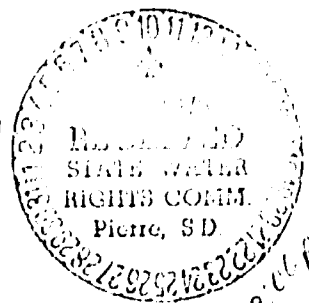


Water Right Number 3200-3

1. Considered 1-26, 19 77
2. Name of Applicant JOHN E. SUTTON, JR.
3. Post Office Address AGAR
4. Amount of water claimed 22.98
5. Source of water supply MISSOURI RIVER
6. Water to be used for IRRIGATION
Acres to be irrigated 1600
7. Water to be diverted and used in POTTER County
about 85 18 W Miles of GETTYSBURG
8. Proof of Publication
Received 1-21-77
Not received
9. Application
Approved
Subject to
Not approved
Action deferred
10. Remarks:

No. 3200-3Map No. 2463-3 Water 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 E. Sutton, Jr.
 Post-office address Neale, State S.D. 58000
 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 Sutton # 2
4. Amount of water claimed (cubic feet per second) 22.98
5. Source of water supply Missouri River
6. Location of point of diversion Between points in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 33, and in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ 29, T117N, R79W
 _____ County Potter
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 1600

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.
Section 34-T117N, R79W	640		
Section 35-T117N, R79W	640		
E $\frac{1}{2}$ Section 33, T117N, R79W	320		

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 Appropriate Water publication Potter County News, Gettysburg
12. Principal Features of the Proposed Water Supply System:

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

Pumps & Motors

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

Mainline

C. Works proposed to apply water to beneficial use.

Sprinkler and/or gravity

Estimated Total Cost \$ 500,000.00

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 DeWittI, John E. Sutton, Jr. 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 construction.Signed John E. Sutton, Jr.Subscribed and sworn to before me this 10th day of December, 1926.

Notary Public (or other qualified officer)

