

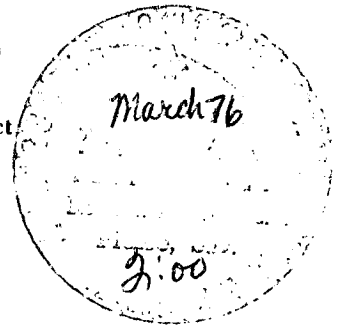
- 1363-2
1. Considered MAY 20, 1976
2. Name of Applicant OAKLEY EIDE
3. Post Office Address BURKE
4. Amount of water claimed 6.4
5. Source of water supply WHETSTONE CREEK (1000 AC FT STORAGE)
6. Water to be used for IRRIGATION
- Acres to be irrigated 495
7. Water to be diverted and used in GREGORY county
about 4 N miles 1 1/2 of BURKE
8. Proof of Publication Received 1 1/2
Not Received _____
9. Application Approved _____
Subject to _____
Not Approved _____
Action deferred _____

10. Remarks: DUDLEY HERMAN

JIM LUBERS —
JOE ENGLEMEYER
LYLE MERICKY
ADAM KREGER
TOM SCHMEICHEL
TROMAN YOUNG

LAURITZ PETERSON
OAKLEY EIDE
BILL STORSKA

(11,700) ABOVE
EIDE DAM

No. 1363-2Map No. 1154-2 Water Division No. 2 WHITE RIVER District _____
(Blanks to be Filled by the Engineer for the W. R. C.)

APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

(NOTE--Draw a line through items not applicable)

1. Name of Applicant OAKLEY EIDE
Postoffice address BURKE, State SOUTH DKAOTA
If a corporation show date and place of incorporation _____
2. Method of accomplishing work (contract, employment of others, or by direct labor) CONTRACT
3. Name of diversion work EMERY DIVERSION
4. Amount of water claimed (cubic feet per second) 6.4 EIGHT-CUBIC FEET / SECOND
5. Source of water supply DRAINAGE OR RUNOFF TO POINT OF DIVERSION 51
6. Location of point of diversion EAST $\frac{1}{2}$ OF WEST $\frac{1}{2}$ OF SEC 31-98N-71W

County GREGORY

7. Annual period or periods during which water is to be used JANUARY 1 TO DECEMBER 31 ANNUALLY
8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) IRRIGATION 447.3 (SEE MAP)
9. For irrigation use, Total number of acres to be irrigated 447.3 MAXIMUM

List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

Land Description	No. Acres Irr.	Land Description	No. Acres Irr.
SW $\frac{1}{4}$ / MW $\frac{1}{4}$ 6-97-71	40	SW $\frac{1}{4}$ / SW $\frac{1}{4}$ 6-97-71	40
NW $\frac{1}{4}$ / NW $\frac{1}{4}$ 6-97-71	40	SE $\frac{1}{4}$ / SW $\frac{1}{4}$ 6-97-71	40
NE $\frac{1}{4}$ / NW $\frac{1}{4}$ 6-97-71	20	NW $\frac{1}{4}$ / SW $\frac{1}{4}$ 6-97-71	40
SE $\frac{1}{4}$ / NW $\frac{1}{4}$ 6-97-71	20	NE $\frac{1}{4}$ / SW $\frac{1}{4}$ 6-97-71	40

Attach sheet if more space is needed

10. Time required to complete construction of water supply system FOUR years. Additional time required to complete application of water to the proposed beneficial use ONE years.
11. Choice of newspaper for Notice of Intent to Appropriate Water publication BURKE GAZETTE BURKE, SOUTH DAKOTA
GREGORY TIMES ADVOCATE
12. Principal Features of the Proposed Water Supply System.

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

DAM CONSTRUCTION ON DRY DRAW

CENTRIFUGAL PUMP-DEISEL POWER TO MOVE IRRIGATION SYSTEM

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

TEN INCH MAINLINE PIPELINE

C. Works proposed to apply water to beneficial use.

CENTER PIVOT AND TOWLINE

Estimated Total Cost \$ 250,000.00

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map.
(See instructions concerning preparation.)

STATE OF SOUTH DAKOTA

County of Hughes) ss.County of Oakley EideI, Oakley Eide the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.Signed Oakley EideSubscribed and sworn to before me this 10th day of March 19 76Betty WestlundNotary Public (or other qualified officer)
BETTY WESTLUND, Land/Water Clerk II

Eide Brothers Irrigation Project
 $E^2W^2 + W^2E^2$ Sec. 31 - T 98N - R 71W }
 W^2 Sec. 6 - T 97N - R 71W } Gregory County, S.D.
 SE^4 Sec. 1 - T 97N - R 72W }
 Scale 1" = 600'

 Land to be Irrigated

All land to be irrigated owned by Oakley Eide Jr., Terrence Eide & O. Eide sr. Est.

Location of Land to be Irrigated				
Location	Section	Township	Range	Acres
NE^4NW^4	31	98	71	18.1
NW^4NE^4	31	98	71	4.8
SE^4SW^4	31	98	71	2.6
SW^4SE^4	31	98	71	21.9
NW^4NW^4	6	97	71	12.3
NE^4NW^4	6	97	71	7.3
SE^4NW^4	6	97	71	20.3
SW^4NW^4	6	97	71	40.0
NW^4SW^4	6	97	71	40.0
NE^4SW^4	6	97	71	40.0
SE^4SW^4	6	97	71	40.0
NW^4SE^4	1	97	72	40.0
SE^4SE^4	1	97	72	40.0
SW^4SE^4	1	97	72	40.0
NW^4SE^4	1	97	72	40.0
Total				447.3

I hereby certify that the map and plans of the Eide Brothers Irrigation Project consisting of this sheet is an accurate representation of a survey made by me.

Dated February 23, 1976.


 Lauritz E. Pedersen
 Engineer

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 1363-2

OAKLEY EIDE

(Applicant)

BURKE

(Post Office Address)

SOUTH DAKOTA 57523

(State)

With the following modifications:

LOW FLOWS AS NEEDED FOR DOWNSTREAM DOMESTIC USE,
INCLUDING LIVESTOCK WATERING, MUST BE BY-PASSED

APPROVAL OF THIS PERMIT AUTHORIZES STORAGE OF 1,000
ACRE FEET ANNUALLY.

Date of first receipt of application MARCH 10, 19 76

Date of return to applicant for correction, amendments or changes required —, 19 —

Date of receipt of corrected application —, 19 —

Approved JULY 22, 19 76, Recorded in Book 15 Page 213

WATER RIGHT PERMIT NO. 1363-2

The Water Rights Commission hereby grants and issues this Water Right Permit No. 1363-2 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as modified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is MARCH 10, 19 76
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before JULY 22, 19 78
3. The whole of said work is to be completed on or before JULY 22, 19 80
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is JULY 22, 19 81
5. The water appropriated shall be used for the purpose of IRRIGATION

6. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.

7. The amount of the appropriation herein granted shall not exceed 26.4 cubic feet per second; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for beneficial uses served, and if for the irrigation purposes said appropriation must be limited to not more than 3 acre feet per acre per year and be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is

actually and beneficially applied for irrigation on or before JULY 22, 19 81; said water to be used during the following described annual period: STORAGE - WHEN AVAILABLE IRRIGATION APRIL THRU OCTOBER

Witness my hand this 27TH day of JULY, 19 76

WATER RIGHTS COMMISSION

By:

John H. H. H.
Chief Engineer, Executive Officer

Certificate of Construction Issued —, 19 —

Water License Issued —, 19 —

SW $\frac{1}{4}$ OF SE $\frac{1}{4}$	1-97-72W	40 A
SE $\frac{1}{4}$ OF SE $\frac{1}{4}$	1-97N-72W	40 A
NW $\frac{1}{4}$ OF SE $\frac{1}{4}$	1-97N-72W	40 A
NE $\frac{1}{4}$ OF SE $\frac{1}{4}$	1-97N-72W	40 A

SW $\frac{1}{4}$ OF SE $\frac{1}{4}$	31-98N-71W	25 A
NE $\frac{1}{4}$ OF NW $\frac{1}{4}$	31-98N-71W	30 A

(attachment to no 9.)

OK

Kem Vet. Inc.
 BOX 686 402-721-1772
 FREMONT NEBRASKA 68025
ANCHOR.

Form 2A Wells, Dugouts or Water Storage Dams (Supplement to form 2)

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

D. Well Information or Estimates

(1) Drill Hole, Diameter _____, Depth _____

(2) Casing, Type _____ Diameter _____ Thickness _____
(wood, concrete, steel, etc)

(3) Perforated Screen.

Type _____, Diameter _____, Length _____

(4) Gravel Pack, Thickness _____, Length of gravel pack _____

E. Dugout Information or Estimates

(1) Surface dimensions _____, Depth _____

F. Fill out for Either a Well or a Dugout.

(1) Water Bearing Materials. (Please attach a copy to test well log if available.)

Character of Water bearing materials _____

Depth to top of water bearing material _____

Depth to bottom of water bearing material _____

Thickness of water bearing material _____

Depth to water (ground surface to water level) _____

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

On same owner's property _____ rds. On property owned by others _____ rds.

G. Water Storage Dams.

If the proposed water use system contains one or more water storage dams, please show in the space below, the height, maximum water depth, surface area and storage capacity of each storage dam. The location of each water storage dam should be shown on the water right map.

Storage Dam

Height 30 feet
Surface Area 5.1 acres
Storage 75 acre feet

Proposed

Height 30 feet
Surface Area 50 acres
Storage 1000 acre feet

Oakley Eide
Signature of Applicant

INTERPRETIVE GROUPING	LAND USES AND SOILS INFORMATION ON YOUR OPERATING UNIT
	Oakley Eide $\frac{2C}{4-2}$ Reliance S.L. IIe1-Deep and moderately deep, loamy soils on gently sloping (2 to 6%) uplands. They have moderate wind and water erosion hazards. $\frac{1C}{4-2}$ Jansen S.L. IIe1-Deep and moderately deep, loamy soils on gently sloping (2 to 6%) uplands. They have moderate wind and water erosion hazards. $\frac{8C}{4-2}$ Anselmo S.L. IIIe8-Deep and moderately deep, moderately sandy soils on gently undulating (2 to 6%) uplands and eroded phases of these soils on nearly level (0 to 2%) uplands. They have a severe wind erosion hazard. $\frac{18KG}{1-1}$ Neils C. VIsl-Moderately well to poorly drained soils on nearly level to sloping (0 to 9%) uplands or in depressions. Dense, compact subsoils near the surface, salts, or ponding, or a combination of these limitations make these soils generally unsuited for cultivation.

(3-19)

55.5

Map # 1154-2

19-296

Oakley Creek

32.0 AC.
HAYLAND (T)
(IRR)

$\frac{AC}{4-1}$ IIR
RELIANCE S.C.L.

48.9 AC.
CROPLAND (IRR)

$\frac{AC}{4-1}$ IIR
RELIANCE S.C.L.

42.2 AC.
CROPLAND (IRR)

$\frac{AC}{4-1}$ IIR
RELIANCE S.C.L.

97-72

(3-19)

58.6

Map 1154-2

appl. 1363-2

21.1

30.3

19.7

33.1

30.1

43.5

1-194 Same

(3-54)

74.8

5

27.0

1.8

63.0

94 AC.
CROPLAND (IRR.)

20
4-2

IIe

RELIANCE S.C.L.

97-71

18KG

1-1

II S-1
KOLLS
C.

92.3 (3-54)

122.8

Appl. # 1363-2

1-193

(3-54)

68.0 AC.

CROPLAND (IRR.)

$\frac{2C}{4-2}$

IIe

RELIANCE S.C.L.

Oakley Eide Jr
For Frances

6

4/10

105.1 AC.

CROPLAND
(IRR.)

8 AC.
(WILD-
LIFELAND
STOCKLAND
(IRR.)

$\frac{2C}{4-2}$

IIe

RELIANCE S.C.L.

$\frac{18KG}{1-1}$

~~VI~~ VI SI
KOLLS C.

92-71

29.3

(3-54)

24.8

30.2

26.6

21.9

14.3

5.9

App'l # 1363-2

19-296

98-71

22.7 AC.
HAYLAND
(IRR.)

2C
4-2

II E 1

RELIANCE S.C.L.

(3-52)

Oakley Eids
Est.

31

IRR.
DAM

22.20 AC.
CROPLAND (IRR.)

1C
4-2

II E 1

JANSEN S.L.

98-71

AROI # 1363-2

1-56.

(3-89)

92.2 Ac.

CROPLAND (IRR.)

80

4-2

III e 8

ANSELMO F.S.L.

39.4

IRR.
DAM.

