

No. 530-2Water Division No. 2

(Blanks to be filled by the Engineer for the W. R. C.)

District

APR 2 1959

7:00 PM

STATE WATER RESOURCES COMM.  
PIERRE, SOUTH DAKOTA

# APPLICATION FOR PERMIT To Appropriate Water within the State of South Dakota

(NOTE—Draw a line through items not applicable.)

1. Name of applicant Bernard Armstrong ARMSTRONG E. ARMSTRONG, WALDO ARMSTRONG  
Postoffice address Midland, County Haakon, State South Dakota

## I. If a corporation

- (a) Name of same  
(b) Date and place of incorporation  
(c) Amount of capital stock  
(d) Amount paid in  
(e) Names and addresses of directors

(NOTE—A certified copy of articles of incorporation must accompany this application.)

## II. Method of accomplishing the work and financial resources of the applicant:

- (a) Method of accomplishing work (Whether by contract, employment of others, or by direct labor)

completed(b) Cash on hand, \$ D/A

(c) Treasury stock, \$

(d) Bonds to be issued, \$

(e) Other resources, \$

2. Name of diversion work
- Armstrong #1

3. Amount of water claimed
- 1.31
- cubic feet per second

4. Source of water supply
- dry draw

5. Location of point of diversion
- see attachment

- on
- both
- bank
- <sup>s</sup>
- Haakon
- County.

6. Annual period or periods during which water is to be used
- April to October inclusive

7. To be used for:

1. Irrigation or domestic use: Gravity, overhead sprinkling or combination system?
- gravity

- (a) Number of acres to be irrigated
- 91.8
- acres.

- (b) Legal subdivisions to be irrigated
- see attachment

(NOTE—A list of lands to be irrigated, giving each subdivision and fraction with acreage thereof, should be written here, or may be appended as a part of this application. Same must also be shown on accompanying map.)

- (c) Statement as to domestic use (giving location, etc.)

## II. Stockwatering, mining, milling, power, fish culture, fire protection and public recreation:

- (a) Nature of use
- Name any of the above uses claimed

- (b) Amount of power to be generated
- horse power.

Amount claimed for engine cooling

- (c) Location of plant

- (d) Method of developing power

- (e) Point where water will be returned to stream

Map No. 513-2

8. Estimated cost of work:

(a) Head Gates, \$..... (b) Pumping plant, \$.....  
 (c) Fluming, \$..... (d) Canal-earth, \$..... Rock, \$.....  
 (e) Other structures 11 diversions and 2 gates \$ 31,000 Total, \$.....

9. Description of diversion works:

I. Nature of works: (Reservoir, dam, ditch, flume, pumping plant, etc.)

#1,2,6,9,11 II. Dimensions of work  
 # 3,4,5,7,8,10 (a) Dam: Height 8 feet; length at bottom 80 feet; length at top 50 feet; length at top all 12  
130 feet; thickness at bottom 60 feet; thickness at top all 12  
 feet; slope at front water face 3 4:1; slope at back face 2:1  
 material used in construction earth  
 (b) Reservoir: Capacity when filled #11 only - 32 acre feet. Surface area at highwater mark 10 acres.

| DEPTH AT<br>OUTLET-Feet | SURFACE AREA AT EACH<br>DEPTH AT OUTLET—ACRES | FEET | ACRE-Feet<br>CAPACITY |
|-------------------------|-----------------------------------------------|------|-----------------------|
|                         |                                               |      |                       |
|                         |                                               |      |                       |
|                         |                                               |      |                       |
|                         |                                               |      |                       |
|                         |                                               |      |                       |
|                         |                                               |      |                       |
|                         |                                               |      |                       |
|                         |                                               |      |                       |
|                         |                                               |      |                       |

(c)\* Head gate: Width.....feet; height.....feet;

Material.....

(d) Canal: Total length.....miles.

| LOCATION BELOW<br>HEADGATE | DEPTH     | BOTTOM<br>WIDTH | WIDTH AT<br>WATER-LINE | GRADE<br>PER MILE |
|----------------------------|-----------|-----------------|------------------------|-------------------|
| At.....Mile                | .....feet | .....feet       | .....feet              | .....feet         |
| At.....Mile                | .....feet | .....feet       | .....feet              | .....feet         |
| At.....Mile                | .....feet | .....feet       | .....feet              | .....feet         |
| At.....Mile                | .....feet | .....feet       | .....feet              | .....feet         |
| At.....Mile                | .....feet | .....feet       | .....feet              | .....feet         |
| At.....Mile                | .....feet | .....feet       | .....feet              | .....feet         |

(Give dimensions where reductions in size are made.)

10. Time required for completion of work completed years.

11. Time required for complete application of water to the proposed beneficial use completed years.

12. Choice of newspaper for publication of notice of intention to appropriate D/A

STATE OF SOUTH DAKOTA

County of Butte ss.

I, Benjamin A. Armstrong, 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, examined the map accompanying the same, and that I know of my own personal knowledge that the matters therein stated and shown are true.

