

**WATER PERMIT NO. 1783-1**

Name of Applicant: Fenton Farm, Inc.

Address: HC 76 Box 150, Nisland SD 57762

Phone: 605 257-2251

Amount of Water Claimed: 0.96 cfs

Total Acres: 69.4

Source of Water Supply: Belle Fourche River

Water to be used for: irrigation

County: Butte

Type of Waste Disposal System:

Location: 2 miles east of Nisland

PRIORITY Date Received: 2-14-2003

Application/License Fee: \$275

Corrected Application Received: 2-23-2003

Period of Annual Use: April 1 – August 30

Remarks:

Diversion Point:  SE ¼ SE ¼ Sec 10-T8N-R5E

Land to be Irrigated: SE ¼ Sec 10-T8N-R5E

Depth of Well: NA

Well Driller: : NA

Remarks:

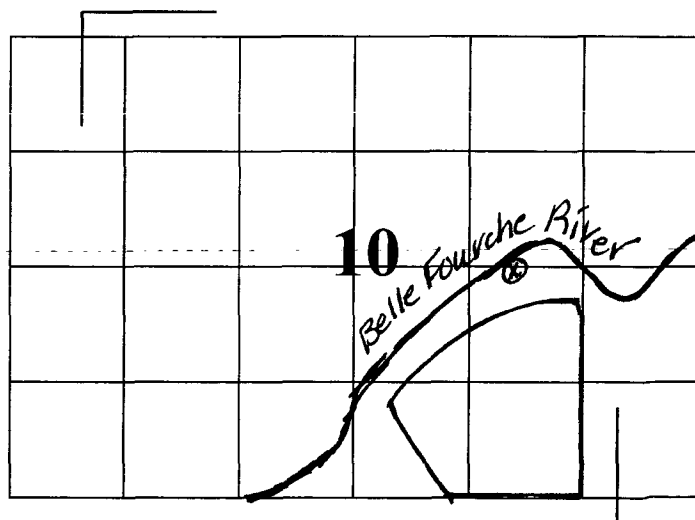
Type of Map: aerial

Prepared by: Gary Richards, NRCS

Reviewed and the Number Assigned on: 1-24-2003

By: Karen Schlaak

Notice of Hearing - date to intervene: \_\_\_\_\_



|                                                                                                                    |                                                    |                                 |
|--------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|---------------------------------|
| Mail to:<br>Water Rights Program<br>Joe Foss Building<br>523 E. Capitol<br>Pierre, SD 57501-3181<br>(605) 773-3352 | (office use only)                                  |                                 |
|                                                                                                                    | No. <u>1783-1</u>                                  | Hydrologic Unit <u>10120202</u> |
|                                                                                                                    | Basin <u>Belle Fourche River</u>                   |                                 |
|                                                                                                                    | Newspaper <u>Belle Fourche Post, Belle Fourche</u> |                                 |

RECEIVED  
JAN 14 2003  
WATER RIGHTS  
PROGRAM

## Application For Permit To Appropriate Water For Irrigation

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. \_\_\_\_\_

(Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.) \_\_\_\_\_

1. Name of Applicant Fenton Farm, Inc. Phone 257-2251  
(check one) ☒ Owner ☐ Tenant/lessee

Mailing Address HC 76 Box 150 Wisland State SD 57762  
(Street, RR, or Box and City) (Zip Code)

2. Amount of water claimed 0.96 \*CFS or 430 \*\*GPM 138 \*\*\*AF Total Acreage 69.4  
(\*Cubic Feet per Second) (\*\*Gallons per Minute) (\*\*Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Belle Fourche River

4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) Belle Fourche river  
SE 1/4 10-8-5

County Butte

5. County or counties where water will be used Butte

6. Annual period during which water is to be used April-Aug. 30

7. 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 |
|-----------------------|-------|------------------|-------|
| SE 1/4 Sec 10-T8N-R5E | 26.4  |                  |       |
| SE 1/4                | 43.0  |                  |       |
|                       |       |                  |       |
|                       |       |                  |       |

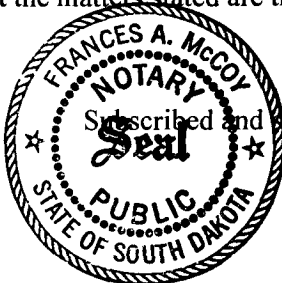
8. Give a description of the project. (Attach sheet if more space is needed)  
Centrifugal pump powered by tractor to irrigate 69.4 ac.

STATE OF SOUTH DAKOTA) SS

County of Butte

I, Betty Fenton, 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.

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)



Applicant's signature Betty Fenton  
Subscribed and sworn to before me this 13<sup>th</sup> day of January 20 03

Frances A. McCoy  
Notary Public signature

**SOUTH DAKOTA**  
**WATER PERMIT NO. 1783-1 FOR IRRIGATION**

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Date of first receipt of application January 14, 2003.

Date of return to applicant for corrections, amendments or changes January 14, 2003.

Date of receipt of corrected application January 23, 2003.

The Water Management Board approved Water Permit No. 1783-1 on May 7, 2003 for Fenton Farm, Inc., c/o Kathy Fenton, HC 76 Box 150, Nisland SD 57762 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. 1783-1 appropriates 0.96 cubic feet of water per second from the Belle Fourche River located in the SE ¼ SE ¼ Section 10 to irrigate 69.4 acres located in the SE ¼ Section 10; all in T8N-R5E.
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 – August 30.
3. The date from which applicant may claim right is January 14, 2003.
4. One-fifth of the construction is to be completed on or before November 7, 2005.
5. All construction is to be completed on or before May 7, 2008.
6. Water is to be put to beneficial use on or before May 7, 2012.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

**QUALIFICATIONS**

1. The diversion of water is authorized only when 22.0 cfs or more is flowing past the USGS gauging station on the Belle Fourche River near Fruitdale, SD to protect existing water rights/permits.
2. A minimum of 5.0 cfs shall be bypassed at the point of diversion to protect domestic use, including livestock water and fisheries in the river. Dewatering of the river is not allowed.
3. The diversion of water shall be in accordance with any written orders issued by the Chief Engineer.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

**WATER MANAGEMENT BOARD**

y: Garland Erbele

Garland Erbele, Chief Engineer  
Water Rights Program  
Department of Environment and Natural Resources

JUN 13 2003

date



See Map 018

010

8-5

T2814

pump site

T2814

(1) 7.7 HBL

(2) 16.7 HBL

(3) 26.4 HBL

(4) 56.1 N HBL

(5) 11.8 HBL

(6) 57.2 HBL

(7) 10.8 HBL

(8) 15.9 HBL

(9) 43.0 HBL

(10) 26.4 HBL

T2815

Reviewed by Amy Smith, CET - NRCS  
5/10/05  
1/13/03  
Belle Fourche, Field Office

