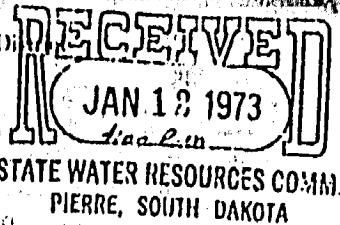


Water Right Number 1139-2

1. Considered MARCH 7, 1971
2. Name of Applicant EUGENE & VERN ARMSTRONG
3. Post Office Address MIDLAND
4. Amount of water claimed 13.80 (APPROX. 950 A.F. STORAGE)
5. Source of water supply COTTONWOOD CREEK & TRIBUTARIES
6. Water to be used for IRRIGATION
Acres to be irrigated 967
7. Water to be diverted and used in HAARON County
about 2W 18N Miles of MIDLAND
8. Proof of Publication
Received 2-23-73
Not received
9. Application
Approved A - LOW FLOW STATEMENT
Subject to
Not approved
Action deferred
10. Remarks:

No. 1139-2Map No. 969-2 Water Division No. 2 BAD RIVER
(Blanks to be Filled by the Engineer for the W. R. C.)

APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

Berja Investments
Joseph Berlin/Paul Jackson
2302 Main St., Box 1036
Ronan, MT 59864

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

1. Name of Applicant Eugene Armstrong
Postoffice address MT. PLEASANT, State South Dakota 57552

If a corporation show date and place of incorporation _____

2. Method of accomplishing work (contract, employment of others, or by direct labor) Contract & Direct Labor3. Name of diversion work DIAMOND RING RANCH IRRIGATION PROJECT4. Amount of water claimed (cubic feet per second) 13.85. Source of water supply Dam (COTTONWOOD CREEK & TRIBUTARIES)6. Location of point of diversion East 1/2 Sec 3 T4N R24EDAM LOCATED 1300' N & 50' W OF THE E 1/4 COR. OF SECTION 3,T4N R24E County HAAKON7. Annual period or periods during which water is to be used June through October8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) Irrigation & Recreation9. For irrigation use, 13.8 Total number of acres to be irrigated 1449 967

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.
<u>Sec 3 T4N R24E</u>	<u>100A</u>	<u>Ac 1/2 Sec 7</u>	<u>50A</u>
<u>Sec 10</u>	<u>5500</u>		
<u>Sec 11</u>	<u>1000</u>	<u>SEE ATTACHMENT</u>	
<u>1/2 Sec 14</u>	<u>1400</u>		

Attach sheet if more space is needed

10. Time required to complete construction of water supply system 2 years. Additional time required to complete application of water to the proposed beneficial use 2 years.

11. Choice of newspaper for Notice of Intent to Appropriate Water publication Pioneer - Review

12. Principal Features of the Proposed Water Supply System.

A. Works proposed to divert water from its natural source. A DAM TO BE CONSTRUCTED TO IMPOUND WATER.

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

Pumping Station

C. Works proposed to apply water to beneficial use. the use of gated pipe and circular sprinkler system

Estimated Total Cost \$ 40,000.00

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 Hughes

I, Eugene Armstrong, 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 Eugene ArmstrongSubscribed and sworn to before me this 12th day of January, 1973

Boyle H. Carlson
Notary Public (or other qualified officer)

2nd Assistant, W.R.C.

MAP N-2969-2 (APPL N-2139-2)



Scale ~ 1 inch = 1320 feet

I, W. R. Summerside, Registered Land Surveyor, State of South Dakota,
do hereby certify that, at the direction of Eugene, Irene & Vern Armstrong
I have surveyed the tract of land as shown, and that the above drawn
plat is a reasonably accurate description of the land of the
proposed irrigation project. In witness whereof I have set
my hand and seal this 17th day of January, 1973, A.D.
W. R. Summerside
Registered Land Surveyor

WATER RIGHT APPLICATION APPROVAL

The Water Resources Commission hereby approves Water Right Application No. 1139-2

EUGENE E. VERN ARMSTRONG
(Applicant)

MIDLAND
(Post Office Address)

SOUTH DAKOTA
(State)

With the following modifications:

Herja Investments
Joseph Berlin/Paul Jackson
2302 Main Street, Box 1036
Ronan, MT 59864

LOW FLOWS AS NEEDED FOR DOWNSTREAM DOMESTIC USE,
INCLUDING LIVESTOCK WATERING, MUST BE BY-PASSED.
APPROVAL OF THIS PERMIT AUTHORIZES 960 ACRE FEET
OF STORAGE ANNUALLY.

