

WATER PERMIT NO. 1670-1

Name of Applicant: Lyndon and Jane Kok

Address: RR 1 Box 246, Belle Fourche SD 57717

Phone: 605 892-4432

Amount of Water Claimed: 1.28

Total Acres: 253 (106 add'l acres)

Source of Water Supply: groundwater

Water to be used for: irrigation

County: Butte

Type of Waste Disposal System: NA

Location: 4 miles northeast of Belle Fourche

PRIORITY

Date Received: 6-9-1998

Fee:

Corrected Application Received:

Period of Annual Use: April 1-September 30

Remarks: 147 of the 253 acres irrigated are covered under Water Right No. 1096-1

Diversion Point: SE ¼ SW ¼ Sec 20-T9N-R3E

Land to be Irrigated: NE ¼, SE ¼ Sec 29,

NE ¼ NE ¼ Sec 32, NW ¼ NW ¼ Sec 33,

SW ¼, SW ¼ NW ¼ Sec 28; all in T9N-R3E

Depth of Well: 3400 feet deep

Well Driller:

Remarks:

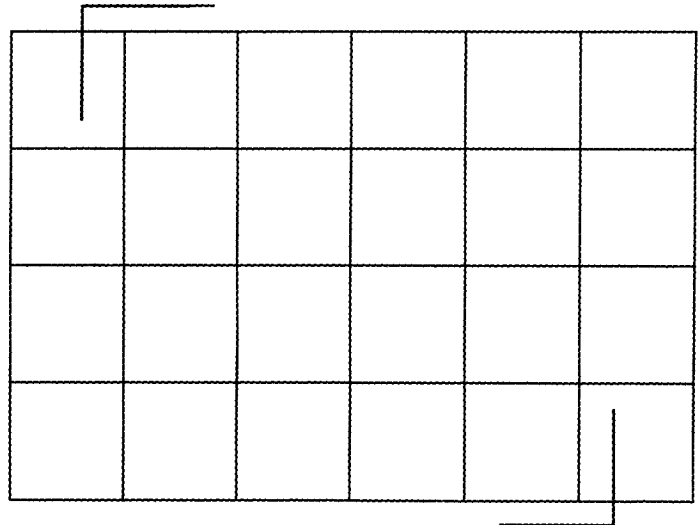
Type of Map: aerial

Prepared by: Chuck Logan

Reviewed and the Number Assigned on: 6-9-98

By: Karen Schlaak

Notice of Hearing - date to intervene: _____



SOUTH DAKOTA
WATER PERMIT NO. 1670-1 FOR IRRIGATION

Date of first receipt of application June 9, 1998.

The Water Management Board approved Water Permit Application No. 1670-1 on October 1, 1998 for Lyndon and Jane Kok, RR 1 Box 246, Belle Fourche SD 57717 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 1670-1 authorizes irrigation of 106 additional acres. Water Right No. 1096-1 authorizes 1.88 cubic feet of water per second (cfs) from one well (Madison Formation) 3511 feet deep located in the SE ¼ SW ¼ Sec 20 to irrigate 216 acres located in portions of the S1/2 SW1/4 Section 20 and the NW1/4, NE1/4, N1/2 SE1/4 Section 29, T9N, R3E. The water right authorizes flow from the well to a dam (9.2 acre-feet storage capacity) located in the NW1/4 NE1/4 Section 29, T9N, R3E prior to irrigation. Water Permit No. 1096A-1 decreased the diversion rate to reflect the well's flow of 1.33 cfs and transferred the use from irrigation to use by the Butte-Meade Sanitary Water District. Use of water for irrigation was to be limited to overflow to the dam from the well.

This permit modifies the existing permitted acres and irrigation of 106 additional acres to accommodate a change in the method of irrigation to a gravity flood irrigation system on the parcel of land owned by the Kok's. A total of 253 acres will now be irrigated located in portions of the W1/2 SW1/4, NE1/4 SW1/4, SW1/4 NW1/4 Section 28, W1/2 NE1/4, SE1/4 NE1/4, N1/2 SE1/4, SE1/4 SE1/4 Section 29, NE1/4 NE1/4 Section 32, NW1/4 NW1/4 Section 33; all in T9N, R3E. This permit authorizes appropriation of the flow of the well that is not diverted by the Butte-Meade Sanitary Water District. This permit does not request an increase in the diversion rate from the well. The permit holder will no longer use the dam. Water from the well will be diverted via a ditch to a portion of the irrigated area and also to a low area in the SE1/4 NE1/4 Section 29, T9N, R3E. Water will be pumped from this low area at a rate up to the statutory limit of 3.61 cfs for flood irrigation on other portions of the irrigated area.

2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period April 1 – September 30.
3. The date from which applicant may claim right is June 9, 1998 (additional 106 acres) April 16, 1976 (original 147 acres).
4. One-fifth of the construction is to be completed on or before April 1, 2001.
5. All construction is to be completed on or before October 1, 2003.
6. Water is to be put to beneficial use on or before October 1, 2007.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: 
John Hatch, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

NOV 10 1998
date



FORM 2: Application for irrigation in South Dakota
(type or print)

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	(office use only) No. <u>1670-1</u> Hydrologic Unit <u>10/20202</u>
	Basin <u>Belle Fourche River</u>
	Newspaper <u>Belle Fourche Post, Belle Fourche, SD</u>



Application For Permit To Appropriate Water For Irrigation

Type of Application: ☒ New ☐ Vested Right ☒ Amendment/Correction to Permit No. 1096-1
(Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.) Adds new acreage and changes location of some existing acres

- Name of Applicant Lyndon and Jane Kok Phone (605) 892-4432
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address RR 1 Box 246, Belle Fourche State South Dakota 57117
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed 1.28 *CFS or **GPM ***AF Total Acreage 253
(*Cubic Feet per Second) (**Gallons per Minute) (***) Acre Feet - storage capacity of dam/dugout or annual use if applicable
- Source of water supply ground water -- 1 well
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) well: SE1/4 SW1/4 sec 20-T9N-R3E
low area: SE1/4 NE1/4 sec 29-T9N-R3E
County Butte
- County or counties where water will be used Butte
- Annual period during which water is to be used Apr 1 - Sept 30
- List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
<u>see addendum dated 6/12/98</u>			

8. Give a description of the project. (Attach sheet if more space is needed)
see addendum dated 6/12/98, letter dated 6/10/98, and file documentation dated 6/12/98

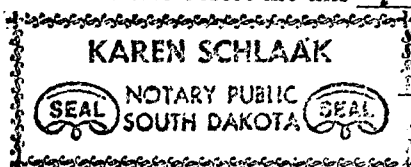
STATE OF SOUTH DAKOTA) SS
County of Hughes)

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Attach map and any other technical information. (see instructions)

I, Jane E. Kok, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Applicant's signature Jane E. Kok
Subscribed and sworn to before me this 9th day of June 19 98

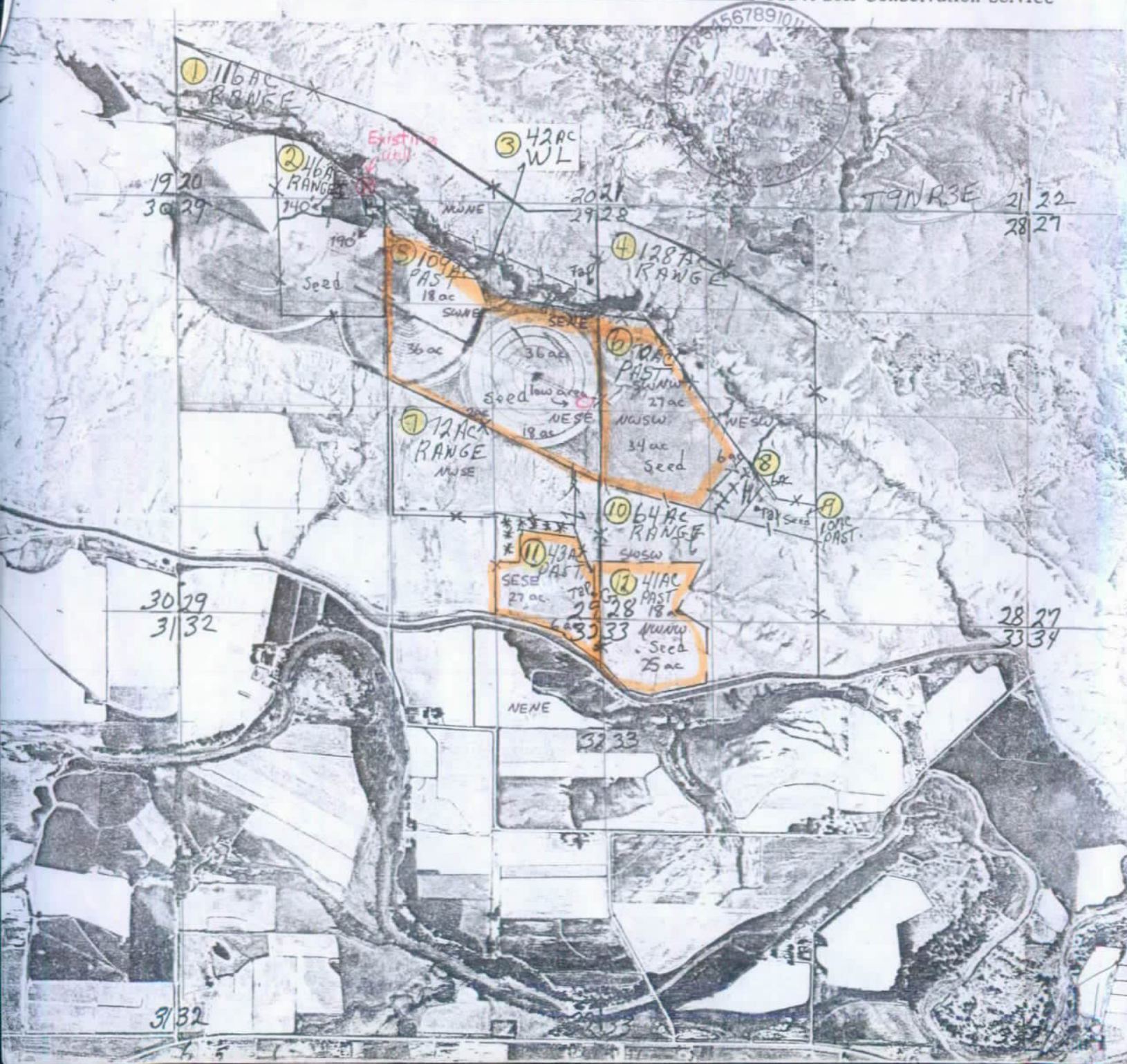
KAREN SCHLAACK, Notary Public
My Commission Expires
3-98 April 1, 2000



