

No. 79-2
Milton M. Little

OFFICE OF STATE ENGINEER
DOCUMENT FILE

Division 2-2 Battle Creek water
Name of Applicant
H. O. McNeil & H. L. Jolley
Name of Person to be
O. McNeil and Jolley Division 2-2
Date heard by Board of Engineers
June 26th 1910
Location of point of diversion
Between the 4th and 5th sections on West
Side of Sec. 4 T. 5. 29. 10. E. B. H. M. S. 13. 15
E. 1/4 of Sec. 4
Purpose of diversion
Approved November 14th 1910
Recorded in Book 1 page 182
Remarks
This application is for the
rights appropriate for
irrigation purposes second
half of the water of the ranch
which a running stream, in
Buster County.
J. C. 4, 1910 Assumed of
no interest to H. O. McNeil

OFFICE OF STATE ENGINEER
PIERRE, SOUTH DAKOTA
RECORD OF PROCEEDINGS

Application No. 79-2
Water Div. No. 2
Water Dist.
Application Received April 26th 1910
Maps Received
Acknowledgment April 26th 1910
Notice for Pub. Mailed May 2nd 1910
Receipt from Newspaper
Copy of Newspaper Rec'd June 4th 1910
Notice of Correction
Proof by Pub. Rec'd June 3rd 1910
Hearing July 2nd 1910
Approved

Recorded and Filed for public use Nov. 14th
Sec. 4 T. 5. 29. 10. E. B. H. M. S. 13. 15
REMARKS

A. L. Gerling, Fairburn, S. D. was in of-
fice of State Engineer on June 30, 1910,
and stated that he owns the NW 1/4 SW 1/4
Sec. 4, T. 5. 29. 10. E. B. H. M. S. 13. 15 and that the
ditch will pass through his land.
That no arrangements have been
made to secure right of way
and he protested against
granting the application

STATE OF SOUTH DAKOTA
COUNTY OF HUGHES

I hereby certify that the within and foregoing instrument is a true, correct and complete transcript of the instrument as it purports to be, as the same was filed for record in the office of the State Engineer.

Witness my hand and official seal, given at my office in Pierre, State of South Dakota this 7 day of January 1911.

Samuel H. Leach
State Engineer.

By B. B. Leach
Deputy.

COPY

No. 70-2

Division No. 2

Battle Creek Water District

PERMIT

to appropriate water from

Branch Creek

Quater County, South Dakota

Name of applicant F. H. O'Neil

and J. J. Jolley

Name of diversion works O'Neil and Jolley Diversion Works

Date of first receipt at office of State

Engineer April 28, 1900

Returned to applicant for Correction

100

Corrected application received

100

Date of water right

VI APRIL 28, 1900

Recorded in Book -1- Page 182

One-fifth of work to be completed

May 14, 1913

Whole work to be completed

November 14, 1913

Final proof of use of water

November 14, 1913

Approved November 14, 1900

Samuel H. Leach

State Engineer.

By B. B. Leach

Deputy

No. 79-A

Water Division No. 2

Battle Creek Water District.

(Blanks to be filled by the State Engineer.)

COPY

APPLICATION FOR A PERMIT To Appropriate Water Within the State of South Dakota

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

JOHN B. & L. DEAN MARKITAN

1. Name of applicant John B. & L. Dean Markitan
 Postoffice address Fairburn County Custer 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 the application.)

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

- (a) Method of accomplishing the work. (Whether by contract, employment of others, or by direct labor) Direct labor
- (b) Cash on hand, \$
- (c) Treasury stock, \$
- (d) Bonds to be issued, \$
- (e) Other resources, \$

2. Name of diversion works O'Neil and Jolley Diversion Works3. Quantity of water claimed three cubic feet per second.4. Source of water supply French Creek

5. Location of point of diversion bears from the 1/4 sec. cor. on west buy. of Sec. 4 T. 5 S., R. 10 E. S. 13-15 E. 1440 feet on right bank.
 (Right or left bank looking down stream.)

6. Annual periods during which water is to be used the whole year

7. To be used for:

I. Irrigation or domestic use:

- (a) Number of acres to be irrigated 200 acres.
- (b) Legal subdivisions to be irrigated N. 1/4, S. 1/4, NE 1/4, SE 1/4 and NW 1/4, Sec. 4, T. 5 S., R. 10 E., S. 13-15 E.

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 a accompanying map.

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

II. Mining, power, manufacturing, transportation, or other purposes:

- (a) Nature of use
- (b) Amount of power to be generated horse power.
- (c) Location of plant
- (d) Method of developing power
- (e) Point where water will be returned to stream

8. Estimated cost of works: (a) Head gate, \$ 75.00 (b) Pumping plant, \$ None
(c) Fluming, \$ 200.00 (d) Canal-earth, \$ 500.00 Rock, \$ None
(e) Other structures, Dam \$ 300.00 Total, \$ 1050.00

9. Description of diversion works:

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

II. Dimensions of works:

(a) Dam: Height 81x feet; length at bottom feet; length at top feet; thickness at bottom feet; thickness at top feet; slope of front (water) face, slope of back face, material used in construction Pillar or brush & stone
(b) Reservoir: Capacity when filled 1 1/2 acre feet. Surface area at highwater mark 0.45 acres. the dam is for diversion only.

