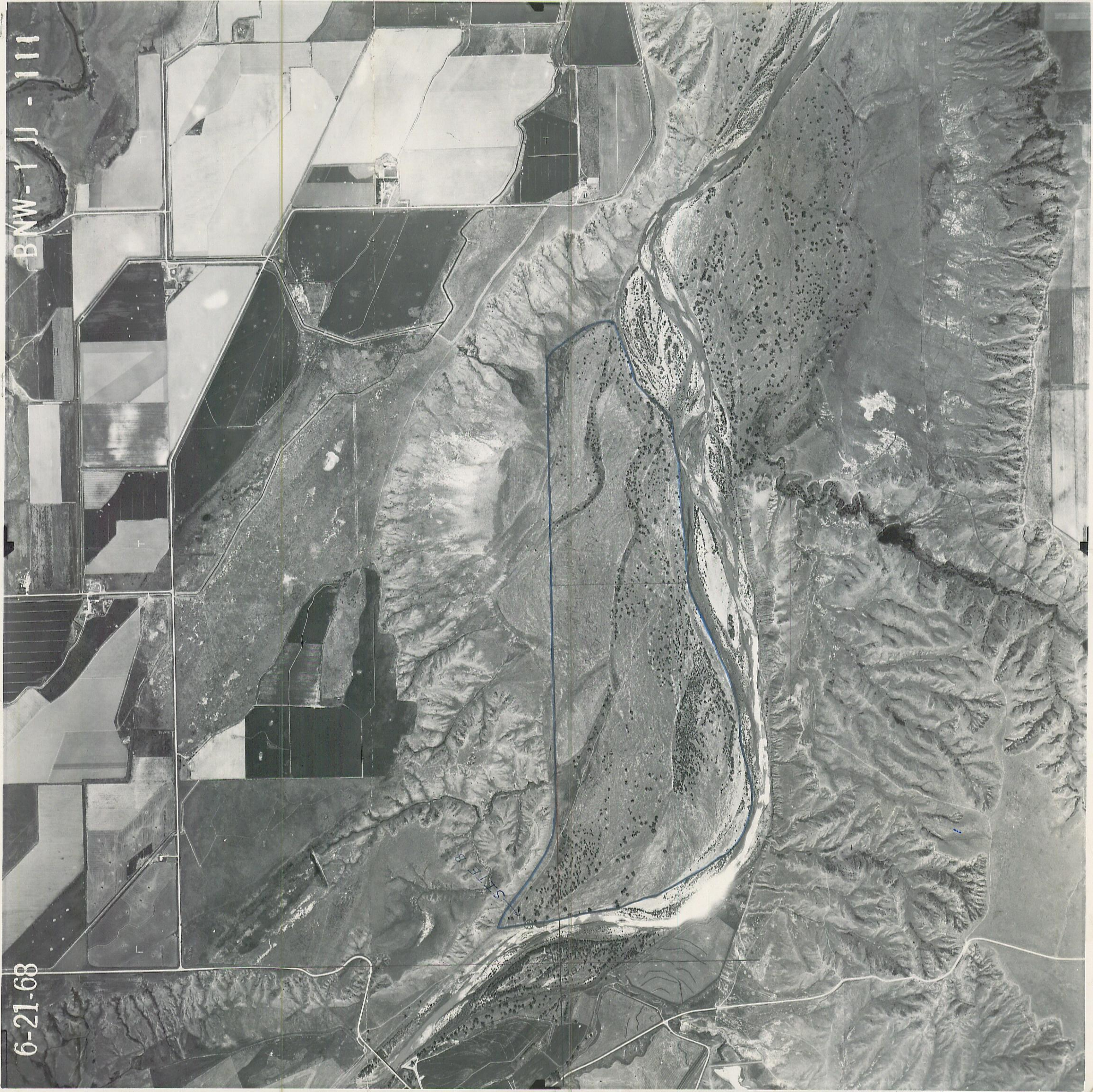


1. Considered 7-21, 1976 14.08-2
2. Name of Applicant C. GENE NIMMEY
3. Post Office Address BUFFALO GAP
4. Amount of water claimed ~~5.7~~ 7.50
5. Source of water supply CHEYENNE RIVER
6. Water to be used for IRRIGATION
- Acres to be irrigated 540
7. Water to be diverted and used in CUSTER county
about 15 E miles of BUFFALO GAP
8. Proof of Publication Received 6-6-77
Not Received _____
9. Application Approved _____
Subject to _____
Not Approved _____
Action deferred _____
- SEE PROTEST
LETTERS
10. Remarks:

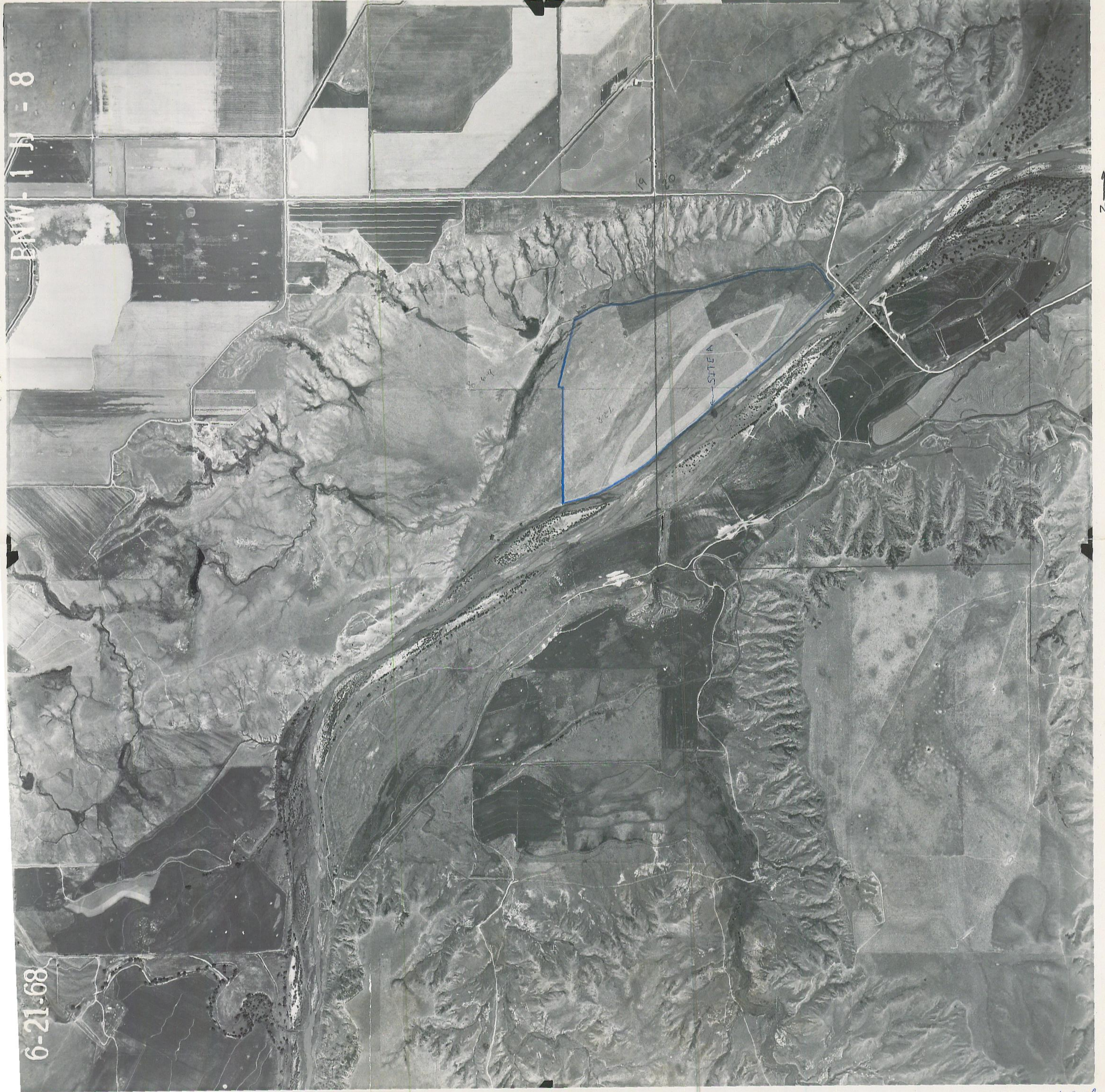
6-21-68

BNW-1 JJ - 1111



BNW-1 H-8

6-21-68



↑ N

1400-2

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 1408-2

C. GENE KIMMEY
(Applicant)

BUFFALO GAP
(Post Office Address)

SOUTH DAKOTA ~~57722~~ 57722 With the following modifications.

DIVERSION OF WATER UNDER THIS PERMIT IS CONTINGENT UPON WATER SUPPLIES BEING FIRST AVAILABLE TO THE PRIOR WATER RIGHTS DOWNSTREAM ON THE CHEYENNE RIVER. FLOW RECORDS SHOW THAT THERE ARE OCCASIONAL YEARS WHEN THE FLOWS OF THE CHEYENNE RIVER ARE DEFINITELY & RECOGNIZABLY LOWER THAN USUAL DURING THE MONTHS OF JULY, AUGUST & SEPTEMBER. DIVERSIONS OF WATER ARE NOT TO BE MADE UNDER THIS PERMIT DURING SUCH LOW FLOW PERIODS.