Karen Schlaack
Notary Public signature

CONSERVATION PLAN MAP

Owner LYNDON & JANE KOK Operator _____
County BUTTE State SOUTH DAKOTA Date 11/91
Approximate acres _____ Approximate scale 3.16" = 1 mile
Cooperating with BUTTE Conservation District _____
Plan identification GPCP Photo number 9
Assisted by CHUCK LOGAN USDA Soil Conservation Service



RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

Nº 415802

Pierre, _____

June 17, 19 98

RECEIVED OF Lyndon or Jane Kok, RR 1, Box 246, Belle Fourche, SD 57717

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

Fee for Application for Permit No. 1670-1 to Appropriate Water, to construct
and to put water to beneficial use _____

225 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 _____

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

225 00

By _____
Chief Engineer

John Hatch (Signature)

NOTICE OF WELL CONSTRUCTION

CONSTRUCTION
 Direction of well: S 1/4 E 1/4 S 1/4 Section 20 Township 9 N Range 3 E
 Owner: Seven H Ranch Inc. (Name) Little Falls (Address)
 Well drilling completed 12-22-76 Purpose of well Drinking
 (domestic, irrigation, municipal, industrial, other)

WELL LOG

Top to top in feet	Description of layer	Depth to top of water producing aquifer	ft.
		<u>200</u>	
		Depth to static water level	ft.
		Name of producing aquifer (if known)	<u>Madison</u>
		Total depth of drill hole	<u>31.11</u> ft.
		Depth to bottom of casing	<u>31.97</u> ft.
		Casing information: In the space below show kind, size, weight, lengths per diameter, etc., for production casing and surface casing, if used.	
		<u>3197' 7" OD 2.3"</u>	
		<u>Cemented with 300 Bgs.</u>	
		<u>270' 10" surface on top</u>	
		<u>Cemented.</u>	
		Screen information: In the space below show length of screen below bottom of casing, diameter and kind of screen or casing perforations.	
		<u>0' 10" hole</u>	
		<u>in Madison</u>	
		If a flowing well, flow of completed well <u>1000 Est.</u> G.P.H.	

Attach sheet if more space is needed

Name of Drilling Contractor

PUMP INSTALLATION

Company name and size of pump _____ HP _____
 Capacity of installed pump _____ G.P.H.
 Date of pump placement _____ ft., Date of pump installation _____

WATER SURFACE MEASURING TUBE

Some wells an air-tight water surface measuring tube is required: See Section 46.408 of Chapter 46.4, MINIMUM WELL CONSTRUCTION STANDARDS.

Exact vertical length of water surface measuring tube, when installed _____ ft., tube diameter _____
 Material _____

Name of Pump Installation Contractor

United States
Department of
Agriculture

Natural Resources
Conservation
Service

USDA Service Center
1847 5th Ave.
Belle Fourche, SD 57717



June 5, 1998

To Whom It May Concern:

We hereby certify that this land owned by Lyndon & Jane Kok of RR1 -Box 246 - Belle Fourche, SD 57717 is located in 28,29,32,&33, T9N, R3E. See attached map for correct locations for planned irrigation sites. If you have any questions please call me at our office (605)892-2782 in Belle Fourche.

Sincerely,

Thomas G. Quinn

Thomas G. Quinn, D.C.
Natural Resource Conservaiton Service
1847 - 5th Ave.
Belle Fourche, SD 57717



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523-EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

June 10, 1998

Lyndon and Jane Kok
RR 1 Box 246
Belle Fourche SD 57717

Dear Mr. and Mrs. Kok:

This letter is in response to receipt of your water permit application and maps delivered by Mrs. Kok on June 9, 1998. I told Mrs. Kok that I would determine the total irrigated acreage based on the areas outlined in orange on the map and then inform you of my figures. Based on the outlined areas, I came up with the following acreages (enclosed is a copy of your map with the acreages/legals added to the map):

Legal Description	Acres	Legal Description	Acres
NW $\frac{1}{4}$ NE $\frac{1}{4}$ section 29-9N-3E	18	NE $\frac{1}{4}$ NE $\frac{1}{4}$ section 32-9N-3E	6
SW $\frac{1}{4}$ NE $\frac{1}{4}$ "	36	NW $\frac{1}{4}$ NW $\frac{1}{4}$ section 33-9N-3E	25
SE $\frac{1}{4}$ NE $\frac{1}{4}$ "	36	SW $\frac{1}{4}$ SW $\frac{1}{4}$ section 28-9N-3E	18
NW $\frac{1}{4}$ SE $\frac{1}{4}$ "	2	NW $\frac{1}{4}$ SW $\frac{1}{4}$ "	34
NE $\frac{1}{4}$ SE $\frac{1}{4}$ "	18	NE $\frac{1}{4}$ SW $\frac{1}{4}$ "	6
SE $\frac{1}{4}$ SE $\frac{1}{4}$ "	27	SW $\frac{1}{4}$ NW $\frac{1}{4}$ "	27
Total Acreage = 253 acres			

Water Permit No. 1096-1, Butte Meade Sanitary District, allows diversion of 1.88 cubic feet of water per second (cfs) or 850 gallons per minute to irrigate a total of 216 acres. Of this 216 acres, 69 acres are located on property now owned by Floyd E and Merel Wennberg with the remaining 147 acres on your property. Therefore, 106 acres (253 minus 147) of the 253 acres outlined on your map will be considered as "new acres." With your permission, I will add the above described acres to the permit application signed by Mrs. Kok. This will address the new acres as well as rearranging the existing permitted acres to suit your planned irrigation system.

A second issue which needs to be addressed is the pump rate that you will need to irrigate the property. According to Permit No. 1096-1, the authorized pump rate is 1.88 cfs. Since the irrigated acreage has been split between two owners, you are entitled to a proportional share of the 1.88 cfs which equates to 1.28 cfs (574 gpm) for the 147 acres on your property. According to Dale Knutson, manager of the Butte-Meade Sanitary District, the flow from the well when not being diverted into the water system is 550 to 600 gpm. Therefore,

June 10, 1998
Lyndon and Jane Kok
Page 2 of 2

your proportional share of 1.28 cfs (574 gpm) is reasonable based on the flow capacity of the well for the portions of your acreage directly irrigated by gravity flow. Mrs. Kok mentioned that you will also need to pump from a low area in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ section 29 that is filled via a ditch from the well in order to flood irrigate other portions of your acreage. Dependent upon the storage capacity of this low area, you may be able to pump from this area at a rate greater than 1.28 cfs. I need to know whether your proposed pump rate from this low area will exceed 1.28 cfs and, if so, what the pump rate will be. If no additional diversion rate is needed, then I will put 1.28 cfs on your application with your permission to do so.

Finally, I understand that you do not intend to divert water from the dam which was allowed under No. 1096-1. Therefore, the legal descriptions of the diversion points that need to be placed on your application are the location of the well in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ section 20 and the low area in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ section 29.

Please advise me as soon as possible on the legal descriptions of the irrigated acreage, the pump rate, and location of diversion points. As soon as we get this information and the \$225.00 application fee for the 106 new acres, we can get started processing your application. If you have any questions, please let me know and I will help in any way possible. I can be reached at (605) 773-3352 or by e-mail at rond@denr.state.sd.us.

Sincerely,



Ron Duvall
Natural Resources Engineer
Water Rights Program

enclosure

To Ron Duvall

History of Land Owned by Lyndon and Jane Kok

Purchased: Feb 1991

Fields That are permitted and Fields That are proposed To be permitted were in Winter wheat in 1991 and ownership of the crop was retained by previous owner.

The fields were seeded with an alfalfa grass mix in the spring of 1992 under a Great Plains Contract thru S.S.S. written in 1991. ~~The fields were also put into the O-92 program thru ASCS in 1991. They were set aside for the summer months and could not be grazed until fall.~~

Irrigating them at this time was not practical or needed. the fields stayed in the O-92 program until the spring of 1996. Rain fall in 1993 was 21.25" and sufficient until 1996

In 1996 the fields were switched to the new wheat program and grazing or haying was allowed. the fields were hayed in 1996 and 1997 with some fall grazing.

We surveyed the fields in 1996 and determined that approximately 70 Acres could be flood irrigated. We started construction of the main waterway which carries the water to the permitted fields late in 1996. We ran enough water to test the delivery system. We started full scale irrigating on the 70 Acres in 1997 by flooding with ditches and did some experimenting with secondary ditches and a gas driven 3" pump.

After reviewing the results of the irrigation done in 1997, we have determined it would be to our benefit to expand the system at our own "Risk" of Butte Meade Water using all of the water from the wells.

The water will be used to flood the fields in rotation and matched to our rotational grazing program.

Please note the water was put to some beneficial use from 1986 to 1996. The dams were kept full for livestock watering and to honor the terms of a duck hunting lease obtained by the previous owner.

Our irrigation system would put the water to a more ~~beneficial~~ beneficial use

than having it run down the creek.

We feel this irrigation system will allow us to double the carrying capacity of our operation and allow us to reduce the grazing pressure on the native dry land pastures during the ~~straw~~ drought conditions we are presently in.

Native Pastures could also be set aside and burned to promote growth and weed control.

Water Rights Program -- File Documentation

NAME: Lyndon Kok

ADDRESS: RR 1, Box 246, Belle Fourche SD 57717

DATE: June 12, 1998 **COUNTY:** Butte **TELEPHONE:** (605) 892-4432

RE: Response to Department letter dated June 10, 1998

COMMENTS:

Lyndon Kok called to respond to questions posed in my letter dated June 10, 1998, concerning modifications to irrigated acreage covered by Water Permit No. 1096-1. Modifications to the existing permitted acres and additional acreages are being made to accommodate a change in the method of irrigation from center pivots to a gravity/flood irrigation system.

Mr. Kok agreed to adding the acreage described in the June 10, 1998, letter to their permit application. In addition, Mr. Kok indicated that the diversion rate of 1.28 cfs is sufficient since they do not intend to divert from the "low area" at a rate faster than the area can be supplied by the well. The location of the diversion points as described in the letter was also agreed to and Mr. Kok will be sending the \$225.00 application fee.



