

- 2463-3
1. Considered 1-22, 1976
 2. Name of Applicant JAMES L. SUTTON
 3. Post Office Address ONIDA
 4. Amount of water claimed 27.0
 5. Source of water supply MISSOURI RIVER
 6. Water to be used for IRRIGATION
Acres to be irrigated 1890
 7. Water to be diverted and used in SULLY county
about 8N, 16W miles of ONIDA
 8. Proof of Publication Received 2-17-76
Not Received _____
 9. Application Approved _____
Subject to _____
Not Approved _____
Action deferred _____
 10. Remarks:

Map No. 1839-3A Water Division No. 3 MISSOURI RIVER District
(Blanks to be Filled by the Engineer for the W. R. C.)RECD
11-18-75
1:30 pm

APPLICATION FOR PERMIT

To Appropriative Water within the State of South Dakota

(NOTE--Draw a line through items not applicable)

1. Name of Applicant JAMES L. SUTTON
 Post-office address ONIDA, State S.D. 57564
 If a corporation show date and place of incorporation _____
2. Method of accomplishing work (contract, employment of others, or by direct labor) _____
3. Name of diversion work JIM SUTTON #1
4. Amount of water claimed (cubic feet per second) 27.0
5. Source of water supply MISSOURI RIVER
6. Location of point of diversion A POINT IN THE SE¹ SE¹, Section 19, T116N, R79W
 _____ County SULLY
7. Annual period or periods during which water is to be used APRIL THRU OCTOBER
8. Use to be made of water. (Irrigation, industrial, municipal, commercial, recreation, etc.) IRRIGATION
9. For irrigation use, Total number of acres to be irrigated 1890

List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

Land Description	No. Acres Irr.	Land Description	No. Acres Irr.
N ¹ SECTION 3, T116N, R79W	270	SECTION 30, T116N, R79W	275
SECTION 31, T116N, R79W	545	N ¹ SECTION 36, T116N, R80W	40
SECTION 32, " "	460	SE ¹ SECTION 25, T116N, R80W	65
S ¹ SECTION 24, " "	135		

Attach sheet if more space is needed

10. Time required to complete construction of water supply system 5 years. Additional time required to complete application of water to the proposed beneficial use 4 years.
11. Choice of newspaper for Notice of Intent to Appropriative Water publication ONIDA WATCHMAN, ONIDA, S.D.
12. Principal Features of the Proposed Water Supply System.

A. Works proposed to divert water from its natural source.

PUMPING PLANT

B. Works proposed to transport water to place of use.

MAINLINE TO PLOTS

C. Works proposed to apply water to beneficial use.

CENTER PIVOT SPRINKLER SYSTEMS

Estimated Total Cost \$ _____

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map.
(See instructions concerning preparation.)

STATE OF SOUTH DAKOTA)

County of DEUEL) ss.I, JAMES L. SUTTON the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary constructionSigned James L. Sutton
Subscribed and sworn to before me this 18th day of November, 1975Robert H. Hartman
Notary Public (or other qualified officer)
and Notary Clerk

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 2463-3

JAMES L. SUTTON
(Applicant)

ONIDA
(Post Office Address)

SOUTH DAKOTA 57564 With the following modifications:
(State)

Date of first receipt of application NOVEMBER 18 1975
Date of return to applicant for correction, amendments or changes required D- 19
Date of receipt of corrected application DECEMBER 23 1975
Approved JANUARY 23 1976, Recorded in Book 14 Page 273

WATER RIGHT PERMIT NO. 2463-3

The Water Rights Commission hereby grants and issues this Water Right Permit No. 2463-3 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as modified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is NOVEMBER 18 1975
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before JULY 23 1978
3. The whole of said work is to be completed on or before JANUARY 23 1981
4. The limit of time from onset of beneficial use of water appropriated in accordance herewith is JANUARY 23 1985
5. The water appropriated shall be used for the purpose of IRRIGATION

6. 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.