Signed Benjamin A. Armstrong

Subscribed and sworn to before me this 22nd day of April 1952

J. E. Anderson  
 Notary Public (or other qualified officer.)

# ARMSTRONG BROS. IRRIGATION PROJECT

(WATER SPREADING)  
HAAKON COUNTY, S.O. DAK.  
SCALE 1" = 660'

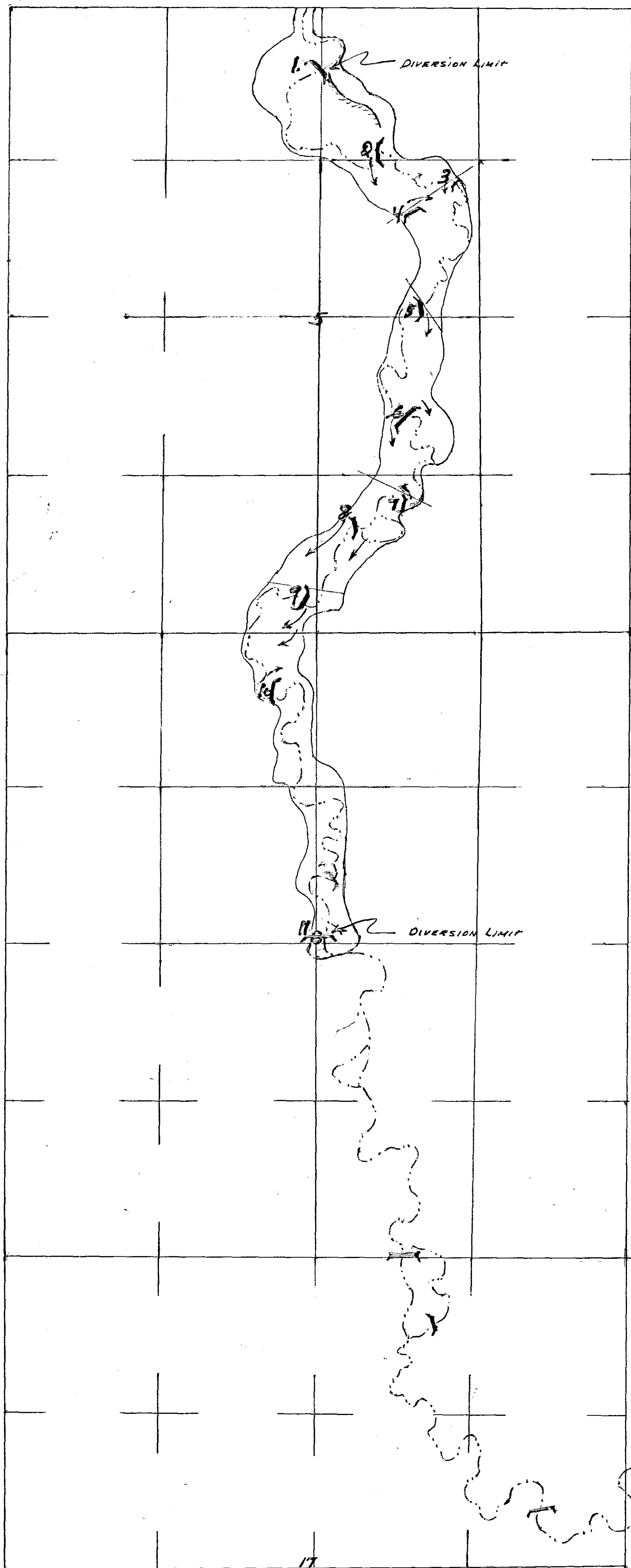
| LOCATION         | ACRES | SECTION | TWP. | RANGE |
|------------------|-------|---------|------|-------|
| NE 1/4 NW 1/4    | 8.8   | 5       | 3N   | 24E   |
| NW 1/4 NE 1/4    | 11.6  | 5       | 3N   | 24E   |
| SW 1/4 NE 1/4    | 16.0  | 5       | 3N   | 24E   |
| NW 1/4 SE 1/4    | 15.0  | 5       | 3N   | 24E   |
| SW 1/4 SE 1/4    | 10.6  | 5       | 3N   | 24E   |
| SE 1/4 SW 1/4    | 6.2   | 5       | 3N   | 24E   |
| NE 1/4 NW 1/4    | 11.5  | 8       | 3N   | 24E   |
| NW 1/4 NE 1/4    | 1.4   | 8       | 3N   | 24E   |
| SE 1/4 NW 1/4    | 2.3   | 8       | 3N   | 24E   |
| SW 1/4 NE 1/4    | 8.4   | 8       | 3N   | 24E   |
| 91.8 TOTAL ACRES |       |         |      |       |

OWNERS OF THE ABOVE LANDS, ARMSTRONG BROTHERS

| Dam No. | Date built | Approx. Acres Irrig. |
|---------|------------|----------------------|
| 1       | 1956       | 28                   |
| 2       | 1956       |                      |
| 3       | 1955       | 9                    |
| 4       | 1955       |                      |
| 5       | 1926       | 16                   |
| 6       | 1926       |                      |
| 7       | 1956       | 12                   |
| 8       | 1956       |                      |
| 9       | Aug 1957   | 17                   |
| 10      | Aug 1957   |                      |
| 11      | March 1958 | 10                   |

plans for this system were made  
in June 1954. SCS planned this project

Bernard Armstrong



(App. No. 530-2)

Map No. 5132

Remarks by State Water Resources Commission:

"Vested Right" claimed

- The diversion rate limitation of 1 cubic foot per second for each 70 acres irrigated shall not apply to this Dry Draw Irrigation diversion during periods of flood flows, when such flows are in excess of the amount of water required to satisfy domestic use requirements and other water rights.

STATE OF SOUTH DAKOTA

County of

Hughes

ss.