Ron Duvall, Natural Resources Engineer
Water Rights Program

June 12, 1998

Addendum to water permit application for Lyndon and Jane Kok received June 9, 1998:

Existing permitted acreage and proposed acreage:

Legal Description	Acres	Legal Description	Acres
NW $\frac{1}{4}$ NE $\frac{1}{4}$ section 29-9N-3E	18	NE $\frac{1}{4}$ NE $\frac{1}{4}$ section 32-9N-3E	6
SW $\frac{1}{4}$ NE $\frac{1}{4}$ "	36	NW $\frac{1}{4}$ NW $\frac{1}{4}$ section 33-9N-3E	25
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SE $\frac{1}{4}$ SE $\frac{1}{4}$ "	27	SW $\frac{1}{4}$ NW $\frac{1}{4}$ "	27
Total Acreage = 253 acres			

Water Permit No. 1096-1, Butte Meade Sanitary District, allows diversion of 1.88 cubic feet of water per second (cfs) or 850 gallons per minute to irrigate a total of 216 acres. Of this 216 acres, 69 acres are located on property now owned by Floyd E and Merel Wennberg with the remaining 147 acres on property owned by Lyndon and Jane Kok. Therefore, 106 acres (253 minus 147) of the above 253 acres are considered as "new acres" and need to be assigned a new priority date.

A diversion rate of 1.28 cfs (574 gpm) is included on this application as the proportional share of the current 1.88 cfs authorized by No. 1096-1. The well is capable of flowing at this rate when the Butte-Meade Sanitary District is not making diversions.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

August 27, 1998

Dale Knutson, Manager
Butte-Meade Sanitary Water District
PO Box 5
Newell SD 57760

Dear Mr. Knutson:

Enclosed is a copy of the report, recommendation and notice of hearing prepared for Water Permit Application No. 1670-1 filed by Lynon and Jane Kok. The publication of the notice of hearing is scheduled for September 2 and 9, 1998 in the Belle Fourche Post.

This information is being sent to you because is source of water for irrigation is the overflow from the District's well authorized by Water Permit Nos. 1096A-1, 1496-1 and 1504-1.

Please contact Ken Buhler at (605) 773-3352 if you have any questions on this application.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352

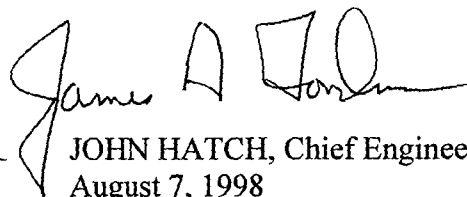
enclosure

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 1670-1, Lyndon and Jane Kok**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 1670-1, Lyndon and Jane Kok, RR 1, Box 246, Belle Fourche, SD 57717.

The Chief Engineer is recommending DEFERRAL of Application No. 1670-1 to allow additional time for staff to assess the special considerations of well being allowed to flow continuously.

See report on application for additional information.


for JOHN HATCH, Chief Engineer
August 7, 1998

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 1670-1, Lyndon and Jane Kok**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 1670-1, Lyndon and Jane Kok, RR 1, Box 246, Belle Fourche, SD 57717.

The Chief Engineer is recommending APPROVAL of Application No. 1670-1 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) it is in the public interest with the following qualification:

This Permit is approved subject to the irrigation water use questionnaire being submitted each year for any pumping from the low land area.

See report on application for additional information.



JOHN HATCH, Chief Engineer
August 24, 1998

NOTE: Butte Meade Sanitary Water District's control of this well may result in a reduction of flow for irrigation. ~~This water source may prove to be an unreliable source of water for irrigation in the event the well is controlled or if the well were to fail in the future.~~ The District is under no obligation under water rights law to provide you a continuing source of water.

WATER PERMIT APPLICATION NO. 1670-1
LYNDON & JANE KOK
JUNE 23, 1998

Water Permit Application No. 1670-1 proposes modifications to the acreage permitted through Water Right No. 1096-1 and Water Permit No. 1096A-1, and authorization of 106 additional acres. This application proposes irrigation of a total of 253 acres located in portions of the W $\frac{1}{2}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 28; W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 29; NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 32, NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 33; all in T9N-R3E. This application proposes to appropriate "excess water" (water not used by Butte-Meade Sanitary Water District) for irrigation.

HISTORY

The original appropriation from this well, Water Right No. 1096-1, authorized the diversion of 1.88 cubic feet per second (cfs) to irrigate 216 acres with an April 16, 1976 priority date. In 1990, an amendment to this Water Right, (Water Permit No. 1096A-1), was approved to transfer 1.33 cfs from the well to Butte-Meade Sanitary Water District for rural water system use (RWS). The permit was conditioned so that "any excess water" could be used to irrigate the lands authorized by No. 1096-1. The use of water for irrigation is to be limited to overflow *to the dam* from the well. Water Permit No. 1096A-1 authorizes a maximum diversion rate from the well of 1.33 cfs for RWS use. Water Permit No. 1496-1, approved in 1990, increased the appropriation from the well by adding RWS use from October 1 – March 31, thus allowing year round use. The maximum diversion rate authorized from the well remained 1.33 cfs for RWS use. In 1992, Water Permit No. 1504-1 was approved to increase the diversion rate authorized from the dam to 3.11 cfs and to include incidental surface runoff to the dam as a water source.

AQUIFER: Madison Aquifer (MDSN)

GENERAL:

The Madison Aquifer is a massive, carbonate (limestone and dolomite) aquifer that underlies most of western South Dakota. It is estimated that the aquifer contains at least 640 million acre-feet of recoverable water in storage in the State (Allen, 1984). The importance of the Madison as an aquifer is largely due to randomly distributed zones of secondary porosity and permeability formed by weathering of exposed surfaces, groundwater solution, and fracturing. These zones also play an important role in determining the hydraulic behavior of the Madison aquifer and the response of the system to stress. Recharge to the Madison aquifer occurs through streamflow losses and direct infiltration of precipitation at the outcrop area. Recharge for the entire Madison Aquifer in South Dakota has been estimated to range from 140,000 to 400,000 acre-feet per year (Woodward Clyde, 1981). The Madison is generally considered an excellent aquifer both in terms of quality and quantity, especially near the outcrop (recharge area). The Madison outcrop is located within approximately 20 miles south of this well site (DeWitt, 1989) and the top of the Madison is estimated to be approximately 3,200 feet below ground surface (Allen, 1984). This well site is located near the Whitewood and Belle Fourche Anticlines, the secondary porosity and permeability in the area have probably been enhanced by this folding. The Madison is estimated to be approximately 700 feet thick in this area (Allen, 1984).

The Madison well at this site flows a reported 600 gpm (Water Permit 1096A-1). The shut in pressure of the well is unknown. However, the potentiometric surface of the Madison Aquifer is expected to be approximately 3,500 feet msl or approximately 400 feet above grade at this well site (Water Rights, 1998). A water level of 400 feet above grade equates to a shut-in pressure of approximately 175 psi.

WATER AVAILABILITY:

Although the Water Rights Program does monitors 26 observation wells completed into the Madison aquifer in the Black Hills, this well site is approximately 18 miles from the nearest Water Rights' Observation Well. Records from the observation wells indicate the potentiometric surface of the Madison Aquifer fluctuates 30-40 feet per year near the recharge area in response to seasonal and climatic variations. The limited period of record available from observation wells completed into the Madison Aquifer, (all but one of the wells were installed after 1986), is not easily interpreted. Long term water-level declines are not apparent from any of the hydrographs. Observation well data suggest that at the existing level of development, natural influences dominate the water level of the aquifer and the effects of pumping as yet are not obvious.

The high cost of Madison wells, except very near the outcrop, and the availability of groundwater from shallower aquifers, has limited domestic development and generally restricted usage from the Madison to those uses which require water rights. There are 104 permits/rights which appropriate water from the Madison aquifer in South Dakota. The majority of the water rights/permits from the aquifer are from Butte (16), Lawrence (20), Meade (16), Pennington (31) and Fall River (9) Counties. The Madison supplies water for irrigation, geothermal, industrial, commercial, recreational, and commercial use. However, by far the major use of the aquifer is for common distribution systems (suburban housing development and municipal use). The cities of Spearfish, Belle Fourche, Whitewood, Sturgis, Rapid City, Box Elder and Edgemont all depend on water from the Madison Aquifer.

If the worst case assumptions are made that (1) permits/rights with an annual withdrawal limitation (ac-ft/yr) will use the maximum allowable; and (2) permits/rights that are limited by a diversion rate only, will use 60% of the maximum allowable (considered reasonable for water distribution systems); the total water use from the Madison would be approximately 50,000 acre-feet per year. The actual amount of water used from the Madison is considerably less than this estimate. Three Future Use Permits (2086-2, 1833-2, and 369-1) reserve another 6,455 acre feet annually from the Madison Aquifer for future use. Comparison of the estimated annual recharge to the Madison with the water use estimated from the aquifer indicates unappropriated water is available from the Madison aquifer.

AFFECTS ON EXISTING RIGHTS:

A potential obstacle to development of the Madison Aquifer is consideration of the affects the use of this well may have on existing water rights. In this area, the use of groundwater is fairly limited. Domestic wells on file with the Water Rights Program are completed into shallower aquifers. The nearest groundwater appropriation to this well, (Water Right No. 1219-1, City of Belle Fourche) is approximately 4.5 miles away and it also appropriates water from the Madison Aquifer. This application does not propose an increase of the diversion rate authorized for this well (1.33 cfs) and should not affect the drawdown created by this flowing well. The interference this flowing well has on these or other water rights/permits is minimal and certainly not adverse, due to the distance between wells, and the apparent hydraulic separation between the Madison and shallower aquifers in this area.

If the cumulative affect of development from the Madison Aquifer, (i.e., an affect that cannot be attributed directly to a single diversion), requires the lowering of pumps in existing wells or reduces flows of area springs or streams, unlawful impairment of existing rights questions may need to be answered. SDCL 46-6-6.1 authorizes the Water Management Board to protect domestic water use by controlling large capacity wells without the necessity of requiring maintenance of artesian head pressure in a domestic use well. The statute also provides for the lowering of a water lift mechanism to a depth near the bottom of the groundwater supply or, in artesian aquifers to a substantial depth below the geological formation confining the ground water. Considering this statute, although water levels may be affected, the affect may not be unlawful impairment.