1783-1

Reviewed by

SEKY-10-8-5

CEIT - NRCS

1/13/03

Belle Fourche, Field Office

⑭ 57.2 HEC

1783-1

# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date January 14, 2003

RECEIVED OF Fenton Farm Inc., HCR 76 Box 150, Nisland SD 57762

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

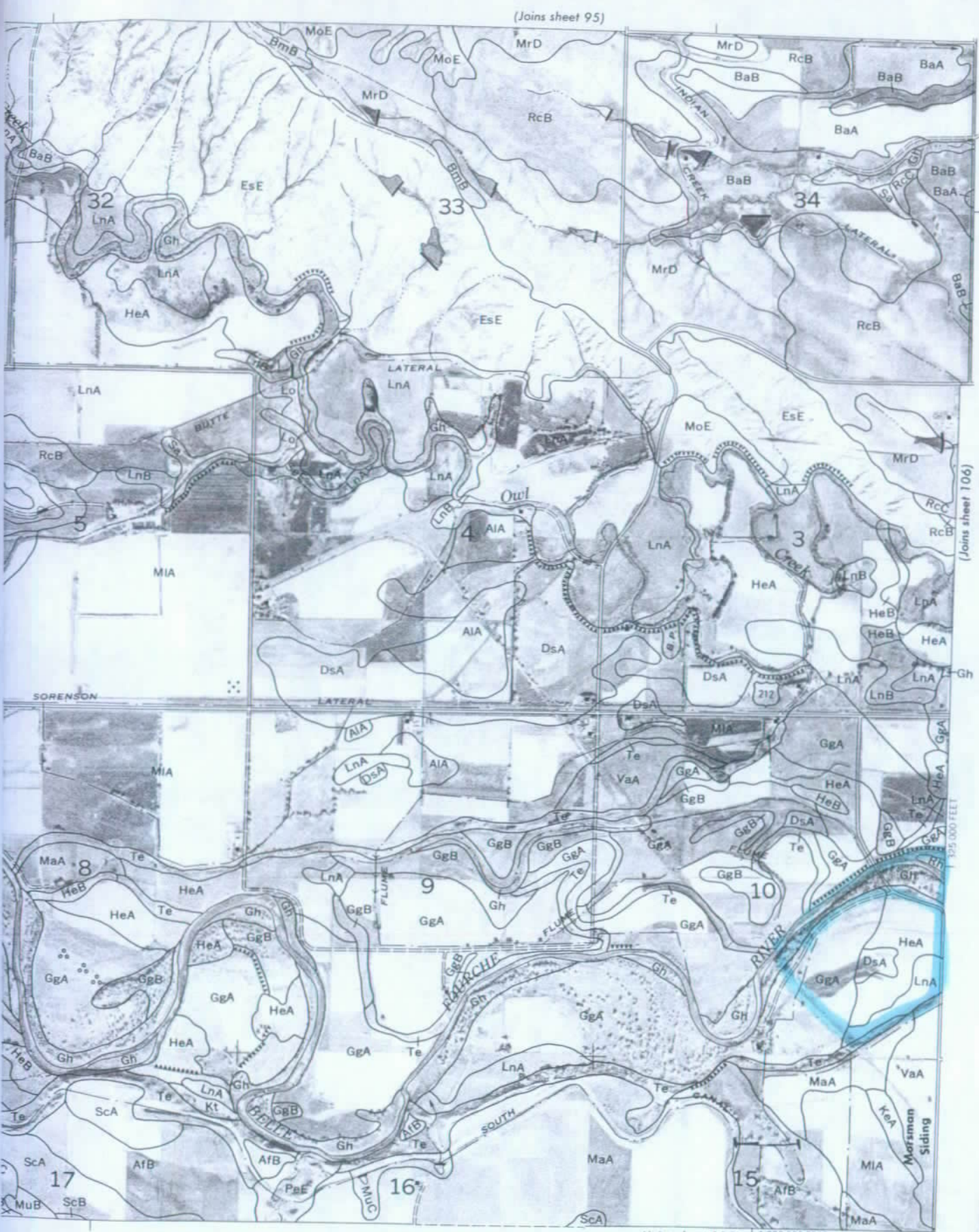
|                                                                                                                        |       |        |
|------------------------------------------------------------------------------------------------------------------------|-------|--------|
| Fee for Application for Permit No. <u>1745-1</u> 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. <u>1783-1</u>            | 50    | 00     |
| Fee for Filing Transfer Form _____                                                                                     |       |        |
| Fee for _____                                                                                                          |       |        |
| Fee for Issuing New Well Driller's License No. _____ for C.Y. _____                                                    |       |        |
| Fee for Renewal of Well Driller's License No. _____ for C.Y. _____                                                     |       |        |
| Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____                                                 |       |        |
| Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____                                              |       |        |
| (Any Other Work Provided by Law)                                                                                       | TOTAL | 275.00 |

No.

000538

By

J. D. Eide  
Chief Engineer  
gm

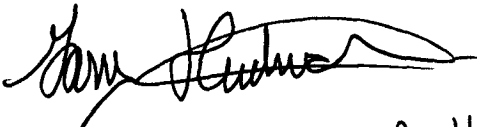


(Joins sheet 115) 1:24,000 FEET

*Soil description*

**FARM AND RANCH**  
**TABLE OF SOIL INTERPRETIVE GROUPS**  
***Butte County***

| Map<br>Symbol | Soil Mapping Unit Name                              | Component<br>Name | Slope % | Cropland<br>Capability<br>Unit | Forage<br>Suitability<br>Group | Eco.Site<br>Descrip-<br>tion | Cons.<br>Tree/Shrub<br>Group | Other |    |
|---------------|-----------------------------------------------------|-------------------|---------|--------------------------------|--------------------------------|------------------------------|------------------------------|-------|----|
|               |                                                     |                   |         |                                |                                |                              |                              | K     | I  |
| DsA           | DIX SANDY LOAM, 0 TO 3<br>PERCENT SLOPES            |                   | 0 - 3   | Vls4                           | D2                             | SwG                          | 10                           | 0.20  | 86 |
| GgA           | GLENBERG FINE SANDY LOAM,<br>0 TO 2 PERCENT SLOPES  |                   | 0 - 2   | IVe6                           | H                              | Sy                           | 5                            | 0.20  | 86 |
| HeA           | HAVERSON LOAM, 0 TO 2<br>PERCENT SLOPES             |                   | 0 - 2   | IIIc2                          | F                              | LT                           | 1K                           | 0.28  | 86 |
| LnA           | LOHMILLER SILTY CLAY LOAM,<br>0 TO 2 PERCENT SLOPES |                   | 0 - 2   | IIIc2                          | F                              | LT                           | 1K                           | 0.37  | 86 |

by  CET  
NRCS - Belle Fourche Field Office.



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

January 14, 2003

Fenton Farm, Inc.  
C/o Kathy Fenton  
HC 76 Box 150  
Nisland SD 57762

Dear Ms. Fenton:

Thank you for submitting the *Application for a Permit to Appropriate Water* for irrigation from the Belle Fourche River.

In order to complete the application, we need to know the pump capacity in gallons per minute (gpm). You should be aware that State Statutes limit diversions to 1 cubic feet of water per second (cfs) for each 70 acres irrigated. This would mean that you are allowed approximately 450 gpm for the 69.4 acres to be irrigated. If your method of irrigation requires a greater diversion rate than allowed, please justify in writing your request for a greater diversion rate.

If you have any questions, please contact me.

Sincerely,

*Karen Schlaak*

Karen Schlaak  
Water Rights Program  
605 773-3352

430 gpm  
Kathy

RECEIVED

JAN 23 2003

WATER RIGHTS  
PROGRAM

**Water Rights Division - DENR**

Conversation or File Documentation

**Name of Person:** Fenton Farms Inc.

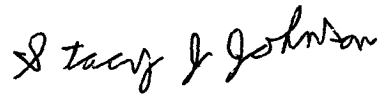
**File No. 1783-1**

**Address:** HC 76 Box 150 Nisland SD 57762 **County:** Butte

**Date:** February 20, 2003 **Telephone:** (605) 257-2251

**RE:** Water Permit No. 1783-1

**Comments:** I talked to one of Kathy and Don Fenton partners. I asked him if they buy water from the Belle Fourche Irrigation District. They do. I asked if their water permit application is just to supplement their District water. He told me that is correct.



