

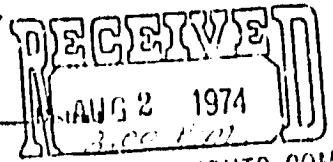
Water Right Number 2104-3

1. Considered 9-11, 1974
2. Name of Applicant KENNETH W. DARLAND & SONS
3. Post Office Address PIERRE
4. Amount of Water claimed 13.70
5. Source of Water supply MISSOURI RIVER
6. Water to be used for IRRIGATION
Acres to be irrigated 960
7. Water to be diverted and used in SULLY County
about 7N, 17W miles of ONIDA
8. Proof of Publication Received 9-17-74
Not Received _____
9. Application Approved _____
Subject to _____
Not Approved _____
Action Deferred _____

10. Remarks:

*Under this Permit
USE OF WATER AS IT INVOLVES FURTHER DAMS
SHOULD BE IN ACCORDANCE WITH ANY AGREEMENTS
MADE WITH THE DEPT. OF B.F. & P.*

*Use of water under this
permit as it involves further
Dams is contingent upon the
consent of the Department of
Game, Fish and Parks as to
such use.*

No. 2104-3
 Map No. 1503-3 Water Division No. 3 MISSOURI RIVER
 (Blanks to be filled by the Engineer for the W. R. C.)
STATE WATER RIGHTS 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 Kenneth W. Darland and Sons
 Postoffice address Part A., Pierre, State South Dakota
 If a corporation show date and place of incorporation _____
 2. Method of accomplishing work (contract, employment of others, or by direct labor) Contract and direct labor
 3. Name of diversion work Darland Irrigation System
 4. Amount of water claimed (cubic feet per second) 13.7
 5. Source of water supply Missouri River
 6. Location of point of diversion Point #1, 180 rods West and 89 rods North and Point #2, 135 rods West and 55 rods North, both from the SE Corner, Section 35, T116N, R80W
 _____ County Sully
 7. Annual period or periods during which water is to be used April thru October
 8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) irrigation
 9. For irrigation use, _____ Total number of acres to be irrigated 960

List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

Land Description	No. Acres Irr.	Land Description	No. Acres Irr.
<u>T116N, R80W SEG 35 SE 1/4</u>	<u>160</u>	<u>T116N, R80W SEG 35 NW 1/4</u>	<u>80</u>
<u>SEG 36 SE 1/4</u>	<u>80</u>		
<u>T116N, R80W SEG 1 NE 1/4</u>	<u>80</u>		
<u>NE 1/4</u>	<u>80</u>		

Attach sheet if more space is needed

10. Time required to complete construction of water supply system 5 years. Additional time required to complete application of water to the proposed beneficial use 4 years.
 11. Choice of newspaper for Notice of Intent to Appropriate Water publication Onida Watchman, Onida, S.D.
 12. Principal Features of the Proposed Water Supply System.

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

Pump and motor

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

Mainline

C. Works proposed to apply water to beneficial use.

Sprinkler and/or gated pipe

Estimated Total Cost \$ _____

 Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map.
 (See instructions concerning preparation.)

 STATE OF SOUTH DAKOTA)
) ss.
 County of Hughes)

 I, Kenneth W. Darland, the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction
Signed Kenneth W. DarlandSubscribed and sworn to before me this 2nd day of August, 1974
 Notary Public (or other qualified officer)
 Betty Westlund, Land/Water Clerk II

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. ~~2014-3~~ 2104-3KENNETH DARLAND & SONS
(Applicant)PART A. PIERRE
(Post Office Address)SOUTH DAKOTA 57501
(State) With the following modifications:

USE OF WATER UNDER THIS PERMIT AS IT INVOLVES FULLER
DAM IS CONTINGENT UPON CONCURRENCE OF THE
DEPARTMENT OF GAME, FISH & PARKS AS TO SUCH USE.