DEPTH AT OUTLET-Feet	SURFACE AREA AT EACH.....FEET OF DEPTH AT OUTLET-ACRES	CAPACITY- ACRE-Feet

(c) Head gate: Width four feet; height four feet;

Material wood

(d) Canal: Total length one miles/

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER LINE	GRADE PER MI.
At same mile	11 1/2 feet	5 feet	8 1/2 feet	5.38 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 three years.

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

12. Choice of newspaper for publication of notice of intention to appropriate

Hermosa Hustler

STATE OF SOUTH DAKOTA

County of Pennington } ss

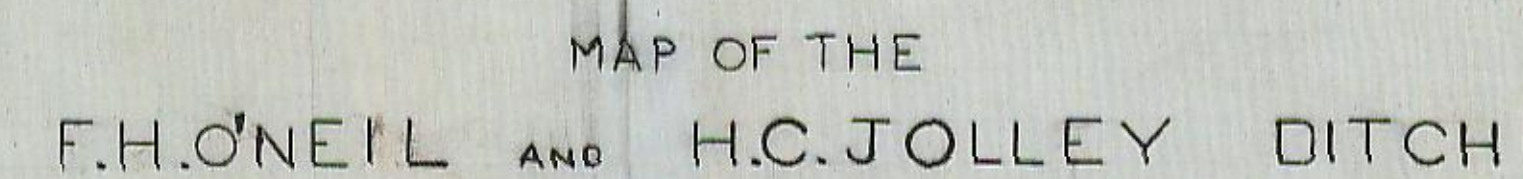
I, James Hartgering, being first duly sworn on my oath depose and say: That my relation to the above described undertaking is that of Engineer, that I have read the above and foregoing statement, and examined the map accompanying the same, and that I know of my own personal knowledge that the matters therein stated and shown are true.

Signed James Hartgering

Subscribed and sworn to before me this 25th day of April 1900

(SEAL)

Charles W. Brown
Notary Public (or other qualified officer.)



Remarks by State Engineer:

This application is for the right to appropriate for irrigation purposes a second-foot of the waters of French Creek, a running stream, in Custer County.

STATE OF SOUTH DAKOTA } ss
County of Hughes }

Pierre, South Dakota, January 4, 1901

This is to certify that the foregoing application was received at this office at nine o'clock a. m. upon the 30th day of April 1900 and that after examination it was found to comply with the provisions of the Water Code of South Dakota. Notice of intention to appropriate was published, proof of publication was duly filed, and a hearing was held in this office on July 2, 1900.

Samuel H. Lee
State Engineer

By B. B. Lee Deputy

Number of permit 79-2
Date of first receipt of application April 26, 1900
Date of return to applicant for correction - - - - - 1901
Date of receipt of corrected application - - - - - 1900
Date from which applicant may claim right April 26, 1900
Approved November 1900, Recorded in Book -1- Page 132

This is to certify that I have examined the foregoing application for a permit to appropriate water of the state of South Dakota, and I 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 May 14, 1912.

2d. The whole of said work is to be completed on or before November 14, 1913.

3d. The limit of time for proof of beneficial use of water appropriated in accordance herewith is November 14, 1903.

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 three cubic feet of water per second of time; 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 November 14, 1913; said water to be used during the following described annual periods.

The whole year.

Witness my hand this fourth day of January 1901.

Samuel H. Lee
State Engineer

By B. B. Lee Deputy

CERT OF CONDS 8-775
WATER LICENSE 8-775

Form 16,

Permit No. 79-2

Water Diversion No. 2 BATTLE CREEK Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That John B. and L. Dean Markitan

the holder of

Permit No. 79-2, issued upon Application No. 79-2, bearing date of priority of April 26,

1910 authorizing the diversion of 3.0 cu. ft. per second of the waters of

French Creek County of Custer, State of South Dakota at

a point 120 rods North and 68 rods East of the SW Corner, Section 4,

T5S, R10E

for Irrigation

purposes, has 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 5.0 cu. ft. per second of water.

