

Considered: _____

WATER PERMIT NO. 5715-3

Phone: 364-7402

Name of Applicant: Don Kulish

Post Office Address: RR 1, Box 138B, Utica SD 57067-9780

Amount of Water Claimed: 1.28 cfs Total Acres: 93

Source of Water Supply: groundwater

Water to be used for: irrigation County: Yankton

About 6 miles North of Utica

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

F.F. & C/.L. Adopted _____ Not Approved _____ Deferred _____

PRIORITY Date Received: 7-31-92 Fee: \$225 Remarks Using same

well as Permit No. 4802-3

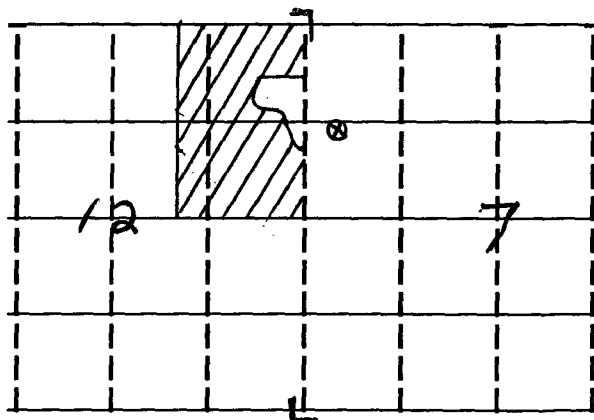
Corrected Application Received _____ Period of Annual Use April 1 - Oct 31

WATER QUALITY APPROVAL RECEIVED 10-1-92 APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as Application YES X NO _____ REMARKS _____

Diversion Point: SW 1/4 NW 1/4 Sec 7-T95N-R56W

Land to be Irrigated: NE 1/4 Sec 12-T95N-R57W



Well Log: Driller: Sioux Well Drilling Licensed YES X NO _____

Depth of Well: 200' REMARKS _____

Type of Map: aerial PREPARED BY: Darwin McGhee Reviewed and the Number

Assigned on 10-2-92 By Karen Schlaak

(See instructions)

No. 5715-3 Hydrology Unit 10160011
Basin James River
Newspaper Daily Press & Dakotan, PO Box 56

Yankton

Application For Soil/Water Compatibility Permit and Permit To Appropriate Water



1. Application location: ☒ New ☐ Vested Right ☐ Amend Permit No. _____
☐ Change Acreage ☐ Change diversion point(s) ☐ Add diversion point(s)
☒ Add Acreage ☐ Increase diversion rate ☐ Other See Permit #4802-3
- Name of Applicant Don Kulish Phone No. 364-7402
Post Office Address RR 1 Box 138B Utica State South Dakota 57067-9780
(Street, RR or Box) (City) (Zip Code)
2. Amount of water claimed (c.f.s.) 1.28 Addition Total acres irrigated 98 93
3. Source of Water supply ground water 1 well
4. Location of point of diversion Legal SW 1/4 NW 1/4 Sec 7 Township 95N Range 56W
same diversion point as #4802-3
County Yankton
5. Counties where water will be used _____
6. Annual period during which water is to be used Existing April-October 31
7. 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.
NE 1/4 NE 1/4 Sec 12	31
SE 1/4 NE 1/4 Sec 12	38
NW 1/4 NE 1/4 Sec 12	12
SW 1/4 NE 1/4 Sec 12	12

all in T95N-R57W

Attach sheet if more space is needed

Land Description	No. Acres Irr.

8. Type of Irrigation: Gravity: _____ Towline: _____ Center Pivot: X Gun: _____ Other: _____
9. Crops to be Irrigated: Corn, Soybeans, Alfalfa
10. Give a description of proposed project. (Attach sheet if more space is needed)
To add acreage to existing land covered under Permit # 4802-3

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach maps, soils information and any other technical information.

STATE OF SOUTH DAKOTA)
County of Yankton)^{ss}

I, Don Kulish, the applicant, certify that I have read this application and examined the attached maps, that the water sample, if needed, has been taken by the required procedures and has not been adulterated or tampered with and is truly representative of the water to be used, and that the matters stated in this application are true and correct.

Signed Don Kulish
Subscribed and sworn to before me this 27 day of July 1992
Arleta Hulse
Notary Public

**SOUTH DAKOTA
WATER PERMIT NO. 5715-3**

Date of first receipt of application July 31, 1992.

Date Soil/Water Compatibility Permit received October 1, 1992.

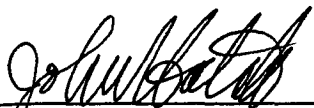
The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 5715-3 to Don Kulish, RR 1, Box 138B, Utica SD 57067-9780 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 5715-3 appropriates 1.28 cubic feet of water per second (cfs) from one existing well (Lower James Missouri:Scotland Aquifer) 200 feet deep located in the SW 1/4 NW 1/4 Section 7-T95N-R56W to irrigate 93 acres located in the NE 1/4 Section 12-T95N-R57W. The existing well is currently authorized by Water Permit No. 4802-3 to appropriate 0.85 cfs to irrigate 60 acres located in the S 1/2 NW 1/4, NW 1/4 NW 1/4 Section 7-T95N-R56W.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 - October 31.
3. The date from which applicant may claim right is July 31, 1992.
4. The date of approval of Permit No. 5715-3 is December 2, 1992.
5. One-fifth of the construction is to be completed on or before June 2, 1995.
6. All construction is to be completed on or before December 2, 1997.
7. Water is to be put to beneficial use on or before December 2, 2001.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

FEB 16 1993

date

Supplemental Information

(type or print in ink)



1. Well Information - Proposed construction

- a) Drill Hole Diameter See permit No. 4802-3 Depth _____
- b) Casing Type _____ Diameter _____ Thickness _____
- c) Screen Type _____ Diameter _____ Thickness _____
- d) Gravel Pack Thickness _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth to Water (ground surface to water level) _____
- g) Distance to nearest existing domestic well:
 On applicants property 400 ft. On property owned by others _____

2. Dugout Information Estimates

- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

3. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below. The locations of each dam should be shown on the map submitted with the application.