Henry Waterhouse

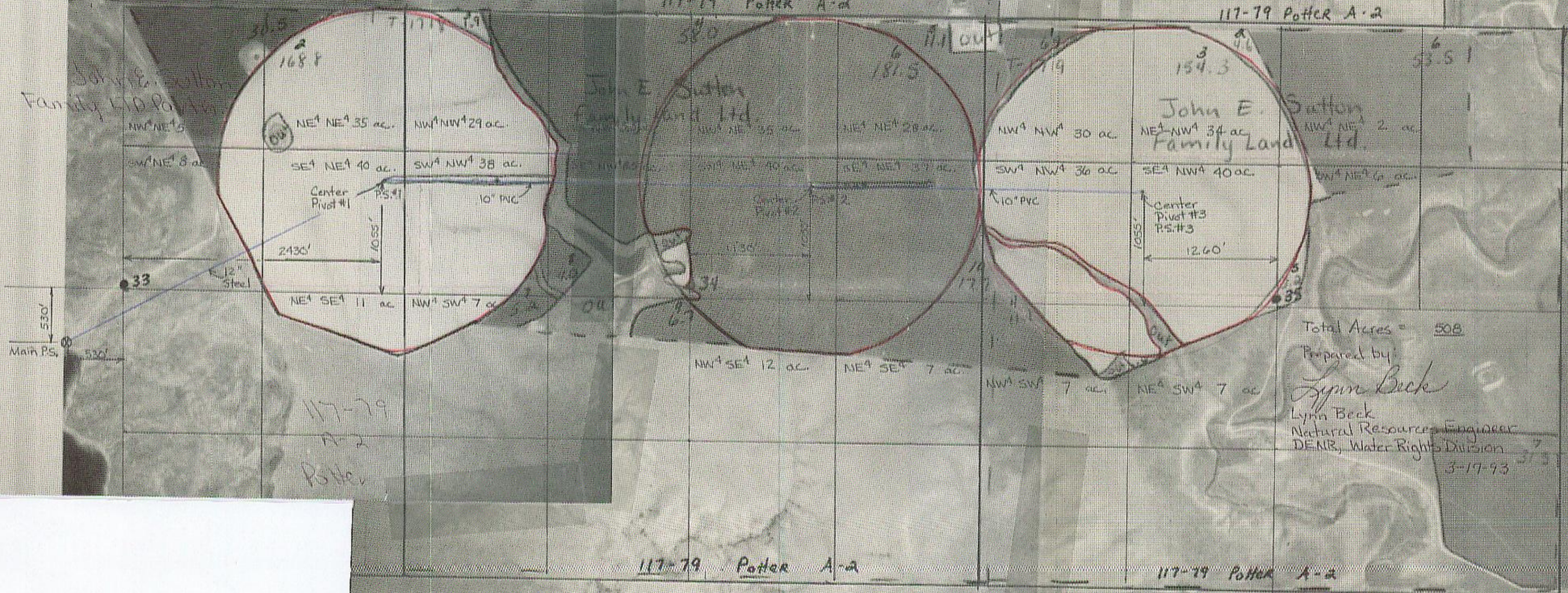
NOT TO SCALE

TO SCALE

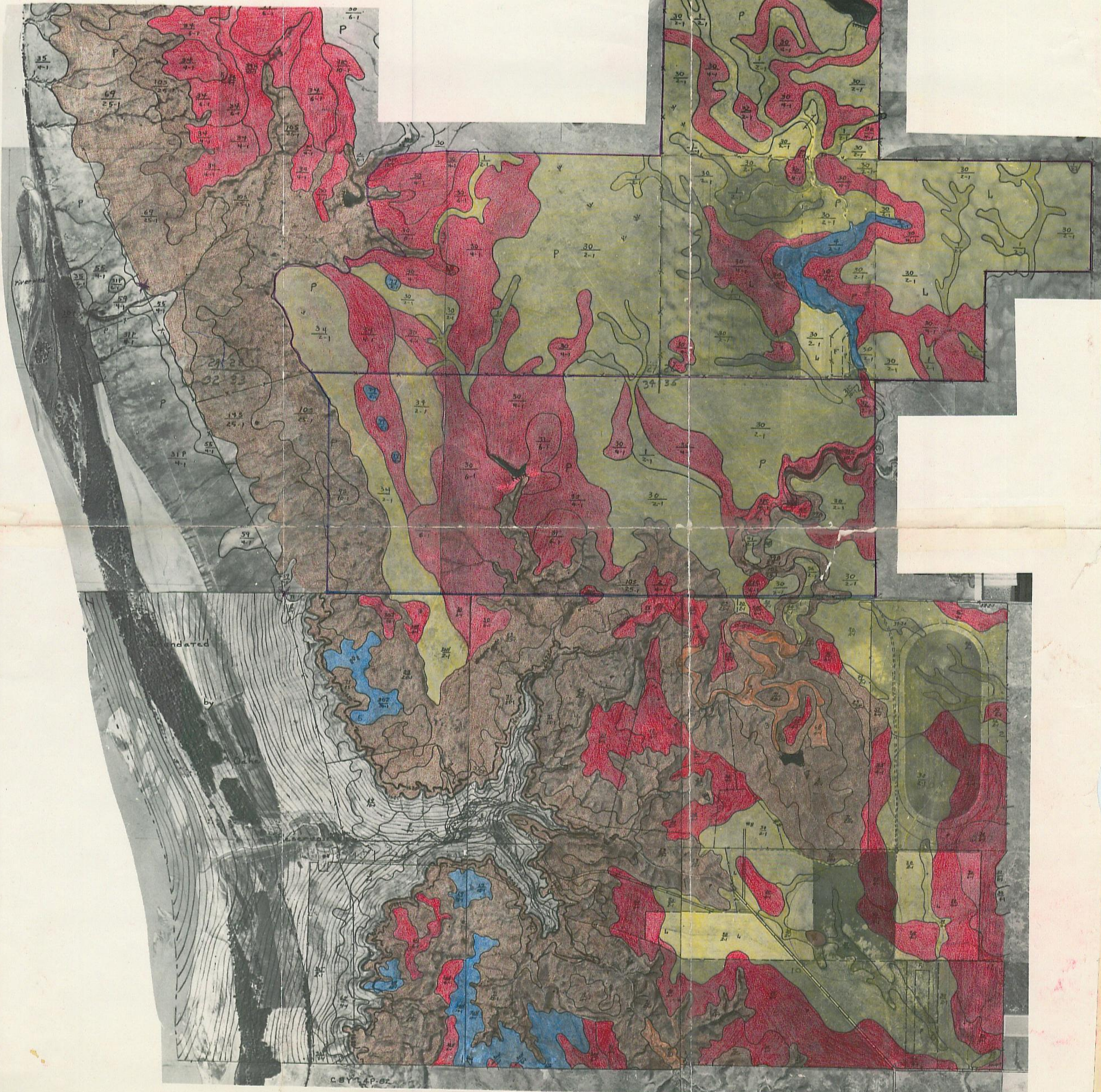
NOT TO SCALE

117-79 Potter A-2

117-79 Potter A-2



SOIL AND CAPABILITY MAP
 PREPARED BY U. S. DEPARTMENT OF AGRICULTURE, SOIL CONSERVATION SERVICE
 COOPERATING WITH SULLY Co. SOIL & WATER CONSERVATION DISTRICT
 AND SOIL CONSERVATION SERVICE PLAN NO. 50 DATE 11-22-46
 OWNER/OPER. JOHN E. "MATT" SUTTON AC. 8488
 PHOTO _____ APP. SCALE "/MI. COUNTY SULLY 1-6987



MAP NO 2463-3 (APPL NO 3200-3 & 3201-3)

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No 3200-3

JOHN E. SUTTON JR.
(Applicant)

AGAR
(Post Office Address)

SOUTH DAKOTA 57520 with the following modifications:
(State)

Date of first receipt of application NOVEMBER 10, 1976

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

Date of receipt of corrected application _____, 19____

Approved JANUARY 26, 1977 Recorded in Book 16 Page 288

WATER RIGHT PERMIT NO. 3200-3

The Water Rights Commission hereby grants and issues this Water Right Permit No. 3200-3 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 10, 1976
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before JULY 26, 1979
3. The whole of said work is to be completed on or before JANUARY 26, 1982
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is JANUARY 26, 1986
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 22.98 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-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 JANUARY 26, 1986; said water to be used during the following described annual period: APRIL THRU OCTOBER

Witness my hand this 28th day of FEBRUARY, 1977

WATER RIGHTS COMMISSION

By:

John H. Smith
Chief Engineer, Executive Officer

Certificate of Construction Issued _____, 19____

Water License Issued _____, 19____

No. 3200-3

Publish first publication, on or before January 13, 1977

**NOTICE
INTENT TO APPROPRIATE WATER**

Pierre, South Dakota 57501

December 15, 1976

Notice is hereby given that John E. Sutton, Jr.
whose post office address is Agar, 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
22.98 cubic feet of water per second of time from the Missouri River through the
Sutton # 2, the point of diversion of which is to be located XXXX
between points in the SE 1/4 SW 1/4, Section 33, and in the SW 1/4 SE 1/4

of Section 12, Twp. 117N, Range 7SW. Said water to be used for the purpose
of providing irrigation on the following described land:

1/4, Section 12, Section 34 & 35, T117N, R7W

This application No. 3200-3 will be considered by the Water Rights Commission at their office at
Pierre upon the 26th day of January 1977, at 10:00 A.M. All interested
persons may appear and be heard.

WATER RIGHTS COMMISSION

By:

**BURTON F. JONES
Water Rights Specialist**

BFJ/bw

cc: John E. Sutton, Jr., Agar, SD 57520

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
) ss.
County Potter)

I, Randall Howell hereby
certify that the annexed printed copy of Notice of Intent to Appropriate
Water was taken from the Potter County News

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 Gattysburg

County of Potter and State of South Dakota:
that the said notice was published in said newspaper on the following
two dates:

Jan. 13, 1977

Jan. 20, 1977

Randall Howell
(Signature)

Manager
(Title)

Jan. 20, 1977
(Date Signed)

NOTICE
Intent to Appropriate
Water

Pierre, S. D. 57501

December 15, 1976

Notice is hereby given that
John E. Sutton, Jr., whose
post office address is Agar,
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 22.98 cubic
feet of water per second of
time from the Missouri
River through the Sutton No.
2; the point of diversion of
which is to be located between
point in the SE 1/4
SW 1/4, Section 33, and in the
SW 1/4, SE 1/4 of Section 29
Twp. 117N, Range 79W. Said
water to be used for the
purpose of providing
irrigation on portions of the
following described land:
E 1/2, Section 33, Section 34 &
35, T117N, R79W.

This application No. 3200-3
will be considered by the
Water Rights Commission at
their office at Pierre upon
the 26th day of January, 1977,
at 10:00 A.M. All interested
persons may appear and be
heard.

Water Rights Com-
mission
Burton F. Jones
Water Rights Specialist





3200-3

DEPARTMENT OF THE ARMY
OMAHA DISTRICT CORPS OF ENGINEERS
6014 U.S. POST OFFICE AND COURT HOUSE
OMAHA, NEBRASKA 68102

MROOP-N
SD 2SB OXT 1 001028
John E. Sutton, Jr.
Irrigation Intake Structure
Missouri River Mile 1137.35 (1960 Mileage)

24 February 1977

NOTICE OF PERMIT PENDING

The application of John E. Sutton, Jr., Agar, South Dakota 57520 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 place a permanent intake structure in the Missouri River at mile 1137.35, left bank (Lake Oahe), in Section 33, Township 117 North, Range 79 West, Potter County, South Dakota. This proposed activity would consist of installing four, 25 horsepower, skid submersible, turbine pumping units that will pump directly into four, 100 horsepower, electric booster units. The booster pumps will be permanently mounted on a 10 foot by 20 foot concrete base which will require minor site grading (80 yards). The booster pumps will be connected to a 16 inch, buried discharge line pump direct to the 640 acres to be irrigated as shown on the drawing.

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. An Environmental Assessment is currently being prepared which will consider in its preparation, comments received in response to this public notice.

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.

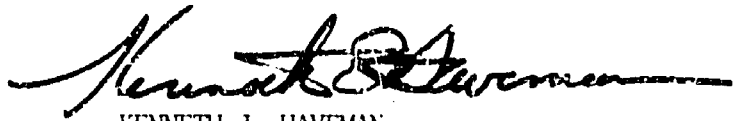
Any interested party (particularly officials of any town, city, county, state, federal agency, or local association whose interests may be affected by the proposed work) is invited to submit to this office written facts, arguments, or objections on or before 25 March 1977. Any agency or individual having 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 (30 Stat. 1151; 33 USC 403).

