

Considered: _____

WATER PERMIT NO. 2116-2
Ph# 654-2500
MAP No. _____

Name of Applicant Donald Schmitz

Post Office Address Rt. 1 Box 58, Bonesteel SD

Amount of Water Claimed 0.65 Total Acres 45.7

Source of Water Supply Dam

Water to be used for irrigation County Gregory

About 1 1/2 miles NE of Bonesteel

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

F.F. & C.L. Adopted _____ Not Approved _____ Deferred _____

PRIORITY _____ Date Received 1/17/90 Fee \$150.00 Remarks Tim Schaal

classified dam a category 3 on May 8, 1990 inspection

Corrected Application Received 10 Period of Annual Use April 1 - Oct 1

WATER QUALITY APPROVAL RECEIVED June 6, 1990 APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as Application YES _____ NO _____ REMARKS _____

Diversion Point NE 1/4 SE 1/4 of Section 6 T95N R68W

NW 1/4 SW 1/4 Section 6 T95N R68W

Land to be Irrigated NW 1/4 SW 1/4 Sect 5-95-68

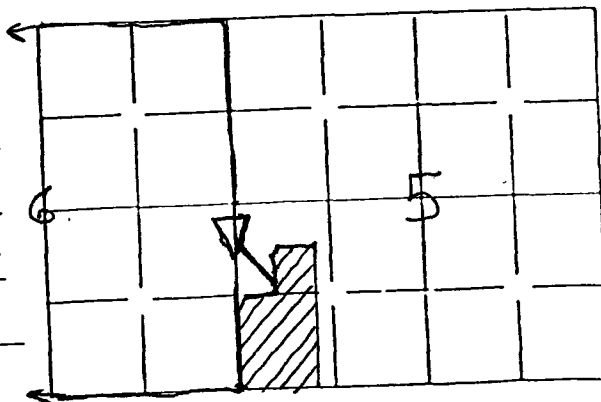
SW 1/4 SW 1/4 Sect 5-95-68

Well Log: Driller NA Licensed YES _____ NO _____

Depth of Well NA REMARKS _____

Type of Map Plate PREPARED BY Emmett Kotrba Reviewed and the Number

assigned on March 15, 1990 By Eric Thonlund



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

Mail to: Water Rights Div.
523 E. Capitol
Pierre, SD 57501
(605) 773-3352

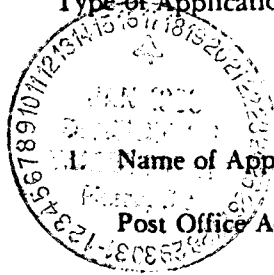
(See instructions)

No. 2116-2 Hydrologic Unit 10140101
Basin Missouri River
Newspaper Benesteele Gazette Enterprise Box 157

57317

Application For Soil/Water Compatibility Permit and Permit To Appropriate Water

Type of Application: ☒ New ☐ Vested Right ☐ Amend Permit No. _____
☐ Change Acreage ☐ Change diversion point(s) ☐ Add diversion point(s)
☐ Add Acreage ☐ Increase diversion rate ☐ Other _____



- Name of Applicant Donald Schmitz Phone No. 605 654 2506
- Post Office Address RR-1 Box 58 Benesteele State So. Dak. Zip Code 57317
(Street, RR or Box) (City)
- Amount of water claimed (c.f.s) 0.65 Total acres irrigated 45.7
- Source of Water supply Dam
- Location of point of diversion E 1/4 Sec 5-95-68
NE 1/4 SE 1/4 Sec 6-T95N-R68W, NW 1/4 SW 1/4 Sec 5-T95N-R68W
- County Gregory
- Counties where water will be used Gregory
- Annual period during which water is to be used April 1 to Oct. 1
- 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.
<u>SW 1/4 of Section 5-95-68</u>	<u>45.7</u>
<u>NW 1/4 SW 1/4 Sec 5-T95-R68W</u>	<u>15</u>
<u>SW 1/4 SW 1/4 Sec 5-T95-R68</u>	<u>35.7</u>

Land Description	No. Acres Irr.

Attach sheet if more space is needed

- Type of Irrigation: Gravity: _____ Towline: ☒ Center Pivot: _____ Gun: _____ Other: _____ (Specify) _____
- Crops to be Irrigated: alfalfa, grass, corn
- Give a description of proposed project. (Attach sheet if more space is needed)

PUMPING FROM DAM BUILT IN 1975

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach maps, soils information and any other technical information.

STATE OF SOUTH DAKOTA)
County of Gregory) ss

I, Donald Schmitz, the applicant, certify that I have read this application and examined the attached maps, that the water sample, if needed, has been taken by the required procedures and has not been adulterated or tampered with and is truly representative of the water to be used, and that the matters stated in this application are true and correct.

Signed Donald Schmitz

Subscribed and sworn to before me this 15th day of Jan 19 90

Sandy Schoenmaier
Notary Public

Supplemental Information

(type or print in ink)



1. Well Information - Proposed construction

- a) Drill Hole Diameter _____ Depth _____
- b) Casing Type _____ Diameter _____ Thickness _____
- c) Screen Type _____ Diameter _____ Thickness _____
- d) Gravel Pack Thickness _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth to Water (ground surface to water level) _____
- g) Distance to nearest existing domestic well:
- On applicants property _____ On property owned by others _____

2. Dugout Information Estimates

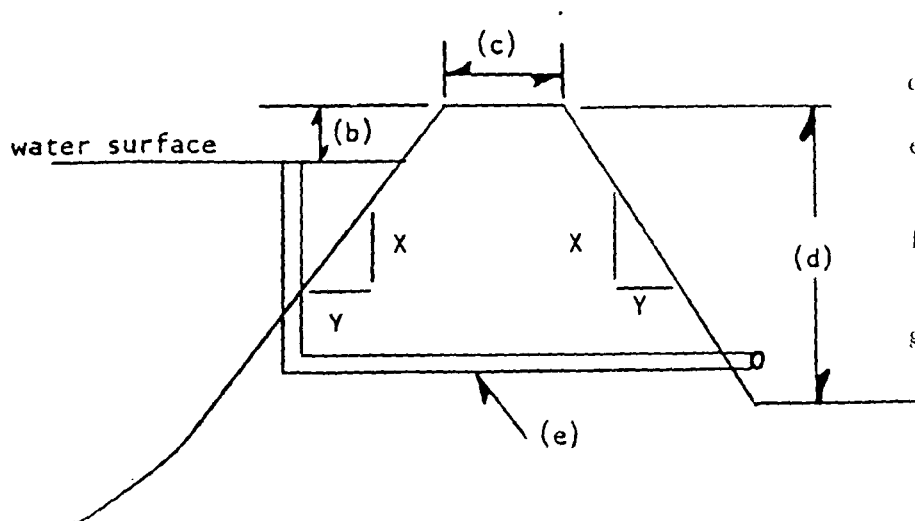
- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

3. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below. The locations of each dam should be shown on the map submitted with the application.

- a) If a private engineering firm or government agency was involved in the design of this dam please give their name and address

Private Construction



- b) Freeboard 8 Feet
- c) Crest Width 15 Feet
Crest Length 160 Feet
- d) Height 46 Feet
- e) Primary Outlet Capacity 4 cfs
If Pipe, diameter 1'-0"
- f) Secondary Spillway Capacity 20 cfs
Spillway width 20' at Bottom
- g) X & Y Slope
Upstream 1:3
Downstream 1:3

Surface Area of Impoundment 2.6

Storage 38.5 acre feet

Drainage area above dam 101 acres

Signature of Applicant _____

SOUTH DAKOTA
WATER PERMIT No. 2116-2 FOR IRRIGATION

Date of first receipt of application January 17, 1990.
Date Soil/Water Compatibility Permit received June 6, 1990.
Date of return to applicant for corrections, amendments or changes March 12, 1990.
Date of receipt of corrected application May 10, 1990.

The Water Management Board approved Water Permit Application No. 2116-2 on July 25, 1990 for Donald Schmitz, Rt. 1, Box 58, Bonesteel, SD 57317 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 2116-2 appropriates 0.65 cubic feet of water per second from an existing dam (38.5 acre-feet storage capacity) to irrigate 45.7 acres. The dam is located in the NE1/4 SE1/4 of Section 6 T95N-R68W and the NW1/4 SW1/4 Section 5 T95N-R68W. The point of diversion will be located in the NW1/4 SW1/4 Section 5 T95N-R68W. The land to be irrigated is located in the NW1/4 SW1/4, SW1/4 SW1/4 Section 5 T95N-R68W.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 - October 1.
3. The date from which applicant may claim right is January 17, 1990.
4. One-fifth of the construction is to be completed on or before January 25, 1993.
5. All construction is to be completed on or before July 25, 1995.
6. Water is to be put to beneficial use on or before July 25, 1999.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.
2. This permit is approved subject to the irrigation water use questionnaire being submitted each year.
3. Approval of Permit No. 2116-2 authorizes storage of up to 38.5 acre-feet annually.