Date of first receipt of application JANUARY 12 1973

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

Date of receipt of corrected application _____ 19____

Approved MARCH 8 1973 Recorded in Book 12 Page 192

WATER RIGHT PERMIT NO. 1139-2

The Water Resources Commission hereby grants and issues this Water Right Permit No. 1139-2 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 JANUARY 12 1973
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before MARCH 8 1974
3. The whole of said work is to be completed on or before MARCH 8 1975
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is MARCH 8 1977
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 13.13 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 MARCH 8 1977; said water to be used during the following described annual period: JUNE THRU OCTOBER

Witness my hand this 12TH day of MARCH 1973

WATER RESOURCES COMMISSION

By:

Joseph Berlin
Chief Engineer, Executive Officer

Certificate of Construction Issued _____ 19____

Water License Issued _____ 19____

Water Right No. 1139-2 Eugene & Vern Armstrong

Land to be Irrigated:

Area	Location	Acres
A	SE $\frac{1}{4}$, Section 3, T4N, R24E	63.9
B	SW $\frac{1}{4}$, Section 3, T4N, R24E	21.6
C	NE $\frac{1}{4}$, Section 9, T4N, R24E	68.0
D	NW $\frac{1}{4}$, Section 10, T4N, R24E	157.0
E	NE $\frac{1}{4}$, Section 10, T4N, R24E	137.9
F	NW $\frac{1}{4}$, Section 11, T4N, R24E	21.1
G	SW $\frac{1}{4}$, Section 11, T4N, R24E	97.4
H	SE $\frac{1}{4}$, Section 10, T4N, R24E	155.7
I	SW $\frac{1}{4}$, Section 10, T4N, R24E	78.3
J	NE $\frac{1}{4}$, Section 15, T4N, R24E	38.4
K	NW $\frac{1}{4}$, Section 14, T4N, R24E	<u>127.7</u>
Total acres		967.0

12. Principal Features of the Proposed Water Supply System (continued.)

D. Well Information or Estimates

- (1) Drill Hole, Diameter _____, Depth _____
- (2) Casing, Type (wood, concrete, steel, etc) Diameter _____ Thickness _____
- (3) Perforated Screen.
Type _____, Diameter _____, Length _____
- (4) Gravel Pack, Thickness _____, Length of gravel pack _____

E. Dugout Information or Estimates.

- (1) Surface dimensions 80-ACRES, Depth 30-40 ft

F. Fill out for Either a Well or a Dugout.

- (1) Water Bearing Materials. (Please attach a copy to test well log if available.)

Character of Water bearing materials _____

Depth to top of water bearing material _____

Depth to bottom of water bearing material _____

Thickness of water bearing material _____

Depth to water (ground surface to water level) _____

- (2) Distance to nearest existing household or livestock watering wells.

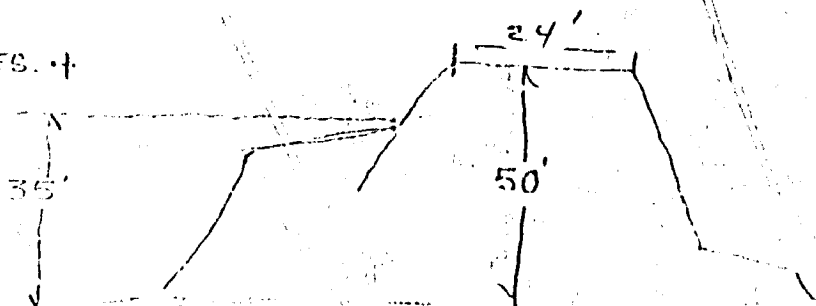
On same owner's property _____ rds. On property owned by others _____ rds.

G. Water Storage Dams.

If the proposed water use system contains one or more water storage dams, please show in the space below, the height, maximum water depth, surface area and storage capacity of each storage dam. The location of each water storage dam should be shown on the water right map.

Storage Dam No I

Surface Area 80 ACRES.



