

MAP Map No. 3694-3 Map located in Water Right X Map file _____
Type of Map drawn Prepared by Bill Harris, Dir. of
Conservation, Inspected by

+++++

REVIEWED This Application was reviewed within 30 days of date received, accepted as complete, Number assigned and written up for advertisement before the Board on 3-26-80.
B. Westlund
(Signed)

+++++

PROTESTS Letters/Petitions in File - yes _____ no _____ Remarks _____

REMARKS Date
F.F. & C Final Decision, including F.F. & C of Law were adopted _____
OF LAW, Date
FINAL Final Decision mailed to parties and/or parties notified that Final Decision
DECISIONS
ETC. was adopted _____

Remarks _____



No. 4469-3
 Map No. 3694-5 Water Division No. 3 WATER RIGHTS District
 Above for Office Use

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

Check one of the following:

New ☒ Vested Right _____ Future Use _____

Change in Diversion _____ Additional Diversion _____

Change in Acreage _____ Additional Acreage _____

ORIGINALLY REC.
JAN. 21, 1980.
Bw

1. Name of Applicant Bernard Marrer Const., Inc. Phone No. 724-3000
 Post Office Address Rutland, (Street, RR, or Box) (Town) State N. Dak. 58067 (Zip Code)
 If a corporation show date and place of incorporation _____

2. Method of accomplishing work (contract, employment of others, or by direct labor) _____

3. Name of diversion work Wash Plant Operations4. Amount of water claimed (cubic feet per second) 5.55 (NON-CONSUMPTIVE) Reused 150,000 gallons per hour when used5. Source of water supply Holding Pond or dam Surface Water Run Off

6. Location of point of diversion NE $\frac{1}{4}$ & NW $\frac{1}{4}$ Sec 28-T 128N R 56 W
(NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ & NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, SEC. 28-128N-56W)

County Marshall7. Annual period or periods during which water is to be used March through Nov8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) Industrial9. For irrigation use, Total number of acres to be irrigated —

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.

Attach sheet if more space is needed

10. Time required to complete construction of water supply system completed upon Modification is needed
 to complete application of water to the proposed beneficial use — years. Additional time required — years.

11. Choice of county newspaper for publication of Notice of Intent to Appropriate Water Journal, Britton, S.D.

12. Principal Features of the Proposed Water Supply System.

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

6 inch Marlow water pump 50 horse electric motor

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

6 inch suction & 16 in discharge hose
pipe

C. Works proposed to apply water to beneficial use.

Pump, pumps water up into wash plant, used to wash gravel

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)

County of Sturgis) ss.

I, Bernard Marrer 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 Bernard MarrerSubscribed and sworn to before me this 5th day of February, 1980

Notary Public (or other qualified officer)

WATER RIGHT APPLICATION APPROVAL

The Board of Water Management hereby approves Water Right Application No. 4469-3

BERNARD MAHRER CONST. INC. RUTLAND
(Applicant) (Post Office Address)
NORTH DAKOTA 58067 With the following qualifications.
(State)

Date of first receipt of application JANUARY 21, 1980
 Date of return to applicant for correction, amendments or changes required JANUARY 23, 1980
 Date of receipt of corrected application FEBRUARY 8, 1980
 Approved MARCH 27, 1980, Recorded in: Book 21 Page 145

WATER RIGHT PERMIT NO. 4469-3

The Board of Water Management hereby grants and issues this Water Right Permit No. 4469-3 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as qualified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is JANUARY 21, 1980
2. The equivalent of at least one-fifth of the work above specified is ~~to be~~ completed ~~on or before~~
3. The whole of said work is ~~to be~~ completed ~~on or before~~
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is COMPLETED
5. The water appropriated shall be used for the purpose of GRAVEL WASH PLANT -
NON-CONSUMPTIVE USE

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 5.55 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 irrigation purposes said appropriation must be limited to not more than 2 acre feet per acre per year and be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied~~
USED FOR INDUSTRIAL PURPOSES
 for irrigation on or before THIS DATE, 1980; said water to be used during the following described annual period: MARCH THRU. NOVEMBER

Witness my hand this 1ST day of APRIL, 1980

THE BOARD OF WATER MANAGEMENT

By John Hatch
 Chief Engineer, Water Rights

Certificate of Construction Issued _____, 19____

Water License Issued _____, 19____

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

D. Well Information

- (1) Drill Hole, Diameter _____, Depth _____
- (2) Casing, Type _____, Diameter _____, Thickness _____
(wood, concrete, steel, etc)
- (3) 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. (Attach a copy of test well log)