SPECIAL CONSIDERATIONS:

The water rights/permits appropriating water from this existing well contain the qualification that the well flow must be reduced to a minimum when not being used. The Butte Meade Sanitary Water District's system is constructed in such a manner that the well flows continuously to a 20,000 gallon clear well and is pumped from there on demand to the system. The clear well is part of the system simply because of the concerns the Water District has with restricting the flow of the well. The Butte-Meade Sanitary District service pumps deliver an estimated 300-350 gpm from the clear well 10 hours per day (Rick Richards, personal communication). When Butte-Meade is using water, 250-300 gpm overflows the clear well. When the Sanitary District is not diverting water the entire flow of the well (600 gpm) is overflow.

Water Use from the well by Butte-Meade Sanitary Water District is reported to be (Rick Richards, personal communication)

Year	Annual Diversion
1992	80 MG (245.6 ac-ft)
1993	84.912 MG (260.7 ac-ft)
1994	101.133 MG (310.5 ac-ft)
1995	96.654 MG (296.7 ac-ft)
1996	91.1 MG (279.7 ac-ft)
1997	78.919MG (242.3 ac-ft)
1998 (as of 7/8/98)	51.814 MG (159.1 ac-ft)

Since the well flows 1.33 cfs continuously, 962.9 ac-ft of water is produced from the well annually. Overflow from the well between 1992 and 1997 has been between 720.6 ac-ft/yr and 652.4 ac-ft/yr. The argument can be made that this quantity of overflow is not a "minimum flow."

The well completion report for this well indicates the entire well casing was grouted with cement grout (although the amount of grout reportedly used does not compute well). This well flows at a greater rate than the Butte-Meade service pumps deliver and probably has higher pressure (175 psi estimated)

than the pumps generate. It should be possible to plumb a properly completed or rehabilitated well directly into the system without a clear well and the associated overflow of the current system.

This is an application to add 106 acres to that authorized by Water Permit No. 1096-1 and 1096A-1. The acreage originally under permit was split between two owners: Kok 147 acres, Wennberg 69 acres. The 69 acres held by Wennberg is no longer irrigated (Floyd Wennberg, personal communication). The right to irrigate the 69 acres may have been forfeited. Irrigation reported for this acreage is (Water Rights, 1998)

Year	Annual Diversion
1982	74.57 ac-ft
1983	203.29 ac-ft
1984	229 ac-ft
1985	200 ac-ft
1986	0
1987	0
1988	135 ac-ft
1989	95 ac-ft
1990	95 ac-ft
1991	0
1992	0
1993	0
1994	No report
1995	No report
1996	No report
1997	No report

The acreage held by Kok was placed in a government program (0-92) in 1991, and was "set aside for the summer months and could not be grazed until fall. Irrigating them [the fields] at this time was not practical or needed" and "rain fall...was sufficient until 1996" (Kok, 1998). The non-use of water from 1991 to 1996 may not constitute forfeiture of the Water Rights/Permits. Pursuant to SDCL 46-5-37.2 "no water right or permit may be forfeited for nonuse if land authorized for irrigation is placed under an acreage reserve or production quota program or otherwise withdrawn from use as required for participation in any federal program..."

If the irrigation rights have not been forfeited, the 147 acres originally covered under 1096-1 and 1096A-1 are entitled to a proportional share of the overflow 0.91 cfs and will retain an April 16, 1976 priority date. The remaining 0.42 cfs overflow (total well flow (1.33cfs) minus 0.91 cfs) and the 106 new acres authorized by this appropriation will retain a new priority date.

CONCLUSIONS:

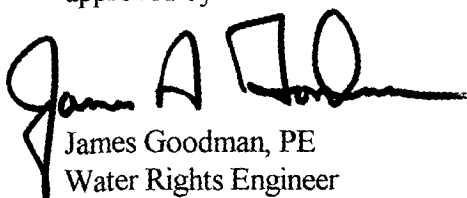
1. This application requests an appropriation from an existing well completed into the Madison Aquifer. The well flows 600 gpm and would have a shut in pressure of approximately 175 psi.
2. The Madison Aquifer is a viable aquifer and unappropriated water is available.

3. This application does not propose an increase of the diversion rate authorized for this well (1.33 cfs).
4. This application proposes only the utilization of "excess water" from the existing flowing well for irrigation purposes.
5. This appropriation will not adversely impair existing water rights.
6. Overflow from this well between 1992 and 1997 ranges from 652.4 ac-ft/yr. to 720.6 ac-ft/yr.
7. Water Permit No. 1096A-1 limits the use of water for irrigation to overflow to the dam from the well. This application will eliminate the dam component from the system.
8. Water Permit Nos. 1096A-1 and 1496-1 authorize a maximum diversion rate from this well of 1.33 cfs.
9. Any irrigation authorized from the overflow of this well places to beneficial use water that would otherwise, arguably, flow to waste. However, even if the entire well flow is used for irrigation between April 1 and September 30 (not likely without storage); based on the last six years RWS data, between 169.5 ac-ft (1994) and 237.7 ac-ft/yr. (1997) would still have "flowed to waste". This is a public interest/trust issue. The Water District may be required to control flow to the amount of water actually needed.
10. Excess capacity of the well can be made available for irrigation use.
11. The acreage authorized for irrigation by Water Right No. 1096-1 and Water Permit No. 1096A-1 was not irrigated from 1991 through 1996. Depending on interpretation of SDCL 46-5-37.2, this non-use of water may not constitute forfeiture of these water rights.
12. This application does not request an increase of the maximum diversion rate authorized from the well (1.33 cfs (authorized by Water Permit No. 1096A-1)). If the irrigation rights have not been forfeited, the 147 acres originally covered under 1096-1 and 1096A-1 are entitled to 0.91 cfs. The remaining 0.42 cfs overflow from the well, to be used to irrigate the 106 new acres authorized by this appropriation will receive a new priority date.



Ken Buhler
Water Rights Engineer

approved by



James Goodman, PE
Water Rights Engineer

REFERENCES:

- Allen, J.C., D.Iles, A.Petres, 1984, Analysis of Groundwater and Streamflow Data, Western Dakotas Region of South Dakota, Task 3 & 4: Groundwater Resources Inventory, US Army Corps of Engineers Contract DAWC 45-82-C-015, SD DENR- Geological Survey, Vermillion SD
- DeWitt, E., J.Redden, D. Buscher, A. Burback Wilson, 1989, Geologic Map of the Black Hills Area, South Dakota and Wyoming, U.S. Geological Survey, Map I-1910,
- Richards, R., 1998, personal communication, Butte-Meade Sanitary Water District, Newell, SD
- Water Rights Program, 1997, "Domestic Well Log Files, Observation Well Files, and Water Permit Files," DENR-Water Rights Program, Joe Foss Building, Pierre, SD
- Wennberg, F., 1998, personal communication,
- Woodward Clyde Consultants, 1981, Well Field Hydrology Technical Report, for the ETSI Coal Slurry Pipeline Project, U.S. Dept. of Interior, Bureau of Land Management



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPER RIGHT AWAY.

August 27, 1998

Lyndon and Jane Kok
RR 1, Box 246
Belle Fourche, SD 57717

Dear Mr. And Ms. Kok:

Water Permit Application No. 1670-1 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Belle Fourche Post printed at Belle Fourche, SD (Ph # (605) 892-2528). For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice of Hearing and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. The newspaper has been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

August 27, 1998

Belle Fourche Post
Box 400
Belle Fourche, SD 57717-0400

ATTENTION: Legal Department

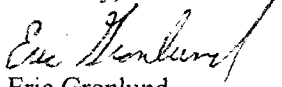
Enclosed is a Notice of Hearing on Application No. 1670-1 to Appropriate Water to be published twice. Please publish the first notice on September 2, 1998, with the second publication 7 days later.

The applicant must verify to you that the notice is to be published, before you make the first publication. **Please BILL the APPLICANT for the cost of publication.** The APPLICANTS are Lyndon and Jane Kok, RR 1, Box 246, Belle Fourche, SD 57717 (Ph # (605) 892-4432).

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** ~~The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.~~

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

No. 1670-1

TO: Eric Gronlund
Water Rights Program
Joe Foss Building
Pierre SD 57501-3181

Date _____

We are in receipt of your letter of August 27, 1998, enclosing Notice of Hearing to Appropriate Water by Application No. 1670-1 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper

Instruction to Newspaper - Publish first Notice on September 2, 1998, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 1670-1 to Appropriate Water

Notice is given that Lyndon and Jane Kok, RR 1 Box 246, Belle Fourche, SD 57717 have filed an application for a water permit for irrigation of 106 additional acres. Water Right No. 1096-1 authorizes 1.88 cubic feet of water per second (cfs) from one well (Madison Formation) 3511 feet deep located in the SE 1/4 SW 1/4 Sec 20 to irrigate 216 acres located in portions of the S1/2 SW1/4 Section 20 and the NW1/4, NE1/4, N1/2 SE1/4 Section 29, T9N, R3E. The water right authorizes flow from the well to a dam (9.2 acre-feet storage capacity) located in the NW1/4 NE1/4 Section 29, T9N, R3E prior to irrigation. Water Permit No. 1096A-1 decreased the diversion rate to reflect the well's flow of 1.33 cfs and transferred the use from irrigation to use by the Butte-Meade Sanitary Water District. Use of water for irrigation was to be limited to overflow to the dam from the well.

This application proposes modifications to the existing permitted acres and irrigation of 106 additional acres to accommodate a change in the method of irrigation to a gravity flood irrigation system on the parcel of land owned by the Kok's. A total of 253 acres will now be irrigated located in portions of the W1/2 SW1/4, NE1/4 SW1/4, SW1/4 NW1/4 Section 28, W1/2 NE1/4, SE1/4 NE1/4, N1/2 SE1/4, SE1/4 SE1/4 Section 29, NE1/4 NE1/4 Section 32, NW1/4 NW1/4 Section 33; all in T9N, R3E. This application proposes to appropriate the flow of the well that is not diverted by the Butte-Meade Sanitary Water District. This application does not request an increase in the diversion rate from the well. The applicant will no longer use the dam. Water from the well will be diverted via a ditch to a portion of the irrigated area and also to a low area in the SE1/4 NE1/4 Section 29, T9N, R3E. Water will be pumped from this low area at a rate up to the statutory limit of 3.61 cfs for flood irrigation on other portions of the irrigated area.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1670-1 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by September 21, 1998. The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

The Water Management Board will consider this application at 2:00 p.m., October 1, 1998, Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The October 1, 1998, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by September 21, 1998.

Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by September 21, 1998, at the above Water Rights Program address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. Nettie H. Myers, Secretary, Department of Environment and Natural Resources.



AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA
COUNTY OF BUTTE

Joan M. Lewis, being duly sworn, says: That the **Belle Fourche Post**, is and, during all the times hereinafter mentioned, was a legal newspaper as defined in SDCL 17-2-2, as amended, published at Belle Fourche, Butte County, South Dakota, by Dickson Media, Inc.; that affiant is and, during all of said times, was employed as an accountant by the publisher of such newspaper and has personal knowledge of the facts stated in the affidavit; the the notice, order or advertisement, a printed copy of which is attached, was published in said newspaper for successive issues, bearing the following dates:

Sept. 2 1998

Sept. 9 1998

199

199

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that the full amount of the fee charged for publishing the same, to-wit, the sum of \$ 71.21, inures solely to the benefit of the publisher of said newspaper; that no agreement or understanding for the division of the fee has been made with any person, and that no part of the fee has been agreed to be paid to any other person.

Joan M. Lewis
Bookkeeper

Subscribed and sworn to before me this

9th day of Sept., 1998

Leharita Brunner

Notary Public, South Dakota



NOTICE OF APPLICATION

NO. 1670-1 to Appropriate Water

Notice is given that Lyndon and Jane Kok, RR 1, Box 246, Belle Fourche, SD 57717 have filed an application for a water permit for irrigation of 106 additional acres. Water Right No. 1096-1, authorizes 1.88 cubic feet of water per second (cfs) from one well (Madison Formation) 3511 feet deep located in the SE1/4 SW1/4 Sec 20 to irrigate 216 acres located in portions of the S1/2 SW1/4 Section 20 and the NW1/4, NE1/4, N1/2 SE1/4 Section 29, T9N, R3E. The water right authorizes flow from the well to a dam (9.2 acre-foot storage capacity) located in the NW1/4 NE1/4 Section 29, T9N, R3E prior to irrigation. Water Permit No. 1096A-1 decreased the diversion rate to reflect the well's flow of 1.33 cfs and transferred the use from irrigation to use by the Butte-Meade Sanitary Water District. Use of water for irrigation was to be limited to overflow to the dam from the well.

This application proposes modifications to the existing permitted acres and irrigation of 106 additional acres to accommodate a change in the method of irrigation to a gravity flood irrigation system on the parcel of land owned by the Kok's. A total of 253 acres will now be irrigated located in portions of the W1/2 SW1/4, NE1/4 SW1/4, SW1/4 NW1/4 Section 28, W1/2 NE1/4, SE1/4 NE1/4, N1/2 SE1/4, SE1/4 SE1/4 Section 29, NE1/4 NE1/4 Section 32, NW1/4 NW1/4 Section 33; all in T9N, R3E. This application proposes to appropriate the flow of the well that is not diverted by the Butte-Meade Sanitary Water District. This application does not request an increase in the diversion rate from the well. The applicant will no longer use the dam. Water from the well will be diverted via a ditch to a portion of the irrigated area and also to a low area in the SE1/4 NE1/4 Section 29, T9N, R3E. Water will be pumped from this low area at a rate up to the statutory limit of 3.61 cfs for flood irrigation on other portions of the irrigated area.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1670-1 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by September 21, 1998. The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

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Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by September 21, 1998, at the above Water Rights Program address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.4, 46-5-31, 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

Nettie H. Myers, Secretary
Department of
Environment and
Natural Resources

P2t9/2-9

76-5-30.2

Omission of statute cite
46-5-30.2 is not considered
to invalidate public notice
and require readvertisement

Eric J.

reviewed 9/15/98
by EJJ

PARTIES OF RECORD

WATER PERMIT APPLICATION NO. 1670-1, Lyndon and Jane Kok

APPLICANT

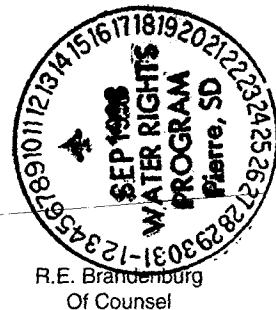
Lyndon and Jane Kok
RR 1 Box 246
Belle Fourche SD 57717

PETITIONERS

Kenneth Barker
Quinn, Eiesland, Day & Barker
P.O. Box 370
Belle Fourche SD 57717-0370

Terence R. Quinn
Gregory A. Eiesland†
Michael W. Day
Kenneth E. Barker†*
Robert L. Morris
Bradley A. Schreiber**
Michael A. Wilson
Michael P. Reynolds***
Michael C. Loos

QUINN, EIESLAND, DAY & BARKER, Prof. L.L.C.
Law Offices



R.E. Brandenburg
Of Counsel

REPLY TO: BELLE FOURCHE OFFICE

September 9, 1998

Mr. Ken Buhler
Water Rights Engineer
Department of Environment and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

Re: Lyndon and Jane Kok
Water Permit Application No. 1670-1
Our File No. 5473

Dear Mr. Buhler:

I am writing in support of Water Permit Application No. 1670-1 submitted by Lyndon and Jane Kok of rural Belle Fourche. I am writing not only to support the application but also to provide you with background information concerning the overflow of that well. I was the attorney who represented Butte-Meade Sanitary Water District at the time that the District originally applied for use of the water from the well for its expanded service area. The notation on the second page of Mr. Gronlund's letter of August 27, 1998 to Mr. and Mrs. Kok caused me to respond.

It is my understanding that the Department is concerned about the unregulated overflow of water that is not utilized by the Butte-Meade Sanitary Water District. It is my understanding that the overflow was supposed to be metered and I have no information for why it is not being metered since I have not represented the District for a number of years. I am concerned, however, that the Department may require that the overflow be cut down. I should advise you at the outset, however, my concern for the overflow is derived from a hunting lease for waterfowl that I and my partners have had on the pond almost since the well was originally drilled!

In all seriousness, we are concerned that the Department may require Butte-Meade to restrict the overflow which may be to the detriment of the well. As the Department's



117 5th Avenue, P.O. Box 370, Belle Fourche, SD 57717-0370, Phone (605) 892-2743, Fax (605) 892-4273

4200 Beach Drive, P.O. Box 9335, Rapid City, SD 57709-9335, Phone (605) 343-6400, Fax (605) 343-4841

†Certified as Civil Trial Specialists by The National Board of Trial Advocacy * Also Licensed in Wyoming **Also Licensed in Montana ***Also Licensed in Wyoming & Illinois

Mr. Ken Buhler
September 9, 1998
Page 2

engineers will confirm, a similar free-flowing Madison well near this was shut down several years ago with the resulting "blow-out" and an uncontrolled flow. When we originally applied for the permit, we advised the Department of this concern and it seemed that the staff was cognizant of that possibility.

Secondly, the overflow is being applied to a beneficial use. Of course, the Koks' application of the overflow to irrigation water speaks for itself. But in addition to that, the Department of Game, Fish and Parks deemed the overflow sufficiently important to wildlife habitat that it contributed \$2,500 to the rehabilitation efforts that Mr. Kok applied to the pond several years ago. Certainly, it goes without saying that the Department of Game, Fish and Parks' investment in the resource should not go wasted.

As a corollary matter, the Koks use the overflow to water livestock, also. The water that is remaining does flow down a stream but is collected at the Belle Fourche Reservoir, a short distance away. As all of us know, the water in the Belle Fourche Reservoir is utilized for irrigation and recreational purposes. The short distance that the water travels from the well to the Reservoir would allow for relatively little waste.

Accordingly, if it is determined some time in the future that the overflow from this well must be regulated, I would respectfully ask that the Department keep in mind the beneficial uses described in this letter. If I can be of further assistance or answer any questions, please feel free to contact me.

Very truly yours,

QUINN, EIESLAND, DAY & BARKER, Prof. L.L.C.



Kenneth E. Barker

KEB/bl

cc: Lyndon and Jane Kok

Dictated but not signed or
reviewed by Author to
expedite mailing.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

NOV 10 1998

Lyndon and Jane Kok
RR 1, Box 246
Belle Fourche, SD 57717

Dear Mr. And Ms. Kok:

Enclosed is Water Permit No. 1670-1 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Also enclosed is Form 10, Notice of Completion of Works and Application of Water to Beneficial Use, which you are to complete and submit to the Chief Engineer when you have completed the system and/or have put the water to beneficial use. An inspection can then be scheduled so that the Water License may be issued, thus completing your acquisition of a Water Right.

Very truly yours,

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

enclosures

PLEASE NOTE: Certain changes may be made to your water permit usually without affecting the priority date. The location of a point of diversion may be changed or additional points of diversion may be approved if the water source remains unchanged; no additional water is appropriated; and, if irrigating, no additional land is irrigated. The change may be allowed without application or publication, if the Water Rights Program is contacted and the chief engineer makes a finding that the change does not increase the potential for interference with existing diversions.

A new water permit application is required to change water sources, increase the permitted diversion rate, or increase the irrigated acreage. If the application is approved, the water permit will receive a new priority date.

Water Rights Program -- File Documentation

NAME: Butte-Meade Sanitary Water District c/o Dale Knutson, Manager

ADDRESS: PO Box 5, Newell SD 57760

DATE: October 10, 1997 **COUNTY:** Butte **TELEPHONE:** (605) 456-2288

RE: Status of Water Permit Nos. 1096-1, 1096A-1, 1496-1 & 1504-1

COMMENTS:

On August 12, 1997 I spoke with Dale Knutson concerning the status of Water Right Permit Nos. 1096-1, 1096A-1, 1496-1 & 1504-1. Mr. Knutson indicated that the flow rate from the well is 550 to 600 gpm when not being diverted into the system. Currently, the flow the water system is approximately 400 gpm with overflow going to the dam. According to Mr. Knutson, there is the possibility that more than 400 gpm will be diverted as system use grows. The time period to place water to beneficial use expires on October 3, 1999 as specified on Permit Nos. 1096A-1 and 1496-1. Mr. Knutson would like to wait with licensing of the permits since the diversion rate may increase to meet future demands on the system.