Oakley Side Est.
Oakley Side
Terry Side

18.2

15

19.8

5.5

3.9

13.9

14.9

9.6

4.8

6.1

1.6 39.2

99-71

Appl. # 1363-2

Oakley Eide Jr - Terry Eide

19M-297

97-71

59.4

(3-51)

7.3

54.6

4.2

75.5

1.5

12.3

46.4

Oakley Eide Est.
Oakley Eide
Terry Eide

46.1

1-56

10

36.4

31 AC
CROPLAND
(FRR)

8C
4-2

III E 8

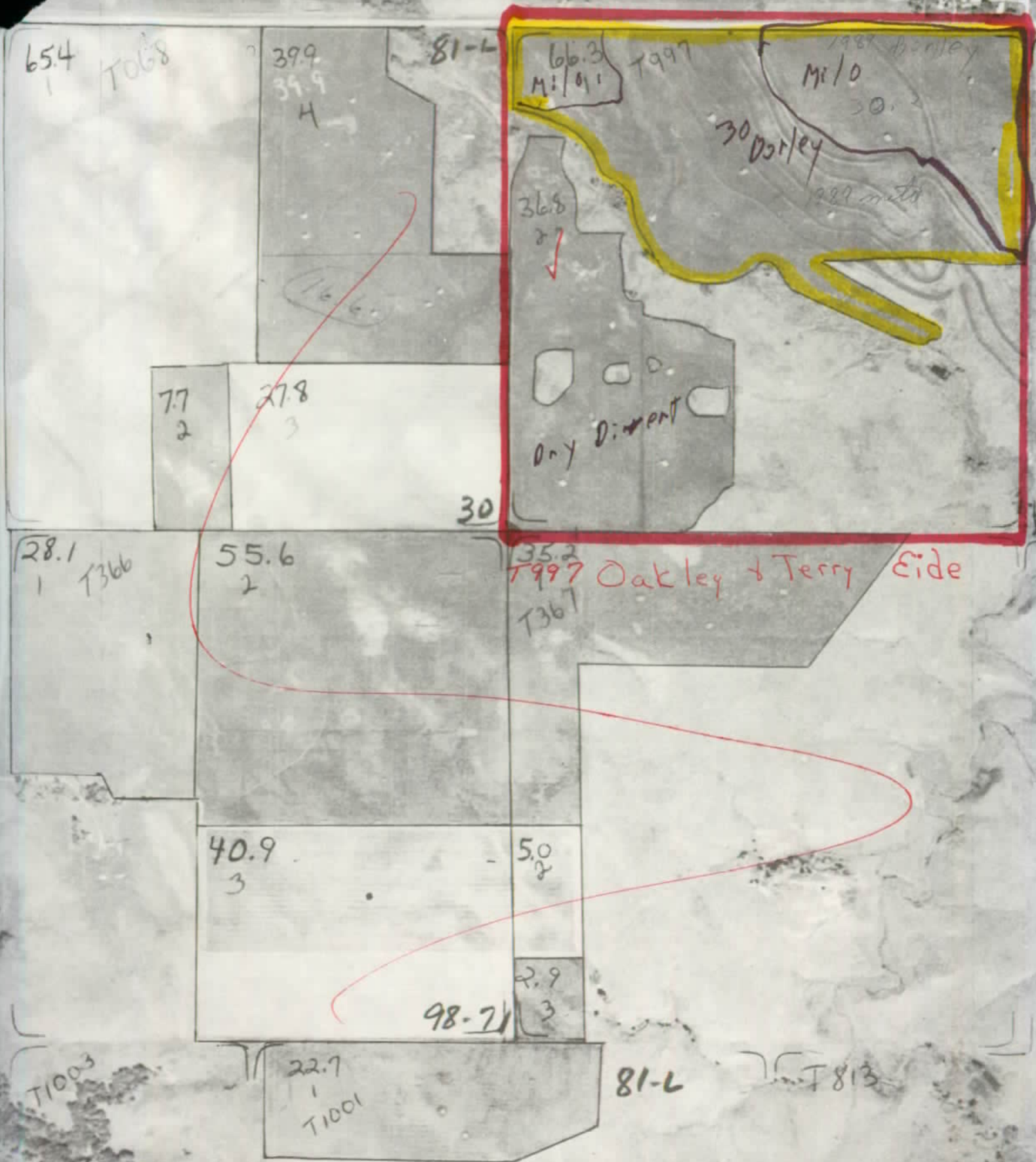
ANSELMO'S L.

97-71

IRR.
DAM.

Ampl-1363-2

~~Not to Scale~~
NOT TO SCALE



103.1

Publish first publication, on or before May 5, 1976NOTICE
INTENT TO APPROPRIATE WATER

Pierre, South Dakota 57501

April 9, 1976Oakley EideNotice is hereby given that Oakley Eide
whose post office address is Burke, South Dakota, has made an application in accordance
with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use6.4 cubic feet of water per second of time from the Whetstone Creek through the
Emory Diversion, the point of diversion of which ^{is} ~~is~~ to be located in the arcNE1/4, NW1/4 SE1/4 AND SE1/4 NW1/4of Section 31, Twp. 68N, Range 71W. Said water to be used for the purpose
of providing irrigation on ^{portions of} the following described land:SE1/4, Section 1, T97N, R72W; W1/4, Section 6, T97N, R71W;SE1/4 SW1/4, SW1/4 SE1/4, NE1/4 NW1/4, NW1/4 NE1/4, Section 31, T98N, R71WThis application No. 1363-2 will be considered by the Water Rights Commission at their office at
Pierre upon the 10th day of May, 1976, at 1:00 P. M. All interested
persons may appear and be heard.

WATER RIGHTS COMMISSION

By:

BOSTON F. JONES
Water Rights SpecialistBFJ/bw
cc:

Oakley Eide, Burke, S.D. 57523

White R

Form 8 - Proof of Publication - Notice of
Intent to Appropriate Water

No. 1363-2

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Gregory) ss.

I, Nelson L. Miller hereby

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

Water was taken from the Gregory Times-Observer

A newspaper which during the whole time of publication of said notice
herein after stated, has been and is printed and published in the _____

city of Gregory

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

April 14, 1976

April 21, 1976

Nelson L. Miller
(Signature)

Office Manager
(Title)

April 21, 1976
(Date Signed)

NOTICE
INTENT TO APPROPRIATE
WATER

Pierre, South Dakota 57501
April 9, 1976

Notice is hereby given that
Oakley Elde whose post office
address is Burke, South Dakota,
has made an application in
accordance with the provisions of
the water laws of South Dakota
for a permit to appropriate for
beneficial use 6.4 cubic feet of
water per second of time from
Whetstone Creek through the
Emory Diversion, the point of
diversion of which are to be
located in the NE 1/4 SW 1/4, NW 1/4
SE 1/4 and SE 1/4 NW 1/4 of Section
31, Twp. 98N, Range 71W, Said
water to be used for the purposes
of providing irrigation on por-
tions of the following described
land: SE 1/4, Section 1, T97N,
R72W; W 1/4, Section C, T97N,
R71W; SE 1/4 SW 1/4, SW 1/4 SE 1/4,
NE 1/4 NW 1/4, NW 1/4 NE 1/4,
Section 31, T96N, R71W.

This application No. 1363-2
will be considered by the Water
Rights Commission at their office
at Pierre upon the 20th day of
May, 1976, at 1:00 p.m. All
interested persons may appear
and be heard.

Water Rights Commission
Burton F. Jones
Water Rights Specialist
(15-16) (38)



REPORT ON
OAKLEY EIDE WATER RIGHT APPLICATION
NO. 1363-2 and NO. 1365-2

The Water Rights Commission deferred action at the May 20-21, 1976 meeting on the Oakley Eide water right applications No. 1363-2 and No. 1365-2 pending investigation by the Commission Staff. An investigation was conducted in the Gregory County area June 20 to July 1, 1976.

Proposed Project for Application No. 1363-2

The application proposes to divert water from a storage dam to be constructed (marked in blue on the attachment). The dam is to be located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ 31-T98N-R71W with a surface area of 50 acres and a total storage of 1,000 acre feet. Water from the dam will be used to irrigate 447.3 acres. (Yellow on the attachment). The application proposes that 6.4 cfs of water be diverted from the dam.

The dam is located in Gregory County $5\frac{1}{2}$ miles north of Burke on the South Fork of the Whetstone Creek. The watershed above the proposed dam is 11,700 acres. The runoff for this watershed on a two year frequency basis is determined to be 1.6 inches per acre. The watershed should yield 1,560 acre feet per year at least once in every two year period.

Proposed Project for Application No. 1365-2

The application proposes to divert water from a storage dam No. 1 to be constructed (marked green on the attachment). The dam is to be located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 5-T98N-R71W with a surface area of 30 acres and a total storage of 600 acre feet. Water from the dam will be used to irrigate 326.1 acres (orange on the attachment). The application proposes that 4.66 cfs of water will be diverted from the dam.

The dam is to be located in Gregory County on Spring Creek. The watershed above the proposed dam is 7,919 acres, the runoff for the watershed on a two year frequency basis is determined to be 1.6 inches per acre. The watershed should yield 1,056 acre feet per year at least once in every two year period.

Dam No. 2 (marked in brown on the attachment) will be constructed in lieu of Dam No. 1 in the event the location of Dam No. 1 proves to be unsatisfactory. The dam to be located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 32-T98N-R71W, with a surface area of 30 acres and a total storage of 600 acre feet.

The dam is to be located on the South Fork of the Whetstone approximately 1.0 miles below Dam No. 1 and approximately 1½ miles below the proposed dam for Application No. 1363-2. The watershed above this site is 22,340 acres. The watershed should yield 2,979 acre feet per year at least once every two year period.

Objections

The Commission deferred action on the Eide application No. 1363-2 and No. 1365-2 when objections were received from Darrell Young, Jim Lubbers, Joe Engelmeyer, Lyle Moeriha, Adam Krieger, Tom Smilke, and Truman Young. Their property, or that which they lease, is located downstream, (marked in red on attachment) to the junction of Coon Creek. These people were present at the Commission meeting of May 20, 1976. The objectors are concerned that the dam will interfere with water supplies for livestock use.

Persons Contacted

A meeting was held July 1, 1976 at the Jim Lubber farm and all of the above named persons were present except Truman Young.

Discussion

Those present at the meeting said the South Fork of the Whetstone normally stops flowing about July 1st and then resumes flowing September 1st, there are no dams and dugouts on the main creek, except a small fill within the channel that was constructed by a road contractor, Schweigert, for water use in road construction. This use of water is no longer needed. It has an estimated storage capacity of 3 to 4 acre feet.

The objectors use the stream for livestock when the stream is flowing to enhance the distribution of grazing; however, they have other sources of water when the creek ceases to flow.

The low flow by-pass qualification was explained to the group. When water is needed below the dam for domestic use including livestock watering, during dry periods, then enough incoming flows must be by-passed to provide for downstream domestic use including livestock use. Stored water would not need to be by-passed even though downstream users were without water.

The group agreed to withdraw their objection to the dams if Eide would by-pass water through the dam for the entire grazing season, even though no water was flowing into the dams from above, and that the small fill be removed from the creek channel. They

also indicated someone other than Eide should control the low flow by-pass gates.

Conclusions and Recommendations

Based upon the investigation, unappropriated water is available for storage provided that any flow into the dam during dry periods, even when the dam does not overflow, is by-passed. Mr. Eide has indicated that he understands this and will by-pass water when necessary.

The Commission staff recommends that Oakley Eide's water right application No. 1363-2 with a storage capacity of 1,000 acre feet and application No. 1365-2 with a storage capacity of 600 acre feet be approved with the following qualification:

"Low flows as needed for downstream domestic use including livestock watering must be by-passed."

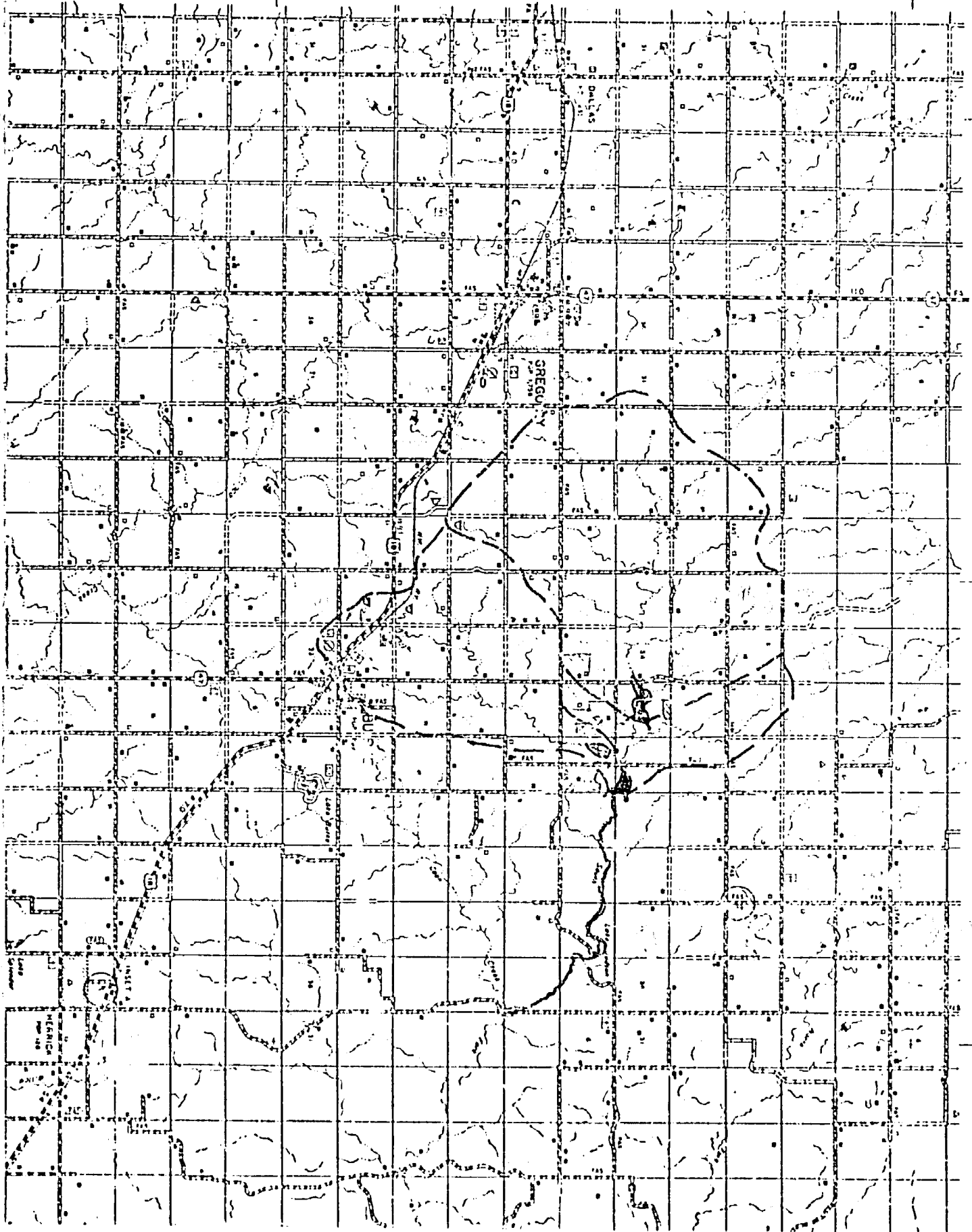
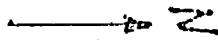
LeRoy J. Mernaugh
Water Resources Engineer

T 96 N

T 97 N

T 98 N

TRIPP COUNTY



Re: WR. No. 1363-2
1365-2

July 16, 1976

Mr. Oakley Bida
Burke, SD 57523

Dear Mr. Bida:

The Water Rights Commission will reconsider you deferred Water Right Application No. 1363-2 and No. 1365-2 during their July 21-22, 1976 meeting, at 10:15 A.M., July 22, 1976. Any comments concerning these applications can be presented at this hearing.