- a) If a private engineering firm or government agency was involved in the design of this dam please give their name and address

b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____
 If Pipe, diameter _____

f) Secondary Spillway Capacity _____
 Spillway width _____

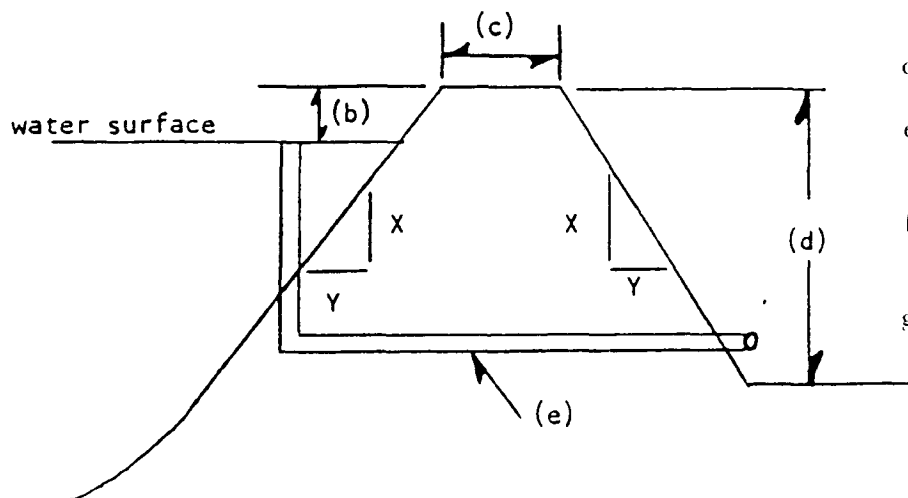
g) X & Y Slope
 Upstream _____

Downstream _____

Surface Area of Impoundment _____

Storage _____ acre feet

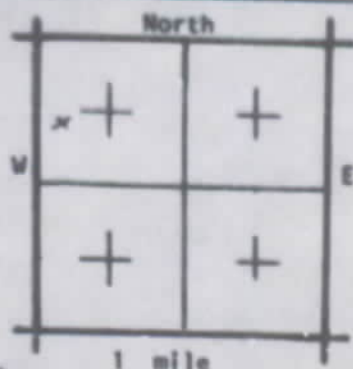
Drainage area above dam _____



Don Kulich
 Signature of Applicant

Water Level Information:
 Static water level 7.5 below land surface
 If flowing: closed in pressure PSI
 rate of flow GPM
 Controlled by:
 ☐ Valve ☐ Reducers ☒ Geller
 If other: specify _____

Mark location
with an "x"



Map of Sec. 7 Twp. 95 N. Rg. 56

☐ Domestic ☐ Municipal ☐ Test
Holes
☒ Irrigation ☐ Industrial ☐ Stock

☒ Forward Rotary ☐ Bored ☐ Jetted
☐ Reverse Rotary ☐ Cable ☐ Other

Diameter of Hole 16
Depth 213
Casing ☐ Steel ☐ Concrete
☒ Plastic ☐ Other
if other, specify

Was casing end left open yes
Was a well screen installed yes
Describe Well Screen 30' yes
Diameter 16" x Material PVC
Slot size 100
Was well gravel packed yes
Was well grouted yes
Was water sample taken yes

☒ Pumped
☐ Bailed Describe: _____
☐ Other _____

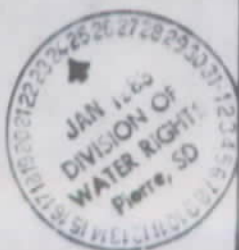
91	ft. After	4	Hrs. pumped	1160 GPM
10	20	10	10	10
10	20	10	10	10

[illegible]

(Use Back If Necessary)

Driller: Watmore Drilling 341
Driller's or Firm's Name License NO.
Elk Point S.D.
Address
James Watmore 12-28-32
Signed By Date

Remarks:



PLEASE COMPLETE
ENTIRE FORM

WELL DRILLERS REPORT
Division of Water Rights
Department of Water & Natural Resources

6/60

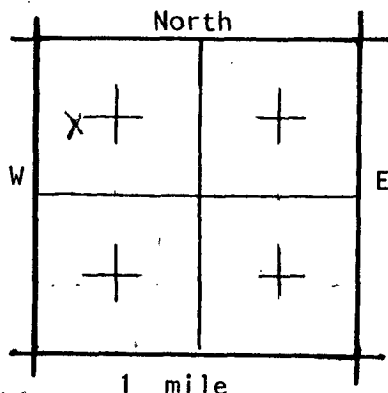
Well Owner:

Name Donald Kulish

Address Seabrook, So. Dak.
Utica

Well Location:

Mark location
with an "X"



County Yorkton

NW 1/4 Sec. 7 Twp. 95 Rg. 56

Proposed Use:

☐ Domestic ☐ Municipal ☐ Test Holes
☒ Irrigation ☐ Industrial ☐ Stock

Method of Drilling:

☒ Forward Rotary ☐ Bored ☐ Jetted
☐ Reverse Rotary ☐ Cable ☐ Other

Well Construction:

Diameter of Hole _____
Depth _____
Casing ☐ Steel ☐ Concrete

☐ Plastic ☐ Other

If other, specify _____

Was casing end left open _____

Was a well screen installed _____

Describe Well Screen

Diameter _____ Material _____

Slot size _____

Was well gravel packed _____

Was well grouted _____

Was water sample taken _____

Remarks:

Water Level Information:

Static water level 770 below land surface

If flowing: closed in pressure _____ PSI
rate of flow _____ GPM

Controlled by:

☐ Valve ☐ Reducers ☐ Other

If other; specify _____

Well Test Data:

☐ Pumped

☐ Bailed

Describe: _____

☐ Other

Pumping Level Below Land Surface

_____ ft. After _____ Hrs. pumped _____ GPM
_____ " " _____ " " _____ "
_____ " " _____ " " _____ "

Well Log: test (sample hole)

Formation	Depth	
	From	To
sand	0	8
clay yellow	8	21
clay grey	21	97
sand fine	97	106
clay (gray)	106	114
sand (colored)		
fine to med.	114	130
sand (colored)	130	165
sand (colored)	165	180
med.		
sand (colored)		
med to coarse	180	200
not bottom of quarter		
(Use Back if Necessary)		

Date Completed: 16 Aug 81

Driller:

Sioux Well Drilling

Driller's or Firm's Name

127

License NO.

1401 E 63rd St. N.

Address

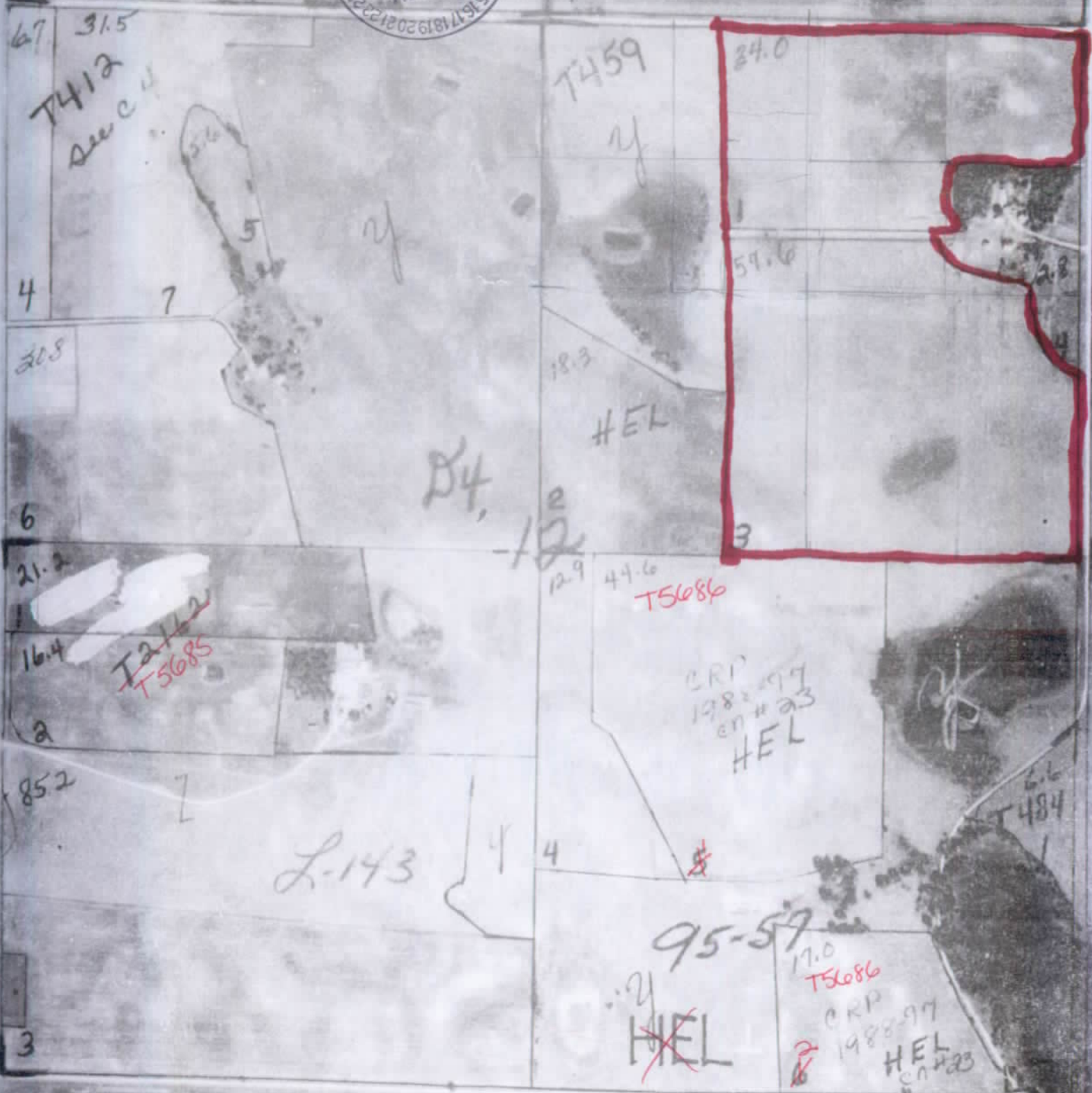
Wayne W. Wagon

Signed By

16 Aug 81

Date

NOT TO SCALE



Darwin M. Shae
Co. Ellsworth

Yankton Co

Appl No. 5715-3

RECEIPT

413358

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, July 30, 19 92RECEIVED OF Don Kulish, Rt 1, Box 138B, Utica SD 57067

the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. <u>5715-3</u> to Appropriate Water, to construct and to put water to beneficial use _____	225	00
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 _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	225 00

By John Hatch
Chief Engineer

JOHN HATCH KS

Department of Agriculture
WI#1
5/87

SOIL/WATER COMPATIBILITY PERMIT
Division of Conservation

Office Use Only

4727

WR#

OWNERS NAME: DON KULISH OWNERS ADDRESS: RR 1 BOX 1385
UTICA SD 57067-9780

COUNTY LAND LOCATED IN: YANKTON PHONE: 364-7402

LEGAL DESCRIPTION:

☒ Well

☐ Surface

1. LOCATION: SW $\frac{1}{4}$ NW $\frac{1}{4}$ 7-T95N-R56W
Depth: (SAME DIVERSION POINT AS #4802-3)

Legal Description	Acres	Legal Description	Acres
NE $\frac{1}{4}$ NE $\frac{1}{4}$ 12-T95N-R57W	31		
SE $\frac{1}{4}$ NE $\frac{1}{4}$ 12-T95N-R57W	38		
NW $\frac{1}{4}$ NE $\frac{1}{4}$ 12-T95N-R57W	12		
SW $\frac{1}{4}$ NE $\frac{1}{4}$ 12-T95N-R57W	12		

2. TYPE OF IRRIGATION: GRAVITY: _____ TOWLINE: _____ CENTER PIVOT: ☒ GUN: _____ OTHER: (Specify) _____

3. CROPS TO BE IRRIGATED: CORN, SOYBEANS, ALFALFA

WATER QUALITY:

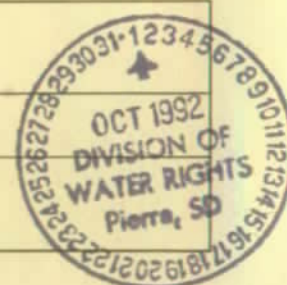
4. WATER SAMPLE NUMBER: 81-739

7. ADJUSTED (SAR): 0.26

5. SALINITY (EC X 10⁶): 750

8. PERCENT SODIUM: 2.18

6. SODIUM (SAR): 0.10



Requirements:

The area mapped as Ethan-Davis loam, 9-15% slope (EoD), may have an excessive erosion hazard. These slopes shall be kept in permanent vegetation and restricted from irrigation.

The area mapped as Ethan-Bonilla loam, 3-9% slopes (Enc) may have an erosion hazard. Erosion control measures should be implemented, if a problem occurs.

The area mapped as Egan-Wentworth silty clay loam, 0-2% slopes (Eca) has a soil texture limitation.

Russell L. Stone

Director, Division of Conservation

XXX APPROVED

 DISAPPROVED

 WAIVER

XXX REQUIREMENTS

Soil/water permits will be recorded by the Department of Agriculture, with the County Register of Deeds.

SEPTEMBER 29, 1992

Date

REPORT ON APPLICATION NO. 5715-3
for Don Kulish
October 22, 1992

Application No. 5715-3 proposes to appropriate 1.28 cfs (576 gpm) from one existing well approximately 213 feet deep located in the SW 1/4 NW 1/4 of section 7, T95N R56W to irrigate 93 acres located in the NE 1/4 of section 12, T95N R57W. This existing well is currently authorized by Water Permit No. 4802-3 and appropriates 0.85 cfs to irrigate 60 acres. This notice also serves to readvertise the location of those same 60 acres. The irrigated land was incorrectly advertised as being located in the S 1/2 NW 1/4, NW 1/4 NW 1/4 of section 7, T95N R55W and the corrected legal description should be S 1/2 NW 1/4, NW 1/4 NW 1/4 of section 7, T95N R56W all in Yankton County.

AQUIFER - LOWER JAMES MISSOURI SCOTLAND (LJM-S)

The Lower James Missouri Scotland aquifer is a Pleistocene glacial outwash (sand and gravel) under predominantly confined conditions. However, the aquifer can be either water table or artesian depending upon the location. The Lower James Missouri Scotland underlies 37,700 acres and contain an estimated 847,000 acre feet of recoverable water in storage in Yankton County (Hedges, 1982). The aquifer is hydraulically connected to the Lower James Missouri aquifer to the east and to the Choteau Tyndall aquifer to the west. The driller's log submitted with this application indicates that the aquifer top is 83 feet below land surface and extended to a depth of 213 feet. The well as completed produced 1250 gpm with 9 feet of drawdown. This results in a specific capacity of about 140 gpm/ft of drawdown. This is indicative of a prolific aquifer.

The Division of Water Rights monitors six observation wells (YA-80T, YA-80U, YA-80A, YA-80C, YA-80V and YA-80H) which are within a 2 mile radius of this application. Water levels for these wells show good response to climatic conditions, that is, rising water levels during wet years (recharge) and gradually declining water levels during dry years. In general, the water levels records for these wells indicated that the aquifer is capable of sustaining additional withdrawals (Water Rights, 1992).

REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are no other water permits/rights within 3 miles of this application for water from this aquifer. There is another Water Permit No. 4968-3 for additional water from this same well to irrigate additional lands. In all, this application and the two existing permits would authorize a diversion of 2.79 cfs for irrigation of 199.4 acres. The well as reported on the driller's log is capable of producing this volume of water. Interference is not expected to be a concern.

CONCLUSIONS

1. Water is available from the Lower James Missouri Scotland aquifer.
2. The aquifer is confined but basically under water table conditions in this area. Drawdown caused by pumping should not be significant. This is shown by the observation well records. Interference is not expected to be a concern.
3. The driller's log indicates that the well was grouted. Not enough information is available to determine if this well was completed in accordance with existing SD Well Construction Standards.



James A Goodman
Natural Resources Engineer

BIBLIOGRAPHY

Hedges, L.S., etal, 1982, Evaluation of Ground-Water Resources Eastern SD and Upper Big Sioux River, SD and Iowa, for US Army Corps of Engineers, SD DENR, SDGS, Vermillion, SD, 57069.

Water Rights, 1992, Unpublished Observation Well Records for Yankton County, SD DENR, Division of Water Rights, Pierre, SD, 57501.