Augustine S. Shoshong

Signature of Applicant

Form 6 - Notice of Intent to Appropriate Water

No. 1139-2

Publish first publication, on or before February 22, 19 73

NOTICE
INTENT TO APPROPRIATE WATER

Pierre, South Dakota 57501

February 7, 19 73

Notice is hereby given that Eugene and Vern Armstrong
whose post office address is Midland, 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
13.8 cubic feet of water per second of time from a tributary of Cottonwood Creek through the
Diamond Ring Ranch Irrigation Project, the point of diversion of which is to be located in the _____

SE 1/4, NE 1/4

of Section 3, Twp. 4N, Range 24E. Said water to be used for the purpose
of providing irrigation on portions of the following described land:

E 1/2, Section 3; NE 1/4, Section 9, Section 10, W 1/2, Section 11; NW 1/4, Section 14
and NE 1/4, Section 15, all in T4N, R24E

This application No. 1139-2 will be considered by the Water Resources Commission at their office at
Pierre upon the 7th day of March, 19 73, at 2:00 P. M. All interested
persons may appear and be heard.

WATER RESOURCES COMMISSION

By:

BURTON F. JONES, Water Rights Specialist

cc: Eugene Armstrong, Midland, S.D. 57552

Form 8 - Proof of Publication - Notice of
Intent to Appropriate Water

No. 1139-2

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Haakon) ss.

I, Belle Ravellette hereby
certify that the annexed printed copy of Notice of Intent to Appropriate
Water was taken from the Pioneer Review

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 _____ Philip _____

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

February 15, 1973

February 22, 1973

Belle Ravellette
(Signature)

(Title)

February 22, 1973
(Date Signed)

NOTICE
INTENT TO APPROPRIATE
WATER

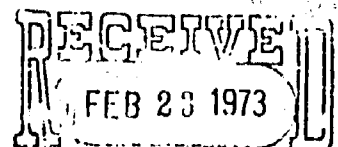
Notice is hereby given that Eugene and Vern Armstrong whose post office address is Midland, South Dakota, has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 13.8 cubic feet of water per second of time from a tributary of Cottonwood Creek through the Diamond Ring Ranch Irrigation Project, the point of diversion of which is to be located in the SE1/4 NE 1/4 of Section 3, Twp. 4 N, Range 24E. Said water to be used for the purpose of providing irrigation on portions of the following described land:

S1/2, Section 3; NE1/4, Section 9; Section 10; W1/2, Section 11; NW1/4, Section 14 and NE1/4, Section 15, all in T4N, R24E.

This application No. 1139-2 will be considered by the Water Resources Commission at their office at Pierre upon the 7th day of March, 1973 at 2:00 p.m. all interested persons may appear and be heard.

WATER RESOURCES
COMMISSION

BY: Burton F. Jones, Water
Rights Specialist
(Publish Feb. 15 & 22, 1973)



STATE WATER RESOURCES COMM
PIERRE, SOUTH DAKOTA

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

897-2
1139-2
1606-2
1642-2

November 24, 1981

Berja Investments
Joseph Berlin & Paul Jackson
2302 Main Street, Box 1036
Ronan, MT 59864

Gentlemen:

This is to notify you that Water Right No. 897-2, and Permit Nos. 1139-2, 1606-2, & 1642-2 have been transferred to your names.

Since the filing fees for the transfers were paid by Haggar's Action Realty of Pierre, SD, the receipts will be forwarded to them.

Each year this office mails out an irrigation questionnaire to obtain information on water use throughout the irrigation season. In contacting Haggar's Action Realty, they indicated this year's irrigation questionnaire should be sent to Vern & Eugene Armstrong since they owned the systems for most of the irrigation season. However, next year, the questionnaire will be forwarded to you. If you have an operator running the system for you, and you would like future questionnaires to be mailed directly to him, please inform this office.

If you have any questions, please contact this office.

Sincerely,

GENNY YOUNG
Staff Assistant

gy

cc: Haggar's Action Realty
w/receipts

APR 1981
DIVISION OF
PERMITS RIGHTS
SOUTH CAROLINA

PERMIT TO RE-ENTRY

Date: 10-27-81

See Exhibit A

has been transferred to Berja Investments, a Montana General Partnership
 comprised of Joseph T. Berlin and Paul M. Jackson
 together with any rights to the beneficial use of water thereon as evidenced by

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

STATE OF SOUTH DAKOTA)
County of Hughes) ss.)
)

known to my confidential informants.