WATER MANAGEMENT BOARD

By: 
Chief Engineer, Water Rights Division
Department of Water and Natural Resources

SEP 13 1990
(date)



Water & Natural Resources

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

March 12, 1990

Donald Schmitz
R.R. 1, Box 58
Bonesteel, SD 57317

Dear Mr. Schmitz:

This letter is in response to your water permit application received on January 17, 1990. The following information is needed in order to process your application.

- 1) A detailed land description listed for each forty acre subdivision. Your application lists only a 160 acre parcel.
- 2) A soil map of the area to be irrigated. The lands to be irrigated must be specifically outlined on the map. You should be able to obtain this map at your local SCS office.

The water permit application can not be considered by the Water Management Board until the application is complete and the soil/water compatibility permit is obtained by the Department of Agriculture.

If you have any questions, please contact me.

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enc.

Conversation or File Documentation

NAME OF PERSON OR FILE: Don Schmitz

ADDRESS: Bonesteel COUNTY _____

DATE: 3/15/90 TELEPHONE _____

RE: _____

COMMENTS:

Talked with Mr. Schmitz on the phone, he stated
the lands lie in the NW 1/4 SE 1/4 and SW 1/4 SE 1/4
Section 5 T95N R68W.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: Eric Henderson



Department of Water & Natural Resources

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

March 15, 1990

Mr. Donald Schmitz
Rt. 1 Box 58
Bonesteel, SD 57317

Dear Mr. Schmitz:

This letter is in response to your water permit application received on January 17, 1990. The following information also needs to be submitted with the application:

1. A written preliminary risk assessment of the downstream hazard potential needs to be provided to aid in determining the hazard classification for the dam (see enclosed Safety of Dams Rules Sections 74:02:08:05 and 74:02:08:05.1). The hazard classification for the dam (Category 1, 2 or 3) needs to be known in order to determine what provisions of the Safety of Dams Rules will apply to your dam.

The downstream hazard potential is to consist of a list of properties downstream from the dam (homes, roads, dams and other structures) with descriptions of these downstream properties and the elevation above the waterway need to be included in the assessment. The risk assessment needs to be prepared by an engineer as defined in the Safety of Dams rules. The Soil Conservation Service may be able to assist with the risk assessment.

The water permit application can not be considered by the Water Management Board until the application is complete.

If you have any questions, please contact me.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enc.

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

Pierre, January 17, 1990

RECEIVED OF Donald Schmitz, RR #1 Box 53, Bonesteel, SD 57317

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

Fee for Application for Permit No. <u>2116-2</u> to Appropriate Water, to construct works and to put water to beneficial use _____	150	00
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	150 00

By John Halek/mia
Chief Engineer

Department of Agriculture
WI#1
5/87

SOIL/WATER COMPATIBILITY PERMIT
Division of Conservation

Office Use Only

4506

WR#

OWNERS NAME: DONALD SCHMITZ OWNERS ADDRESS: RT. 1, BOX 58
BONESTEEL, SD 57317

COUNTY LAND LOCATED IN: GREGORY PHONE: 654-2500

LEGAL DESCRIPTION: ☐ Well ☒ Surface

1. LOCATION NE $\frac{1}{4}$ SE $\frac{1}{4}$ 6-T95N-R68W, NW $\frac{1}{4}$ SW $\frac{1}{4}$ 5-T95N-R68W
Depth _____

Legal Description	Acres	Legal Description	Acres
NW $\frac{1}{4}$ SW $\frac{1}{4}$ 5-T95N-R68W	15		
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 5-T95N-R68W	35.7		

2. TYPE OF IRRIGATION: GRAVITY: _____ TOWLINE: XXX CENTER PIVOT: _____ GUN: _____ OTHER: _____
(Specify)

3. CROPS TO BE IRRIGATED: ALFALFA, GRASS, CORN

WATER QUALITY:	
4. WATER SAMPLE NUMBER: <u>89-0573</u>	7. ADJUSTED (SAR): <u>1.92</u>
5. SALINITY (EC X 10 ⁶): <u>750</u>	8. PERCENT SODIUM <u>17.42</u>
6. SODIUM (SAR): <u>0.82</u>	

Requirements:

The area mapped as Mariaville loam 15 to 40% slope (MAF) is subject to excessively steep slopes and a severe erosional hazard. This area shall not be irrigated.



John Quirk
Director, Division of Conservation

June 4, 1990
Date

XXX APPROVED XXX REQUIREMENTS
____ DISAPPROVED
____ WAIVER

Soil/water permits will be recorded by the Department of Agriculture, with the County Register of Deeds.

REPORT OF ANALYSIS
Water Quality Laboratory
Water Resources Research Institute
South Dakota State University
Brookings, South Dakota 57007

12-04-1989

Gregory

Name: Schmitz, Donald
Address: RFD 1, Box 58
Bonesteel, SD 57317

Date Rec'd
Sample No.
Source
Legal ID

NOV 27, 1989
89-0573

DAM

WATER ANALYSIS

Calcium (Ca)	95	ppm*	4.74	me/l**
Magnesium (Mg)	22	ppm	1.81	me/l
Sodium (Na)	34	ppm	1.48	me/l
Potassium (K)	18	ppm	0.46	me/l
Sulfate (SO4)	94	ppm	1.96	me/l
Nitrate (as N)		ppm		me/l
Chloride (Cl)	20	ppm	0.56	me/l
Bicarbonate (HCO3)	337	ppm	5.52	me/l
Carbonate (CO3)	0	ppm	0.00	me/l
Iron (Fe)		ppm		me/l
Flouride (F)		ppm		me/l
Manganese (Mn)		ppm		
Boron (B)	0.06	ppm		
Hardness (EDTA as CaCO3)		ppm		g.p.g.***
Total solids		ppm		
Total Cations			8.49	me/l
Total Anions			8.04	me/l
Alkalinity (Methyl Orange)	276	ppm(as CaCO3)		
Alkalinity (Phenolphthalein)	0	ppm(as CaCO3)		
Electrical Conductivity	750	micromhos per cm at 25 C		
Sodium Adsorption Ratio	0.82	Adjusted SAR	1.92	
Sodium	17.42	% of Cations		
Residual Sodium Carbonate	0.00	me/l		
pH	7.58			

Others:

*ppm=parts per million

***g.p.g.=grains per gallon

**me/l=millequivalents per liter

COMMENTS:

Analysis By: Shirley Mittan

Service Performed:

Total Cost: \$ 35.00

Irrigation Analysis

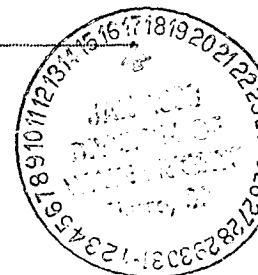
Amount Received: 0.00

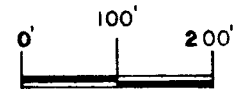
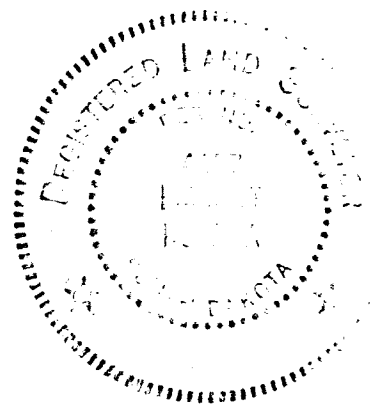
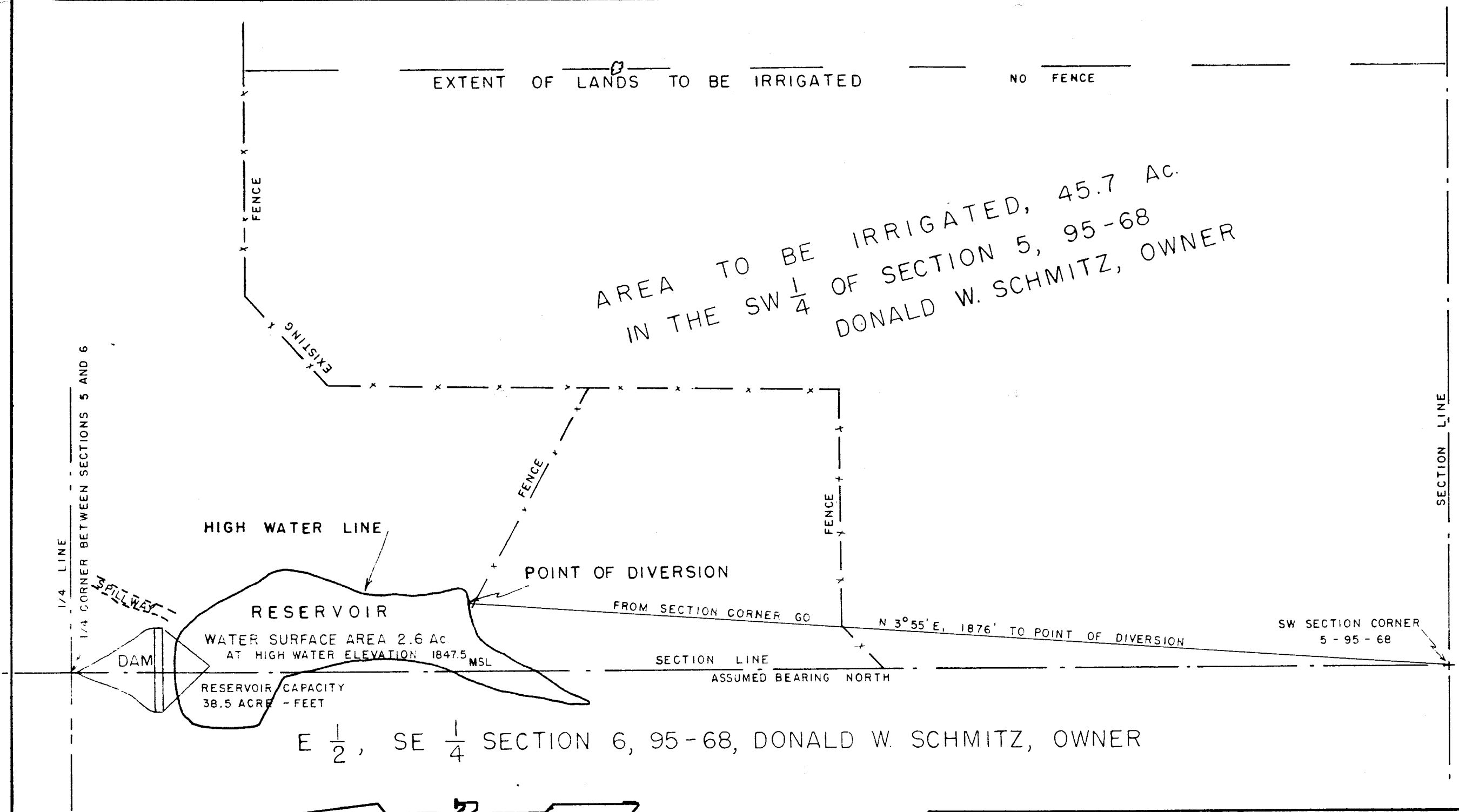
Balance Due: 35.00

Make checks payable to: SDSU Water Quality Lab

Please write lab number on your check!

Lab No. 89-0573





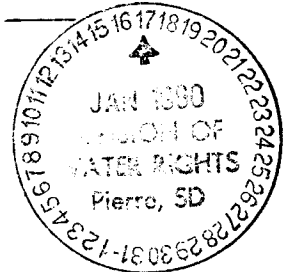
SCALE: 1" = 200'

MSL = MEAN SEA LEVEL

I hereby certify that at the request of Donald W. Schmitz, I have surveyed the location of an existing reservoir which is shown on the attached map which is in all respects true and correct.

[Signature]

Registered Land Surveyor



RESERVOIR LOCATION MAP
DONALD W. SCHMITZ IRRIGATION APPLICATION
SECTIONS 5 and 6, T 95 N, R 68 W of 5th P.M.
NEAR BONESTEEL, GREGORY COUNTY, SD
NOV 1989

Conversation or File Documentation

NAME OF PERSON OR FILE: Donald SchmitzADDRESS: Rt. 1 Box 58 Bonesteel, SD COUNTY GregoryDATE: May 10, 1990 TELEPHONE _____RE: Classification of Irrigation Dam

COMMENTS:

On May 8, 1990, I met with Mr. Schmitz
and discussed his Water Right Application,
No. 2116-2. Based on a visual inspection of
the dam and downstream area, the irrigation
dam will be classified as a Category 3,
Low Hazard Dam.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

Schmitz Dam

WR Ap. 2/16-2

May 24, 1990

TGS

46' high

38.5 Ac-Ft. - Normal Cgs.

20' wide 2nd Spillway w/ 5' freeboard

$$38.5 \times (46.5) = 1578.5 < 3000 \therefore 25 \text{ yr flood}$$

From USGS - Tech. for estimating Flood Peaks, Volumes &
Hydrographs on Small Streams in SD

$$SI = 3.33$$

$$DA: 101 \text{ Ac.} = 0.16 \text{ mi}^2$$

$$\text{Slope} = 100' / 1000' = 528 \text{ ft/mile}$$

$$Q_{25} = 83.4 A^{0.60} S^{0.44} \cdot 0.72$$

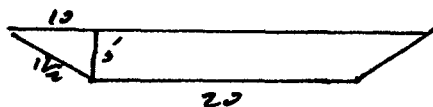
$$= (83.4)(0.16)^{0.6} (528)^{0.44} 3.33^{-0.72}$$

$$= (27.77)(15.77)(0.42) = \underline{185 \text{ cfs}}$$

$$Q_{100} = 132 A^{0.65} S^{0.46} \cdot 0.67$$

$$= (132)(0.16)^{0.65} (528)^{0.46} 3.33^{-0.67}$$

$$= (40.11)(17.88)(0.45) = \underline{320 \text{ cfs}}$$



$$A = (5 \times 20) + (5 \times 10) = 150$$

$$wp = 42.36$$

$$R = 3.54$$

$$\text{Assume } S = 0.002$$

$$Q = \frac{1.49}{0.035} A R^{2/3} S^{1/2}$$

$$= \frac{1.49}{0.035} (150)(3.54)^{2/3} (0.002)^{1/2}$$

$$= \frac{1.49}{0.035} (150)(2.32)(0.04)$$

$$= \underline{660 \text{ cfs}}$$

$$Q = CL A^{3/2} S^{1.5}$$

$$= 2.6(30 \times 5)^{1.5}$$

$$= \underline{870 \text{ cfs}}$$

REPORT ON
APPLICATION NO. 2116-2
DONALD SCHMITZ
MAY 24, 1990

Water Permit Application No. 2116-2 proposes to appropriate 0.65 cubic feet per second (cfs) of water from an existing dam located in the NE 1/4 SE 1/4 of Section 6-T95N-R68W and the NW 1/4 SW 1/4 of Section 5-T95N-R68W to irrigate 45.7 acres of land located in the NW 1/4 SW 1/4, SW 1/4 SW 1/4 of Section 5-T95N-R68W in Gregory County.

Discussion:

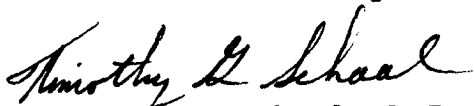
The Schmitz Dam is located on a tributary of North Scalp Creek approximately 6 miles above the confluence of North Scalp Creek with the Missouri River. Based on a visual inspection of the dam and downstream area, the dam will be classified as a Category 3, Low Hazard Dam.

The Schmitz Dam is 46 feet high with a crest length of 160 feet. Since it has a height greater than 40 feet, it will be classified as an intermediate size dam. It has a 12 inch CMP with 8 feet of freeboard as the primary spillway and a 20 foot wide earthcut secondary spillway with 5 feet of freeboard. The dam is spring fed and has a drainage area of only 101 acres.

The dam was constructed in 1975 to provide livestock water. It is exempt from the Safety of Dams Rules, Chapter 74:02:08. However, the Safety of Dams Rules would require a dam of this size and category to have the spillway capacity to pass a 100 year frequency event, which would be approximately 320 cfs. The Schmitz Dam has the spillway capacity to pass approximately 660 cfs.

Conclusion:

Water Permit Application No. 2116-2 should be approved because unappropriated water is available and it will not affect existing water rights.



Timothy G. Schaal, P.E.
Natural Resources Engineer III

Approved by,



Gale N. Selken, P.E.
Natural Resources Engineer IV

RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2116-2, Donald Schmitz

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Water Permit Application No. 2116-2, Donald Schmitz, Rt 1, Box 58, Bonesteel SD.