The Commission will be meeting in the Courtroom, Tripp County Courthouse, Winner, South Dakota. Please advise if you have any questions concerning the hearing.

Very truly yours,

John Hatch, Chief Engineer
Water Rights Commission

JH:nlm

Enclosure

CC: William Sratka
Dudley Herman
Darrel Young
Jim Lubbers
Joe Engelmeyer

Lyle Moerike
Adam Krieger
Tom Smikle
Truman Young
Lauritz Pedersen

INVENTORY & EVALUATION

*

INDIVIDUAL
GROUP

UNIT OF GOVERNMENT

REQUESTED BY Oakley Eide Jr.

Oregon County
LOCATION NE 1-97-72

ASSISTED BY Ralph W. Wenzel DC

DATE Mar 2, 1976

SITUATION: Cooperator requests technical assistance to help develop a water map for the purpose of obtaining a water right for irrigation. He plans to construct two, and maybe three dams to irrigate approximately 476 acres of cropland and tame pasture or hay.

SUGGESTED SOLUTION(S): Make up a water map showing fields to be irrigated, uses of fields, soil code, land capability and soil names. Also mark approximate points where irrigation dams or diversions are planned to be located. See attached maps.

Re: 1363-2
1365-2

May 26, 1976

Mr. Oakley Eide
Burke, SD 57523

Dear Mr. Eide:

The Water Rights Commission deferred action on your applications No. 1363-2 and 1365-2 at the May 20-21, 1976 Commission meeting, pending an investigation by the Commission staff.

We will contact you when the investigation is made. If you have any questions, feel free to contact this office.

Very truly yours,

John Hatch, Chief Engineer
Water Rights Commission

JH:nlm

Burt:

Will you please contact me
when your staff come to check the
Eide project.

Pete.

SOUTH DAKOTA STATE LEGISLATURE

PIERRE, SOUTH DAKOTA



HOUSE OF REPRESENTATIVES

May 19, 1976

I checked the South Fork of the Whetstone at the west side of Section 31- 98- 71, there is no water flowing at this point, at the place where County road 6 crosses the Whetstone Creek in the South $\frac{1}{2}$ of section 31-98-71 there is a small flow seeping out of the dam on the east side of the road, no flow where the creek crosses the road in the South East $\frac{1}{4}$ -2-97-71. There is a small flow at the point in the North East $\frac{1}{4}$ -13-97-71 where the creek flows into Turgeon Twp. probably coming from Coon Creek as there a number of flowing springs at the upper end of Coon Creek.

The south fork of the Whetstone is not a dependable supply of water in the summer months any water used for irrigation would have to be caught at a time of flood.

There is no water flowing across the road from Spring Creek where the road crosses it between sec. sections 6 and 7- Twp. 97- R 71 at this time.

Rep Harold Sieh

#1363-2

South Dakota Department of
Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

February 17, 1989

Oakley Eide
RR 2, Box 24
Burke, SD 57523

Dear Mr. Eide:

On October 6, 1988, the Water Management Board adopted rules to implement a 1988 law for application of chemicals through irrigation systems. The rules establish equipment standards, performance standards and installation requirements for irrigation systems that apply chemicals (fertilizers, insecticides, or herbicides) with irrigation water.

You have indicated on your 1988 Water Management Board Irrigation Questionnaire that you do apply chemicals with irrigation water. A copy of the new rules for chemigation are enclosed for your information.

The new standards include:

- * a check valve between the irrigation pump and the point of chemical injection;
- * a vacuum relief valve on top of the pipeline between the irrigation pump and the irrigation pipeline check valve;
- * a low-pressure drain on the bottom of the pipeline between the irrigation pump and the irrigation pipeline check valve;
- * a chemical injection line check valve between the chemical injection pump and the point at which the chemical is injected into the irrigation line; a second check valve is required if the chemical injection pump is not a positive displacement pump;
- * an interlock system which ensures that the chemical injection pump will stop whenever the irrigation pump stops;
- * an inspection port between the irrigation pump and the check valve on the irrigation line;

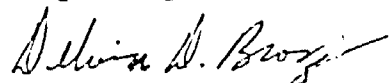


Each of these equipment requirements are discussed more thoroughly in Sections 74:02:09:05 through 74:02:09:10 of the enclosed rules. Appendix A contains diagrams of the arrangements of these anti-pollution devices.

The equipment must be installed according to the manufacturer's specifications, calibrated, and maintained in good working condition. All chemical product labels must be followed and warning signs must be posted. These rules also require reporting of all spills, accidents, and system malfunctions. A 24-hour telephone number is provided.

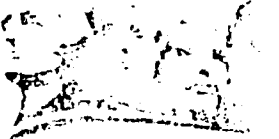
The chemigation rules contain notification and record keeping requirements. Prior to using chemigation, notification must be given to the Chief Engineer on the enclosed Form 1C. Information that must be provided in this notification includes the water permit or right number, the name, address, and telephone number of the water permit or right holder and of the system operator, and the legal description of the lands on which the system is located. A record of the name, quantity, dates and hours of each chemical applied must be provided to the Chief Engineer on Form 2C. A copy of this form is also enclosed for your information. It will be mailed with the annual irrigation questionnaire and must be returned with the questionnaire by the date specified. If you have any questions regarding these rules or need additional copies of the forms, please contact Susan Bowar, Water Rights Engineer (605-773-3352).

Very truly yours,



for JOHN HATCH, Chief Engineer
Water Rights Division

South Dakota



GREAT FACES. GREAT PLACES.
February 1, 1991

DEPARTMENT OF WATER & NATURAL RESOURCES
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

1363-2

OAKLEY EIDE
RR 2, BOX 24
BURKE, SD 57523

NOTICE

Re: Failure to Report Chemical Use under Water Permit No(s). (1363-2)

Our records indicate that the 1990 chemigation report(s) has not been received for Permits No(s) 1363-2. The request for the chemigation report(s) was dated October 12, 1990. The Water Management Board has directed that owners of water permits who have not submitted the 1990 chemigation report(s) be given notice of violation and of hearing(s) before the Board. The hearing(s) will be held to determine action to be taken by the Board for violation of South Dakota general rule 74:02:09:02(3) requiring chemigation users to report the dates and hours of chemical application.

The hearing(s) will be held at 9:15 am, on February 27, 1991, at the Governor's Inn in the meeting room, 700 West Sioux Avenue, Pierre SD.

The hearing(s) will be conducted pursuant to SDCL 34A-2A through 34A-2A-5; 46-1-12, 46-1-14, 46-2-11, 46-2-17. These are contested case hearings pursuant to procedures contained in SDCL 1-26.

Following the hearing(s) the Water Management Board can:

1. Suspend Permit No(s). 1363-2 until either the 1990 chemigation report(s) is submitted or for a period of up to one year;
2. Postpone any action;
3. Take no action.

The hearing(s) 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.

Very truly yours,

Ron Duvall, Natural Resources Engineer IV
Water Rights Division
605 773-3352

NOTE: If the chemigation report(s) is received in this office before the February 27th hearing date, you will no longer be in violation of your permit(s) and your name will be deleted from the agenda pertaining to these hearings.



DEPARTMENT OF WATER & NATURAL RESOURCES
 Joe Foss Building
 523 East Capitol
 Pierre, South Dakota 57501-3181

February 1, 1991

OAKLEY EIDE
 RR 2 BOX 24
 BURKE SD 57523

NOTICE

RE: Violation of Requirement to Submit 1990 Irrigation Questionnaire

Our records indicate that the 1990 Irrigation Questionnaire has not been submitted for Permit No(s) 1362-2, 1363-2. The request for the Questionnaire was dated October 12, 1990. The Water Management Board has directed that owners of water permits who have not submitted the 1990 Irrigation Questionnaire be given notice of hearing(s) to be held by the Board to determine if any action is to be taken concerning the violation.

The hearings will be held at 9:15 am, February 27, 1991, at the Governor's Inn in the meeting room, 700 West Sioux Avenue, Pierre SD.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to procedures contained in SDCL 1-26. Following the hearing(s), the Water Management Board can:

1. Amend Permit No(s) 1362-2, 1363-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action;
3. Take no action.

The hearing(s) 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 received in this office before the February 27th hearing date, your name will be deleted from the agenda for the hearing.

Very truly yours,

Ron Duvall, Natural Resources Engineer IV
 Water Rights Division
 605 773-3352



DEPARTMENT OF WATER & NATURAL RESOURCES
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

1363-2

February 6, 1991

1362-2
1363-2
1365-2

Oakley Eide
RR #2 Box 24
Burke, SD 57523

Dear Mr. Eide:

I am writing to acknowledge receipt of your 1990 irrigation questionnaires and chemical application use for Water Permit Nos. 1362-2, 1363-2 and 1365-2. You may disregard the February 1, 1991, Notice of failure to submit the 1990 irrigation questionnaire and the Notice of failure to report chemical use. With receipt of the questionnaires, your name has been deleted from the February Water Management Board meeting agenda.

If you have any questions, please contact Genny McMath, at (605) 773-3352.

Sincerely,

Ron Duvall, Natural Resources Engineer IV
Water Rights Division



1363-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3101

February 16, 1994

OAKLEY EIDE
RR 2 BOX 24
BURKE SD 57523

NOTICE

RE: Violation of Requirement to Submit 1993 Irrigation Questionnaire

Our records indicate that the 1993 Irrigation Questionnaire has not been submitted for Permit No(s) 1362-2, 1363-2 & 1365-2. The request for the Questionnaire was dated October 18, 1993. The Water Management Board has directed that owners of water permits who have not submitted the 1993 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning the violation.

The hearing will be held at 8:45 am, April 6, 1994, at the Golden Hills Resort, 900 Miners Ave, Lead, 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 SDCL 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 1362-2, 1363-2 & 1365-2 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 April 1, 1994, your name will be deleted from the Board agenda.

Very truly yours,

Ron Duvall, Natural Resources Engineer IV
Water Rights Division
605 773-3352



1363-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING

523 EAST CAPITOL

PIERRE, SOUTH DAKOTA 57501-3181

February 16, 1994

NOTICE

TO: OAKLEY EIDE
RR 2, BOX 24
BURKE, SD 57523

FROM: Ron Duvall, Natural Resources Engineer IV
for JOHN HATCH, Chief Engineer
Water Rights Division

RE: Failure to Report Chemical Use under Water Permit No(s) 1363-2

The first notice to file chemigation report(s) for Permit No(s) 1363-2 was dated October 18, 1993. Our records indicate that we have not received the 1993 chemigation report for Permits No(s) 1363-2. The Water Management Board has directed that owners of water permits who have not submitted the 1993 chemigation report(s) be given notice of violation and of hearing before the Board. The hearing held by the Board is to determine what action is to be taken concerning violation of Administrative rule 14:02:09:02(3). This rule requires chemigation users to report the type of chemical applied, the dates, hours and amount of chemical application.

The hearing will be held at 8:45 A.M. on April 6, 1994, at the Golden Hills Resort, 900 Miners Avenue, Lead, SD and will be conducted pursuant to SDCL 34A-2A through 34A-2A-5; 46-1-12, 46-1-14, 46-2-11, 46-2-17. These are contested case hearings pursuant to SDCL 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 or up to three years for the 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). 1363-2 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. Prior to April 1, 1994, contact the Water Rights Division, 523 E. Capitol, Pierre, SD 57501-3181 (605 773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

NOTE: If the chemigation report(s) is(are) received by this office prior to April 1, 1994, you will no longer be in violation and your name will be deleted from the Board agenda.



1363-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 10, 1994

NOTICE

TO: OAKLEY EIDE
RR 2 BOX 24
BURKE, SD 57523

FROM: Ron Duvall, Natural Resources Engineer IV
For John Hatch, Chief Engineer,
Water Rights Division
(605) 773-3352 

SUBJECT: April 6, 1994 Water Management Board Meeting --
Irrigation Questionnaire Violations and Failure
to Report Chemical Use
RE: , 1362-2, 1363-2 & 1365-2

On February 16, 1994, notices were sent to you concerning submission of the 1993 irrigation questionnaires and failure to report chemical use. The time and location of the April 6th hearing have been changed.

The hearing is now scheduled as follows:

9:30 a.m., April 6, 1994, in the Conference Room of
the Floyd Matthew Training Center, Joe Foss Building,
523 E Capitol, Pierre, SD.

All other provisions of the February 16th notice still apply. If the questionnaires and chemical reporting form are received in this office prior to April 1, 1994, your name will be deleted from the agenda.

If you have any questions, please contact Genny McMath at
(605) 773-3352.

1363-2

CERTIFICATION

I hereby certify that on March 10, 1994, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 10, 1994, regarding April 6, 1994, Water Management Board Meeting--Failure to Report Chemical Use on the following Water Rights/Permits and addresses stated below:

1141-2 & 1680-2B: William C. & Roberta Donovan, HC 77, Box 34, Vetat, SD 57575.

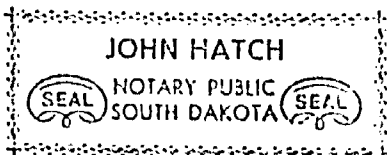
1362-2, 1363-2 & 1365-2: Oakley Eide, RR 2, Box 24, Burke, SD 57523.

Cheryl F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
COUNTY OF HUGHES) SS

Sworn to, before me, this 11th day of March, 1994.