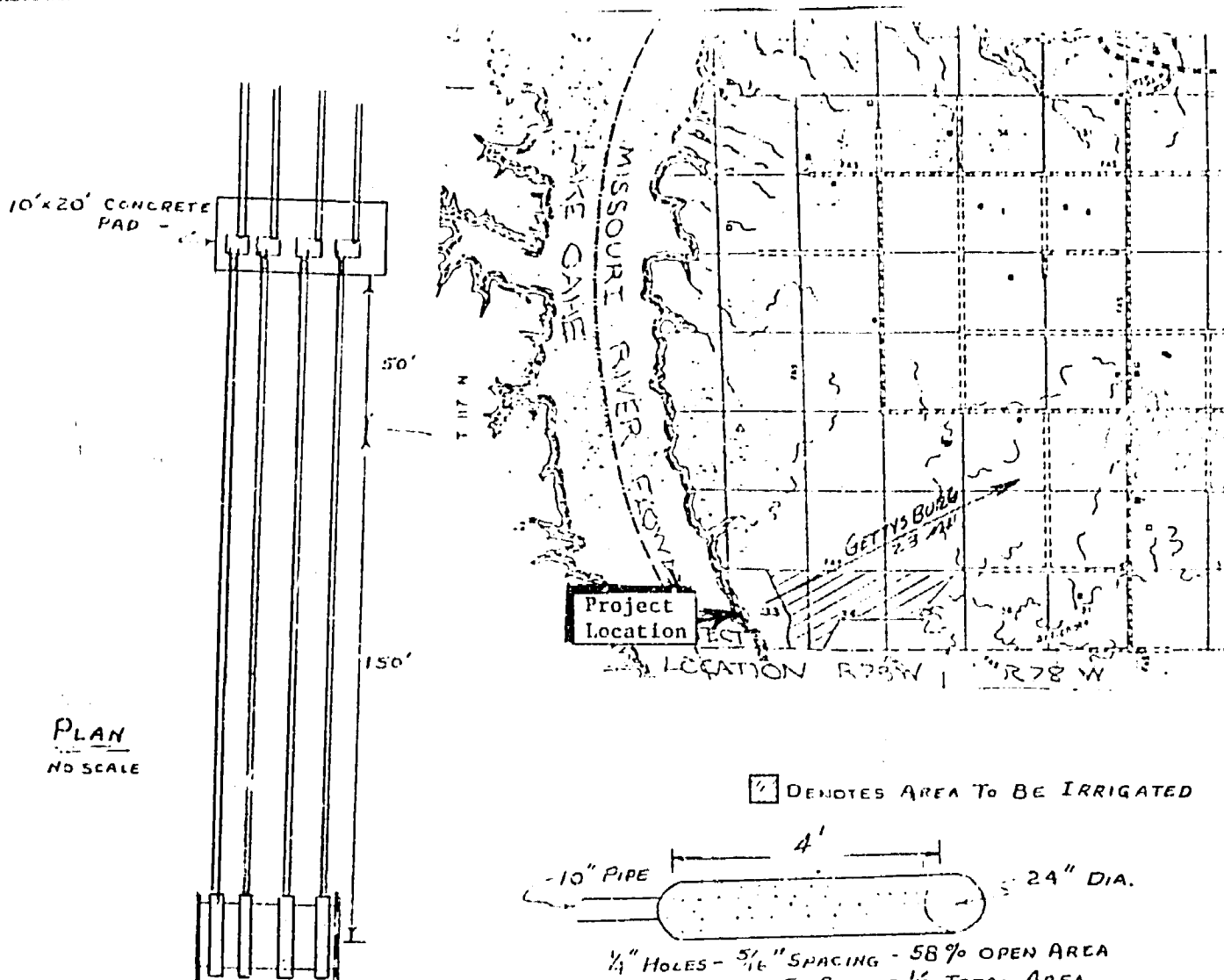
A drawing showing the location and extent of the work is attached to this notice.

FOR THE DISTRICT ENGINEER:

Attachment
As stated



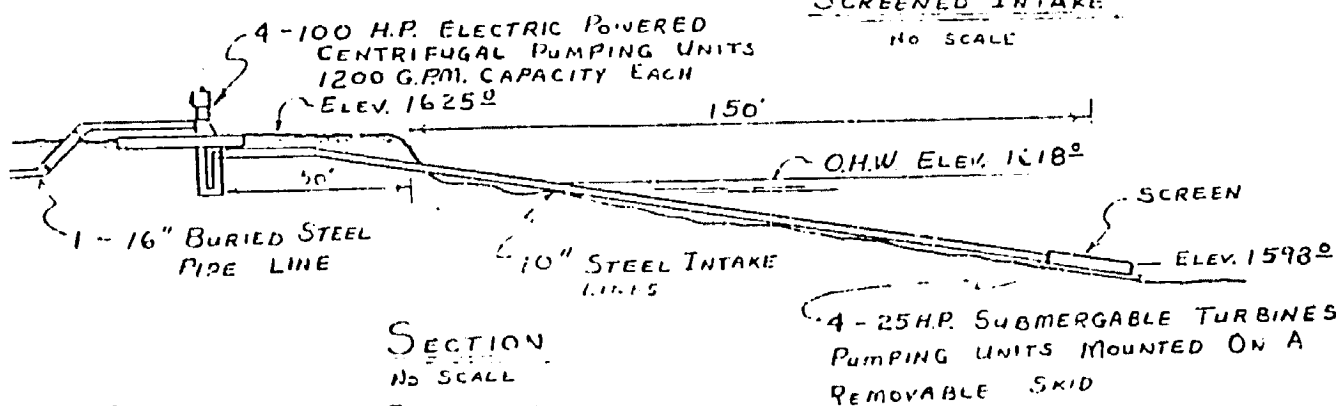
KENNETH J. HAVEMAN
Major, Corps of Engineers
Deputy District Engineer for Civil Works



PLAN
NO SCALE

1/4" HOLES - 5/16" SPACING - 58% OPEN AREA
 BOTTOM AREA IS SOLID = 1/3 TOTAL AREA
 INTAKE VELOCITY 0.21 fps.
 SCREENED INTAKE.

NO SCALE



PURPOSE: WATER INTAKE, IRRIGATION

LOCATION: M.S.L.

ADJACENT PROPERTY OWNERS:

1. U.S. GOVT.

2.