Pierre, South Dakota,

April 28, 1959

This is to certify that the foregoing application was received by the Commission at 4:00 o'clock

p.m. upon the

28

day of

April

1959

State Water Resources Commission

By:

Goodman

Chief Engineer, Executive Officer

Number of permit

530-2

Date of first receipt of application

April 2

1959

Date of return to applicant for correction, amendments or changes required as follows:

19

Date of receipt of corrected application

19

Date from which applicant may claim right

0.23 cfs. from 1926

1.28 cfs. from 1925

19

Approved

April 28, 1959

Recorded in Book

5

Page

134

This is to certify that we have examined the foregoing application for a permit to appropriate water of the State of South Dakota, and we hereby grant the same as stated herein, subject, however, to the following limitations and conditions:

1st. The equivalent of at least one-fifth of the work above specified is to be completed on or before

Completed, 19

2nd. The whole of said work is to be completed on or before

Completed

19

3rd. The limit of time for proof of beneficial use of water appropriated in accordance herewith is

Completed

19

4th. The water appropriated shall be used for the purpose of

irrigation

5th. 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.

6th. The amount of the appropriation herein granted shall not exceed 1.31 cubic feet per second; neither shall it exceed the capacity of the above described system of diversion works, nor the least amount of water that experience may hereafter indicate as necessary for the production of crops in the exercise of the best husbandry; and further, said appropriation must 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 June 30, 1957; said water to be used during the following described annual period:

April to October inclusive

Witness my hand this

28

day of

April

1959

State Water Resources Commission

By:

Goodman

Chief Engineer, Executive Officer

Certificate of Construction Issued

April 28, 1959

Water License Issued

April 28, 1959

STATE OF NEW YORK

In SENATE,

January 11, 1901.

REPORT OF THE  
COMMISSIONER OF  
THE LAND OFFICE  
IN RESPONSE TO A  
RESOLUTION PASSED  
BY THE SENATE  
JANUARY 11, 1901.

ALBANY:

STATE OF NEW YORK

REPORT OF THE  
COMMISSIONER OF  
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THE LAND OFFICE  
IN RESPONSE TO A  
RESOLUTION PASSED  
BY THE SENATE  
JANUARY 11, 1901.

ALBANY:

1901.

## STATE OF SOUTH DAKOTA

## WATER LICENSE No... 530-2...

WHEREAS, On the 2nd day of April A. D. 1959

Bernard Armstrong

of Midland County of Haakon and State of South Dakota duly made application (No. 530-2) to us for a Vested Right 1.31 cubic feet per second of the waters of a dry draw County of Haakon, State of South Dakota, for irrigation purposes; and

WHEREAS, On the 28th day of April A. D. 1959 Vested Right recognizing Permit No. 530-2 was issued to said applicant... for the diversion of said water, and ~~XXXXXX~~ completion of the works of diversion therein described on or before June 30, 1957 ~~XXXXXX~~ XXXXXX and for the application to beneficial use of said water on or before June 30, 1957 ~~XXXXXX~~ XXXXXX and,

WHEREAS, On the 2nd day of April A. D. 1959 Vested Right the holder... of said permit duly made proof of the completion of adequate works for the diversion of 1.31 cubic feet per second of said waters, as evidenced by our Certificate No. 530-2 dated April 28, 1959 confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use 1.31 cubic feet per second of water, with date of priority of 1926 for 0.23 c.f.s. and 1955 for 1.08 c.f.s. and,

WHEREAS, On the 2nd day of April A. D. 1959 proof was duly made of the application to beneficial use of 1.31 cubic feet per second of said water; on 91.8 acres located in parts of the NE1/4NW1/4, W1/4NE1/4, W1/4SE1/4, and SE1/4SW1/4 all in Sec. 5, T 3 N, R 24 E; NW1/4NE1/4, E1/4NW1/4, and SW1/4SE1/4 all in Sec. 8, T 3 N, R 24 E more particularly described in Certificate of Completion of Works No. 530-2.

NOW, THEREFORE, By the virtue of the authority vested in us by the laws of the State of South Dakota,  
We hereby grant and confirm to Bernard Armstrong Vested Right  
of Midland, South Dakota the holder... and owner... of said permit No. 530-2  
a water right, dating from 1926 for 0.23 c.f.s and 1955 for 1.08 c.f.s. 1.31  
cubic feet per second of the waters of a dry draw

In the County of Haakon and State of South Dakota, or so much thereof as may be  
necessary for the purposes hereinafter mentioned, to be diverted at two points in the NW 1/4 Sec. 5;  
one point in the NW 1/4 Sec. 5; two points in the SW 1/4 Sec. 5; one point in the SE 1/4 Sec. 5; one point in the NE 1/4 Sec. 8; and one point  
in the SW 1/4 Sec. 8 all in T 3 N, R 24 E  
and conducted to and upon parts of the NE 1/4 NW 1/4, W 1/4 NE 1/4, W 1/4 SE 1/4 and SE 1/4 SW 1/4, all in  
Sec. 5, T 3 N, R 24 E; NW 1/4 NE 1/4, SW 1/4 SE 1/4, and E 1/4 NW 1/4 all in Sec. 8, T 3 N, R 24 E  
more particularly described in Certificate of Completion of Works No. 530-2  
for the purpose... of irrigation

subject, however, to the laws of the State of South Dakota applicable to a license for the use of the waters of the State, and subject, also to the local or community customs, rules and regulations which have been or may be adopted from time to time by a majority of the users from a common source of supply, canal or lateral from which such water may be taken, when such rules and regulations have for their object the economical use of such water.