The irrigated acreage has been split between owners as follows:

Floyd E and Merel Wennberg

SW $\frac{1}{4}$ SW $\frac{1}{4}$ sec 20

NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ sec 29

Lyndon S and Jane E Kok

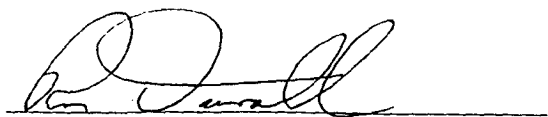
SE $\frac{1}{4}$ SW $\frac{1}{4}$ sec 20

NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ sec 29

The center pivots observed by Leroy Mernaugh, former staff engineer, during his investigation completed on October 10, 1984 are no longer in place. Mr. and Mrs. Wennberg were not available to discuss their portion of the permitted acreage and Lyndon Kok was out of town according to Tim Martin. Mr. Martin was at the site with a spade diverting water from a recently dug ditch. The ditch extended from near the flowing well through an alfalfa field. According to Mr. Martin, Lyndon Kok was experimenting using gravity flow via ditch to do some irrigating. I informed Mr. Martin that a portion of the area that the ditch could irrigate is outside of the permitted acreage and would need to be included on the permit if the ditch was to remain in place. The ditch amounted to furrow that you could create using a plowshare.

RECOMMENDED ACTION:

Based on comments by Mr. Knutson, licensing of the permits for rural water use should wait until the time period to place water to beneficial use expires in October 1999. If the changes made to the irrigation system remain in place, then a change in location of irrigated acreage will be needed.



Ron Duvall, Natural Resources Engineer
Water Rights Program

NOTICE OF COMPLETION OF WORKS AND APPLICATION OF WATER TO BENEFICIAL USE

Date

11-10-01

TO: Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181



FROM:

LYNDAN & JANE KOK
(name)

RRI Box 246
(address)

BELLE FOURCHE, SD 57717
(city, state, zip)

605 892-4432
(phone)

I have completed the construction of the water use system and I have put the water to beneficial use to the maximum extent it is going to be used.

Water Permit No. 1670-1 states that the water use system is to be constructed by

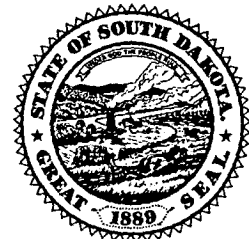
Oct 1, 2003, and water is to be put to beneficial use by Oct 1, 2007
(date) (date)

The water use system was completed on Nov 7, 2001
(date)

Applying the water to beneficial use was completed on Nov 7, 2001
(date)

You may schedule an investigation so that the water license may be issued.

Lyndon Kok
(signature)
Jane E. Kok





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 29, 2002

1670-1

Lyndon and Jane Kok
RR 1 Box 246
Belle Fourche SD 57717

Dear Mr. & Mrs. Kok:

On August 1, 2001 the investigation of your water use system, including the extent of application of water to beneficial use, as developed under Water Permit No. 1670-1, was completed by Mark Rath, a staff engineer with our program. Your final water right document, the water license, can now be issued.

State law requires that we charge a \$50.00 fee for the investigation and issuance of the water license. Upon receipt of the \$50.00 fee from you, we will complete processing your water license. The check or money order for the fee should be made payable to the "Water Rights Program".

Your licensed water right will be similar to a property right that can not be lost as long as the water use continues and you abide by the permit requirements.

If you have any questions regarding the water permit, investigation of your water use system or payment of the fee, please contact Genny McMath with our program at (605) 773-3352.

Sincerely,

Karen Schlaak
Environmental Scientist
Water Rights Program
(605) 773-3352

RECEIPT
Water Rights Program
South Dakota Department of Environment and Natural Resources

417071

Pierre, February 1, 20 02

RECEIVED OF Lyndon & Jane Kck, RR 1 Box 246, Belle Fourche, SD 57717
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 _____		
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>1670-1</u>	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	50 00

By Darlene Erbe
Chief Engineer gm

Permit No. 1670-1
Belle Fourche River - Water District

Contact Person & Address: Lyndon Kok, RR 1 Box 246, Belle Fourche SD 57717

Related Permits: 1096-1 & 1504-1

Report Of Examination Of Works

On, August 1, 2001, I made a thorough examination of the water use system constructed by Lyndon and Jane Kok of RR 1 Box 246, Belle Fourche SD 57717 holder of Permit No. 1670-1, authorizes the irrigation of 253 acres total bearing the priority dates of April 16, 1976 for irrigation of 147 acres and June 9, 1998 for irrigation of 106 acres from an authorized the diversion rate of 1.33 cu. ft. per second of the waters of ground water for irrigation purposes, in Butte County.

The system is in the following condition good The point of diversion is located from the SW corner of Sec 20 T9N-R3E; 2360 ft east and 100 ft north with a longitude of -103.78183 and a latitude of 44.72036. The . The water for this project is overflow from a flowing well which is capable of diverting and conveying to the small holding pond 1.33 cu. ft. per second of water which is to be used for irrigation. Butte-Meade Sanitary Water District utilizes a portion of this well water for a water supply for a rural water system under permit Nos. 1096A-1, 1496-1 and 1504-1. The portion of the water that overflows from the well and not used by the Rural Water System runs down a water way into laterals for gravity irrigation with the remainder of the water flowing into a small regulating dugout where water is pumped to uplands for irrigation through gated pipe at a rate of 3.61 cfs. The water right holder is authorized to pump from the low area at a rate up to 3.61 cfs for flood irrigation. Water has been put to beneficial use to the maximum extent as follows:

Land located in Sec 28 T9N-R3E

SW ¼ NW ¼ - 27 ac SE ¼ NW ¼ - 2 ac NW ¼ SW ¼ - 26 ac NE ¼ SW ¼ - 3 ac SW ¼ SW ¼ - 32 ac

Land located in Sec 29 T9N-R3E

NW ¼ NE ¼ - 13 ac NE ¼ NE ¼ - 3 ac SE ¼ NE ¼ - 40 ac SW ¼ NE ¼ - 34 ac NW ¼ SE ¼ - 1 ac
NE ¼ SE¼ - 14 ac SE ¼ SE ¼ - 34 ac

Land located in Sec 33 T9N-R3E

NW ¼ NW ¼ - 24 ac

comprising a total of 253 acres of land and the license should be issued for 1.33 cfs from the well and 3.61 cfs from the holding pond.

Review of Permit Qualifications And Regulations:

- 1) Special qualifications to permit being abided by yes
- 2) All structures, wells and lands on map yes
- 3) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period yes.

- 4) Exceptions to compliance are: none

Report On the Specifics of the System

Diversion Point Information:

Well Information:

- 1) Well Drilling Firm: Venekamp 2) No. of Wells 1
3) Depth(s) 3511 feet 4) Well log is available yes

Casing:

- 1) Diameter 7 inches 2) Length 3467 feet
3) Type steel

Screen:

- 1) Type openhole 2) Length na feet
3) Static water level flowing well feet

DISTRIBUTION LINES OR CANALS:

- 1) Type aluminum 2) Size 6 inches 3) Length 2000 feet

SYSTEM TYPE:

Gated Pipe:

- 1) Length 1320 feet 2) Diameter 6 inches

CHEMIGATION EQUIPMENT:

- 1) Does chemigate no

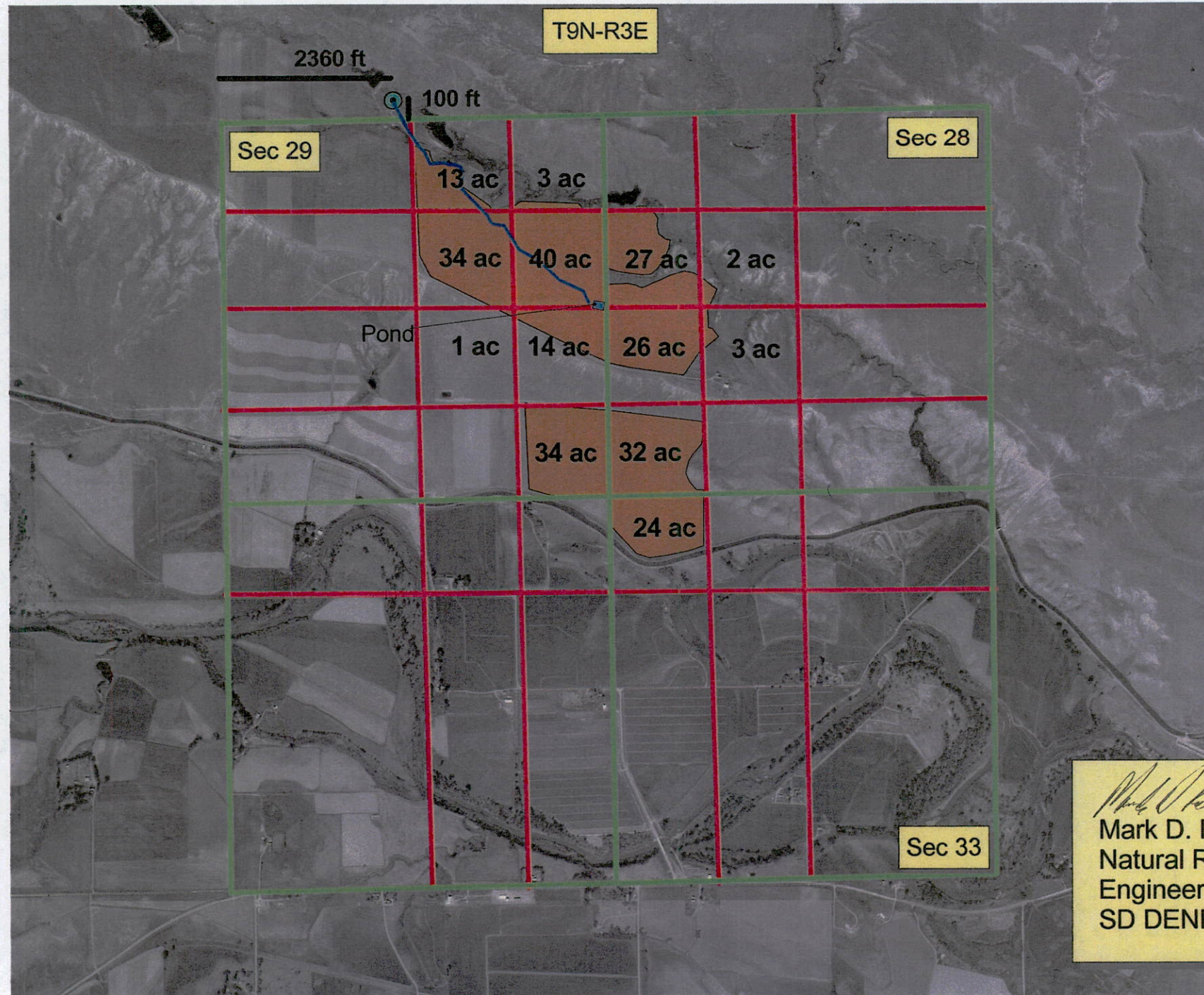


Mark D. Rath
Natural Resources Engineering Specialist
DENR, Water Rights Program

4-04-02

Date

No. 1670-1



South Dakota



Mark D. Rath 11-19-01
Mark D. Rath
Natural Resources
Engineering Specialist
SD DENR

