

Water Right Number 1311-2

1. Considered 1-22, 19 76
2. Name of Applicant PHYLLIS FERNAN
3. Post Office Address FRUITDALE
4. Amount of water claimed 3.75
5. Source of water supply GROUND WATER (3-200' DEEPWELLS)
6. Water to be used for IRRIGATION
- Acres to be irrigated 330
7. Water to be diverted and used in TODD County
about 8S, 4W Miles of MISSION
8. Proof of Publication Received 1-5-76
Not received
9. Application Approved
Subject to
Not approved
Action deferred
10. Remarks:

No. 1311-2Map No. 1110-2 Water Division No. 2. KEYAPAH RIVER District
(Blanks to be Filled by the Engineer for the W. R. C.)

APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

(NOTE-Draw a line through items not applicable)

1. Name of Applicant Phyllis R. Fernen Gene Popkes
Postoffice address Fruitdale, S.D. State South Dakota 69212

If a corporation show date and place of incorporation _____

2. Method of accomplishing work (contract, employment of others, or by direct labor) Direct Labor3. Name of diversion work Fernen Irrigation4. Amount of water claimed (cubic feet per second) 3.755. Source of water supply Wells6. Location of point of diversion AT THE CENTER OF SE 1/4 & SW 1/4 NE 1/4 S. 15AND CENTER OF SE 1/4 S. 15 T. 37, R. 29(SEE MAP ATTACHED) County Todd Co. S.D.7. Annual period or period during which water is to be used MAY TO SEPTEMBER8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) irrigation9. For irrigation use, SEE Total number of acres to be irrigated 264 330

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.
SE 1/4 - NE 1/4, S. 15 - T. 37 - R. 29	33	SE 1/4 - SW 1/4, S. 15 - T. 37 - R. 29	33
SW 1/4 - NE 1/4, S. 15 - T. 37 - R. 29	33	SW 1/4 - SE 1/4, S. 15 - T. 37 - R. 29	33
NW 1/4 - SE 1/4, S. 15 - T. 37 - R. 29	33	NW 1/4 - SE 1/4, S. 15 - T. 37 - R. 29	33
NE 1/4 - SE 1/4, S. 15 - T. 37 - R. 29	33	NE 1/4 - SE 1/4, S. 15 - T. 37 - R. 29	33

S. 15 - SE 1/4, S. 15 - T. 37 - R. 29 SEE MAP ATTACHED10. Time required to complete construction of water supply system 5 years. Additional time required to complete application of water to the proposed beneficial use 5 years.11. Choice of newspaper for Notice of Intent to Appropriately Water publication Todd County Tribune

12. Principal Features of the Proposed Water Supply System

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

WELL

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

C. Works proposed to apply water to beneficial use.

CENTER PIVOT SYSTEM,
WELL AT CENTEREstimated Total Cost 2100,000Attachments: 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 ToddI, Phyllis R. Fernen 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 Phyllis R. FernenSubscribed and sworn to before me this 22nd day of October 19 75Betty Westlund
Notary Public (or other qualified officer)Land/Water Clerk II

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 1311-2

PHILIP FERNAN ==Gene Popkes
(Applicant) Nebraska 69212

FRUITDALE ==Crookston
(Post Office Address)

SOUTH DAKOTA 57742 == With the following modifications:
(State)

The irrigation well approved under this Permit will be located near domestic wells and other irrigation wells which may obtain water from the same aquifer. The irrigation well owner, under this Permit, shall control his irrigation withdrawals so there is not a reduction of needed water supplies in existing domestic wells or an irrigation wells having prior water rights.

THIS PERMIT AUTHORIZES CONSTRUCTION OF ONE OF THE PROPOSED THREE WELLS - THIS AUTHORIZED WELL IS FOR THE SE¹ SECTION 10, T37N, R24W. THE REMAINING WELLS WILL BE PLACED IN A DEFERRED STATUS.

Date of first receipt of application OCTOBER 22, 1975

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

Date of receipt of corrected application OCTOBER 27, 1975

Approved JANUARY 22, 1976, Recorded in Book 14 Page 179

WATER RIGHT PERMIT NO. 1311-2

The Water Rights Commission hereby grants and issues this Water Right Permit No. 1311-2 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 22, 1975
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before JULY 22, 1978
3. The whole of said work is to be completed on or before JANUARY 22, 1981
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is JANUARY 22, 1981
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 1.9 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 2 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, 1981; said water to be used during the following described annual period: MAY 22 SEPTEMBER

Witness my hand this 26TH day of JANUARY, 1976

WATER RIGHTS COMMISSION

By: J. R. H. H. H.
Chief Engineer, Executive Officer

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

Water License Issued ---, 19---

WATER RIGHT APPLICATION APPROVAL

The Water Resources Commission hereby approves Water Right Application No. 1311-2

PHYLLIS FERNAN Gene Popkes
(Applicant) Nebraska 69212

FRUITDALE Crookston
(Post Office Address)

SOUTH DAKOTA 57742 With the following modifications:
(State)

The irrigation wells approved under this Permit will be located near domestic wells and other irrigation wells which may obtain water from the same aquifer. The irrigation well owner, under this Permit, shall control his irrigation withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in irrigation wells having prior water rights.