WITNESS, My hand and seal of our office at Pierre, South Dakota,  
this 28th day of April A. D. Nineteen  
Hundred and fifty-nine

State Water Resources Commission

By:

J. W. GRIMES, Chief Engineer, Executive Officer

STATE OF SOUTH DAKOTA

Water License No. \_\_\_\_\_

To \_\_\_\_\_

Source of Supply \_\_\_\_\_

County \_\_\_\_\_

Am't \_\_\_\_\_ c. f. s.

Point of Diversion \_\_\_\_\_

Place of Use \_\_\_\_\_

Purpose \_\_\_\_\_

Date of Priority \_\_\_\_\_

Recorded \_\_\_\_\_

In Book \_\_\_\_\_ of \_\_\_\_\_ Page \_\_\_\_\_

Permit No. 530-2  
Bad  
Water Division No. 2 River Water District

Certificate of Completion of Works

TO ALL WHOM IT MAY CONCERN:

This is to Certify, That Bernard Armstrong

of Midland, County of Haakon, and State of South Dakota, the holder of Vested Right Permit No. 530-2, issued upon Application No. 530-2, bearing date of priority of 1926 and 1955, authorizing the diversion of

1.31 cu. ft. per second of the waters of a dry draw

County of Haakon, State of South Dakota, at 2 points in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 5; three points in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 5; one point in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 5; two points in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 5; one point in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 5; one point in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 8 and one point in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 8; all in T 3 N, R 24 E

for irrigation

purposes, has fully complied with the provisions of the laws of the State of South Dakota relating to proof of completion of the works of diversion set out and described in said Permit; that said works are found in satisfactory condition for diverting and conveying to the place of intended use 1.31 cu. ft.

per second of water; and that the lands proposed to be irrigated by the use of said water are described as follows,

|                                           |                 |            |
|-------------------------------------------|-----------------|------------|
| to-wit: NE $\frac{1}{4}$ NW $\frac{1}{4}$ | )               | 8.8 acres  |
| NW $\frac{1}{4}$ NE $\frac{1}{4}$         | )               | 11.6 acres |
| SW $\frac{1}{4}$ NE $\frac{1}{4}$         | ) all in Sec. 5 | 16.0 acres |
| NW $\frac{1}{4}$ SE $\frac{1}{4}$         | ) T 3 N, R 24 E | 15.0 acres |
| SW $\frac{1}{4}$ SE $\frac{1}{4}$         | )               | 10.6 acres |
| SE $\frac{1}{4}$ SW $\frac{1}{4}$         | )               | 6.2 acres  |
| NE $\frac{1}{4}$ NW $\frac{1}{4}$         | )               | 11.5 acres |
| NW $\frac{1}{4}$ NE $\frac{1}{4}$         | ) all in Sec. 8 | 1.4 acres  |
| SE $\frac{1}{4}$ NW $\frac{1}{4}$         | ) T 3 N, R 24 E | 2.3 acres  |
| SW $\frac{1}{4}$ SE $\frac{1}{4}$         | )               | 8.4 acres  |
| Total                                     |                 | 91.8 acres |

Witness my hand this 23th day of April 1950 A. D. 1950

State Water Resources Commission

By:

J. W. GRIMES, Chief Engineer, Executive Officer

TO: Water Rights Commission  
Foss Building  
Pierre, South Dakota 57501

Date: February 9, 1978

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

Portions of NE $\frac{1}{4}$  NW $\frac{1}{4}$ , W $\frac{1}{2}$  NE $\frac{1}{4}$ , W $\frac{1}{2}$  SE $\frac{1}{4}$  & SE $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 5, T3N, R24E; NW $\frac{1}{4}$  NE $\frac{1}{4}$

E $\frac{1}{2}$  NW $\frac{1}{4}$  & SW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 8, T3N, R24E

formerly owned by Bernard Armstrong

has been transferred to Armstrong & Armstrong & Waldo Armstrong, Sisseton, SD 57552

together with any rights to the beneficial use of water thereon as evidenced by Water Right Permit No. 530-2 as provided for in Section 61.0127 of the 1960

Supplement to the South Dakota Code of 1939.

You are therefore hereby requested to file this "Notice of Transfer of Water Permit" in its appropriate file at the Office of Water Rights Commission 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 Section 61.0159 of the 1960 Supplement to the South Dakota Code of 1939..

STATE OF SOUTH DAKOTA )  
County of Black ) SS.

i, Walter Armstrong 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.

ed is true.  
*Samuel J. Huntington*  
 by *Walter Huntington*  
 (Signed)

Subscribed and sworn to before me this 22 day of March

1978.

Margaret Abel  
(Notary Public)



MYRNA ABEL, NEELY FRODO  
HARROLD COUNTY, SOUTH DAKOTA  
My Commission Expires 8-2-78

# RECEIPT

## WATER RIGHTS COMMISSION

State of South Dakota

No 4 6404

PIERRE, March 24, 1978

RECEIVED OF Waldo Armstrong, Midland, SD 57552

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

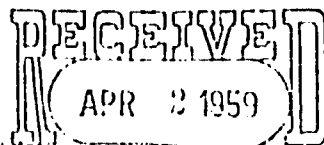
|                                                                                                                     |   |    |
|---------------------------------------------------------------------------------------------------------------------|---|----|
| Fee for Application for Permit to Appropriate 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 Water Rights# 530-2                                                                | 2 | 50 |
| Fee for certified copy of _____                                                                                     |   |    |
| Fee for Print copy of map _____                                                                                     |   |    |
| Fee for Certifying _____                                                                                            |   |    |
| Fee for _____<br>(any other work as provided by law)                                                                |   |    |
| TOTAL                                                                                                               | 2 | 50 |

WATER RIGHTS COMMISSION

By *John Hatch*  
Chief Engineer, Executive Officer  
JOHN HATCH  
gy

Location No. 5-30-2Water Division No. 2Big River

Water District

STATE WATER RESOURCES COMM.  
PIERRE SOUTH DAKOTA

## Proof of Application of Water to Beneficial Use

### PETITION OF HOLDER

Ques. 1. State your name, residence, occupation and postoffice address.