Vern Johnston
(Signed)
* Eugene E. Johnston
is 27 day of October, 1957.

San J. Haggan
(Notary Public)
M.C.E.
7/30/84

EXHIBIT A-page 1

Township 4 North, Range 24 EBHM, Haakon County, South Dakota

Section 5: Lots 1, 2, 3 & 4; S $\frac{1}{2}$ N $\frac{1}{2}$; S $\frac{1}{2}$

Section 6: Lots 1, 2, 3, 4, 5, 6 & 7; SE $\frac{1}{2}$ NW $\frac{1}{2}$; E $\frac{1}{2}$ SW $\frac{1}{2}$;
S $\frac{1}{2}$ NE $\frac{1}{2}$; SE $\frac{1}{2}$

Section 7: Lots 1 & 2; E $\frac{1}{2}$ NW $\frac{1}{2}$; NE $\frac{1}{2}$; SE $\frac{1}{2}$

Section 8: NW $\frac{1}{2}$

Section 16: N $\frac{1}{2}$

Township 4 North, Range 23 EBHM, Haakon County, South Dakota

Section 1: Lots 1, 2, 3 & 4; S $\frac{1}{2}$ N $\frac{1}{2}$; S $\frac{1}{2}$

Section 2: Lots 1, 2, 3 & 4; S $\frac{1}{2}$ N $\frac{1}{2}$; S $\frac{1}{2}$

Section 3: Lots 1, 2, 3 & 4; S $\frac{1}{2}$ N $\frac{1}{2}$; S $\frac{1}{2}$

Section 10: N $\frac{1}{2}$

Section 11: E $\frac{1}{2}$; NW $\frac{1}{2}$

Section 12: All

Section 13: NW $\frac{1}{2}$

Township 3 North, Range 23 EBHM, Haakon County, South Dakota

Section 36: All

Township 5 North, Range 23 EBHM, Haakon County, South Dakota

Section 36: All

EXHIBIT A-page 2

Township 4 North, Range 24 EBHM, Haakon County, South Dakota

Section 2: Lots 1, 2, 3 & 4; S¹/₂N¹/₂; S¹/₂
 Section 3: Lots 1, 2, 3 & 4; S¹/₂N¹/₂; S¹/₂
 Section 4: Lots 1, 2, 3 & 4; S¹/₂N¹/₂; S¹/₂
 Section 8: NE¹/₂
 Section 9: All
 Section 10: All
 Section 11: All
 Section 12: S¹/₂; S¹/₂N¹/₂; NW¹/₂NW¹/₂
 Section 13: All
 Section 14: W¹/₂
 Section 15: All
 Section 22: N¹/₂; SE¹/₂
 Section 23: All
 Section 24: N¹/₂; SW¹/₂
 Section 26: All
 Section 27: E¹/₂

Township 5 North, Range 24 EBHM, Haakon County, South Dakota

Section 25: S¹/₂; All of N¹/₂ lying South of Highway 34
 Section 26: All
 Section 28: That portion lying South of Highway 34
 Section 22: That portion lying South of Highway 34
 Section 27: All
 Section 34: All
 Section 35: NE¹/₂

Township 5 North, Range 24 EBHM, Haakon County, South Dakota

Section 30: Lots 1, 2, 3 & 4; E¹/₂W¹/₂; E¹/₂
 Section 29: All
 Section 31: Lots 1, 2, 3 & 4; E¹/₂W¹/₂; E¹/₂
 Section 32: All
 Section 33: S¹/₂
 Section 34: SW¹/₂

Township 4 North, Range 24 EBHM, Haakon County, South Dakota

Section 14: NE¹/₂

RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

No 4 8555

November 23, 1981

Haggard's Action Realty for:

PIERRE

RECEIVED OF Berje Investments, 2302 Main Street, P.O. Box 1036, Ronan, MT 59864

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

Fee for Application for Permit to Appropriate Water No. (examination, processing, recording and filing)		
Fee for inspecting Construction, and issuing Cert. of Construction No.		
Fee for inspecting Beneficial Use, and issuing Water License No.		
Fee for issuing Location Certificate-Dry Draw, No.		
Fee for filing transfer of WR# 1139-2	2.50	
Fee for certified copy of		
Fee for Print copy of map		
Fee for Certifying		
Fee for (any other work as provided by law)		
TOTAL	2.50	

WATER RIGHTS COMMISSION

By *(Signature)*
Chief Engineer, Executive Officer

JOHN HATCH / DE

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

Post Office WILLARDDate April 26, 1976

TO: Water Resources Commission
State Office Building No. 2
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. 1139-2.