The Chief Engineer is recommending APPROVAL of Application No. 2116-2 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) in the public interest with the following qualifications:

1. Low flows as needed for downstream domestic use, including livestock water and prior water rights must be by-passed.
2. This permit is approved subject to the irrigation water use questionnaire being submitted each year.
3. Approval of Permit No. 2116-2 authorizes storage of up to 38.5 acre feet annually.

See the attached report for additional information.



JOHN HATCH, Chief Engineer
June 16, 1990



Department of Water & Natural Resources

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

June 15, 1990

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

Donald Schmitz
Rt 1, Box 58
Bonesteel SD 57317

Dear Mr. Schmitz:

Water Permit Application No. 2116-2 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Bonesteel Enterprise printed at Bonesteel SD. For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

A handwritten signature in cursive script that reads "Eric Gronlund".

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



Department of Water & Natural Resources

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

June 15, 1990

Bonesteel Enterprise
Box 157
Bonesteel SD 57317

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 2116-2 to be published twice. Please publish the first notice on or before June 28, 1990 with the second publication 7 days later.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is Donald Schmitz, Rt 1, Box 58, Bonesteel SD.

A copy of BOTH publications must be SENT to the WATER RIGHTS DIVISION. IMMEDIATELY return the FIRST publication with the FIRST Transmittal form on the bottom of this page. The first copy is needed to check the publication for errors so any corrections can be made in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. The permit application cannot be considered by the Water Management Board until proof of publication has been received.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

CUT HERE

FIRST TRANSMITTAL NOTICE

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

No. _____

Date _____

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

Name _____

Newspaper _____

Instruction to Newspaper - Publish first Notice on or before June 28, 1990 with 2nd publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 2116-2 to Appropriate Water

Notice is given that Donald Schmitz, Rt 1, Box 58, Bonesteel SD 57551 has filed an application for a water permit to appropriate 0.65 cubic feet of water per second from an existing dam (38.5 acre feet storage capacity) to irrigate 45.7 acres. The dam is located in the NE 1/4 SE 1/4 of Section 6-T95N-R68W and the NW 1/4 SW 1/4 of Section 5-T95N-R68W. The point of diversion will be located in the NW 1/4 SW 1/4 of Section 5-T95N-R68W. The land to be irrigated is located in the NW 1/4 SW 1/4, SW 1/4 SW 1/4 of Section 5-T95N-R68W.

Pursuant to SDCL 46-2A-2, the Chief Engineer of the Water Rights Division recommends APPROVAL of Application No. 2116-2 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water and 4) it is in the public interest. This application will be considered by the Water Management Board in the Room 216, Joe Foss Building, 523 E Capitol, Pierre SD on July 25, 1990 at 10:00 am. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer or 4) deny this application based on the facts presented at the public hearing.

Any interested person that intends to participate in the hearing before the Board by presenting evidence or cross-examining witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and Chief Engineer by July 13, 1990. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)". The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application and the signature and mailing address of the petitioner or legal counsel if legal counsel is obtained. The applicant need not file a petition. Contact the Water Rights Division to request information on this application or to assure access to the hearing by the handicapped.

This hearing is an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. The time of the hearing will also be automatically delayed for at least twenty days upon written request to the Chief Engineer from the applicant or a petitioner. The request for a delay must be received by July 13, 1990.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.



Department of Water & Natural Resources

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

SEP 13 1990

Donald Schmitz
RR #1 Box 58
Bonesteel SD 57317

Dear Mr. Schmitz:

Enclosed is Water Permit No. 2116-2 as approved by the Water Management Board authorizing you to construct your water diversion system and put the water to beneficial use, not exceeding the limits as specified in the Water Permit.

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

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division
605 773-3352

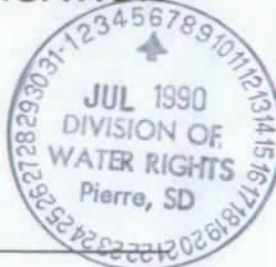
enclosures

PLEASE NOTE: Certain changes can be made in your permit within the five year construction period, usually without affecting the priority date provided an application to amend your permit is made within the five year period - i.e. changes in location or number of diversion points (wells) or location of land to be irrigated. Well locations for wells into the same aquifer can be moved up to 660 feet without application.

Applications to amend a permit after the five year construction period will be assigned a new priority date. Applications to change water sources, to add lands or increase original diversion rates, if approved will usually receive the date of the new application as a priority date regardless of the five year construction period.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Gregory) ss.



I, Carol A. Perlenfein
certify that the attached printed Notice was taken
from the Bonesteel Enterprise

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 Bonesteel
_____ of _____

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

June 28, 1990
July 5, 1990

Carol A. Perlenfein
(Signature)

Pub.
(Title)

July 5, 1990
(Date Signed)

Cost of Printing: 73 Lines x 27.3 = \$ 19.93

2nd run 1070 = 15.94

Total \$ 35.87

PUBLIC NOTICE

NOTICE OF HEARING on Application
No. 2116-2 to Appropriate Water

Notice is given that Donald Schmitz,
Rt. 1, Box 58, Bonesteel, SD 57317 has
filed an application for a water permit to
appropriate 0.65 cubic feet of water per
second from an existing dam (38.5 acre
feet storage capacity) to irrigate 45.7 acres.
The dam is located in the NE 1/4 SE 1/4 of
Section 6-T95N-R68W and the NW 1/4 SW 1/4
of Section 5-T95N-R68W. The point of
diversion will be located in the NW 1/4 SW 1/4
of Section 5-T95N-R68W. The land to be
irrigated is located in the NW 1/4 SW 1/4,
SW 1/4 SW 1/4 of Section 5-T95N-R68W.

Pursuant to SDCL 46-2A-2, the Chief
Engineer of the Water Rights Division
recommends APPROVAL of Application No.
2116-2 because 1) unappropriated water is
available, 2) existing rights will not be
unlawfully impaired, 3) it is a beneficial
use of water and 4) it is in the public
interest. This application will be considered
by the Water Management Board in the
Room 216, Joe Foss Building, 523 E.
Capitol, Pierre, SD on July 25, 1990 at
10:00 A.M. The Chief Engineer's recommen-
dation is not final or binding upon the Board.
The Board is authorized to 1) approve,
2) approve with qualifications, 3) defer or
4) deny this application based on the facts
presented at the public hearing.

Any interested person that intends to
participate in the hearing before the Board
by presenting evidence or cross-examining
witnesses according to SDCL 1-26, must file
a written petition with BOTH the applicant
and Chief Engineer by July 13, 1990.
The Chief Engineer's address is "Water
Rights Division, Foss Building, 523 E.
Capitol, Pierre, SD 57501 (605-773-3352)."
The petition may be informal, but must
include a statement describing the petition-
er's interest in the application, the
petitioner's reasons for opposing or support-
ing the application and the signature and
mailing address of the petitioner or legal
counsel if legal counsel is obtained. The
applicant need not file a petition. Contact the
Water Rights Division to request information
on this application or to assure access to the
hearing by the handicapped.

This hearing is an adversary proceeding.
Any person filing a petition and/or the
applicant have the right to be represented by
a lawyer. These and other due process
rights will be forfeited if not exercised.
Decisions of the Board may be appealed to
the Circuit Court and State Supreme Court as
provided by law. The time of the hearing will
also be automatically delayed for at least
twenty days upon written request to the
Chief Engineer from the applicant or a
petitioner. The request for a delay must be
received by July 13, 1990.

This application is made pursuant to
SDCL 46-1-1 thru 46-1-9, 46-1-12 thru
46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13,
46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12,
46-2A-14, 46-2A-15; 46-5-1 thru 46-5-11,
46-5-13 thru 46-5-15, 46-5-24, 46-5-25,
46-5-30.2, 46-5-30.4, 46-5-31; and Board
Rules ARSD 74:02:01:01 thru 74:02:01:15.
J28/Jy5(73L)

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

Date 4-19-94

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

FROM:

Donald Schmitz RR-1 Box-38
(name) (address)
Bonesteel S.D. 57317 605-654-2500
(city) (state) (zip) (phone)

I have completed the construction of the water diversion system and I have put the water to beneficial use to the maximum extent it is going to be used. I have not exceeded the amounts specified in Water Permit No. 2116-2.

Water Permit No. 2116-2 states that the diversion system is to be constructed by not used yet due to alignment and that the water is put to beneficial use by rain fall
(date) (date)
4-19-94
(date)

The diversion system was completed on May 1 - 1994
(date)

Applying the water to beneficial use was completed on not used yet
(date)

You may schedule an inspection so that the Water License may be issued.

