

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 310B-1

Date: Nov 25, 02

I/We request that Water Right No. 310B-1

formerly owned by: Breckenridge Partnership, Ltd

be transferred to: (name & address) Sam & Cary Johnston
21216 River Road
Elm Springs S.D. 57736 Telephone No. (605) 798-2200

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

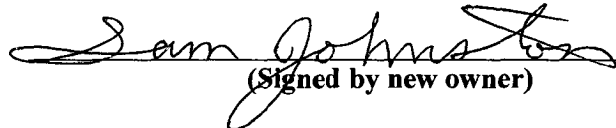
283.7 acres: Lots 8, 9, 10 & 11, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 25; T5N, R12E; Lots 4, 5, 10, 11 & 12, Sec. 30, T5N, R13E

I/We understand that the validity of Water Right No. 310B-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 Sam Johnston, 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.

RECEIVED

NOV 26 2002

WATER RIGHTS
PROGRAM

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date November 26, 20 02

RECEIVED OF Sam or Cary Johnston, 21216 River Rd., Elm Springs SD 57736

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

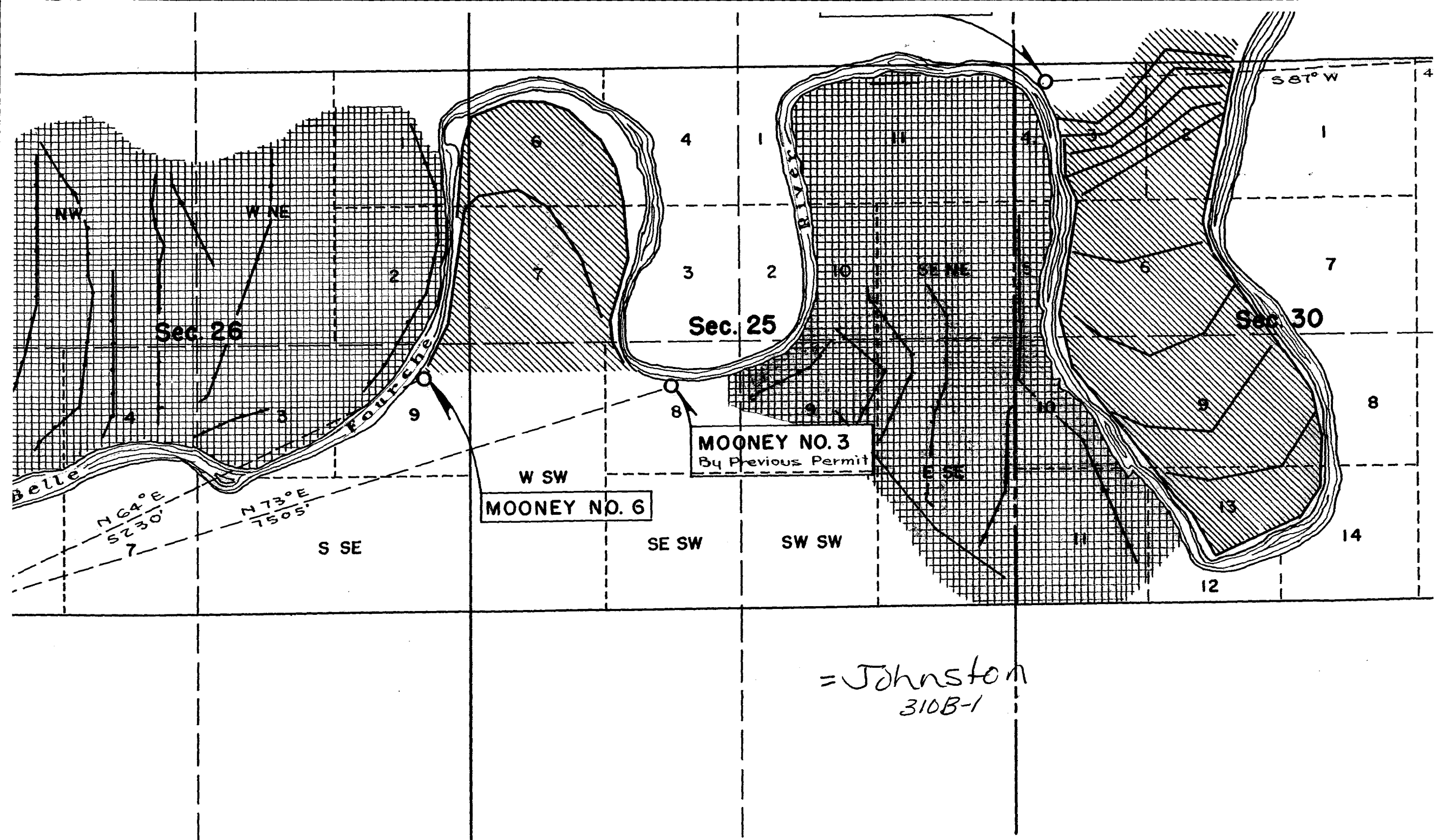
Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	2	50
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>310E-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. _____	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.