IN MISSOURI RIVER

AT MILE 1137.35

COUNTY OF POTTER

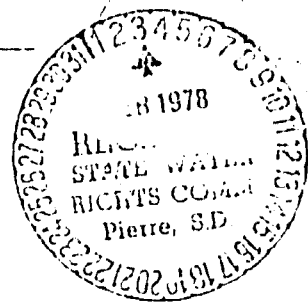
STATE S.D. DAK.

APPLICATION BY JOHN E. SUTTON JR.

SHEET 1 OF 1 DATE Nov. 17, 1976

Form 10.

No. 3200-3



NOTICE OF COMPLETION OF WORKS AND/OR
APPLICATION OF WATER TO BENEFICIAL USE

Post Office Pierre, S.D.

Date _____

TO: Water Rights Commission
Joe Foss Building
Pierre, South Dakota 57501

Dear Sirs:

This is to inform you that I have completed the construction of the water diversion system and/or that I have put the water to beneficial use to the maximum extent it is going to be used, not exceeding the amounts as specified in Water Right Permit No. 3200-3.

Water Right Permit No. _____ states that the diversion system is to be constructed by _____, 19____ and that the water is to be put to beneficial use by _____, 19____.

The diversion system was completed on 16 May, 1978.
Applying the water to beneficial use was completed on 16 May 78, 19____.

You may schedule an inspection so that the Certificate of Construction and/or the Water License may be issued, thus completing my acquisition of a water right.

John E. Sullivan Jr.
(Signature)



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-2181
January 29, 1988

JOHN E SUTTON JR
RR #1 BOX 13
AGAR, SD 57520

NOTICE

Re: Violation of Water Permit No(s). 1272A-3 and 1987 Irrigation Questionnaire Requirements

Our records indicate that the 1987 Irrigation Questionnaire has not been submitted for Permit No(s). 1272A-3. The request for the questionnaire was dated October 8, 1987. The Water Management Board has directed that owners of water permits who have not submitted 1987 Irrigation Questionnaires be given notice of permit violation and of hearing(s) before the Board. The hearing(s) will be held to determine action to be taken by the Board for violation of Water Permit No(s). 1272A-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will also be to determine if Permit No(s) 3200-3 should be amended with the qualification to require the Questionnaire to be submitted each year.

The hearing(s) will be at 9:00 am, March 2, 1988, in Room 216, Joe Foss Building, 523 E Capitol, Pierre, South Dakota.

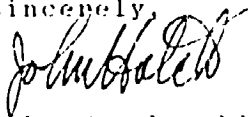
The hearing(s) will be conducted pursuant to the provisions of SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11, and 46-2-17. These are contested case hearings pursuant to procedures contained in SDCL 1-26.

Following the hearing(s), the Water Management Board can:

1. Suspend Permit No(s). 1272A-3 until either the 1987 Questionnaire is submitted or for the period of up to one year;
2. Amend Permit No(s) 3200-3 also held by JOHN E SUTTON JR to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action;
4. Take no action.

The hearing(s) 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.

Sincerely,

A handwritten signature in cursive script, appearing to read "John Hatch", written in dark ink.

John Hatch, Chief Engineer
Water Rights Division

Note: If the questionnaire(s) are received in this office before the March 2 hearing date, you will no longer be in violation of your permit(s) and your name will be deleted from the agenda pertaining to these hearings.

 **Department of
Water & Natural Resources**

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

February 10, 1988

1272A-3
3200-3

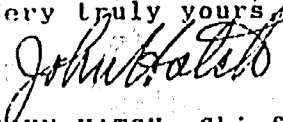
John E Sutton, Jr
RR 1, Box 13
Agar SD 57520

Dear Mr. Sutton:

I am writing to acknowledge receipt of your 1987 Irrigation Questionnaire(s). A notice was sent to you January 29, 1988 regarding the requirement to submit the Irrigation Questionnaire(s) for Water Permit No. 1272A-3 & 3200-3 and the hearing date before the Water Management Board.

Since your questionnaire was received prior to the March 2, 1988 Water Management Board Meeting, your name has been deleted from the Board Meeting agenda. If you have any questions, please contact us.

Very truly yours,



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



Department of Water & Natural Resources

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

February 9, 1989

3200-3

Matt Sutton
RR #1 Box 13
Agar, SD 57520

Dear Mr. Sutton:

Thank you for the return of your 1988 irrigation questionnaire for Water Right No. 1272A-3. You indicated on the form that you did not have a questionnaire for your Potter County permit.

Enclosed is a form for use in reporting irrigation done in 1988 under Water Permit No. 3200-3. The questionnaire was originally mailed to 906 N Madison, Pierre.

Please complete the questionnaire and return it to us as soon as possible. The columns titled "Water Used" can be left blank. We can calculate the water used as long as you have the "days pumped", average hours per day", and the "average pump rate" columns completed. A postage paid envelope is enclosed.

Thank you for your assistance in this matter. If you have any questions, please contact me.