Date of first receipt of application JUNE 11, 19 76

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

Date of receipt of corrected application —, 19 —

Approved JULY 21, 19 76, Recorded in Book 15 Page 305

WATER RIGHT PERMIT NO. 1408-2

The Water Rights Commission hereby grants and issues this Water Right Permit No. 1408-2 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 JUNE 16, 19 ~~76~~ 77
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before JANUARY 21, 19 79
3. The whole of said work is to be completed on or before JULY 21, 19 81
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is JULY 21, 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 7.5 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 JULY 21, 19 81; said water to be used during the following described annual period: MAY 1 - SEPTEMBER 30

Witness my hand this 7TH day of JUNE, 19 77

WATER RIGHTS COMMISSION

By:

John Halich
(Chief Engineer, Executive Officer)

Certificate of Construction Issued —, 19 —

Water License Issued —, 19 —

STATE OF SOUTH DAKOTA)
COUNTY OF CUSTER) SS.

of said county, being duly sworn, on oath says that
she is publisher or _____ of the CUSTER
COUNTY CHRONICLE, a weekly newspaper printed and
published in Custer City, said County of Custer and
has full and personal knowledge of all the facts
herein stated; that said newspaper is a legal news-
paper and has a bona-fide circulation of at least
two hundred copies weekly, and has been published
within said County for fifty-two successive weeks
next prior to the publication of the notice herein
mentioned, and was and is printed wholly or in part
in an office maintained at said place of publica-
tion; that the Notice of Intent to appropriate water

July 8, 1977; _____, 197____;
July 15, 1977; _____, 197____;
 _____, 197____; _____, 197____;
 _____, 197____; _____, 197____;
 _____, 197____; _____, 197____

Subscribed and sworn to before me this 10
day of May, 1977.

John R. Brown
Notary Public

#182 7-15-79



Form 6. - Notice of Intent to Appropriate Water

No. 1408-2

Publish first publication, on or before
July 7, 1976

NOTICE OF INTENT TO APPROPRIATE WATER

Pierre, South Dakota 57501

June 20, 1976

Notice is hereby given that C. Gene Kimney
whose post office address is Buffalo Gap, 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 7.5 cubic feet of water per
second of time from the Cheyenne River through the
Kimney Irrigation Project, the point ^sof diversion of which ^{are} to
be located in the _____

NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 29 and SW $\frac{1}{4}$ NW $\frac{1}{4}$

of Section 21, Twp. 6S, Range 9E. Said water to be used
for the purpose of providing irrigation on the following described land:
SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 30; NW $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{4}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 29;
W $\frac{1}{2}$ Section 10; W $\frac{1}{2}$, Section 21, All in TCS, RSE

This application No. 1408-2 will be considered by the Water Rights
Commission at the Court House at Winner, S.D.
upon the 21st day of July, 1976 at 10:00 A.M. All
interested persons may appear and be heard.

WATER RIGHTS COMMISSION

By:

BURTON F. JONES, Water Rights Specialist

BFJ/bw

cc: C. Gene Kimney, Buffalo Gap, S.D. 57722

Buffalo Gap, South Dakota
July 12, 1976

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

Dear Sir:

In regards to the application for a water right (No. 1408-2) made by G. Gene Gimney, I would like for you to look over and consider said application. This application asks for (7.5) seven point five cubic feet per second, which I feel is very high.

We, Bondurant Ranch, Inc., have one of the oldest water rights along the Cheyenne River below the Angostura Dam. Then in 1961 we established a second water right. Both water rights call for approximately (6) six cubic feet per second together. During the summer months, which consist of June, July, August, and part of September, the river is pretty low. This is due to three pumps above us; which makes it hard for us to irrigate efficiently.

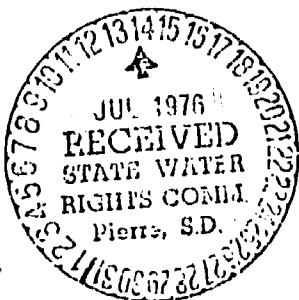
I have hardly been able to use the second spreader system 651-2 due to low water when I am pumping out of the one further up the river and due to very dry conditions the past four or five years.

If said water right (1408-2) is issued, I would like to see a stipulation attached in the form that they may pump only when it doesn't interfere with the water rights that are all ready established below them.

I think this is only fair to the water right users that now exist. This may mean only limited pumping, but I feel it is hard enough to get enough water now.

Sincerely, *Bondurant Ranch, Inc.*
By Robert D. Trew, V.P.

Bondurant Ranch, Inc.
By Robert D. Trew, Vic. Pres.



30 July 1976

C. Gene Kinney

Star Rt.

Buffalo Gap, South Dakota

57722

Mr. Burton F. Jones

Department of Natural Resource Development

Water Rights Commission

Joe Foss Building

Pierre, South Dakota 57501

Dear Sir:

I would like to know if I may have a photo-copy of the water rights which were granted on permit application no. 1408-2 ; as of 21 July 1976. I am very much interested in information regarding the time period in which I must complete the system I have planned and how soon I may begin irrigating. I would appreciate any other pertinent information that you may give me.

Thank you very much for your help and consideration.

Sincerely,

C. Gene Kinney
C. Gene Kinney



Fort Pierre, S.D.

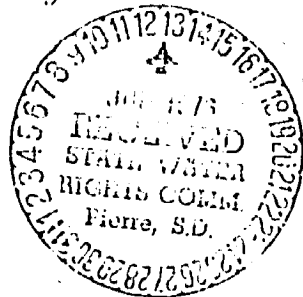
July 13, 1936

Water Rights Commission

Burton P. Jones

Water Rights Specialist

Pierre, S.D.



Dear Mr. Jones:

I am writing in opposition to the application # 1408-2, to appropriate 7.5 cubic ft. of water from the Cheyenne River, C. Ginn Kemmy Irrigation Project, Buffalo Gap, S. Dak.

There is definitely not that much water in the Cheyenne, at the level it has been this summer to appropriate such a large amount as 7.5 ac. ft.

Water supply permitting, I would be in agreement with a permit of much lesser amount, so as to adequately supply enough irrigated feed for the cattle number,

With most of the feed raised to be sold, as was done when this party had an irrigation unit under the Cheyenne

prop't. I do not believe such a large amount of water should be allowed. Merely to raise extra feed to be sold when there is no excess water in the Oregon most of the summer should be carefully considered.

My water right #730-2 calls for 1.33 cu ft. I am not pumping near that amount, because of the low head due to the river being so low. It is taking about twice the time to cover my alfalfa ground which also means extra power costs and a bigger drain on the electricity.

I live about 10 miles down river from the Kimmey ranch.

Yours truly,
John (Jack) B. Markitan

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

April 23, 1982

Kimney Ranch
Roland & C Gen: Kimney
Buffalo Gap SD 57722

Dear Sir:

Please find enclosed a copy of our Form 20, Notice of Transfer of Water Permit. This must be signed by the owner before a notary public and returned to this office with a fee of Two Dollars and Fifty Cents (\$2.50).

Upon receipt of the Form 20 and the \$2.50 filing fee the permit will be transferred to the proper name.

Please advise this office if you have any questions.

Sincerely,

KAREN SCHAAK
Administrative Secretary

LAWYERS

TELEPHONE
(605) 745-5161

A circular postmark from Waterbury, CT, dated July 1966. The text "JUL 1966" is at the top, "DIVISION OF" is in the middle, "WATER BURY, CT" is below that, and "Conn." is at the bottom. The numbers "1234567890" are arranged around the perimeter of the circle.

MPF : jo



Department of Water & Natural Resources

Joe Foss Building

Water Rights Division

Pierre, South Dakota 57501

Phone (605) 773-3352

June 10, 1982

Farrell and Farrell
441 H River St
Hot Springs, SD 57747-1499

Dear Mr. Farrell:

Please find enclosed a copy of our Form 20, Notice of Transfer of Water Permit. This must be signed by the owner before a notary public and returned to this office with a fee of Two Dollars and Fifty Cents (\$2.50).

Upon receipt of the Form 20 and the \$2.50 filing fee the permit will be transferred to the proper name.

Please advise this office if you have any questions.

Sincerely,

KAREN SCHLAACK
Administrative Secretary

RECEIPT

WATER RIGHTS COMMISSION
State of South Dakota

No 4 8933

Harold A. Kenney

PIERRE, _____, 19__

RECEIVED OF ~~Walter Kenney~~ Harold A. Kenney, Buffalo Gap, South Dakota 57722

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 <u>Transfer of Water Right</u> _____	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 _____
Chief Engineer, Executive Officer
305 E. 10th St.