Ans. Bernard Armstrong

Ques. 2. If acting in behalf of a corporation, state its name, principal place of business (if a foreign corporation, give name and postoffice of statutory agent,) your position with reference to same, and your authority for appearing in its behalf.

Ans. \_\_\_\_\_

Ques. 3. State date of posting and date of recording notice of appropriation.

Ans. August 8, 1956, Location Notice No. 4435 Filed 10/1 at beginning of season

Ques. 4. State source of water supply and give exact location of point of diversion.

Ans. dry draw (see attachment)

Ques. 5. Describe your works of diversion giving length and height of each dam and state amount of water they are capable of conveying from point of diversion to place of use, and give name of canal or ditch or other works by which water is conducted to such place of use, and date of completion of same.

Ans. 11 dikes and about 900 ft. of ditching. Dike descriptions on Application.

Ques. 6. State for what purpose water is used and describe place of use. (If for irrigation, name each subdivision in which used, and number of acres in each subdivision that have ACTUALLY been irrigated with said water.)

Ans. Irrigation of 91.8 acres. See attachment for locations.

Ques. 7. If for other than irrigation purpose, state how applied, amount of horse power generated, etc.

Ans. \_\_\_\_\_

Ques. 8. What is the minimum amount of water required for the use specified above?

Ans. 50 acre feet annually

Ques. 9. If you are not the person or representative of the corporation to whom above mentioned permit was originally issued, please state how ownership was acquired by present holder.

Ans. \_\_\_\_\_

Ques. 10. State when, how, in what amount and to what extent, the water diverted under above mentioned permit has been used.

Ans. Dams 1 & 2 built in 1956 and irrigate about 28 acres. Dams 3 & 4 built in 1955 and irrigate about 9 acres. Dams 5 & 6 built in 1926 and irrigate about 16 acres. Dams 7 & 8 built in 1956 and irrigate about 12 acres. Dams 9 & 10 built in Aug. 1957 and irrigate about 17 acres. Dam 11 built in March 1958 and irrigates about 10 acres.

water has been used every year it has been available

(Sign)

Richard A. Courtney

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Chickadee, S.D., County of Deuel

State of South Dakota, on this 2nd day of April, A. D. 1958.

Witnesses.

J. E. Engstrom  
Harry B. Brier

I, the undersigned, do hereby certify that I am a duly qualified elector residing in the immediate vicinity of the diversion works designated in the foregoing testimony, that I have no interest in the works, water or land above described, that I have read the foregoing testimony and that I know of my own personal knowledge that the matters therein stated are true.

|                                                            |  |
|------------------------------------------------------------|--|
| Location No. -----                                         |  |
| <b>PROOF OF APPLICATION OF<br/>WATER TO BENEFICIAL USE</b> |  |
| <b>PETITION OF HOLDER</b>                                  |  |
| Amount of Water ----- c. f. s.                             |  |
| Source -----                                               |  |
| County -----                                               |  |
| Purpose -----                                              |  |
| Place of Use -----                                         |  |
| -----                                                      |  |
| Date of recording -----                                    |  |
| -----                                                      |  |
| Received and filed -----                                   |  |

# LOCATION OF DIVERSIONS

## Don Number

1  
2  
3,4,5  
6  
7 & 8  
9  
10  
11

Location  
NE 1/4, Sec. 5)  
NW 1/4, Sec. 5)  
SW 1/4, Sec. 5)  
NW 1/4, Sec. 5)  
SW 1/4, Sec. 5)  
SE 1/4, Sec. 5)  
NE 1/4, Sec. 8)  
SW 1/4, Sec. 8)

all in  
T 3N, R 24E

# LOCATION OF IRRIGATED LANDS

Location  
NE 1/4, Sec. 5)  
NW 1/4, Sec. 5)  
SW 1/4, Sec. 5)  
NW 1/4, Sec. 5)  
SW 1/4, Sec. 5)  
SE 1/4, Sec. 5)  
NE 1/4, Sec. 8)  
NW 1/4, Sec. 8)  
SE 1/4, Sec. 8)  
SW 1/4, Sec. 8)

all in T 3N, R 24E

## Acreage

8.8  
11.6  
16.0  
15.0  
10.5  
6.2  
11.5  
1.1  
2.3  
8.4

Total 91.8

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

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

September 21, 1988

NOTICE

Armstrong & Armstrong  
% Waldo Armstrong  
Midland SD 57552

Dear Mr. Armstrong:

I am writing to notify you that pursuant to the Notice of Intent to Validate Vested Water Right Claims dated June 20, 1988 that I intend to oppose validation of your water right claim No(s). 530-2 until a field inspection has been completed. The claim has either never been inspected or an inspection was conducted so long ago that a new inspection is needed. An inspection is needed to determine the current state of your vested water right claim.

