

Water Right Number 1298-2

1. Considered NOVEMBER 12, 19 75
2. Name of Applicant PRINCE AND SONS, INC.
3. Post Office Address FT. PIERRE, S.D.
4. Amount of Water claimed 10.00 #1 300 A.F.
5. Source of Water supply DAMS ON EAST & WEST FORKS LANCE CREEK #2 " A.F.
6. Water to be used for IRRIGATION
- Acres to be irrigated 3,690
7. Water to be diverted and used in STANLEY County
- about 9E miles of HAYES
8. Proof of Publication Received 11-3-75
- Not Received _____
9. Application Approved _____
- Subject to _____
- Not Approved _____
- Action Deferred _____

10. Remarks:

Form 2 - Application for Permit to Appropriate Water - Original (Includes Approval and Permit)

No. 1298-2
 Map No. 1098-2 Water Division No. 2 BAD RIVER District
 (Blank to be filled by the Engineer for the W. R. C.)

APPLICATION FOR PERMIT

9.00

To Appropriate Water within the State of South Dakota

(NOTE - Draw a line through items not applicable)

- Name of Applicant Prince & Sons Inc.
 Post-office address East Pierre State S. D.
 If a corporation show date and place of incorporation Stanley County, S.D.
- Method of accomplishing work (contract, employment of others, or by direct labor) Contract and Direct
- Name of diversion work Prince Irrigation Project #2
- Amount of water claimed (cubic feet per second) N.A. 10 CFS.
- Source of water supply Dam #1 - West Fork Bad River
Dam #2 - East "
- Location of point of diversion

- County STANLEY
- Annual period or periods during which water is to be used April - November
 - Use to be made of water. (Irrigation, industrial, municipal, commercial, recreation, etc.) Irrigation
 - For irrigation use, Total number of acres to be irrigated 3050 Acres
2680

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>See attached sheet</u>			
<u>Sheet</u>			

Attach sheet if more space is needed

- 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.
- Choice of newspaper for Notice of Intent to Appropriate Water publication East Pierre Times
- Principal Features of the Proposed Water Supply System.

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

Dams to store water, then pumped to sites

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

Pipelines

C. Works proposed to apply water to beneficial use.

Sprinkler system

Estimated Total Cost \$ 90,000

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

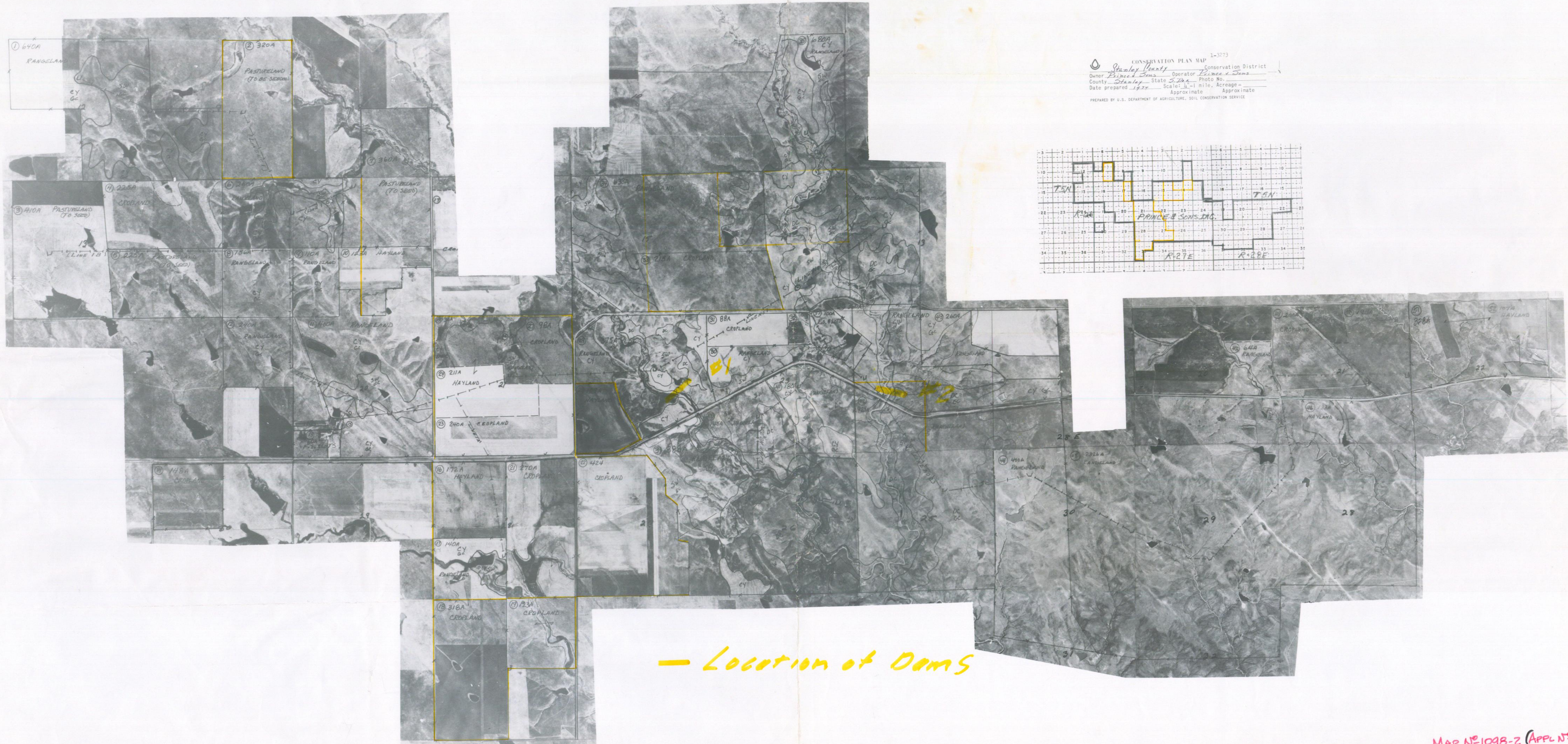
County of Neigher

I, Harvey W. Prince 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.