THIS PERMIT SUPERSEDES PERMIT NO 1311-2 ISSUED JANUARY 26, 1976, AND REFLECTS THE COMMISSION'S ACTION APPROVING TWO ADDITIONAL WELLS, AND INCREASING THE AMOUNT OF WATER FROM 1.9 CFS TO 3.75 CFS.

Date of first receipt of application OCTOBER 22 19 75

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

Date of receipt of corrected application OCTOBER 27 19 75

Approved JANUARY 22 1976 MARCH 24 19 76 Recorded in Book 14 Page 179

WATER RIGHT PERMIT NO. 1311-2

The Water Resources Commission hereby grants and issues this Water Right Permit No. 1311-2 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 22 19 75
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before SEPTEMBER 24 19 79
3. The whole of said work is to be completed on or before MARCH 24 19 81
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is MARCH 24 19 81
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 3.75 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 use 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 24 19 81 said water to be used during the following described annual period: MAY - SEPTEMBER

Witness my hand this 15TH day of APRIL 19 77

WATER RESOURCES COMMISSION

By

John K. Ketch
Chief Engineer, Executive Officer

Certificate of Construction Issued _____ 19 _____

Water License Issued _____ 19 _____

CONSERVATION
COMMISSION
WI #1

STATE CONSERVATION COMMISSION
SUPPORTING INFORMATION
FOR APPROPRIATION OF GROUND WATER IN ACCORDANCE
WITH SDCL 46-6-3 AS AMENDED
(THIS FORM REQUIRED FOR PROPOSED WELL IRRIGATION ONLY)

FOR COMMISSION USE ONLY

IRRIGATION SYSTEM _____

WATER QUALITY _____

SOILS CAPABILITY _____

APPROVED [Signature]

DISAPPROVED _____

NAME Phyllis Ferner
ADDRESS Fruitdale, South Dakota 57742
COUNTY Todd County, South Dakota

LEGAL DESCRIPTION

1. WELL LOCATION SE $\frac{1}{4}$ of Sec 15, $\frac{1}{2}$ S $\frac{1}{2}$ of T4, NE $\frac{1}{4}$ of Sec 15, T62S, R37E, Range 29W
2. AREA TO BE IRRIGATED 6 acres (Todd Co.)

TYPE OF IRRIGATION

3. GRAVITY _____ SPRINKLER (INDICATE TYPE) Center Pivot
4. CROPS TO BE IRRIGATED Alfalfa & Corn

LAND CAPABILITY FOR IRRIGATION

5. PERCENTAGE OF SLOPE 0-2, 2-5, 5-9%, 9-21%, 0-2%, 3-9%
6. PHYSICAL SOILS CLASSIFICATION FOR IRRIGATION Anselme-Vetrol fine sandy loam, Anselme-
fine sandy loam, Anselme fine sandy loam, Anselme-Tassell fine sandy loam, Vetrol fine
sandy loam, Holt Vetrol fine sandy loam

WATER QUALITY (TO BE COMPLETED BY COMMISSION)

7. SAMPLE NUMBER 75-929
8. SALINITY EC = 499 μ mhos/cm (medium)
9. SODIUM SAR = 0.12 (low)

I DO HEREBY CERTIFY THAT A CHEMICAL ANALYSIS OF THE GROUND WATER TO BE
ACQUIRED FOR IRRIGATION FROM SOUTH DAKOTA STATE UNIVERSITY AND:
THE LAND CAPABILITY FOR IRRIGATION INFORMATION HAS BEEN ACQUIRED FROM

Todd County Extension Agent Office

AND:

THAT THE LEGAL DESCRIPTION FOR THE LOCATION OF THE WELL AND LAND TO BE
IRRIGATED IS TRUE AND CORRECT.

Phyllis Ferner

SUBSCRIBED AND SWORN BEFORE ME THIS

22nd DAY OF Sept. 1975.

James S. Lang

Notary Public, BUTTE COUNTY, S. DAK.
My Commission Expires NOV. 6, 1975

(TITLE)



REPORT OF ANALYSIS
 Water Quality Laboratory
 Water Resources Research Institute
 South Dakota State University
 Brookings, South Dakota 57006

Submitted by: Phyllis Fernen
 Address: Fruitdale, SD 57742

Date Rec'd: September 29, 1975
 Sample No.: 75-928
 Identification: WELL
El, Sec. 15, T. 32N, R. 29E

WATER ANALYSIS

Calcium (Ca)	86	ppm*	4.30	me/l**
Magnesium (Mg)	3	ppm	0.25	me/l
Sodium (Na)	4	ppm	0.18	me/l
Potassium (K)	8	ppm	0.21	me/l
Sulfate (SO ₄)	8	ppm	0.17	me/l
Nitrate (as N)		ppm		me/l
Chloride (Cl)	4	ppm	0.10	me/l
Bicarbonate (HCO ₃)	249	ppm	4.03	me/l
Carbonate (CO ₃)		ppm		me/l
Iron (Fe)		ppm		me/l
Fluoride (F)		ppm		me/l
Hardness (ED TA as CaCO ₃)		ppm		g.p.g.***
Alkalinity (Methyl Orange)	204	ppm (as CaCO ₃)		
Alkalinity (Penolphthalein)	0	ppm (as CaCO ₃)		
Electrical Conductivity	499	micromhos per cm at 25° C.		
Sodium Adsorption Ratio	0.12			
Sodium	12.64	% of cations		
Residual sodium carbonate	5.00	me/l		
pH	7.03			
Others:				