A staff member from the Division of Water Rights will be contacting you and scheduling an inspection of your water project. If we can answer any questions, please contact us.

Very truly yours,

*John Hatch*

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



File No. 530-2  
947-2

**Water Rights Division  
File Documentation**

NAME OF PERSON OR FILE: Paul Zapletol

ADDRESS: H/CR 69, Box 673, Midland, SD COUNTY: Haakon

DATE: October 5, 1993 TELEPHONE: (605)843-2864

RE: Cancellation of Vested Right Claim No. 530-2 and Water Permit No. 947-2

**COMMENTS:**

On July 14, 1993, I met with Mr. Paul Zapletol concerning Vested Right Claim No. 530-2 and Water Permit No. 947-2. Mr. Paul Zapletol informed me that he owns and farms the land covered under Vested Right Claim No. 530-2 and Water Permit No. 947-2. He stated that it is not cost effective to irrigate, therefore he has not irrigated for several years. Mr. Zapletol said he does not plan to irrigate with either the permit or the vested right and we should schedule Water Permit No. 947-2 and Vested Water Right Claim No. 530-2 for cancellation for forfeiture or abandonment.



Ken Buhler  
Natural Resources Engineer

RECOMMENDATION OF CHIEF ENGINEER

FOR WATER PERMIT NO. 947-2 AND VESTED RIGHT CLAIM NO. 530-2

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Environment and Natural Resources concerning Water Permit No. 947-2 and Vested Right Claim No. 530-2, now owned by Paul Zapletal.

The Chief Engineer is recommending cancellation of the above Water Permit and Vested Right Claim because an inspection by Ken Buhler, July 14, 1993, found the land has not been irrigated for several years. The land owner has indicated he has no plans to irrigate in the future. The permit and vested right claim have been abandoned and/or forfeited.



RON DUVALL, Natural Resources Engineer IV  
for JOHN HATCH, Chief Engineer  
October 8, 1993



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

October 8, 1993

**NOTICE OF CANCELLATION**

TO: Paul Zapletal, HCR 69 Box 673, Midland, SD 57552

FROM: Ron Duvall, Natural Resources Engineer IV  
for John Hatch, Chief Engineer  
Water Rights Division

SUBJECT: Cancellation of Water Permit No. 947-2 and Vested Right  
Claim No. 530-2

The Water Management Board will consider cancellation of Water Permit No. 947-2 and Vested Right Claim No. 530-2 at 9:00 am, on December 1, 1993, in the Conference Room, Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD.

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

The Chief Engineer of the Water Rights Division is recommending cancellation of Water Permit No. 947-2 and Vested Right Claim No. 530-2 due to abandonment and/or forfeiture.

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on Water Permit No. 947-2 and Vested Right Claim No. 530-2 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by Water Permit No. 947-2 and Vested Right Claim No. 530-2. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by November 22, 1993. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained. The Board may consider any abandoned or forfeited water to be available for appropriation subject to the provisions of SDCL 46-1, 46-2, 46-2A and 46-5.

October 8, 1993  
Paul Zapletal  
Page 2

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

Prior to November 22, 1993, contact the Water Rights Division, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting to be held in Pierre, SD on March 2, 1994. Any request for extension must be filed with the Chief Engineer by November 22, 1993.

Please note: Cancellation of the water permit/right does not prohibit a new application for this project in the future.



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

November 10, 1993

530-2

947-2

Paul Zapletal  
HCR 69 Box 673  
Midland, SD 57552

Dear Mr. Zapletal:

The hearing before the Water Management Board to consider cancellation of Vested Right Claim No. 530-2 and Water Permit No. 947-2, has been deleted from the December 1, 1993 agenda.

On July 14, 1993, during your meeting with Ken Buhler, staff engineer, you stated you had not irrigated for several years and did not plan to irrigate in the future. Based upon this information, the vested right claim and water permit were scheduled for cancellation for abandonment and/or forfeiture.

A review of the Vested Right Claim No. 530-2 and Water Permit No. 947-2 found reference to several storage dams which may or may not be in existence. Before we can proceed with cancellation consideration of the vested right claim and water permit, we need to know if those dams exist, the amount of water they impound, and what use of water is being made from them (i.e., have they historically been used for livestock watering in addition to irrigation).

A field investigation of the storage dams will need to be conducted prior to a decision being made on whether the vested right claim and water permit should be canceled. You will be contacted prior to the inspection.

If you have any questions, please contact us.

Sincerely,

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

**REPORT ON INSPECTION OF PERMIT NO. 530-2**

**DATE OF INSPECTION:** 6/21/00

Other permit/license(s) associated with the project: **947-2**

**Contact Person & Address:**

Brady Daly  
HCR69 Box 673  
Midland, SD 57552

**DIVERSION POINTS LEGAL LOCATION:** Sections 5 and 8 T3N R24E

**WATER SUPPLY Source:** Dry Draw

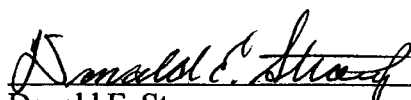
**SYSTEM TYPE:** Gated, gravity spreading.

**COMMENTS:**

Permits # 530-2 and 947-2 need to be transferred to Daly Farms c/o Brady Daly at the above address.

