

RECEIVED

JAN 20 2010

WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

No.

1254B-1

1254-1A

Date:

1-4-10

I/We request that portions of Water Right No. 1254-1A

formerly owned by: Carl & Melvin Anderson

be transferred to: (name & address)

Sleep Land & Livestock LLC

10438 West Hwy. 14 Spearfish, S. Dak 57783

Telephone No. 605-642-2220

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

SE $\frac{1}{4}$ SE $\frac{1}{4}$; SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 14 → 30 A
SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15 NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 23
NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 22

I/We understand that the validity of Water Right No. 1254-1A has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

I/We Sleep Land & Livestock LLC the new owner, certify that the above information is true and correct.

Richard D. Sleep

(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.

Acreage for Permit No. 1254-1A, Carl and Melvin Anderson

T7N-R1E

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Section 14

SE $\frac{1}{4}$ SE $\frac{1}{4}$ 32.0 ac.
SW $\frac{1}{4}$ SE $\frac{1}{4}$ 20.0 ac.

SE $\frac{1}{4}$ SW $\frac{1}{4}$ 22.0 ac.
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 19.0 ac.
NE $\frac{1}{4}$ SW $\frac{1}{4}$ 12.9 ac.
NW $\frac{1}{4}$ SW $\frac{1}{4}$ 4.7 ac.

Section 15

SE $\frac{1}{4}$ SE $\frac{1}{4}$ 10.3 ac.
NE $\frac{1}{4}$ SE $\frac{1}{4}$ 27.2 ac.
NW $\frac{1}{4}$ SE $\frac{1}{4}$ 8.7 ac.

TOTAL 156.8 acres.

NW $\frac{1}{4}$ NW $\frac{1}{4}$
NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 23
NW $\frac{1}{4}$ NE $\frac{1}{4}$

NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 22

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 1/20, 20 10

RECEIVED OF Richard D Sleep 10438 W Hwy 14 Spearfish SD 57783

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	50	00
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>1254-1A</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. _____		
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	50 00

No.

04000

By

Richard D. Sleep
Chief Engineer

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 1254B-1

I have this day, September 22, 2016 made a thorough examination of the water use system constructed by Sleep Land & Cattle LLC, 20017 Mill Creek Rd, Spearfish, SD 57783 of Permit No. 1254B-1, bearing the priority of 3/4/1982 authorizing the diversion of 1.48 cu. ft. per second of water from 1 well for irrigation purposes, in Lawrence County.

Inspection contact & relationship to permit holder, if applicable: **Richard Sleep, owner**
605-642-2220

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Graf Drilling (5/14/1972)
- 2) No. of Wells 1
- 3) Depth(s) 620 feet
- 4) Well log is available: Yes

This was a replacement well. The original was completed into the Spearfish formation. The replacement well was dug 50 ft. away and into the Minnelusa.

Casing:

- 1) Diameter 8 5/8", 0 – 490 ft., 6", 490 – 566 ft.
- 2) Length 566 feet
- 3) Type Steel

Screen:

- 1) Type N/A
- 2) Length - feet
- 3) Static water level Flowing (600 gpm free flow at completion) (512 gpm measured 6/75)

-Past correspondence indicates a steady reduction in flow at the well head. Current flow unknown at time of inspection.

Pump:

- 1) Make Honda
- 2) Model 20X WB
- 3) Capacity 80 gpm
- 4) Horsepower rating 5 hp

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

- 1) Type PE pipe 2) Size 2 inches 3) Length varies feet

Comments: **The 2" polyethylene pipe is the mainline for the K-line irrigation system. The irrigation ditch which originally transported the water to all of the acres is no longer used.**

C. Works used to apply water to beneficial use:

Tow line:

- 1) Make K-line
2) Pipe length 1,400 feet
3) Diameter 1 ½ "
4) Capacity 80 gpm
5) Acres 63.7

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by No: permit 1254-1A (was to be divided into 1254B-1 and 1254C-1) required the well to be valved and records kept of pressure fluctuations. The permit as approved in 1982 was never licensed due to the lack of a pressure gauge being installed (former owner).
2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Yes

List any extended period of nonuse: **none**

- 3) Exceptions to compliance are: none

E. Condition and Location:

1. The system is in poor condition with the point of diversion located as follows:
112' N and 1,133' E of SW corner Section 14 T7N R1E (44.561644, -103.967067)

The well is in quite poor condition due to corrosion of the steel casing and declining flow rate. The owner is considering replacement. The supply ditches originally used to transport water are in poor condition and no longer used. The owner has switched to a sprinkler system.

