The grantee shall pay to the United States compensation in the amount of
One Hundred and no/100 Dollars (\$100.00)
, payable in advance. Compensation shall be made payable to the
Treasurer of the United States and forwarded by the grantee to District Engineer,
Omaha District, Corps of Engineers, 6012 U. S. Post Office and Courthouse,
Omaha, Nebraska 68102

2. The installation and/or operation and maintenance of said line shall be accomplished without cost or expense to the United States under the general supervision and subject to the approval of the officer having immediate jurisdiction over the property, hereinafter designated as "said officer", and in such manner as not to endanger personnel or property of the United States on the said United States land or obstruct travel on any road thereon. The grantee shall have the right of ingress and egress for such purposes.

3. The use and occupation of said land incident to the exercise of the privileges hereby granted shall be subject to such rules and regulations as the said officer may from time to time prescribe.

4. The grantee shall supervise the said line and cause it to be inspected at reasonable intervals, and shall immediately repair any leaks found therein as a result of such inspection, or when requested by said officer to repair any defects. Upon completion of the installation of said line and the making of any repairs thereto, the premises shall be restored immediately by the grantee, at the grantee's own expense, to the same condition as that in which they existed prior to the commencement of such work, to the satisfaction of the said officer.

5. Any property of the United States damaged or destroyed by the grantee incident to the use and occupation of the said premises, shall be promptly repaired or replaced by the grantee to the satisfaction of the said officer or in lieu of such repair or replacement the grantee shall, if so required by the said officer, pay to the United States money in an amount sufficient to compensate for the loss sustained by the United States by reason of damages to or destruction of Government property.

6. The United States reserves to itself the right to construct, use, and maintain across, over, and/or under the right of way hereby granted, electric transmission, telephone, telegraph, water, gas, gasoline, oil and sewer lines, and other facilities, in such manner as not to create any unreasonable interference with the use of the right of way herein granted.

7. The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the use and occupation of the said premises, nor for damages to the property of the grantee, or for injuries to the person of the grantee (if an individual), nor for damages to the property or injuries to the person of the grantee's officers, agents, servants, or employees, or others who may be on said premises at their invitation or the invitation of any one of them, arising from or incident to government activities, and the grantee shall hold the United States harmless from any and all such claims.

8. The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the construction, maintenance, and use of said line.

9. That the grantee shall furnish through said line such service as may be required from time to time for governmental purposes on said land, provided that payment for such service will be made by the United States at rates which shall be mutually agreeable but which shall never exceed the most favorable rates granted by the grantee for similar service.

10. In the event all or any portion of said land occupied by said line shall be needed by the United States, or in the event the existence of said line shall be considered detrimental to governmental activities, the grantee shall, from time to time, upon notice so to do, and as often as so notified, remove said line and related facilities to such other location or locations on said land as may be designated by said officer, and, in the event said line shall not be removed or relocated within ninety (90) days after any aforesaid notice, the United States may cause the same to be done at the expense of the grantee.

11. This easement may be terminated by the Secretary of the Army upon a reasonable notice to the grantee if the Secretary of the Army shall determine that the right of way hereby granted interferes with the use or disposal of said land or any part thereof by the United States, or it may be terminated by the Secretary of the Army for failure, neglect, or refusal by the grantee fully and promptly to comply with any and all of the conditions of this grant, or for nonuse, or for abandonment.

12. Upon the expiration or termination of this grant, the grantee shall, without expense to the United States, and within such time as the Secretary of the Army may indicate, remove the said line from said land and restore the premises hereby authorized to be used and occupied to a condition satisfactory to the said officer. In the event the grantee shall fail, neglect, or refuse to remove the said line and so restore the premises, the United States shall have the option either to take over the said line as the property of the United States, without compensation therefor, or to remove the said line and perform the restoration work as aforesaid at the expense of the grantee, and in no event shall the grantee have any claim for damages against the United States or its officers or agents, on account of the taking over of said line or on account of its removal.

13. The conditions of this instrument shall extend to and be binding upon and shall inure to the benefit of the heirs, representatives, successors, and assigns of the grantee.

14. That it is understood that this instrument is effective only insofar as the rights of the United States in the said property are concerned; and that the grantee shall obtain such permission as may be necessary on account of any other existing rights.

15. That it is understood that the Government shall not be held responsible for possible damage to any of the lessee's equipment due to erosion, wind and wave action.

16. That this easement and rights of way for water pipeline and pumping units are granted for the exercise of established water rights. It is understood and agreed that no right to use water from the Reservoir is created by this grant.

17. That the grantee shall not discharge waste or effluent from the right of way in such a manner that such discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.

That Conditions Nos. 15, 16 and 17 were added prior to execution of this easement.

This easement is not subject to Title 10, United States Code, Section 2662.

IN WITNESS WHEREOF I have hereunto set my hand this 11th
day of April 1967

/s/ Dale Kent

DALE KENT

3 Chief, Real Estate Division
Omaha, District, Corps of Engineers

**OVERSIZE
DOCUMENT IS
SUPPLEMENTARY
TO MICROFILM FILE**

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

3 Foss Building
3 East Capitol
Pierre, South Dakota 57501

WATER RIGHTS DIVISION
Phone (605) 773-3352

No. 1272A-3

1272-3

DEC 1 1986

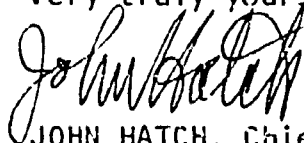
John E. Sutton, Jr.
RR 1, Box 13
Agar, South Dakota 57520

Dear Mr. Sutton:

Enclosed herewith is, Water License No. 1272A-3. 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 a continuing right to use the water.

Very truly yours,



JOHN HATCH, Chief Engineer
Water Rights Division

JH:ms

Enclosures

NOTE: Applicable portions of Water Permit No. 1272-3 have been incorporated into this Water License.