000093

By

Darland Erbe
Chief Engineer *gm*



= Johnston
310B-1

310B-1



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 12, 2002

310B-1
311B-1

Sam & Cary Johnston
17942 River Rd
Elm Springs SD 57736

Dear Mr. & Mrs. Johnston:

Enclosed, as we discussed, are copies of Water Right Nos. 310-1 and 311-1. I have included a map and marked the areas that pertained to each water right.

It is my understanding that you own the area south of the Belle Fourche River (with the exception of the area south of the river in Sections 27 & 28). Mr. Miller told us that he owns that land but rents it out to you. I have highlighted the area in yellow that I believe is the portion you own. I am assuming that the diversion points south of the river are the ones that you use. If any of this is incorrect, please let me know.

Enclosed are partially completed Notice of Transfer of Ownership forms for use in filing an ownership change with Water Right Nos. 310-1 and 311-1. The water rights will be divided and reissued as "A" and "B" numbers to reflect separate ownership.

The legal descriptions I listed on the transfer forms were taken from the water right and correspond with the highlighted areas on the map. Please review the forms and make any necessary corrections. Upon completion, please sign them and return them to our office with a filing fee of \$2.50 each (total of \$5.00).

During our phone conversation, we talked about the land authorized for irrigation under your Water Right No. 248-1. You have had some concern that the water right does not accurately reflect what you are irrigating. Enclosed is a copy of the water right and the map. It appears that when the application was originally filed, it described only 64 acres. It was subsequently licensed for the same acreage. If you irrigate more acreage than what is described, you would need to apply for a new water permit for the additional acreage. Water permit application forms are available from our office if you need them.

The only paperwork in the enclosed materials you need to return are the Notice of Transfer of Ownership forms (include \$5.00). You may keep the copies of the water rights and the corresponding maps. If you have any questions, please give me a call.

Sincerely,

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

enclosures

STATE OF SOUTH DAKOTA
WATER LICENSE NO. 310B-1
DIVISION OF NO. 310-1 INTO NOS. 310A-1 AND 310B-1

(1) F. A. Mooney was issued Water License No. 310-1, March 19, 1960 for a water permit to divert 6.76 cubic feet of water per second (cfs) from the Belle Fourche River, Meade County, South Dakota for irrigation purposes. Water License No. 310-1 has priority dates of September 8, 1956 and November 7, 1957 and authorized irrigation of 473.2 acres.

On July 10, 2002 and November 26, 2002, transfers of ownership were received, transferring portions of the water right to Mooney Ranch and Sam & Cary Johnston. Water Right No. 310-1 is being divided and reissued to reflect separate ownership. The reissued water rights will be as follows:

No. 310A-1, Mooney Ranch, c/o Gail Miller, 907 N Madison, Pierre SD 57501: irrigation of 189.6 acres in Lots 2, 3, 6, 9 & 13 Section 30 and SW $\frac{1}{4}$ Section 19; all in T5N-R13E; with diversion of 2.71 cfs from the Belle Fourche River located in Lot 3 Section 30-T5N-R13E.

No. 310B-1, Sam & Cary Johnston, 21216 River Road, Elm Springs SD 57736: irrigation of 283.7 acres in Lots 8, 9, 10 & 11, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ Section 25-T5N-R12E and Lots 4, 5, 10, 11 & 12 Section 30-T5N-R13E; with diversion of 4.05 cfs from the Belle Fourche River located in Lot 8 Section 25-T5N-R12E.

(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, the holder and/or owner of Water Right No. 310B-1 is issued a license, bearing a priority date of September 8, 1956 to appropriate 4.05 cubic feet of water per second from the Belle Fourche River to irrigate 283.7 acres.

The diversion point is located: Lot 8 Section 25-T5N-R12E. The acres authorized for irrigation are as follows:

Sec 25-T5N-R12E	Lot 8	0.6 acres	Sec 30-T5N-R13E	Lot 4	0.3 acres
	Lot 9	31.5 acres		Lot 5	2.9 acres
	Lot 10	19.5 acres		Lot 10	20.1 acres
	Lot 11	53.3 acres		Lot 11	38.8 acres
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	40.0 acres		Lot 12	3.4 acres
	SW $\frac{1}{4}$ SE $\frac{1}{4}$	0.9 acres			
	E $\frac{1}{2}$ SE $\frac{1}{4}$	72.4 acres			
Total 283.7 acres					

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 310-1.



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

OCT 10 2003

date





OCT 10 2003

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Sam & Cary Johnston
21216 River Road
Elm Springs SD 57736

Dear Sirs:

Enclosed are reissued Water License No. 310B-1 and 311B-1 and receipts for payment of the transfer of ownership fee.