Water Right Permit No. 1139-2 states that the diversion system is to be constructed by March 8, 1975 and that the water is to be put to beneficial use by March 8, 1977.

The diversion system was completed on March, 1975. Applying the water to beneficial use was completed on June, 1975.

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.

Wm. Armstrong
(Signature)



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

Joe Fenz Building
623 East Capitol
Pierre, South Dakota 57501-3181

1139-2

NOTICE

September 13, 1983

TO: Joseph Berlin and Paul Jackson
Hidden Timber Rt
Valentine, Nebraska 69201

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

John Hatch

Re: Violation of Permit No(s). 1744-2
by Failure to Submit Required 1982 Irrigation Questionnaire

The Water Management Board has directed that hearing(s) be held to determine what action the Board should take for violation of the Water Permit No(s). 1744-2 qualification that requires the Irrigation Water Use Questionnaire to be submitted each year.

The hearing(s) will also be to determine if Permit No(s). 497-2, 897-2, 1139-2, 1297-2, 1446-2, 1606-2, and 1642-2 should be amended to require the Questionnaire to be submitted each year.

The hearing(s) will be at 2:30 p.m., October 5, 1983, Civil Defense Room, Basement, State Capitol Building, Pierre, South Dakota. Water Rights Division records do not show that the 1982 Irrigation Questionnaire for Permit No(s). 1744-2 has been received. The questionnaire was requested on the following dates:

1. September 1982 Initial request
2. December 1982 follow-up request
3. March 22, 1983 Notice that submittal of questionnaire is a qualification to water permit.
4. August 1983 Notice that Board had directed owners of permits not in compliance with the Irrigation Questionnaire qualification be given until August 30, 1983 to submit the 1982 questionnaire with any permit owner in violation after August 30 to be given notice for hearing before the Board.

Equal Opportunity Employer

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). 1744-2 until either the 1982 Questionnaire is submitted or for a period of up to one year;
2. Amend Permits No(s). 497-2, 897-2, 1139-2, 1297-2, 1446-2, 1606-2, and 1642-2 also held by Joseph Berlin and Paul Jackson to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action;
4. Take no action.

These hearing(s) are 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.

cc: Berja Investments
2302 Main Street
Box 10326
Ronan, MT 59864

September 21, 1983

Permit Nos 497-2, 1297-2, 1446-2 and 1744-2 transferred
to Leavitt Livestock Co., 40 Dave Carr, Hidden Jimbo Pt.
Valentine, NE 69201 (Permits in Todd Co.)

1139-2

Water Rights Division
605 773-3352

September 22, 1983

Leavitt Livestock Co.
% Dave Carr
Hidden Timber Rt.
Valentine NE 69201

Dear Mr. Carr:

This letter will acknowledge receipt of, and thank you for the return of the 1982 Irrigation Questionnaire for Permit No. 1744-2. A notice was sent to Joseph Berlin and Paul Jackson September 13, 1983 regarding the Irrigation Questionnaire submittal violation of Permit No. 1744-2 and the date hearings are to be held before the Water Management Board to determine any action to be taken concerning the violation. Our records now show that you have returned the 1982 Irrigation Questionnaire and are no longer in violation of the permit.

Please disregard the notice dated September 13, 1983. This Permit has been deleted from the agenda pertaining to these hearings.

If you have any questions, please contact us.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division

JH:ks

SOUTH DAKOTA
Department of
Water & Natural Resources
Ice Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181
Water Rights Division
605 773-3352

March 9, 1984

897-2
1139-2
1606-2
1642-2

Harold Niehoff, operator
St Rt 69, Box 63
Midland SD 57552

Dear Mr. Niehoff:

This letter is in reference to the enclosed 1983 Irrigation Questionnaires pertaining to Water Right No. 897-2 and Water Permit Nos. 1139-2, 1606-2 and 1642-2, in the name of Berja Investments. According to our records, the permits are now owned by First Continental Corporation with the land being operated by you.