John Hatch
Notary Public

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001



1363-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 14, 1994

1362-2

1363-2

1365-2

Oakley Eide
RR #2 Box 24
Burke, SD 57523

Dear Mr. Eide:

I am writing to acknowledge receipt of your 1993 Irrigation questionnaires for Water Permit Nos. 1362-2, 1363-2 & 1365-2 and chemical information for Water Permit No. 1363-2. The questionnaires were completed for you based upon your telephone conversation with Ron Duvall. You may disregard the February 16, 1994, **Notice of Violation of the Requirement to Submit the 1993 Irrigation Questionnaire and the Notice of Failure to Report Chemical Use.**

The questionnaires and chemical use information were on file 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 Division
(605) 773-3352



1363-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3191

February 7, 1995

OAKLEY EIDE
RR 2 BOX 24
BURKE SD 57523

NOTICE

RE: Violation of Requirement to Submit 1994 Irrigation Questionnaire

Our records indicate that the 1994 Irrigation Questionnaire has not been submitted for Permit Nos. 1362-2, 1363-2 & 1365-2. The request for the Questionnaire was dated November 3, 1994. The Water Management Board has directed that owners of water permits who have not submitted the 1994 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning the violation.

The hearing will be held at 9:30 am, March 8, 1995, in the Crown Room, 3rd Floor, Kings Inn Best Western Convention Center, 220 S Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-2, 46-2-11 and 46-2-17. These are contested case hearings pursuant to SDCL 1-26. Following the hearing, the Water Management Board can:

1. Amend Permit Nos. 1362-2, 1363-2 & 1365-2 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 questionnaires are received in this office on/or before March 3, 1995 your name will be deleted from the Board agenda.

Very truly yours,

Ron Duvall, Natural Resources Engineer IV
Water Rights Division
605 773-3352



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 7, 1995

NOTICE

TO: OAKLEY EIDE
RR 2, BOX 24
BURKE, SD 57523

FROM: Ron Duvall, Natural Resources Engineer IV
for JOHN HATCH, Chief Engineer
Water Rights Division

RE: Failure to Report Chemical Use under Water Permit No(s) 1363-2

The first notice to file chemigation report(s) for Permit No(s) 1363-2 was dated November 3, 1994. Our records indicate that we have not received the 1994 chemigation report for Permits No(s) 1363-2. The Water Management Board has directed that owners of water permits who have not submitted the 1994 chemigation report(s) be given notice of violation and of hearing before the Board. The hearing held by the Board is to determine what action is to be taken concerning violation of Administrative rule 74:02:09:02(3). This rule requires chemigation users to report the type of chemical applied, the dates, hours and amount of chemical application.

The hearing will be held at 9:30 A.M. on March 8, 1995, in the Crown Room, 3RD Floor, Kings Inn Best Western Convention Center, 220 South Pierre Street, Pierre, SD and will be conducted pursuant to SDCL 34A-2A through 34A-2A-5; 46-1-12, 46-1-14, 46-2-11, 46-2-17. These are contested case hearings pursuant to SDCL 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 or up to three years for the 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). 1363-2 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. Prior to March 3, 1995, contact the Water Rights Division, 523 E. Capitol, Pierre, SD 57501-3181 (605 773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

NOTE: If the chemigation report(s) is(are) received by this office prior to March 3, 1995, you will no longer be in violation and your name will be deleted from the Board agenda.



1563-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 7, 1995

1362-2

1363-2

1365-2

Oakley Eide
RR 2 Box 24
Burke, SD 57523

Dear Mr. Eide:

I am writing to acknowledge receipt of your 1994 irrigation questionnaires and chemical reporting form. I completed these forms for you following our March 7th telephone conversation. You may disregard the February 7, 1995, **Notice of Violation of the Requirement to Submit the Irrigation Questionnaires and the Notice of Failure to Report Chemical Use under Water Permit No. 1363-2.**

The questionnaires and chemical reporting form were on file 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 Division
(605) 773-3352



1363-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 24, 1995

1363-2

John McMahon
RECD
3101 W 41st St - Suite 202
Sioux Falls, SD 57105

Dear Mr. McMahon:

Enclosed, as you requested, is a copy of Water Permit No. 1363-2 currently listed in the name of Oakley Eide. This permit contains the legal description you inquired about in the SW 1/4 Section 6, T97N, R71W. I have included a copy of a 1991 inspection report and maps showing the system as developed.

All Mr. Eide's permits were inspected in 1991 for licensing purposes. They have not yet been licensed because a portion of the land being irrigated was not covered by any of his permits. We have written to him several times and to date the matter has not been taken care of.

If you have any questions concerning the enclosed material, please contact me.

Sincerely,

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

enclosures



1363-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 30, 1996

NOTICE

TO: OAKLEY EIDE
RR 2 BOX 24
BURKE SD 57523

FROM: Ron Duvall, Natural Resources Engineer
for JOHN HATCH, Chief Engineer
Water Rights Program

RE: Failure to Report Chemical Use under Water Permit No(s) 1363-2

The first notice to file chemigation report(s) for Permit No(s) 1363-2 was dated 10/20/95. Our records indicate that we have not received the 1995 chemigation report for Permits No(s) 1363-2. The Water Management Board has directed that owners of water permits who have not submitted the 1995 chemigation report(s) be given notice of violation and of hearing before the Board. The hearing held by the Board is to determine what action is to be taken concerning violation of administrative rule 74:02:09:02(3). This rule requires chemigation users to report the type of chemical applied, the dates, hours and amount of chemical application.

The hearing will be held at 9:45 A.M. on March 6, 1996, in the Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, SD and will be conducted pursuant to SDCL 34A-2A through 34A-2A-5; 46-1-12, 46-1-14, 46-2-11, 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 or up to three years for the 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). 1363-2 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 chemigation report(s) is(are) received by this office on/or before March 1, 1996 your name will be deleted from the board agenda.

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 East 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.



1363-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 30, 1996

NOTICE

TO: OAKLEY EIDE, RR 2 BOX 24, BURKE, SD 57523

FROM: Ron Duvall, Natural Resources Engineer
for John Hatch, Chief Engineer
Water Rights Program

SUBJECT: Violation of Requirement to Submit 1995 Irrigation Questionnaire

Our records indicate that the 1995 Irrigation Questionnaire has not been submitted for Permit No(s) 1362-2, 1363-2 & 1365-2. The request for the Questionnaire was dated October 20, 1995. The Water Management Board has directed that owners of water permits who have not submitted the 1995 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning the violation.

The hearing will be held at 9:45 am, March 6, 1996, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD and will be conducted pursuant to SDCR 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) 1362-2, 1363-2 & 1365-2 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 1, 1996 your name will be deleted from the Board agenda. If you have any questions or need assistance with 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.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 7, 1996

1362-3

1363-3

1365-2

Oakley Eide
RR 2 Box 24
Burke, SD 57523

Dear Mr. Eide:

I am writing to acknowledge receipt of your 1995 irrigation questionnaires and chemical reporting form. You may disregard the January 30, 1996, Notice of Violation of the Requirement to Submit the 1995 Irrigation Questionnaires and Failure to Report Chemical Use.

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



1363-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3121
www.state.sd.us/denr

January 14, 2000

NOTICE

TO: OAKLEY EIDE, RR 2 BOX 24, BURKE, SD 57523

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

SUBJECT: Reporting Requirement for 1999 Irrigation Questionnaire(s)

Our records indicate that the 1999 Irrigation Questionnaire has not been submitted for Permit No(s) 1362-2, 1363-2 & 1365-2. The request for the Questionnaire was dated October 7, 1999. The Water Management Board has directed that owners of water permits who have not submitted the 1999 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 1:30 pm, March 1, 2000, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, 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) 1362-2, 1363-2 & 1365-2 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 February 28, 2000, your name will be deleted from the Board agenda. If you have any questions or need assistance with 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.



1363-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 8, 2000

NOTICE OF AMENDMENT OF WATER PERMITS

TO: Oakley Eide, RR 2 Box 24, Burke, SD 57523
FROM: Garland Erbele, Chief Engineer
Water Rights Program *Garland Erbele*
SUBJECT: Amendment to Water Permit Nos. 1362-2, 1363-2 & 1365-2

Pursuant to the provisions of the notice dated January 14, 2000, and following the hearing March 1, 2000, the Water Management Board has amended Water Permit Nos. 1362-2, 1363-2 and 1365-2 to add the following qualification:

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

This action was taken for failure to return the 1999 irrigation questionnaires. The addition of this qualification to your Water Permits means that failure to submit the required irrigation questionnaire in the future could result in suspension of the water right with no use of water for up to one year for the first violation.

Please contact Genny McMath (605) 773-3352, if you have any questions.

1363-2

CERTIFICATION

I hereby certify that on March 6, 2000, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 6, 2000, regarding Amendment to the following Water Rights/Permits, addressed as stated below:

W.R. #424-1: Steve Smeenk, Rt 1, Box 134, Newell, SD 57760.

W.R. #968-2: Dwayne Newman, Box 429, Philip, SD 57567-0429.

W.P. #'s 1362-2, 1363-2 & 1365-2: Oakley Eide, RR 2, Box 24, Burke, SD 57523.

W.R. #'s 1045-3 & 1962-3: Alvin Gutormson, 2187 21st SE, Huron, SD 57350.

W.R. #'s 1237-3 & 1395-3: Rolland Vander Pol, Box 32, Corsica, SD 57328.

W.R. #'s 2040-3, 2246-3, 4248-3 & 4397-3: Ronald W. Marone, 21536 405th Ave., Cavour, SD 57324-7615.

W.R. #2150-3: Ronald Foster, 46571 196th St., Estelline, SD 57234-5102.

W.R. #'s 2595-3 & 4379-3: James B. Zell, 21795 408th Ave., Cavour, SD 57324.

W.R. #3358-3: Allan Kramer, 2004 Arizona Ave. NW, Orange City, IA 51041.

W.R. #4475-3: John Pillote, HCR 1, Box 886, Michigamme, MI 49861-9600.

Che

[Signature]

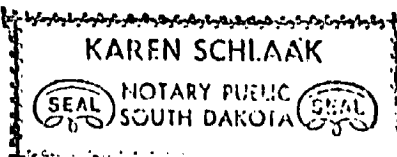
STATE OF SOUTH DAKOTA)

) SS

COUNTY OF HUGHES)

Sworn to, before me, this 7th day of Mar, 2000

KAREN SCHLAACK, Notary Public
My Commission Expires





1363-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 19, 2001

NOTICE

TO: OAKLEY EIDE, RR 2 BOX 24, BURKE, SD 57523

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

SUBJECT: Reporting Requirement for 2000 Irrigation Questionnaire(s)

Our records indicate that the 2000 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 1362-2, 1363-2 & 1365-2. The request for the Questionnaire was dated October 20, 2000. The Water Management Board has directed that owners of water permits who have not submitted the 2000 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) 1362-2, 1363-2 & 1365-2 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, 2001 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, 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) 1362-2, 1363-2 & 1365-2 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, 2001, 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.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 28, 2001

1362-2

1363-2

1365-2

Oakley Eide
RR 2 Box 24
Burke, SD 57523

Dear Mr. Eide:

I am writing to acknowledge receipt of your 2000 irrigation questionnaires. You may disregard the January 19, 2001, "Notice" concerning reporting requirements for Water Permit Nos. 1362-2, 1363-2 and 1365-2.

I completed questionnaires for you based on our February 28th telephone conversation. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

Thank you for calling and if you have any questions, please contact me.

Sincerely,

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



1363-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 14, 2004

NOTICE

TO: OAKLEY EIDE, RR 2 BOX 24, BURKE, SD 57523

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

SUBJECT: Reporting Requirement for 2003 Irrigation Questionnaire(s)

Our records indicate that the 2003 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 1362-2, 1363-2 & 1365-2. The request for the Questionnaire was dated October 17, 2003. The Water Management Board has directed that owners of water permits who have not submitted the 2003 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) 1362-2, 1363-2 & 1365-2 qualification:

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

The hearing will be held at 8:30 am, March 3, 2004 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) 1362-2, 1363-2 & 1365-2 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 27, 2004**, 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.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 8, 2004

NOTICE OF ONE YEAR SUSPENSION OF WATER PERMITS

TO: Oakley Eide, RR 2 Box 24, Burke SD 57523
FROM: Garland Erbele Chief Engineer
Water Rights Program *Garland Erbele*
SUBJECT: One Year Suspension of Water Permit Nos. 1362-2, 1363-2 and 1365-2

On March 3, 2004, the Water Management Board ordered:

**That Water Permit Nos. 1362-2, 1363-2 and 1365-2 be suspended until
December 31, 2004, for failure to submit the 2003 irrigation questionnaires.**

Suspension of a water permit or right means water may not be pumped during the 2004 irrigation season. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

It is our understanding that you wish to petition the Water Management Board to rescind the suspensions. Please complete the enclosed questionnaires and submit them along with a letter to our office requesting time on the agenda for the Water Management Board meeting scheduled for May 12, 2004 in Pierre, SD. The letter can be informal but should include your reasons for not completing the questionnaires in a timely manner.

Please contact Genny McMath (605) 773-3352, if you have any questions.