Depth to top of water bearing material _____

Depth to bottom of water bearing material _____

Depth to water (ground surface to water level) _____

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

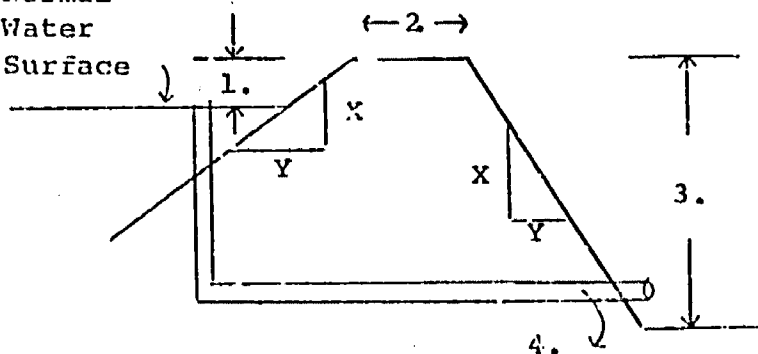
On same owner's property 30 rds.

On property owned by others 1 mile at least 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, length, maximum water depth, surface area, drainage area, storage capacity, dam slope, dimensions, location and size of outlet works, of each storage dam. The location of each water storage dam should be shown on the water right map.

Normal
Water
Surface



1. Freeboard _____
2. Crest width 200 feet
3. Height of Dam 25 feet
4. Outlet dimensions:
 - Pipe diameter none
 - Spillway width _____
- X & Y slope:
 - Upstream 1 1/2 ft to 1 foot
 - Downstream none
- Surface area of impoundment _____
- Drainage area above dam _____

Bernard D. McKinnis
Signature Applicant

No. 4469-3

Publish first publication, on or before March 5, 1980

NOTICE OF HEARING ON
APPLICATION TO APPROPRIATE WATER

Pierre, South Dakota 57501

February 25, 1980

Notice is hereby given Bernard Mahrer Construction, Inc. whose post office address is Rutland, North Dak. South Dakota, has made an application in accordance with the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-14; 46-2-9 thru 46-2-11, 46-2-13; 46-5-1 thru 46-5-8, 46-5-10 thru 46-5-22, 46-5-41, and Board Rules ARSD 52:01:01:01 thru 52:01:01:13, for a permit to appropriate for beneficial use 5.55 (non consumptive) cubic feet of water per second of time from the holding ponds - run off through the Wash Plant Operation, the point(s) of diversion of which is(are) to be located in the NE 1/4 SE 1/4 NW 1/4 and NW 1/4 SW 1/4 NE 1/4

of Section 28, Twp. 128N, Range 56W. Said water to be used for the purpose of providing ~~XX~~

WATER for a gravel wash plant operation

This Application No. 4469-3 will be considered by the Water Management Board at SBEA Auditorium, 411 E Capitol, Pierre SD upon the 26th day of March, 1980

at 10 A. .M. The Board is authorized to make a determination on this application at the hearing. All interested persons may appear and be heard. Any person who may be affected by a Board decision who desires to present evidence or cross-examine witnesses according to SDCL 1-26 may notify the Board in writing prior to the hearing or orally at the hearing.

This hearing is an adversary proceeding. Any person 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 at the hearing. Decisions of the Board may be appealed to the Courts as provided by law. *Any handclipped person wishing to attend this hearing can contact the Water Rights Division, DWR, Foss Building, Pierre SD, prior to the hearing date for assistance to assure access to the hearing.*

WATER MANAGEMENT BOARD

SETTY WESTLUND
Water Rights Specialist

cc: Bernard Mahrer Construction Inc.
Rutland,
North Dakota 58067

FORM 6 - Notice of Inten. to Appropriate Water
SURFACE WATER

No. 4469-3

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Marshall) ss.