Donald Schmitz
(signature)



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 3, 1995

2116-2

Donald Schmidt
RR 1, Box 58
Bonesteel, SD 57371

Dear Mr. Schmidt:

The inspection of your water use system and the inspection of the extent of application of water to beneficial use, as developed under Water Permit No. 2116-2, has been completed. Your final water right document, the Water License, can now be issued.

Statutes require that we charge a \$50.00 fee for the inspection and issuance of the Water License. Upon receipt of the \$50.00 fee from you, we will begin processing your Water License.

Please remit fee to:
Department of Environment & Natural Resources
Water Rights Division
523 E. Capitol
Pierre, SD 57501-3181

South Dakota Water Law 46-5-30.1 requires that a permit holder may not divert water until the \$50.00 license fee has been paid. Please contact us if you have any questions.

Sincerely,

Cheryl F. Frost
Secretary
Water Rights Division
(605) 773-3352

NOTE: On check or money order, please specify your permit number. This will insure proper handling of the fee.

RECEIPT

414456

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____ April 6, 19⁹⁵

RECEIVED OF Ellen Schmitz, RR 1 Box 55, Bonesteel, SD 57317

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water, for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>2116-2</u>	50	00
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	50 00

By John Hatch
Chief Engineer

Permit No. 2116-2
Missouri River - Water District

Report Of Examination Of Works And/Or Application of Water To Beneficial Use

TO: Chief Engineer, Division of Water Rights, DENR, Joe Foss Bldg., Pierre, SD 57501

On this day, April 19, 1994, I made a thorough examination of the water use system constructed by Donald Schmitz of RR1 Box 58, Bonesteel, SD 57317 holder of Permit No. 2116-2, bearing the priority of January 17, 1990 authorizing the storage of 38.5 ac. ft. and a diversion of 0.65 cu. ft. of water per second from surface water 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 6 cylinder GM Motor with a 500 GPM Berkeley Pump.
- B. Works used to transport water to place of use:
800 feet of 6" aluminum pipe and 20 feet of 6" rubber hose.
- C. Works used to apply water to beneficial use:
A 1260 foot towline with sprinkler spacings at 40 feet.

The system is in the following condition: good. The point of diversion is located 1980 feet N and 132 feet E from the SW corner of Section 5; T95N R68W (NW1/4 SW1/4). The works are capable of diverting and conveying to the place of use 1.11 cu. ft. of water per second and storing 38.5 acre-feet of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

<u>T95N R68W</u>	<u>SECTION 5</u>	<u>NW1/4 SW1/4</u>	<u>13 acres</u>
		<u>SW1/4 SW1/4</u>	<u>32 acres</u>

comprising a total of 45 acres of land and the license should be issued for 0.64 cfs and 38.5 acre-feet of storage.

****NOTE:** During the inspection of Water Permit No. 2116-2, Mr. Schmitz said he didn't use the system the last few years due to adequate rainfall on his irrigated acreage.

Permit qualifications have been complied with: Yes X No

Exceptions to compliance are: None Date: April 19, 1994


Barry A. McLaury
Environmental Scientist
DENR, Water Rights Division

REPORT ON INSPECTION OF PERMIT NO. 2116-2

DATE OF INSPECTION: April 19, 1994

Other permit(s) associated with the project: None

Name of inspection contact: Donald Schmitz

Contact relationship to permit holder: Owner

Name/address of permit holder: Donald Schmitz, RR1 Box 58, Bonesteel, SD 57317

DIVERSION POINT LEGAL LOCATION: 1980 feet N and 132 feet E from the SW corner of Section 5; T95N R68W (NW1/4 SW1/4).

Pump:

- 1) Make Berkeley
- 2) Serial No. 7678106
- 3) Capacity 500 GPM

Motor:

- 1) Make General Motors
- 2) Model No. 6 cylinder
- 3) Horsepower rating 120 hp

DISTRIBUTION LINES OR CANALS:

- 1) Type ALU 2) Size 6 inches 3) Length 800 feet
- 1) Type RUB 2) Size 6 inches 3) Length 20 feet

SYSTEM TYPE:

Towline:

- 1) length 1260 feet
- 2) Sprinkler spacing 40 feet

DAM INFORMATION:

- 1) Height to crest 46 feet
- 2) Height to primary spillway 38 feet
- 3) Height to secondary spillway 41 ft
- 4) Crest width 15 feet
- 5) Crest length 160 feet
- 10) Date constructed: 1975
- 11) Outlet tubes:
 - a) diameter 12 inches
 - b) type culvert
 - c) valved no

- 6) Spillway length 150 feet
- 7) Spillway width 20 feet
- 8) Approx. storage 38.5 ac-ft
- 9) Approx. storage to crest ac-ft

- d) valve type Drop inlet
- e) location on structure
- 12) Category of Dam III
- 13) Inspection Sheet Completed Y

CHEMIGATION EQUIPMENT:

- 1) Does chemigate N

PERMIT QUALIFICATIONS AND REGULATIONS:

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

****NOTE:** During the inspection of Water Permit No. 2116-2, Mr. Schmitz said he didn't use the system the last few years due to adequate rainfall on his irrigated acreage.

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 2116-2

(1) Donald Schmitz, of RR 1, Box 58, Bonesteel SD 57317 made Application No. 2116-2, January 17, 1990 for a water permit to appropriate 0.65 cubic feet of water per second from a dam (38.5 acre-feet storage capacity), Gregory County, South Dakota for irrigation purposes. Permit No. 2116-2, with a priority date of January 17, 1990 was approved July 25, 1990 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before July 25, 1995 and for the application to beneficial use of said water on or before July 25, 1999.

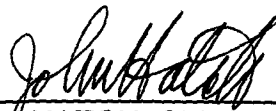
The permit holder submitted a "Notice of Completion of Works and Application of Water to Beneficial Use on April 19, 1994. The "Notice" stated the diversion system was completed on May 1, 1994.

(2) It is certified that the applicant has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 0.64 cubic feet of water per second for beneficial use. The location of the diversion point is 1980 feet north and 132 feet east from the southwest corner of Section 5-T95N-R68W (NW 1/4 SW 1/4).

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

Section 5-T95N-R68W	NW 1/4 SW 1/4	13 acres
	SW 1/4 SW 1/4	32 acres
	Total	45 acres

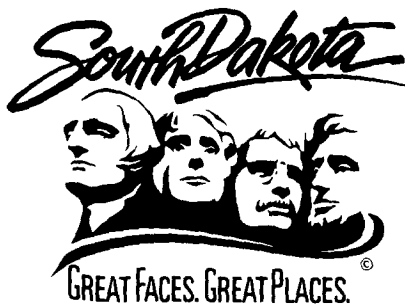
(4) Pursuant to South Dakota Water Law 46-5-30.1 Donald Schmitz of RR 1, Box 58, Bonesteel SD 57317 the holder and/or owner of Water Permit No. 2116-2 is issued a license to appropriate water, the right to use 0.64 cubic feet of water per second from a dam (38.5 acre-feet storage capacity) with a priority date of January 17, 1990 from the location specified in (2) of this license. The water to be conducted to and upon lands specified in (3) of this license for the purpose of irrigation. This license is subject to any limitations or qualifications listed in Water Permit No. 2116-2 and subject to South Dakota State Law.



JOHN HATCH, Chief Engineer
Water Rights Division
Department of Environment and Natural Resources

SEP 6 1995

date



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

SEP 6 1995

2116-2

Donald Schmitz
RR 1, Box 58
Bonesteel, SD 57317

Dear Mr. Schmitz:

Enclosed is Water License No. 2116-2 and Receipt No. 414456 for \$50.00 which was assessed for an inspection and issuance of the license. Water License No. 2116-2 is the final document which completes the process of obtaining a water right.

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.

Very truly yours,

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

rd
enclosures



January 22, 1999

2116-2
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

NOTICE

TO: DONALD SCHMITZ, RR 1 BOX 55, BONESTEEL, SD 57317

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

SUBJECT: Reporting Requirement for 1998 Irrigation Questionnaire(s)

Our records indicate that the 1998 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 2116-2. The request for the Questionnaire was dated October 16, 1998. The Water Management Board has directed that owners of water permits who have not submitted the 1998 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) 2116-2 qualification:

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

The hearing will be held at 9:45 am, March 3, 1999 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) 2116-2 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 1, 1999, 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.