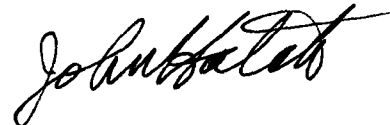
RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 5715-3, Don Kulish

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Environment and Natural Resources concerning Water Permit Application No. 5715-3, Don Kulish, RR 1 Box 138B, Utica, SD 57067-9780.

The Chief Engineer is recommending APPROVAL of Application No. 5715-3 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.



JOHN HATCH, Chief Engineer
October 28, 1992



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPER RIGHT AWAY.

October 30, 1992

Don Kulish
RR 1 Box 138B
Utica, SD 57067-9780

Dear Mr. Kulish:

Water Permit Application No. 5715-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Daily Press and Dakotan printed at Yankton, SD (Ph # 665-7811). For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice of Hearing and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. The newspaper has been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 30, 1992

Daily Press and Dakotan
PO Box 56
Yankton, SD 57078

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 5715-3 to be published twice. Please publish the first notice on November 5, 1992, with the second publication 7 days later.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is Don Kulish, RR 1 Box 138B, Utica, SD 57067-9780 (Ph # 364-7402).

A copy of BOTH publications must be SENT to the WATER RIGHTS DIVISION. IMMEDIATELY return the FIRST publication with the FIRST Transmittal form on the bottom of this page. The first copy is needed to check the publication for errors so any corrections can be made in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. No action may be taken on the permit application until proof of publication has been received.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

FIRST TRANSMITTAL NOTICE

TO: Eric Gronlund
Water Rights Division
Joe Foss Building
Pierre SD 57501-3181

No. _____

Date _____

We are in receipt of your letter of _____ enclosing Notice of Hearing to
Appropriate Water by Application No. _____ which was first published in our issue
of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper

Instruction to Newspaper - Publish first Notice on November 5, 1992, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 5715-3 to Appropriate Water
and Readvertisement of Water Permit Application No. 4802-3

Notice is given that Don Kulish, RR 1 Box 138B, Utica, SD 57067-9780 has filed an application for a water permit to appropriate 1.28 cubic feet of water per second (cfs) from one existing well (Lower James Missouri:Scotland Aquifer) 200 feet deep located in the SW 1/4 NW 1/4 Section 7-T95N-R56W to irrigate 93 acres located in the NE 1/4 Section 12-T95N-R57W. The existing well is currently authorized by Water Permit No. 4802-3 to appropriate 0.85 cfs to irrigate 60 acres. This notice also serves to readvertise the location of the 60 irrigated acres. The irrigated land was incorrectly advertised in the Yankton Press and Dakota on September 22 and 29, 1981 as being located in the S 1/2 NW 1/4, NW 1/4 NW 1/4 Section 7-T95N-R55W. The correct location of the irrigated acreage is the S 1/2 NW 1/4, NW 1/4 NW 1/4 Section 7-T95N-R56W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5715-3 and Readvertised Water Permit Application No. 4802-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. Unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Water Management Board will NOT CONDUCT a HEARING to consider this application and the chief engineer will issue the permit as recommended. Petitions filed in support of the application will NOT require the Board to hear the application.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 23, 1992. The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

If a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Board will consider this application at 10:00 am, December 2, 1992, Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, SD. If a hearing is held, the Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The December 2, 1992, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by November 23, 1992.

Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by November 23, 1992, at the above Water Rights Division address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. Robert E. Roberts, Secretary, Department of Environment and Natural Resources.

Affidavit of Publication

STATE OF SOUTH DAKOTA

COUNTY OF YANKTON

SS.

Robert C. Helsley being first duly sworn says: That he is the **Editor** of the Yankton Printing Company, a corporation, the printer and publisher of the Yankton Daily Press and Dakotan, a daily newspaper of general circulation, printed and published in the City and County of Yankton, South Dakota; that he has personal knowledge of all the facts stated in this affidavit; and that the advertisement captioned **Notice of Hearing**

a printed copy of which is hereunto attached, was printed and published in the regular and entire issue of said newspaper, and not in a supplement, once each **week** for **two** successive **weeks**, the first publication being made on the **5th** day of **November**, 19 **92**, and the last publication being made on the **12th** day of **November**, 19 **92**

The first publication being made on the **5th** day of **November**

The second publication being made on the **12th** day of **November**

The third publication being made on the _____ day of _____

The fourth publication being made on the _____ day of _____

The fifth publication being made on the _____ day of _____

The sixth publication being made on the _____ day of _____

The seventh publication being made on the _____ day of _____

The eighth publication being made on the _____ day of _____

The ninth publication being made on the _____ day of _____

The tenth publication being made on the _____ day of _____

That said newspaper is a legal newspaper, and has a bona fide circulation of more than two hundred copies daily and has been published in the English language within the said County of Yankton for more than one year next prior to the first publication of said notice, and is printed in Yankton in an office maintained in Yankton, South Dakota, the place of publication of said newspaper. That the full amount of the fee paid for the publication of the annexed notice is \$ **57.95**, which inures solely to the benefit of said publisher; that no agreement 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 person whomsoever.