*ppm=parts per million

**me/l=milliequivalents per liter

***g.p.g.=grains per gallon

COMMENTS: Total cations 4.94 me/l
 Total anions 4.35 me/l

By: Chirley Mitten

Service Performed	Amount Due
Irrigation analysis	\$6.00

Make checks payable to: Water Quality Laboratory

Cut along dotted line and return the lower portion with payment

Sample No. 75-928

Amount Enclosed \$

Signed

CONSERVATION
COMMISSION
WI #1

STATE CONSERVATION COMMISSION
SUPPORTING INFORMATION
FOR APPROPRIATION OF GROUND WATER IN ACCORDANCE
WITH SDCL 46-6-3 AS AMENDED
(THIS FORM REQUIRED FOR PROPOSED WELL IRRIGATION ONLY)

FOR COMMISSION USE ONLY

IRRIGATION SYSTEM _____

WATER QUALITY _____

SOILS CAPABILITY _____

APPROVED M. J. J. J.

DISAPPROVED _____

NAME Phyllis Fernan
ADDRESS Fruitdale, South Dakota 57742
COUNTY Todd County, South Dakota

LEGAL DESCRIPTION

1. WELL LOCATION SE 1/4 of Sec 10 TWP 37 N Range 29 W Todd Co.
2. AREA TO BE IRRIGATED Same

TYPE OF IRRIGATION

3. GRAVITY _____ SPRINKLER (INDICATE TYPE) Center Pivot
4. CROPS TO BE IRRIGATED Alfalfa & Corn

LAND CAPABILITY FOR IRRIGATION

5. PERCENTAGE OF SLOPE 0-2%, 2-5%, 7-21%, 3-8%, 0-2%
6. PHYSICAL SOILS CLASSIFICATION FOR IRRIGATION Anseline Ustol fine sandy loam, Anseline fine
sandy loam, ~~Anseline~~, Anseline-Tessel fine sandy loam, Valentine Dunday complex
Arlt fine sandy loam

WATER QUALITY

(TO BE COMPLETED BY COMMISSION)

7. SAMPLE NUMBER 75-929
8. SALINITY EC = 403 μ mhos/cm (medium)
9. SODIUM SAR = 0.13 (low)

I DO HEREBY CERTIFY THAT A CHEMICAL ANALYSIS OF THE GROUND WATER TO BE
ACQUIRED FOR IRRIGATION FROM SOUTH DAKOTA STATE UNIVERSITY AND:

THE LAND CAPABILITY FOR IRRIGATION INFORMATION HAS BEEN ACQUIRED FROM

Todd County Extension Agent Office

AND:

THAT THE LEGAL DESCRIPTION FOR THE LOCATION OF THE WELL AND LAND TO BE
IRRIGATED IS TRUE AND CORRECT.

Phyllis Lerner

SUBSCRIBED AND SWORN BEFORE ME THIS

22nd DAY OF Sept. 1975.

James S. Lang

Notary Public, BUTTE COUNTY, S. DAK.
My Commission Expires NOV. 6, 1975

(TITLE)



REPORT OF ANALYSIS
Water Quality Laboratory
Water Resources Research Institute
South Dakota State University
Brookings, South Dakota 57006

Submitted by: Phyllis Forren
 Address: Fruitdale, SD 57742

Date Rec'd: September 29, 1975
 Sample No.: 75-929
 Identification: Well
SE1, Sec. 10, T 37N, R 29W

WATER ANALYSIS

Calcium (Ca)	70	ppm*	3.50	me/l**
Magnesium (Mg)	5	ppm	0.41	me/l
Sodium (Na)	4	ppm	0.18	me/l
Potassium (K)	4	ppm	0.12	me/l
Sulfate (SO ₄)	2	ppm	0.04	me/l
Nitrate (as N)		ppm		me/l
Chloride (Cl)	3	ppm	0.06	me/l
Bicarbonate (HCO ₃)	251	ppm	4.12	me/l
Carbonate (CO ₃)		ppm		me/l
Iron (Fe)		ppm		me/l
Fluoride (F)		ppm		me/l
Hardness (EDTA as CaCO ₃)		ppm		g-p-g.***
Alkalinity (Methyl Orange)	206	ppm (as CaCO ₃)		
Alkalinity (Pentolphthalein)	0	ppm (as CaCO ₃)		
Electrical Conductivity	403	micromhos per cm at 25° C.		
Sodium Adsorption Ratio	0.13			
Sodium	4.27	% of cations		
Residual sodium carbonate	0.21	me/l		
pH	7.35			
Others:				

*ppm=parts per million

**me/l=milliequivalents per liter

***g-p-g=grains per gallon

COMMENTS:

Total cations 4.21 me/l
 Total anions 4.24 me/l

By: Shirley Mitten

Service Performed

Amount Due

Irrigation analysis

\$6.70

Make checks payable to: Water Quality Laboratory

Cut along dotted line and return the lower portion with payment

Sample No. 75-929

Amount Enclosed \$

Signed

10. ~~1311-2~~

Publish first publication, on or before ~~January 5~~, 19 ~~76~~

NOTICE
INTENT TO APPROPRIATE WATER

Pierre, South Dakota 57501

~~December 5~~, 19 ~~76~~

Notice is hereby given that ~~Phyllis R. Fernan~~
whose post office address is ~~Fruitdale~~, 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

~~5.75~~ cubic feet of water per second of time from the ~~ground water~~ through the

~~P. R. Fernan Well~~, the point of diversion of which is to be located in the

~~center of the NE1/4, center of the SE1/4, Section 15,~~

~~center of the SE1/4~~

of Section ~~10~~, Twp. ~~37N~~, Range ~~20W~~. Said water to be used for the purpose
of providing irrigation on ^{portions of} the following described land:

~~SE1/4 NE1/4, SE1/4, Section 15; SE1/4, Section 10, T37N, R20W~~

This application No. ~~1311-2~~ will be considered by the Water Rights Commission at their office at
Pierre upon the ~~2nd~~ day of ~~January~~, 19 ~~76~~ at ~~2:30 PM~~ M. All interested
persons may appear and be heard.

WATER RIGHTS COMMISSION

By:

BURTON F. JONES
Water Rights Specialist

BFJ/bw

cc: Phyllis Fernan, Fruitdale, S.D. 57742

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Todd) ss.

I, Margaret Fegert hereby
certify that the annexed printed copy of Notice of Intent to Appropriate
Water was taken from the Todd Co. Tribune

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

Thursday, November 11, 1975
Thursday, November 18, 1975

Margaret Fegert
(Signature)
Co-Owner
(Title)
12-20-75
(Date Signed)

Notice of Intent to
Appropriate Water

Notice is hereby given that
Phyllis R. Fernan whose post
office address is Fruitdale, South
Dakota, has made an application
in accordance with the provi-
sions of the water laws of South
Dakota for a permit to appro-
priate for beneficial use 3.75
cubic feet of water per second of
time from the ground water
through the F. R. Fernan Wells,
the point of diversion of which is
to be located in the center of the
SE $\frac{1}{4}$; center of the S $\frac{1}{2}$ NE $\frac{1}{4}$,
Section 15; center of the SE $\frac{1}{4}$ of
Section 10, Twp. 37N, Range 29W.
Said water to be used for the
purpose of providing irrigation
on portions of the following
described land: S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$,
Section 15; SE $\frac{1}{4}$, Section 10,
T37N, R29W.

This application No. 1311-2 will
be considered by the Water
Rights Commission at their
office at Pierre upon the 22nd day
of January, 1976, at 2:30 p.m. All
interested persons may appear
and be heard.

WATER RIGHTS
COMMISSION

By: Burton F. Jones
Water Rights
Specialist

Publ. Dec. 11 and 18



United States Department of the Interior
OFFICE OF THE SOLICITOR

ROOM 211 - FEDERAL BUILDING
P.O. BOX 519
ABERDEEN, SOUTH DAKOTA 57101

December 30, 1975

Mr. Burton F. Jones
Water Rights Specialist
Water Rights Commission
Pierre, South Dakota 57501

Dear Mr. Jones:

The Area Director, Bureau of Indian Affairs, has advised that on January 22, 1976, at 2:30 p.m., a Hearing will be held by the Water Rights Commission at their office at Pierre, South Dakota on the application of Phyllis R. Fernan of Fruitdale, South Dakota, for a permit to appropriate for beneficial use 3.75 cubic feet of water per second of time from the ground water, the point of diversion being in the center of the SE $\frac{1}{4}$; center of the S $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 15; center of the SE $\frac{1}{4}$, Sec. 10, all in T. 37 N., R. 29 W. for the purpose of irrigation.

This letter will serve as our written objection to such application for a permit to appropriate ground water from within the boundaries of the Rosebud Indian Reservation. The issuance of such permit would be contrary to established law, which declares that the State lacks jurisdiction with respect to the adjudication of the waters of, or the lands within, the exterior boundaries of an Indian Reservation. See 25 U.S.C.A. Sec 381; Winters v. United States, 207 U.S. 564, 28 S. Ct. 207; United States v. Powers, 94 F 2d 783; United States v. McIntire, 101 F 2d 650; and United States v. Alexander, 313 F 2d 359.

In filing this objection to the issuance of such proposed permit and in writing this letter to you, we do not waive our right to challenge the State's jurisdiction by legal action or otherwise, and merely intend to call the State's attention to the fact that the State lacks jurisdiction in this matter.

Very truly yours,

Wallace G. Dunker
Wallace G. Dunker
Field Solicitor

cc: Office of the Area Director
Superintendent, Rosebud Indian Reservation
Mr. Parnell Hagen, Area Soil Conservationist, B.I.A., Aberdeen, SD
Ms. Phyllis R. Fernan, Fruitdale, SD 57742

131162

January 28, 1976

Mrs. Phyllis Fernan
Fruitdale
South Dakota 57742

Dear Mrs. Fernan:

Enclosed herewith is your Water Right Permit No. 1311-7 as approved by the Water Rights Commission, authorizing you to construct your water diversion system and apply the water to beneficial use not exceeding the limits as specified in said Water Right Permit No. 1311-7.