No. 1408-2



Department of Water & Natural Resources

Joe Foss Building

Water Rights Division

Pierre, South Dakota 57501

Phone (605) 773-3352

August 5, 1982

Marlo R. Kimmy
Buffalo Gap,
South Dakota 57722

Dear Madam:

Enclosed is receipt No. 4 8433 in the amount of \$ 2.50 which you
paid for transfer of Water Right No. 1408-2.

Our records now show ^{Roland C. Kimmy}you as the owner of this Water Right.

Sincerely,

Genny Young
Water Rights Specialist

GY:ms
Enc.

cc: Roland C. Kimmy
Rt. 1, B-17, Buffalo SD

WNR-821-7/79

Receipt & Notice of filing of Transfer of Water Right

FARRELL, FARRELL & GINSBACH

LAWYERS

441 NORTH RIVER STREET

HOT SPRINGS, SOUTH DAKOTA 57747

Martin P. Farrell

Jane M. Farrell

Patrick M. Ginsbach

(605) 745-5161

August 4, 1982

Water Rights Division
Water & Natural Resources Department
State of South Dakota
Joe Foss Building
Pierre, SD 57501

Attention: Karen Schlaak
Administrative Secretary

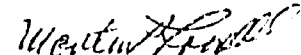
Dear Karen:

Thank you for your June 10th letter. The Kimmey sale was completed on August 2nd. I am enclosing herein:

- a. Notice of Transfer of Water Permit signed by C. Gene Kimmey.
- b. A check from Marie R. Kimmey dated August 2nd payable to the Treasurer, State of South Dakota for \$2.50.

Thank you for all your help in this matter.

Sincerely,


MARTIN P. FARRELL

MPF:jo

Encls.



NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Rights
Foss Building
Pierre, SD 57501

Date: July, 1982

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

540 acres - SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 30; NW $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$ NW $\frac{1}{4}$

Section 29, W $\frac{1}{2}$ Section 16, W $\frac{1}{2}$ Section 21 all in T6S, R9E

formerly owned by C Gene Kimmey

has been transferred to Roland C. Kimmey, Route 1, Box 17, Buffalo Gap, SD 577
(please include complete mailing address)
together with any rights to the beneficial use of water thereon as evidenced by

Water Right Permit No. 1408-2 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 Fall River)

I, C. Gene Kimmey 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.

C. Gene Kimmey
(Signed)

Subscribed and sworn to before me this 12 Day of July, 19 82.

M. P. Larull
(Notary Public)





Department of Water & Natural Resources

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

May 28, 1987

Roland C Kimmey
Rt 1, Box 17
Buffalo Gap SD 57722

Dear Mr. Kimmey:

This letter is in response to the final inspection of Water Permit No. 1408-2 completed on April 29, 1987. The original notice of hearing was published with an error regarding the diversion point (see attached report). Therefore, Permit No. 1408-2 will be readvertised to correct the error in the original advertisement. The publication cost will be payed by the Division of Water Rights.

Please contact us if the information on the enclosed publication notice is incorrect or if you have any questions.

Sincerely,

DELVIN D BROSZ
Hydrologist

enclosures

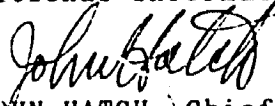
RECOMMENDATION OF CHIEF ENGINEER FOR READVERTISEMENT OF WATER
PERMIT APPLICATION NO. 1408-2

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Water Permit Application No. 1408-2, C. Gene Kimmey, Rt 1, Box 17, Buffalo Gap SD.

The Chief Engineer is recommending APPROVAL of Application No. 1408-2 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) in the public interest with the following qualification:

Diversion of water under this permit is contingent upon water supplies being first available to the prior water rights downstream on the Cheyenne River. Flow records show that there are occasional years when the flows of the Cheyenne River are definitely and recognizably lower than usual during the months of July, August and September. Diversion of water are not to be made under this Permit during such low flow periods.

See the attached report for additional information.

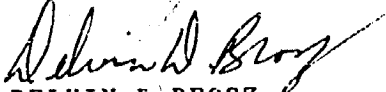

JOHN HATCH, Chief Engineer
May 27, 1987

REPORT ON READVERTISEMENT OF NOTICE OF HEARING
ON WATER PERMIT NO. 1408-2
ROLAND C. KIMMEY

The final inspection of Water Permit No. 1408-2 was completed on April 29, 1987. A portion of the permit was completed and developed. The land that is being irrigated is within the land description listed on Water Permit No. 1408-2.

The location of the diversion point as described on the application and published in the newspaper was the SW 1/4 NW 1/4, Section 21, T6S, R9E. The Cheyenne River does not flow thru this legal description. The constructed diversion point is located in the SW 1/4 SW 1/4 Section 21, T6S, R9E. This is close to the point that was marked on the map that was submitted with the application. Division of Water Rights staff should have noted these discrepancies at the time the application was received.

The readvertisement does not authorize any increase in water appropriation from the Cheyenne River or increase the number of acres irrigated. Since Division of Water Rights staff should have corrected the application at the time it was submitted, the readvertisement cost will be paid by the Division of Water Rights.


DELVIN L. BROSZ
Hydrologist



Department of
Water & Natural Resources

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

Water Rights Division
605 773-3352

No. 1408-2

May 29, 1987

Custer County Chronicle
Box 551
Custer, South Dakota 57730

Dear Sir:

Enclosed is a Notice of Intent to Appropriate Water by Roland C. Kimney

Application No. 1408-2, in Custer County, South Dakota. Please publish this notice once each week for two consecutive weeks in your paper. The first publication should be on, or before June 3, 1987.

Please bill the Water Rights Division for the cost of the publications.

Please receipt for this notice IMMEDIATELY after first publication attaching thereto a copy of the first publication so that it may be compared with the records. For your convenience, you may use the printed form below for this purpose.

After final publication please complete and mail to this office, the enclosed Form to furnish Proof of Publication. The permit to appropriate water cannot be considered by the Water Management Board until proof of publication has been received.

Very truly yours,

Ron Duvall
Natural Resources Engineer

enclosures

No. _____

Date _____

TO: Water Rights Division
Joe Foss Building
Pierre SD 57501

We are in receipt of your letter of _____, 1984 enclosing Notice of Proposed Appropriation of Water, as proposed in Application No. _____ which was first published in our issue of _____, 1984. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

NAME _____

NEWSPAPER _____

Equal Opportunity Employer

No. 1408-2

Instruction to Newspaper - Publish first publication of the following Notice on or before
June 3, 1987 with 2nd publication 1 week later. ~~The applicant is responsible for payment.~~

READVERTISEMENT OF NOTICE OF HEARING on Application No. 1408-2 to Appropriate Water
~~and/or to Amend Water Permit or Water Right No.~~

Notice is hereby given that Roland C. Kinney whose mailing address is
Route 1, Box 17, Buffalo Gap, South Dakota ~~has~~ made an application for a permit

water permit on June 11, 1976. This notice is a readvertisement of the original notice published on July 8 and 15, 1976 which contained an error. The original advertisement gave notice of intent to irrigate 540 acres in portions of sections 16, 21, 29 and 30-T6S-R9E by diverting 7.5 cfs from the Cheyenne River. The original notice stated the diversion point was located in the SW 1/4 Section 21-T6S-R9E. The correct diversion point is located in the SW 1/4 Section 21-T6S-R9E. This readvertisement does not authorize any increase in water appropriation from the Cheyenne River or increase the number of acres to be irrigated.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends

APPROVAL of Application No. 1408-2 because 1) unappropriated water is available, 2) will be no unlawful impairment of existing rights, 3) is beneficial use of water and 4) is in the public interest.

This application will be considered by the Water Management Board at room 216, Joe Foss Building, 523 E. Capitol, Pierre, South Dakota, July 8 19 87 at 10:00 am.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BCTH the applicant and the Chief Engineer by June 26, 1987. The petition may be informal, but it must include a statement describing the petitioners interest in the application, the reasons for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; (ground) 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14; (future use) 46-5-38 thru 46-5-40; (transfer lands) 46-5-30.4, 46-5-33 thru 46-5-35; (10,000 AFA) 46-5-20.1, 46-5-3.1; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15, (future use) 74:02:01:24 thru 74:02:01:25; (10,000 AFA) 74:02:01:15:02 thru 74:02:01:15:05.

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, 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.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, DWNR, Joe Foss Bldg, Pierre SD (605 773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or any person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by June 26, 1987.