Please complete the enclosed data sheets as accurately as possible. If accurate records were not kept, estimations will be satisfactory. Copies of the permits are enclosed to aid you in filling out the forms. The questionnaires should be returned to this office upon completion.

If you have any questions, contact our office.

Sincerely,

Genny McMath
Natural Resources Analyst

GM:ks

enclosures

Equal Opportunity Employer

**Department of
Water & Natural Resources**

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

March 23, 1987

SCOTT MADISON/OPERATOR
SR 69
MIDLAND, SD 57552

NOTICE

Re: Violation of Requirement To Submit 1986 Irrigation
Questionnaire


Our records indicate that the 1986 Irrigation Questionnaire has not been submitted for Permit No(s). 897-2, 1139-2, 1642-2. The request for the Questionnaire was dated November 3, 1986. The Water Management Board has directed that owners of water permits who have not submitted 1986 Irrigation Questionnaires be given notice of hearing(s) to be held by the Board to determine if any action is to be taken concerning the violation.

The hearings will be held at 2:00 pm, May 6, 1987 in Room 216, Joe Foss Building, 523 E Capitol, 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(s), the Water Management Board can:

1. Amend Permit No(s). 897-2, 1139-2, 1642-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action;
3. 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.


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

NOTE: If the questionnaire(s) is received in this office before the hearing date, your name will be deleted from the agenda for the hearing.

cc: First Continental Corp, PO Box 31775, Billings MT 59107



Department of Water & Natural Resources

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

April 24, 1987

897-2
1139-2
1642-2

Bob Berg, Manager
First Continental Corporation
Diamond Ring Division
St Rt 69 Box 663
Midland, SD 57552

Dear Mr. Berg:

This will acknowledge receipt of and thank you for the return of your 1986 Irrigation Questionnaires. A notice was sent to you March 23, 1987 regarding the Irrigation Questionnaire submittal violation of Water Permit Nos. 897-2, 1139-2 and 1642-2 and the date hearings were to be held before the Water Management Board to determine any action to be taken concerning the violation.

Please disregard the notice sent to you dated March 23, 1987. Your name has been deleted from the agenda pertaining to these hearings.

If you have any questions, please contact us.

Very truly yours,

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

cc: First Continental Corporation, PO Box 31175, Billings, MT
59107

NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Rights
Foss Building
Pierre, SD 57501

Date: 1-27-89

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

967 acres - S $\frac{1}{2}$ Section 3, NE $\frac{1}{2}$ Section 9, Section 10, W $\frac{1}{2}$ Section 11, NW $\frac{1}{4}$ Section 14,
NE $\frac{1}{2}$ Section 15, T4N, R24E

formerly owned by First Continental Corporation

has been transferred to Wilbert H. Ohlmann & Judith D. Ohlmann
(please include complete mailing address) 565 49
together with any rights to the beneficial use of water thereon as evidenced by 565 663
Midland, TX
57552

Water Right Permit No. 1139-2 as provided for in SDCL 46-5-32 and 46-5-33.

You are therefore hereby requested to file this "Notice of Transfer of Water Permit" in its appropriate file at the Div. of Water Rights, Water Management Board as evidence of the change of ownership.

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

STATE OF SOUTH DAKOTA)
County of HUGHES) ss.

Ohlmann

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

Wilbert H. Ohlmann
Judith D. Ohlmann
(Signed)

Subscribed and sworn to before me this 27th Day of January, 1989.

Leonard F. Starks
(Notary Public)

LEONARD F. STARKS, Notary Public
My Commission Expires
November 16, 1992



Department of Water & Natural Resources

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

1139-2

February 3, 1989

Wilbert & Judith Ohlmann
Diamond Ring Farms
HCR 69 Box 663
Midland, SD 57552

Dear Mr. & Mrs. Ohlmann:

Enclosed is your check in the amount of \$10.00 which you paid for filing "Notice of Transfer" forms with Water Permit Nos. 1139-2, 1606-2, 1642-2 and Water Right No. 897-2. Only \$7.50 will be needed to file the transfers.