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 Water Rights Commission when you have completed the system and/or have put the water to beneficial use. The Commission can then schedule an inspection so that your Certificate of Construction and/or your Water License may be issued to you, thus completing your acquisition of a Water Right.

Also the Office of the Solicitor, United States Department of Interior in a letter dated December 30, 1975 contends that the State of South Dakota lacks jurisdiction with respect to the issuance of permits to use waters within the exterior boundaries of an Indian reservation.

Your Application No. 1311-1 was approved for one well only, the north well to be located in the center of the SDN, Section 10, T32N, R28W. Action on the other two proposed wells was deferred to allow the Commission to collect further data regarding drawdown and recharge to the aquifer. This deferred portion of the application will retain the original priority.

Sincerely,

JOHN MATCH, Chief Engineer
Division of Water Rights

JM/ST/20
Encs. as stated

January 28, 1976

Mrs. Phyllis Fernan
Fruitdale
South Dakota 57742

Dear Mrs. Fernan:

Enclosed herewith is your Water Right Permit No. 1311-2 as approved by the Water Rights Commission, authorizing you to construct your water diversion system and apply the water to beneficial use, not exceeding the limits as specified in said Water Right Permit No. 1311-2.

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 Water Rights Commission when you have completed the system and/or have put the water to beneficial use. The Commission can then schedule an inspection so that your Certificate of Construction and/or your Water License may be issued to you, thus completing your acquisition of a Water Right.

Also the Office of the Solicitor, United States Department of Interior in a letter dated December 30, 1975 contends that the State of South Dakota lacks jurisdiction with respect to the issuance of permits to use waters within the exterior boundaries of an Indian reservation.

Your Application No. 1311-2 was approved for one well only, the north well to be located in the Center of the 24, Section 10, T37N, R29W. Action on the other two proposed wells was deferred to allow the Commission to collect further data regarding drawdown and recharge to the aquifer. This deferred portion of the application will retain the original priority.

Sincerely,

JOHN HATCH, Chief Engineer
Division of Water Rights

JH/BFJ/bw
Encl: As stated

Dec 8, 1976

Phyllis Hansen called in regard to the deferred part of the water right no. 1311-2. She wanted to know if another application should be submitted to cover the two wells which were deferred in the original application. Also she wants to know when the deferred part would again be acted on by the Water Rights Commission.

I told her that the deferred portion of the application will retain the original priority and the ~~deferred~~ deferred portion will not be acted on until further data can be collected in the area. Also that she should send the Water Rights Commission a letter with any questions she might have on ~~the water right~~ ^{the water right}.

RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

No 4 8046

(Gene Popkes, applic.)

PIERRE,

March 6, 19 81

RECEIVED OF James Dolmen, Dolmen Realty, Inc, Box 546, Winner, SD 57580

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# 1311-2	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 / bt)

NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Rights
Foss Building
Pierre, SD 57501

Date: March 2, 1981

This is to notify you that the title to the lands described as follows:
Township 37 North, Range 29 West, 6th P.M., Todd County, South Dakota, Section 15:
South Half (S $\frac{1}{2}$) of Northeast Quarter (NE $\frac{1}{4}$); and the Southeast Quarter (SE $\frac{1}{4}$) (except for
the East 12.5 acres, more or less, of the East Half (E $\frac{1}{2}$) of the Southeast Quarter (SE $\frac{1}{4}$)
of the Southeast Quarter (SE $\frac{1}{4}$)).

formerly owned by Phyllis R. Fernen

has been transferred to Gene Popkes

together with any rights to the beneficial use of water thereon as evidenced by

Water Right Permit No. 1311-2 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 Office 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)
) ss.
County of Bette)

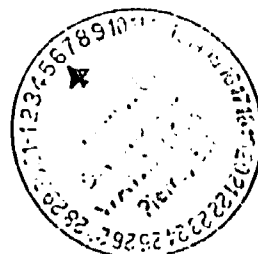
I, Phyllis R. Fernen being first duly sworn on my oath depose and say:
That my relation to the above described undertaking is that of Owner, that I have read the above foregoing statement, and I know of my own personal knowledge that the information herein stated is true.

Phyllis R. Fernen
(Signed)

Subscribed and sworn to before me this 2nd Day of March, 1981.

My Comm. Exp. May 15, 1986

Max S. Main
(Notary Public)



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

No. 1311-2

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

Division of Water Rights
605 773-3352

June 25, 1984

Gene Popkes
Star Rt.
Crookston NE 69212

Dear Mr. Popkes:

The inspection of your water use system and inspection of the extent of the application of water to beneficial use, as developed under your Water Right No. 1311-2 has been completed. Your final water right document, the Water License, can now be issued.

Statutes require that we charge a \$50.00 fee for the inspection and issuing of the Water License. Upon receipt of the \$50.00 fee from you, your Water License will be sent to you.

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

Sincerely,

KAREN SCHLAACK
Administrative Aide

NOTE: On form of payment, please include the number of the water permit.
This insures proper handling of the fee.