Date August 7, 1975

By: **WATER RIGHTS COMMISSION**

**VERN W. BUTLER, Acting
Chief Engineer**

STATE OF SOUTH DAKOTA

WATER LICENSE NO. . . . 79-2

(1) WHEREAS, On the 26th day of April A. D. 19 10
F. H. O'Neil and H. C. Jolley
 made Water Right Application No. 79-2 for a permit to use 3.0 cubic feet per second of the waters
 of French Creek
 County of Butte State of South Dakota, for irrigation
 purposes; and

(2) WHEREAS, On the 4th day of January A. D. 19 11
 Permit No. _____, with a date of priority of October 26, 1910
 was issued to said applicant _____ for the diversion of said water, and provided for the completion of construction of the water
 supply system therein described on or before the 1st day of November A. D. 19 13 and for the
 application to beneficial use of said water on or before the 1st day of November A. D. 19 13

and, Whereas, when the area was inspected on July 16, 1965, the lands
 were owned by John B. and L. Dean Markitan,

and:

(3) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota
 relating to completion of the construction of the water supply system and is entitled to divert 1.42 cubic feet
 per second of water for beneficial use and,

(4) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota
 relating to the application of water to beneficial use of the following extent,

for irrigating the following land in Section 4, T5S, R10E.

NW 1/4 SE 1/4

SW 1/4 SE 1/4

SE 1/4 SE 1/4

100 acres

(5) 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 John B. and L. Dean Markitan

of Fairburn, South Dakota
the holder _____ and owner _____ of said permit No. 79-2 a water right, dating from April 26, 1910
to use of 1.42 cubic feet per second of the waters
of French Creek

in the County of Custer and State of South Dakota, or so much thereof as may be necessary for the
purposes hereinbelow mentioned, to be diverted at _____

a point 120 rods North and 60 rods East of the SW Corner, Section 4, T5S, R10E

and conduct to and upon portions of the S24, Section 4, T5S, R10E

for the purpose of irrigation

Subject to any limitations listed in Water Right Permit No. 79-2 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this 7th day of August A. D.
Nineteen Hundred and Seventy-five

~~RIGHTS~~
WATER RIGHTS COMMISSION

By: _____

Chief Engineer, Executive Officer

VERN W. BUTLER, Acting

Permit No. 79-2Water Division 2 Battle Creek Water DistrictREPORT OF EXAMINATION OF WORKS
AND/OR APPLICATION OF WATER TO BENEFICIAL USE

TO: Water Resources Commission, State Office Building No. 2, Pierre, South Dakota 57501

I have this day made a thorough examination of the water use system constructed by John B. and L. Dean Markitan of Fairburn, South Dakota holderof Permit No. 79-2, hearing date of priority of April 26, 1910authorizing the diversion of 3 cu. ft. per second of the waters of French Creek
for Irrigation purposes, in Custer County.

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

The Water Use System consists of,

A. Works used to divert the water:

Dam; Piling and Stone- 6 foot high storage capacity of
.9 acre-feet 15 inch and 10 inch steel culvert

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

1200 feet of "v" type ditch

C. Works used to apply water to beneficial use.

Spreader dikes located in strategic places with culvert
outletsThe system is in the following condition: GoodThe point of diversion is located 120 rods north and 68 rods east of the SW
corner of Section 4, T.5S., R.10E., B.H.M.The works are capable of diverting and conveying to the place of use 5
cu. ft. per second of water which is to be used for Irrigation

Water has been put to beneficial use to the maximum extent as follows:

NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 4, T.5S., R.10E., B.H.M.SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 4, T.5S., R.10E., B.H.M.SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 4, T.5S., R.10E., B.H.M.comprising a total of 100 acres of land.John B. and L. Dean Markitan
Fairburn, SD57738Date July 16, 1975Thomas A. Gardner
(Signature)THOMAS A GARDNER
Water Resource Engineer

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA
County of Custer } ss

Ch. F. Peimard being duly sworn, deposes and says the annexed printed copy of Notice Intention to appropriate Water was taken from the Hermon Hustler a newspaper which during the whole time of publication of said notice herein after stated, has been and is printed and published in the Town of Hermon County of Custer and State of South Dakota, That the said notice was published in said newspaper on the following dates:

May 12, 19, and 26, June 2, 9, 16, 23 and 30

in each and every issue of the full number thereof, the first publication being made on the 12th day of May 1910 and the last publication on the 30th day of June 1910, upon which days or times of publication aforesaid the newspaper was regularly published, and that during the whole time of said publication he was printer for the printer and publisher of the said newspaper.

Ch. F. Peimard

Subscribed and sworn to before me this 16th day of July A. D. 1910

Notary Public Custer County, S. D.

RECEIVED

JUL 2 1910

OFFICE OF STATE ENGINEER,
PIERRE, S. DAK.

NOTICE OF INTENTION TO APPROPRIATE WATER
Office of the State Engineer, Pierre, South Dakota, May 2, 1910.
Notice is hereby given that F. H. O'Neill and H. O. Joller (whose postoffice address is Fairburn, Custer County, South Dakota), has made application in accordance with the provisions of the Irrigation Act of South Dakota for a permit to appropriate for beneficial use three cubic feet of water per second of time from French Creek through the O'Neill and Joller Diversion Works, the right of diversion of which is to be located upon the right bank of said stream in the southwest 1/4 of the south-west 1/4 of section 4, township 5 south, range 10 east, Black Hills Meridian, said water to be used for the purpose of irrigation upon the north 1/2 of southeast 1/4, south 1/2 of northeast 1/4, southwest 1/4 of section 4, township 5 south, range 10 east, Black Hills Meridian.
This application will be taken up by the state engineer at his office at Pierre for consideration and appropriate action upon the 2nd day of July, 1910, at 9 o'clock a. m., at which time all persons who believe that the project might be injuriously affected, or that the allowance of the permit would be detrimental to the public welfare, and also parties making the application, and to be benefited, are notified to be present either by sworn affidavit or in person for the purpose of presenting any relevant testimony.
SAMUEL H. LEA,
State Engineer.
First publication May 12, 1910.