Permit # 530-2 could be licensed although the system has not been intentionally used since 1983. The system has been passively gravity spreading water over the area and can therefore be considered as utilized. Mr. Daly should notify the Water Rights Program if the dams are removed in the dry draw. If such action should occur, Permit # 530-2 should then be cancelled. If Mr. Daly should decide to repair the system for irrigation purposes, he should notify the Water Rights Program. Until either of these actions occur, no further processing should be taken for validation or licensing of Permit # 530-2.

Permit # 947-2 is no longer used for irrigation and needs to be re-issued for domestic use.

  
Donald E. Stroup  
Natural Resources Engineer  
DENR, Water Rights Program

6/22/00  
Date

**Permit No. 530-2**  
**Haakon County**

**Report Of Examination Of Works**

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

Other permit/license associated with project: 947-2

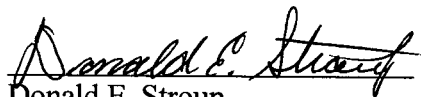
On June 21, 2000, I completed a field examination of vested water right claim No. **530-2** bearing 1926 and 1955 priority dates originally held by Bernard Armstrong. The original diversion of 1.31 cfs to irrigate 91.8 acres was a gated, gravity spreading system from earthen dams constructed along a dry draw. A Completion of Works Certificate was filed April 28, 1959. The property was transferred in 1983 to Mr. Zapletal (deceased) and is presently owned by Brady and Radka Daly. The irrigation system has not been intentionally used since the transfer of property in 1983.

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

The system is in the following condition: **Very Poor**. Presently the dams and ditches are filled with silt and only gravity spreading water during high flow periods. Since the system has not been maintained, it is causing access problems due to marshy conditions in the area. Mr. Daly stated that he has considered removing the dams and allowing the water to return to its natural course of flow to alleviate access and weed problems in the area.

Applicable permit qualifications have been complied with: **Yes**

Exceptions to compliance are: **System has not been intentionally used since 1983**

  
Donald E. Stroup  
Natural Resources Engineer  
DENR, Water Rights Program

6/22/00  
Date



530-2

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3181  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

June 27, 2000

Daly Farms  
Brady & Radka Daly  
HCR69 Box 673  
Midland, SD 57552

Dear Mr. & Mrs. Daly:

After examination of the irrigation system in Sections 5 and 8 of T3N R24E and speaking with you on June 21, 2000, I presented my findings to the Water Rights Program Chief Engineer.

Permit No. 530-2 should be transferred to Daly Farms. No further processing of Permit No. 530-2, other than transfer, will proceed until such time as you decide either to repair and use the irrigation system or to remove the dams along the dry draw (Burnt Creek) in Sections 5 and 8 T3N R24E. If you should decide to repair and use the irrigation system, please notify the Department of Environment and Natural Resources' (DENR) Water Rights Program so validation and licensing processing can be completed. Also, if you should decide to remove the dams in the dry draw, please notify the DENR Water Rights Program and we will then proceed with cancellation of the water right.

Permit No. 947-2 should also be transferred to Daly Farms. Paul Zapletal last held this permit for irrigation from the large dam in the N½ of Section 7 and NW¼ of Section 8 T3N R24E. Unfortunately the large dam was not constructed to the specifications contained in the original water right application and is not correctly permitted. The original permit authorized 105 acre-feet of storage, however the dam was constructed to impound 450 acre-feet of water. This storage capacity error was not corrected when the property and permit were transferred from Mr. Armstrong to Mr. Zapletal. A water right permit for the additional water storage of 345 acre-feet is necessary. As the current owner of the property, you are now responsible for obtaining this permit. The permit for the large dam can be changed from irrigation to domestic (stock water) use.

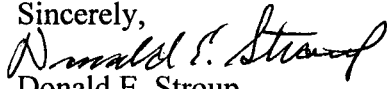
The smaller dam in the SW¼ of Section 8 has never been permitted. This dam has a storage capacity of 150 acre-feet and South Dakota law requires that a water right permit be obtained for a dry draw dam impounding more 25 acre-feet of water. Unfortunately, as the current owner of the property, you are now also responsible for obtaining a permit for this storage of water.

Enclosed are partially completed application forms for the additional storage (495 acre-feet) in the large and small dams and a Form 2A for each dam. A Form 2A needs to be completed for each dam. The application needs to be signed before a notary public and submitted with a completed Form 2A for each dam. Also enclosed are Notice of Transfer of Ownership forms for Permits 530-2 and 947-2. These also have to be notarized.