CERTIFICATION

1363-2

I hereby certify that on March 8, 2004, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 8, 2004 regarding Notice of One Year Suspension Water Right No. 3451-3, 2366-3, 2453-3, 3332-3, 6165-3, 3198A-3, 2480A-3, 1723-2, 921-1, 1080-2, 2696-3A, 4414-3, 4658-3, 6073-3, Amendment of Water Right #470A-1 & one Year Suspension of Water Right #1554-1, Amendment of Water Right #4528-3 & One Year Suspension of Water Right #4535-3 Three Year Suspension of Water Right No. 932-2, One Year Suspension of Water Permit #2464-3, 5353-3, 5552-3, 1362-3, 1363-2 & 1365-2 addressed as stated below:

3451-3
Martin Bertrand
48342 W Authier Rd
Jefferson SD 57038

2366-3
Wayne W Brown
48113 SD 48
Akron IA 51001

2453-3
Jack & Gale Coleman
41247 SD Hwy 37
Springfield SD 57062-6324

3332-3
John W Collins
RFD 148
Aurora SD 57002

6165-3
Alex and Ann Falk
1301 N 4th St
Aberdeen SD 57401

3198A-3
J V Kenneally
PO Box 50
Raymond SD 57258-0050

2480A-3
Dennis H & Jackie McDowell
227 W Lakeshore Dr
Carrollton GA 30117

1723-2
Tim Palmer
HC 2 Box 19A
Martin SD 57551

921-1
Wendelyn Richter
RR 2 Box 198
Whitewood SD 57793

1080-2
Larry Schell
Schell Ranch
22955 Jensen Rd
Wall SD 57790

2696-3A, 4414-3, 4658-3
Donald Schmidt
HCR 3 Box 16
Willow Lake SD 57278-9515

6073-3
Dirk Byers
Six Mile Creek Golf Course
PO Box 93
White SD 57267-0093

470A-1 & 1554-1
Stanley Wood
18950 137th Ave
Newell SD 57750

4528-3, 4535-3
Dwight Brenner
28-53 397th Ave
Armour SD 57313

4528-3, 4535-3
Elsie Sanders
3366 Midway Ave
Grant Pass OR 97527

4528-3, 4535-3
Jerry Peacock
2032 Central Blvd
Rapid City SD 57702

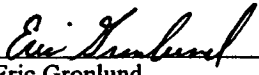
932-2
Wayne Sanderson
PO Box 306
Murdo SD 57559-0306

2464-3
John R Talsma
41125 Bottom Rd
Springfield SD 57062

5353-3
Michael A Koslowski
13329 443rd Ave
Waubay SD 57273

5552-3
Robert V Kellen
Kellen & Streit Inc.
30662 SW Jim River Rd
Yankton SD 57078-6018

1362-2, 1363-2 & 1365-2
Oakley Eide
RR 2 Box 26
Burke SD 57523

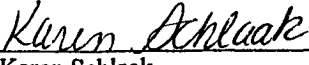

Eric Gronlund
Natural Resource Engineer
Water Rights

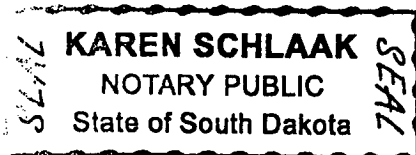
STATE OF SOUTH DAKOTA)

) SS

COUNTY OF HUGHES)

Sworn to, before me, this 9th day of March, 2004.


Karen Schlaak
Notary Public
My Commission expires April 1, 2007



Dear Garland.

I "put off" answering the letter last fall, because of harvest pressure & meaning calves. I knew I had time this spring when spring came, the time spent calving - and a bout with stomach problems - I just run out of time.

We have all the irr equipment ready to go. Paul Johnson of Platte farms our irr. ground and I would hope to have everything in place if he decides to pump water. Thank you for your consideration on this matter.

RECEIVED

APR 05 2004

WATER RIGHTS
PROGRAM

Sincerely

Oak Lids



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 7, 2004

NOTICE

TO: Oakley Eide, RR 2 Box 24, Burke SD 57523

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

SUBJECT: Notice of Hearing to Consider Request to Rescind Suspension of Water Permit Nos. 1362-2, 1363-2 and 1365-2

On April 5, 2004, the 2003 irrigation questionnaires for Nos. 1362-2, 1363-2 and 1365-2 were received along with a letter from you explaining the reason the forms were not returned in a timely manner.

Your request to have the suspension of Water Permit Nos. 1362-2, 1363-2 and 1365-2 reconsidered by the Water Management Board has been scheduled for **10:00 am, May 12, 2004, in the Community Room, Chamber of Commerce, 800 W Dakota Ave., Pierre, SD.**

The hearing will be conducted pursuant to the provisions of SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to procedures contained in SDCL 1-26.

After all evidence is taken at the hearing, the Board may issue a decision to rescind either the suspension of the water permits, defer action or take no action. The hearing is an adversary proceeding and any party has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing. Any decision rendered by the Board may be appealed to the Circuit Court or to the State Supreme Court as provided by law.

Our records show that you have had numerous years of non-use of water. You should be aware that the even if the suspensions are lifted and the water permits reinstated the irrigation portion of your permits may not be valid.

We strongly encourage you to attend the hearing. Your letter will be given to the Board for their review however they may have questions that only you could answer. If you have any questions concerning this notice or the hearing process, please contact Genny McMath at (605) 773-3352.

c: Diane Best, Assistant Attorney General
Paul Johnson, 28276 Johnson Ln, Platte SD 57369

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

WATER PERMIT NOS. 1362-2, 1363-2 AND 1365-2

OAKLEY EIDE

BRIEF DESCRIPTION:

- No. 1362-2 – diversion of water from a dry draw (240 acre feet of storage) to irrigate 124 acres;
- No. 1363-2 – diversion of water from a dry draw (1,000 acre feet of storage) to irrigate 447.3 acres;
- No. 1365-2 – diversion of water from Spring Creek and Whetstone Creek (600 acre feet of storage) to irrigate 326.1 acres (all are located in Gregory County, SD)

SUBMISSION OF PAST IRRIGATION QUESTIONNAIRES:

DATE MAILED	DATE DUE IN OFFICE	DATE RECEIVED	BOARD ACTION
October, 1999	December 1, 1999	none	March 1, 2000
October, 2000	December 1, 2000	February 28, 2001	none
October, 2001	December 1, 2001	October 29, 2001	none
October, 2002	December 2, 2002	October 31, 2002	none
October, 2003	December 1, 2003	April 5, 2004	March 3, 2004

January 14, 2004: A notice was sent (with signature confirmation) to Oakley Eide requesting the 2003 irrigation questionnaires be returned prior to the March 3, 2004, hearing date. The notice outlined what action the Board could take concerning the past due questionnaires. The signature confirmation card indicated the mail was signed for M O Eide on January 16, 2004.

March 3, 2004: The Board suspended Water Permit Nos. 1362-2, 1363-2 and 1365-2 for one year for failure to submit the 2003 irrigation questionnaires.

April 5, 2004: A letter was received (with the 2003 questionnaires) from Mr. Eide explaining the circumstances involving the delay in submission of the forms.

April 7, 2004: A notice was mailed to Oakley Eide notifying him of the time, date and place of the May 12th hearing at which the suspended water permits would be reconsidered by the Board.



Genny McMath
Water Rights Program
March 31, 2004



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

May 19, 2004

NOTICE

TO: Oakley Eide, RR 2 Box 24, Burke SD 57523

FROM: Garland Erbele, Chief Engineer
Water Rights Program *Garland Erbele*

SUBJECT: Water Permit Nos. 1362-2, 1363-2 and 1365-2

On May 12, 2004, the Water Management Board lifted the suspensions placed on Water Permit Nos. 1362-2, 1363-2 and 1365-2 for failing to submit the 2003 irrigation questionnaires.

A staff engineer with the Water Rights Program recently met with you regarding your water permits. The investigation found the land covered in the above water permits has not been irrigated for several years. Three of the storage dams are in place and used for stock watering purposes.

Under South Dakota water law, water must be placed to beneficial use for the purpose it was appropriated at least once every three years unless legal excuse exists for the non-use. The information we have on file suggests that the irrigation portion of your water permits may be subject to abandonment and/or forfeiture due to non-use.

Our intent is to schedule the irrigation portion of your water permits for cancellation consideration by the Water Management Board. This action would not pertain to storage of water in the dams for livestock use. Only the Water Management Board can make determinations on validity of water permits or rights. At the hearing, you will have the opportunity to submit evidence to the Board. They will take all the evidence into account and make a decision based on the facts presented at the hearing.

The next Water Management Board meeting is scheduled for July 7th & 8th. You will be notified of the exact time, date and place of the hearing once it is scheduled.

c: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on May 19, 2004, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated May 19, 2004 regarding Notice Water Permit Nos. 1362-2, 1363-2 & 1365-2 addressed as stated below:

Oakley Eide
RR 2 Box 24
Burke SD 57523

A copy of the above described Notice was sent Inter-office to:

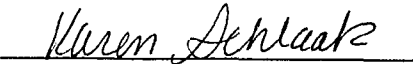
Diane Best, Assistant Attorney General, Capitol Building



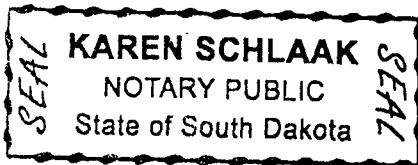
Eric Gronlund
Natural Resource Engineer
Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 19th day of May, 2004.



Karen Schlaak
Notary Public
My Commission expires April 1, 2007





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER
FOR WATER PERMIT NO. 1365-2
AND THE IRRIGATION PORTIONS OF WATER PERMIT NOS. 1362-2 AND 1363-2,
OAKLEY EIDE**

Pursuant to SDCL 46-2A-2 and 46-5-37.1, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit No. 1365-2 and the irrigation portions of Water Permit Nos. 1362-2 and 1363-2.

The Chief Engineer is recommending cancellation of the above due to abandonment and/or forfeiture. Tim Schaal conducted an investigation of the following permits on May 6, 2004:

- **Water Permit No. 1362-2** authorized irrigation of 124 acres located in Sections 10 & 15, T97N, R71W from runoff impounded in a 240 acre feet storage dam.

The recommendation is to cancel the irrigation portions and license the storage dam for its current capacity of 60 acre-feet of water for livestock watering purposes.

- **Water Permit No. 1363-2** authorized irrigation of 447.3 acres located in Section 6, T97N, R71W; Section 1, T97N, R72W and Section 31, T98N, R71W from runoff impounded in two storage dams (1,000 acre-feet and 75 acre-feet respectively).

The recommendation is to cancel the irrigation portions and license the two storage dams for 1,000 acre-feet and 75 acre-feet for livestock watering purposes.

- **Water Right No. 1365-2** authorized irrigation of 326.1 acres in Sections 5 & 6, T97N, R71W from Spring Creek and Whetstone Creek and included storage of water in two dams.

The storage dams were not constructed. The recommendation is to cancel the permit in its entirety.

RON DUVALL, Natural Resources Engineer
for Garland Erbele, Chief Engineer
May 26, 2004

Note: Cancellation of these water permits does not prohibit new applications for the projects in the future.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 26, 2004

NOTICE OF CANCELLATION

TO: Oakley Eide, RR 2 Box 24, Burke SD 57523

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

SUBJECT: Cancellation of Water Permit No. 1365-2 and the irrigation portions of Water Permit
Nos. 1362-2 and 1363-2

On May 6th, Tim Schaal, a staff engineer with our program, met with you concerning Water Permit Nos. 1362-2, 1363-2 and 1365-2. His investigation found the land described in each permit has not been irrigated in several years. Some of the storage dams exist and are being used for livestock watering purposes. Based on the investigation finds, the Chief Engineer of the Water Rights Program is recommending cancellation of Water Permit No. 1365-2 and the irrigation portions only of Water Permit Nos. 1362-2 and 1363-2 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of Water Permit No. 1365-2 and the irrigation portions of Water Permit Nos. 1362-2 and 1363-2 at 10:00 am, July 7, 2004, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD.

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on the Water Permits based upon facts presented at the public hearing. Our records show you to be the owner of property covered by these water permits. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by June 28, 2004. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained.

The hearing will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-7; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

May 26, 2004
Oakley Eide
Page 2

This hearing may be an adversarial proceeding. Any party 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 State Supreme Court as provided by law.

The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting. Any request for extension must be filed with the Chief Engineer by June 28, 2004.

Prior to June 28, 2004, contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) if assistance is needed with the following: 1) further information on the proposed cancellation; 2) to assure access to the meeting room for the handicapped; or 3) to obtain an interpreter for the hearing impaired.

Please note:

According to SDCL 1-26-18.3, parties to a contested case may use the Office of Hearing Examiners to conduct a hearing if either a property right is being terminated or the dollar amount in controversy exceeds \$2,500.00. If you choose to use the Office of Hearing Examiners rather than the hearing procedure described above, then you need to notify the Chief Engineer (Water Rights Program, 523 E. Capitol Avenue, Pierre SD) by June 28, 2004.

CERTIFICATION

I hereby certify that on May 26, 2004 , I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated May 26, 2004 regarding Notice of Cancellation of Water Permit No. 1365-2 & the irrigation portions of Water Permit Nos. 1362-2 and 1363-2 addressed as stated below:

Oakley Eide
RR 2 Box 24
Burke SD 57523



Eric Gronlund
Natural Resource Engineer
Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 27th day of May, 2004.



Karen Schlaak
Notary Public
My Commission expires April 1, 2007



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 16, 2004

Oakley Eide
RR 2 Box 24
Burke SD 57523

Dear Mr. Eide:

Enclosed, as you requested, is a copy of the most recent letter to you. The correspondence, dated May 26, 2004, is a "Notice of Cancellation" concerning your three water permits.

Thank you for calling and if you have any questions once you read through material, please give me a call.

Sincerely,

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

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 9, 2004

NOTICE

TO: Oakley Eide
RR 2 Box 24
Burke SD 57523

FROM: Garland Erbele, Chief Engineer
Water Rights Program *Garland Erbele*

SUBJECT: Preparation of Findings of Fact, Conclusions of Law and Final Decision

The Water Management Board directed John Guhin, Assistant Attorney General, to prepare proposed Findings of Fact, Conclusions of Law and a Final Decision in the cancellation of Water Permit No. 1363-2 held by Oakley Eide. The Board will consider adoption of Findings, Conclusions and Final Decision at 1:00 PM, on October 6, 2004, in the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD 57501. The agenda time is an estimate and may be delayed due to prior agenda items.

The Board requested that a copy of the proposed Findings, Conclusions and Final Decision be mailed to each Board member and parties by September 16, 2004. Written objections or comments in support of the proposed Findings, Conclusions and Final Decision, or alternative Findings, Conclusions and Final Decision are to be mailed to each Board member, the Board attorney (mailing list enclosed) by September 27, 2004.