Sincerely,

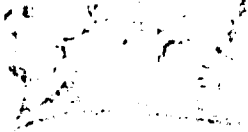
GENNY MCMATH
Natural Resources Analyst
(605) 773-3352

enclosure



3200-3

South Dakota



GREAT FACES. GREAT PLACES.
February 1, 1991

JOHN E. SUTTON JR.
RR #1 BOX 13
AGAR SD 57520

DEPARTMENT OF WATER & NATURAL RESOURCES
Joe Fosz Building
523 East Capitol
Pierre, South Dakota 57501-3181

NOTICE

RE: Violation of Water Permit No(s) 3200-3, 1272A-3 and 1990 Irrigation Questionnaire Requirements

Our records indicate that the 1990 Irrigation Questionnaire has not been submitted for Permit No(s) 3200-3, 1272A-3. The request for the Questionnaire was dated October 12, 1990. The Water Management Board has directed that owners of water permits who have not submitted the 1990 Irrigation Questionnaire be given notice of permit violation and a hearing to be held by the Board. The hearing will be held to determine action to be taken by the Board for violation of Water Permit No(s) 1272A-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will also be to determine if Permit No(s) 3200-3 should be amended with the qualification to require the Questionnaire to be submitted each year. The hearing will be held at 9:15 am, February 27, 1991, at the Governor's Inn in the meeting room, 700 West Sioux Avenue, Pierre SD.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to procedures contained in SDCL 1-26. Following the hearing, the Water Management Board can:

1. Suspend Permit No(s) 1272A-3 until the 1990 Irrigation Water Use Questionnaire is submitted or for a period of up to one year;
2. Amend Permit No(s) 3200-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or 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 questionnaires are received in this office before the February 27th hearing date, you will no longer be in violation of your permit and your name will be deleted from the agenda for the hearing.

Very truly yours,

Ron Duvall, Natural Resources Engineer IV
Water Rights Division
605 773-3352

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.
Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☒ Show to whom delivered, date, and addressee's address. (Extra charge)
2. ☐ Restricted Delivery (Extra charge)

3. Article Addressed to:

JOHN E SUTTON JR
RR #1 BOX 13
AGAR SD 57520

4. Article Number
P 694 057 456

Type of Service:

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

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee
X

6. Signature — Agent
X *John E Sutton*

7. Date of Delivery
2-5-91

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

PS Form 3811, A, rev. 1989 U.S.G.P.C. 1989 238-815 DOMESTIC RETURN RECEIPT

South Dakota

GREAT FACES. GREAT PLACES.

3200-3

DEPARTMENT OF WATER & NATURAL RESOURCES
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

February 11, 1991

1272A-3
3200-3

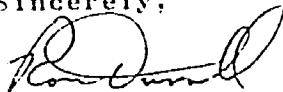
John E Sutton, Jr
RR #1 Box 13
Agar, SD 57520

Dear Mr. Sutton:

I am writing to acknowledge receipt of your '990 irrigation questionnaires for Water Permit Nos. 1272A-3 and 3200-3. You may disregard the February 1, 1991, Notice of failure to submit the 1990 irrigation questionnaire. With receipt of the questionnaires, your name has been deleted from the February Water Management Board meeting agenda.

If you have any questions, please contact Genny McMath, at (605) 773-3352.

Sincerely,



Ron Duvall, Natural Resources Engineer IV
Water Rights Division

Permit No. 3200-3Missouri River Water District

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

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

I have this day made a thorough examination of the water use system constructed by John E. Sutton, Jr. of RR 1 Box 13, Agar, SD 57520 holder of Permit No. 3200-3, bearing the priority of November 10, 1976 authorizing the diversion of 22.98 cu. ft. per second of the waters of Missouri River for irrigation purposes, in Potter County.

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

A. Works used to divert the water:

At the Missouri River - 2 Marathon Electric motors model no. 365TTD57320AA-W-F1, 100 hp
and 2 Cornell pumps model no. 5YBVH100-2, 3 11/16", 4500gpm total.

At the center pivots - 3 Marathon Electric motors model no. 365TTD325AA-W-F1, 75 hp and 3
Cornell pumps model no. 5Y-2B, 1200 gpm each.

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

3300' of 12" steel and 7100' of 10" pvc.

C. Works used to apply water to beneficial use:

3 Electrigrator center pivots, 1530' long, 9 tower, high pressure systems, 1200 gpm
capacity each.

The system is in the following condition good. The point of diversion is located at the Missouri River - 530' W and 530' S of the center of Sec. 33 and at each center pivot - 2430' E and 1055' N of the center of Sec. 33, 1130' E and 1055' N of the center of Sec. 34 and 1260' W and 1055' N of the center of Sec. 35; all in T117N-R79W. The works are capable of diverting and conveying to the place of use 10 cfs from the Missouri River and 5.23 cfs through the center pivots (runs two at a time) of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

All in T117N-R79W:

Sec. 33

Sec. 35

NW 1/4 NE 1/4 5 acres

NW 1/4 NW 1/4 30 acres

NE 1/4 35 "

NE 1/4 34 "

SW 1/4 8 "

SW 1/4 36 "

SE 1/4 40 "

SE 1/4 40 "

NE 1/4 SE 1/4 11 "

NW 1/4 NE 1/4 2 "

Sec. 34

SW 1/4 6 "

NW 1/4 NW 1/4 29 "

NW 1/4 SW 1/4 7 "

NE 1/4 5.5 "

NE 1/4 7 "

SW 1/4 38 "

SE 1/4 8.5 "

NW 1/4 NE 1/4 35 "

NE 1/4 28 "

SW 1/4 40 "

SE 1/4 37 "

NW 1/4 SW 1/4 7 "

NW 1/4 SE 1/4 12 "

NE 1/4 7 "

* Spots with 1/2 acre 10-15' recessed Rains pumps are capable of pumping to 40' - However, pumps only use 5.33 cfs at any one time. Pumps have never with push enough water thru pipeline. See permits with some water left in lines. See also for 5.33 cfs.

comprising a total of 508 acres of land and the license should be issued for 10 cfs at the Missouri River and 5.33 cfs through the system (b7c)

Application permit qualifications have been complied with Y Yes No

Exceptions to compliance are: none Date 8-17-92

Lynn Beck

Lynn Beck
Natural Resources Engineer III
DENR, Water Rights Division

REPORT ON INSPECTION OF PERMIT NUMBER 3200-3

DATE 8-17-92

Other permit(s) associated with the project none

DIVERSION POINT LEGAL LOCATION: At the Missouri River - NE 1/4 SW 1/4 Sec. 33-T117-R79W.