0.5 0 0.5 1 1.5 2 Miles

RECEIVED

FEB - 3 2014

WATER RIGHTS
PROGRAM

SD EForm - 0495LD V2 NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

Mail to: PMB 2020
DENR - Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182

Water Right/Permit No. 1670-1

Date: 1/31/14

I/We request that Water Right/Permit No. 1670-1 formerly owned by:
Lyndon Kok and Jane Kok be transferred to:

New Owner Name: Bar Bar V Livestock, LLC

Address: 14476 Marty Rd

City, State, Zip Newell ☒ SD ☒ 57760 Telephone No. 605-866-4868

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

SEE ATTACHED LEGAL DESCRIPTION

☒ I understand that the validity of Water Right/Permit No. 1670-1 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

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 included to cover the filing fee as required by SDCL 46-2-13.

I, Bar Bar V Livestock LLC, the new owner, certify that the above information is true and correct.


(signed by new owner)
Is President

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.

EXHIBIT A

LEGAL DESCRIPTION

Township 9 North, Range 3 East, of the Black Hills Meridian, Butte County, South Dakota:

Section 28: W $\frac{1}{2}$, less that part of Tract 1 of Kok's Tracts lying in the SW $\frac{1}{4}$, as shown by the Plat recorded as

Document #2002-1852 and less Lot K located in the N $\frac{1}{2}$ SW $\frac{1}{4}$, as shown by the Plat recorded as Document #2006-3142.

AND

Tract 2 of Kok's Tracts located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$, and NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 29 and the

SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, all located in Township 9 North, Range 3 East of the Black Hills Meridian, Butte

County, South Dakota as shown by the Plat recorded as Document #2002-1852.

AND

Tract 1 in NE $\frac{1}{4}$ of Section 32 and the NW $\frac{1}{4}$ of Section 33, Township 9 North, Range 3 East, of the Black Hills Meridian, Butte County, South Dakota, as shown by the plat recorded in Plat Book 13 on Page 34, less Tract 1 of Kok's Tracts lying in the NE $\frac{1}{4}$ of Section 32 as shown by the Plat recorded as Document #2002-1852.

AND

Lot K, located in the N $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 28, Township 9 North, Range 3 East of the Black Hills Meridian, Butte County, South Dakota, as shown by the Plat recorded as Document #2006-3142, together with the right of ingress and egress over and across the N $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 28, Township 9 North, Range 3 East of the Black Hills Meridian, Butte County, South Dakota

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 2/3, 20 14

RECEIVED OF Black Hills Title & Abstract PO Box 459 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>1670-1</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. _____	50	00
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No. **06715**

By Jeane Landman
Chief Engineer

1670-1



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

March 16, 2015

Derek Brink
14476 Marty Rd
Newell SD 57760

Dear Mr. Brink:

As a follow-up to our phone conversation, please find attached the following:

1. Partially completed notice of transfer of ownership form.
2. The entire administrative record for Water Permit No. 1670-1
3. Water Permit Nos. 1096A-1, 1496-1 and 1504-1 held by the Butte Meade system from the Madison well.

I hope this information is helpful.

Sincerely,

Eric Gronlund

Water Rights Program, DENR

605 773-3352

Eric.gronlund@state.sd.us

enclosures

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 1670-1

(1) Lyndon & Jane Kok, Belle Fourche SD 57717 made Application No. 1670-1, June 9, 1998 for a water permit to modify existing permitted acres and authorize irrigation of an additional 106 acres to accommodate a change in the method of irrigation. The existing well (Madison Formation) flows at a rate of 1.33 cubic feet of water per second (cfs) and is used by the Butte Meade Sanitary Water District. Water Permit No. 1670-1 authorizes appropriation of the flow of the well when not diverted by the Butte-Meade Sanitary Water District. The irrigation project is located in Butte County, South Dakota. Permit No. 1670-1, with priority dates of June 9, 1998 (106 additional acres) and April 16, 1976 (original 147 acres) was approved October 1, 1998 and issued to the applicants for diversion of water with construction of the described water supply system to be completed on or before October 1, 2003 and for the application to beneficial use of said water on or before October 1, 2007.

Water Right No. 1096-1, held by Butte Meade Sanitary Water District with a priority date of April 16, 1976, authorized diversion of water from one well (Madison Formation) at a maximum rate of 1.88 cfs and a storage dam for irrigation of 216 acres. The authorized irrigated acres were by land ownership with 147 acres owned by Kok and 69 acres owned by Wennberg.

Water Permit No. 1096A-1 held by Butte Meade Sanitary Water District transferred the use of 1.33 cfs from irrigation to rural water system use by Butte Meade Sanitary Water District with any excess flow to continue to be used for irrigation of the land in Water Right No. 1096-1.

Water Permit No. 1670-1 modified the permitted acres associated with Kok's 147 acres and added 106 acres for a total of 253 acres. The permit authorizes appropriation of the flow of the Madison well up to the 1.33 cfs that is not diverted by the Butte Meade Sanitary Water District. This permit also provided that water from the well will be diverted via a ditch to a portion of the irrigated acres and also to a low area instead of the storage dam authorized by Water Right No. 1096-1. The permit authorized diversion at a rate of 3.61 cfs from the low area for irrigation of other portions of the irrigated acres.

On February 3, 2014, Water Right No. 1096-1 (portion associated with Kok's 147 acres) and Water Permit No. 1670-1 were transferred to Bar Bar V Livestock LLC, Derek Brink, President.

The applicable portions of Water Right No. 1096-1 associated with the Bar Bar V Livestock (originally Kok) land are being incorporated into this Water License No. 1670-1. No. 1670-1 appropriates flow of the well that is not diverted by the Butte-Meade Sanitary Water District. The portion of water that overflows from the well and is not used by the sanitary water district flows down a waterway into laterals for gravity irrigation with the remainder of the water flowing into a small regulating dugout in the low area where water is pumped for irrigation of authorized land at a rate of 3.61 cfs.

(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 1.33 cubic feet of water per second for beneficial use limited to overflow from the Madison well when not used by Butte Meade Sanitary Water District. Water is used directly for irrigation or diversion is to a low area for irrigation at a rate of 3.61 cubic feet of water diverted from a regulating dugout.

continued

Water License No. 1670-1

The location of the Madison well is 2,360 feet east and 100 feet north of the SW corner of Section 20, T9N, R3E (SE ¼ SW ¼) and the regulating dugout approximately 250 feet east and 2,570 feet south of the NE corner of Section 29, T9N, R3E (SE ¼ NE ¼).

(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 28, T9N, R3E		Section 29, T9N, R3E		Section 33, T9N, R3E	
SW ¼ NW ¼	27 acres	NW ¼ NE ¼	13 acres	NW ¼ NW ¼	24 acres
SE ¼ NW ¼	2 acres	NE ¼ NE ¼	3 acres		
NW ¼ SW ¼	26 acres	SE ¼ NE ¼	40 acres		
NE ¼ SW ¼	3 acres	SW ¼ NE ¼	34 acres		
SW ¼ SW ¼	32 acres	NW ¼ SE ¼	1 acre		
		NE ¼ SE ¼	14 acres		
		SE ¼ SE ¼	34 acres		
				Total irrigated acres - 253	

(4) Pursuant to South Dakota Water Law 46-5-30.1 Bar Bar V Livestock LLC, 14476 Marty Rd, Newell SD 57760 the holder and/or owner of incorporated Water Right No. 1670-1 is issued a license to appropriate water, the right to use the overflow from Butte-Meade Sanitary Water District at a rate of 1.33 cubic feet of water per second from ground water (one well – Madison Formation) with priority dates of April 16, 1976 (147 acres) and June 9, 1998 (106 acres) from the locations specified in (2) of this license for irrigation purposes. The use of water from the well is limited to overflow from the Madison well not used by Butte Meade Sanitary District for rural water system purposes. The water right holder is authorized to pump from the low area regulating dugout at a rate of up to 3.61 cfs to irrigate the authorized acres.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 1670-1 and subject to the following qualification:

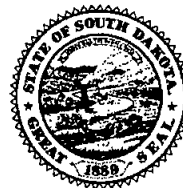
- This permit is approved subject to the irrigation water use questionnaire being submitted each year.



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

OCT 01 2015

date





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

1096-1
1670-1

OCT 01 2015

Derek Brink
Bar Bar V Livestock LLC
14476 Marty Rd
Newell SD 57760

Dear Mr. Brink:

Enclosed is Water License No. 1670-1, issued in the name of Bar Bar V Livestock LLC. This is the final water right document completing the process of obtaining a Water Right. Included with the license is a map prepared by the staff engineer who conducted the field investigation.

On February 3, 2014, ownership changes were filed for the portions of Water Right No. 1096-1 formerly owned by Lyndon and Jane Kok and Water Permit No. 1670-1, listed in their names. The ownership changes, effective the day they were received, transferred Nos. 1096-1 and 1670-1 to Bar Bar V Livestock LLC. Upon licensing, the applicable portions of Water Right No. 1096-1 were incorporated into Water License No. 1670-1. The receipts for the filing fees are being forwarded by copy of this letter to Black Hills Title & Abstract in Spearfish, SD.