At the discretion of the Board, oral arguments by parties who timely filed written comments in opposition or support of the proposed Findings, Conclusions and Final Decision, or alternative Findings, Conclusions and Final Decision may be made on October 6, 2004. The public hearing was completed on July 7, 2004, 2004. No additional testimony will be received on October 6, 2004.

Enclosure

c: John Guhin, Assistant Attorney General
Diane Best, Assistant Attorney General

WATER MANAGEMENT BOARD MEMBERS

Francis E. Brink
1214 South Wells Street
Aberdeen, SD 57401-7351

Leo Holzbauer
RR 1, Box 170
Wagner, SD 57380-9681

Rodney Freeman, Jr.
P.O. Box 176
Huron, SD 57350-0176

Bernita Loucks
219 42nd Street
Rapid City, SD 57702-0240

Marian Gunderson
811 West 3rd
Yankton, SD 57078-3702

Dwayne Rollag
320 Lincoln Lane S
Brookings SD 57006-2741

James Hutmacher
802 East 7th Street
Oacoma SD 57365

BOARD ATTORNEY

John Guhin, Deputy Attorney General
Office of Attorney General
Natural Resources Section
State Capitol Building
Pierre, SD 57501

WATER RIGHTS PROGRAM

Department of Environment and
Natural Resources

Garland Erbele, Chief Engineer
Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

STAFF ATTORNEY

Diane Best
Assistant Attorney General
Office of Attorney General
Natural Resources Section
State Capitol Building
Pierre, SD 57501

CERTIFICATION

I hereby certify that on July 9, 2004, I personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated July 9, 2004, regarding preparation of findings of fact, conclusions of law and final decision in the matter of cancellation of Water Permit 1363-2, Oakley Eide, addressed as stated below.

Oakley Eide
RR 2 Box 24
Burke SD 57523

A copy of the Notice was sent Inter-office to:

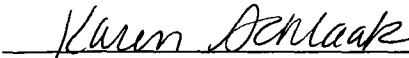
John Guhin, Assistant Attorney General
Diane Best, Assistant Attorney General



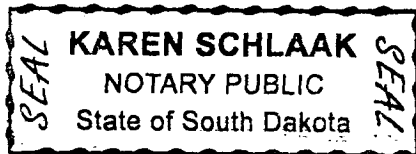
Eric Gronlund
Natural Resource Engineer
Water Rights Program

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 12th day of July, 2004.



Karen Schlaak
Notary Public
My Commission expires April 1, 2007





1363-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

July 12, 2004

1362-2
1365-2

NOTICE

Oakley Eide
RR 2 Box 24
Burke SD 57523

Dear Mr. Eide:

This will notify you that the Water Management Board cancelled Water Permit No. 1365-2 and the irrigation portion of Water Permit No. 1362-2. Although the action eliminated the irrigation portion of the water right, you are entitled to continuing use of the storage dam for domestic livestock water.

The actions pertaining to Nos. 1362-2 and 1365-2 were taken under the conditions outlined in our notice to you dated May 26, 2004.

With respect to Water Permit No. 1363-2, action is still pending due to submission of Findings of Fact, Conclusions of Law and Final Decision to be heard at the next regularly scheduled hearing.

Next fall, after the hearing to consider the Findings of Fact and Conclusions of Law, both Nos. 1362-2 and 1363-2 will need to be licensed for storage of water in the dams for domestic use.

If you have any questions concerning the Board action, please contact Genny McMath, with our program, at (605) 773-3352.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program

STATE OF SOUTH DAKOTA
BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF THE)
RECOMMENDATION FOR)
CANCELLATION OF THE)
IRRIGATION COMPONENT OF)
WATER PERMIT NO. 1363-2,)
OAKLEY EIDE.)

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
FINAL DECISION

FINDINGS OF FACT

1. This action arises from the Chief Engineer's request to declare that the irrigation component of Water Permit No. 1363-2 has been forfeited.

2. Water Permit No. 1363-2 authorizes irrigation of 124 acres from a 200 acre feet storage dam.

3. The evidence indicates that in May of 2004, Mr. Tim Schull of the Water Rights Program examined the works which are being used to put Water Permit No. 1363-2 to beneficial use. Mr. Schull's investigation revealed no irrigation as taking place under the authority of Water Permit No. 1363-2.

4. The holder of Water Permit No. 1363-2, Mr. Oakley Eide, testified before the Board. Mr. Eide candidly acknowledged that no irrigation had taken place under Water Permit No. 1363-2 since the late 1990s.

5. Mr. Eide stated that the reason that there had been no irrigation since the late 1990s was financial difficulties, but that he had not been encumbered by any legal difficulties.

6. The storage dam has been continually used for stock watering.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter.
2. All notices required by the constitution and statute have been given.
3. SDCL 46-5-37 provides that when a person has failed to beneficially use his water right for irrigation for a period of three consecutive years, and when the holder of the water right is unable to show legal excuse, the Board must declare the irrigation component of that right to be forfeited.
4. South Dakota law does not recognize financial difficulties as constituting a "legal excuse."
5. The Board concludes that in view of SDCL 46-5-37, and in view of the uncontested facts, as set forth above, there has been a three year period of lack of irrigation use, that no legal excuse has been shown and that it must declare the irrigation component of Water Permit No. 1363-2 be forfeited.
6. Pursuant to SDCL 46-5-31.1, if a permitted irrigation use from a storage dam is forfeited but the storage dam is used for stock watering, stock watering may be added to the license or permit upon the request of the permit or license holder. The license or permit retains the priority date of the original license or permit for stock watering. It is appropriate that 46-5-31.1 be applied in this case to preserve the stock watering right.

FINAL DECISION

The irrigation component of Water Permit No. 1363-2 allowing irrigation of 124 acres from a 240 acre foot storage dam is CANCELLED. The Water Rights Program is directed to license the storage dam for its current capacity of 60 acre feet of water for stock watering purposes, unless further legal impediment comes to the attention of the Program.

Dated this _____ day of _____, 2004.

By the Board:

p1d.jpg FOF, COL and Final Decision on permit no. 1363-2 (dp)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Findings of Fact, Conclusions of Law and Final Decision In the Matter of the Recommendation for Cancellation of the Irrigation Component of Water Permit No. 1363-2, Oakley Eide, was served by United States mail, first class, postage prepaid, upon the following this 10th day of September, 2004.

Francis E. Brink
1214 S. Wells St.
Aberdeen, SD 57401-7351

Leo Holzbauer
RR 1, Box 170
Wagner, SD 57380-9681

Rodney Freeman, Jr.
P.O. Box 176
Huron, SD 57350-0176

Bernita Loucks
219 42nd St.
Rapid City, SD 57702-0240

Marian Gunderson
811 W. 3rd
Yankton, SD 57078-3702

Dwayne Rollag
320 Lincoln Lane S.
Brookings, SD 57006-2741

James Hutmacher
802 E. 7th St.
Oacoma, SD 57365

Oakley Eide
RR 2, Box 24
Burke, SD 57523

By Interoffice:

Garland Erbele
Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

By Hand Delivery:

Diane Best
Assistant Attorney General
State Capitol Building
Pierre, SD 57501-5070


John P. Guhin
Assistant Attorney General
500 East Capitol
Pierre, SD 57501-5070
Telephone: (605) 773-3215

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

500 East Capitol Avenue
Pierre, South Dakota 57501-5070
Phone (605) 773-3215
FAX (605) 773-4106
www.state.sd.us/atg

RECEIVED

SEP 23 2004

WATER RIGHTS
PROGRAM

LARRY LONG
ATTORNEY GENERAL

MARK BARNETT
CHIEF DEPUTY ATTORNEY GENERAL

September 22, 2004

Francis E. Brink
1214 S. Wells St.
Aberdeen, SD 57401-7351

Leo Holzbauer
RR 1, Box 170
Wagner, SD 57380-9681

Rodney Freeman, Jr.
P.O. Box 176
Huron, SD 57350-0176

Bernita Loucks
219 42nd St.
Rapid City, SD 57702-0240

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James Hutmacher
802 E. 7th St.
Oacoma, SD 57365

Oakley Eide
RR 2, Box 24
Burke, SD 57523

Garland Erbele
Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

Diane Best
Assistant Attorney General
Natural Resources Section
State Capitol Building
Pierre, SD 57501-5070

RE: In the Matter of the Recommendation for Cancellation of the
Irrigation Component of Water Permit No. 1363-2, Oakley Eide

Dear Members of the Water Management Board/Interested Parties:

I am enclosing, the DENR Response to the Board Counsel's proposed
Findings of Fact, Conclusions of Law and Final Decision in the
above-entitled matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Diane Best".

Diane Best
Assistant Attorney General

DB/kak

Enclosures

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF THE	)	
RECOMMENDATION FOR	)	
CANCELLATION OF THE	)	RESPONSE TO
IRRIGATION COMPONENT OF	)	FINDINGS OF FACT
WATER PERMIT NO. 1363-2,	)	CONCLUSIONS OF LAW
OAKLEY EIDE.	)	AND DECISION

COMES NOW, the South Dakota Department of Environment and Natural Resources, Water Rights Program and makes its response to Board Counsel's proposed Findings of Fact, Conclusions of Law, and Decision in the above-referenced matter:

FINDINGS OF FACT

1. The DENR proposes that the Board include an additional Finding of Fact as follows: Water permit holder Oakley Eide previously held Water Permit No. 1363-2. This water permit was noticed by the Chief Engineer for cancellation under SDCL 46-5-37. Mr. Eide did not contest the cancellation and therefore these findings relate only to another water permit, Water Permit No. 1363-2.

2. Finding of Fact 2 appears to include the acreage and storage capacity of the uncontested cancellation referenced above, rather than Water Permit No. 1363-2. This Finding of fact should be changed to reflect that Water Permit No. 1363-2 authorizes irrigation of 447.3 acres from two storage dams with storage capacities of 1,075 acre feet of water.

3. Finding of Fact 3 contains a typographical error. The last name of DENR witness Tim Schaal is spelled incorrectly.

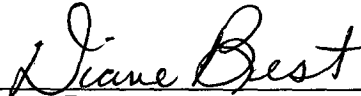
4. In light of the foregoing recommended changes, the DENR proposes that the FINAL DECISION be changed to read as follows:

The irrigation component of Water Permit No. 1363-2 allowing irrigation of 447.3 acres from two storage dams with storage capacities of 1,075 acre feet of water is CANCELLED. The Water Rights Program is directed to license and storage dams for their current capacities of 1,075 acre feet of water per stock watering purposes, unless further legal impetiment comes to the attention of the Program.

5. Other than the foregoing changes, the DENR asks that the Water Board enter Findings of Fact, Conclusions of Law, and Final Decision as drafted by the Board Counsel.

Dated this 22nd day of September, 2004.

Respectfully submitted,



Diane Best
Assistant Attorney General
Office of Attorney General
500 East Capitol Avenue
Pierre, SD 57501
Telephone (605) 773-3215

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of DENR Response to Findings of Fact, Conclusions of Law and Final Decision In the Matter of the Recommendation for Cancellation of the Irrigation Component of Water Permit No. 1363-2, Oakley Eide, was served by United States mail, first class, postage prepaid, upon the following this 22nd day of September, 2004.

Francis E. Brink
1214 S. Wells St.
Aberdeen, SD 57401-7351

Leo Holzbauer
RR 1, Box 170
Wagner, SD 57380-9681

Rodney Freeman, Jr.
P.O. Box 176
Huron, SD 57350-0176

Bernita Loucks
219 42nd St.
Rapid City, SD 57702-0240

Marian Gunderson
811 W. 3rd
Yankton, SD 57078-3702

Dwayne Rollag
320 Lincoln Lane S.
Brookings, SD 57006-2741

James Hutmacher
802 E. 7th St.
Oacoma, SD 57365

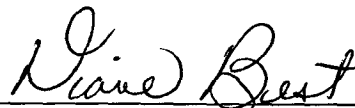
Oakley Eide
RR 2, Box 24
Burke, SD 57523

By Interoffice:

Garland Erbele
Water Rights Program
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

By Hand Delivery:

John P. Guhin
Assistant Attorney General
State Capitol Building
Pierre, SD 57501-5070



Diane Best
Assistant Attorney General
500 East Capitol
Pierre, SD 57501-5070
Telephone: (605) 773-3215



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 18, 2004

NOTICE

TO: Oakley Eide
RR 2 Box 24
Burke SD 57523

FROM: Garland Erbele, Chief Engineer
Water Rights Program *Garland Erbele*

SUBJECT: Adoption of Findings of Fact, Conclusions of Law and Final Decision

This is to notify you that the Final Decision, including Findings of Fact and Conclusions of Law, were adopted October 6, 2004, by the Water Management Board regarding cancellation of the irrigation portion of Water Right No. 1363-2. A copy of the signed Findings of Fact, Conclusions of Law and Final Decision is enclosed.

South Dakota statutes provide that decisions of the Board may be appealed to the Courts. Notice of appeal of the Board's decision must be filed within thirty days of this notice and be in accordance with procedures established in SDCL 1-26-31.

Enclosure

c: John Guhin, Deputy Attorney General
Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on October 18, 2004, I personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated October 18, 2004, regarding cancellation of the irrigation portion of Water Right No. 1363-2 held by Oakley Eide, addressed as stated below.

Oakley Eide
RR 2 Box 24
Burke SD 57523

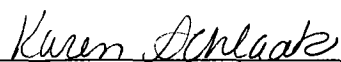
A copy of the Notice was sent Inter-office to:

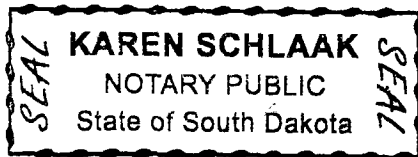
John Guhin, Assistant Attorney General
Diane Best, Assistant Attorney General


Eric Gronlund
Natural Resource Engineer
Water Rights Program

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 19th day of October, 2004.