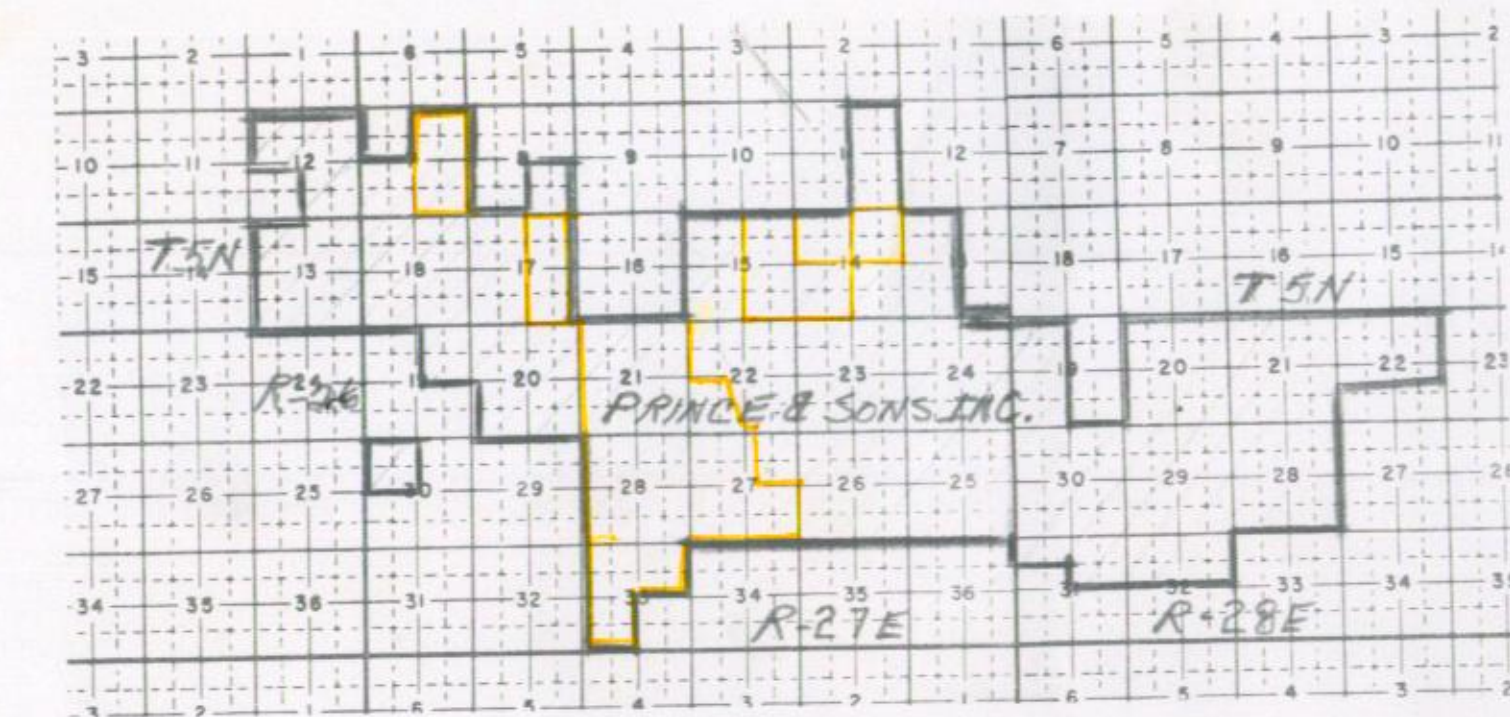
Signed By Harvey W. Prince Jr.

Subscribed and sworn to before me this 8th day of October, 1975

Betty Watland
 Notary Public (or other qualified officer)



CONSERVATION PLAN MAP 1-3273
Owner Stanley Hunt Conservation District
Operator Prince & Sons
County Stanley State SD Photo No. 1
Date prepared 1924 Scale: 1/4 mile, Acreage 1
Approximate
PREPARED BY U.S. DEPARTMENT OF AGRICULTURE, SOIL CONSERVATION SERVICE



— Location of Dams

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 1298-2
PRINCE & SONS, INC FORT PIERRE
 (Applicant) (Post Office Address)
SOUTH DAKOTA 57532 With the following modifications:
 (State)

APPROVAL OF THIS PERMIT AUTHORIZES STORAGE OF 201
 ACRE FEET OF WATER FROM THE WEST BRANCH OF LANCE CREEK
 AND 300 ACRE FEET FROM THE EAST BRANCH OF LANCE CREEK
 ANNUALLY.