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

c: Black Hills Title & Abstract, PO Box 459, Spearfish SD 57783



1670-1
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 26, 2018

NOTICE

TO: BAR BAR V LIVESTOCK LLC, DEREK BRINK, PRESIDENT, 14476 MARTY RD,
NEWELL, SD 57760

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2017 Irrigation Questionnaire(s)

Our records indicate your 2017 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 1670-1. The request for the Questionnaire was dated October 20, 2017. The Water Management Board has directed that owners of water permits who have not submitted the 2017 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 1670-1 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

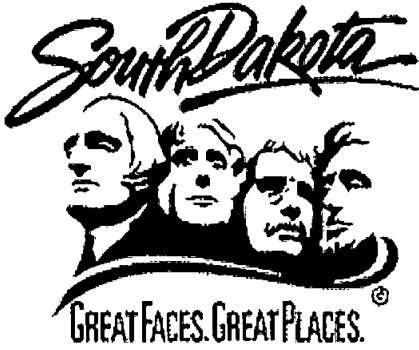
The hearing will be held at **Wednesday, March 7, 2018 at 10:00 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 1670-1 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner 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.

If the questionnaire(s) is (are) received in this office before the **March 7, 2018** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.denr.sd.gov

February 6, 2018

1670-1

Derek Brink
Bar Bar V Livestock LLC
14476 Marty Rd
Newell SD 57760

Dear Mr. Brink:

I am writing to acknowledge receipt of your 2017 irrigation questionnaire.

You may disregard the January 26, 2018, "Notice" concerning reporting requirements for Water Permit No. 1670-1. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

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

1670-1

RECEIPT

WATER RIGHTS PROGRAM South Dakota Department of Agriculture and Natural Resources

Date August 10, 2022

RECEIVED OF Ensiz Appraisal LLC PO Box 307 Belle Fourche SD 57717

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	\$ _____
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>1670-1</u>	<u>\$50.00</u>
Fee for _____	\$ _____
Fee for Issuing New Well Driller's License No. _____	\$ _____
Fee for Renewal of Well Driller's License No. _____	\$ _____
Fee for Issuing Well Pump Installer's License No. _____	\$ _____
Fee for Renewal of Well Pump Installer's License No. _____	\$ _____
(Any Other Work Provided by Law) TOTAL	<u>\$50.00</u>

By Eric Gronlund
Chief Engineer
vm

PAID

AUG 10 2022

Ck# 2506

Rec't# _____

SD EForm - 0495LD V2

NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

RECEIVED

Mail to: PMB 2020
DENR - Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182

AUG 10 2022

OFFICE OF
WATER

Water Right/Permit No. 1670-1
Date: 9-25-2022

I/We request that Water Right/Permit No. 1670-1 formerly owned by:

Bar Bar V Livestock, LLC

be transferred to:

New Owner Name:

Buddy L. Ireland, Peggy A. Ireland, Kami S. Ireland, Land

Address:

18542

City, State, Zip

Belle Fourche SD 57717

Telephone No. _____

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

See Attached Warranty Deed

☒ I understand that the validity of Water Right/Permit No. 1670-1 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

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 included to cover the filing fee as required by SDCL 46-2-13.

I, Buddy L. Ireland, the new owner, certify that the above information is true and correct.

Buddy L. Ireland
(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.

18542 Dry Creek Rd, Belle Fourche SD

2022-1493

BOOK 525 PAGE 459

1670-1

Prepared By:

BENNETT MAIN GUBBRUD & WILLERT, P.C.
618 State Street
Belle Fourche, SD 57717
Phone No. 605-892-2011

Doc # 020221493 Book 525 Page(s) 459 - 461

Recorded July 11, 2022 at 8:30 AM

Fee \$30.00

Transfer Fee \$2950.00

Paula J. Walker Register of Deeds

Butte County, South Dakota

RECEIVED

AUG 10 2022

OFFICE OF
WATER

#92662



WARRANTY DEED

BAR BAR V LIVESTOCK, LLC, a South Dakota limited liability company, Grantor, of 14476 Marty Road, Newell, South Dakota 57760, for and in consideration of Two Million Nine Hundred Fifty Thousand Dollars (\$2,950,000.00) and other good and valuable consideration, grants, conveys, and warrants an undivided one-half interest to **BUDDY L. IRELAND** and **PEGGY A. IRELAND**, husband and wife, as joint tenants with right of survivorship, of 18542 Dry Creek Road, Belle Fourche, South Dakota 57717 and an undivided one-half interest to **KAMI S. IRELAND**, a single person, and **LANA M. DACAR**, a married person, as joint tenants with right of survivorship, of 18542 Dry Creek Road, Belle Fourche, South Dakota 57717, Grantees, the following described real property:

Township 9 North, Range 3 East of the Black Hills Meridian, Butte County, South Dakota:

Section 22: E $\frac{1}{2}$; E $\frac{1}{2}$ W $\frac{1}{2}$; W $\frac{1}{2}$ NW $\frac{1}{4}$; W $\frac{1}{2}$ SW $\frac{1}{4}$

Section 26: NW $\frac{1}{4}$ NW $\frac{1}{4}$; S $\frac{1}{2}$ NW $\frac{1}{4}$

Section 27: N $\frac{1}{2}$; N $\frac{1}{2}$ SW $\frac{1}{4}$; SW $\frac{1}{4}$ SW $\frac{1}{4}$; NW $\frac{1}{4}$ SE $\frac{1}{4}$

Section 28: E $\frac{1}{2}$; W $\frac{1}{2}$, less that part of Tract 1 of Kok's Tracts lying in the SW $\frac{1}{4}$, as shown by the Plat recorded as Document #2002-1852 and less Lot K located in the N $\frac{1}{2}$ SW $\frac{1}{4}$, as shown by the Plat recorded as Document #2006-3142

Section 33: All that portion of the N $\frac{1}{2}$ N $\frac{1}{2}$ lying north of the inlet canal as described in Book 25 on Page 7, and as shown by the Record of Survey recorded as Document #2015-274, less Tract 1 located in the NW $\frac{1}{4}$, as shown by the Plat recorded in Plat Book 13 on Page 34

Section 34: W $\frac{1}{2}$ NW $\frac{1}{4}$, except Tract A, as shown by the Plat recorded in Plat Book 12 on Page 31A & except Tract B, as shown

by the Plat recorded as Document #2007-2702, and less that land as granted to the United State of America and described in that Warranty Deed recorded in Book 25 on Page 7

-AND-

Tract 2 of Kok's Tracts located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$, and NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 29 and the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, all located in Township 9 North, Range 3 East of the Black Hills Meridian, Butte County, South Dakota as shown by the Plat recorded as Document #2002-1852

RECEIVED

AUG 10 2022

OFFICE OF
WATER

-AND-

Tract 1 in NE $\frac{1}{4}$ of Section 32 and the NW $\frac{1}{4}$ of Section 33, Township 9 North, Range 3 East, of the Black Hills Meridian, Butte County, South Dakota, as shown by the plat recorded in Plat Book 13 on Page 34, less Tract 1 of Kok's Tracts lying in the NE $\frac{1}{4}$ of Section 32 as shown by the Plat recorded as Document #2002-1852

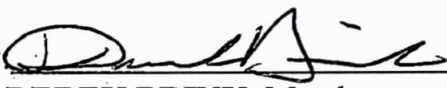
-AND-

Lot K, located in the N $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 28, Township 9 North, Range 3 East of the Black Hills Meridian, Butte County, South Dakota, as shown by the Plat recorded as Document #2006-3142

subject to all reservations, easements and rights-of-way expressly conveyed or reserved in prior grants and/or deeds, or created by operation of Federal or State law.

DATED this 29 day of June, 2022.

BAR BAR V LIVESTOCK, LLC, a South
Dakota limited liability company

By 
DEREK BRINK, Member

RECEIVED

AUG 10 2022

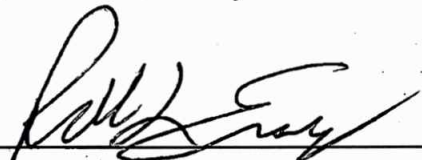
OFFICE OF
WATER

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

On this the 29 day of June, 2022, before me, the undersigned officer, personally appeared **DEREK BRINK**, who acknowledged himself to be a Member of **BAR BAR V LIVESTOCK LLC**, a South Dakota limited liability company, and he, as such officer, being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of the company by himself as such Member.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.





Notary Public My Commission Expires
My Comm. Exps.: December 13, 2022



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

August 10, 2022

1670-1

Buddy L Ireland
18542 Dry Creek Rd
Belle Fourche SD 57717

RE: Water Right No. 1670-1

Dear Mr. Ireland:

I am writing to acknowledge receipt of the transfer form and filing fee submitted for filing an ownership change on Water Right No. 1670-1. The ownership change has been completed.

The water right formerly held by Bar Bar V Livestock LLC (Derek Brink) is now listed under Buddy L Ireland, Peggy A Ireland, Kami S Ireland and Lana M Dacar.

Each year we mail irrigators in South Dakota an irrigation questionnaire for reporting how much water they pumped during that specific crop season. I am enclosing a sample copy of the form to give you an idea of what type of information to keep track of during the growing season. The actual form that will need to be completed and returned to us will be mailed to you in October.

The receipt for the filing fee that was paid is being forwarded by copy of this letter to Ensz Appraisal LLC in Belle Fourche SD.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us

c: Ensz Appraisal LLC, Belle Fourche SD



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 14, 2025

NOTICE

TO: BUDDY & PEGGY IRELAND, 18542 DRY CREEK RD, BELLE FOURCHE, SD 57717

FROM: Ron Duvall, Engineer III
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2024 Irrigation Questionnaire(s)

Our records indicate your 2024 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 1670-1. The request for the Questionnaire was dated October 23, 2024. The Water Management Board has directed owners of water permits who have not submitted the 2024 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 1670-1 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held on **Wednesday, March 5, 2025, at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 1670-1 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner 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.

If the questionnaire(s) is (are) received in this office before the **March 5, 2025**, hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: NGFDXN**

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

February 20, 2025

1670-1

Bud Ireland
18542 Dry Creek Rd
Belle Fourche SD 57717

Dear Mr. Ireland:

I am writing to acknowledge the receipt of your 2024 irrigation questionnaire(s).

You may disregard the January 14, 2025, "Notice" concerning the reporting requirements for Water Permit No(s). 1670-1. The information was received prior to the March 5, 2025, Water Management Board meeting and the above listed permit number(s) have been removed from the agenda.

If you have any questions or concerns, please contact me.

Sincerely,

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