(First Publication _____ 190____)

APPROPRIATION OF WATER

Office of the State Engineer,

Pierre, S. D., May 3, 1900

Notice is hereby given that E. H. O'Neil and H. C. Jolley
whose postoffice address is Fairburn

Custer County, S. D., has made an application in
accordance with the provisions of the irrigation laws of South Da-
kota for a permit to appropriate for beneficial use three cubic
feet of water per second of time from French Creek
through the O'Neil and Jolley Diversion Works the point of diversion of which
is to be located upon the right bank of said stream in the SW
1/4 of the SW 1/4 of section 4 township 5 S., range 10 E. said water
to be used for the purpose of irrigation

upon the NE 1/4, SE 1/4, NW 1/4, S 1/4
SE 1/4 and NW 1/4 SW 1/4, Section 4, Township 5 S., Range 10 E. D.M.M.

This application will be taken up by the state engineer at his
office at Pierre for consideration and appropriate action upon the
2nd day of July 1900, at 9 a. m., at which time all
persons who believe that the prior rights would be injuriously af-
fected, or that the allowance of the permit would be detrimental
to the public welfare, and also parties making the application, and
to be benefited, are notified to be present either by sworn affi-
davit or in person for the purpose of presenting any relative tes-
timony.

State Engineer

CHAS. A. TRIMMER
STATE ENGINEER

DAVID F. RADCLIFF
HEATING ENGINEER

STATE OF SOUTH DAKOTA
OFFICE OF STATE ENGINEER
PIERRE

December
21, 1930

Milton M. Lytle
Bower, S. D.

Dear Sir;

RE: WATER RIGHT NUMBER 79-2

The Office of State Engineer desires to learn to what extent you have benefited by the appropriation of water in the past and also the conditions under which you are now using water and for what purposes.

Your assistance in carefully answering all of the enclosed questions will be of value to the State Engineer.

This information is desired for statistical purposes, for the correction of our records in the office, and also in order that the office may be of service to water users.

Your prompt reply will be very greatly appreciated.

Very truly yours,

Chas. A. Trimmer

Charles A. Trimmer

QAT/MB

STATE ENGINEER

P. S. Our records show that this application was originally taken by L. H. O'Neill & W. C. Jolley, Fairburn, S. D., the land being later purchased by Milton M. Lytle of Bower, S. D.

This application was originally taken by I. H. O'Neill & H. C. Jolley, Fairburn, S.
and later transferred (by sale of land) to Milton M. Jette, Bower, S. D.

French Creek - Sec. 4, Twp. 5 So., R. 10 E., B. 14 M.
SW 1/4, SW 1/4, Custer Co.

RE WATER RIGHT NUMBER 79-2

1. Do you now own the lands to be irrigated, or if for industrial purposes, the property, as listed in your original water right application?

YES

NO

2. If you are not at present the owner of the land to be irrigated, or other property listed in the original application, please give name and address of the present owner.

3. How many acres did you irrigate during the

1930 crop season? _____ acres.

1929 crop season? _____ acres.

1928 crop season? _____ acres.

4. If your original application was for industrial or domestic purposes, was the water used in substantially the amount and for the purpose stated in the application during the years 1928, 1929, and 1930?

5. If the distribution of water, or the use of water by others, has been unsatisfactory in any manner, please write your objection in full on back of this sheet, or use separate sheet if necessary.

SIGNED, _____

(OVER)

Permit was sent to H.C. Jolley - Dec. 24, 1910
O'Neil Jolley - * ^(over)

ANSWERED

JUN 12 1911

RECEIVED

JUN 12 1911

OFFICE OF STATE ENGINEER,
PIERRE, S. DAK.

Bower

Mr Samuel H Lea

Pierre

South Dak.

Dear Sir ——— Would like
to know why I have not recd
my water right right.

I sent money to have it recorded
& recd a letter from you
stating the water right was
O.K. Hartgering says it will
cost \$2 or more to get the water
right. I thot when I paid for
the recording I was entitled to my
right. Would like to know
because I do not want to loose

June
Twelfth,
1911.

Mr. Hilton H. Lytle,
Bower, South Dakota.
Dear Sir:-

Your letter of the 10th instant, making inquiry concerning your water right, has been received in this office. I note that you wish to know why you have not received your water right. You state that you sent the money to have it recorded and that you received a reply from this office that the water right was all right. You further state that Mr. Hartgering informed you that it would cost \$3.00 more to get the water right.