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA)
)SS.
COUNTY OF CUSTER)

Randall O'Neill

of said county, being duly sworn, on oath says that
X he is publisher or XXXXXXXXXXXX of the CUSTER
COUNTY CHRONICLE, a weekly newspaper printed and
published in Custer City, said County of Custer and has
full and personal knowledge of all the facts herein stated;
that said newspaper is a legal newspaper and has a
bona-fide circulation of at least two hundred copies
weekly, and has been published within said County for
fifty-two successive weeks next prior to the publication
of the notice herein, mentioned, and was and is printed
wholly or in part in an office maintained at said place of
publication: that the Notice of Hearing - Readvertise-
ment of Notice of Hearing, a printed copy of
which, taken from the paper in which the same was
published, is attached to this sheet, and is made a part of
this Affidavit, was published in said newspaper at least
once each week for 2 successive week(s), on the
day of each week on which said newspaper was regularly
published, to wit:

June <u>3</u> , 19 <u>87</u> ;	June <u>10</u> , 19 <u>87</u>
_____, 19 ____;	_____, 19 ____;
_____, 19 ____;	_____, 19 ____;
_____, 19 ____;	_____, 19 ____;
_____, 19 ____;	_____, 19 ____;

that the full amount of the fees for the publication of the
annexed notice is \$ 16.91

Subscribed and sworn to me before this 10
of June, 19 87;

Guaranne Quick
Notary Public

My commission expires: June 30, 1994

Notice
Of
Hearing

READVERTISEMENT OF NOTICE OF
HEARING on Application No. 1408-2 to
Appropriate Water.

Notice is hereby given that Roland C.
Kimney whose mailing address is Route 1,
Box 17, Buffalo Gap, South Dakota made an
application for a water permit on June 11,
1976. This notice is a readvertisement of the
original notice published on July 8 and 15,
1976 which contained an error. The original
advertisement gave notice of intent to
irrigate 540 acres in portions of sections 16,
21, 29 and 30-T6S-R9E by diverting 7.5 cfs
from the Cheyenne River. The original
notice stated the diversion point was located
in the SW1/4 NW1/4 Section 21-T6S-R9E.
The correct diversion point is located in the
SW1/4 SW1/4 Section 21-T6S-R9E. This
readvertisement does not authorize any
increase in water appropriation from the
Cheyenne River or increase the number of
acres to be irrigated.

Pursuant to SDCL 46-2A-2 the Chief
Engineer of the Water Rights Division
recommends APPROVAL of Application
No. 1408-2 because 1) unappropriated water
is available, 2) will be no unlawful
impairment of existing rights, 3) is
beneficial use, 4) water and 4) is in the public
interest.

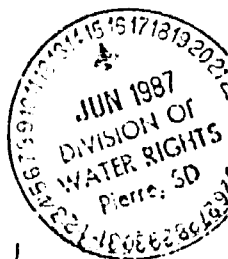
This application will be considered by the
Water Management Board at room 216, Joe
Foss Building, 523 E. Capitol, Pierre, South
Dakota, July 8, 1987 at 10:00 a.m.

The recommendation of the Chief
Engineer is not final or binding upon the
Board and the Board is authorized to 1)
approve, 2) approve with qualifications, 3)
defer, or 4) deny this application after it
reaches a conclusion based upon facts
presented at the public hearing. Any
interested person who may be affected by a
Board decision and who intends to
participate in the hearing before the Board
must present evidence or cross-examine
witnesses according to SDCL 1-26, must file
a written petition with BOTH the applicant
and the Chief Engineer by June 26, 1987.
The petition may be informal, but it must
include a statement describing the
petitioner's interest in the application, the
reasons for the petitioner's opposition to or
support of the application, and the signature
and mailing address of the petitioner or his
legal counsel; if legal counsel is obtained.
The applicant need not file a petition.

This application is made pursuant to the
provisions of SDCL 46-1-1 thru 46-1-9,
46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9,
46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru
46-2A-12, 46-2A-14, 46-2A-15; 46-5-1
thru 46-5-11, 46-5-13 thru 46-5-15,
46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4,
46-5-31; and board rules ARSD 74:02:01:01
thru 74:02:01:15.

This hearing is an adversary proceeding.
The applicant or any person, after filing a
petition, 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.

Any person wishing a copy of the Chief
Engineer's recommendation, further
information on this application or to assure
access to the hearing by the handicapped, can
contact the Water Rights Division, DWR, Joe
Foss Bldg, Pierre SD (605 773-3352) for
assistance prior to the hearing date. The time
of the hearing will be automatically
extended for at least twenty days upon
written request of the applicant or any
person who has filed a petition to oppose or
support the application. The request for
extension must be filed with the Chief
Engineer by June 26, 1987.
6649 6/3 & 6/10/87





Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

Division of Water Rights
605 773-3352

No. 1408-2

July 15, 1987

Roland C. Kinney
Route 1, Box 17
Buffalo Gap, South Dakota 57720

Dear Mr. Kinney:

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. 1408-2 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,

Maxine Stirling
Secretary

ms/

NOTE: On check or money order, please indicate the number of the water permit. This insures proper handling of the fee.

D:JNR-814 8/83

RECEIPT

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

410940

Pierre, July 21, 1937

RECEIVED OF Roland C. Kinney, RR 1, Box 17, Buffalo Gap, SD 57722
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. <u>1406-2</u>		
Fee for Filing Transfer Form _____	50	00
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 J. L. Hatch
Chief Engineer

JOHN HATCH



Permit No. 1408-2Upper Cheyenne Water District**Report Of Examination Of Works And/Or Application Of Water To Beneficial Use**

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

I have this day made a thorough examination of the water use system constructed by Roland C. Kimmey,
Route 1, Box 17, of Buffalo Gap, SD 57728 (Fm) holder of
 Permit No. 1408-2, bearing the priority of June 6, 19 77 authorizing
 the diversion of 7.5 cu. ft. per second of the waters of Cheyenne River
 for irrigation purposes, in Custer County.

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

A. Works used to divert the water: Deepwell ~~trap~~ turbine pump with electric
40 HP motor. The pump is capable of diverting 500 gpm

B. Works used to transport water to place of use:
10" PVC buried pipeline from diversion point to pivot point.

C. Works used to apply water to beneficial use:
Zimatic 7 tower center pivot. operating pressure at the pivot
is 42 psi.

The system is in the following condition Good to excellentThe point of diversion is located 650 feet North and 485 feet east of the
SW corner of section 21, T6S, R9EThe works are capable of diverting and conveying to the place of use 1.12cu. 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:

SW $\frac{1}{4}$ NW $\frac{1}{4}$, SEC 21, T6S, R9E - 29 acres, SW $\frac{1}{4}$ SW $\frac{1}{4}$, SEC 21, T6S, R9E - 2 acres
SE $\frac{1}{4}$ NW $\frac{1}{4}$, " " " - 28 ", SE $\frac{1}{4}$ SW $\frac{1}{4}$, " " " - 2 "
NW $\frac{1}{4}$ SW $\frac{1}{4}$, " " " - 35 "
NE $\frac{1}{4}$ SW $\frac{1}{4}$, " " " - 35 "

comprising a total of 131 acres of land and the license should be issued for 1.12 cfsApplicable permit qualifications have been complied with Yes NoExceptions to compliance are: Diversion Point needs correction Date April 29, 1987

William W. Brown, P.E.
 (sign. here)
Hydrologist

State of South Dakota
Water License No. 1408-2

(1) Roland C. Kimney
of RR 1, Box 17, Buffalo Gap, South Dakota 57722
made Application No. 1408-2, on June 11, 1976 for a water permit to appropriate
7.5 cubic feet per second of water from the Cheyenne River,
Custer County, South Dakota for irrigation purposes.
Permit No. 1408-2, with a priority date of June 6, 1977
was approved July 21, 1976 and issued to applicant(s) for diversion of water with construction of the described
water supply system to be completed on or before July 21, 1981 and for the application to beneficial use of said
water on or before July 21, 1981.

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 1.12 cubic feet per second of water
for beneficial use. The location of the diversion point(s) is 650 feet North and 485 feet East of
the SW Corner of Section 21, T6S, R9E (SW $\frac{1}{4}$ SW $\frac{1}{4}$)

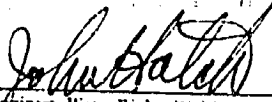
and

(5) 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 T6S, R9E

Section 21	SW $\frac{1}{4}$ NW $\frac{1}{4}$	29 Acres
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	28 Acres
	NW $\frac{1}{4}$ SW $\frac{1}{4}$	35 Acres
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	35 Acres
	SW $\frac{1}{4}$ SW $\frac{1}{4}$	2 Acres
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	2 Acres
TOTAL		131 ACRES

(4) Pursuant to §46-5-30.1 Roland C. Kimney
of Rural Route 1, Box 17, Buffalo Gap, South Dakota 57722
the holder(s) and/or owner(s) of Water Permit No. 1408-2 is issued a license to appropriate water, the right to use
1.12 cubic feet per second of water from the Cheyenne River with a priority date
of June 6, 1977 from the location specified in (2) of this license. The water to be
conducted to and upon lands specified in (3) of this license for the purpose of irrigation

This license is subject to any limitations or qualifications listed in Water Permit No. 1408-2 and subject
to South Dakota State Law.


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

JOHN HATCH

NOV 2 1987



Department of
Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

WATER RIGHTS DIVISION
Phone (605) 773-3352

No. 1408-2

NOV 2 1987

Roiland C. Kimney
RR 1, Box 17
Buffalo Gap, South Dakota 57722

Dear Mr. Kimney:

Enclosed herewith is, Water License No. 1408-2. 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

WNR-817 3/83

Transmittal of Water License.