I, Charles L. Card hereby

certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the The Britton Journal

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 Britton

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

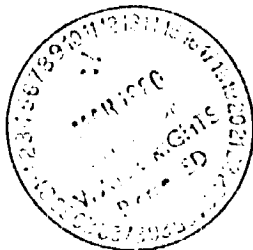
March 5, 1980

March 12, 1980

Charles L. Card
(Signature)

Editor
(Title)

March 5, 1980
(Date Signed)



2T(Mar. 5-12)

NOTICE OF HEARING
ON APPLICATION TO
APPROPRIATE WATER

Notice is hereby given Bernard Mahrer Construction, Inc. whose post office address is Rutland, North Dak., has made an application in accordance with the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-14; 46-2-9 thru 46-2-11, 46-2-13; 46-5-1 thru 46-5-8, 46-5-10 thru 46-5-22, 46-5-41, and Board Rules ARSD 52:01:01:01 thru 52:01:01:13, for a permit to appropriate for beneficial use 5.55 (non cubic feet of consumptive) water per second of time from the holding ponds-run off through the Wash Plant Operation, the point of diversion of which is to be located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 28, Twp. 128N, Range 56W. Said water to be used for the purpose of providing WATER for a gravel wash plant operation. This Application No. 4469-3 will be considered by the Water Management Board at SDEA Auditorium, 411 E. Capitol, Pierre, SD upon the 26th day of March, 1980 at 10 A.M. The Board is authorized to make a determination on this application at the hearing. All interested persons may appear and be heard. Any person who may be affected by a Board decision who desires to present evidence or cross-examine witnesses according to SDCL 1-26 may notify the Board in writing prior to the hearing or orally at the hearing.

This hearing is an adversary proceeding. Any person has the right to be present and to be heard. The following persons were present at the hearing: Parkin, Orville Kolbo and Hanson, Emery Stohr, Glen were Fritz Frey, Chester Beck, Honorary pallbearers Lavern Swanson and Love Nielert, William James Bonzer, James Morris, Duane Fallbearers were Robert Thompson, accompanists, Gibbs and Mrs. Robert Odland, with Mrs. Lincoln

RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

No 4 7307

PIERRE, February 8, 1980

RECEIVED OF Bernard Mahrer Constr., Inc., Hankinson ND

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

Fee for Application for Permit to Appropriate Water No. 4469-3 (examination, processing, recording and filing)	15	00
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 filling		
Fee for certified copy of		
Fee for Print copy of map		
Fee for Certifying		
Fee for (any other work as provided by law)		
TOTAL	150	00

WATER RIGHTS COMMISSION

By John Hatch
Chief Engineer, Executive Officer
JOHN HATCH kw

South Dakota

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**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 3, 1990

4469-3

Bernard Mahrer Construction, Inc
Rutland, ND 58067

Dear Sirs:

The inspection of your water use system and the inspection of the extent of application of water to beneficial use, as developed under Water Permit No. 4469-3, has been completed. Your final water right document, the Water License, can now be issued.

Statutes require that we charge a \$50.00 fee for the inspection and issuance of the Water License. Upon receipt of the \$50.00 fee from you, we will begin processing your Water License.

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

Sincerely,

Genny McMath

Genny McMath
Natural Resources Analyst
(605) 773-3352

NOTE: On check or money order, please specify your permit number. This will insure proper handling of the fee.

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

412873

Pierre, _____ October 15, 19 21

RECEIVED OF Bernard Mahrer, Co.st., Inc., P.O. Box 57, Rutland, Vt 52367

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct works and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>4469-3</u>	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	50 00

By *[Signature]*
Chief Engineer

LICENSE FOR PERMIT NUMBER 4469-3

1. Legal location of wells:

Dams and Structures SE1/4 NE1/4 NW1/4 of Section 28-T128N-R56W

2. Well Information: Well Drilling Firm

Pump	a) make <u>Worthington</u>	Motor	a) make <u>Dayton</u>
	b) model <u>2104764-1</u>		b) model no. <u>3N741</u>
	c) size <u>6"</u>		c) horsepower rating <u>50</u>
	d) capacity <u>2500</u> GPM		d) serial no.
	e) turbine pump - no. of stages		
	f) operating PSI		

3. Distribution lines or canals

a) size 8" inches
b) type steel
c) length 400 feet

4. Dam Information:

a) height to crest <u>25</u> feet	m) Outlet tubes:
b) height to primary spillway <u>20</u> feet	1) diameter inches
c) height to secondary spillway feet	2) type
d) crest width <u>20</u> feet	3) valved (Y/N)
e) crest length <u>200</u> feet	4) valve type
f) spillway length <u>150</u> feet	5) location on structure:
g) spillway width <u>10</u> feet	
h) approx. storage <u>21.6</u> AC-FT	n) Category of Dam <u>5</u>
i) approx. storage to crest AC-FT	

NOTE: For Permits with additional wells or changes in well locations,
record the following for each well: pumping capacity, date
constructed, well driller and if a well log is available.