Date of first receipt of application OCTOBER 8, 19 75
 Date of return to applicant for correction, amendments or changes required ---, 19 ---
 Date of receipt of corrected application ---, 19 ---
 Approved JANUARY 22, 19 76, Recorded in Book 14, Page 175

WATER RIGHT PERMIT NO. 1298-2

The Water Rights Commission hereby grants and issues this Water Right Permit No. 1298-2 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 OCTOBER 8, 19 75
2. The equivalent of at least one fifth of the work above specified is to be completed on or before JULY 22, 19 78
3. The whole of said work is to be completed on or before JANUARY 22, 19 81
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is JANUARY 22, 19 85
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 10.0 cubic feet per second; neither shall it
 exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for beneficial uses
 served, and if for the irrigation purposes said appropriation must be limited to not more than 3 acre feet per acre per year and be
 limited to not more than one-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 22, 19 85; said water to be used during the
 following described annual period: APRIL - NOVEMBER

Witness my hand this 26TH day of JANUARY, 19 76

WATER RIGHTS COMMISSION

John H. Hetch
 Chief Engineer, Executive Officer

Certificate of Construction Issued ---, 19 ---

Water License Issued ---, 19 ---

**BEST IMAGE POSSIBLE
FROM POOR ORIGINAL**

5200 5200 70 70 5200 5200 70 70
5200 5200 70 70 5200 5200 70 70

444 500 27
 500 500 27
 444 500 27

104 500 20
504 500 20
504 500 20

1000 500 33 1500 70
 1000 500 33 1500 11

[Faint handwritten notes at the bottom of the page]

John A. Smith, Jr. 7500 100th Ave
15000

5/12/58

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68-1007

[illegible]

5/21/70 10:00 AM 10:00 AM 10:00 AM

3690

1298-2.

1298-2 PRINCE AND SONS, INC.

Diversion Points:

Same Lands under 1354-2

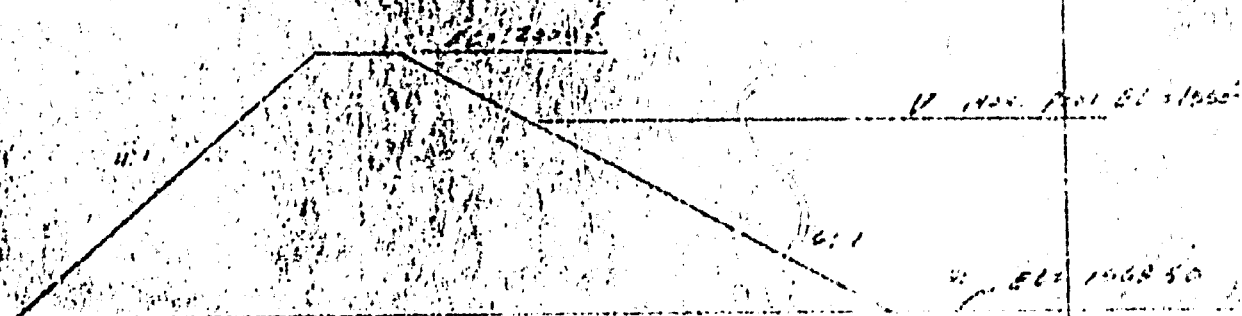
Dam #1 in SE $\frac{1}{4}$, Section 22-T5N-R27E
 Dam #2 in SW $\frac{1}{4}$, Section 24-T5N-R27E

Land to be irrigated:

Description	Section	Township	Range	Acres
SW $\frac{1}{4}$	22	5N	27E	120
W $\frac{1}{2}$	27	5N	27E	320
SE $\frac{1}{4}$	27	5N	27E	160
W $\frac{1}{2}$ NE $\frac{1}{4}$	27	5N	27E	80
N $\frac{1}{2}$	28	5N	27E	320
SE $\frac{1}{4}$	28	5N	27E	130
SW $\frac{1}{4}$	28	5N	27E	130
W $\frac{1}{2}$	33	5N	27E	320
NE $\frac{1}{4}$	33	5N	27E	150
NE $\frac{1}{4}$	14	5N	27E	100
SW $\frac{1}{4}$	14	5N	27E	160
NW $\frac{1}{4}$	23	5N	27E	100
E $\frac{1}{2}$	15	5N	27E	320
All of	11	5N	27E	640
E $\frac{1}{2}$	7	5N	27E	320
E $\frac{1}{2}$	17	5N	27E	320
Total				3690

BEST IMAGE POSSIBLE FROM POOR ORIGINAL

Dam #1
East Fork Lance Creek
located in
Sec. 22 T5N R37E B1114



Dam Data: Trickle Tube EL. 1930.5
Spillway EL. = 1932.5
Top Dam EL. = 1950.5
Max. Water Depth = 22'
Total Height Dam = 32'

Res. Area: Surface Area = 40 Acres
Capacity = 300,000 cu. ft.

Dam #2
East Fork Lance Creek
located in
Sec. 24 T5N R37E B1114

Dam #2 - Not Designed as yet.

400 Acres Ft.

Form 2A - Wells, Dugouts or Water Storage Dams (Supplement to form 2)

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

D. Well Information or Estimates

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

E. Dugout Information or Estimates

- (1) Surface dimensions _____, Depth _____

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.

See attached sheet

Harry H. Brimager
Signature of Applicant

1298-2

Publish first publication, on or before October 30, 19 75

NOTICE
INTENT TO APPROPRIATE WATER

Pierre, South Dakota 57501

October 8, 19 75

Notice is hereby given that Prince and Sons, Inc.

whose post office address is Ft. Pierre, 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 10.0 cubic feet of water per second of time from the Dams on the East & West Forks of Lance Creek through the Prince Irrigation Project #1, the point of diversion of which is to be located in the NE 1/4, Section 22 and SW 1/4

of Section 24, Twp. 5N, Range 27E. Said water to be used for the purpose of providing irrigation on all or portions of the following described land:

E 1/2, Section 7; NE 1/4, SW 1/4, Section 14; E 1/2, Section 15; Section 21;
SW 1/4, Section 22; NW 1/4, Section 23; W 1/2, SE 1/4, W 1/2 NE 1/4, Section 27;
Section 28, all in T5N, R27E

This application No. 1208-2 will be considered by the Water Resources Commission at their office at Pierre upon the 12th day of November, 19 75, at 2:30P. M. All interested persons may appear and be heard.