Stacy J. Johnson  
Natural Resources Project Engineer



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT  
APPLICATION NO. 1783-1, Fenton Farms, Inc.**

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. 1783-1, Fenton Farms, Inc., c/o Kathy Fenton, HC 76 Box 150, Nisland SD 57762..

The Chief Engineer is recommending APPROVAL of Application No. 1783-1 with qualifications 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 qualifications:

1. The diversion of water is authorized only when 22.0 cfs or more is flowing past the USGS gauging station on the Belle Fourche River near Fruitdale, SD to protect existing water rights/permits.
2. A minimum of 5.0 cfs shall be bypassed at the point of diversion to protect domestic use, including livestock water and fisheries in the river. Dewatering of the river is not allowed.
3. The diversion of water shall be in accordance with any written orders issued by the Chief Engineer.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

*Garland Erbele*

Garland Erbele, Chief Engineer  
April 2, 2003

NOTE: The Belle Fourche River may not be a reliable source of water, especially during periods of drought. As the permit holder you will need to limit your withdrawals so the downstream prior rights are not impaired. The permit may be subject to periodic shut-off orders issued by the Chief Engineer.

If you have internet access, real time flow for the Fruitdale gauging station can be obtained by visiting the USGS web-site at <http://waterdata.usgs.gov/sd/nwis/rt>

## REPORT ON WATER PERMIT APPLICATION NO. 1783-1

Fenton Farm, Inc.

April 2, 2003

Water Permit Application No. 1783-1 proposes to appropriate 0.96 cubic feet of water per second (cfs) from the Belle Fourche River and to irrigate 69.4 acres. This application proposes irrigating lands located in the SE ¼ Section 10, T8N-R5E. The diversion point will be located in the NE ¼ SE ¼ Section 10, T8N-R5E. This project is located approximately three miles east of the town of Nisland in Butte County.

### Review of the Source of Water and Existing Water Rights

The source of water for this project is the Belle Fourche River downstream from the Belle Fourche River Diversion Dam. The Diversion Dam diverts Belle Fourche River water into Belle Fourche Reservoir for use on the Belle Fourche Irrigation District.

There are 20 existing water permits/rights appropriating 41.67 cfs diverting water from the Belle Fourche River between the Diversion Dam and the confluence of Owl Creek. There is a United States Geological Survey (USGS) gauging station on the Belle Fourche River near Fruitdale in this river reach, located 19 miles upstream from this project. There are 14 existing water rights/permits appropriating 33.26 cfs from the river downstream of the gauging station to the Owl Creek confluence. Flows at this gauging station ranges from 5 to 10 cfs from April to August at the 50% probability level and 15 to 308 cfs from April to August at the 25 % probability level (Table 1).

**Table 1 Probability of flow based upon median monthly data collected at the USGS gauging station on the Belle Fourche River near Fruitdale for years 1946-2000.**

| Flow Probability | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec |
|------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| 90 %             | 3   | 2   | 3   | 3   | 3   | 5   | 4   | 4   | 5   | 5   | 5   | 3   |
| 75 %             | 3   | 3   | 3   | 4   | 5   | 6   | 6   | 7   | 7   | 5   | 5   | 4   |
| 50 %             | 4   | 4   | 4   | 5   | 7   | 10  | 8   | 10  | 10  | 8   | 8   | 5   |
| 25 %             | 5   | 5   | 9   | 222 | 263 | 308 | 15  | 15  | 13  | 14  | 16  | 6   |
| 10 %             | 11  | 77  | 361 | 460 | 719 | 718 | 107 | 22  | 20  | 22  | 28  | 19  |

This project is located just upstream of the confluence with Owl Creek, a major source of return flow water from the Belle Fourche Irrigation District. Under most conditions, Owl Creek provides sufficient flow to the Belle Fourche River below the confluence to satisfy existing water rights and domestic use during the irrigation season. There is a USGS gauging station downstream of this project on the Belle Fourche River near Sturgis. There are 34 water permits/rights located between the proposed project and the Sturgis gauging station. The total diversion rate of these water permits/rights is 70.27 cfs. Flows at this gauging station ranges from 41 to 138 cfs from April to August in the 90% probability level and from 105 to 272 cfs from April to August in the 50% probability level (Table 2).

**Table 2 Probability of flow based upon median monthly data collected at the USGS gauging station on the Belle Fourche River near Sturgis for years 1946-2000.**

| <b>Flow Probability</b> | <b>Jan</b> | <b>Feb</b> | <b>Mar</b> | <b>Apr</b> | <b>May</b>  | <b>Jun</b>  | <b>Jul</b> | <b>Aug</b> | <b>Sep</b> | <b>Oct</b> | <b>Nov</b> | <b>Dec</b> |
|-------------------------|------------|------------|------------|------------|-------------|-------------|------------|------------|------------|------------|------------|------------|
| <b>90 %</b>             | <b>8</b>   | <b>12</b>  | <b>27</b>  | <b>42</b>  | <b>41</b>   | <b>88</b>   | <b>137</b> | <b>138</b> | <b>76</b>  | <b>37</b>  | <b>36</b>  | <b>14</b>  |
| <b>75 %</b>             | <b>15</b>  | <b>20</b>  | <b>42</b>  | <b>56</b>  | <b>66</b>   | <b>160</b>  | <b>204</b> | <b>213</b> | <b>157</b> | <b>56</b>  | <b>46</b>  | <b>26</b>  |
| <b>50 %</b>             | <b>25</b>  | <b>28</b>  | <b>65</b>  | <b>105</b> | <b>210</b>  | <b>268</b>  | <b>256</b> | <b>272</b> | <b>247</b> | <b>67</b>  | <b>59</b>  | <b>35</b>  |
| <b>25 %</b>             | <b>38</b>  | <b>68</b>  | <b>235</b> | <b>423</b> | <b>526</b>  | <b>794</b>  | <b>375</b> | <b>337</b> | <b>299</b> | <b>91</b>  | <b>78</b>  | <b>45</b>  |
| <b>10 %</b>             | <b>50</b>  | <b>152</b> | <b>783</b> | <b>883</b> | <b>1171</b> | <b>1699</b> | <b>546</b> | <b>435</b> | <b>346</b> | <b>190</b> | <b>109</b> | <b>64</b>  |

Based on the USGS gauging station information water would be available for this project during wet years typically when the U.S. Bureau of Reclamation has filled Belle Fourche Reservoir as authorized by Water Right Nos. 0376-1 and 0377-1 and water is no longer being diverted from the river to the reservoir. Otherwise the Belle Fourche River in the reach between the Diversion Dam and Owl Creek confluence can not be considered a reliable water source.

In the past, the Water Management Board has issued water permits with flow bypass qualifications to protect domestic use and senior water rights. If this permit is approved there would be 33.26 cfs appropriated in the reach from the Fruitdale gauging station to the Owl Creek confluence. An assumption can be made that no more than 50% of the authorized diversion rate is pumped at any given time. If this application is approved it is recommended that it be issued with a qualification requiring a 17 cfs bypass to protect senior water rights, plus an additional 5 cfs to protect domestic use. The total recommended bypass, as measured at the Fruitdale gauging station would be 22 cfs.