For your information, I will state that the original permit issued to G. Meill and Jolley, No. 79-3, was sent to H.C. Jolley, after same had been duly issued and recorded. An assignment of one-half interest in this permit, No. 79-3, dated May 35, 1910, was received in this office, together with a fee for recording same and this assignment has been made a matter of record. The original water right has been issued as required by law, and same has been forwarded to the party who made application for it. This water right is now a matter of record and there is no necessity for making a second issue of same. If, however, you desire a copy of this water right you can obtain same by forwarding this office the fee required by law, namely, \$2.00. The fact that you have not the original water right in your possession does not affect the validity of same; this is established by the records of this Department.

Yours very truly,

State Engineer.

RECEIVED

AUG 28 1911

OFFICE OF STATE ENGINEER,
PIERRE, S. DAK.

Brewer 8/25/1911
Mr Samuel H Lee S.D.
Pierre
S.D.

I would like to know if I
could get an extension on
my time to complete my
ditch, & how long have
I to complete it.

The Rain washed out our
bank & destroyed our ditch
on the south side of the Creek
which is along a large shale
bank for 600 feet.

I would like to know if we
could put our ditch on the north
side & what will it cost.

Will cost quite a lot of money to go

on the south side. Won't have
any thing but a Bill of expense
all the time, it is not above
high water mark & the shale
washed out. Please answer
right a way. Yours

Wilton Lytle

August
Twenty-eighth,
1911.

Mr. Milton H. Lytle,
Bower, South Dakota.

Dear Sir:-

I note from your letter of the 25th instant that you desire an extension of time for completing your irrigation works constructed under a permit obtained from this office. I enclose herewith a blank form of application for an extension of time for completing works. This blank should be filled out by you and returned to this office, together with a fee of \$1.00 for filing same. The matter can then be given due consideration and you will be notified concerning the action of this Department in the matter.

Yours very truly,

State Engineer.

Enclosure:-
Blank form 25.

1199/82

JAMES HARTGERING

U. S. MINERAL SURVEYOR AND DEPUTY
STATE SURVEYOR.

RECEIVED

FEB 4 1911

MINING AND MECHANICAL ENGINEERING

DESIGNS AND SUPERINTENDS THE ERECTION OF MINING, HYDRAULIC,
IRRIGATION PLANTS AND STEEL AND WOOD BRIDGES.

OFFICE: DESERT LANDS ENGINEER,
PIERRE, S. DAK.

OFFICE: SWEENEY BLDG

Rapid City, South Dakota,

FEB 3 1911

Mr. S. H. Sen

State Engr.

Dear Sir: I am enclosing bill of sale
of L. H. O'Neill to Milton M. Pytle. which is on
the back of a Blueprint. Mr. Pytle would like
this back when you have recorded same -

I have been unable to get Bill of sale from Jolly
to Smith O'Bryan. Mr. O'Bryan bought her Jolly
cleared land - and the ditch went with it he says. but
this deed is in error. until fully paid for.

\$1.00 enclosed for filing

Yours truly

James Hartgering

December
Thirty-first,
1910.

Mr. James Hartgoring,
Rapid City, South Dakota.

Dear Sir:-

Receipt is hereby acknowledged of your letter of the 29th instant, together with \$3.10 to cover payment of fees to this office.

I note that you desire \$2.10 of this amount to be applied on the payment of recording fees on the F.H. O'Neill and H.C. Jolley water right permit, No. 78-2, but this amount has already been sent to this office by Mr. Jolley. I will hold this amount, however, and same can be applied on the payment of fees in the matter of the transfer of this water right, as I note from your letter that the papers relating to this matter will be forwarded to this office within a few days.

The two blue prints desired by you of the Kessel and Anderson Brothers water right map are being prepared to-day and will be forwarded to you as soon as ready.

Yours very truly,

State Engineer.

JAMES HARTGERING

U. S. MINERAL SURVEYOR AND DEPUTY
STATE SURVEYOR.

MINING AND MECHANICAL ENGINEERING

DESIGNS AND SUPERINTENDS THE ERECTION OF MINING, HYDRAULIC,
IRRIGATION PLANTS AND STEEL AND WOOD BRIDGES.

OFFICE: SWEENEY BLDG

RECEIVED

DEC 29 1910

Office of State Engineer,
PIERRE, S. DAK.

Rapid City, South Dakota,

DEC 23 1910

State Engineer

Dear Sir, Enclose \$5.00 for Recording

O'Neil & Jolly Water right permit.

Smith O. Boyer and W. R. Lytle who
bought this water right. will be copies of their
purchase in a few days.

Also enclose \$1.00 for
2 blue prints of Kessel
and Anderson Bros. Map,
No. 82-2

Yours truly
James Hartgering

State of South Dakota

OFFICE OF STATE ENGINEER

PIERRE

SAMUEL H. LEA, STATE ENGINEER
RALPH VANDERCOOK, ASSISTANT

December
Fifteenth,
1910.