WATER RESOURCES COMMISSION

By:

BURTON F. JONES
Water Rights Specialist

BFJ/bw

cc: Prince and Sons, Inc., Ft. Pierre, S.D. 57532

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

No. 1298-2

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Stanley) ss.

I, JAMES E THOMPSON hereby

certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Fort Pierre Times

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 Fort Pierre

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

October 18, 1975

October 25, 1975

John D. Worley
(Signature)
(Title)

October 29, 1975

(Date Signed)

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 10.0 cubic feet of water per second of time from Dams on the East & West Forks of Lance Creek through the Prince Irrigation Project No. 1, the points of diversion of which are to be located in the SE $\frac{1}{4}$, Section 22 and SW $\frac{1}{4}$ of Section 21, Twp. 5N, Range 27E. Said water to be used for the purpose of providing irrigation on all or portions of the following described land:
E $\frac{1}{2}$, Section 7; NE $\frac{1}{4}$, SW $\frac{1}{4}$, Section 11; E $\frac{1}{2}$, Section 15; Section 21; SW $\frac{1}{4}$, Section 22; NW $\frac{1}{4}$, Section 23; W $\frac{1}{2}$, SE $\frac{1}{4}$, W $\frac{1}{2}$, NE $\frac{1}{4}$, Section 27; Section 28, all in T5N, R27E.

This application No. 1298-2 will be considered by the Water Resources Commission at their office at Pierre upon the 12th day of November, 1975, at 2:00 P.M. All interested persons may appear and be heard.

WATER RESOURCES
COMMISSION
By: Burton F. Jones
Water Rights Specialist
Publish: Oct. 18, 25, 1975

X10.14 NOTICE
INTENT TO
APPROPRIATE WATER
No. 1298-2

Notice is hereby given that
Prince and Sons, Inc. whose
post office address is: Ft. Pierre,

Name	Location	S.T.#	feet	Area	acres	amt water
<u>T6N - R 27E</u>						
Vaughn Hall	SWNE 30-6-27	52809		60	.4	2.5
Martin Samuelson	NENW 20-6-27	40643	4/3/67	100	1.0	9.0
" "	NESW 20-6-27	22538	9/1/61	80	1.1	2.4
Ralph Eldridge	NESW 19-6-27	1263	4/20/52	200	1.77	.09
Vaughn Hall	SWNW 29-6-27	9418	4/1/55	150	2	8.0
" "	SWNE 29-6-27	2922	10/20/54	120	.7	11 ac ft
" "	SWNE 30-6-27	9419	6/1/55	50	1	6 " "
H.E. Hedman	NESW 31-6-27	9446	4/10/55	130	1.4	6.6 "
Vaughn Hall	SE NW 32-6-27	3998	7/25/51	-	-	45.8 "

T6N - R26E

Name	Location	S.T.#	feet	Area	acres	amt water
Martin Samuelson	SWNE 24-6-26	20648	7/30/61	320	3.1	12.0
Ben Norring	SWSW 23-6-26	6638	11/3/52	160	2.5	4.5
Martin Samuelson	SESE 23-6-26	5074	3/23/51	-	-	12.0
" "	SWSE 27-6-26	6351	9-10-52	100	1.7	-
Earle Allen	NWSE 25-6-26	5190	8/31/51			66.3
Wilford Elkins	NWSW 35-6-26	8450	6/17/54	150	1.27	2.7

Name	Location	S. N. #	filed	Area	Acres	amt water ac. ft
<u>T 5N - R 26E</u>						
Winton Hedman	SWSW	1-5-26	5195	1/6/54	106.	4.5 19.
W.E. Hedman	NE SW	2-5-26	5385	10/3/51		143.2

T 5N - R 27E

May McIntyre	NWSE	5-5-27	40377	7/1/63	80	.39	2.25
Rockwell S.S. Co.	NWNE	7-5-27	20617	7/29/61	410	1.7	5.7
Paul Riviere	NENE	8-5-27	23739	11/16/61	200	.31	1.6
" "	SWSE	8-5-27	351	7/22/55	250	1.2	—
" "	NWNW	17-5-27	3024	6/1/56	250	3.0	34.0
" "	" "	18-5-27	3611	7/25/56	120	1.5	9.0
" "	NWSE	20-5-27	3810	8/17/56	90	1.0	4.2
Prince & Son Inc	NWSE	23-5-27	28822	11/14/63	70	1.2	4.3
Wayne Prince	SESW	23-5-27	23845	11/24/61	50	1.5	9.1
" "	NWNW	15-5-27	3923	7/18/51	—	—	6.7
" "	NWSE	22-5-27	5221	6/15/50	—	—	9.9
" "	SWNE	23-5-27	1661	9/4/53	35	1.6	3.3
Klemans H. Lebayja	SWSE	4-5-27	7310-2	7/1/53	200	.4	6
" "	SESE	9-5-27	3968	7/27/51	—	—	1.6
Max "	SWSE	9-5-27	9256	1/6/55	80	.15	2.0
Kleman "	SWSW	10-5-27	5969	7/27/51	—	—	1.1

T 5N - R 27E

John Fink Jr	NWNE	21-5-27	5017	8/16/51	-	-	34.4
Laurence Miller	SENE	17-5-27	8020	11/20/53	100	2	6
" "	SWSE	17-5-27	2222	6/15/50	-	-	7.5
Klennan Hebbings	SWSE	4-5-27	7310				
W. E. Hedman	SENE	6-5-27	8399	5/28/54	1600	2.4	23.
Tray Creek	SENE	7-5-27	7525	-	250	7	3.4
A. H. Rose	SWNE	16-5-27	984	9/5/55	186	1.5	-
"	SESE	16-5-27	5845	5/23/57	200	2.0	-
"	SESE	16-5-27	11360	11/15/58	200	2	16.0