The proposed qualification for this permit is:

1. Diversions under this permit are authorized only when 22 cfs or more is flowing past the USGS gauging station near Fruitdale, SD to protect downstream domestic use, including livestock water and existing water rights/permits.
2. Diversions under this permit shall be in accordance with any written orders issued by the Chief Engineer.

#### Conclusions

1. This application proposes to appropriate 0.96 cubic feet of water per second (cfs) from the Belle Fourche River for irrigation purposes.
2. Based on the USGS gauging station information water would be available for this project during wet years and possibly during spring runoff events. This water source can not be considered a reliable water source.
3. If this application is approved, to protect downstream domestic use and senior water rights, the permit should be issued with the following qualifications:

- a) Diversions under this permit are authorized only when 22 cfs or more is flowing past the USGS gauging station on the Belle Fourche River near Fruitdale, SD in order to protect downstream domestic use, including livestock water and existing water rights/permits.
- b) Diversions under this permit shall be in accordance with any written orders issued by the Chief Engineer.



Mark D. Rath  
Natural Resources Engineer Specialist

References

Water Rights Program files 2003, DENR-Water Rights Program, Joe Foss Building, 523 East Capitol, Pierre, SD 57501.

United States Geological Survey, Water Resources Data for South Dakota. USGS 1608 Mt. View Road, Rapid City, SD 57702.



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

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

April 3, 2003

Fenton Farm Inc  
% Kathy Fenton  
HC 76 Box 150  
Nisland SD 57762

Dear Ms. Fenton:

Water Permit Application No. 1783-1 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). You will need to contact the newspaper and authorize publication of this notice. 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. Upon receiving authorization, 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 also 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* /<sub>15</sub>

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 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

April 3, 2003

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

ATTENTION: Legal Public Notice

Enclosed is a Notice of Hearing on Application No. 1783-1 to Appropriate Water to be published twice. Please publish the first notice on April 9, 2003 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 APPLICANT is Fenton Farms Inc., % Kathy Fenton, HC 76 Box 150, Nisland SD 57762 (Ph # 605-257-2251).

**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/KCS*

Eric Gronlund  
Natural Resources Engineer  
605 773-3352

enclosures

CUT HERE

No. 1783-1

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

Date \_\_\_\_\_

We are in receipt of your letter of April 3, 2003 enclosing Notice of Hearing to Appropriate Water by Application No. 1783-1 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 April 9, 2003 with the second publication 7 days later. The applicant is responsible for payment.

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## NOTICE OF HEARING ON WATER PERMIT APPLICATION NO. 1783-1

Notice is given that Fenton Farm, Inc., c/o Kathy Fenton, HC 76 Box 150, Nisland SD 57762 has filed an application for a water permit to appropriate 0.96 cubic feet of water per second from the Belle Fourche River located in the SE ¼ SE ¼ Section 10 to irrigate 69.4 acres located in the SE ¼ Section 10; all in T8N-R5E.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1783-1 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 April 28, 2003. 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 11 A.M. May 7, 2003 in the Matthew Training Center, Foss Building, 523 E 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 May 7, 2003 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 April 28, 2003.

Any hearing may be an adversarial 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 April 28, 2003, 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. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

## PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA )

) SS

County of Butte )I, Chrissann L. Mateer

certify that the attached printed Notice was taken

from the Belle Fourche Postprinted and published in ButteCounty of South Dakota and

state of South Dakota. The notice was published

in the newspaper on the following two dates:

April 9, 2003April 16, 2003Cost of Printing \$55.28Chrissann L. Mateer  
(Signature)Publisher  
(Title)April 24, 2003  
(Date Signed)NOTICE OF HEARING ON  
WATER PERMIT

## APPLICATION NO. 1783-1

Notice is given that Fenton Farm, Inc., c/o Kathy Fenton, HC 76 Box 150, Nisland SD 57762 has filed an application for a water permit to appropriate 0.96 cubic feet of water per second from the Belle Fourche River located in the SE 1/4 SE 1/4 Section 10 to irrigate 69.4 acres located in the SE 1/4 Section 10; all in T8N-R5E.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1783-1 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 April 28, 2003. 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 11 A.M. May 7, 2003 in the Matthew Training Center, Foss Building, 523 E 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 May 7, 2003 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 April 28, 2003.

Any hearing may be an adversarial 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 April 28, 2003, 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.

Steven M. Pimer, Secretary  
Department of Environment  
and Natural Resources

Publ. April 9, 16, 2003  
Belle Fourche Post

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APR 25 2003

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**DEPARTMENT of ENVIRONMENT  
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[www.state.sd.us/denr](http://www.state.sd.us/denr)

April 7, 2003

Leslie Petersen  
SD Game, Fish and Parks  
523 E. Capitol Avenue  
Pierre SD 57501

Dear Leslie:

Please find the reports, recommendations and public notices on three water permit applications from surface water. These applications are being public noticed for the May 7<sup>th</sup> Board meeting. Petitions to intervene are to be submitted by April 28<sup>th</sup> if Game, Fish and Park desires to participate in the hearing.

Feel free to contact the staff person who prepared the report or myself if you have any questions.

Sincerely,

Eric Gronlund  
Water Rights Program, DENR  
(605) 773-3352

enclosures



JUN 13 2003

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Fenton Farm Inc  
%Kathy Fenton  
HC 76 Box 150  
Nisland SD 57762

Dear Ms. Fenton:

Enclosed is Water Permit No. 1783-1 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

An informational sheet *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

Garland Erbele, Chief Engineer  
Water Rights Program  
(605) 773-3352

enclosures



1783-1

**DEPARTMENT of ENVIRONMENT  
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January 24, 2006

**NOTICE**

TO: FENTON FARM INC, KATHY FENTON, 18887 VALE CUT-OFF RD, NISLAND, SD 57762

FROM: Ron Duvall, Natural Resources Engineer  
for Garland Erbele, Chief Engineer  
Water Rights Program

SUBJECT: Reporting Requirement for 2005 Irrigation Questionnaire(s)

Our records indicate that the 2005 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 1783-1. The request for the Questionnaire was dated October 28, 2005. The Water Management Board has directed that owners of water permits who have not submitted the 2005 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) 1783-1 qualification:

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

The hearing will be held at 10:30 am, March 2, 2006 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) 1783-1 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 on/or before **February 24, 2006**, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

**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.



## Track & Confirm

### Current Status

You entered 2303 2160 0000 0799 4879

Your item was delivered at 1:32 pm on January 25, 2006 in NISLAND, SD 57762. The item was signed for by K FENTON.

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### U.S. Postal Service Signature Confirmation Receipt

SIGNATURE CONFIRMATION NUMBER:  
2303 2160 0000 0799 4879

FENTON FARM INC  
KATHY FENTON  
18887 VALE CUT-OFF RD  
NISLAND SD 57762

Waiver of Signature ☐ YES ☐ NO

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January 31, 2006

1783-1

Kathy Fenton  
Fenton Farm Inc  
18887 Vale Cut-Off Rd  
Nisland SD 57762

Dear Ms. Fenton:

I am writing to acknowledge receipt of your 2005 irrigation questionnaire. You may disregard the January 24, 2006, "Notice" concerning reporting requirements for Water Permit No. 1783-1.