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

DONALD SCHMITZ
RR 1 BOX 55
BONESTEEL SD 57317

4a. Article Number

Z 119 141 607

4b. Service Type

- | | |
|---|---|
| ☐ Registered | ☒ Certified |
| ☐ Express Mail | ☐ Insured |
| ☐ Return Receipt for Merchandise | ☐ COD |

7. Date of Delivery

1-23-99

5. Received By: (Print Name)

DONALD Schmitz

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)

X Ellen Schmitz

Thank you for using Return Receipt Service.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 26, 1999

2116-2

Donald Schmitz
RR 1 Box 55
Bonesteel, SD 57317

Dear Mr. Schmitz:

I am writing to acknowledge receipt of your 1998 irrigation questionnaire. You may disregard the January 22, 1999, "Notice" concerning reporting requirements for Water Permit No. 2116-2.

The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 16, 2002

NOTICE

TO: DONALD SCHMITZ, RR 1 BOX 55, BONESTEEL, SD 57317

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

SUBJECT: Reporting Requirement for 2001 Irrigation Questionnaire(s)

Our records indicate that the 2001 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 2116-2. The request for the Questionnaire was dated October 12, 2001. The Water Management Board has directed that owners of water permits who have not submitted the 2001 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) 2116-2 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 13, 2002 in the Visitor Center (west side of Capitol Lake), 650 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) 2116-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

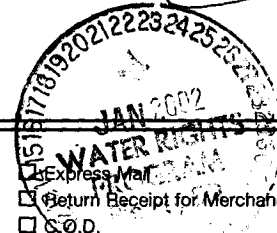
The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaire(s) is(are) received in this office on/or before March 8, 2002, 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.

2116-2

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Received by (Please Print Clearly) <u>Donald Schmitz</u> B. Date of Delivery <u>1-18-02</u>	
1. Article Addressed to: DONALD SCHMITZ RR 1 BOX 55 BONESTEEL SD 57317		C. Signature <u>X Donald Schmitz</u> ☐ Agent ☐ Addressee	
		D. Is delivery address different from item 1? Yes ☒ No If YES, enter delivery address below:	
		3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D.	
2. (Copy from service label) 7001 2510 0004 4797 3879		4. Restricted Delivery? (Extra Fee) ☐ Yes	





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 22, 2002

2116-2

Gene Schmitz
PO Box 361
Bonesteel SD 57317-0361

Dear Mr. Schmitz:

I am writing to acknowledge receipt of your 2001 irrigation questionnaire. You may disregard the January 16, 2002, "Notice" concerning reporting requirements for Water Right No. 2116-2.

I completed a questionnaire for you based on our January 18th telephone conversation. The information was received in our office prior to the Water Management Board meeting and the matter has been deleted from the agenda.

Enclosed, as we discussed, are a couple blank "Notice of Transfer of Ownership" forms. You indicated you and your brother were purchasing the land from your dad. I am also including a copy of the water right. You may keep this for your records.

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

Sincerely,

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



2116-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 17, 2003

NOTICE

TO: DONALD SCHMITZ, RR 1 BOX 55, BONESTEEL, SD 57317

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

SUBJECT: Reporting Requirement for 2002 Irrigation Questionnaire(s)

Our records indicate that the 2002 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 2116-2. The request for the Questionnaire was dated October 11, 2002. The Water Management Board has directed that owners of water permits who have not submitted the 2002 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) 2116-2 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 5, 2003 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) 2116-2 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 28, 2003, 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.



2116-2

Track & Confirm

Delivery Status

You entered 2301 0370 0000 7541 4142

Your item was delivered at 8:03 am on January 21, 2003 in BONESTEEL, SD 57317. The item was signed for by D SCHMITZ.

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SIGNATURE CONFIRMATION NUMBER:
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DONALD SCHMITZ
RR 1 BOX 55
BONESTEEL SD 57317

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PS Form 153, February 2001

Year	Permit_n	Basin	Man	County	Fname	Lname	Co	Cor	Addrss2	City	State	Zip	Water_used	Not irrig	Not constr	Prmt_ra
1990	2116-2	MI		GY	DONALD	SCHMITZ			RR 1 BOX 58	BONESTEEL	SD	57317		X		.65
1991	2116-2	MI		GY	DONALD	SCHMITZ			RR 1 BOX 58	BONESTEEL	SD	57317		X		.65
1992	2116-2	MI		GY	DONALD	SCHMITZ			RR 1 BOX 58	BONESTEEL	SD	57317			X	.65
1993	2116-2	MI		GY	DONALD	SCHMITZ			RR 1 BOX 58	BONESTEEL	SD	57317			X	.65
1994	2116-2		T		DONALD	SCHMITZ			RR 1 BOX 55	BONESTEEL	SD	57317		X		
1995	2116-2		T		DONALD	SCHMITZ								X		
1996	2116-2		T		DONALD	SCHMITZ			RR 1 BOX 55	BONESTEEL	SD	57317		X		
1997	2116-2		T		DONALD	SCHMITZ			RR 1 BOX 55	BONESTEEL	SD	57317		X		
1998	2116-2		T		DONALD	SCHMITZ			RR 1 BOX 55	BONESTEEL	SD	57317		X		
1999	2116-2		T		DONALD	SCHMITZ			RR 1 BOX 55	BONESTEEL	SD	57317		X		
2000	2116-2		T		DONALD	SCHMITZ			RR 1 BOX 55	BONESTEEL	SD	57317		X		
2001	2116-2		T		DONALD	SCHMITZ			RR 1 BOX 55	BONESTEEL	SD	57317		X		



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 10, 2003

NOTICE OF ONE YEAR SUSPENSION OF WATER RIGHT

TO: Donald Schmitz, RR 1 Box 55, Bonesteel SD 57317

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

SUBJECT: One Year Suspension of Water Right No. 2116-2

Pursuant to the provisions of the notice dated January 17, 2003, and following the hearing March 5, 2003, the Water Management Board has ordered:

That Water Right No. 2116-2 be suspended until December 31, 2003, for failure to submit the 2002 irrigation questionnaire.

Suspension of a water permit or right means water may not be pumped during the 2003 irrigation season. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

If you wish to petition the Water Management Board to rescind the suspension, you will need to submit the 2002 irrigation questionnaire and a letter to our office requesting time on the agenda for the Water Management Board meeting scheduled for May 7, 2003 in Pierre, SD. The letter should include your reasons for not completing the 2002 irrigation questionnaire.

Our records indicate the land has not been irrigated since at least 1990. If you no longer irrigate and do not wish to retain the irrigation component of the water right, let us know and the water right can be scheduled for cancellation consideration before the Water Management Board. Cancellation of the water right would eliminate the need for annual submission of the irrigation questionnaire.

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



2116-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
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PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

January 20, 2005

NOTICE

TO: DONALD SCHMITZ, RR 1 BOX 55, BONESTEEL, SD 57317

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

SUBJECT: Reporting Requirement for 2004 Irrigation Questionnaire(s)

Our records indicate that the 2004 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 2116-2. The request for the Questionnaire was dated October 22, 2004. The Water Management Board has directed that owners of water permits who have not submitted the 2004 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) 2116-2 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 2, 2005 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 Water Right No. 2116-2 in accordance with applicable provisions of SDCL 46-1-12. **Due to a past violation, the Water Rights Staff will be recommending to the Board that your Water Right be suspended for three years.**
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 25, 2005**, 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.

2116-2



Track & Confirm

Current Status

You entered 2301 3460 0000 8516 0858

Your item was delivered at 9:17 am on January 22, 2005 in BONESTEEL, SD 57317. The item was signed for by D SCHMITZ.

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SIGNATURE CONFIRMATION NUMBER:
2301 3460 0000 8516 0858

DONALD SCHMITZ
RR 1 BOX 55
BONESTEEL SD 57317

Waiver of Signature ☐ YES ☐ NO

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PS Form 150, July 2001



March 4, 2005

2116-2

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www.state.sd.us/denr

NOTICE OF THREE YEAR SUSPENSION OF WATER RIGHT

TO: Donald Schmitz, RR 1 Box 55, Bonesteel SD 57317

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

SUBJECT: Three Year Suspension of Water Right No. 2116-2

On March 2, 2005, the Water Management Board ordered:

That effective April 4, 2005, Water Right No. 2116-2 be suspended for the 2005, 2006 and 2007 irrigation seasons for failure to submit the 2004 irrigation questionnaire.

If the 2004 irrigation questionnaire is received prior to April 4, 2005, the suspension will not take effect.

Suspension means water may not be pumped during the 2005, 2006 or 2007 irrigation seasons. Consistent with the Board's order, you are not permitted to irrigate for three years unless the irrigation questionnaire is submitted by April 4th.

After April 4th, you may petition the Water Management Board to rescind the suspension. You will need to submit the 2004 irrigation questionnaire and a letter to our office requesting time on the agenda for the Water Management Board meeting scheduled for May 4, 2005, in Pierre, SD. The letter should include your reasons for not completing the 2004 irrigation questionnaire. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Water Rights Staff will conduct compliance checks of suspended water rights this summer to determine if irrigation is taking place.