 **Department of
Water & Natural Resources**
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

No. 1408-2

Division of Water Rights
605 773-3352

July 15, 1987

Roland C. Kimney
Route 1, Box 17
Buffalo Gap, South Dakota 57720

Dear Mr. Kimney:

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. 1408-2 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,

Maxine Stirling
Secretary

ms/

NOTE: On check or money order, please indicate the number of the water permit. This insures proper handling of the fee.

 **Department of
Water & Natural Resources**

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

January 29, 1988

ROLAND C KIMMEY
RT 1 BOX 17
BUFFALO GAP, SD 57722

NOTICE

Re: Violation of Requirement To Submit 1987 Irrigation
Questionnaire

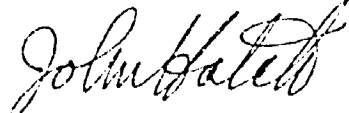
Our records indicate that the 1987 Irrigation Questionnaire has not been submitted for Permit No(s). 1408-2. The request for the Questionnaire was dated October 8, 1987. The Water Management Board has directed that owners of water permits who have not submitted 1987 Irrigation Questionnaires be given notice of 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 9:00 am, March 2, 1988 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). 1408-2 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 March 2 hearing date, your name will be deleted from the agenda for the hearing.

 **Department of
Water & Natural Resources**

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

February 9, 1988

1402-2

Roland C Kimmey
Rt 1, Box 17
Buffalo Gap SD 57722

Dear Mr. Kimmey:

I am writing to acknowledge receipt of your 1987 Irrigation Questionnaire(s). A notice was sent to you January 29, 1988 regarding the requirement to submit the Irrigation Questionnaire(s) for Water Permit No. 1408-2 and the hearing date before the Water Management Board.

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

Very truly yours,



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

 **Department of
Water & Natural Resources**

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

1408-2

July 1, 1988

Robert Mines, Attorney
745 N River
Hot Springs, SD 57747

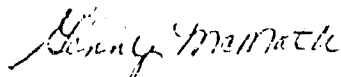
Dear Mr. Mines:

Enclosed is a partially completed "Notice of Transfer" for use in filing an ownership change on Water Right No. 1408-2. Please have the new owner check over the form and sign in the presence of a notary public. Upon completion of the form, return it to our office with a required filing fee of \$2.50. The water right will then be transferred to the proper name.

South Dakota Water Law 46-5-30.3 requires Notice of any sale, grant, lease, conveyance or other transfer of a Water Permit or Water Right to appropriate water to be filed with this office within ninety days.

If you have any questions, please contact us.

Sincerely,



GENNY MCMATH
Natural Resources Analyst
605 773-3352

encl



FARRELL, FARRELL & GINSBACH

LADYBIRDS

441 NORTH PIVER STREET

HOT SPRINGS, SOUTH DAKOTA 57747

Martin P. Farrell
Jane M. Farrell
Patrick M. Ginsbach

(605) 745-5161

August 30, 1988

Water Rights Division
Foss Building
Pierre, SD 57501

Re: Water Right #1408-2

Dear Sir/Madam:

Enclosed please find a document entitled Notice of Transfer of Water Permit and a transfer fee in the amount of \$2.50. If this meets with your approval, please return the document to Vance Goldammer, Attorney at Law, P. O. Box 5015, Sioux Falls, SD 57117.

Thank you very much.

Sincerely,

John Turner

JANE M. FARRELL

jc

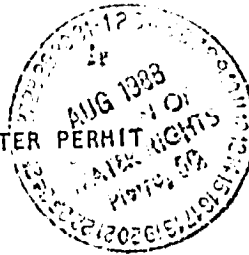
Enclosure

cc: Vance Goldammer



NO. 1408-2

NOTICE OF TRANSFER OF WATER



TO: Water Rights
Foss Building
Pierre, SD 57501

Date: August 30, 1988

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

131 acres- S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ Section 21, T6S, R9E

formerly owned by Roland C Kimney, RR #1 Box 17, Buffalo Gap, SD 57722

has been transferred to RIPROB-ELITE-KADEN (REK), a S.D. general partnership, 600 W. 12th, Sioux Fall, SD 57104
(please include complete mailing address)
together with any rights to the beneficial use of water thereon as evidenced by

Water Right Permit No. 1408-2 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 Pennings) ss.

Dennis D. Kimney, a partner in
I, RIPROB-ELITE-KADEN (REK), 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.

[Signature]
(Signed)

Subscribed and sworn to before me this 31st Day of August, 1988.

[Signature]
(Notary Public)
My Comm. Expires
September 17, 1990

RECEIPT

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

411393

Pierre, August 27, 1988

RECEIVED OF Jane M. Farrell, 401 North River St. Hot Springs, SD 57757

the following amount in fees for services rendered as provided for by law: For: RIBOB-ELJIM-KADEN (REK)
SD General Partnership

Fee for Application for Permit No. _____ to Appropriate Water, to construct works and to put water to beneficial use _____	500	120	Sioux Falls SD
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____			57104
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>1400-2</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 John Hatch
Chief Engineer JOHN HATCH (RE)

 **Department of
Water & Natural Resources**

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

WATER RIGHTS DIVISION
(605) 773-3352

August 31, 1988

Jane M. Farrell
441 North River Street
Hot Springs, South Dakota 57747

Dear Ms. Farrell:

Enclosed is receipt No. 411333 in the amount of \$2.50 which you paid for transfer of Water Right No. 1408-2.

Our records now show RIBOB-ELJIM-KADEN (REK) a South Dakota General Partnership as the owner of this Water Right.

Sincerely,

Maxine Stirling
Secretary

ms/
Enc.

cc: Vance Goldhammer
RIBOB-ELJIM-KADEN





Department of Water & Natural Resources

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

July 12, 1989

NOTICE

TO: Cheyenne River Irrigators

FROM: *for* John Hatch, Chief Engineer
Division of Water Rights *James Winterton*

SUBJECT: Shutoff Order for water rights in the Cheyenne River reach from the Angostura Dam to Rapid Creek with priority dates after 1965.

Due to the present low flow conditions in the Cheyenne River, the following water rights must cease withdrawals of water from the Cheyenne River for the remainder of this irrigation season. This order is effective July 14, 1989. Additional shutoffs may be necessary if conditions show the need.

PERMIT NO.	NAME	PRIORITY DATE
1241-2	Donald R. Thorson, Scenic	02/06/75
1923-2	Rittburger Beef & Dairy, Buffalo Gap	03/15/85
1613-2	Rittberger Beef & Dairy, Buffalo Gap	10/28/77
1408-2	RIBOB-ELJIM-KADEN, Sioux Falls	06/06/77
1754-2	Earl Stombaugh, Buffalo Gap	01/27/81
1109-2	Lloyd Neugebauer, Cral	04/21/72
1882-2	Roland/Donna March, Hot Springs	05/29/84
1024-2	Clarence Werner, Hermosa	05/22/70

If you have any questions, please contact Jim Winterton, Division of Water Rights, Joe Foss Building, Pierre, SD 57501. Phone (605) 773-3352.

cc: Water Right Holders on the Cheyenne River in the Reach from Angostura Dam to the Rapid Creek Confluence



 **Department of
Water & Natural Resources**

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

July 19, 1989

NOTICE

TO: Cheyenne River Irrigators

FROM: *for* John Hatch, Chief Engineer
Division of Water Rights *James E. Winterton*

SUBJECT: Rescission of Shutoff Order for the following water rights in the Cheyenne River reach from the Angostura Dam to Rapid Creek with priority dates after 1965.

PERMIT NAME
NO.

PRIORITY
DATE

1241-2	Donald R. Thorson, Scenic	02/06/75
1923-2	Rittburger Beef & Dairy, Buffalo Gap	03/15/85
1613-2	Rittberger Beef & Dairy, Buffalo Gap	10/28/77
1408-2	RIBOB-ELJIM-KADEN, Rapid City	06/06/77
1754-2	Earl Stombaugh, Buffalo Gap	01/27/81
1109-2	Lloyd Neugebauer, Oral	04/21/72
1882-2	Roland/Donna March, Hot Springs	05/29/84
1024-2	Clarence Werner, Hermosa	05/22/70

In followup to my telephone discusseion with many of you on July 19, 1989, the shutoff order is rescinded. The present flow conditions in the Cheyenne River appears to be of a sufficient quantity to allow continued irrigation at least for the time being. This notice is effective July 19, 1989. Controls may still be necessary if the downstream flows again are reduced to a point where adverse impacts are caused prior water rights and domestic uses. If this occurs, I am open to any suggestions on how we could manage and regulate the use to assure continued flows.

If you have any questions, please contact Jim Winterton.
Division of Water Rights, Joe Foss Building, Pierre, SD 57501.
Phone (605)773-3352.

cc: Water Right Holders on the Cheyenne River in the Reach from Angostura Dam to the Rapid Creek Confluence



1408-2.