555.1

at least 36 dams on watershed
now

SECTION: SECTION 25-1-17

3-25-81

3-25-81

T6N, R27E

SEC 18, 19, SW⁴20, W^{3/4}29, 30, 31, 32

T6N, R26E

SEC 22, 23, 24, 25, 26, E²27, E²34, 35, 36

T5N, R26E

SEC 1, 2, E²3, SW²12 → 

T5N, R27E

4, 5, 6, 7, 8, 9, W²10, 15, 16, 17, NW²18  
NW²20  , 21, 22, NW⁴23,

Robert E. Hedman 10-27-75
Bop. 101 17.64 cfs 1235 acres
Hayes

Points of diversion

Existing Storage

file 10-3-61 Area is fairly flat - storage specified in 10-3-61
143.2 A.F. Special storage is
NE 1/4 SE 1/4 2-5-26 #1 800 A.F. near S.E. corner NW 1/4 5-5-27
10, E. Hedman #2 450 A.F. near S.E. corner 6-5-27
#3 600 A.F. near center 1-5-26

11-18-75

Prince & Son

10-8-75

Harry Prince
said

10 cfs 3690 acres

10-8-75

can have
40' of water
3' culvert
overflow
70' wide

Points of Diversion

#1 West Fork Lance Creek
SE 22-5-27

emergency
spillway
450 A.F.
(not sure)

Design Nap. Water depth = 22'
Height of Dam = 32'
Surface area 40 acres
Capacity 300 A.F.

#2 East Fork Lance Creek
SW 24-5-27
400 A.F.

Harry Prince
Prince & Son, Inc.
Ft Pierre 57532

we can expect 990 A.F. of water runoff
 from 28.5 sections West Fork Lane Creek
 at least once every 2 years
 Dry Drain location Notice - 36 dams at 5.5 A.F.
 $990 - 555 = 435$ of storage

Robert H. Rose 10-20-75
 Hayes, S. Dak.
 11 4 cfs 800 acres

Point of diversion SE 16-5-27
 Irrigated land

NE 1/4	8-5-27	160 acres
NW 1/4	16-5-27	160
NE 1/4	16-5-27	160
SW 1/4	16-5-27	160
SE 1/4	16-5-27	160
		<u>800</u>

Dam in Sec 16-5-27
 desired storage 600 Acres ft.
 - even 8 depth does not
 appear to be available
 for storage requested

Map H Lebanon 11-3-75
 3.51 cfs, 246 acres

Point of Diversion 725' NW of SW corner
 SE 1/4 Sec 9-5-27

Irrigated land

SW 1/4 9-5-27
 SE 1/4 9-5-27

111 acres

135

$300 - 246 = 54$ acres

about 40 acres left for
 storage



Map H Lebanon
 222 West 3rd
 Pierre

desired storage in 375 acres at
 @ 5' average ^{water} depth over
 40 acres = 200 A.F.

Not much ~~area~~ ^{area} or depth
 for storage - water can
 only be backed up within
 1/2 mile to center of section

STATEMENT TO THE NATURAL RESOURCE COMMISSION

GENTLEMEN, MY NAME IS A.H. ROSE. I WOULD LIKE TO MAKE A STATEMENT CONCERNING THE APPLICATIONS OF HARRY AND CHARLES PRINCE, A.H. ROSE AND ROBERT ROSE, WILLIAM AND ROBERT HEADMAN AND MAX HLEBANJA FOR WATER RIGHTS FOR IRRIGATION ON THE WEST FORK OF LANCE CREEK. I WOULD LIKE TO HAVE THIS ENTERED INTO THE RECORDS OF THIS COMMISSION MEETING.

FIRST, I WOULD LIKE TO DEFINE THE PROBLEMS OF THESE APPLICATIONS AS I SEE THEM.

THE NUMBER ONE PROBLEM IS THAT THERE IS 450 ACRE FEET OF WATER AS DETERMINED BY THE S.C.S., THAT CAN BE ALLOCATED FOR IRRIGATION USE, THAT WILL FLOW DOWN THIS DRY DRAIN ON AN AVERAGE YEARLY BASIS. AS THE APPLICATIONS NOW STAND, AND AS I UNDERSTAND, THE DIVISION OF THE WATER RIGHTS ~~THEY~~ WOULD BE THIS WAY.

HARRY AND CHARLES PRINCE HAVE APPLIED FOR 300 ACRE FEET AND SINCE THEY APPLIED FIRST, WOULD RECEIVE FIRST CONSIDERATION. ROBERT ROSE APPLIED 2ND, SO WOULD RECEIVE SECOND CONSIDERATION, ~~AND~~ HIS APPLICATION ASKS FOR MORE THAN 150 ACRE FEET LEFT TO BE ALLOCATED. IT IS ASSUMED HE WOULD BE GRANTED THIS. GENTLEMEN, THIS DOES NOT ALLOW ANY FOR WILLIAM AND ROBERT HEADMAN WHO FILED NEXT, OR MAX HLEBANJA WHO FILED LAST. THE MAIN PROBLEM THEN, IS THAT THERE IS ONLY ENOUGH WATER COMING DOWN THIS DRY DRAIN TO SATISFY THE FIRST TWO APPLICANTS' LEGAL CLAIMS. THIS, IN GENERAL, DEFINES THE PROBLEM. THIS IS THE POINT ^{AT WHICH} WE FOUND OURSELVES AT THE END OF THE LAST COMMISSION MEETING, WHEN IT WAS DECIDED TO POSTPONE THE GRANTING OF WATER RIGHTS, UNTIL SOME OF THE COMMISSION MEMBERS TOOK A LOOK AT THE SITUATION, AND THEN DECIDED WHAT TO DO AT THIS MEETING. THIS WAS GOOD, BECAUSE IT ALSO GAVE US TIME, AS NEIGHBORS, TO TRY TO RESOLVE THIS AMONG OURSELVES. IN ORDER TO TRY TO RESOLVE THIS DILEMMA, EACH OF THE APPLICANTS, HARRY AND CHARLES PRINCE, A. H. ROSE, AND ROBERT ROSE, WILLIAM AND ROBERT HEADMAN, AND MAX HLEBANJA MET IN MY HOME, TUESDAY, JAN. 13, 1976. I HAD HIGH HOPES OF SUCCESS AND THAT WE COULD WALK IN HERE TO THIS MEETING AS NEIGHBORS AND SIMPLY EXPLAIN HOW WE WOULD EACH SHARE THE WATER RIGHTS. THIS WAS NOT THE CASE. I WOULD LIKE TO SHARE JUST A LITTLE OF OUR DELIBERATIONS SO THAT YOU MAY UNDERSTAND THE REASON OUR DILEMMA IS STILL UNRESOLVED.