Date of first receipt of application AUGUST 2, 19 74

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

Date of receipt of corrected application _____, 19 _____

Approved SEPTEMBER 11, 19 74, Recorded in Book 13 Page 77WATER RIGHT PERMIT NO. 2104-3

The Water Rights Commission hereby grants and issues this Water Right Permit No. 2104-3 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 AUGUST 2, 19 74
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before MARCH 11, 19 77
3. The whole of said work is to be completed on or before SEPTEMBER 11, 19 79
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith SEPTEMBER 11, 19 83
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 13.7 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 SEPTEMBER 11, 19 83; said water to be used during the following described annual period: APRIL THRU OCTOBER

Witness my hand this 30TH day of SEPTEMBER, 19 74

WATER RIGHTS COMMISSION

By:

Donald D. Dineen
Chief Engineer, Executive Officer

Certificate of Construction Issued _____, 19 _____

Water License Issued _____, 19 _____

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

D. Well Information or Estimates

(1) Drill Hole, Diameter _____, Depth _____

(2) Casing, Type _____ Diameter _____ Thickness _____
(wood, concrete, steel, etc)

(3) Perforated Screen

Type _____, Diameter _____, Length _____

(4) Gravel Pack, Thickness _____, Length of gravel pack _____

E. Dugout Information or Estimates.

(1) Surface dimensions _____, Depth _____

F. Fill out for Either a Well or a Dugout.

(1) Water Bearing Materials. (Please attach a copy to test well log if available.)

Character of Water bearing materials _____

Depth to top of water bearing material _____

Depth to bottom of water bearing material _____

Thickness of water bearing material _____

Depth to water (ground surface to water level) _____

(2) Distance to nearest existing household or livestock watering wells.

On same owner's property _____ rds. On property owned by others _____ rds.

G. Water Storage Dams.

If the proposed water use system contains one or more water storage dams, please show in the space below, the height, maximum water depth, surface area and storage capacity of each storage dam. The location of each water storage dam should be shown on the water right map.

40 feet high dam

30 surface acres

600 acre feet storage

240

17' 6"

Kenneth W. Darland
Signature of Applicant

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

No. 2104-3

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Lobby) ss.

I, Allen Olson hereby
certify that the annexed printed copy of Notice of Intent to Appropriate
Water was taken from the Oriental Watchman

A newspaper which during the whole time of publication of said notice
herein after stated, has been and is printed and published in the _____

City of Oriental

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

August 22, 1974

August 29, 1974

Allen Olson
(Signature)

Published
(Title)

Sept. 4, 1974
(Date Signed)

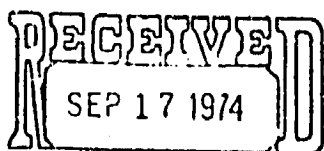
NOTICE
INTENT TO
APPROPRIATE WATER

Notice is hereby given that
Kenneth W. Darland and Sons
whose post office address is
Pierre, South Dakota, has made an
application in accordance with the
provisions of the water laws of
South Dakota for a permit to
appropriate for beneficial use 13.7
cubic feet of water per second of
time from the Missouri River
through the Darland Irrigation
System, the point of diversion of
which is to be located between
points in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and in the
SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 35, Twp.
116N, Range 80W. Said water to
be used for the purpose of
providing irrigation on the
following described land: SE $\frac{1}{4}$,
Section 35; S $\frac{1}{2}$, Section 36,
T111N, R80W; N $\frac{1}{2}$, N $\frac{1}{2}$ SE $\frac{1}{4}$,
Section 1; N $\frac{1}{2}$ NE $\frac{1}{4}$ Section 2,
T115N, R80W.

This application No. 2104-3
will be considered by the Water
Resources Commission at their
office at Pierre upon the 11th day
of September, 1974, at 2:30 P.M.
All interested persons may appear
and be heard.