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,

Genny McMath  
Environmental Scientist  
Water Rights Program  
(605) 773-3352



**DEPARTMENT of ENVIRONMENT  
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October 5, 2006

1783-1

Kathy Fenton  
Fenton Farm Inc  
18887 Vale Cutoff Rd  
Nisland SD 57762

Dear Ms. Fenton:

Thank you for contacting us regarding the pending sale of land described in Water Permit No. 1783-1. I have included a copy of the permit for you to give the new owner(s) if they need one.

Enclosed, as you requested, is a partially completed Notice of Transfer of Ownership form for filing an ownership change. The form will need to be completed and signed by the new owner(s) and returned to our office with a required filing fee of \$2.50. The check or money order for the fee can be made payable to the Water Rights Program.

The 2006 irrigation questionnaire for Water Permit No. 1783-1 will be mailed to you on October 20<sup>th</sup>. The form will be directed to the new owner(s) for the 2007 irrigation season.

If you have any questions, please contact me.

Sincerely,

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



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MAY 29 2007

WATER RIGHTS  
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DEPARTMENT of ENVIRONMENT  
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May 22, 2007

1783-1

Kathy Fenton  
Fenton Farm Inc  
18887 Vale Cutoff Rd  
Nisland SD 57762

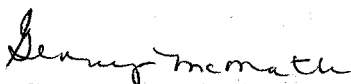
Dear Ms. Fenton:

In October, 2006, you contacted us indicating that the land described in Water Permit No. 1783-1 may be sold. The permit authorizes diversion of water from the Belle Fourche River to irrigate 69.4 acres in the SE ¼ Section 10, T8N, R5E.

The purpose for my letter today is to find out if the land was sold or if you still own it. If the land was sold, I need to follow-up with the new owner(s) to get the water permit transferred to ensure that the ownership records stay current.

Please let me know if our records need to be updated or if Fenton Farm Inc still owns the land. If the land was sold, please send me the name and mailing address of the new owner(s). Thank you in advance for your help.

Sincerely,

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

This was Sold to:  
SD & Julie Hewitt  
19028 Vale Cut-off Rd  
Nisland, SD 57762



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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May 29, 2007

1783-1

J D & Julie Hewitt  
19028 Vale Cutoff Rd  
Nisland SD 57762

Dear Mr. & Mrs. Hewitt:

I am contacting you in regard to ownership of land described in Water Permit No. 1783-1 (copy enclosed). The permit is currently listed in the name of Fenton Farm Inc. Kathy Fenton has indicated to us that they have sold the land to you.

Enclosed is a partially completed Notice of Transfer of Ownership form for filing an ownership change. Please review the form and make any necessary corrections. Upon completion, please sign the form and return it to our office with a required filing fee of \$2.50. The check or money order for the fee can be made payable to the Water Rights Program.

If you have any questions on the water permit or completion of the ownership change, please contact me.

Sincerely,

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

enclosures

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JUN 13 2007

WATER RIGHTS  
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NOTICE OF TRANSFER OF OWNERSHIP

RECEIVED

JUN 13 2007

WATER RIGHTS  
PROGRAM

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

No. 1783-1

Date: 16<sup>th</sup> October 2006

I/We request that Water Permit No. 1783-1

formerly owned by: Fenton Farm Inc

be transferred to: (name & address) SD Hewitt

19028 Vale Cut off Rd

Nisland SD 57762

Telephone No. 605-257-2435

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

69.4 acres - SE ¼ Section 10, T8N, R5E

I/We understand that the validity of Water Permit No. 1783-1 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

A fee of Two Dollars and Fifty Cents (\$2.50) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

I/We SD Hewitt, the new owner, certify that the above information is true and correct.

SD Hewitt

(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.

# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 6/13, 20 07

RECEIVED OF J D HEWITT 19028 VALE CUT OFF RD NISLAND SD 57762

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

|                                                                                                        |                                     |   |    |
|--------------------------------------------------------------------------------------------------------|-------------------------------------|---|----|
| Fee for Application for Permit No. _____<br>and to put water to beneficial use _____                   | to Appropriate Water, to construct  | 2 | 50 |
| Fee for Application for Permit No. _____                                                               | to Appropriate Water for Future use |   |    |
| Fee to retain Future Use Permit No. _____                                                              | after period of seven years.        |   |    |
| Fee for Inspecting Constructed Works, confirming beneficial use and issuing<br>Water License No. _____ |                                     |   |    |
| Fee for Filing Transfer Form _____                                                                     | 1783-1                              |   |    |
| 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. _____                      | 2 | 50 |
| Fee for Renewal of Well Pump Installer's License No. _____                                             | for C.Y. _____                      |   |    |
| (Any Other Work Provided by Law)                                                                       | TOTAL                               |   |    |
|                                                                                                        |                                     | 2 | 50 |

No.

03070

By

*Robert E. Erwin*

Chief Engineer



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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[www.state.sd.us/denr](http://www.state.sd.us/denr)

June 14, 2007

1783-1

J D Hewitt  
19028 Vale Cutoff Rd  
Nisland SD 57762

Dear Mr. Hewitt:

I am writing to acknowledge receipt of the "Notice of Transfer of Ownership" form and filing fee you submitted for changing ownership of Water Permit No. 1783-1. The transfer has been completed. The permit formerly held by Fenton Farm Inc. is now listed in your name.

Enclosed is your Receipt No. 03070 in the amount of \$2.50. You may keep this for your records.

Each year in October, we mail out the annual irrigation questionnaire to irrigators in the state to report how much water they used over the season. I am enclosing two examples for you to give you an idea of what type of information you will need to keep track over the irrigation season.

In your case, you could have a couple different situations arise. On the questionnaire for 2003, the Fenton's did not use their water right but did irrigate with water they purchased from the Belle Fourche Irrigation District. We still require you to report each year but when only purchased water is used, just make that notation on the form and ship it back to us. On the other form (for 2005), the Fenton's reported irrigation of 60 acres and on the backside of the form you will see how they filled it out. If there is a year in which you do not irrigate at all from either purchased water or water authorized by your permit, just mark that form "No irrigation" and return it anyway. This establishes a year of record even though no water was pumped.

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

Sincerely,

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

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1783-1

DEPARTMENT of ENVIRONMENT  
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January 18, 2008

**NOTICE**

TO: J D HEWITT, 19028 VALE CUT-OFF RD, NISLAND, SD 57762

FROM: Ron Duvall, Natural Resources Engineer  
for Garland Erbele, Chief Engineer  
Water Rights Program

SUBJECT: Reporting Requirement for 2007 Irrigation Questionnaire(s)

Our records indicate that the 2007 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 1783-1. The request for the Questionnaire was dated October 19, 2007. The Water Management Board has directed that owners of water permits who have not submitted the 2007 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) 1783-1 qualification:

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

The hearing will be held at **10:00 am, March 11, 2008** 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) 1783-1 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 on/or before **March 3, 2008**, you will no longer be in violation of your permit and your name will be deleted 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. If you prefer, you can complete the questionnaire on-line at the following link:  
<https://www.state.sd.us/eforms/secure/eforms/E0455V6-IQ.pdf>

**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.

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Your item was delivered at 11:28 AM on February 2, 2008 in NISLAND, SD 57762. The item was signed for by T HEWITT.