2. The works are capable of diverting and conveying to the place of use 0.18 cu. ft. per second of water (80 gpm) which is to be used for sprinkler irrigation use. Water has been put to beneficial use to the maximum extent as follows:

Section 14 T7N R1E

SW ¼ SW ¼ 16.3 acres

SE ¼ SW ¼ 28.3 acres

SW ¼ SE ¼ 2.9 acres

SE ¼ SE ¼ 6.5 acres

Section 15 T7N R1E

SE ¼ SE ¼ 9.7 acres

comprising a total of 63.7 acres of land and the license should be issued for 0.67 cfs (300gpm).

3. All structures, wells and lands on map Yes

F. Comments or other permit(s) associated with the project:

Water permit No. 1254-1A authorized February 24, 1983 was to be divided resulting in Permit No. 1254B-1 to be issued to Sleep Land & Livestock LLC and Permit No. 1254C-1 to be issued to Carl & Melvin Anderson. The acreage that would have been authorized in Permit 1254C-1 has since been split and sold to new owners. Carl and Melvin Anderson are no longer owners of any of the authorized acres.

1254B-1 and 1254C-1 were not issued due to the qualification that a pressure gage is to be installed and records kept of pressure fluctuations not being met. File Documentation dated 9/26/2003 was filed indicating the pressure gauge requirement was no longer necessary due to an adequate number of monitoring wells in the area. The pressure gage requirement remains on 1254-1A. As of the date of this report, 1254B-1 and 1254C-1 have not been issued.

The current irrigation system operates at 80 gpm which is not satisfactory for the irrigation needs. The owner intends to switch to a different system. The irrigation questionnaires from 2010 to 2015 were checked for pumping rates. The pumping rates range from 200 gpm to 600gpm. The irrigation questionnaire reports indicating that a pumping rate was just taken from the water permit indicated 400 gpm – 600 gpm pumped. Reports that did not indicate such reported a 200 gpm – 300 gpm rate. The applicable portions of 1254-1A should be permitted and licensed under 1254B-1 and the remainder of 1254-1A cancelled due to non-use/abandonment. It is recommended that the license be issued for 0.67 cfs, reflecting the 300 gpm reporting.



Steven Quissell
Water Rights Inspector
DENR Water Rights Program

Date report completed: 9/29/2016



Well (in background)



"K-line" tow line system

Licensing of Acreage Outside of Permitted Area

NAME: Sleep Land & Cattle LLC % Richard Sleep

ADDRESS: 20017 Mill Creek Rd., Spearfish SD 57783

DATE: September 29, 2016

COUNTY: Lawrence

TELEPHONE: (605) 642-2220

AUTHORITY

Pursuant to SDCL 46-5-30.5, acreage developed for irrigation outside of the area described on the permit may be licensed provided the following conditions are met:

NO INCREASE IN PERMITTED ACREAGE OR WATER APPROPRIATED:

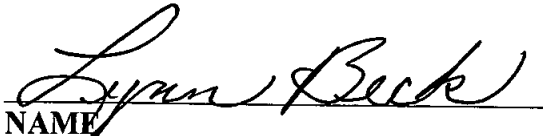
The acreage developed for irrigation is 63.7 acres as compared to 156.77 acres authorized by the original permit, License No. 1254-1A. Licensing of the permit (1254B-1) will result in no increase in the amount of water appropriated.