7. The amount of the appropriation herein granted shall not exceed 27.0 cubic feet per second; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for beneficial uses served, and if for the irrigation purposes said appropriation must be limited to not more than 3 acre feet per acre per year and be limited to not more than one-seventh (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 JANUARY 23 1985; said water to be used during the following described annual period: APRIL THRU OCTOBER

Witness my hand this 70TH day of FEBRUARY 1976

WATER RIGHTS COMMISSION

By: John Hallett
Chief Engineer, Executive Officer

Certificate of Construction Issued _____, 19____

Water License Issued _____, 19____

FILED
MCDER
680

SECTION
IRRIGATION
PROJECT
PIPELINE ALBOUT

No 2463-3Publish first publication, on or before January 8, 1976.NOTICE
INTENT TO APPROPRIATE WATER

Pierre, South Dakota 57501

January 2, 1976

Notice is hereby given that James L. Sutton, Jr.
whose post office address is Circle, South Dakota, has made an application in accordance
with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use
27.0 cubic feet of water per second of time from the Missouri River through the
Jim Sutton No. 1, the point of diversion of which is to be located in the _____

SE 1/4, S84

of Section 19, Twp. 116N, Range 79E. Said water to be used for the purpose
of providing irrigation on ^{portions of} the following described land:

N 1/2, Section 5, T115N, R79W; S 1/2, Section 29, Sections 30, 31, and
32, T116N, R79W, S 1/2, Section 25, NE 1/4, Section 36, T116N, R80W

This application No. 2463-3 will be considered by the Water Rights Commission at their office at
Pierre upon the 22nd day of January, 1976, at 2:30 P.M. All interested
persons may appear and be heard.

WATER RIGHTS COMMISSION

By:

BURTON F. JONES
Water Rights Specialist

BFJ/bw

cc: James L. Sutton, Jr.

LANDS - BE IRRIGATED

#2463.3

T115N R79W	SEC 5	NW ^{1/4}	135 AC.
		NE ^{1/4}	135 "
T116N R79W	SEC 29	S ^{1/2}	135 "
		SEC 30 S ² N ²	67.5 "
	SEC 31	S ²	235 "
		NW ^{1/4}	135
	SEC 32	NE ^{1/4}	135
		SW ^{1/4}	135
		SE ^{1/4}	135
		NE ^{1/4}	135
		SE ^{1/4}	135
		N ² SW ^{1/4}	67.5
	SEC 36	S ² NW ^{1/4}	67.5
		N ² SW ^{1/4}	35
		SE ^{1/4}	135
		E ² NE ^{1/4}	67.5
			1890 AC.

AFFIDAVIT OF PUBLICATION

Rec'd 2-17-76

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA)
County of Sully)

Alice Olson, of said County and State, being first duly sworn, on her oath says, that THE ONIDA WATCHMAN is a weekly newspaper of general circulation, published in the English language in the City of Onida, in said County and state, by said Alice Olson, and has been admitted to the United States mail under the second class mailing privilege at all of the times hereinafter mentioned, and for more than one year immediately preceding the first publication herein mentioned, and that all of said times has had more than 200 bona fide paid subscribers; that I, the undersigned, am the publisher of said newspaper in charge of the advertising department thereof and have personal knowledge of all the facts stated in the affidavit; and that the advertisement headed:

Notice Intent to Appropriate Water

a printed copy of which is hereto attached, was printed and published in said newspaper for successive issues, the first publication being made on THURSDAY, the 2nd day of *Jan*, 1976, and the last publication on THURSDAY, the 15th day of *Jan*, 1976, and that \$6.42 being the full amount of the fee for publication of the annexed notice mures solely to the benefit of the publishers of said newspaper; that no arrangement or understanding for a division thereof has been made with any person, and that no part thereof has been agreed to be paid to any other person whomsoever.

Alice Olson

(SEAL)

Subscribed and sworn to before me this

17th day of *Feb*, 1976

Notary Public

Notary Public In and For Sully County, South Dakota

My Commission

expires 7-7-80

NOTICE

INTENT TO APPROPRIATE WATER

Notice is hereby given that James L. Sutton, Jr, whose post office address is Onida, South Dakota, has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 27.0 cubic feet of water per second of time from the Missouri River through the Jim Sutton No. 1, the point of diversion of which is to be located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 19, Twp. 113N, Range 79W. Said water to be used for the purpose of providing irrigation on portions of the following described land: N $\frac{1}{2}$, Section 5, T115N, R79W; S $\frac{1}{2}$, Section 29, Sections 30, 31, and 32, T116N, R79W, SE $\frac{1}{4}$, Section 25, NE $\frac{1}{4}$, Section 36, T116N, R80W.

This application No. 2463-3 will be considered by the Water Rights Commission at their office at Pierre upon the 22nd of January, 1976, at 2:30 P.M. All interested persons may appear and be heard.