^{IS}
SINCE THERE ~~WAS~~ ONLY 450 ACRE FEET TO DIVIDE AND THE FIRST TWO APPLICANTS PRINCE AND ROSE ASK FOR OVER 450 ACRE FEET, THE ONLY WAY EVERY ONE WHO APPLIED FOR WATER RIGHTS COULD GET SOME, WAS THAT ROSE AND PRINCE MUST SHARE WITH THE OTHER TWO PARTIES. IT WAS SUGGESTED THAT EACH OF THE PARTIES SHARE IN THIS WAY. PRINCE 200 ACRE FEET, ROSE 100 ACRE FEET, HEADMAN 100 ACRE FEET, HLEBANJA 50 ACRE FEET. THIS COULD HAVE GIVEN EACH A LEGAL RIGHT TO BUILD A DAM ON THIS DRAIN.

THIS WAS SATISFACTORY WITH EVERYONE, EXCEPT THE P. CE BROTHERS, WHO FEEL THAT THEY HAD ALREADY SPENT A GREAT DEAL OF MONEY GETTING READY TO IRRIGATE AND THEY MUST PROTECT THEIR INVESTMENT IN A DAM AND A SPRINKLER IRRIGATION SYSTEM THEY HAVE ORDERED. WE ALL SYMPATHIZED WITH THEM AND ASSURED THEM THAT NONE OF US WOULD TRY TO BUILD ANY DAMS BEFORE THEIR DAM FILLED AND TO GIVE THEM AS MUCH TIME AS POSSIBLE TO GET THEIR SYSTEM WORKING. THIS ASSURANCE WAS EVIDENTLY NOT ENOUGH, SO WE STILL HAVE THE DILEMMA.

GENTLE MEN, I DO NOT WISH TO PLACE BLAME ON ANYONE BECAUSE OF THE SITUATION THAT EXISTS.

AS A PRACTICAL MATTER I THINK IN TIME THERE WILL BE ENOUGH WATER RUN DOWN THIS DRAW TO FILL ALL THE DAMS THAT WE ARE PROPOSING OR IN ALL LIKELY HOOD WILL BUILD. THERE IS A TOTAL OF APPROXIMATELY 1000 ACRE FEET WILL FALL AND RUN SOMEWHERE IN A YEARS TIME. 550 ACRE FEET IS KEPT BACK FOR EXISTING DOMESTIC DAMS THAT ARE BUILT. AS A PRACTICAL MATTER, I BELIEVE THAT A LARGE PART OF THIS WATER WILL ACTUALLY RUN DOWN THIS DRAW BECAUSE A NUMBER OF THESE DAMS HAVE WASHED OUT OR HAVE SILTED PARTIALLY OR COMPLETELY FULL. SO IN REALITY MUCH OF THIS 550 ACRE FEET WILL NOT BE STOPPED, BUT COME DOWN TO FILL ANY IRRIGATION DAMS BELOW. THERE PROBABLY WILL NOT BE MANY DAMS OF A DOMESTIC NATURE BUILT BECAUSE A NUMBER OF ARTESIAN WELLS HAVE BEEN DRILLED AND PIPED OVER A LARGE PART OF THE RANGE LAND IN THE AREA. ALSO A RURAL WATER SYSTEM IS IN THE PLANNING STAGES. THERE WILL BE QUITE A LOT OF IRRIGATION WATER AVAILABLE THEREFORE IT APPEARS TO ME THAT EACH OF THE APPLICANTS NEED A LEGAL RIGHT TO BUILD A DAM ON THIS DRAW. WITH OUT THE ALTERING OF THE FIRST TWO APPLICATIONS FOR THE WATER RIGHTS THIS CAN NOT BE DONE. WE ARE CERTAINLY WILLING TO ALTER THE SECOND APPLICATION, IF NECESSARY TO GET THIS DONE.

IN THINKING ABOUT THE SYSTEM WE HAVE FOR ALLOCATING WATER RIGHTS IN THE STATE OF SOUTH DAKOTA IT APPEARS TO ME THAT IT HAS SEVERAL MAJOR DRAW BACKS -

ALTHOUGH IT MAY BE THE ONLY WORKABLE ONE THE STATE CAN HAVE, I WOULD LIKE TO POINT OUT SOME AREAS THAT COULD STAND SOME STUDY AND POSSIBLY SOME IMPROVEMENT.