UNPERMITTED ACREAGE:

- **Contiguous to Permitted Acreage**
6.3 acres located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 14-T007N-R01E.
- **Owned by Same Property Owner**
Yes
- **Developed Prior to Expiration of Construction Period**
Yes

RECOMMENDED ACTION

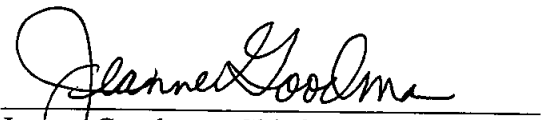
Based on the above criteria, it is recommended that the 6.3 acre area be included in the water license.



NAME
Lynn Beck, Natural Resources Engineer III
Water Rights Program

The Chief Engineer makes a finding pursuant to SDCL 46-5-30.5 that:

This acreage change does not impair existing water rights and the overall project, as developed, is consistent with the original application. Licensing of the unpermitted acreage may occur without application or publication pursuant to SDCL 46-2A-4.



Jeanne Goodman, Chief Engineer
Water Rights Program



1254B-1

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

OCT 24 2016

1254B-1

Richard D Sleep
Sleep Land & Livestock LLC
20017 Mill Creek Rd
Spearfish SD 57783

Dear Mr. Sleep:

Enclosed is Water License No. 1254B-1. Based on the ownership change you filed back in 2010, the land you own was severed from Water Permit No. 1254-1A and the irrigated acreage licensed under No. 1254B-1. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 1254B-1, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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. If you have any questions, please contact our office.

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

Note: The land still listed under No. 1254-1A, owned by John & Brenda Swanson and Clint Krambeck will be scheduled for cancellation consideration due to abandonment and/or forfeiture. The cancellation consideration will also involve the remaining diversion authority originally permitted under No. 1254-1A. You will receive notification of the hearing once it is scheduled.

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 1254B-1**

(1) Carl & Melvin Anderson, Spearfish SD made Application No. 1254-1A, for a water permit to divert 2.24 cubic feet of water per second from ground water (one well – Minnelusa Aquifer) located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 14, T7N, R1E to irrigate 156.77 acres in the SW $\frac{1}{4}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$ Section 14; N $\frac{1}{2}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, all in T7N, R1E. The project is located in Lawrence County, South Dakota. Permit No. 1254-1A; with a priority date of March 4, 1982 was approved February 24, 1983.

In 2010, an ownership change was filed by Richard D Sleep with Sleep Land and Livestock LLC for portions of land described in Water Permit No. 1254-1A including the diversion point location.

On September 22, 2016, a licensing investigation was conducted for the land described in the water permit. The investigation found a system operating on the land owned by Sleep Land and Livestock LLC with the remaining land no longer irrigated.

The land owned by Sleep Land and Livestock LLC is being severed from the original permit and licensed under No. 1254B-1. The land in the N $\frac{1}{2}$ SW $\frac{1}{4}$ Section 14 and N $\frac{1}{2}$ SE $\frac{1}{4}$ Section 15, all in T7N, R1E under separate ownership remains under Water Permit No. 1254-1A.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the water supply system and is entitled to divert 0.67 cubic feet of water per second for beneficial use. The location of the diversion point is:

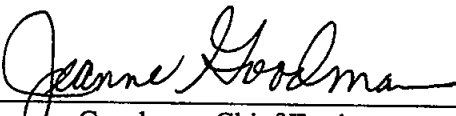
- 112°N and 1,133°E of the SW corner of Section 14, T7N, R1E (SW $\frac{1}{4}$ SW $\frac{1}{4}$).

(3) The permit holder 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 14, T7N, R1E		Section 15, T7N, R1E	
SW $\frac{1}{4}$ SW $\frac{1}{4}$	16.3 acres	SE $\frac{1}{4}$ SE $\frac{1}{4}$	9.7 acres
SE $\frac{1}{4}$ SW $\frac{1}{4}$	28.3 acres		
SW $\frac{1}{4}$ SE $\frac{1}{4}$	2.9 acres	Total 63.7 acres	
SE $\frac{1}{4}$ SE $\frac{1}{4}$	6.5 acres		

(4) Pursuant to South Dakota Water Law 46-5-30.1 Sleep Land and Livestock LLC, 20017 Mill Creek Rd, Spearfish SD 57783 the holder and/or owner of Water Right No. 1254B-1 is issued a license to appropriate water, the right to use 0.67 cubic feet of water per second from ground water (one well – Minnelusa Aquifer) with a priority date of March 4, 1982 from the location specified in (2) of this license for irrigation purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 1254B-1.