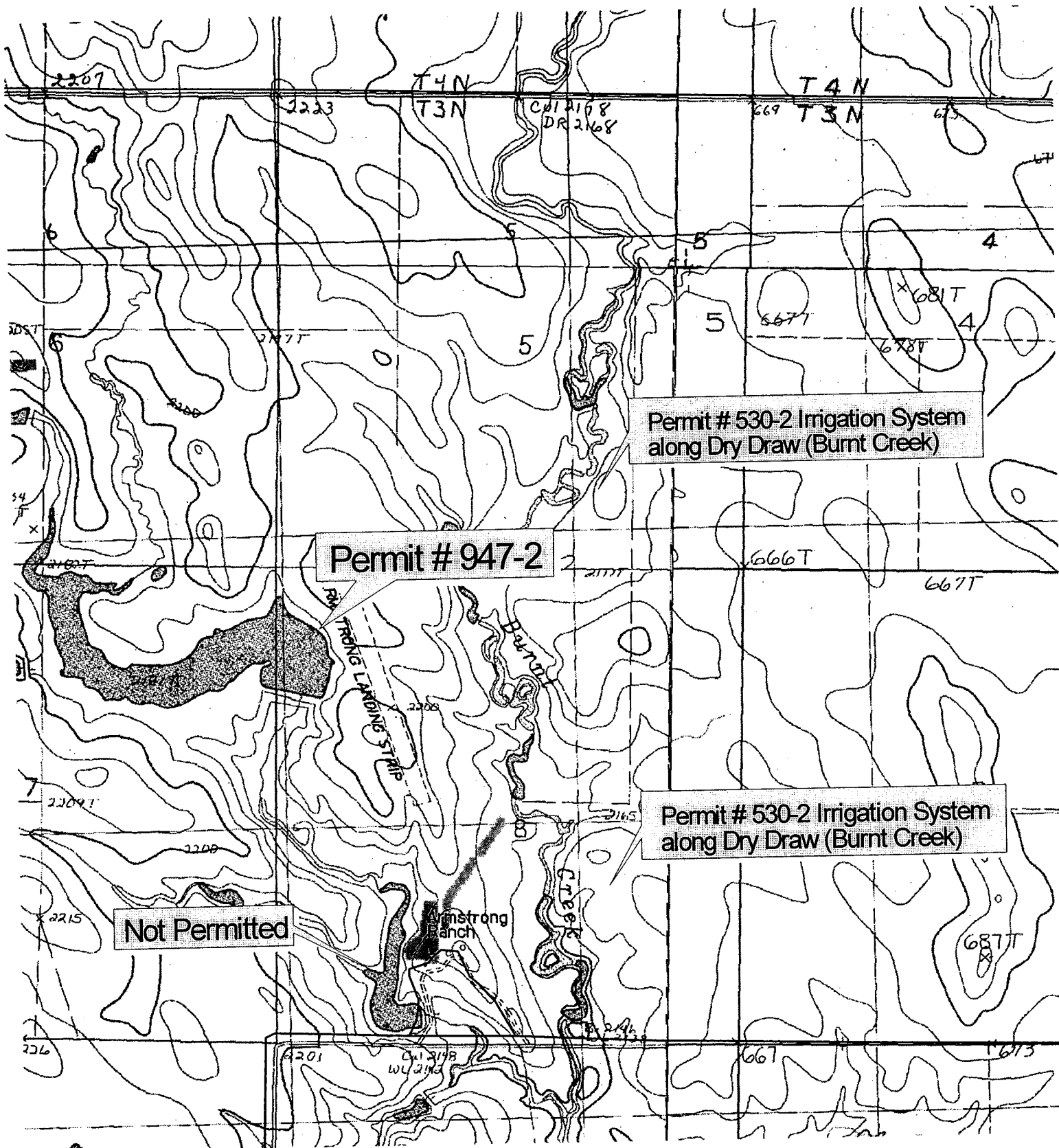
The application filing fee is \$350 set by state law based on the additional acre-feet of water stored in the two dams. Transfer of ownership fee is \$2.50 each for a total of \$5.00. You also will be responsible for the cost of the application's public notice in the local newspaper.

If you have any questions, please contact me at 605 773 3352.

Sincerely,

A handwritten signature in cursive script, appearing to read "Donald E. Stroup".

Donald E. Stroup  
Natural Resources Engineer



530-2



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

January 3, 2001

Daly Farms  
Brady & Radka Daly  
HCR 69, Box 673  
Midland SD 57552

Dear Mr. & Mrs. Daly:

On June 27, 2000, you were sent transfer and applications forms for a permit to appropriate water based on an investigation of Water Permit Nos. 530-2 and 947-2, by Don Stroup, an engineer with this office. Enclosed is a copy of that letter. To date, we have not received a response regarding this matter.

Obtaining a water permit that accurately reflect your water use ultimately benefits you by protecting your right to use water. Except for domestic use, any water user without a water right is not entitled to receive protection in the event of interference by a new or future user who has a water right.

If you have any questions, please contact Don Stroup.

Sincerely,

*Karen Schlaak*

Karen Schlaak  
Water Rights Program  
Phone: (605) 773-3352

enclosures



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

February 15, 2024

530-2

947-2

Daly-Z Family Farms  
201 Rail Road St  
Hartford SD 57033

To whom it may concern:

I am writing you today regarding Water Permit Nos. 530-2 & 947-2. Permit No. 947-2 is listed in the name of Paul Zapletal and Permit No. 530-2 in the name of Armstrong & Armstrong.

In June 2000, a Water Rights Program staff engineer conducted an on-site inspection and wrote you a letter entailing his findings. A copy of that letter is enclosed.

With this letter, I hope to confirm that either you have dismantled the irrigation systems and removed the dams, in which case we would proceed with cancelling the permits **or**, transfer the above listed permits to Daly-Z Family Farms and update the permits for the large dams.

Unfortunately, since so much time has passed since the original letter was written, the fees for both additional permitting and ownership transfers have gone up. To transfer ownership would cost \$50/permit, totaling \$100.00.

Once you have confirmed that there is or is not any irrigation taking place, we can proceed with the type of application required for the dams and the appropriate fees.

Obtaining a water permit that accurately reflects your water use is ultimately to the benefit of the user, as it protects your right to use the water. With the exception of domestic use, any water use without a water right/permit is not entitled to receive protection in the event of interference by a new or future user who is in possession of a permit.

Please let me know the appropriate way to proceed.

Sincerely,

Amanda Dewell  
Water Rights Program  
605 773-3352  
Amanda.Dewell@state.sd.us

enclosure