Mr. H.C. Jelley,
Fairburn, South Dakota.

Dear Sir:-

Referring to the matter of your application No. 79-2, which is made out in the name of F.H. O'Hall and yourself, I desire to inform you that this application has been approved and there is now due on same for recording fees the amount of \$2.10. Numerous notices have been sent to Mr. James Hartgering, the engineer in charge, concerning this matter but no action has been taken by him looking toward the payment of same. Letters have also been forwarded to Mr. O'Hall, but same have been returned to this office by the postmaster at Fairburn, stating that same could not be delivered.

The time limit for the payment of these fees is long past due and if you desire to save your right, it will be necessary for you to take prompt action, otherwise the application will have to be considered as an entirely new application.

Yours very truly,

State Engineer.

State of South Dakota

SAMUEL H. LEA, STATE ENGINEER
RALPH VANDERBROOK, ASSISTANT

OFFICE OF STATE ENGINEER
PIERRE

November
Ninth,
1910.

Mr. James Hartgering,
Rapid City, South Dakota.

Dear Sir:-

I expect to be in Belle Fourche on November 12-14, on official business connected with this Department. Upon the return trip I will arrange to stop off in Rapid City, perhaps on the 15th instant, and would like to see you at that time and confer with you concerning the application of F.H. McGill and H.C. Jolley, No. 79-2, for a permit to appropriate water from French Creek for irrigation purposes.

Mr. A.L. Gerling, of Fairburn, South Dakota, was in this office on June 30, 1910, and stated that he owns the NE 1/4 of the SW 1/4 of Section 4, Township 5 S., Range 10 E. B.H.M., and that the proposed ditch will pass through his land. He further stated that no arrangements have been made to secure right of way and he protested against granting the application. Perhaps the matter can be adjusted satisfactorily so that the proposed appropriation can be made without infringing upon any rights now possessed by Mr. Gerling. Please obtain as full information as possible in order that I may have an opportunity to confer with you fully concerning the matter during my stay in Rapid City.

Yours very truly,

State Engineer.

State of South Dakota

OFFICE OF STATE ENGINEER

SAMUEL H. LEA, STATE ENGINEER

S. R. Green, ASSISTANT

PIERRE

RECEIVED

NOV 14 1910

November
Ninth,
1910.

OFFICE OF STATE ENGINEER,
PIERRE, S. DAK.

Mr. James Hartgering,

Rapid City, South Dakota.

Dear Sir:-

I expect to be in Belle Fourche on November 12-14, on official business connected with this Department. Upon the return trip I will arrange to stop off in Rapid City, perhaps on the 15th instant, and would like to see you at that time and confer with you concerning the application of F.H. O'Neill and H.C. Jolley, No. 79-2, for a permit to appropriate water from French Creek for irrigation purposes.

Mr. A.L. Gerling, of Fairburn, South Dakota, was in this office on June 30, 1910, and stated that he owns the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 4, Township 5 S., Range 10 E. B.H.M., and that the proposed ditch will pass through his land. He further stated that no arrangements have been made to secure right of way and he protested against granting the application. Perhaps the matter can be adjusted satisfactorily so that the proposed appropriation can be made without infringing upon any rights now possessed by Mr. Gerling. Please obtain as full information as possible in order that I may have an opportunity to confer with you fully concerning the matter during my stay in Rapid City.

I sent you the information on about Sept. 25, Yours very truly,
while you were away from your office and got a note from your office that same would be submitted to you on your return.

Dictated by Mr. Lea

Samuel H. Lea
State Engineer.

RECEIVED

JAMES HARTGERING

U. S. MINERAL SURVEYOR AND DEPUTY
STATE SURVEYOR

OCT 1 1910 MINING AND MECHANICAL ENGINEERING

OFFICE OF STATE ENGINEER,
PIERRE, S. DAK.

Designs and Superintends the Erection of Mining
Hydraulic and Irrigation Plants

Makes a Specialty of Reclaiming
Desert Lands

Office, Farlow Block

Rapid City, South Dakota, Sept. 30, 1910.

Mr. S.H. Lea State Engineer Dear Sir:

Referring to yours of 12th. inst. in regard to the water right application
of F.H. O'Neil and H.C. Jolley NO. 79-I,

Some time ago Smith O'Bryan bought the Jolley land and Jolleys in-
terest in the water right and at the same time ^{Wilton} M. Lytle bought the O'Neil
land and O'Neils interest in the water right, so together they are the
owners of the above water right application No. 79-I and they have also
bought a right of way of Jerling over his land for the ditch paying him
\$60.00 therefor.

Yours truly,
James Hartgering

State of South Dakota

SAMUEL H. LEA, STATE ENGINEER
S. R. Green, ASSISTANT

OFFICE OF STATE ENGINEER
PIERRE

October
First,
1910.