Water Resources Commission
By: Burton F. Jones,
Water Rights Specialist

21-30



STATE WATER RIGHTS COMM.
PIERRE, SOUTH DAKOTA

Form 6 - Notice of Intent to Appropriate Water

2104-3

~~2014-3~~

Publish first publication, on or before August 29, 19 74

NOTICE
INTENT TO APPROPRIATE WATER

Pierre, South Dakota 57501

August 11, 19 74

Notice is hereby given that Kenneth V. Darland and Sons
whose post office address is Pierre, South Dakota, has made an application in accordance
with the provisions of the Water laws of South Dakota for a permit to appropriate for beneficial use

13.7 cubic feet of water per second of time from the Missouri River through the
Darland Irrigation System, the point of diversion of which is to be located in the

Between points in the NE 1/4 SE 1/4 and in the SW 1/4 NE 1/4

of Section 35, Twp. 116N, Range 80W. Said water to be used for the purpose
of providing irrigation on the following described land:

SE 1/4, Section 35; S 1/4, Section 36, T111N, R80W; N 1/4, N 1/4 SE 1/4, Section 1; N 1/4 NE 1/4

Section 2, T115N, R80W

This application No. 2104-3
~~2014-3~~ will be considered by the Water Resources Commission at their office at
Pierre upon the 11th day of September, 19 74, at 2:30 P. M. All interested
persons may appear and be heard.

WATER RESOURCES COMMISSION

By:

BURTON F. JONES, Water Rights Specialist

BJF/bw

cc: Kenneth V. Darland, Part A. Pierre, S.D. 57501



INTER-DEPARTMENT CORRESPONDENCE

State of South Dakota



Robert L. Hanten

Don Driscoll

From Dept. of Fisheries Staff Specialist

To Dept. of Natural Resources

Subject: Fuller Lake, Sully County

Date: August 6, 1974

Don:

Regarding the request of Kenneth and Gary Darland to irrigate from Fuller Lake, Sully County, we submit the following:

1. A search of the county records reveals an easement to the State of South Dakota in 1937 for construction and maintenance of a lake plus a 100' right of way to the lake from the nearest road for public access.
2. Presently, the lake is suffering from enrichment problems with fish kills occurring during extreme weather conditions. Recent attempts to provide additional fish species to the lake have not succeeded. Summer tests indicate the lake water stratifies with complete oxygen depleted below 10 foot. The lake covers 29.7 surface acres and is 17 feet deep when full.
3. Removal of nutrient rich waters from below the ten foot level during the summer months with the replacement of these waters with Lake Oahe water would very likely improve the quality of Fuller Lake and make it possible to maintain a bass - panfish fisheries. This situation is unique. The lake water quality is in poor shape at the present time for fish production, but the removal of enriched water and the replacement with good quality waters from Oahe Reservoir will improve Fuller Lake, provide an environment for a good fisheries, and maintain satisfactory water levels going into winter months to help prevent winterkill.

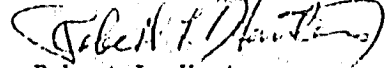
Therefore, the Department of Game, Fish & Parks will not oppose issuance of a temporary permit to remove waters from Fuller Lake by Kenneth or Gary Darland during 1974 or a subsequent irrigation permit provided:

1. The lake be pumped in 1974 down to a level which will insure winterkill of the existing fish population currently present in the lake. This level is estimated to be within 5 foot of the lakes deepest point.
2. That the lake be refilled as soon as possible to near spillway level from Oahe Reservoir in the spring of 1975. The lake will be restocked with suitable fish species by the Department of Game, Fish & Parks shortly after the lake is refilled.
3. In subsequent irrigation operations the lake shall never be drawn down more than five (5) vertical feet from spillway level at any time, except to aid in the management of fish populations at the direction of the Department of Game, Fish & Parks. At the end of each irrigation year the lake shall be adjusted to a level that will insure a water level at freeze up, no more than two (2) vertical feet below spillway level. If not natural runoff is received during fall, winter or spring of sufficient quantity to fill the lake by May 1, of each year, the permittee shall pump the lake to spillway level with water from Oahe Reservoir.