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|                                                                                                                                                                           |  |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| SIGNATURE CONFIRMATION NUMBER:<br>2303 2160 0000 0802 2977                                                                                                                |  |
| J D HEWITT<br>19028 VALE CUT-OFF RD<br>NISLAND SD 57762                                                                                                                   |  |
| Waiver of Signature <input type="checkbox"/> YES <input type="checkbox"/> NO                                                                                              |  |
| Postmark<br>Here                                                                                                                                                          |  |
| <b>POSTAL CUSTOMER:</b><br>Keep this receipt. For Inquiries:<br>Access internet web site at<br><a href="http://www.usps.com">www.usps.com</a> ®<br>or call 1-800-222-1811 |  |
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February 19, 2008

1783-1

J D Hewitt  
19028 Vale Cut-off Rd  
Nisland SD 57762

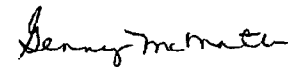
Dear Mr. Hewitt:

I am writing to acknowledge receipt of your 2007 irrigation questionnaire. You may disregard the January 18, 2008, "Notice" concerning reporting requirements for Water Permit No. 1783-1.

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,

  
Genny McMath  
Environmental Scientist  
Water Rights Program  
(605) 773-3352

JUL 16 2009

WATER RIGHTS  
PROGRAM

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

Water Right/Permit No. 1783-1Date: 7/1/2009

I/We request that Water Right/Permit No. 1783-1 formerly owned by:  
JD Hewitt and Julie Hewitt be transferred to:

New Owner Name: Gary Steele and Kathleen Steele  
Address: 17022 Gruwell Rd.  
City, State, Zip Newell SD 57760 Telephone No. (605) 748-2203

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

69.4 acres in the SE1/4 of Sec. 10, T8N, R5E Bute County, SD

☒ I understand that the validity of Water Right/Permit No. 1783-1 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, Gary Steele, the new owner, certify that the above information is true and correct.

  
(Signed by new owner)

**NOTE:** Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.

# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 7/16, 20 09

RECEIVED OF Steele Ranch Inc 17022 Gruwell RD Newell SD 57760

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>1783-1</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. _____                                         |       |       |
| Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____                                      |       |       |
| (Any Other Work Provided by Law)                                                                               | TOTAL | 50 00 |

No. 04176

By [Signature]  
Chief Engineer



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

July 17, 2009

1783-1

Gary & Kathleen Steele  
17022 Gruwell Rd  
Newell SD 57760

Dear Mr. & Mrs. Steele:

I am writing to acknowledge receipt of the ownership change you submitted for Water Permit No. 1783-1. The transfer has been completed. The water permit formerly listed in the name of JD Hewitt is now listed in your names.

Each year in October, we mail out the annual irrigation questionnaire. Enclosed are sample copies for your review. This will give you an idea of what type of information you will need to keep track of during the irrigation season. If in a particular season you only use water purchased from the Belle Fourche Irrigation District, make that notation on the form when returning it.

An additional item I wanted to make you aware of is that in order to maintain water rights, they need to be used. I am including excerpts of our water laws and Water Management Board rules dealing with this issue.

Also enclosed is your Receipt No. 04176 in the amount of \$50.00. If I can answer any questions for you, please contact me.

Sincerely,

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

enclosures



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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<http://denr.sd.gov>

October 18, 2011

1783-1

Gary & Kathleen Steele  
18887 Vale Cut Off Rd  
Nisland SD 57762 7660

Dear Mr. & Mrs. Steele:

Enclosed is a "Notice" dated October 14, 2011 concerning the 2011 irrigation questionnaire.

The notice was originally mailed to 17022 Gruwell Rd, Newell SD. The post office notified us that your address has changed and I will update our records accordingly.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath".

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

enclosures



1783-1  
DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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[www.state.sd.us/denr](http://www.state.sd.us/denr)

January 24, 2012

NOTICE

TO: GARY & KATHLEEN STEELE, 18887 VALE CUT OFF RD, NISLAND, SD 57762 7660

FROM: Ron Duvall, Natural Resources Engineer  
for Garland Erbele, Chief Engineer  
Water Rights Program

SUBJECT: Reporting Requirement for 2011 Irrigation Questionnaire(s)

Our records indicate that the 2011 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 1783-1. The request for the Questionnaire was dated October 14, 2011. The Water Management Board has directed that owners of water permits who have not submitted the 2011 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) 1783-1 qualification:

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

The hearing will be held at **10:00 am, March 7, 2012** 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) 1783-1 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 on/or before **March 2, 2012**, 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](mailto: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**

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[www.denr.sd.gov](http://www.denr.sd.gov)

February 7, 2012

1783-1

Gary & Kathleen Steele  
18887 Vale Cut Off Rd  
Nisland SD 57762 7660

Dear Mr. & Mrs. Steele:

I am writing to acknowledge receipt of your 2011 irrigation questionnaire.

You may disregard the January 24, 2012, "Notice" concerning reporting requirements for Water Permit No. 1783-1. 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 cursive script that reads "Genny McMath".

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



1783-1  
DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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PIERRE SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

January 16, 2015

**NOTICE**

TO: GARY N & KATHLEEN M STEELE, 18887 VALE CUT OFF RD, NISLAND, SD 57762 7660  
FROM: Ron Duvall, Natural Resources Engineer  
for Garland Erbele, Chief Engineer  
Water Rights Program

SUBJECT: Reporting Requirement for 2014 Irrigation Questionnaire(s)

Our records indicate your 2014 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 484-1, 1783-1 & 1850-1. The request for the Questionnaire was dated October 17, 2014. The Water Management Board has directed that owners of water permits who have not submitted the 2014 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) 484-1, 1783-1 & 1850-1 qualification:

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

The hearing will be held at **10:00 am, March 4, 2015** 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) 484-1, 1783-1 & 1850-1 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 4, 2015** 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](mailto: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.

1783-1



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

denr.sd.gov

January 28, 2015

484-1  
1783-1  
1850-1

Gary N & Kathleen Steele  
18887 Vale Cut Off Rd  
Nisland SD 57762 7660

Dear Mr. & Mrs. Steele:

I am writing to acknowledge receipt of your 2014 irrigation questionnaires.

You may disregard the January 16, 2015, "Notice" concerning reporting requirements for Water Right Nos. 484-1, 1783-1 & 1850-1. 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,

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



1783-1  
DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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January 15, 2016

NOTICE

TO: GARY N & KATHLEEN M STEELE, 18887 VALE CUT OFF RD, NISLAND, SD 57762 7660

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

SUBJECT: Reporting Requirement for 2015 Irrigation Questionnaire(s)

Our records indicate your 2015 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 484-1, 1783-1 & 1850-1. The request for the Questionnaire was dated October 23, 2015. The Water Management Board has directed that owners of water permits who have not submitted the 2015 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) 484-1, 1783-1 & 1850-1 qualification:

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

The hearing will be held at **Thursday, March 3, 2016 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) 484-1, 1783-1 & 1850-1 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 3, 2016** 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](mailto: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

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March 1, 2016

484-1  
1850-1  
1783-1

Gary N & Kathleen M Steele  
18887 Vale Cut Off Rd  
Nisland SD 57762-7660

Dear Mr. & Mrs. Steele:

I am writing to acknowledge receipt of your 2015 irrigation questionnaires.