Mr. James Hartgoring,
Rapid City, South Dakota.

Dear Sir:-

Your letter of the 30th ultimo in reply to an inquiry concerning the present status of affairs in the matter of the water right application of F.H. O'Neil and H.C. Jolley, No. 79-1, has been duly received. Mr. Lea is at present absent from this office in attendance upon the National Irrigation Congress, at Pueblo, Colorado, and it is expected that he will not return to Pierre until the latter part of next week. At that time your communication will be brought to his attention for due consideration.

Yours very truly,

Deputy.

State of South Dakota

SAMUEL H. LEA, STATE ENGINEER
RALPH VANDERBROOK, ASSISTANT

OFFICE OF STATE ENGINEER
PIERRE

June
Thirtieth,
1910.

Mr. James Hartgorling,
Rapid City, South Dakota.

Dear Sir:-

Mr. A.L. Gorling was in this office to-day and protested against the granting of the application of F.H. O'Neill and H.C. Jolley, for a permit to appropriate water, No. 79-2, from French Creek. Mr. Gorling states that he is the owner of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 4, Township 5 S., Range 10 E. D.H.R. and that the proposed ditch will run through his land for a considerable distance. He further states that no attempt has been made to obtain a right of way from him for the construction of this ditch through his land and that he is opposed to any such construction until arrangements have been made with him for the right of way.

In view of the fact that the hearing on this petition is set for an early date, I would suggest that you take steps promptly to notify the parties interested in the matter of the stand taken by Mr. Gorling. I would further suggest that you notify this office promptly what action you take in the matter.

Yours very truly,

State Engineer.

State of South Dakota

SAMUEL H. LEA, STATE ENGINEER
RALPH VANDERDOOK, ASSISTANT

OFFICE OF STATE ENGINEER
PIERRE

June
Twentieth,
1910.

Publisher Hustler,
Harrison, South Dakota.

Dear Sir:-

I find upon referring to the files of this office that as yet the proof of publication of the intention of F.H. O'Neil and H.C. Jolley, application No. 78-2, to appropriate water within the limits of this state, has not been received in this office. The date set for the hearing on this application is July 2, 1910, and this proof must be filed in this office on or before this date or the applicants are in danger of loss of their priority of right. I will request, therefore, that you give this matter your prompt attention, forwarding said proof to this office without further delay.

Yours very truly,

State Engineer.

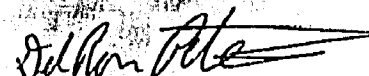
79-2

REPORT ON INSPECTION OF PERMIT NO. WR#79-2**DATE: APRIL 21, 1994****Owner: Dean and John (Jack B. Markitan; HCR 58, Box 109, Fairburn SD 57738****Other permit(s) associated with the project: Ln129-2, 0173-2, WR#730-2****DIVERSION POINT LEGAL LOCATION: NW1/4 SW1/4 SEC. 4-T5S-R10E**

COMMENTS: This irrigation system was inspected with the following findings. The location of the dam is correct. The locations of lands irrigated are not complete. They are correct on the map but incorrectly transferred to the permit. Then ditch encompasses additional lands which are between the ditch and lands included in WR# 79-2. The lands were mistakenly excluded in the license but were included on the map. WL# 79-2 should be relicensed with these lands included.

<u>Lands In WL#79-2:</u>	
Sec. 4-T5S-R10E	
NWSE	100 ACRES
SWSE	
SESE	
Actual lands irrigated	
SEC. 4-T5S-R10E	
SWNE (MISSING IN LICENCE)*	7.3 acres
SENE (MISSING IN LICENSE)*	3.2 acres
NWSE	26.1 acres
NESE (MISSING IN LICENSE)*	24.2 acres
SWSE	10.8 acres
SESE	19.8 acres
Total	91.4 acres

* Correct on map.


 DelRon Peters
 Natural Resources Eng.
 DENR

Memo: To File

Subject: J. Markitan WL # 79-2

Date: December 19, 1994

In regard to Water License # 79-2, the lands listed in the permit are in error. The ditch encompasses additional lands which are between the ditch and lands included in WR # 79-2. The lands were mistakenly excluded in the original inspection and the WL 79-2 should be relicensed with these lands included.

The mistakenly excluded lands are listed in the following table:

Legal Description	Acres
NE 1/4 SE 1/4	24.2
SW 1/4 NE 1/4	7.3
SE 1/4 NE 1/4	3.2



DelRon Peters

Natural Resources Engineer

DENR

December 19, 1994

STATE OF SOUTH DAKOTA
REISSUED WATER LICENSE NO. 79-2

(1) John B. and Dean Markitan, HCR 58, Box 109, Fairburn SD 57738 were issued Water License No. 79-2, August 7, 1975 for a water right to appropriate 1.42 cubic feet of water per second from French Creek, Custer County, South Dakota for irrigation purposes. Water Right No. 79-2, with a priority date of April 26, 1910 was approved November 14, 1910.