BURTON F. IONES
Water Rights Specialist



2463-3

DEPARTMENT OF THE ARMY
OMAHA DISTRICT, CORPS OF ENGINEERS
4014 U.S. POST OFFICE AND COURT HOUSE
OMAHA, NEBRASKA 68102

MRCOP-N
SD 2SB OXT 1 001007
James L. Sutton
Irrigation Intake Structure
Missouri River Mile 1132.80L (1960 Mileage)

9 November 1976

NOTICE OF PERMIT PENDING

The application of James L. Sutton, Box 33, Onida, South Dakota 57564, for approval of plans and issuance of a permit under authority of the Secretary of the Army is being considered by the District Engineer, U.S. Army Engineer District, Omaha, Nebraska.

The applicant requests permission to construct a permanent water intake facility in the Missouri River at mile 1132.80, left bank (Lake Oahe), in Section 25, Township 116 North, Range 80 West, Sully County, South Dakota. The proposed activity would consist of excavating approximately 30 cubic yards of material and minor grading and sloping of the banks to install five 15 horsepower skid mounted submersible pumps that will pump directly into five 100 horsepower electric booster pumps. The booster pumps will be permanently mounted on a concrete base and protected with a small pump house. The booster pumps will be connected to a 16 inch buried steel pipe carrying the water to the applicant's property as shown on the attached location map. All excavated material will be disposed of above ordinary high water and graded to drain. All disturbed areas will be seeded with compatible grasses. The purpose of the facility is to irrigate 4,000 acres of cropland.

A preliminary determination has been made that neither singularly nor cumulatively would this project have a significant effect on the quality of the human environment within the meaning of the National Environmental Policy Act and, therefore, an Environmental Impact Statement will not be required.

In compliance with the National Environmental Policy Act of 1969 and Section 106 of the National Historic Preservation Act of 1966, the National Register of Historic Places and monthly supplements thereto have been consulted and no properties included therein will be affected by this activity. However, presently unknown archeological, scientific, prehistoric, or historic data may be lost or destroyed by work to be accomplished under the requested permit.

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest.



The decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetics, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use classification, navigation, recreation, water supply, water quality, and in general the needs and welfare of the people. No permit will be granted unless its issuance is found to be in the public interest.

Any person who may have an interest in the proposed work described herein may request a public hearing. The request must be submitted in writing to the District Engineer within 30 days of the date of this public notice. The request must state the specific reasons for holding the public hearing.

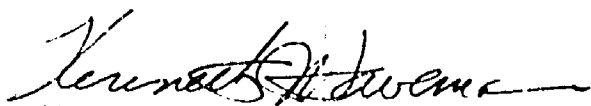
Any interested party (particularly officials of any town, city, county, state, federal agency, or local association whose interests may be affected by the proposed work) is invited to submit to this office written facts, arguments, or objections on or before 9 December 1976. Any agency or individual having an objection to the work should specifically identify it as an objection with clear and specific reasons.

A permit, if granted, will be under Section 10 of the River and Harbor Act of 1899 (36 Stat. 1151; 33 U.S.C. 405).

A drawing showing the location and extent of the work is attached to this notice.

FOR THE DISTRICT ENGINEER:

Attachment
As stated

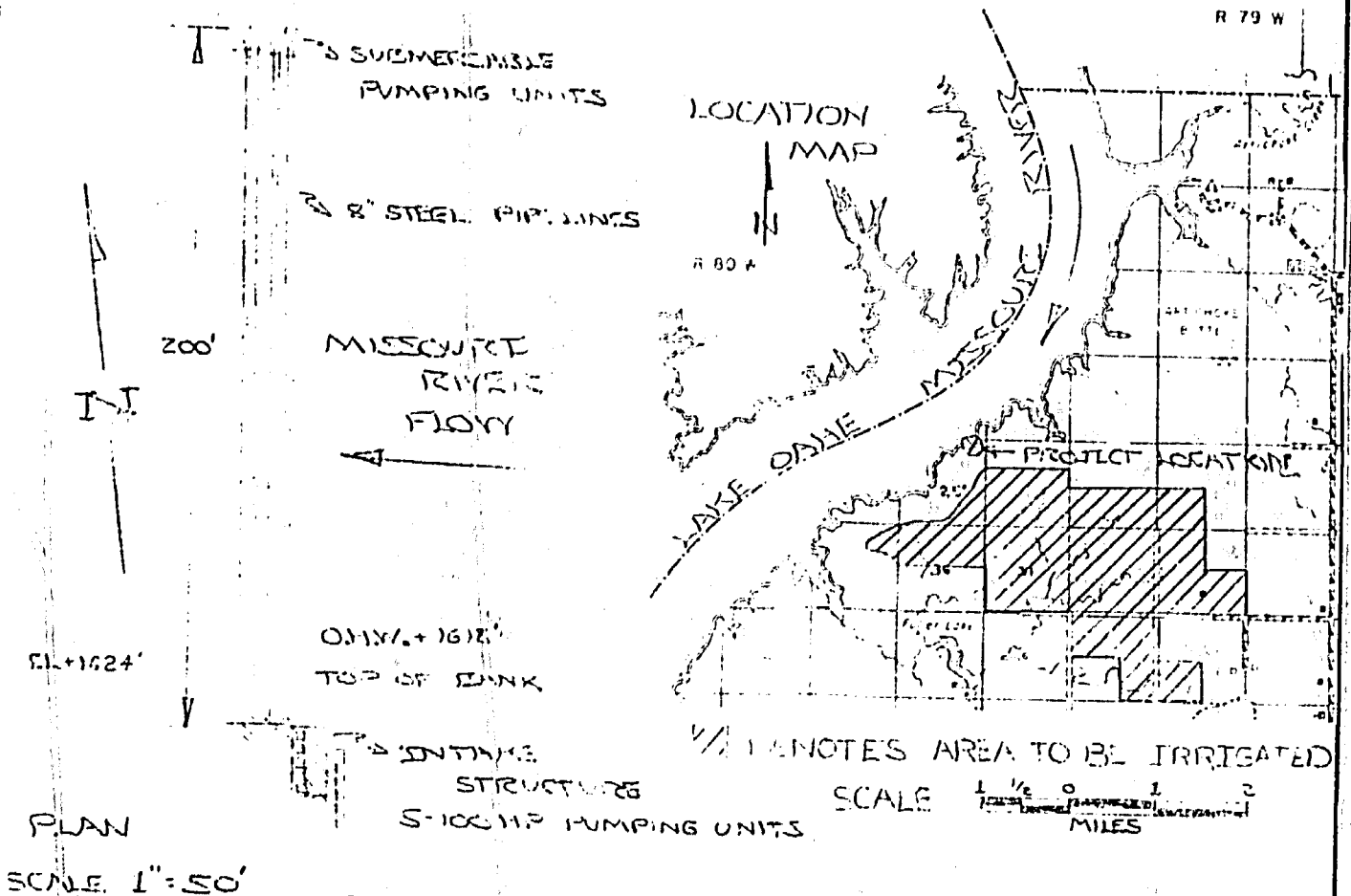


KENNETH J. HAVEMAN
Major, Corps of Engineers
Deputy District Engineer for Civil Works

SD 2SB OXT 1 001007



R 79 W



SCALE 1"=50'

16" BURIED STEEL PIPE LINE T-116N, R280W, Sec 25

PROPOSED PUMPING STATION
IN LAKE OAHIE OF MISSOURI
RIVER, SULLY COUNTY, S.D.

APPLICATION BY
JAMES L. SUTTON
MISSOURI RIVER MILE 1132.806

SECTION
SCALE 1"=50'

16" BURIED STEEL PIPE

AREA LEACHED FOR STRUCTURE

S-100HP PUMPING UNITS (2000/UNIT)

S-2" STEEL PIPE LINE

S-15HP SKID MOUNTED
SUBMERGIBLE TURBINES

SCREEN - BOX TYPE - 2' x 3' x 18" - 1/4" PERFORATED STEEL
34.4 FT² SCREENING AREA - 19.9 FT²
FLOW AREA

Velocity = .10 CFS

Water Rights Division
(605) 773-3352

November 18, 1981

Meyer Law Office
Brian B Meyer, Attorney
P.O. Box 89
Onida, SD 57564

Dear Mr. Meyer:

This will acknowledge your request of November 17, 1981 for transfer forms to transfer Water Permit Nos. 2463-3 and 4687-3 in the name of James L Sutton.

Enclosed are copies of our Form 20 "Notice of Transfer of Water Permit". Please have them checked over, dated, and notarized before returning them to this office with the required filing fee of \$2.50 each (\$5.00 total). The Permits will then be transferred to Jim Sutton & Sons, Inc. On the transfer forms, please include the complete mailing address of Mr. Sutton.

Please advise this office if you have any questions. On form of payment, please include permit numbers to insure proper credit.

Sincerely,

GENNY YOUNG
Staff Assistant

gy

encl

Water Rights Division - DWR
Conversation or File Documentation

File No. 2463-3

4687-3

NAME OF PERSON ~~OR FIRM~~: Brian Meyer, Attorney

ADDRESS: Oreida COUNTY

DATE: Sept 16, 1983 TELEPHONE: 258-2654

RE: Transfer of permits RE letter dated 11-18-81 (see file)

COMMENTS:

A letter in file dated 11-18-81 sent to Meyer
for transfer of above permits from James S. Sutton
to Jim Sutton & Sons Inc - transfers never
received.