Karen Schlaak
Notary Public
My Commission expires April 1, 2007



STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF THE	)	
RECOMMENDATION FOR	)	
CANCELLATION OF THE	)	FINDINGS OF FACT,
IRRIGATION COMPONENT OF	)	CONCLUSIONS OF LAW AND
WATER PERMIT NO. 1363-2,	)	FINAL DECISION
OAKLEY EIDE.	)	

FINDINGS OF FACT

1. This action arises from the Chief Engineer's request to declare that the irrigation component of Water Permit No. 1363-2 has been forfeited.

2. Water Permit No. 1363-2 authorizes irrigation of 447.3 from two storage dams with storage capacities of 1,075 acre feet of water.

3. The evidence indicates that in May of 2004, Mr. Tim Schaal of the Water Rights Program examined the works which are being used to put Water Permit No. 1363-2 to beneficial use. Mr. Schaal's investigation revealed no irrigation as taking place under the authority of Water Permit No. 1363-2.

4. The holder of Water Permit No. 1363-2, Mr. Oakley Eide, testified before the Board. Mr. Eide candidly acknowledged that no irrigation had taken place under Water Permit No. 1363-2 since the late 1990s.

5. Mr. Eide stated that the reason that there had been no irrigation since the late 1990s was financial difficulties, but that he had not been encumbered by any legal difficulties.

6. The storage dam has been continually used for stock watering.

7. Water permit holder Oakley Eide previously held Water Permit No. 1363-2. This water permit was noticed by the Chief Engineer for cancellation under SDCL 46-5-37. Mr. Eide did not contest the cancellation and therefore these findings relate only to another water permit, Water Permit No. 1363-2.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter.

2. All notices required by the constitution and statute have been given.

3. SDCL 46-5-37 provides that when a person has failed to beneficially use his water right for irrigation for a period of three consecutive years, and when the holder of the water right is unable to show legal excuse, the Board must declare the irrigation component of that right to be forfeited.

4. South Dakota law does not recognize financial difficulties as constituting a "legal excuse."

5. The Board concludes that in view of SDCL 46-5-37, and in view of the uncontested facts, as set forth above, there has been a three year period of lack of irrigation use, that no legal excuse has been shown and that it must declare the irrigation component of Water Permit No. 1363-2 be forfeited.

6. Pursuant to SDCL 46-5-31.1, if a permitted irrigation use from a storage dam is forfeited but the storage dam is used for stock watering, stock watering may be added to the license or permit upon the request of the permit or license holder. The

license or permit retains the priority date of the original license or permit for stock watering. It is appropriate that 46-5-31.1 be applied in this case to preserve the stock watering right.

FINAL DECISION

The irrigation component of Water Permit No. 1363-2 allowing irrigation of 447.3 acres from two storage dams with storage capacities of 1,075 acre feet of water is CANCELLED. The Water Rights Program is directed to license and storage dams for their current capacities of 1,075 acre feet of water per stock watering purposes, unless further legal impediment comes to the attention of the Program.

Dated this _____ day of _____, 2004.

By the Board:

COPY



1363-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 15, 2004

1362-2
1363-2

Oakley Eide
RR 2 Box 24
Burke SD 57523

Dear Mr. Eide:

On October 18, 2004 you were sent a copy of the Findings of Fact, Conclusions of Law and Final Decision as adopted by the Water Management Board regarding cancellation of the irrigation portion of Water Permit No. 1363-2. Based on the final decision, your final water right document, the water license, can now be issued for the three storage dams used for livestock watering purposes.

State law requires a fee of \$50.00 for the investigation and issuance of the water license. Upon receipt of the \$50.00 fee from you, we will complete processing your water license. The check or money order for the fee should be made payable to the "Water Rights Program". By incorporating both permits into one license we are able to save you the second licensing fee of \$50.00.

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

If you have any questions regarding the water permit, investigation of your water use system or payment of the fee, please contact Genny McMath with our program.

Sincerely,

GARLAND ERBELE, Chief Engineer
Water Rights Program
(605 773-3352)



1363-2
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 16, 2005

REMINDER NOTICE

1362-2
1363-2

Oakley Eide
RR 2 Box 24
Burke SD 57523

Dear Mr. Eide:

On December 15, 2004, we advised you that a \$50.00 fee was due for the completed investigation of your Water Permit Nos. 1362-2 and 1363-2. The fee also covers issuance of your water license which is the final document in obtaining and perfecting a water permit.

To date, we have not received the fee and therefore can not issue the water license. Your licensed water right will be similar to a property right that can not be lost as long as the water use continues and you abide by any permit requirements.

If you have any questions regarding the water permit, investigation of your water use system or payment of the fee, please contact Genny McMath with our program at (605) 773-3352. The check or money order for the fee should be made payable to the "Water Rights Program".

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date March 30, 2005

RECEIVED OF Oakley Bide, 28067 344th Ave. Burke SD 57523

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. <u>1363-2</u>		
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. _____	50.00	
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50.00

No.

001876

By

Darlene Ells

Chief Engineer

gm

REPORT ON INSPECTION OF PERMIT NO. 1362-2

Other permit(s) associated with the project: 1363-2 & 1365-2

DATE OF INSPECTION: May 6, 2004

NAME & ADDRESS OF INSPECTION CONTACT/ Oakley Eide
RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE: owner

NAME & ADDRESS OF PERMIT HOLDER: Oakley Eide, RR 2, Box 24, Burke, SD 57523

DIVERSION POINT LEGAL LOCATION: 1050 feet north & 2400 feet west of the SE corner of Sec. 10-T97N-R71W (SW ¼ SE ¼).

DAM INFORMATION:

- 1) Height to crest 35 feet
- 2) Height to primary spillway 27 feet
- 3) Height to secondary spillway 31 feet
- 4) Crest width 12 feet
- 5) Crest length 330 feet
- 6) Spillway length XXX feet
- 7) Spillway width 30 feet
- 8) Approx. storage (Normal) 60 acre-feet
- 9) Approx. storage (Maximum) 76 acre-feet
- 10) Date constructed: 1969 & 1976 (Schweigart Construction)

PERMIT QUALIFICATIONS AND REGULATIONS:

- 1) Soil and water permit lands agree with lands being irrigated and lands listed on permit N/A
- 2) Special qualifications to permit being abided by yes
- 3) All structures, wells and lands on map yes
- 4) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period N/A

Permit No. 1362-2
Missouri 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, May 6, 2004, made a thorough examination of the water use system constructed by Oakley Eide of RR 2, Box 24, Burke, SD 57523 holder of Permit No. 1362-2, bearing the priority of March 10, 1976 authorizing the diversion of 1.75 cu. ft. per second and/or the storage of 240 acre-feet of the waters of runoff-dry draw dam for irrigation purposes, in Gregory County.

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

A. Works used to divert the water:

A 35 foot high earth dam with a normal storage capacity of 60 acre-feet.

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

N/A

C. Works used to apply water to beneficial use:

A 35 foot high earth dam with a normal storage capacity of 60 acre-feet.

The system is in the following condition good. The point of diversion is located 1050 feet north & 2400 feet west of the SE corner of Sec 10-T97N-R71W (SW ¼ SE ¼). The works are capable of storing 60 acre-feet of water which is to be used for domestic use. Water has been put to beneficial use to the maximum extent as follows:

A 35 foot high earth dam with a normal storage capacity of 60 acre-feet.

and the license should be issued for 60 acre-feet of storage.

Applicable permit qualifications have been complied with: Yes X

Exceptions to compliance are: None Date Report Completed: May 14, 2004



Timothy G. Schaal, P.E.
Natural Resources Engineer Specialist
DENR, Water Rights Program

Licensing of Irrigation Water Permit for Stock Watering

NAME: Oakley Eide

ADDRESS: RR 2, Box 24, Burke, SD 57523

DATE: May 14, 2004

COUNTY: Gregory

TELEPHONE: 775-2267

AUTHORITY

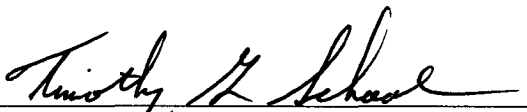
Pursuant to SDCL 46-5-31.1, if permitted irrigation use from a storage dam is abandoned or forfeited but the storage dam is used for stock watering, stock watering may be added to the license or permit upon the request of the permit or license holder.

REQUEST

I talked to Oakley Eide on May 6, 2004 about Water Permit No. 1362-2. He said they do not irrigate from his dam located in the SW ¼ SE ¼ of Sec.10-T97N-R71W anymore; however, they do maintain the dam for livestock watering purposes. I explained to him that we should change the use of the dam from irrigation to stock watering use pursuant to SDCL 46-5-31.1.

RECOMMENDED ACTION

Based on the above request, it is recommended that the water license be issued for stock watering.



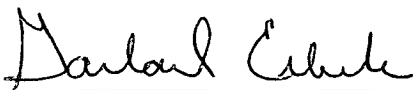
Timothy G. Schaal, P.E.

Natural Resources Engineer Specialist

Water Rights Program

The Chief Engineer makes a finding pursuant to SDCL 46-5-31.1 that:

This addition of stock watering does not impair existing water rights and no diversion of water will be made from the stock dam. Licensing of the water permit for stock watering may occur without application or publication pursuant to SDCL 46-2A-4.



Garland Erbele, Chief Engineer

Water Rights Program

Water Rights Division -DENR
Conversation or File Documentation

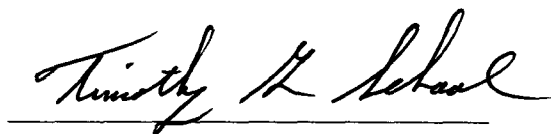
NAME OF PERSON OR FILE: Oakley Eide

ADDRESS: RR 2, Box 24, Burke, SD 57523 COUNTY: Gregory

DATE: May 14, 2004 TELEPHONE: 775-2267

RE: Licensing of Water Permit Application No. 1362-2

I talked to Oakley Eide on May 6, 2004 about Water Permit Application No. 1362-2. The Irrigation Questionnaire summary for Water Permit 1362-2 indicates that he has not irrigated under this permit since 1990. Mr. Eide told me they no longer use this permit for irrigation. I told Mr. Eide that we would only license Water Permit 1362-2 for the 60 acre-foot dam located in the NW ¼ SE ¼ of Sec. 10-T97N-R71W.

A handwritten signature in cursive script, reading "Timothy G. Schaal", is written over a horizontal line.

Timothy G. Schaal, P.E.
Natural Resources Engineer Specialist
Water Rights Program

REPORT ON INSPECTION OF PERMIT NO. 1363-2

Other permit(s) associated with the project: 1362-2 & 1365-2

DATE OF INSPECTION: May 6, 2004

NAME & ADDRESS OF INSPECTION CONTACT/ Oakley Eide
RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE: owner

NAME & ADDRESS OF PERMIT HOLDER: Oakley Eide, RR 2, Box 24, Burke, SD 57523

DIVERSION POINT LEGAL LOCATION: Eide Dam No. 2—1400 ft. north & 850 ft. west of the SE corner of Sec. 31-T98N-R71W (E ½ SE ¼); Eide Dam No. 3—2000 ft. north & 1500 ft. east of the SW corner Sec. 31-T98N-R71W (NE ¼ SW ¼).

DAM INFORMATION: Eide Dam No. 2 (ID No. SD02188)

Eide Dam No. 3 (ID No. SD02189)

- | | |
|---|----------------------|
| 1) Height to crest <u>50</u> feet | <u>43 feet</u> |
| 2) Height to primary spillway <u>42</u> feet | <u>38 feet</u> |
| 3) Height to secondary spillway <u>45</u> feet | <u>40 feet</u> |
| 4) Crest width <u>15</u> feet | <u>12 feet</u> |
| 5) Crest length <u>1,220</u> feet | <u>300 feet</u> |
| 6) Spillway length <u>XXX</u> feet | |
| 7) Spillway width <u>100</u> feet | <u>50 feet</u> |
| 8) Approx. storage (Normal) <u>1000</u> acre-feet | <u>75 acre-feet</u> |
| 9) Approx. storage (Maximum) <u>1500</u> acre-feet | <u>100 acre-feet</u> |
| 10) Date constructed: <u>1976 (Schweigart Const.)</u> | <u>unknown</u> |

PERMIT QUALIFICATIONS AND REGULATIONS:

- 1) Soil and water permit lands agree with lands being irrigated and lands listed on permit N/A
- 2) Special qualifications to permit being abided by yes
- 3) All structures, wells and lands on map yes
- 4) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period N/A

Permit No. 1363-2
Missouri 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, May 6, 2004, made a thorough examination of the water use system constructed by Oakley Eide of RR 2, Box 24, Burke, SD 57523 holder of Permit No. 1363-2, bearing the priority of March 10, 1976 authorizing the diversion of 6.4 cu. ft. per second and/or the storage of 1000 acre-feet from a new dam and 75 acre-feet from an existing dam of the waters of Whetstone Creek and runoff-dry draw dam for irrigation purposes, in Gregory County.

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

A. Works used to divert the water:

Two dams—Eide Dam No. 2, which is a 50 ft. high earth dam with a normal storage capacity of 1000 ac-ft.; and Eide Dam No. 3, which is a 43 ft. high earth dam with a normal storage capacity of 75 ac-ft.

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

N/A

C. Works used to apply water to beneficial use:

Two dams—Eide Dam No. 2, which is a 50 ft. high earth dam with a normal storage capacity of 1000 ac-ft.; and Eide Dam No. 3, which is a 43 ft. high earth dam with a normal storage capacity of 75 ac-ft.

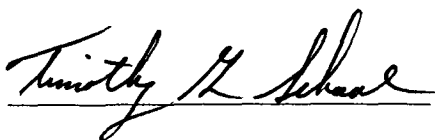
The system is in the following condition good. The point of diversion is located Eide Dam No. 2—1400 ft. north & 850 ft. west of the SE corner of Sec. 31-T98N-R71W (E ½ SE ¼); Eide Dam No. 3—2000 ft. north & 1500 ft. east of the SW corner Sec. 31-T98N-R71W (NE ¼ SW ¼). The works are capable storing 1000 acre-feet and 75 acre-feet of water which is to be used for domestic. Water has been put to beneficial use to the maximum extent as follows:

Two dams—Eide Dam No. 2, which is a 50 ft. high earth dam with a normal storage capacity of 1000 ac-ft.; and Eide Dam No. 3, which is a 43 ft. high earth dam with a normal storage capacity of 75 ac-ft.

and the license should be issued for 1075 acre-feet of storage.