DWNR-814 8/83

STANDARD NOTICE

Permit No. 1311-2

September 4, 1984

NOTICE OF WATER LICENSE INSPECTION FEE REQUIREMENT

Geno Popkus
Star Route
Crookston, Nebraska 69212

Dear Mr. Popkus:

June 25, 1984 you were notified the final inspection fee of \$50.00 is due before Water License No. 1311-2 can be issued. As of this date, the fee has not been received.

The fee is a final step in the legal process of obtaining and perfecting a water right and is required by SDCL 46-2-13(3). Upon receipt of the \$50.00 fee, your Water License will be sent to you. This is the final document for the perfection of your Water Right. A perfected water right is similar to a property right and once a water right is perfected, it cannot be lost as long as the water is used.

South Dakota Water Law 46-5-30.1 requires that a permit holder may not divert water until the License fee has been paid. Please submit the required fee immediately to avoid jeopardizing your water permit.

Very truly yours,



John Hatch, Chief Engineer
Water Rights Division
Phone: (505) 773-3352

SS08.1R

093103ks.wr

Permit No. 1311-2
1015-0006
 Nebraska Trib. _____ Water District

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

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

I have this day made a thorough examination of the water use system constructed by Gene Popkes
Star Rt of Crookston, Ne. 69212 holder of
 Permit No. 1311-2, bearing the priority of October 22. 19 75 authorizing
 the diversion of 3.75 cu. ft. per second of the waters of Ground water (Ogallala)
 for Irrigation purposes, in Todd County.

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

A. Works used to divert the water:

One well - 228-ft. deep.
5 stage Sargent pump. model #24181 size 11SA.
100 HP Newman motor. model # S-150282 223

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

50' of 6" aluminum pipe.

C. Works used to apply water to beneficial use:

8 Tower Electro-gator Center Pivot. 160-ft. spans. 1312' Overall length.
Nelson 100 end gun. 55 psi. Operating pressure. 850 gpm.

The system is in the following condition Good

The point of diversion is located 1320 ft. west of E. 1/4 Cor. S 15 T37N
R 29 W.

The works are capable of diverting and conveying to the place of use 1.89

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.

S. 15 T37N R. 29 W: SE⁴NE⁴ - 33 ac.

SW⁴NE⁴ - 33 ac.

NE⁴SE⁴ - 38 ac.

NW⁴SE⁴ - 38 ac.

comprising a total of 142 acres of land and the license should be issued for 1.89 cfs
2.03

Applicable permit qualifications have been complied with Yes No

Exceptions to compliance are:

Date June 15, 1984

A. Mark Smith
 (Signature)

LICENSE FOR PERMIT NUMBER 1311-2 Gene Parkes

1. Legal location of wells: 1320 ft. west of E. 1/4 Cor.
S. 15 T 32 N R. 29 W.

dams & structures: _____

2. Well Information: Well Drilling Firm Sargent

No. of wells 1 Depth 228 ft.

Casing a) diameter 16" Screen a) type slotted Steel

b) length 106' b) length 122'

c) type steel Static Water Level 106'

Pump a) make Sargent Motor a) make Newman

b) model 24181 b) model no. S-150282223

c) size 11 SA c) horsepower rating 100

d) capacity 850 GPM d) motor efficiency rating _____

e) turbine pump
no. of stages 5

3. Distribution lines:

a) size of lines _____

b) type _____

c) length _____

4. Dam information:

a) height to crest _____

b) height to spillway _____

c) crest width _____

d) crest length _____

e) spillway length _____

f) spillway width _____

g) approx. storage _____

h) Distribution lines or canals:

1) size _____

2) type _____

3) length _____

i) Outlet tubes:

1) diameter _____

2) type _____

3) valued (Y/N) _____

4) valve type _____

5) location on structure _____

5. System Type: a) sideroll:

1) length _____ feet

2) diameter of pipe _____

3) make, model & number of sprinklers _____

4) spacing of sprinklers _____

5) nozzle size _____

b) towline:

1) length _____ feet

2) make, model & number of sprinklers _____

3) spacing of sprinklers _____

4) nozzle size _____

5. System Type: c) center pivot

- 1) make Electorator
- 2) number of towers 8
- 3) distance between towers
160'
- 4) overall length 1312'
- 5) End gun (Y/N) Nelson 100
- 6) high or low pressure 55 psi
- 7) make & size of nozzles

- 8) PSI reading while system is
running 55 psi
- 9) GPM 850

g) Gun

- 1) make _____
- 2) serial number _____
- 3) nozzle size _____
- 4) capacity (GPM) _____
- 5) PSI _____
- 6) hose size _____
- 7) hose length _____

d) Gate Pipe

- 1) length _____
- 2) diameter _____
- 3) spacing of gates _____

e) Siphons

- 1) number _____
- 2) size _____

f) Portable boom

- 1) make _____
- 2) serial number _____
- 3) nozzle size _____
- 4) capacity (GPM) _____
- 5) PSI _____

h) Hydromatic

- 1) make _____
- 2) model _____
- 3) serial number _____
- 4) length _____
- 5) nozzle size _____
- 6) spacing _____
- 7) PSI _____
- 8) capacity (GPM) _____

YES

NO

Check Items

1. Soil and water permit lands agree with lands being irrigated and lands listed on permit.

2. Special Qualifications to permit being abided by.

3. All Structures, wells and lands on map.

REMARKS:

State of South Dakota
Water License No. 1311-2

(1) Phyllis Fernan
of Fruitdale, South Dakota
made Application No. 1311-2, October 22, 1975 for a water permit to appropriate
3.75 cubic feet per second of water from groundwater (three wells)
Todd County, South Dakota for Irrigation purposes.
Permit No. 1311-2, with a priority date of October 22, 1975
was approved March 24, 1976* and issued to applicant(s) for diversion of water with construction of the described
water supply system to be completed on or before _____ and for the application to beneficial use of said
water on or before _____.