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

CERTIFICATION

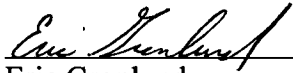
I hereby certify that on March 4, 2005, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 4, 2005 regarding Notice of Three Year Suspension of Water Right No's 843-1, 5124-3, 1237-3 & 1395-3, 2116-2 addressed as stated below:

843-1
Lavern E Wilburn
PO Box 124
Sturgis SD 57785-0124

5124-3
Victor L Wieczorek
26622 395th Ave
Mt Vernon SD 57363

1237-3 & 1395-3
Rolland VanderPol
720 E 4th St
Corsica SD 57328

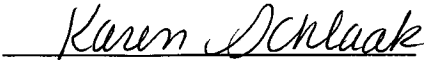
2116-2
Donald Schmitz
RR 1 Box 55
Bonesteel SD 57317



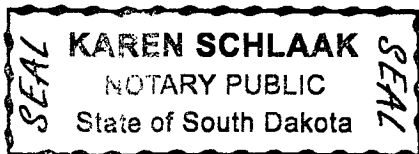
Eric Gronlund
Natural Resource Engineer
Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 7th day of March, 2005.



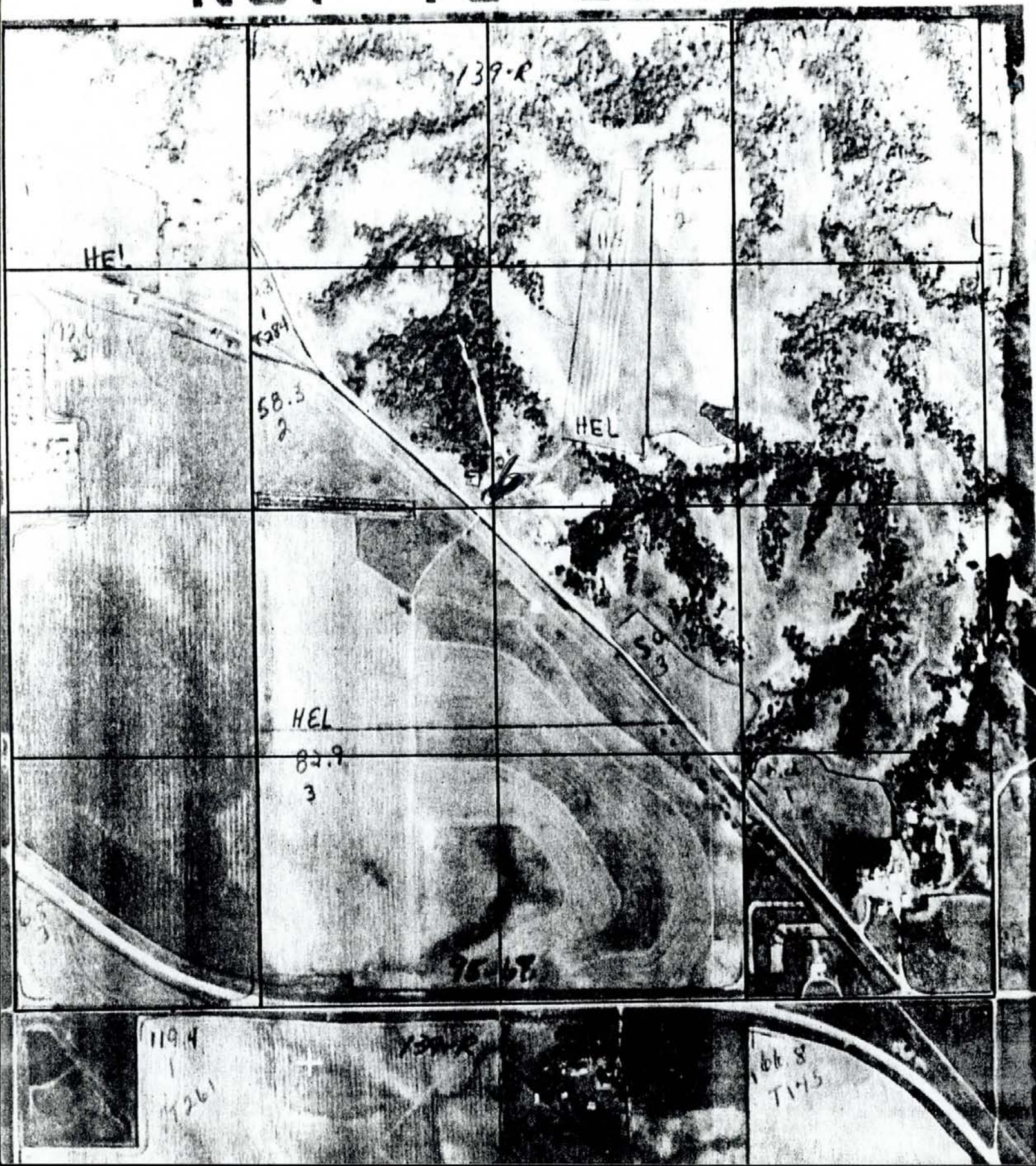
Karen Schlaak
Notary Public
My Commission expires April 1, 2007



NOT TO SCALE



NOT TO SCALE





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www.state.sd.us/denr

May 17, 2006

2116-2

Greg or Gene Schmitz
36296 Eldeen Ave
Bonesteel SD 57317

Dear Sirs:

I am contacting you in regard to Water Right No. 2116-2, currently listed in the name of Donald Schmitz. Enclosed is a copy of the water license for your review.

In January, 2002, I spoke with Gene who indicated you were purchasing the land from your father. A transfer form was forwarded to you at that time and however was never returned to us. The water right is currently under a three year suspension due to non-return of an irrigation questionnaire. Since we did not receive any further follow-up regarding the ownership change, we assumed Donald still owned the land. Recently, we contacted the Gregory County Assessors Office who had Greg listed as owner of the property.

The purpose for checking with you now is that it appears from a review of the file that irrigation may have been abandoned. Of the past irrigation questionnaires that were submitted, I find no record of the land ever being irrigated. Under South Dakota Water Law, water must be placed to beneficial use for the purpose it was appropriated at least once every three years in order to maintain a water right. The three year period may be waived if legal excuse exists for not irrigating. I have included excerpts of our water laws and Water Management Board Rules dealing with these issues.

Please take a few minutes to review the enclosures and let us know whether or not the irrigation portion of the water right has been maintained or if you have decided to discontinue irrigation. If this is the case, the irrigation portion of the water right can be scheduled for cancellation and the water right reissued for domestic use of water from the storage dam.

I am enclosing a postage paid envelope for your reply or if you prefer, you can call me at the number listed below.

Sincerely,

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

enclosures

INTERNAL MEMORANDUM

TO: Water Right Files

FROM: Aaron Tieman, Natural Resource Engineer

Aaron A. Tieman

SUBJECT: Irrigation

During the summer of 2006, several on-site field investigation were conducted to determine if Water Management Board action to suspend irrigation for the 2006 irrigation season was being complied with. A list of these permits is given below:

Inspections Summer 2006

Permit No.	County	Date	Description
375-2	Shannon	9/13/2006	No irrigation system in place or visible.
402-1	Butte	7/20/2006	No visual signs of irrigation/system.
686-3	Minnehaha	7/18/2006	Housing development, no visible signs of water use/irrigation or system in place.
843-1	Meade	7/20/2006	No irrigation system in place or visible.
932-3	Jones	7/19/2006	No visible signs of water use or irrigation system.
1172-3	Spink	5/11/2006	No system visible, pasture is all grassland.
1237-3 1395-3	Charles Mix	7/19/2006	No visible signs of water use/irrigation system.
2116-2	Gregory	7/19/2006	No system in place, no irrigation.
2197-3	Haakon	7/20/2006	No visible irrigation system or water use of any kind.
2480A-3	Beadle	5/11/2006	Center pivot in place with no towers, drainage pattern may limit pivot rotation.
3198A-3	Clark	5/11/2006	Pivot in place in SE ¼ - No visible signs of irrigation.
4957-3	Clark	5/11/2006	No system visible, planted with wheat.
5124-3	Davison	7/18/2006	System not in working condition (wind damaged).
5353-3	Day	5/10/2006	Well under water – No visible system in place.
5640-3	Marshall	5/10/2006	Unable to locate due to water over roads.