Subscribed and sworn to before me this **12th** day

of **November**, 19 **92**

Notary Public, South Dakota



11+5 & 12
NOTICE OF HEARING
 on Application No. 5715-3
 to Appropriate Water and Readvertisement of
 Water Permit Application No. 4802-3

Notice is given that Don Kulish, RR 1 Box 3, Urica, SD 57067-9780 has filed an application for a water permit to appropriate 1.28 cubic feet of water per second (cfs) from one existing well (Lower James Missouri/Scotland Aquifer) 200 feet deep located in the SW 1/4 NW 1/4 Section 7-T95N-R56W to irrigate 93 acres located in the NE 1/4 Section 12-T95N-R57W. The existing well is currently authorized by Water Permit No. 4802-3 to appropriate 0.85 cfs to irrigate 60 acres. This notice also serves to readvertise the location of the 60 irrigated acres. The irrigated land was incorrectly advertised in the Yankton Press and Dakotan on September 22 and 29, 1981 as being located in the S 1/2 NW 1/4, NW 1/4 NW 1/4 Section 7-T95N-R55W. The correct location of the irrigated acreage is the S 1/2 NW 1/4, NW 1/4 NW 1/4 Section 7-T95N-R56W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 5715-3 and Readvertised Water Permit Application No. 4802-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. Unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Water Management Board will NOT CONDUCT a HEARING to consider this application and the chief engineer will issue the permit as recommended. Petitions filed in support of the application will NOT require the Board to hear the application.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by November 23, 1992. The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

If a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Board will consider this application at 10:00 am, December 2, 1992, Floyd Mathew Training Center, Joe Foss Building, 523 East Capitol, Pierre, SD. If a hearing is held, the Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The December 2, 1992, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by November 23, 1992.

Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by November 23, 1992, at the above Water Rights Division address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. Robert E. Roberts, Secretary, Department of Environment and Natural Resources.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

FEB 16 1993

Don Kulish
RR 1 Box 138B
Utica, SD 57067-9780

Dear Mr. Kulish:

Enclosed is Water Permit No. 5715-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Also enclosed is Form 10, Notice of Completion of Works and Application of Water to Beneficial Use, which you are to complete and submit to the Chief Engineer when you have completed the system and/or have put the water to beneficial use. An inspection can then be scheduled so that the Water License may be issued, thus completing your acquisition of a Water Right.

Very truly yours,

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

enclosures

PLEASE NOTE: Certain changes can be made in your permit within the five year construction period, usually without affecting the priority date provided an application to amend your permit is made within the five year period - i.e. changes in location or number of diversion points (wells) or location of land to be irrigated. Well locations for wells into the same aquifer can be moved up to 660 feet without application.

Applications to amend a permit after the five year construction period will be assigned a new priority date. Applications to change water sources, to add lands or increase original diversion rates, if approved will usually receive the date of the new application as a priority date regardless of the five year construction period.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 7, 1993

5715-3

Don Kulish
RR #1 Box 138B
Utica, SD 57067-9780

Dear Mr. Kulish:

Thank you for the prompt return of your 1993 irrigation questionnaires.

On the Irrigation questionnaire for Water Permit No. 5715-3, you indicated you had not received a "Form 10". Enclosed is a "Notice of Completion of Works and Application of Water to Beneficial Use."

Thank you for bringing this matter to our attention. If you have any questions, please contact me.

Sincerely,

Genny McMath
Natural Resources Analyst
Water Rights Division
(605) 773-3352

enclosure

**NOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USE**Date 9-22-97

TO: Water Rights Division, DENR
523 E. Capitol
Pierre, SD 57501-3181

FROM: Donald Kulish RR1 Box 138B
(name) (address)
Utica SD 57067 364-7402
(city) (state) (zip) (phone)

I have completed the construction of the water diversion system and I have put the water to beneficial use to the maximum extent it is going to be used. I have not exceeded the amounts specified in Water Permit No. 5715-3.

Water Permit No. 5715-3 states that the diversion system is to be constructed by 12-2-97, and that the water is put to beneficial use by 12-2-2001.
(date) (date)

The diversion system was completed on 6-1-97.
(date)

Applying the water to beneficial use was completed on 6-1-97.
(date)

You may schedule an inspection so that the Water License may be issued.

Donald Kulish
(signature)

FIELD INVESTIGATION REPORT FOR PERMIT NO. 5715-3

DATE OF INVESTIGATION	September 14, 1998
NAME & ADDRESS OF PERMIT HOLDER	Don Kulish 29826 434 th Ave Utica SD 57067
DIVERSION POINT LEGAL LOCATION	Well: 1,400 feet S and 250 feet E from the NW corner section 7-T95N-R56W (SW ¹ / ₄ NW ¹ / ₄)

Other permit(s) associated with the project: 4968-3 (same diversion point)

WELL INFORMATION:

1) Well Drilling Firm: Wetmore Drilling

2) No. of Wells 1

3) Depth(s) 213 feet

4) Well log is available Y

Casing/Screen:

1) Diameter 16 inches

2) Type Plastic

Pump:

1) Make Fairbanks Morse

Motor:

1) Make General Electric

2) Horsepower rating 60 hp

DISTRIBUTION LINES OR CANALS:

1) Type PVC 2) Size 8 inches 3) Length ≈ 2,640 feet

SYSTEM TYPE: Center pivots

1) Make Zimmatic (South Pivot)

2) Number of towers 4

3) End gun Y

4) Low pressure 40 psi

5) Capacity 900 GPM

1) Make Zimmatic (North Pivot)

2) Number of towers 3

3) End gun Y

4) Low pressure 40 psi

5) Capacity 900 GPM

CHEMIGATION EQUIPMENT:

1) Does chemigate N

PERMIT QUALIFICATIONS:

1) Special qualifications to permit being abided by Y

2) All structures, wells and lands on map Y

3) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Y

Permit No. 5715-3
Jame River - Water District

Report of Examination of Works and/or Application of Water to Beneficial Use

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

I have this day, **September 14, 1998**, made a thorough examination of the water use system constructed by **Don Kulish** of **29826 434th Avenue, Utica SD 57067** holder of Permit No. **5715-3**, bearing the priority of **July 31, 1992** authorizing the diversion of **1.28** cu. ft. per second of the waters of **ground water (Lower James Missouri:Scotland Aquifer)** for **irrigation** purposes, in **Yankton** County.