Department of Water & Natural Resources

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

July 19, 1990

NOTICE

TO: Cheyenne River Irrigators

FROM: John Hatch, Chief Engineer
Division of Water Rights *[Signature]*

SUBJECT: Shutoff Order for water rights in the Cheyenne River reach from the Angostura Dam to Rapid Creek with priority dates after 1965.

Due to the present low flow conditions in the Cheyenne River, the following water rights must cease withdrawals of water from the Cheyenne River for the remainder of this irrigation season. This order is effective July 21, 1990. Additional shutoffs may be necessary if conditions show the need.

PERMIT NO.	NAME	PRIORITY DATE
1241A-2	Chauncey D. Taylor, Hermosa	02/06/75
1241B-2	Donald R. Thorson, Scenic	02/06/75
2061-2	Rittberger Beef & Dairy, Buffalo Gap	08/22/88
1923-2	Rittberger Beef & Dairy, Buffalo Gap	03/15/85
1613-2	Rittberger Beef & Dairy, Buffalo Gap	10/28/77
2059-2	Fred Weibert, Hermosa	06/27/88
1408-2	RIBOB-ELJIM-KADEN, Rapid City	06/06/77
1754-2	Earl Stombaugh, Buffalo Gap	01/27/81
1109-2	Lloyd Neugebauer, Oral	04/21/72
1882-2	Roland/Donna March, Hot Springs	05/29/84
1024-2	Clarence Werner, Hermosa	05/22/70

If you have any questions, please contact Del Brosz, Division of Water Rights, Joe Foss Building, Pierre, SD 57501.
Phone (605) 773-3352.

cc: Water Right Holders on the Cheyenne River in the Reach from Angostura Dam to Rapid Creek Confluence

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

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

March 14, 1991

1408-2

Dennis Schmidt
RIBIB-ELJIM-KADEN (REK)
325 W. Blvd
Rapid City, SD 57701

Dear Mr. Schmidt:

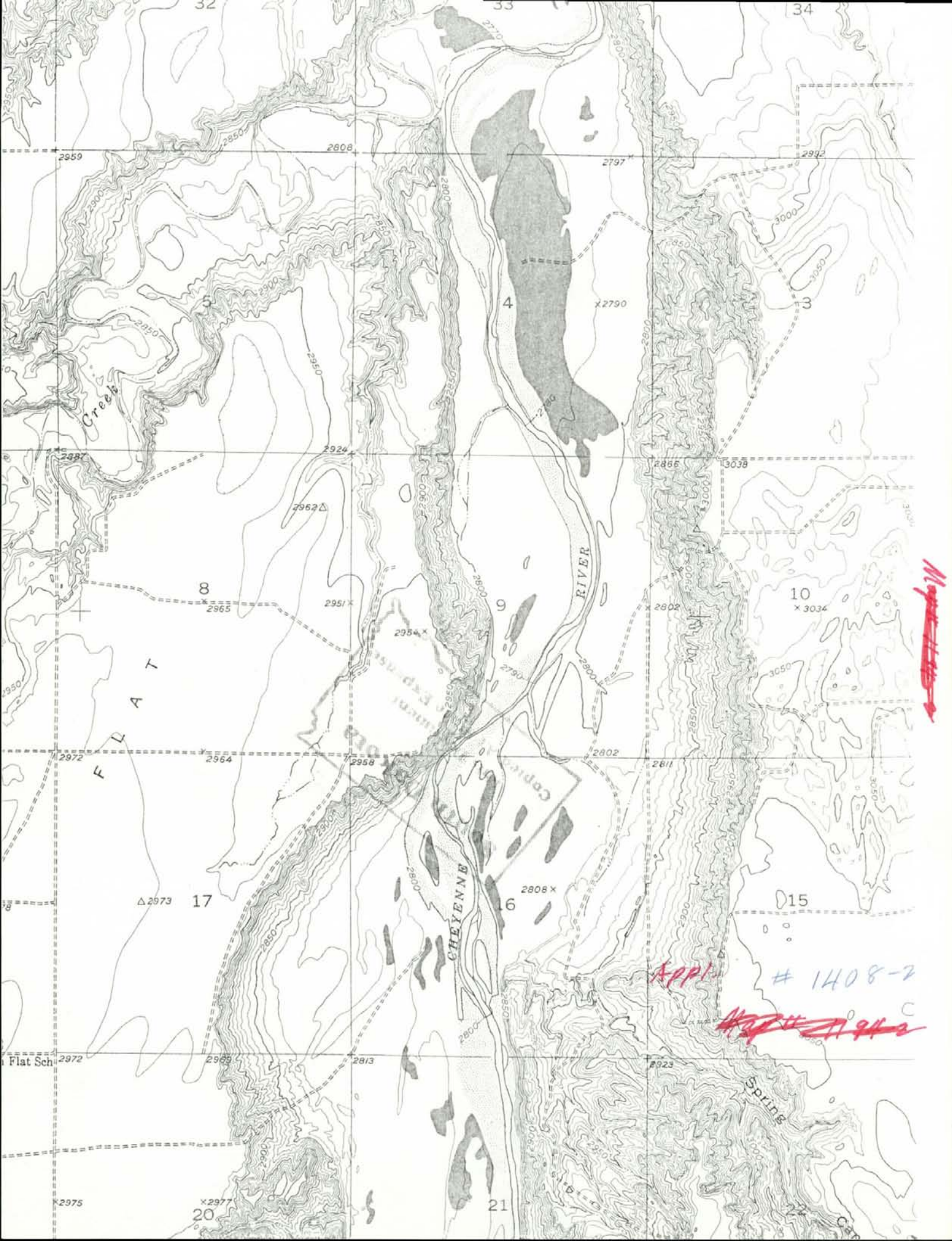
I am contacting irrigators and water users below Angostura Reservoir to advise of the low water level conditions in Angostura Reservoir and of potential water use restrictions from the Cheyenne River. Due to the continuing drought, Angostura Reservoir is receiving below normal inflows. As of February 27, 1991 the water level in the reservoir was at elevation 3170.25 feet above mean sea level (msl). Full elevation of the reservoir is 3187.2 msl.

Flow conditions in the Cheyenne River will be monitored during the coming irrigation season. Low flows may require that shut off orders be issued to junior water right holders to protect senior water rights. Low water levels in Angostura and the potential for low flows in the Cheyenne should be considered when planning for the coming water use and irrigation season.

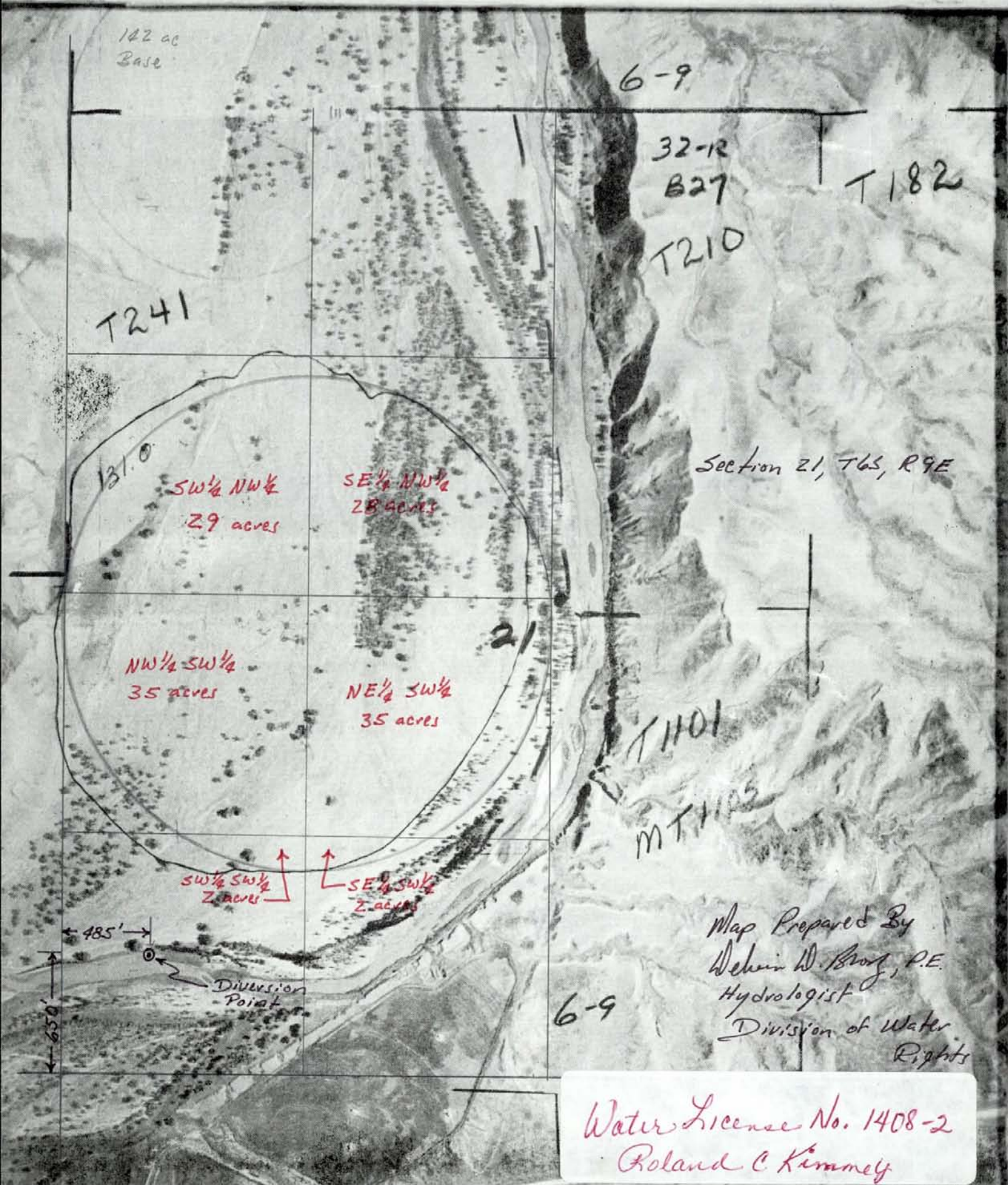
Junior Water Rights above Angostura were shut off during 1989 and will remain shut off until Angostura fills again. If you have any questions, please contact Mark Rath or Del Brosz (605-773-3352).