RECEIVED

NOV 17 2008

WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 2116-2

Date: 11/13/08

I/We request that Water Right No. 2116-2

formerly owned by: Donald Schmitz

be transferred to: (name & address) Greg Schmitz
36296 Eldeen Ave.
Bonesteel, S. Dak. 57317 Telephone No. 654-2896

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

W ½ SW ¼ Section 5, T95N, R68W

I/We understand that the validity of Water Right No. 2116-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

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

Greg Schmitz
(Signed by new owner)

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

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 11/17, 20 08

RECEIVED OF Gene Schmitz 36296 Eldeen Ave Bonesteel SD 57317

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use		
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>2116-2</u>	2	50
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	<u>250</u>

No.

03798

By

Garland White
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
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November 18, 2008

2116-2

Greg Schmitz
36296 Eldeen Ave
Bonesteel SD 57317

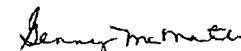
Dear Mr. Schmitz:

I am writing to acknowledge receipt of the "Notice of Transfer of Ownership" form and filing fee you submitted for Water Right No. 2116-2. The transfer has been completed. The water right, formerly held by Donald Schmitz is now listed in your name.

Enclosed is your Receipt No. 03798 in the amount of \$2.50 which you paid for filing the ownership change. You may keep this for your records.

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

Sincerely,


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

enclosure



**DEPARTMENT of ENVIRONMENT
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523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

October 27, 2008

2116-2

Greg or Gene Schmitz
36296 Eldeen Ave
Bonesteel SD 57317

Dear Sirs:

I am writing in follow up to my phone conversation today with Gene Schmitz. Thank you for calling and letting us know the status of the water right listed in the name of Donald Schmitz.

If I understand correctly, the irrigation system was removed and the land has not been irrigated for a number of years. The storage dam is still in place and used for livestock watering. As I discussed with Gene, the irrigation portion of the water right would be subject to cancellation due to abandonment and/or forfeiture.

At a future Water Management Board meeting, we will schedule the irrigation portion of the water right for cancellation consideration. Once the board takes action, the water right will be reissued to remove the irrigation component and will authorize continued use of the storage dam for livestock watering. This will eliminate the need to complete annual irrigation questionnaires.

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

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

Sincerely,

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

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

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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January 21, 2009

NOTICE OF CANCELLATION

TO: Greg Schmitz, 36296 Eldeen Ave., Bonesteel SD 57317

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

SUBJECT: Cancellation of the irrigation portion of Water Right No. 2116-2

Water Right No. 2116-2 authorizes diversion of water from a 38.5 acre-feet storage dam for irrigation purposes. On October 27, 2008, Genny McMath with our program spoke with Gene Schmitz concerning the water right and any irrigation that may be taking place. It is our understanding that the irrigation system was removed and that the land has not been irrigated for a number of years. The storage dam is still in place and used for domestic livestock watering purposes. Based on this information, the Chief Engineer of the Water Rights Program is recommending cancellation of the irrigation portion of Water Right No. 2116-2 due to abandonment and/or forfeiture.

The Water Management Board will consider cancellation of the irrigation portion of Water Right No. 2116-2 at 10:00 a.m., March 11, 2009 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD *(the agenda time is an estimate and the actual time of hearing may be later than 10:00 am)*.

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 Water Right No. 2116-2 based upon facts presented at the public hearing. Our records show you to be the owner of property covered by this water right. 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 March 2, 2009. 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.

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 March 2, 2009.

Prior to March 2, 2009, 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 March 2, 2009.



**DEPARTMENT of ENVIRONMENT
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PIERRE SOUTH DAKOTA 57501-3182
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**RECOMMENDATION OF CHIEF ENGINEER
FOR THE IRRIGATION PORTION OF
WATER RIGHT NO. 2116-2, GREG SCHMITZ**

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 Right No. 2116-2.

The Chief Engineer is recommending cancellation of the irrigation portion of Water Right No. 2116-2 due to abandonment and/or forfeiture. On October 27, 2008, Genny McMath with the Water Rights Program spoke with Gene Schmitz concerning the water right and whether or not the land was still being irrigated. Mr. Schmitz confirmed the land has not been irrigated for many years. The storage dam is still in place and used for livestock watering.

RON DUVALL, Natural Resources Engineer
for Garland Erbele, Chief Engineer
January 21, 2009

Note:

Cancellation of the water permit/right does not prohibit a new application for this project in the future.

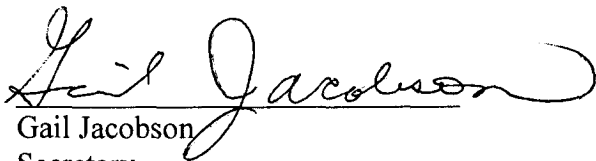
CERTIFICATION

I hereby certify that on January 21, 2009, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated January 21, 2009 regarding cancellations addressed as stated below:

Greg Schmitz, 36296 Eldeen Ave., Bonesteel SD 57317 **2116-2**
Margaret Starkey, 3011 Morningview Dr, Rapid City SD 57702 **1196-1**

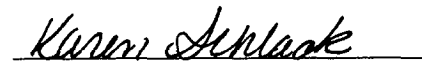
A copy of the above described Notice was sent Inter-office to:

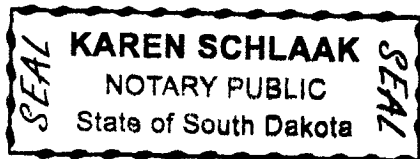
Diane Best, Assistant Attorney General, 300 N Dakota Ave., Suite 403, Sioux Falls, SD 571051

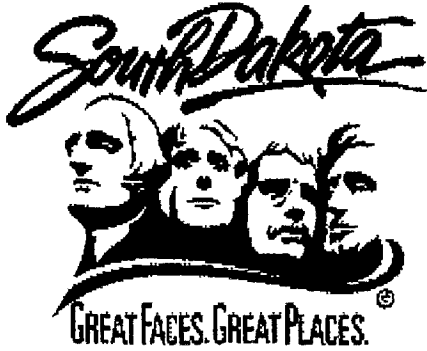

Gail Jacobson
Secretary
Water Rights

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 21st day of January, 2009.


Karen Schlaak
Notary Public
My Commission expires April 1, 2013





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 13, 2009

2116-2

Greg Schmitz
36296 Eldeen Ave
Bonesteel SD 57317

Dear Mr. Schmitz:

Enclosed is your Reissued Water License No. 2116-2. The license authorizes impoundment of 38.5 acre feet of water annually from runoff to be used for domestic livestock watering purposes.

Water Right No. 2116-2 originally authorized diversion of water from the storage dam for irrigation purposes. On March 11, 2009, the Water Management Board cancelled the irrigation portion of the water right.

Based on the Board's action to remove the irrigation component of the water right, the license has been reissued to allow impoundment of water for domestic purposes. 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 the use of the water.

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

Sincerely,

A handwritten signature in black ink, reading 'Garland Erbele'.

Garland Erbele, Chief Engineer
Water Rights Program

enclosure

STATE OF SOUTH DAKOTA

REISSUED WATER LICENSE NO. 2116-2

(1) Donald Schmitz, Bonesteel SD was issued Water License No. 2116-2, September 6, 1995 for a water right to divert 0.64 cubic feet of water per second from a storage dam (38.5 acre feet storage capacity), Gregory County, South Dakota for irrigation purposes. Water License No. 2116-2, with a priority date of January 17, 1990 was issued to the permit holder for diversion of water with construction of the described water supply system and the application to beneficial use of water completed.

On November 17, 2008, Water Right No. 2116-2 was transferred from Donald Schmitz to Greg Schmitz.

In October, 2008, the land owner confirmed the irrigation system had been removed and the land was no longer irrigated. The storage dam is in place and used for domestic livestock watering. On March 11, 2009, the Water Management Board cancelled the irrigation portion of Water Right No. 2116-2.

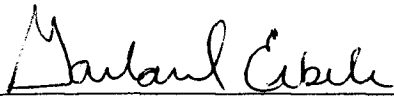
Pursuant to SDCL 46-5-31.1 stock watering may be added as a water use to a license provided no diversion is made from the dam. The Chief Engineer made a finding that the addition of stock watering does not impair existing water rights.

(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, Greg Schmitz, 36296 Eldeen Ave, Bonesteel SD 57317 the holder and/or owner of Water Right No. 2116-2 is issued a license, bearing a priority date of January 17, 1990 to impound 38.5 acre feet of water annually from runoff into a storage dam to be used for domestic livestock watering purposes.

The storage dam (spillway) is located:

- 1,980 feet north and 132 feet east of the SW corner of Section 5, T95N, R68W (NW ¼ SW ¼).

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 2116-2.



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

MAR 05 2009

date