THERE ARE TWO MAJOR DEFECTS IN THE BASIC WATER RIGHTS LAW AS IT APPEARS TO ME. BY THIS, I MEAN AS THE LAW APPLIES TO AN APPLICATION FOR WATER RIGHTS FOR IRRIGATION ON A DRY DRAW. IN EVERY MAIN DRY DRAW THERE IS A WATER SHED ABOVE IT. IN MOST INSTANCES THERE ARE SEVERAL LAND OWNERS WITHIN THE DRAINAGE AREA. I BELIEVE THE WATER RIGHTS ARE PROBABLY OF VITAL INTEREST TO ALL OF THEM. THE ONLY WAY ANY OF THEM FIND OUT THAT A RACE HAS STARTED, TO CLAIM THE WATER RIGHTS, IS WHEN ONE OF THE OWNERS WITHIN THE WATER SHED FILLS WITH THE NATURAL RESOURCE DEPARTMENT AND THE CLAIM THEN PUBLISHED IN THE LOCAL NEWS PAPER. WHEN THIS IS DONE, IF HIS APPLICATION IS IN ORDER, THE RACE IS ALREADY OVER.

HE HAS ALREADY WON WITH OUT ANY OF HIS NEIGHBORS KNOWING THE RACE HAD EVEN STARTED. HE CAN CLAIM ALL THE WATER HE THINKS HE CAN USE , EVEN IF IT TAKES IT ALL. THE FIRST MAN TO START HAS A TREMENDOUS ADVANTAGE OVER ANY ONE ELSE, BECAUSE HE IS THE ONLY ONE THAT KNOWS THE RACE IS STARTED. IF A SIMPLE PHYSICAL FOOT RACE IS GOING TO BE RUN FOR THE MONOPOLY OF THE WATER RIGHTS, THEN IT SEEMS AT LEAST EVERYONE THAT WANTS TO RUN FOR THEM WOULD HAVE A CHANCE TO GET ON HIS TRACK SHOES AND TOE THE STARTING LINE AT THE SAME TIME. THERE DOESN'T SEEM TO BE ANY SYSTEM TO BRING THIS ABOUT . TO ME, THIS IS THE NO 1 DEFECT. THE NUMBER 2 DEFECT IS IN THE PUBLIC NOTICE THAT IS PUBLISHED. IT SAYS , "ALL INTERESTED PERSONS MAY APPEAR AND BE HEARD". YOU CAN BE HEARD AS I AM NOW , BUT IT DOES NOT ACTUALLY HAVE ANY BEARING ABOUT CHANGING A PROPERLY SUBMITTED WATER RIGHT. IN LISTENING TO THE SESSION LAST MONTH IT LOOKS TO ME AS IF THE WATER RIGHTS COMMISSION FEELS IT MUST GRANT A PROPERTY SUBMITTED CLAIM BECAUSE IT IS BOUND BY LAW TO DO SO. EVEN IF THE CLAIM IS DISPUTED . THEREFORE THE ONE WHO FEELS HE IS NOT GETTING A FAIR DEAL ACTUALLY HAS NO RECOURSE. I DON'T THINK ANY LAW THAT STEPS ON TOO MANY TOES SHOULD BE ALLOWED TO STAND . MAYBE THIS ONE NEEDS A GOOD CHECKING OVER.

I DONOT WISH TO STOP ANYONE FROM IRRIGATING ON THIS DRAW THAT HAS A VITAL INTEREST AND WANTS TO . I BELIEVE THERE SHOULD BE A FAIRER DISTRIBUTION OF THE WATER RIGHTS NOW PENDING. I THINK IT WOULD CREATE A CLIMATE IN THE COMMUNITY THAT WOULD BE HELPFUL TO ALL INTERESTED PARTIES AND HOPE THIS COMMISSION CAN HELP BRING THIS ABOUT.

A. M. Rose

1298-2

November 21, 1975

Mr. Robert H. Rose
Hayes, S. D. 57537

Dear Mr. Rose:

This letter is in reference to your water rights application which was filed in this Office October 20, 1975, to divert 11.4 cfs from a proposed dam to be located in Section 16 of Township 5N, Range 27E. The proposed storage capacity of this dam is 600 acre feet.

Prince & Sons, Inc. filed an application October 8, 1975 for a water right to divert 10 cfs from a dam on the West Fork of Lance Creek, SE 1/4 Sec. 22-5N-27E, with a storage capacity of 300 acre feet, and a proposed dam on the East Fork of Lance Creek, SW 1/4 Sec. 24-5N-27E.

The drainage area for the West Branch of Lance Creek is about 28.5 sections. We have contacted the Soil Conservation Service and they indicated that they use a runoff factor of .65 inches on a two year frequency for this watershed. Using the .65 inch factor for 28.5 sections, we can expect a yield of 900 acre feet of water at least once every two years.

A check of the dry draw location notices on file in this Office indicate that there are now 36 dams on this watershed with a total storage of 555 acre feet of water. There may be additional dams in this area on which we do not have records.

The various stock dams with 555 acre feet of storage have first priority on the available runoff. The Prince application for 300 acre feet of storage has second priority. This would leave about 135 acre feet of unappropriated water.

Robert E. Hedman filed a water right application with this Office October 27, 1975 for three dams on the West Branch of Lance Creek-800 acre feet, 450 acre feet and 600 acre feet of storage. Max Hlobanja filed a water right application with this Office November 3, 1975, for a dam with 375 acre feet of storage. Your application has the third

Page 2
November 21, 1975

priority for the remaining 135 acre feet of storage.

It appears to us that the storage proposed under all three applications-yours, Mr. Hedman's and Mr. Hlebanja's is not realistic. All three applications are located upstream from the Prince storage location. Any water right granted on the West Branch of Lance Creek above the Prince dam, assuming their application is approved, would carry not only a low flow by-pass for downstream domestic use, including livestock watering qualification, but also a qualification that water could not be stored in an upstream dam until the Prince dam was full. The Prince application would have first right to any flow in Lance Creek.