You may disregard the January 15, 2016, "Notice" concerning reporting requirements for Water Right Nos. 484-1, 1850-1 and Water Permit No. 1783-1. 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,

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

**Permit Nos. 1783-1**  
**Upper Cheyenne River - Water District**

**Report of Examination of Works and/or Application of Water to Beneficial Use**

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

I have on this day, November 19, 2015, made a thorough examination of the water use system constructed by Gary & Kathleen Steele, 18887 Vale Cutoff Rd, Nisland, SD 57762 holder of Permit No. 1783-1, bearing the priority of January 14, 2003, authorizing the diversion of 0.96 cubic foot of water per second (cfs), of the waters of the Belle Fourche River for irrigation purposes, in Butte County.

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

A. Works used to divert the water:

**Centrifugal pump capable of pumping 430 gallons per minute.**

B. Works used to transport/apply water to beneficial use:

Center pivot:

- 1) Make unknown
- 2) Overall length 950 feet
- 3) Number of towers 5
- 4) End gun Y
- 5) Capacity 430 GPM

**and existing open channel ditches for flood irrigation application.**

The system is in the following condition good. The point of diversion is located 2500 feet N and 1280 feet W from the SE corner of Section 10, T8N-R5E (NE¼SE¼), Lat/Lon N44.669458/W-103.492180. The works are capable of diverting and conveying to the place of use 0.96 cfs which is to be used for irrigation purposes. Water has been put to beneficial use to the maximum extent and the license should be issued for 0.96 cfs. Water has been put to beneficial use to the maximum extent as follows:

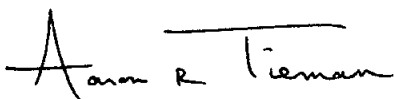
Section 10, T8N-R5E  
NW¼ SE¼ - 11.0 acres  
NE¼ SE¼ - 34.3 acres  
SW¼ SE¼ - 9.3 acres  
SE¼ SE¼ - 14.8 acres  
69.4 acres

All structures, wells and lands on map Y

Does the permit holder chemigate? N

Exceptions to compliance are: none

**Comments: The diversion of water is authorized only when 22.0 cfs or more is flowing past the USGS gauging station on the Belle Fourche River near Fruitdale, SD to protect existing water rights.**



Aaron Tieman, Natural Resources Engineer II DENR, Water Rights Program

Date report completed: June 23, 2016

WATER PERMIT NO. 1783-1  
JUNE 23, 2016



*Aaron R. Tieman*

Aaron Tieman  
Natural Resources Engineer II  
DENR Water Rights Program



## Approval of Location Change and/or Additional Diversion Point(s)

**NAME:** Gary & Kathleen Steele

**ADDRESS:** 18887 Vale Cutoff Rd, Nisland SD 57762

**DATE:** July 14, 2016      **COUNTY:** Butte

### **AUTHORITY:**

Pursuant to SDCL 46-5-13.1, the location of a diversion point may be changed or additional diversion points may be licensed provided the following conditions are met and the potential for interference with other existing diversions is not increased:

- **Developed water source same as permitted source and no additional water appropriated**

Yes. When Water Permit No. 1783-1 was originally submitted, it specified a diversion point location on the Belle Fourche River in the SE ¼ Section 10, T8N, R5E. The map was marked with a location in the NE ¼ SE ¼ Section 10. During the permitting process, the wrong quarter-quarter (SE ¼ SE ¼ Section 10) was listed and subsequently advertised. The investigation of the water use system for licensing purposes found the pump site location to be the same as the original map.

- **If irrigation, no new land is irrigated**

The acreage being irrigated at the time of inspection matches the exact acreage originally permitted.

- **Review of Existing Diversions**

During the review process for the application, the staff engineer used the map location of NE ¼ SE ¼ Section 10, T8N, R5E on the Belle Fourche River as a point of reference when determining if withdrawals would impair existing water permits or rights. The point used for reference during the review process was found to be correct based on the investigation of the water use system. No further review is needed.

### **RECOMMENDED ACTION**

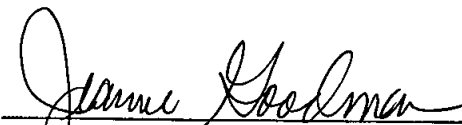
Based on the above criteria, it is recommended that the diversion point be licensed as developed.



Aaron Tieman, Natural Resources Engineer II  
Water Rights Program

The Chief Engineer makes a finding pursuant SDCL 46-5-13.1 and ARSD 74:02:01:14.01 that:

This change in location and/or additional diversion point(s) does not increase the potential for adverse effects to existing diversions.



Jeanne Goodman, Chief Engineer  
Water Rights Program

**STATE OF SOUTH DAKOTA  
WATER LICENSE NO. 1783-1**

(1) Fenton Farm Inc., Nisland SD made Application No. 1783-1, January 14, 2003 for a water permit to divert 0.96 cubic feet of water per second from the Belle Fourche River, Butte County, South Dakota for irrigation purposes. Permit No. 1783-1, with a priority date of January 14, 2003 was approved May 7, 2003 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before May 7, 2008 and for the application to beneficial use of water on or before May 7, 2012.

On June 13, 2007, Water Permit No. 1783-1 was transferred to J D Hewitt. On July 16, 2009, the water permit was transferred to Gary and Kathleen Steele.

(2) It is certified that the permits holder have complied with the provisions of South Dakota State Law relating to completion of the water supply system and are entitled to divert 0.96 cubic feet of water per second for beneficial use. The location of the diversion point is 2,500 feet N and 1,280 feet W of the SE corner of Section 10, T8N, R5E (NE ¼ SE ¼).

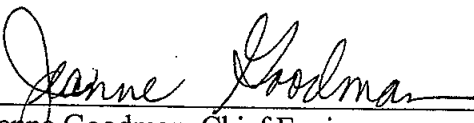
(3) The permit holders have complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate the following land:

|                      |           |            |
|----------------------|-----------|------------|
| Section 10, T8N, R5E | NW ¼ SE ¼ | 11.0 acres |
|                      | NE ¼ SE ¼ | 34.3 acres |
|                      | SW ¼ SE ¼ | 9.3 acres  |
|                      | SE ¼ SE ¼ | 14.8 acres |
|                      | Total     | 69.4 acres |

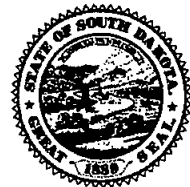
(4) Pursuant to South Dakota Water Law 46-5-30.1 Gary & Kathleen Steele, 18887 Vale Cutoff Rd, Nisland SD 57762 the holders and/or owners of Water Right No. 1783-1 are issued a license to appropriate water, the right to use 0.96 cubic feet of water per second from the Belle Fourche River with a priority date of January 14, 2003 from the location specified in (2) of this license for irrigation purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 1783-1 and subject to the following qualifications:

- The diversion of water is authorized only when 22.0 cfs or more is flowing past the USGS gauging station on the Belle Fourche River near Fruitdale, SD to protect existing water rights/permits.
- A minimum of 5.0 cfs shall be bypassed at the point of diversion to protect domestic use, including livestock water and fisheries in the river. Dewatering of the river is not allowed.
- The diversion of water shall be in accordance with any written orders issued by the Chief Engineer.
- 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

JUL 22 2016  
date





DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

[denr.sd.gov](http://denr.sd.gov)

JUL 22 2016

1783-1

Gary & Kathleen Steele  
18887 Vale Cutoff Rd  
Nisland SD 57762

Dear Mr. & Mrs. Steele:

Enclosed is Water License No. 1783-1. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

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

Sincerely,

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

enclosures



1783-1  
DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
PMB 2020  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

January 20, 2017

NOTICE

TO: GARY N & KATHLEEN M STEELE, 18887 VALE CUT OFF RD, NISLAND, SD 57762 7660

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

SUBJECT: Reporting Requirement for 2016 Irrigation Questionnaire(s)

Our records indicate your 2016 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 484-1, 1783-1 & 1850-1. The request for the Questionnaire was dated October 21, 2016. The Water Management Board has directed that owners of water permits who have not submitted the 2016 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) 484-1, 1783-1 & 1850-1 qualification:

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

The hearing will be held at **Wednesday, March 1, 2017 at 11:00 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) 484-1, 1783-1 & 1850-1 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 1, 2017** 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](mailto: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.