*On January 22, 1976 the Commission approved one of the three proposed wells, placing
the remaining wells in deferred status. On March 24, 1976 the remaining wells were
approved and a permit issued which superseded the permit issued January 22, 1976.

On March 6, 1981, Water Permit No. 1311-2 was transferred to Gene Popkes, Valentine,
Nebraska

and

(2) It is certified that the application has complied with the provisions of South Dakota State Law relating to completion of
the construction of the water supply system and is entitled to divert 1.89 cubic feet per second of water
for beneficial use. The location of the diversion point(s) is 1320' W of the E4 Corner, Section 15,
T37N, R29W.

and

(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to the following extent, to irrigate the following land all in Section 15, T37N, R29W

SE $\frac{1}{4}$ NE $\frac{1}{4}$ 33 Acres (AD)

SW $\frac{1}{4}$ NE $\frac{1}{4}$ 33 Acres (AC)

NE $\frac{1}{4}$ SE $\frac{1}{4}$ 38 Acres (DA)

NW $\frac{1}{4}$ SE $\frac{1}{4}$ 38 Acres (DB)

TOTAL 142 ACRES

(4) Pursuant to §16-5-30.1 Gene Popkes

of Box 98, Mission, South Dakota 57555

the holder(s) and/or owner(s) of Water Permit No. 1311-2 is issued a license to appropriate water, the right to use

1.89 cubic feet per second of water from groundwater (one well) with a priority date

of October 22, 1975 from the location specified in (2) of this license. The water to be

conducted to and upon lands specified in (5) of this license for the purpose of Irrigation

This license is subject to any limitations or qualifications listed in Water Permit No. 1311-2 and subject to South Dakota State Law.

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

JOHN HATCH

September 11, 1984

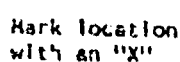
4-78

Name Gene Popken
Address Star Route
Crookston, Nebraska 69212

Static water level 106 below land surface
If flowing: closed in pressure _____ PSI
rate of flow _____ GPM

Controlled by: ☒ Valve ☐ Reducers ☐ Other
If other; specify

North



1 mile

SW SE NE Sec. 15 Twp. 37 Rg. 29

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

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

Diameter of Hole 34"
 Depth 228
 Casing ☒ Steel ☐ Concrete
☐ Plastic ☐ Other
 If other, specify _____

Was casing end left open	No
Was a well screen installed	Yes
Describe Well Screen	
Diameter <u>16"</u>	Material <u>Steel</u>
Slot size <u>3" x .125</u>	
Was well gravel packed	Yes
Was well grouted	No
Was water sample taken	No

☒ Pumped
☐ Bailed Describe: _____
☐ Other _____

<u>156</u>	ft. After	<u>14</u>	Hrs. pumped	<u>750</u>	GPH
<u>160</u>	" "	<u>14</u>	" "	<u>800</u>	"
<u>178</u>	" "	<u>24</u>	" "	<u>1000</u>	"

Depth

Formation	From	To
sand, ss	0	60
fi sand, ss, cemented ss	60	120
m-cs, ss, c ss	120	135
m-cs, ss, some c ss w/ clay streaks	135	150
m-cs & ss	150	165
m-cs, some ss & clay	165	180
clay, ss stks & m-c sand	180	195
m-c sand	195	223
clay	223	225
clay & red rock	225	240

(Use Back If Necessary)

Date Completed: March 24, 1981

Sargent Irrigation Co. 273
Driller's or Fire's Name [License No.]
Box 70
Bennett, Nebr aka
Address

ss	sandstone
ms	med sand
m-c s	med to coarse sand
stks	streaks

Classified By 2 Date 4-2-81

RECEIPT

Division of Water Rights

No 4 9747 -

South Dakota Department of Water and Natural Resources

Pierre, September 11, 1984

RECEIVED OF Gene Poppes, Box 98, Mission, SD 57555
~~Hidden Butte, SD 57555~~

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. 1311-2	50	00
Fee for Filing Transfer Form _____		
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	50 00

By John Hatch
Chief Engineer JOHN HATCH (ms)

No. 1311-2

SOUTH DAKOTA
Department of
Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

WATER RIGHTS DIVISION
Phone (605) 773-3352

September 11, 1984

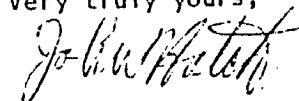
Gene Popkes
Box 98
Mission, South Dakota 57555

Dear Mr. Popkes:

Enclosed herewith is, Water License No. 1311-2. This is the final water right document completing your process of obtaining a water right.

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.