I was not aware until after I gave the transfer forms to Leonard Starks, that Water Permit No. 1606-2 had been cancelled. A "Notice of Transfer" can not be filed with a cancelled permit.

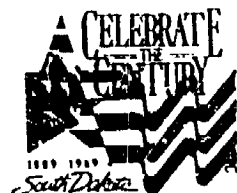
Please remit a check in the amount of \$7.50 (\$2.50 each for the remaining three transfers). Water Permit Nos. 1139-2, 1642-2 and Water Right No. 897-2 will be transferred to your names upon receipt of \$7.50.

Thank you for your assistance in this matter.

Sincerely,

GENNY MCMATH
Natural Resources Analyst
(605) 773-3352

enclosure



RECEIPT

Division of Water Rights
South Dakota Department of Water and Natural Resources

411628

Pierre, February 9, 1980

RECEIVED OF Wilbert & Judith Ohlman, RCR 69, Box 663, Midland, SD 57552
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct works 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 <u>--1193-2--</u> <u>1139-2</u>	2	50
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	2 50

By [Signature]
Chief Engineer



Department of Water & Natural Resources

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

February 16, 1989

Wilbert & Judith Ohlmann
HCR 69, Box 663
Midland, SD 57552

Dear Mr. & Mrs. Ohlmann:

Enclosed is Receipt No. 411628 in the amount of \$ 2.50 which you paid for transfer of Water Right No. 1139-2.

Our records now show you as the owner of this Water Right.

Sincerely,

A handwritten signature in cursive script that reads "Marie R. Arthur".

Marie R. Arthur
Water Rights Division
(605) 773-3352

File No. 1642-2

1139-2

**Water Rights Division
File Documentation**

NAME OF PERSON OR FILE: Wilbert Ohlmann

ADDRESS: HCR 69, Box 663, Midland, SD COUNTY: Haakon

DATE: October 5, 1993 TELEPHONE: (605)843-2306

RE: Cancellation of Water Permit Nos. 1642-2 and 1139-2

COMMENTS:

On July 14, 1993, I met with Mr. Wilbert Ohlmann concerning Water Permit No. 1642-2 and Water Permit No. 1139-2. Mr. Ohlmann informed me that he owns and farms the land covered under Water Permit No.s 1642-2 and 1139-2. He stated that it is not cost effective to run 8 diesel engine driven pumps, etc. etc. He said he hasn't irrigated since he's owned the place and does not plan to. He agreed that we should schedule Water Permit No. ~~X~~1642-2 and Water Permit No. 1139-2 for cancellation for forfeiture or abandonment.



Ken Buhler
Natural Resources Engineer

File No. 1139-2

Water Rights Division -DENR
Conversation or File Documentation

NAME OF PERSON OR FILE: Wilbert/Judith Ohlmann

ADDRESS: HCR 69, Box 663, Midland, SD 57552

COUNTY: Haakon

DATE: March 4, 1998

TELEPHONE: 843-2506

RE: Cancellation of Water Permit No. 1139-2

On November 3, 1997, I talked to Wilbert Ohlmann about the cancellation of Water Permit No. 1139-2, which was issued for 967 acres of irrigation from a dam located in the NE 1/4 of Sec. 3-T4N-R24E. Another Permit was issued later (#1642-2) to correct the location of the dam, which is the NW 1/4 of Sec. 2-T4N-R24E. These permits have had several owners, and the Ohlmann's have never irrigated the land since the ownership was transferred to them in 1989. I told Mr. Ohlmann that we could license Water Permit No. 1642-2 for livestock watering from the two dams located in the NW 1/4 of Sec. 2-T4N-R24E and the NE 1/4 of Sec. 9-T4N-R24E and we would schedule Water Permit No. 1139-2 for cancellation.



Timothy G. Schaal, P.E.
Natural Resources Engineer III
Water Rights Program



March 19, 1998

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

897-2
1139-2
1642-2

Wilbert & Judith Ohlmann
HCR 69 Box 663
Midland, SD 57552

Dear Mr. & Mrs. Ohlmann:

On November 3, 1997, Tim Schaal with our program, visited with you about Water Right No. 897-2 and Water Permit Nos. 1139-2 and 1642-2. It is our understanding that you no longer irrigate from any of the dams described under the water right/permits.