4. Placement of inflow pipes shall be situated to prevent shoreline erosion, gullyng or any condition harmful to the lake. Intake pipes leading from the lake shall be placed so the water will be drawn from at least ten (10) vertical below spillway level.
5. No more than 120 acres of land shall be irrigated from waters taken from or passing through Fuller Lake.

I hope that these conditions will be acceptable to everyone.

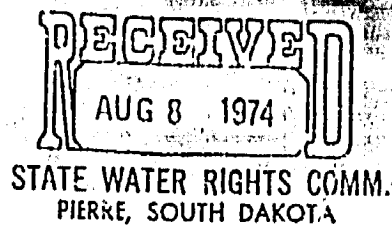
Sincerely,



Robert L. Hanten
Fisheries Staff Specialist
DEPT. OF GAME, FISH & PARKS

RIH/mt

cc: Winston Douglas
Doug Hansen
Robert Krumm



~~South Dakota~~
~~Department of Natural Resources~~
Department of Natural Resource Development

OFFICE OF THE SECRETARY

Office Building Number 2, Pierre, South Dakota 57501

Phone 605/224-3151

April 8, 1976

Re: 2510-3
2104-3

William Janklow
Attorney General
Capitol Building
Pierre, South Dakota 57501

Attention: Dave Carter

Dear Mr. Janklow:

The South Dakota Water Rights Commission approved two water right permits for Kenneth Darland, Number 2104-3, approved September 11, 1974 for 13.7 cubic feet per second (cfs) for 960 acres and Number 2510-3, approved January 23, 1976 for 3.85 cfs for 270 acres. Both permits involve pumping water from the Missouri River north of Pierre into Fuller Dam, and then repumping for irrigation.

The Commission added the following qualification to both permits:

(Use of water under this permit as it involves Fuller Dam is contingent upon concurrence of the Department of Game, Fish and Parks as to such use.)

The above qualification was included in the permit because the Department of Game, Fish and Parks had advised the Commission that they had legal jurisdiction over Fuller Dam.

Mr. Darland, through his attorney, Mr. Ronald Olinger, now claims that the Game, Fish and Parks Department only has a right of ingress and egress, but has no authority to control Fuller Dam. (Please see copy of attached Easement Contract) The dam is located on property owned by Mr. Darland.

The Water Rights Commission has been asked to consider the removal of the "Fuller Dam" qualification on Mr. Darland's permits at its May 20-21, 1976 meeting.

William Janklow

Page - 2 -

April 8, 1976

Prior to that time, we are requesting your opinion as to whether the Department of Game, Fish and Parks has sufficient legal interest in Fuller Dam to grant or withhold concurrence on the use of said dam and reservoir for irrigation storage as provided by Water Right Number 2104-3 and Water Right Number 2510-3.

We are sending copies of this letter to Mr. Clinton Nagel, Attorney for the Department of Game, Fish and Parks and Mr. Ronald Olinger, Attorney for Mr. Darland if they wish to provide any input into this matter.

Very truly yours,

Vern W. Butler
Secretary

VWB:nrf

Enclosure:

CC: Mr. Clinton Nagel
Mr. Ronald Olinger



Department of Game, Fish and Parks
Pierre, South Dakota 57501 • Phone 224-3387

Division of Game and Fish

June 25, 1976

Re: Fuller Lake,
Sully County

Vern Butler, Secretary
Natural Resource Development
Foss Building
Pierre, South Dakota 57501

Dear Vern:

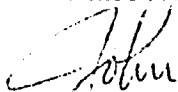
Listed below are the restrictions the Game, Fish & Parks Commission has placed on the use of Fuller Lake, Sully County for a ten year period as of the date of this letter, by Messrs. Kenneth & Gary Darland as an irrigation pumped-storage irrigation reservoir. Please see that these terms are entered as part of the Darland's irrigation permit and advise the Darland's of the following mandatory permit restrictions which were approved by the Commission:

1. The water pumped from Lake Oahe shall be discharged into Fuller Lake only within 300 feet of the dam structure and in such a manner not to cause erosion of the shoreline or lake bottom.
2. The irrigation pumping stations at Fuller Lake shall be placed in the same vicinity of the inflowing water from Lake Oahe and in no case more than 800 feet of the dam structure.
3. The irrigation intakes in Fuller Lake shall be screened with 0.25 inch or smaller mesh material, have an area sufficient to reduce approach velocities to less than 0.5 feet per second, and be located in the deepest area of the lake accessible from the pumping stations.
4. Withdrawal from Fuller Lake shall not exceed 1,250 acre feet per growing season.
5. The water level in Fuller Lake shall be maintained at all times with fluctuations from spillway elevation no greater than four vertical feet and the water level at the end of the irrigation season (no later than October 31 each year) shall be pumped to within two vertical feet of the spillway elevation, except as may be differently directed by the Department of Game, Fish & Parks for fish management purposes.



6. This use of Fuller Lake is intended to improve the lake for public fishing and recreation by bringing high quality water from Lake Oahe to the impoundment and by pumping out the overly enriched low quality water, as well as maintaining adequate water levels for fish survival.
7. These restrictions shall be applicable for a ten year period. Thereafter, the Department of Game, Fish and Parks shall evaluate the condition of Lake Fuller and may recommend discontinuance or continuance of pumping for a specified period under the same or different restrictions.

Sincerely,



John Popowski, Secretary
Department of Game, Fish & Parks

JP/RLH/mt

cc: Robert L. Hanten

Water Rights Division
695 773-3352

January 16, 1985

Kenneth Darland & Sons
Part A
Pierre SD 57501

Dear Mr. Darland:

Permit No. 2104-3 will be readvertised in the ONIDA WATCHMAN on January 24 & 31, 1985. The advertisement is to correct the original notice which was published on August 22 and 29, 1974. The SE $\frac{1}{4}$ of Section 35 and S $\frac{1}{2}$ of Section 36 were advertised as being located in T11N, R80W. The readvertisement cost will be payed by the Division of Water Rights. Permits No. 2104-3 and 2510-3 will be licensed after the readvertisement has been completed.

Sincerely,

RON DUVALL
Water Resources Engineer

RD:ks

enclosures

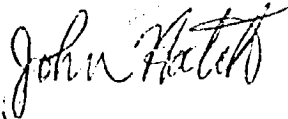
RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT

APPLICATION NO. 2104-3, Kenneth Darland & Sons

Pursuant to SDLC 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning readvertisement of Water Permit Application No. 2104-3, Kenneth Darland & Sons, Part A Pierre SD to correct an advertisement error that was made in 1974.

The Chief Engineer is recommending APPROVAL of Application No. 2104-3 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 that was placed upon the permit by the Water Rights Commission when the application was approved in 1974:

Use of water under this Permit as it involves Fuller Dam is contingent upon concurrence of the Department of Game, Fish and Parks as to such use.

A handwritten signature in cursive script, reading "John Hatch".

JOHN HATCH, Chief Engineer
January 15, 1985

No. 2104-3

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Sully) ss.

I, Parker Knox

certify that the annexed printed copy of Notice of Intent to Water was taken from the Orida Watchman

A newspaper which during the whole time of publication of herein after stated, has been and is printed and published in

City Orida of Sully and State of South Dakota
that the said notice was published in said newspaper on the two dates:

Thursday Jan. 24, 1985
Thursday Jan. 31, 1985

Parker Knox
(Signature)

Owner
(Title)

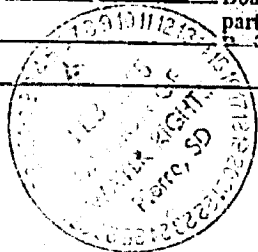
Feb. 4, 1985
(Date Signed)