Very truly yours,

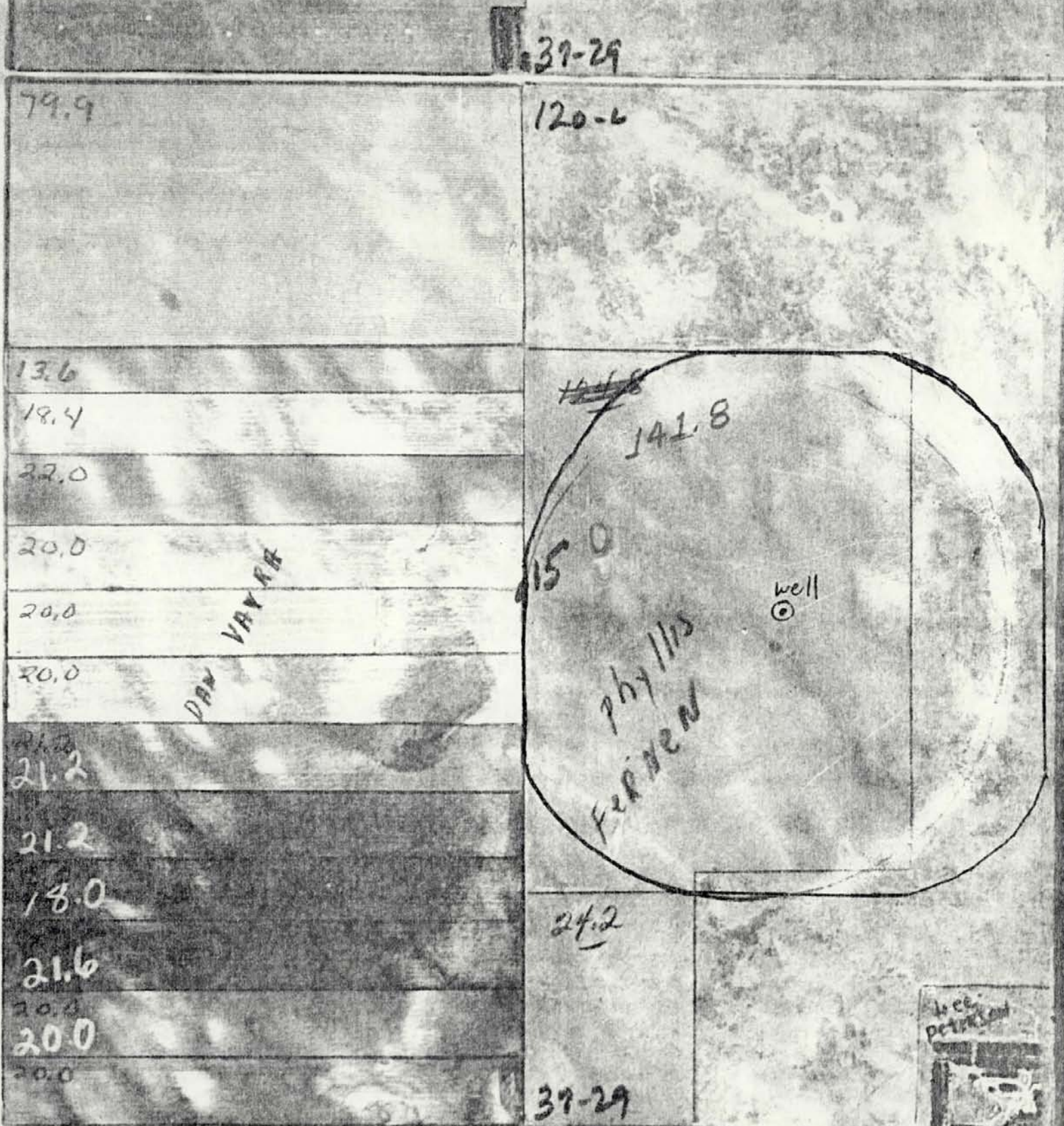


JOHN HATCH, Chief Engineer
Water Rights Division

JH:ms

Enclosures

NOT TO SCALE



(1-136)

I certify that this is a photocopy taken from the aerial photograph of Section 10, Township 37N, Range 29W in Todd County, South Dakota. It has been released to Phyllis Fernen, the owner of the SE $\frac{1}{4}$ of section 10-37-29. This photocopy may not be accurate as to scale.

Donald Bristow
County Executive Director
Todd County ASCS Office
Mission, South Dakota

79.2

68.5

John Fernen

69.0

From here, 1/4 mile to Livestock well

Fred Fernen
6 P. 11 AM 2001 5 AM 10

Phyllis Fernen

11 AM 2001 261441

37-29

54.2

MAP NO 1110-2 (APPL NO 1311-2)

76.0

14.0

18.3

19.7

20.1

19.7

21.3

18.5

19.9

19.1

19.9

20.9

19.1

(1-136)

I certify that this is a photocopy taken from the aerial photograph of Section 15, Township 37N, Range 29W in Todd County, South Dakota. It has been released to Phyllis Fernen, the owner of the S $\frac{1}{2}$ of the NE $\frac{1}{4}$ and the SE $\frac{1}{4}$ of Sec. 15-37-29. This photocopy may not be accurate as to scale.

Donald Brestow

County Executive Director
Todd County ASCS Office

124.8

112m Locust wall

15

Furnace
O.P.

112m Irrigation wall

24.2

37-29

112m House wall

11.8

31.0

Aled
Brody