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

A. Works used to divert the water:

Pump:

- 1) Make **Fairbanks Morse**

Motor:

- 1) Make **General Electric**
 2) Horsepower rating **60** hp

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

- 1) Type **PVC** 2) Size **8** inches 3) Length **≈ 2,640** feet

C. Works used to apply water to beneficial use: **Center Pivots**

- 1) Make **Zimmatic (South Pivot)**
 2) Number of towers **4**
 3) End gun **Y**
 4) Low pressure **40 psi**
 5) Capacity **900** GPM

- 1) Make **Zimmatic (North Pivot)**
 2) Number of towers **3**
 3) End gun **Y**
 4) Low pressure **40 psi**
 5) Capacity **900** GPM

The system is in the following condition **good**. The point of diversion is located **Well: 1,400 feet S and 250 feet E from the NW corner section 7-T95N-R56W (SW $\frac{1}{4}$ NW $\frac{1}{4}$)**. The works are capable of diverting and conveying to the place of use **2.00** 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 12-T95N-R57W**

SE $\frac{1}{4}$ NE $\frac{1}{4}$ 33 ac
SW $\frac{1}{4}$ NE $\frac{1}{4}$ 12 ac

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 24 ac
NW $\frac{1}{4}$ NE $\frac{1}{4}$ 12 ac

comprising a total of **81** acres of land and the license should be issued for **1.15** cfs.

Applicable permit qualifications have been complied with: Yes **X** No

Exceptions to compliance are: **none** Date report completed: **December 3, 1998**

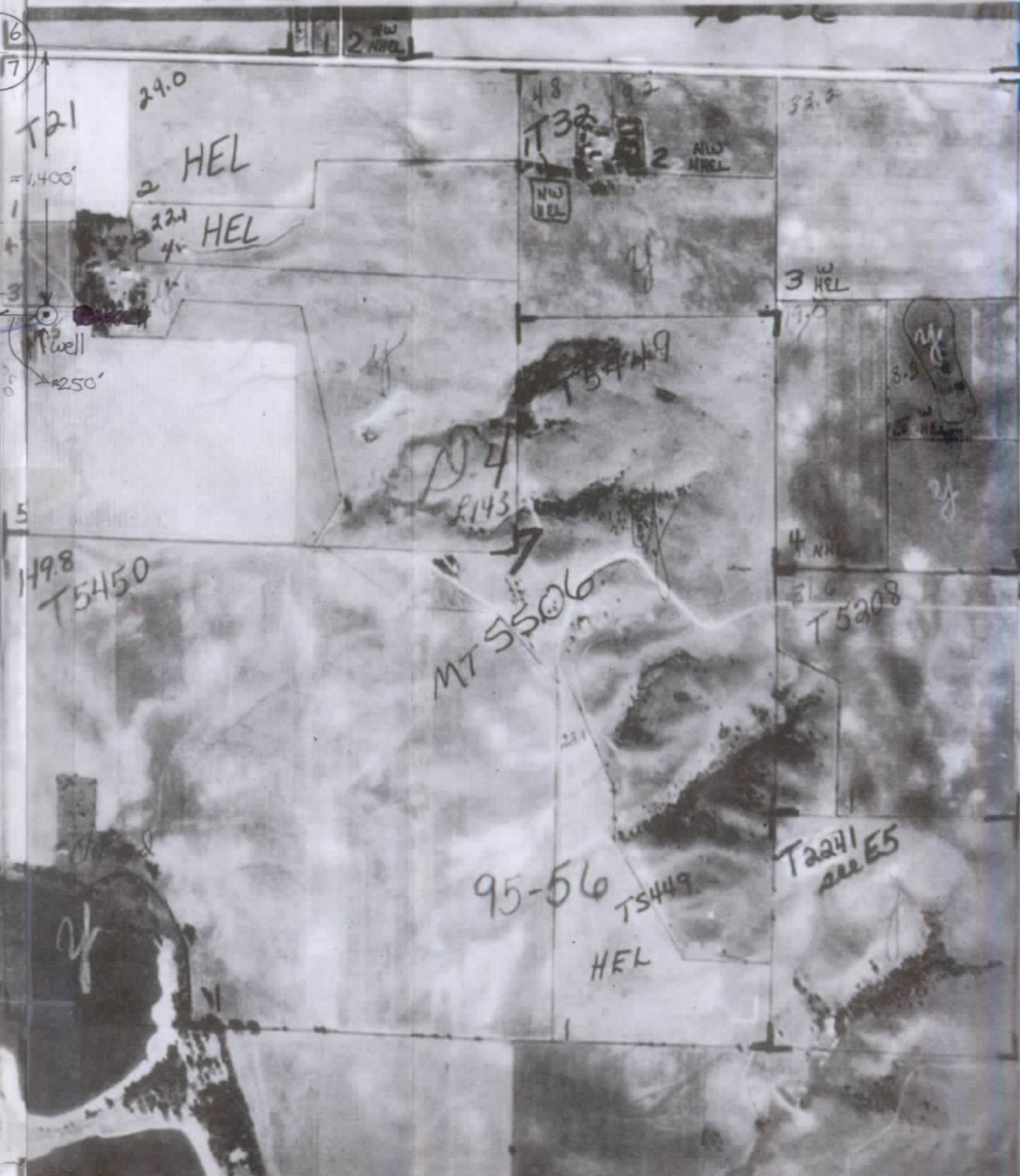


Ron Duvall
 Natural Resources Engineer
 DENR, Water Rights Program

1998



1998



STATE OF SOUTH DAKOTA

WATER LICENSE NO. 5715-3

(1) Don Kulish, 29826 434th Ave, Utica SD 57067 made Application No. 5715-3, July 31, 1992 for a water permit to divert 1.28 cubic feet of water per second from groundwater (one well), Yankton County, South Dakota for irrigation purposes. Permit No. 5715-3, with a priority date of July 31, 1992 was approved December 2, 1992 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before December 2, 1997 and for the application to beneficial use of said water on or before December 2, 2001.