Indicate any other permit(s) which are associated with project

Yes	No	Check Items
<u>NA</u>		1. Soil and water permit lands agree with lands being irrigated and lands listed on permit?
<u>Y</u>		2. Special qualifications to permit being abided by?
<u>Y</u>		3. All structures, wells and lands on map?
<u>NA</u>		4. Irrigation Questionnaires checked to determine if permit owner started irrigation by end of construction period?
<u>NA</u>		5. Is chemigation used?
<u>NA</u>		6. If yes, does equipment comply with chemigation rules?

REMARKS: No storage was specified on the permit, I made an estimate of the storage in
dam to be 21.6 ac-ft based on the following dimensions:

$[117612 \text{ sq-ft (surface area)} * 20 \text{ ft (max depth)} * 0.4] / 43560 \text{ sq-ft/ac} = 21.6$

Form 12

Permit No. 4469-3

Red Rainy Water District

Report OF Examination OF Works And/Or Application of Water To Beneficial Use

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

I have this day made a thorough examination of the water use system constructed by Bernard Mahrer Construction, Inc. of Ritland, ND holder of Permit No. 4469-3, bearing the priority of 1/21/1980 authorizing the diversion of 5.55 cfs of surface water for non consumptive use of water from the holding ponds/run off through the gravel wash plant operation, in Marshall County.

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

A. Works used to divert the water:

A Worthington 6" pump with a 2500 gpm capacity.

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

400' of 8" steel pipe.

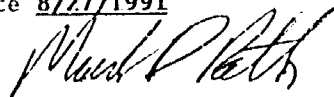
C. Works used to apply water to beneficial use:

A gravel washer.

The system is in the following condition fair. The point of diversion is located SE1/4 NE1/4 NW1/4 Section 28-T128N-R56W. The works are capable of diverting and conveying to the place of use 5.55 cu. ft. per second of water and/or storing 21.6 acre-feet of water which is to be used for gravel wash plant - non-consumptive use. Water has been put to beneficial use. The license should be issued for 5.55 cfs and/or 21.6 acre-feet of storage.

Applicable permit qualifications have been complied with ☒ Yes ☐ No

Exceptions to compliance are: none Date 8/27/1991



Mark D. Rath
Natural Resources Engineer II
DENR, Water Rights Division

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 4469-3

(1) Bernard Mahrer Construction, Inc. of P.O. Box 57, Rutland, ND 58067-6757 made Application No. 4469-3, January 21, 1980 for a water permit to appropriate 5.55 cubic feet of water (non-consumptive use) per second from surface runoff (storage dam), Marshall County, South Dakota for gravel washing purposes. Permit No. 4469-3 with a priority date of January 21, 1980 was approved March 27, 1980 and issued to applicant(s) for diversion of water with construction of the described water supply system completed and the application to beneficial use of said water completed.

(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 5.55 cubic feet of water per second for beneficial use. The location of the dam is: in the SE 1/4 NE 1/4 NW 1/4 Section 28, T128N, R56W. The dam is capable of storing 21.6 acre feet of water.

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

(4) Pursuant to Section 46-5-30.1 Bernard Mahrer Construction, Inc. of P.O. Box 57, Rutland, ND 58067 the holder(s) and/or owner(s) of Water Permit No. 4469-3 is issued a license to appropriate water, the right to : 5.55 cubic feet of water (non-consumptive) per second from surface runoff (into storage dam) with a priority date of January 21, 1980 from the location specified in (2) of this license. The water is used for a gravel washing operation. This license is subject to any limitations or qualifications listed in Water Permit No. 4469-3 and subject to South Dakota State Law.

 FEB 26 1992
JOHN HATCH, Chief Engineer
Water Rights Division
Department of Environment and
Natural Resources

South Dakota

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DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

FEB 26 1992

4469-3

Bernard Mahrer Construction, Inc.
P.O. Box 57
Rutland, ND 58067

Dear Sirs:

Enclosed is Water License No. 4469-3. This is the final water right document completing your process of obtaining a water right. Enclosed is Receipt No. 412873 in the amount of \$50.00 which you paid for the inspection and issuance of this water license.

As long as you use the water beneficially, as stated in the Water License, the State Water Laws provide that you have continuing right to use the water.