Applicable permit qualifications have been complied with: Yes X

Exceptions to compliance are: none Date Report Completed: May 14, 2004



Timothy G. Schaal, P.E.
Natural Resources Engineer Specialist
DENR, Water Rights Program

Licensing of Irrigation Water Permit for Stock Watering

NAME: Oakley Eide

ADDRESS: RR 2, Box 24, Burke, SD 57523

DATE: May 14, 2004 **COUNTY:** Gregory **TELEPHONE:** 775-2267

AUTHORITY

Pursuant to SDCL 46-5-31.1, if permitted irrigation use from a storage dam is abandoned or forfeited but the storage dam is used for stock watering, stock watering may be added to the license or permit upon the request of the permit or license holder.

REQUEST

I talked to Oakley Eide on May 6, 2004 about Water Permit No. 1363-2. He said they do not irrigate from his two dams located in the S ½ of Sec.31-T98N-R71W anymore; however, they do maintain the dams for livestock watering purposes. I explained to him that we should change the use of the dams from irrigation to stock watering use pursuant to SDCL 46-5-31.1.

RECOMMENDED ACTION

Based on the above request, it is recommended that the water license be issued for stock watering.



Timothy G. Schaal, P.E.
Natural Resources Engineer Specialist
Water Rights Program

The Chief Engineer makes a finding pursuant to SDCL 46-5-31.1 that:

This addition of stock watering does not impair existing water rights and no diversion of water will be made from the stock dams. Licensing of the water permit for stock watering may occur without application or publication pursuant to SDCL 46-2A-4.



Garland Erbele, Chief Engineer
Water Rights Program

Water Rights Division -DENR
Conversation or File Documentation

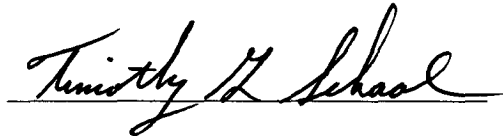
NAME OF PERSON OR FILE: Oakley Eide

ADDRESS: RR 2, Box 24, Burke, SD 57523 COUNTY: Gregory

DATE: May 14, 2004 TELEPHONE: 775-2267

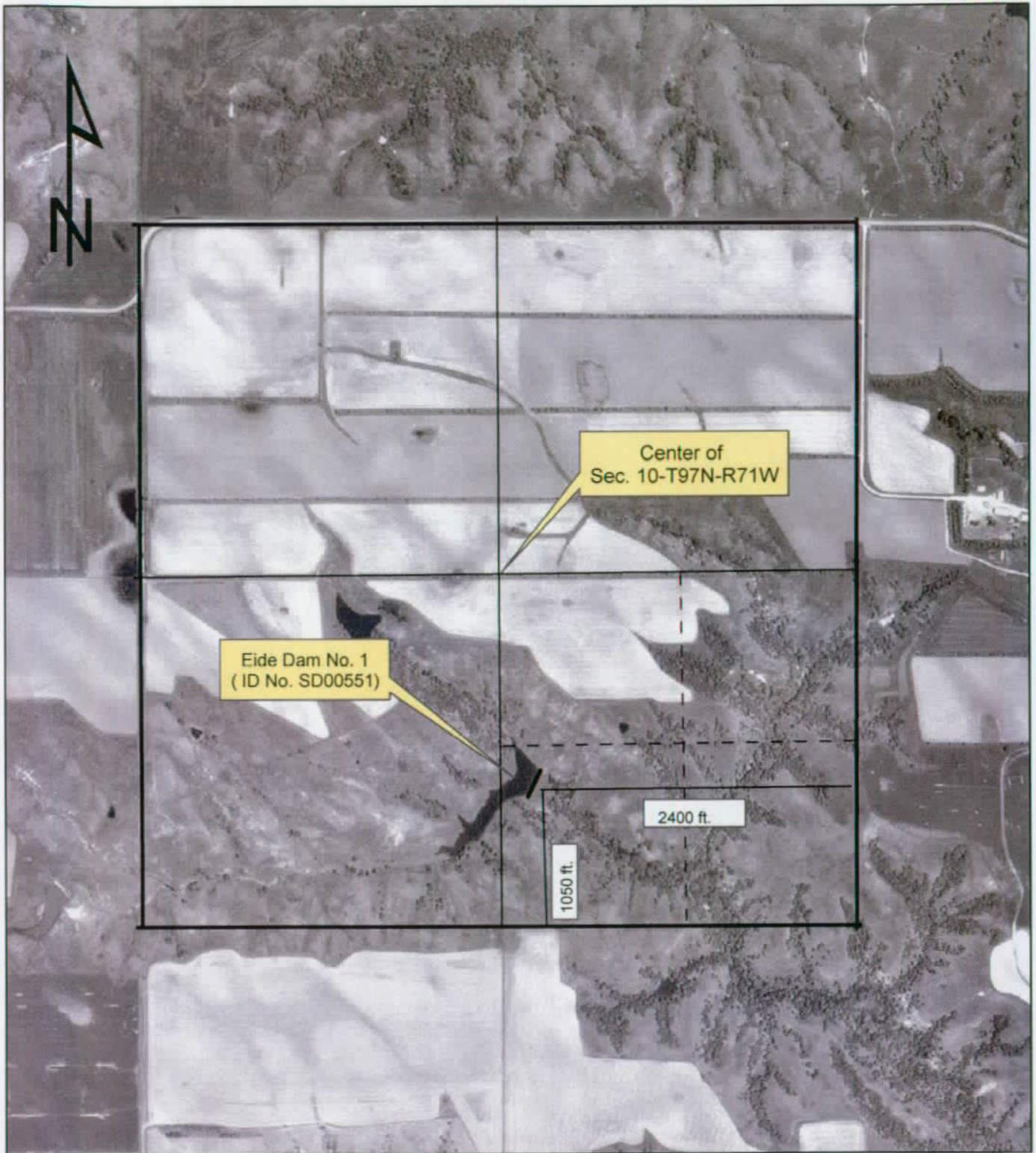
RE: Licensing of Water Permit Application No. 1363-2

I talked to Oakley Eide on May 6, 2004 about Water Permit Application No. 1363-2. The Irrigation Questionnaire summary for Water Permit 1363-2 indicates that he has not irrigated under this permit since 1996. Mr. Eide told me that even though they have not used this permit for several years, he would like to maintain irrigation in the SE $\frac{1}{4}$ of Sec. 1-T97N-R72W, where a center pivot still sits; and the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 6-T97N-R71W, where they irrigate with a traveling big gun. I told Mr. Eide that we would only license Water Permit 1363-2 for the two dams located in the S $\frac{1}{2}$ of Sec. 31-T98N-R71W and if or when he wants to irrigate the above mentioned ground he should apply for a new permit from the existing dams.



Timothy G. Schaal, P.E.
Natural Resources Engineer Specialist
Water Rights Program

Water Permit Application No. 1362-2



South Dakota Department of
Environment and Natural Resources

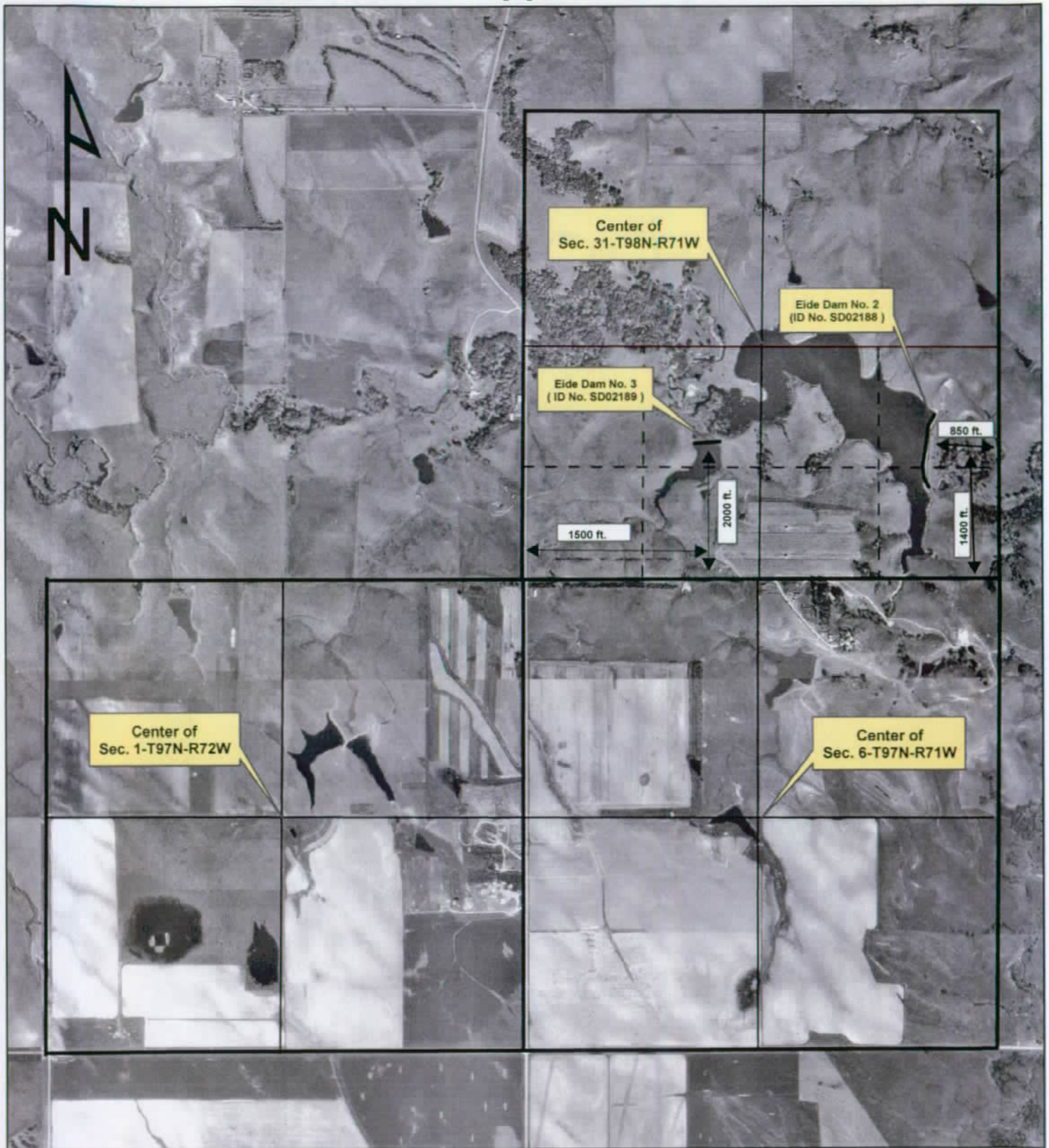


Protecting South Dakota's Tomorrow ... Today

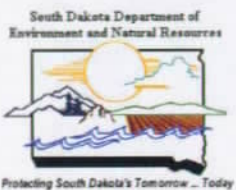


Timothy G. Schaal 5/14/04
Timothy G. Schaal, P.E.
Natural Resources Engineer Specialist
Water Right Program

Water Permit Application No. 1363-2



0 0.25 0.5 1 Miles



Timothy G. Schaal

Timothy G. Schaal, P.E.
Natural Resources Engineer Specialist
Water Rights Program

5/14/04

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 1363-2

(1) Oakley Eide, 28667 344th Ave, Burke SD 57523 made Application Nos. 1363-2 and 1362-2, March 10, 1976 located in Gregory County, South Dakota for irrigation purposes. Permit No. 1362-3 authorized 1.75 cfs from runoff (240 acre-feet storage) to irrigate 124 acres. Permit No. 1363-2 authorized 6.4 cubic feet of water per second (cfs) from runoff (1,000 acre-feet storage) to irrigate 447 acres. Both permits were issued with a priority date of March 10, 1976 and were approved July 22, 1976. The permits were issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before July 22, 1980 and for the application to beneficial use of water on or before July 22, 1981.

On July 7, 2004, the Water Management Board cancelled the irrigation portion of Water Permit No. 1362-2. On October 6, 2004, the Board adopted Findings of Fact, Conclusions of Law and a final decision canceling the irrigation portion of Water Permit No. 1363-2. The Board directed issuance of the water license for the current capacity of the stock dams for stock water purposes.

The applicable portions of No. 1362-2 are incorporated in No. 1363-2.

(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 Incorporated Water Right No. 1363-2 is issued a license, bearing a priority date of March 10, 1976 to impound a total of 1,135 acre feet of water in three storage dams for stock watering purposes.

The location of the storage dams (spillway) are as follows:

Eide Dam No. 1 - (60 acre-feet storage capacity) 1,050 feet north and 2,400 feet west of the southeast corner of **Section 10-T97N-R71W (SW ¼ SE ¼)**

Eide Dam No. 2 - (1,000 acre-feet storage capacity) 1,400 feet north and 850 feet west of the southeast corner of **Section 31-T98N-R71W (E ½ SE ¼)**

Eide Dam No. 3 - (75 acre-feet storage capacity) 2,000 feet north and 1,500 feet east of the southwest corner of **Section 31-T98N-R71W (NE ¼ SW ¼)**

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit Nos. 1362-2 and 1363-2 including the following now applicable qualification:

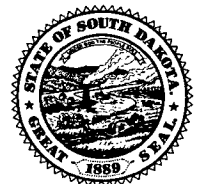
Low flows as needed for downstream domestic use, including livestock watering, must be by-passed.



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

APR 19 2005

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

APR 19 2005

1363-2

Oakley Eide
28667 344th Ave
Burke SD 57523

Dear Mr. Eide:

Enclosed is Water License No. 1363-2. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 001826 in the amount of \$50.00 which you paid for the investigation and issuance of the Water License.

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,

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

NOTE: The applicable portions of No. 1362-2 are incorporated into Water License No.1363-2.

enclosures