The storage dams, even though they are no longer used for irrigation, are still required to be permitted due to their size. Water Right No. 897-2 and Water Permit Nos. 1139-2 and 1642-2 will be updated as follows:

- Water Permit No. 1139-2 will be scheduled for cancellation for abandonment and/or forfeiture (No. 1642-2 describes the correct the location of the dam and includes adequate storage capacity); You will be receiving a letter from us notifying you of the time, date and place of the hearing when Water Permit No. 1139-2 is scheduled for cancellation consideration.
- Water Permit No. 1642-2 will be licensed for two storage dams located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 2 and the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 9, T4N, R24E to be used for domestic purposes: a \$50.00 fee is required by state law for the investigation and issuance of the license;
- Water Right No. 897-2 will be reissued for domestic purposes and will describe four storage dams located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ & E $\frac{1}{2}$ SE $\frac{1}{4}$ Section 23 and the E $\frac{1}{2}$ SW $\frac{1}{4}$ & SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 24, T4N, R24E (a fee is not required because we are updating an existing license - a licensing fee was paid when the original license was issued).

The remaining requirement for you as permit holders, is the payment of the \$50.00 fee due for investigation and issuance of Water License No. 1642-2. Please make check or money order payable to the "Water Rights Program". Upon receipt of the fee, Water License Nos. 897-2 and 1642-2 will be issued and forwarded to you.

If you have any questions concerning the above information, please contact Tim Schaal at (605) 773-3352.

Sincerely,

Ginny McMath
Environmental Scientist
Water Rights Program



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

June 5, 1998

NOTICE OF CANCELLATION

TO: Wilbert & Judith Ohlmann, HCR 69 Box 663, Midland, SD 57552

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

SUBJECT: Cancellation of Water Permit No. 1139-2

On November 3, 1997, Tim Schaal, a staff engineer with our program, visited with you about your water right and permits. Water Permit No. 1139-2 authorized impoundment of 960 acre feet of water annually from Cottonwood Creek and tributaries to be used for irrigation and recreation purposes. Water Permit No. 1642-2 was later issued to correct the location of the storage dam. The use of water from the dam for stockwatering purposes is now licensed under No. 1642-2. The Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 1139-2 for abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Permit No. 1139-2 at 8:45 am, July 8, 1998, at the Staurelite Inn, 2515 East Sixth St., US Hwy 14 & I-29 in Brookings, SD.

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Permit No. 1139-2 based upon facts presented at the public hearing. Our records show you be the owner of property covered by this water permit. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 26, you must file a written petition with the Chief Engineer by June 29, 1998. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The Board may consider any abandoned or forfeited water to be available for appropriation subject to the provisions of SDCL 46-1, 46-2, 46-2A and 46-5.

The hearing(s) will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-7; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

(continued)

June 5, 1998

Wilbert & Judith Ohlmann

Page 2

These hearings are adversary proceedings. Any party has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by June 29, 1998.

Prior to June 29, 1998, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

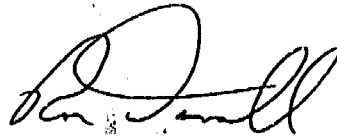
Please note: The water licenses for Nos. 897-2 and 1642-2 are being processed and will be forwarded to you in the near future.

RECOMMENDATION OF CHIEF ENGINEER

FOR WATER PERMIT NO. 1139-2, WILBERT & JUDITH OHLMANN

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit No. 1139-2.

The Chief Engineer is recommending cancellation of the above Water Permit due to abandonment and/or forfeiture. The storage dam, as it exists is licensed under Water Right No. 1642-2.

A handwritten signature in black ink, appearing to read "Ron Duvall", is positioned above the typed name.

RON DUVAL, Natural Resources Engineer
for JOHN HATCH, Chief Engineer
June 5, 1998



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

July 10, 1998

1139-2

NOTICE

Wilbert & Judith Ohlmann
HCR 69, Box 663
Midland, SD 57552

Dear Mr. And Ms. Ohlmann:

This will notify you that the Water Management Board cancelled your Water Permit No. 1139-2 on July 8, 1998.

This action was taken under the conditions outlined in our notice to you dated June 5, 1998.

Very truly yours,

Ron Duvall, Natural Resources Engineer
for John Hatch, Chief Engineer
Water Rights Program
(605) 773-3352