Very truly yours,

John Hatch

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

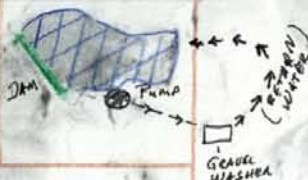
enclosures

NOT TO SCALE

45.0
T1762

34R-K11

29.0
T1762



19.8

3

T1762 35.5

144.0

28

T1762

Nat D Rehl
NATURAL RESOURCES ENGINEER II
DIVISION OF WATER RIGHTS
9/18/91

4

28.0

5

T1762

24.0 34R-K11

128.56

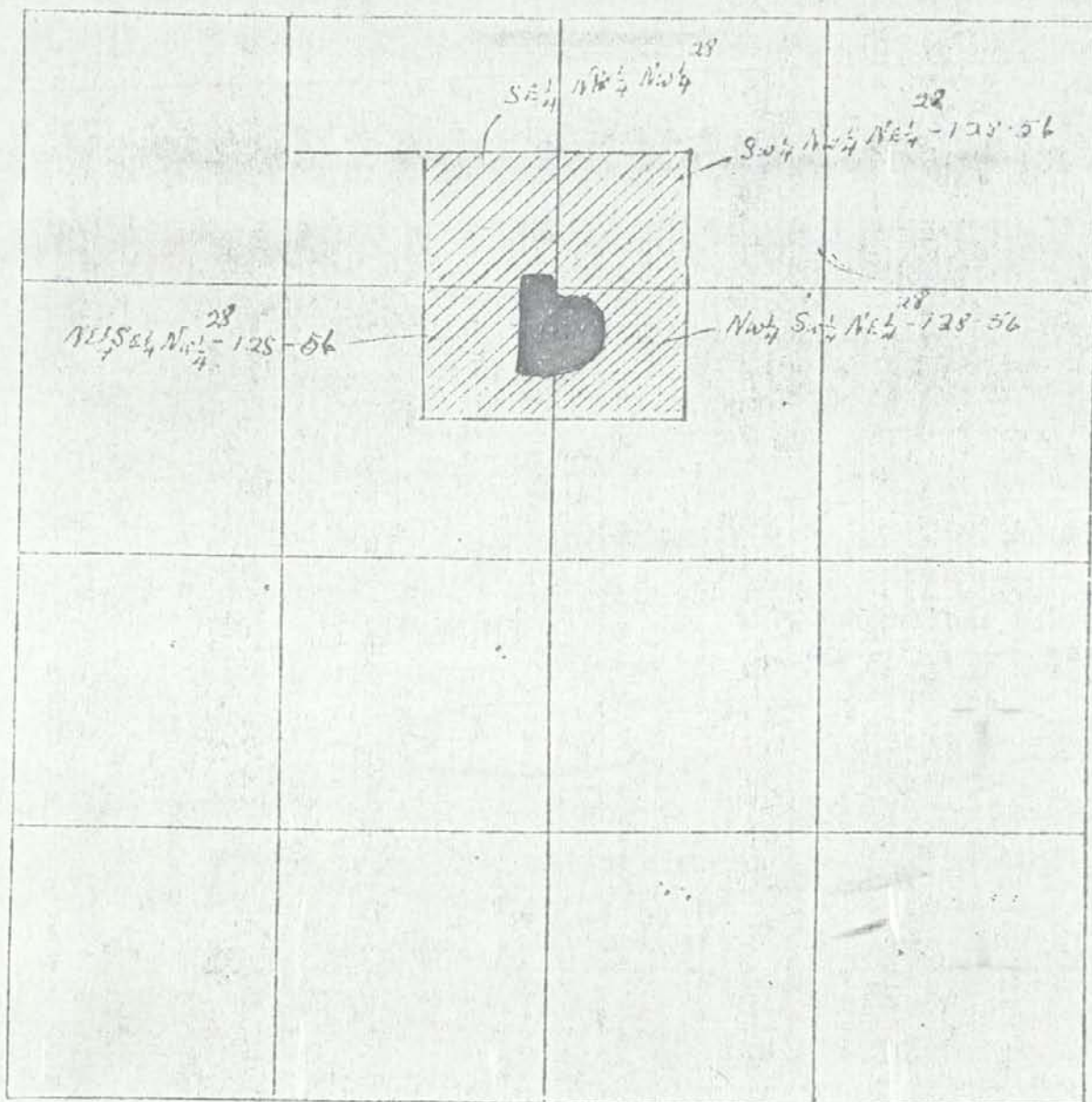
T1762
62.0

4469-3

SEC 28

T 155N

R 56W



CO B Permitted Area
Under Permit #212
W. H. Harris
W. H. Harris

DIVISION OF
ANDERSON
PIERRE SOUTH DAKOTA 5/8/01

MAP No 3674-3 Appl. 4469-3