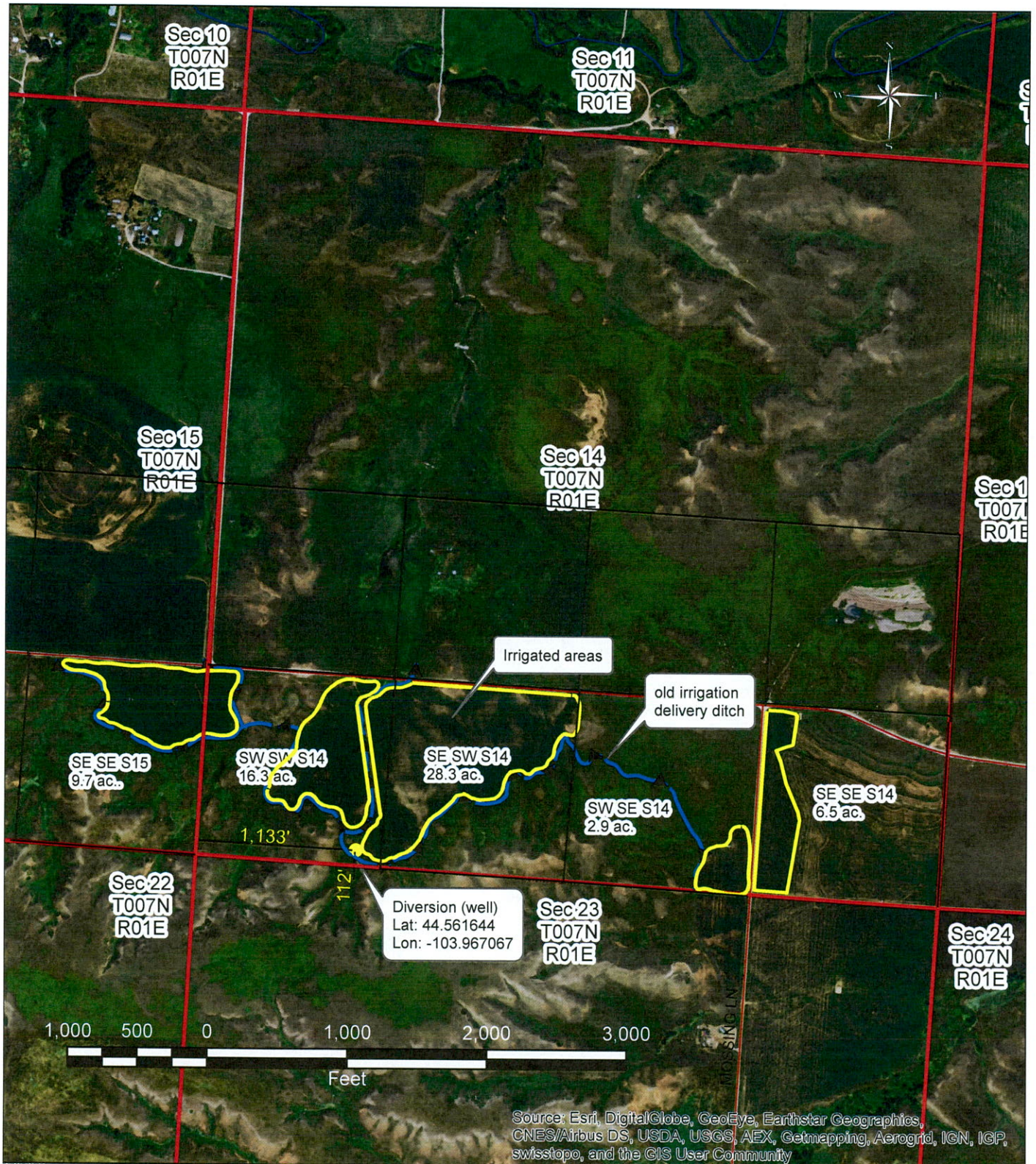
Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