- | | | |
|-----------|--|-----------------------------------|
| | b) Pump | 1) make <u>2 cornell</u> |
| | | 2) model <u>5YBM100-2</u> |
| a) Motor: | | 3) size <u>8 11/16</u> inches |
| | | 4) capacity <u>4500 total</u> GPM |
| | 1) make <u>2 Marathon Electric</u> | 5) turbine pump - No. of stages |
| | 2) model No. <u>365TID57320AA-W-F1</u> | 6) operating pressure <u>PSI</u> |
| | 3) horsepower rating <u>100</u> hp | |

DIVERSION POINT LEGAL LOCATION: Booster pumps at each of the center pivots - SE 1/4 NE 1/4 Sec 33, SW 1/4 NE 1/4 Sec. 34 and SE 1/4 NW 1/4 Sec. 35; all in T117N-R79W.

- | | | |
|-----------|--------------------------------------|----------------------------------|
| | b) Pump | 1) make <u>3 Cornell</u> |
| | | 2) model <u>5Y-2B</u> |
| a) Motor: | | 3) size <u>inches</u> |
| | | 4) capacity <u>1200 each</u> GPM |
| | 1) make <u>3 Marathon Electric</u> | 5) turbine pump - No. of stages |
| | 2) model No. <u>365TID325AA-W-F1</u> | 6) operating pressure <u>PSI</u> |
| | 3) horsepower rating <u>75</u> hp | |

DISTRIBUTION LINES OR CANALS:

- | | | |
|----------------------|--------------------------|----------------------------|
| a) type <u>steel</u> | b) size <u>12</u> inches | c) length <u>3300</u> feet |
| a) type <u>pvc</u> | b) size <u>10</u> inches | c) length <u>7100</u> feet |

SYSTEM TYPE:

- e) Center pivot:
- 1) make 3 Electrigator
 - 2) overall length 1530 feet
 - 3) number of towers 2
 - 4) distance between towers feet
 - 5) end gun N (Y/N)
 - 6) high or low pressure high
 - 7) capacity 1200 each GPM

CHEMIGATION EQUIPMENT:

a) does chemigate N (Y/N)

PERMIT QUALIFICATIONS AND REGULATIONS:

- a) Soil and water permit lands agree with lands being irrigated and lands listed on permit N/A (Y/N)
- b) Special qualifications to permit being abided by Y (Y/N)
- c) All structures, wells and lands on map Y (Y/N)
- d) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Y (Y/N)

Comments: The application was approved prior to the Soil and Water qualification.



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

September 22, 1994

3200-3

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

Dear Mr. Sutton:

The inspection of your water use system and the inspection of the extent of application of water to beneficial use, as developed under Water Permit No. 3200-3, has been completed. Your final water right document, the Water License, can now be issued.

Statutes require that we charge a \$50.00 fee for the inspection and issuance of the Water License. Upon receipt of the \$50.00 fee from you, we will begin processing your Water License.

Please remit fee to:
Department of Environment & Natural Resources
Water Rights Division
523 E. Capitol
Pierre, SD 57501-3181

South Dakota Water Law 46-5-30.1 requires that a permit holder may not divert water until the \$50.00 license fee has been paid. Please contact us if you have any questions.

Sincerely,

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

NOTE: On check or money order, please specify your permit number. This will insure proper handling of the fee.

RECEIPT

414289

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____ October 5 _____, 19 94

RECEIVED OF Matt Sutton Ranch - John Sutton Jr., EC 2 Box 15, Agar, SD 57520
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>3200-3</u>	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	50 00

By John Hutchings
Chief Engineer

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 3200-3**

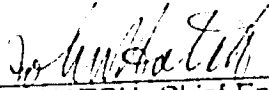
(1) John E Sutton, Jr. of HC 2 Box 13, Agar, SD 57520 made Application No. 3200-3, November 10, 1976 for a water permit to appropriate 22.98 cubic feet of water per second from the Missouri River, in Potter County, South Dakota for irrigation purposes. Permit No. 3200-3, with a priority date of November 10, 1976 was approved January 26, 1977 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before January 26, 1982 and for the application to beneficial use of said water on or before January 26, 1986.

(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 5.33 cubic feet of water per second for beneficial use. The location of the diversion point is 530'W and 530'S of the center of Section 33, T117N, R79W (NE 1/4 SW 1/4).