On July 10, 2002 and November 26, 2002, transfers of ownership were received, transferring portions of the water right to Mooney Ranch and Sam & Cary Johnston. Water Right No. 310-1 is being divided and reissued to reflect separate ownership. The reissued water rights will be as follows:

No. 310A-1, Mooney Ranch: irrigation of 189.6 acres in Lots 2, 3, 6, 9 & 13 Section 30 and SW $\frac{1}{4}$ Section 19; all in T5N-R13E; with diversion of 2.71 cfs from the Belle Fourche River located in Lot 3 Section 30-T5N-R13E.

No. 310B-1, Sam & Cary Johnston: irrigation of 283.7 acres in Lots 8, 9, 10 & 11, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ Section 25-T5N-R12E and Lots 4, 5, 10, 11 & 12 Section 30-T5N-R13E; with diversion of 4.05 cfs from the Belle Fourche River located in Lot 8 Section 25-T5N-R12E.

Water Right No. 311-1 is being divided and reissued to reflect separate ownership. The reissued water rights will be as follows:

No. 311A-1, Mooney Ranch: irrigation of 1089.8 acres in Lots 1-5, NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ Section 26; Lots 2-6, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 27; Lots 3-6, SW $\frac{1}{4}$ Section 28; Lot 1 Section 32; Lots 1-4, NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 33; Lots 1 & 2 Section 34; all in T5N-R12E; with diversion of 15.27 cfs from the Belle Fourche River located in Lot 5 Section 26; Lot 2 Section 27; Lot 5 Section 28 and Lot 1 Section 32; all in T5N-R12E.

No. 311B-1, Sam & Cary Johnston: irrigation of 93.8 acres in Lots 6, 7, 8 and W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 25 and Lot 9 Section 26; all in T5N-R12E; with diversion of 1.34 cfs from the Belle Fourche River located in Lot 9 Section 26-T5N-R12E.

As long as you use the water beneficially, as stated in the water license, South Dakota Water Laws provide that you have a continuing right to the use of the water.

If you have any questions concerning your reissued license, please contact us.

Sincerely,

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

enclosures



310B-1
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 24, 2014

NOTICE

TO: SAM & CARY JOHNSTON, 21216 RIVER RD, ELM SPRINGS, SD 57791

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

SUBJECT: Reporting Requirement for 2013 Irrigation Questionnaire(s)

Our records indicate that the 2013 Irrigation Questionnaire has not been submitted for Permit No(s) 248-1, 310B-1 & 311B-1 as required by administrative rule 74:02:01:14.02. The request for the Questionnaire was dated October 18, 2013. The Water Management Board has directed that owners of water permits who have not submitted the 2013 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

The hearing will be held at **9:00 am, March 6, 2014**, 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. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 248-1, 310B-1 & 311B-1 to require the Irrigation Water Use Questionnaire to be submitted each year;
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, 2014**, you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 28, 2014

248-1
310B-1
311B-1

Sam & Cary Johnston
21216 River Rd
Elm Springs SD 57791

Dear Sirs:

I am writing to acknowledge receipt of your 2013 irrigation questionnaires.

You may disregard the January 24, 2014, "Notice" concerning reporting requirements for Water Right Nos. 248-1, 310B-1 and 311B-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



310B-1
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

July 25, 2017

248-1
310B-1
311B-1

Sam Johnston
21216 River Rd
Elm Springs SD 57791

Dear Mr. Johnston:

I am writing in regard to the 2016 irrigation questionnaires you submitted for Water Right Nos. 248-1, 310B-1 and 311B-1. Copies of the questionnaires are enclosed showing the legal descriptions covered under each water right and the water use reported. In reviewing the data, the amount of water pumped seems excessive and may be in error.

All three water rights authorize diversion of water from the Belle Fourche River allowing up to three acre-feet of water per acre per year (36 inches per acre). The following information was reported:

Water Right No. 248-1	Water Right No. 310B-1	Water Right No. 311B-1
• Acres irrigated: 64 • Authorized water use: 192 acre feet • Water diverted: 398 acre feet (equivalent to 6.2 acre feet per acre)	• Acres irrigated: 284 • Authorized water use: 852 acre feet • Water diverted: 1326 acre feet (equivalent to 4.7 acre feet per acre)	• Acres irrigated: 94 • Authorized water use: 282 acre feet • Water diverted: 530 acre feet (equivalent to 5.6 acre feet per acre)

In all instances above, you are reporting significantly greater volume than is authorized.

The application of water varies greatly for the different types of systems, crops irrigated, topography and climatic conditions. Given those criteria it is still rare that irrigators even apply up to the volume of water they are authorized.

Many times irrigators do not keep track of the 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 questionnaires in a timely manner, the forms need to be as accurate possible.

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 if an aquifer or stream may or may not be nearing full appropriation. Our goal is to protect existing water rights and ensure that additional water rights do not impair those existing water users.

Sam Johnston
July 25, 2017
Page 2

If you did indeed apply that much water in 2016, you are exceeding the limits of your water right and need to be cutting back to within authorized use as outlined in your water right. If you have any questions or have changes to make on the questionnaires, please give me a call.

Sincerely,

A handwritten signature in cursive script that reads "Genny McMath".

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

enclosures