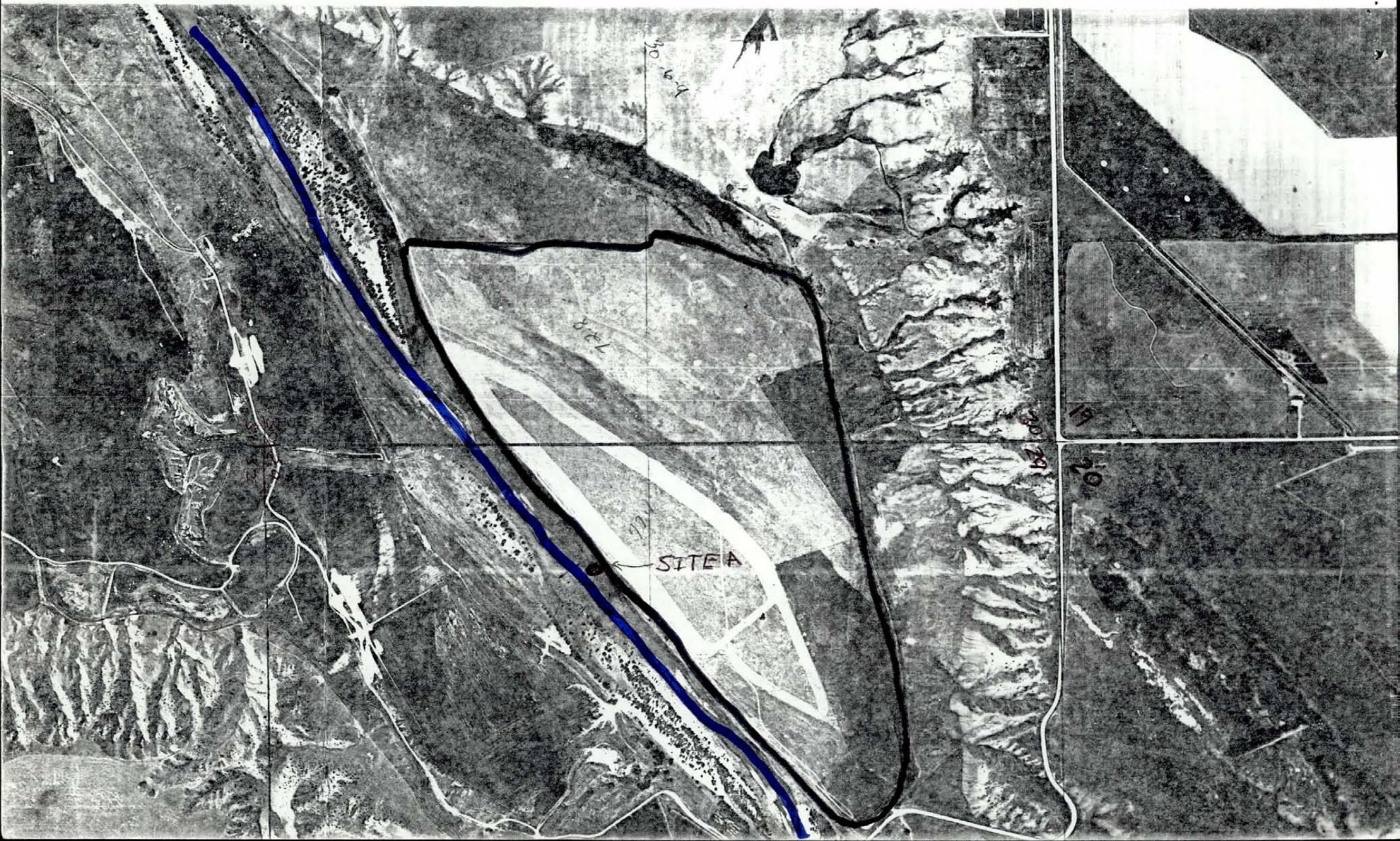
Very truly yours,

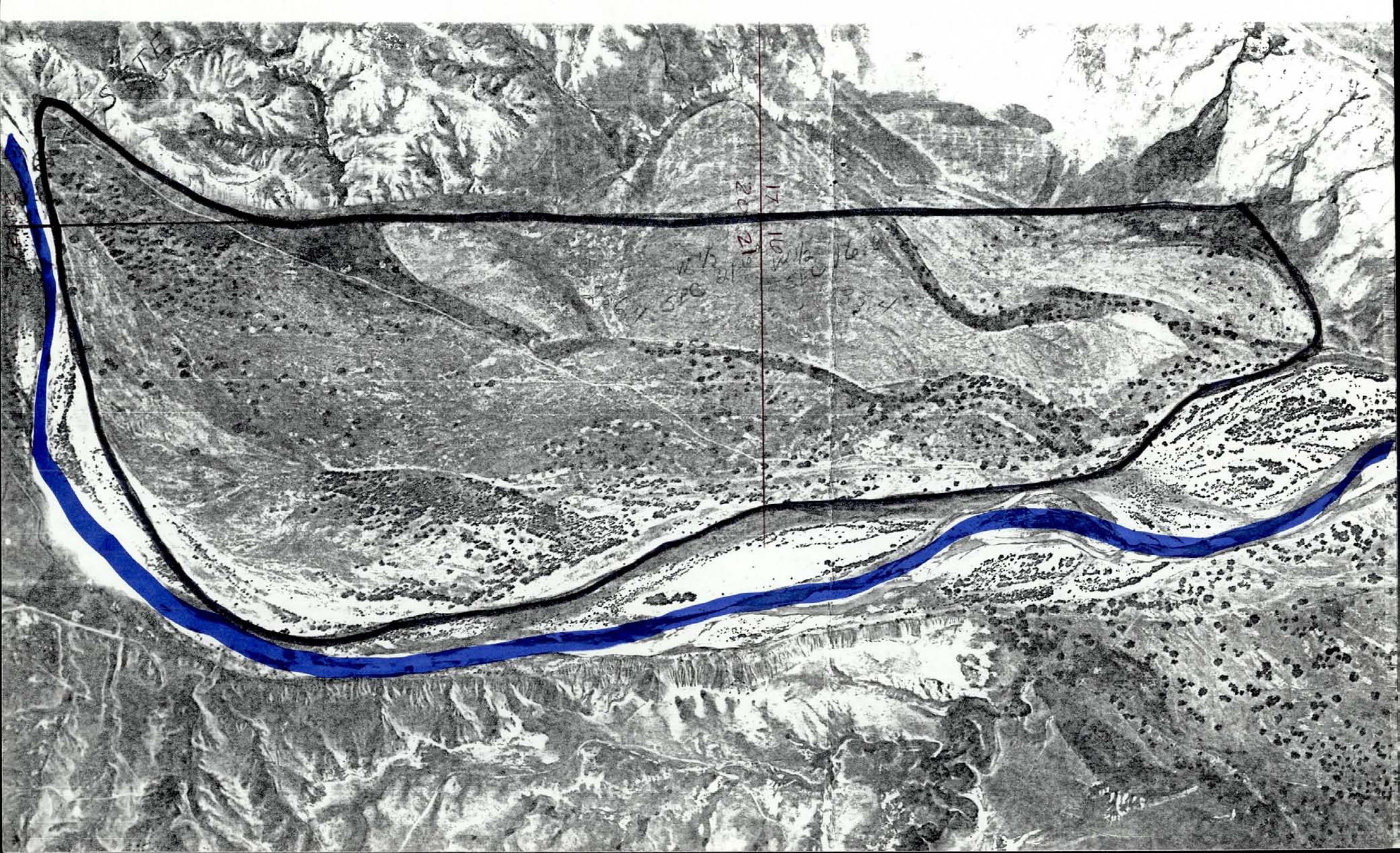
for *Delvin D. Brosz*
JOHN HATCH, Chief Engineer
Water Rights Division
605-773-3352



NOT TO SCALE









**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

June 30, 2006

NOTICE OF SHUTOFF ORDER

TO: RIBOB-ELJIM-KADEN
DENNIS SCHMIDT
25641 FLYNN CREEK RD
CUSTER SD 57730

FROM: GARLAND ERBELE, Chief Engineer
Water Rights Program

SUBJECT: Cheyenne River Shutoff Order for Junior Priority Date Water Rights

Shutoff Order for Water Right Nos. 1408-2

To protect the senior priority water rights, the department is issuing shutoff orders to junior water right holders with priority dates after January 1, 1970 from Angostura Dam to Belle Fourche River confluence. Effective immediately, no diversions of water from the Cheyenne River and tributaries will be allowed for those permits with a priority date after January 1, 1970.