1783-1  
DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

denr.sd.gov

February 6, 2017

Gary & Kathleen Steele  
18887 Vale Cut Off Rd  
Nisland SD 57762

RE: Water Right Nos. 484-1, 1783-1 & 1850-1

Dear Mr. & Mrs. Steele:

I am writing to acknowledge receipt of your 2016 irrigation questionnaires

You may disregard the January 20, 2017, "Notice" concerning reporting requirements for Water Right Nos. 484-1, 1783-1 & 1850-1. 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,

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

RECEIVED

DEC 29 2017

SD EForm - 0495LD V2

## NOTICE OF TRANSFER OF OWNERSHIP

WATER RIGHTS  
PROGRAM

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. 1783-1

Date: \_\_\_\_\_

I/We request that Water Right/Permit No. 1783-1 formerly owned by:  
Gary Steele Nisland S.DAK be transferred to:

New Owner Name: J.D. BOBBAddress: 1434 ST Hwy 30City, State, Zip Edgerton MN 56128 Telephone No. 507-215-1700

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

TOWNSHIP 8 N, R 5 E of the BHM, Butte County South DAKOTA  
Section 10: A tract of land located in that part of the NE 4 and SE 4 lying  
South of the Little Fourche River and Northeastly of an old Railroad  
bed, less the Kanton tract.

☒ I understand that the validity of Water Right/Permit No. 1783-1 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, J.D. BOBB, the new owner, certify that the above information is true and correct.

J.D. BOBB  
(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.

# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date December 29, 20 17

RECEIVED OF Black Hills Title, Inc. 245 N Main Street 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 _____ 1783-1                                                                      |       |       |
| Fee for _____                                                                                                  |       |       |
| Fee for Issuing New Well Driller's License No. _____ for C.Y. _____                                            |       |       |
| Fee for Renewal of Well Driller's License No. _____ for C.Y. _____                                             |       |       |
| Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____                                         |       |       |
| Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____                                      |       |       |
| (Any Other Work Provided by Law)                                                                               | TOTAL | 50 00 |

No. **08420**

By Jeanne Goodman  
Chief Engineer

2777



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
[www.denr.sd.gov](http://www.denr.sd.gov)

January 3, 2018

1783-1

J D Bobb  
1434 St Hwy 30  
Edgerton MN 56128

Dear Mr. Bobb:

I am writing to acknowledge receipt of the transfer form and filing fee submitted for changing ownership on Water Right No. 1783-1. The ownership change has been completed. Water Right No. 1783-1, formerly owned by Gary and Kathleen Steele is now listed in your name.

For informational purposes, each year irrigators in South Dakota are required to report their water use. The reporting requirements for 2017 have been met. The 2018 irrigation questionnaires will go out in October 2018 and are due back by December 1, 2018. Please keep track of how much water is pumped from during the season.

The land described in the water right is within the Belle Fourche Irrigation District. If water is purchased from the District, you do not need to report that. You would still need to submit the irrigation questionnaire however you would indicate "Project" water was used and no water was pumped as authorized under the water right. I have included a copy of the water right and map for your records.

The receipt for the filing fee is being forwarded by copy of this letter to Black Hills Title Company in Spearfish SD. If you have any questions, please let me know.

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](mailto:genny.mcmath@state.sd.us)

c: Black Hills Title, Inc., 245 N Main St, Spearfish SD 57783



1783-1  
DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
PMB 2020  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

January 25, 2019

NOTICE

TO: J D BOBB, 1434 ST HWY 30, EDGERTON, MN 56128

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

SUBJECT: Reporting Requirement for 2018 Irrigation Questionnaire(s)

Our records indicate your 2018 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 1783-1. The request for the Questionnaire was dated October 30, 2018. The Water Management Board has directed that owners of water permits who have not submitted the 2018 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) 1783-1 qualification:

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

The hearing will be held at **Wednesday, March 6, 2019 at 10:30 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) 1783-1 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 6, 2019** 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](mailto: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](http://www.denr.sd.gov)

February 13, 2019

1783-1

J D Bobb  
1434 St Hwy 30  
Edgerton MN 56128

Dear Mr. Bobb:

I am writing to acknowledge receipt of your 2018 irrigation questionnaire.

You may disregard the January 25, 2019, "Notice" concerning reporting requirements for Water Right No. 1783-1. 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, which appears to read "Genny McMath".

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



1783-1

**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

June 23, 2023

J D Bobb  
400 5<sup>th</sup> St  
Garretson SD 57030

1783-1

Dear Mr. Bobb:

I am writing in regard to your Water Right No. 1783-1. The water permit authorizes diversion of water from the Belle Fourche River, Butte County, for the irrigation of 69.4 acres within the SE ¼ Section 10, T08N, R05E.

In reviewing your 2022 irrigation questionnaire, we have found discrepancies in the amount of water used and have some concerns. Enclosed is a copy of your questionnaire for reference purposes.

Water Right No. 1783-1 allows you to use up to two acre-feet (ac-ft) (24 inches) of water, per acre, per year. On the questionnaire you reported substantially more water use. The following information is what was reported and what is authorized:

- 74 acres reported as irrigated – licensed for 69.4 acres
- Reported water use – 185 ac-ft of water (approximately 32 inches)
- Authorized water use – 139 acre-feet (69.4 acres x 2 ac-ft per year)

We realize that water use depends greatly on climactic conditions and may vary year to year. However, it is very rare that irrigators come close to the 24 inches per acre that is authorized. Typical water use is between 8 and 12 inches per acre. Often, irrigators do not keep track of their days or hours actually pumped and estimate numbers for the questionnaires in an effort to get them completed and back in on time. While we appreciate returning the forms in a timely manner each year, we need the forms to reflect accurate information to ensure everyone is limiting their use to the amount of water appropriated to them.

The information we receive each year from irrigators across the state is very valuable. The water use data supplied by irrigators is one of the tools we use to help determine whether an aquifer or stream is nearing full appropriation.

If you do in fact apply as much water as claimed on your questionnaire, you are exceeding the limits of your water license and will have to reduce your discharge to stay within the authorized limit. If you simply estimated your water use, we ask that you please ensure the information reported is as accurate as possible. As stated before, the information you provide to us is very valuable. If you have any questions, please contact me.

Sincerely,

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

RECEIVED

JUL 05 2023

OFFICE OF  
WATER

1783-1

July 1, 2023

Dear Amanda,

I apologize for the usage report. I cash rent the land, and I asked for the usage from the renter.

I called him after receiving your letter and he said the numbers are way over estimated. He feels that he applied around 18 inches of water in 2022.

So this year he is going to log the hours on calendar.

Also he stated that the pump is rated at 650 gpm but runs at 43 speed and likely puts out 450 gpm.

Sorry for the inaccurate numbers.

JAB