(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 508 acres of land: all in T117N, R79W

Section 33		Section 34 continued	
NW 1/4 NE 1/4	5.0 acres	NW 1/4 SW 1/4	7.0 acres
NE 1/4 NE 1/4	35.0 acres	NW 1/4 SE 1/4	12.0 acres
SW 1/4 NE 1/4	8.0 acres	NE 1/4 SE 1/4	7.0 acres
SE 1/4 NE 1/4	40.0 acres		
NE 1/4 SE 1/4	11.0 acres	Section 35	
Section 34		NW 1/4 NW 1/4	30.0 acres
NW 1/4 NW 1/4	29.0 acres	NE 1/4 NW 1/4	34.0 acres
NE 1/4 NW 1/4	5.5 acres	SW 1/4 NW 1/4	36.0 acres
SW 1/4 NW 1/4	38.0 acres	SE 1/4 NW 1/4	40.0 acres
SE 1/4 NW 1/4	8.5 acres		
		NW 1/4 NE 1/4	2.0 acres
NW 1/4 NE 1/4	35.0 acres	SW 1/4 NE 1/4	6.0 acres
NE 1/4 NE 1/4	28.0 acres		
SW 1/4 NE 1/4	40.0 acres	NW 1/4 SW 1/4	7.0 acres
SE 1/4 NE 1/4	37.0 acres	NE 1/4 SW 1/4	7.0 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 John E Sutton, Jr. of HC 2 Box 13, Agar, SD 57520 the holder and/or owner of Water Permit No. 3200-3 is issued a license to appropriate water, the right to use 5.33 cubic feet of water per second from the Missouri River with a priority date of November 10, 1976 from the location specified in (2) of this license. The water 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. 3200-3 and subject to South Dakota State Law.



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

NOV 14 1994

date



3200-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

NOV 14 1994

3200-3

John E. Sutton, Jr.
HC 2, Box 13
Agar, SD 57520

Dear Mr. Sutton:

Enclosed is Water License No. 3200-3 and Receipt No. 414289 for \$50.00 which was assessed for an inspection and issuance of the license. Water License No. 3200-3 is the final document which completes the process of obtaining a water right.

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

Very truly yours,

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

gm
enclosures

3200-3



January 9, 1998

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

NOTICE

TO: JOHN E "MATT" SUTTON JR, 17304 SUTTON BAY ROAD, AGAR, SD 57520 5100
FROM: Ron Duvall, Natural Resources Engineer
for John Hatch, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 1997 Irrigation Questionnaires

Our records indicate that the 1997 Irrigation Questionnaires have not been submitted for Permit Nos. 1272A-3, 3200-3. The request for the Questionnaires was dated October 17, 1997. The Water Management Board has directed that owners of water permits who have not submitted the 1997 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 3200-3 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 1272A-3 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at 9:45 am, February 25, 1998 in 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. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 1272A-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 3200-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or 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 questionnaires are received in this office on/or before February 20, 1998, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath (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.

3200-3



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 23, 1998

1272A-3
3200-3

John E "Matt" Sutton, Jr
17304 Sutton Bay Rd
Agar, SD 57520-5100

Dear Mr. Sutton:

I am writing to acknowledge receipt of your 1997 irrigation questionnaires. You may disregard the January 9, 1998, "Notice" concerning reporting requirements for Water Permit Nos. 1272A-3 and 3200-3.

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

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 3200-3



Date: _____

I/We request that Water Right No. 3200-3

formerly owned by: John E Sutton, Jr.

be transferred to: (name & address) Sutton Bay Golf, LLC, 1601 Old Cheney Road, Lincoln, NE 68517

Telephone No. 402-423-6653

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

508 acres - NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec 33; N $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{4}$ SE $\frac{1}{4}$ Sec 34; and NW $\frac{1}{4}$, W $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{4}$ SW $\frac{1}{4}$ Sec 35;
all in T117N-R79W

I/We understand that the validity of Water Right No. 3200-3 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).

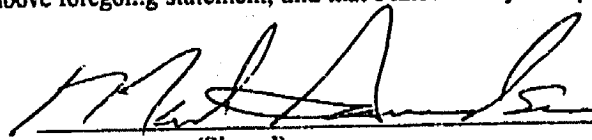
You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is attached to cover the filing fees as required under SDCL 46-2-13.

STATE OF SOUTH DAKOTA)

County of Minnehaha)

I/We Mark Amundson 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.


(Signed)

Subscribed and sworn to before me this 5th day of July, 20 01

My Commission expires: 7-11-01


(Notary Public)

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

NO 416861

Pierre, July 9, 2001

RECEIVED OF Davenport, Evans, Hurwitz & Smith LLP, PO Box 1030, Sioux Falls, SD 57101
the following amount in fees for services rendered as provided for by law: Sutton Bay Golf LLC (John E Sutton Jr.)

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 3200- _____

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

2 50

By _____

Chief Engineer

David A. Ebel

gm



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 10, 2001

1272A-3
3200-3

Mark Amundson
Sutton Bay Golf, LLC
1601 Old Cheney Rd
Lincoln, NE 68517

Dear Mr. Amundson:

Thank you for following up on the ownership changes for Water Right Nos. 1272A-3 & 3200-3. The transfers have been completed. The water rights formerly listed in the name of John E Sutton, Jr., are now listed in the name of Sutton Bay Golf LLC.

The receipts for the filing fees are being forwarded to Davenport, Evans, Hurwitz & Smith in Sioux Falls, SD.

If I can answer any questions for you, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

c: Davenport, Evans, Hurwitz & Smith, LLP
(with Receipt Nos. 416861 and 416862)