Flow in the Cheyenne River has dropped to the point where domestic use of water, which includes livestock watering from the river, has become a concern. This order will be rescinded as soon as conditions improve. If conditions do not improve, this order will remain in effect until the end of the calendar year.

I am asking for your cooperation in complying with this shutoff order. The ongoing drought is creating hardship for all the water right holders along the river. If you have any questions, please contact Mark Rath or Lynn Beck with the Water Rights Program at (605) 773-3352. Thank you.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

September 5, 2006

1408-2

RIBOB-ELJIM-KADEN - DENNIS SCHMIDT
25641 FLYNN CREEK RD
CUSTER SD 57730

Dear Sir:

This letter is to inform you that until further notice pumping **will be allowed** to continue under your junior priority water right(s) from the Cheyenne River. Due to recent rains and cooler temperatures, flow in the Cheyenne River has improved and appears to holding steady.

We will continue to monitor the daily stream flows. If flow conditions worsen and domestic use flow is again being impacted, DENR may be forced to again limit pumping.

The USGS maintains a website where you can view real-time stream flow measurements at several sites along the Cheyenne River and it's tributaries at the following web address:

<http://waterdata.usgs.gov/sd/nwis/rt>

If you have any questions, please contact Mark Rath or Lynn Beck with the Water Rights Program at (605) 773-3352. Thank you.

GARLAND ERBELE, Chief Engineer
Water Rights Program



1408-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

March 5, 2007

Dear Water Right Holder;

Due to the ongoing drought I am advising Cheyenne River water right holders of the possibility of shutoff orders in 2007 for the river reach from Angostura Dam to the Belle Fourche River confluence. This is **not a shutoff order**.

As a result of the continuing lack of precipitation, tributary flows throughout the Cheyenne River basin remain well below the historical average. Angostura Reservoir ended February almost 21-feet below full and the forecast for improved conditions throughout the summer months is not favorable.

This letter is only intended to give you advanced warning that your ability to divert water may be cut short this year. If shut-off orders are issued, you will receive another letter from the department. In the meantime, water right holders can help by closely monitoring water usage and trying to avoid wasting water.

South Dakota water law gives the highest priority to domestic use, which includes livestock watering. There is generally adequate water available to meet both domestic use and other needs. However, once water availability reaches critical low levels, other uses, including irrigation, will begin to interfere with domestic use. If levels become critically low, the department must issue shut-off orders to protect domestic water uses. Once these orders are issued, the department will continue to monitor water availability and should conditions improve, the shutoff orders would be rescinded.

If you are interested, the US Geological Survey has an Internet site showing river flows at 150 stream gauging stations across the state. Go to sd.water.usgs.gov and click on "Realtime streamflow data via satellite".

Thank you for your cooperation. If you have any questions, please contact Mark Rath or Mike DeFea at (605) 773-3352.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

NOTICE OF SHUTOFF ORDER

June 27, 2007

TO: RIBOB-ELJIM-KADEN
DENNIS SCHMIDT
25641 FLYNN CREEK RD
CUSTER SD 57730

FROM: GARLAND ERBELE, Chief Engineer
SD DENR Water Rights Program

SUBJECT: Cheyenne River Shutoff Order for Junior Priority Date Water Rights

Shutoff Order for Water Right Nos. 1408-2

To protect the senior priority water rights, the department is issuing shutoff orders to junior water right holders with priority dates between January 1, 1970 and present for the river reach between the Angostura Dam to Belle Fourche River confluence. Effective immediately, diversions of water from the Cheyenne River and tributaries will not be allowed for those permits with a priority date after January 1, 1970.

Flow in the Cheyenne River continues to decline to the point where domestic use of water, which includes livestock watering from the river, has become a concern. This order will be rescinded as soon as conditions improve. If conditions do not improve, this order will remain in effect until the end of the calendar year.

The USGS maintains a website where you can view real-time stream flow measurements at several sites along the river, the web address is:

<http://waterdata.usgs.gov/sd/nwis/rt>

I am asking for your cooperation in complying with this shutoff order. The ongoing drought is creating hardship for all the water right holders along the river.

If you have any questions concerning this order, please contact either Mark Rath at (605) 773-3352 or Aaron Tieman at (605) 394-2229. Thank you.



1408-2

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

December 21, 2022

1408-2

Dennis Schmidt
25641 Flynn Creek Rd
Custer SD 57730

Dear Mr. Schmidt:

I am writing in regard to the notation you included with the irrigation questionnaire indicating the water right should be listed under REK Ranch LLC instead of Ribob-Eljim-Kaden.

This may be just a name change instead of an ownership change, but we have to follow the same format as an ownership change. Enclosed is a partially completed "Notice of Transfer of Ownership" form for use in filing the change. Please review and complete as needed. Upon completion, please sign and return the form to our office with a required filing fee of \$50. The check or money order for the fee can be made payable to the Water Rights Program.

If you have any questions, please let me know. Thank you in advance for helping to update the water right.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us

enclosure

1408-2

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date January 6, 2023

RECEIVED OF Rek Ranch LLC 3600 Shridan Lake Rd. Apt. 202 Rapid City SD 57702

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	\$ _____
Fee for Application for Permit No. _____ to Appropriate Water for Future use	\$ _____
Fee to retain Future Use Permit No. _____ after period of seven years.	\$ _____
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	\$ _____
Fee for Filing Transfer Form <u>1408-2</u>	\$ <u>50.00</u>
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law) TOTAL	\$ <u>50.00</u>

By Eric Gronlund

Chief Engineer

vm

PAID

JAN 6 2022

NOTICE OF TRANSFER OF OWNERSHIP

Ck# 1039

Rec't# _____

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

RECEIVED

JAN 06 2023

OFFICE OF
WATER

No. 1408-2

Date: _____

I/We request that Water Right No. 1408-2

formerly owned by: RIBOB-ELJIM-KADEN

be transferred to: (name & address) REX RANCH LLC

25641 Flynn CR Rd CUSTER, S.D 57730

Telephone No. 673 5013
605 877 6458 (C)

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

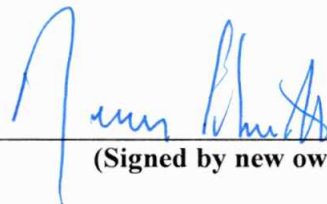
131 acres - S 1/2 NW 1/4 and SW 1/4 Section 21, T6S, R9E

I/We understand that the validity of Water Right No. 1408-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

A fee of Fifty Dollars (\$50.00) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

I/We Norris Schmidt, the new owner, certify that the above information is true and correct.


(Signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.

1408-2

REK RANCH LLC

Denny & Karlene Schmidt

25641 Flynn Creek Rd

Custer, SD 57730

RECEIVED

JAN 06 2023

OFFICE OF
WATER

MAILING ADDRESS

REK RANCH LLC

Denny & Karlene Schmidt

3600 Sheridan Lake Rd #202

Rapid City, SD 57702



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

December 21, 2022

Dennis Schmidt
25641 Flynn Creek Rd
Custer SD 57730

RECEIVED

JAN 06 2023

1408-2

OFFICE OF
WATER

Dear Mr. Schmidt:

I am writing in regard to the notation you included with the irrigation questionnaire indicating the water right should be listed under REK Ranch LLC instead of Ribob-Eljim-Kaden.

This may be just a name change instead of an ownership change, but we have to follow the same format as an ownership change. Enclosed is a partially completed "Notice of Transfer of Ownership" form for use in filing the change. Please review and complete as needed. Upon completion, please sign and return the form to our office with a required filing fee of \$50. The check or money order for the fee can be made payable to the Water Rights Program.

If you have any questions, please let me know. Thank you in advance for helping to update the water right.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us

enclosure

*The Ranch has gone from a partnership
to a Limit Corp.*
Genny McMath



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 10, 2023

1408-2

Dennis Schmidt
25641 Flynn Creek Rd
Custer SD 57730

Dear Mr. Schmidt:

I am writing to acknowledge receipt of the transfer form and filing fee you submitted for changing the name on Water Right No. 1408-2.

The change has been completed. The water right held by Ribob-Eljim-Kaden is now listed under REK Ranch LLC.

Enclosed is a receipt for the filing fee you paid. Thank you for updating the water right.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us

enclosure