Mr Meyer indicated the permits are no
longer to be transferred. They are privately
owned by Sutton - not Corporation.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

4/82

NAME: Benny McMath

2463

Water Rights Division - DWR
Conversation or File Documentation

File No. 4681

NAME OF PERSON OR FILE: Brian Meyer - Attorney

ADDRESS: P.O. Box 89, Omida, SD COUNTY Sully

DATE: July 15, 1985 TELEPHONE 258-2654

RE: Transfer of portions of land under Sutton permits

COMMENTS:
Mr. Meyer called and indicated that the following
lands are being assigned to Prudential Services
Co. and they are soon to become owners of the
property. The lands fall under both of Jim Sutton's
permits. Permits will need to be split & transferred.

T115N-R79W Section 4 SW 1/4

" 5 N 1/2 & SE 1/4

T116N-R79W Section 28 SW 1/4

" 29 S 1/2

" 32 All

" 33 NW 1/4

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

4/82

NAME: Jenny McMath

July 15, 1985

Brian Meyer, Attorney
PO Box 89
Onida, SD 57564

Dear Mr. Meyer:

Please find enclosed copies of a Notice of Transfer of Water Permit forms. These forms must be signed by the owner before a notary and returned to this office with a filing fee of \$2.50 each, total of \$5.00.

Upon receipt of the enclosed forms and the \$5.00 filing fees, the permits will be split and those portions owned by the Insurance Company will be transferred to them under "B" numbers. Permit Nos 2463-3A and 4687-3A will be listed under Jim Sutton and Permit Nos. 2463-3B and 4687-3B will be listed under the Insurance Company.

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

Please advise if you have any questions.

Sincerely,

Genny McMath
Natural Resources Analyst

GM:ms
Enc.

2463-3
4687-3

July 17, 1985

Tom Adam
May, Adam, Gerdes & Thompson
Box 160
Pierre, South Dakota 57501

Dear Mr. Adam:

Regarding our telephone conversation of July 17, 1985, enclosed are copies of Water Permit Nos. 2463-3 and 4687-3 presently listed under the name of Jim Sutton. The following legal descriptions (authorized for irrigation under Permit No. 2463-3 and 4687-3) are the lands described to me by Brian Meyer to be transferred to the Insurance Company.

T115N-R79W Section 4 SW $\frac{1}{4}$
Section 5 N $\frac{1}{2}$ & SE $\frac{1}{4}$
T116N-R79W Section 28 SW $\frac{1}{4}$
Section 29 S $\frac{1}{2}$
Section 32 ALL
Section 33 NW $\frac{1}{4}$

Permit Nos 2463-3 and 4687-3 are the only two permits that relate to the above described land.

Since Permit Nos. 2463-3 and 4687-3 authorize irrigation of more lands than listed above, those portions still owned by Jim Sutton will remain under his name and be identified in Permit Nos 2463-3A and 4687-3A. The lands listed above will be deducted from the original permits and transferred to Prudential under 2463-3B and 4687-3B.

During our telephone conversation you inquired about lands still owned by Mr. Sutton and any irrigation being done on those lands. At the present time our office does not know the extent of irrigation development on these lands. All water permits specify a completion date for construction of the project. This date, for most permits, is five years from the date of Approval. When this date has lapsed, an inspection of the water use system and the extent of development is made. Since the completion date has not yet lapsed for Permit No. 4687-3, no inspection has been made of Mr. Sutton's irrigation project.

If you have any questions, please contact us.

Sincerely,

Genny McMath
Natural Resources Analyst

GM:ms

State of South Dakota

Water License No. 4687-3

James L Sutton, Jr.

(1) Box 33, Onida SD
of _____

made Application No. 4687-3, March 24, 1981 for a water permit to appropriate
23.26 cubic feet per second of water from the Missouri River

Sully County, South Dakota for irrigation purposes.

Permit No. 4687-3, with a priority date of March 24, 1981

was approved May 1, 1981 and issued to applicant(s) for diversion of water with construction of the described
water supply system to be completed on or before May 1, 1986 and for the application to beneficial use of said
water on or before May 1, 1990

The applicable portions of Water Permit No. 2463-3 have been incorporated into
this Water License No. 4687-3. Specific priority dates for the lands irrigated are
described in Attachment A.

and

(2) It is certified that the application 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 39.7 cubic feet per second of water
for beneficial use. The location of the diversion point(s) is on the Missouri River approximately
2150 feet N and 1600 feet E of the center of Section 25, T116N, R80W