OCT 24 2016

date



Water Right # 1254B-1
Sleep Land & Livestock LLC
9/22/2016



Steven Quissell

Steven Quissell
Water Rights Inspector
DENR Water Rights Program



Beck, Lynn

From: Quissell, Steve
Sent: Tuesday, September 27, 2016 10:12 AM
To: Beck, Lynn
Cc: McMath, Genny
Subject: RE: Sleep 1254B-1
Attachments: John_Anderson_1254C-1_Conversational.doc; Carl_Anderson_1254C-1.pdf

Lynn

Attached is a conversational file and accompanying map dealing with 1254C-1. When I did the irrigation licensing inspection for Richard Sleep (1254B-1) on 9/22, Sleep stated there had not been irrigation on the Anderson acres (1254C-1) now owned by John Swanson and Clint Krambeck since he acquired the well in about 2009. I spoke by phone this morning with John Swanson (conversational file and map attached). John Swanson's portion of 1254C-1 are to be submitted for cancellation. I also asked about the Clint Krambeck acres and he said there was no irrigation being done there either. This confirmed what Sleep stated. I have not been able to contact Krambeck yet to confirm from him cancellation of his acres, but you can expect this will be submitted soon. The attached pdf can be used as documentation for the Krambeck cancellation when that is finalized.

Steven Quissell
Water Right Inspector
SD Department of Environment and Natural Resources
Water Rights Program
Phone: (605) 394-6763
Fax: (605) 394-5317

From: Beck, Lynn
Sent: Tuesday, September 27, 2016 9:01 AM
To: Quissell, Steve
Cc: Beck, Lynn; McMath, Genny
Subject: RE: Sleep 1254B-1

There is quite a saga on 1254-1a, 1254b-1, 1245a-1. In reality 1254B-1 and 1254C-1 are not actually permitted yet. The 1254-1A permit was to be split but there were some issues that needed to be resolved before the permits could be signed by the Chief Engineer. So that means we are still dealing with 1254-1A. This will take some research on my part but we may be issuing a permit and license for 1254B-1 at almost the same time. 1254B-1 and 1254C-1 were put in the system just so Genny could send them irrigation questionnaires. The amount of water that was to be claimed on 1254B-1 is the statutory limit for 103.3 acres of 1.48 cfs. 63.7 acres have been developed and the statutory limit would be 0.81 cfs. Currently his system is only capable of 0.18 cfs (80 gpm). I looked at the irrigation questionnaires and on the years that the pumping rate was not just taken off of the water right, 200 and 300 gpm was reported. I am looking into options for the licensed diversion rate.

This is definitely a weird one. In addition, I need to find out what to do with 1254C-1.

Lynn

**Water Rights Program - DENR
Conversation File Documentation**

NAME OF PERSON OR FILE: John Swanson

ADDRESS: 10459 Upper Red Water Rd, Spearfish, SD 57783

COUNTY: Lawrence County

DATE: September 27, 2016 **TELEPHONE:** (605) 642-5495

RE: Water Permit 1254C-1, Carl and Melvin Anderson (former owners)

COMMENTS: I spoke by phone today to John ^{Swanson} Anderson who is the current owner of a portion of the land authorized under Permit #1254C-1. I asked if there was any irrigation being done on the acreage purchased from Carl and Melvin Anderson. He said there was not, and that there has been no water available since the Anderson property ownership was split in late 2009 when Richard Sleep acquired ownership of the well. I explained the portion of the statutes pertaining to abandonment and the need to irrigate one out of every 3 years to maintain the permit. I suggested the permit be submitted to the Water Management Board for cancellation. He agreed and said it is best to just get things cleaned up.

NAME: Steven Quissell, Water Rights Inspector

A handwritten signature in black ink, appearing to read "Steven Quissell", written in a cursive style.