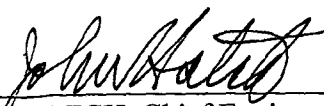
The permit holder submitted a *Notice of Completion of Works and Application of Water to Beneficial Use* on September 24, 1997. The *Notice* stated the diversion system was completed on June 1, 1997 and the water placed to beneficial use on June 1, 1997.

(2) It is certified that the permit holder 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 1.15 cubic feet of water per second for beneficial use. The location of the diversion point is 1,400 feet south and 250 feet east from the northwest corner of Section 7-T95N-R56W (SW ¼ NW ¼). Water Right No. 4968-3 utilizes the same well.

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

Section 12-T95N-R57W	SE ¼ NE ¼	33 acres
	SW ¼ NE ¼	12 acres
	NE ¼ NE ¼	24 acres
	NW ¼ NE ¼	12 acres
Total		81 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 Donald Kulish, 29826 434th Ave, Utica SD 57067 the holder and/or owner of Water Right No. 5715-3 is issued a license to appropriate water, the right to use 1.15 cubic feet of water per second from groundwater (one well) with a priority date of July 31, 1992 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 Right No. 5715-3 and subject to South Dakota State Law.


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

FEB 22 1999

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

December 14, 1998

5715-3

Don Kulish
29826 434th Ave.
Utica, SD 57067

Dear Mr. Kulish:

The investigation of your water use system was conducted on September 14, 1998, by Ron Duvall, staff engineer. The investigation included the extent of application of water to beneficial use, as developed under Water Permit No. 5715-3. Your final water right document, the Water License, can now be issued.

Statutes require that we charge a \$50.00 fee for the investigation 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 Program
523 E. Capitol
Pierre, SD 57501-3181**

Sincerely,

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

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

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

N2 416020

Pierre, January 25, 1999

RECEIVED OF Don or Dawn Kulish, Rt 1, Box 138B, Utica, SD 57067
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. 5715-3

50 00

Fee for Filing Transfer Form _____

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

50 00

By _____
Chief Engineer

John Hatch



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

FEB 22 1999

5715-3

Donald Kulish
29826 434th Ave.
Utica, SD 57067

Dear Mr. Kulish:

Enclosed is Water License No. 5715-3. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 416020 in the amount of \$50.00 which you paid for the investigation and issuance of the Water License.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 5715-3, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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. If you have any questions, please contact our office.

Very truly yours,

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

ks
enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 9, 2016

5715-3

Donald J Kulish
29826 434th Ave
Utica SD 57067

Dear Mr. Kulish:

Thank you for the prompt return of your 2015 irrigation questionnaires.

It is my understanding from the notation made on the questionnaire for Water Right No. 5715-3 the land has been enrolled in CRP through 2026. Under SDCL 46-5-37.2, no water right or permit may be forfeited for nonuse if land authorized for irrigation by a permit or right is placed under an acreage reserve or production quota program or otherwise withdrawn from use as required for participation in any federal program, if:

- the water source is not fully appropriated
- if the withdrawal from use does not prevent approval of new permits from the same source, and
- if the appropriated water has been applied to beneficial irrigation use prior to participation in a federal program.

The annual irrigation questionnaire for Water Right No. 5715-3 will not be mailed to you until the land comes out of CRP. If the land is sold or other changes occur prior to the land coming out of the program, please notify us so that appropriate changes can be made to the water right.

If you have any questions, please contact me.

Sincerely,

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

RECEIVED

SEP 16 2026

OFFICE OF
WATER

Water Right No. 5715-3

Donald Kulish

Water Right No. 5715-3 authorizes 81 acres located in the NE $\frac{1}{4}$, Section 12-T95N-R57W.

Do you still own the land described above?

Yes ☒

No ☐ (If no, please list the name, mailing address, and phone number of the new owner)

Has the land been re-enrolled in CRP:

Yes ☒ through calendar year 2036

No ☐

If the land has not been re-enrolled in CRP, we will begin mailing irrigation questionnaires to you for annual reporting. Questionnaires are mailed to irrigators in October each year and are due back in December.

For informational purposes:

46-5-37.2. Exceptions to forfeiture for nonuse. The provisions of § 46-5-37 notwithstanding, no water right or permit may be forfeited for nonuse if land authorized for irrigation by a permit or right is placed under an acreage reserve or production quota program or otherwise withdrawn from use as required for participation in any federal program, if:

- the water source is not fully appropriated
- if the withdrawal from use does not prevent approval of new permits from the same source, and
- if the appropriated water has been applied to beneficial irrigation use prior to participation in a federal program.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 12, 2026

5715-3

Donald J Kulish
29826 434th Ave
Utica, SD 57067

Dear Mr. Kulish:

We are contacting you regarding your Water Right No. 5715-3, authorizing the diversion of 1.15 cubic feet of water per second from one well for the irrigation of 81 acres located in the NE ¼, Section 12-T95N-R57W, Yankton County.

Irrigators in South Dakota are required to submit an annual irrigation questionnaire reporting how much water was pumped during the irrigation season. Our records show the land authorized for irrigation under Water Right No. 5715-3 has been in the Conservation Reserve Program (CRP) through 2026.

The purpose of this letter is to find out the status of irrigation on your property. Please take a few minutes and answer the questions on the attached sheet and return it in the envelope provided. Please let us know if you have decided not to resume irrigation for the upcoming year 2027.

Thank you in advance for your help in updating this water right.

Sincerely,

Shannon Konst
Water Rights Program
605 773-3352
Shannon.konst@state.sd.us