Cost of Printing: \$40.82

NOTICE OF HEARING
On Application No. 2104-3
To Appropriate Water

Notice is hereby given that Kenneth Darland & sons whose mailing address is Part A, Pierre, South Dakota has made an application for a permit on August 2, 1974. This notice is a correction of the original notice published on August 22 & 29, 1974. The original application was to irrigate lands including the SE 1/4 Section 35; S 1/2 Section 36; all in T111N, R60W. This notice is to correct an advertising error by changing the land description from T111N, R80W, to T116N, R80W for lands in Sections 35 and 36. The corrected land description is a total and is not in addition to the original application. Therefore, 13.7 cubic feet per second is to be diverted from the Missouri River between the NE 1/4 SW 1/4 of Section 35, T116N, R80W and 960 acres are to be irrigated in the SE 1/4, Section 35; S 1/2 Section 36; all in T116N, R80W; N 1/2, N 1/2 SE 1/4 Section 1; N 1/2 NE 1/4 Section 2; all in T115N, R80W. Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends approval of Application No. 2104-3 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, SD on March 6, 1985 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 make a determination on 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 February 22, 1985. The petition may be informal, but it must include a statement describing the petitioner's interest in the application, the reason 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; 46-5-1 thru 46-5-13; 46-5-24; 46-5-25; 46-5-30.2; 46-5-31; 46-2A-1 thru 46-2A-10; 46-2A-12; 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 for 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, DWRN, 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 February 22, 1985.



Instruction to Newspaper - Publish first publication of the following Notice on or before January 24, 1985 with 2nd publication 1 week later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 2104-3 to Appropriate Water and/or to Amend Water Permit or Water Rights No.

Notice is hereby given that Kenneth Darland & Sons, whose mailing address is Part A, Pierre, South Dakota has made an application for a permit

on August 2, 1974. This notice is a correction of the original notice published on August 22 & 29, 1974. The original application was to irrigate lands including the SE $\frac{1}{4}$ Section 35; S $\frac{1}{2}$ Section 36; all in T11N, R80W. This notice is to correct an advertising error by changing the land description from T11N, R80W, to T116N, R80W for lands in Sections 35 and 36. The corrected land description is a total and is not in addition to the original application. Therefore, 13.7 cubic feet per second is to be diverted from the Missouri River between the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 35, T116N, R80W and 960 acres are to be irrigated in the SE $\frac{1}{4}$ Section 35; S $\frac{1}{2}$ Section 36; all in T116N, R80W; N $\frac{1}{2}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ Section 1; N $\frac{1}{2}$ NE $\frac{1}{4}$ Section 2; all in T115N, R80W. Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends

Approval of Application No. 2104-3 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 SD on March 6, 1985 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 make a determination on 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 BOTH the Applicant and the Chief Engineer by February 22, 1985. The petition may be informal, but it must include a statement describing the petitioner's interest in the application, the reason 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, 46-5-1 thru 46-5-16, 46-5-24, 46-5-25, 46-5-30.2, 46-5-31; 46-2A-1 thru 46-2A-10, 46-2A-12; (ground) 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14; (future use) 46-5-33 thru 46-5-40; (transfer lands) 46-5-30.4, 46-5-33 thru 46-5-35, (10,000 AFA) 46-5-20.1, 46-5-8.14 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, 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 February 22, 1985.

SOUTH DAKOTA Department of
Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

WATER RIGHTS DIVISION
Phone (605) 773-3352

DEC 20 1985

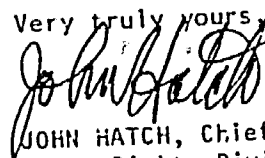
Kenneth Darland and Son
SR A, #100
Pierre, South Dakota 57501

Dear Sirs:

Enclosed herewith is, Water License No. 2510-3. 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

Applicable portions of Water Permit No. 2104-3 have been incorporated into Water License No. 2510-3.