An inspection of Water Right No. 79-2 was conducted on April 24, 1994. The inspection found the location of the lands irrigated on the Water License were not complete and should include the acreage located in the S 1/2 NE 1/4 and the NE 1/4 SE 1/4 Section 4-T5S-R10E. The license is being reissued to include those acreages.

(2) It is certified that the applicant 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 1.31 cubic feet of water per second for beneficial use. The location of the diversion point is located 120 rods north and 68 rods east of the southwest corner (NW 1/4 SW 1/4) Section 4-T5S-R10E.

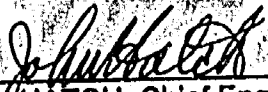
(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate the following land:

Section 4-T5S-R10E

SW 1/4 NE 1/4	7.3 acres
SE 1/4 NE 1/4	3.2 acres
NW 1/4 SE 1/4	26.1 acres
NE 1/4 SE 1/4	24.2 acres
SW 1/4 SE 1/4	10.8 acres
SE 1/4 SE 1/4	19.8 acres

Total 91.4 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 John B. and Dean Markitan, HCR 58, Box 109, Fairburn SD 57738 the holders and/or owners of Reissued Water Right No. 79-2 are issued a license to appropriate water, the right to use 1.31 cubic feet of water per second from French Creek with a priority date of April 26, 1910 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 Reissued Water Right No. 79-2 and subject to South Dakota State Law.


JOHN HATCH, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

SEP 5 1995

date



79-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

SEP 5 1995

VR 2324-2

John (Jack) Markitan
HCR 58 Box 109
Fairburn, SD 57738

Dear Mr. Markitan:

Enclosed are your Validated Vested Water Right and Water License No. 2324-2. 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.

Also enclosed is Reissued Water License No. 79-2. The license was reissued to include additional acreage.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures



April 11, 2005

79-2
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

79-2
730-2
2324-2

Denise Baker
PO Box 148
Hermosa SD 57744

Dear Ms. Baker:

Thank you for letting us now about the ownership changes needed for Water Right Nos. 79-2, 730-2 and Vested Water Right No. 2324-2. Enclosed are copies for your files.

Also enclosed are partially completed Notice of Transfer of Ownership forms for filing the ownership changes. Please review the forms and complete as needed. Upon completion, please sign and return the forms to our office with a required filing fee of \$2.50 each (total of \$7.50). The check or money order for the fee can be made payable to the Water Rights Program.

If I can answer any questions for you, please let me know.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

enclosures

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 79-2

RECEIVED

MAY - 4 2005

Date: 4-19-05

WATER RIGHTS
PROGRAM

I/We request that Water Right No. 79-2

formerly owned by: John B and Dean Markitan

be transferred to: (name & address)

Jim or Denise Baker
PO Box 148 (HURON Box 293 - Street Address only)
Hermosa, SD 57744 Telephone No.

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

91.4 acres - S 1/2 NE 1/4, SE 1/4 Section 4, T5S, R10E

I/We understand that the validity of Water Right No. 79-2 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 Two Dollars and Fifty Cents (\$2.50) 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 Denise Baker, 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.

WATER RIGHTS PROGRAM

Date May 4, 20 05

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	2.50
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>79-2</u>	
Fee for _____	
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____	
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____	2.50
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____	
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____	
(Any Other Work Provided by Law)	
TOTAL	

No. 00332

By Wanda L. White
Chief Engineer



May 4, 2005

79-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

79-2
730-2
2324-2

Jim or Denise Baker
PO Box 148
Hermosa SD 57744

Dear Mr. & Mrs. Baker:

I am writing to acknowledge receipt of the ownership changes you submitted for transferring Water Right Nos. 79-2, 730-2 and Vested Water Right No. 2324-2. The transfers have been completed. The water rights and vested water right formerly held by John & Dean Markitan or L J Markitan are now listed in your names.

Enclosed are your Receipt Nos. 001853, 001854 and 001855 in the amounts of \$2.50 each which you paid for filing the ownership changes. You may keep these for your records.

In South Dakota, all irrigators with the exception of those with water spreading systems are required to report annually the amount of water they pumped during that specific irrigation season. Irrigation questionnaires are not required for Water Right No. 79-2 and Vested Water Right No. 2324-2. Enclosed is a sample copy of the form for 730-2. This will give you an idea of what type of information to keep track of during the season. You do not have to return the sample copy. The actual form that will need to be completed and returned will be sent to you in October.

If I can answer any questions for you, please let me know.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

enclosures

1" = 660'

33

LN 129

25.2

272.12
F30

T211

25.9

2.7

HEL

9.5

204

5.5

SWNE - 7.3 Acres

SENE 3.2

NWSE 26.1 Acres

4.8

NESE 24.2

10.6

33.4

HEL

4.2

4 SWSE
10.8 Acres

SESE 19.8 Acres

LWL 79-2

01232
Dam

T661

Ditch

LWL 79