We have not advertised these three applications, as (1) it does not appear there is enough water for anywhere near the storage proposed and (2) based upon information we have, it seems doubtful that sites could be located for the proposed dams that would store the amount of water claimed.

Your application can not be advertised until more complete design criteria for the proposed dam and the actual storage is submitted. Any storage would need to be on your own land unless permission is received from the adjacent landowners. At this time, there does not appear to be any available water, assuming the Prince application is approved by the Commission at the January meeting, for either the Hedman or Hlebanja applications unless you choose to split the remaining water with Mr. Hedman and Mr. Hlebanja.

If six inches of water per acre is applied each year, then 270 acres of land could be irrigated from 135 acre feet of water, which could be expected to be available at least once every two years. Higher application rates would reduce the number of acres to be irrigated.

Please advise, if we may be of any assistance on this matter.

Very truly yours,

John Hatch, Chief Engineer
Water Rights Commission

CE:nla

cc Mr. Parry Prince
Mr. Robert E. Hedman
Mr. Max Hlebanja

APPLICATION No. 1298-2

We have shown on the county map the pertinent factors concerning this application.

The area outlined in red is roughly the drainage area on the West Branch of Lance Creek and totals 28.5 sections. We have contacted the local Soil Conservation Service, and they indicate that they use a runoff factor of .65 inches on a two year frequency for this watershed. Using the .65" factor for 27.5 sections, we can expect a yield of about 990 acre feet of water at least once in every two years.

A check of the Dry Draw Location Notices on file in this office indicate there are 36 dams now on this watershed with a total storage of 555 acre feet of water. There may be additional dams in this area on which we do not have records.

The area outlined in blue represents the drainage area for the East Branch of Lance Creek, and contains about 18.5 sections. Using the .65" runoff factor, we can expect a yield of about 640 acre feet annually.

The Prince Application proposes a dam on both branches of Lance Creek, with a storage capacity of about 300 acre feet in each dam.

The area shown in green is the area proposed for irrigation under the Prince Application, with the location of the dams also shown.

The area in pink is land proposed under an application from Robert Rose with the location of the proposed dam. He proposes storage of about 600 acre feet of water.

The area in orange is land proposed for irrigation by Max Hlebanja with the location of the proposed dam. He proposes storage of about 375 acre feet.

The area in brown is land proposed to be irrigated by Robert E. Hedman, with the location of three proposed dams, with storage of 800, 450 and 300 acre feet.

It appears to us that the storage proposed under all three Applications is not realistic. All three Applications are located upstream from the Prince Application.

Page 2. - Application No. 1298-2

We have not advertised these three Applications, as (1) it does not appear there is enough water for anywhere near the storage proposed, and (2) from the information we have, it seems doubtful that sites could be located for the proposed dams that would store anywhere near the amount of water claimed. It is our understanding that no staking or survey of dam sites has been made on these three Applications.

From the above information, it is the Staff recommendation that Application No. 1298-2 be approved with a low flow qualification.

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1298-2

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

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

February 9, 1990

HARRY PRINCE-PRINCE AND SONS INC
RR #2 BOX 27
FT PIERRE, SD 57532

NOTICE

RE: Violation of Water Permit No(s). 1298A-2 and 1989 Irrigation Questionnaire Requirements

Our records indicate that the 1989 Irrigation Questionnaire has not been submitted for Permit No(s). 1298A-2. The request for the Questionnaire was dated October 13, 1989. The Water Management Board has directed that owners of water permits who have not submitted the 1989 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). 1298A-2 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. 1350-2, 1354-2, 1298-2 should be amended with the qualification to require the Questionnaire to be submitted each year. The hearing will be held at 8:30 am, March 7, 1990 at the Howard Johnson's, Roosevelt-Jefferson Room, I-90 at LaCrosse, Rapid City SD.

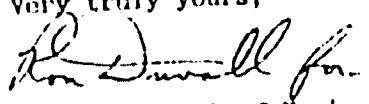
The hearing will be conducted pursuant to the provisions of SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to procedures contained in SDCL 1-26. Following the hearing, the Water Management Board can:

1. Suspend Permit No(s). 1298A-2 until the 1989 Irrigation Water Use Questionnaire is submitted or for a period of up to one year;
2. Amend Permit No(s). 1350-2, 1354-2, 1298-2 also held by PRINCE AND SONS INC to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action;
4. 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 March 7th 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,



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 28, 1990

1298-2
1298-2A
1350-2
1354-2

Prince & Sons, Inc.
RR 2, Box 27
Ft. Pierre SD 57532

Dear Sirs:

I am writing to acknowledge receipt of your 1989 irrigation questionnaire for Water Permit Nos. 1298-2, 1298-2A, 1350-2 and 1354-3. You may disregard the February 9, 1990 Notice of failure to submit the 1989 irrigation questionnaire. Your questionnaire was received prior to the March Water Management Board meeting and your name was deleted from the agenda pertaining to the hearing.

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

Sincerely,

Ron Duvall

RON DUVALL
Natural Resources Engineer
Water Rights Division



1298-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

JUL 3 1996

2067-2

Harry Prince, Jr.
Prince & Sons, Inc.
26124 US Hwy. 14-34
Ft. Pierre, SD 57532-5701

Dear Mr. Prince:

Enclosed is Water License No. 2067-2. Water License No. 2067-2 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 Program
(605) 773-3352

gm
enclosures

NOTE: The applicable portions of Water Permit Nos. 1298-2, 1298A-2, 1350-2 and 1354-2 are incorporated into this Water License No. 2067-2.