

WATER PERMIT NO. 2398-2

Name of Applicant: Wendell Johnson

Address: Box 487, Martin SD 57551

Phone: 605 685-6996

Amount of Water Claimed: no additional

Total Acres: 10 additional acres

Source of Water Supply: groundwater

Water to be used for: irrigation

County: Bennett

Type of Waste Disposal System: NA

Location: 22 miles east of Martin

PRIORITY

Date Received: 12-15-1997

Fee: \$150.00

Corrected Application Received:

Period of Annual Use: April 1- October 31

Remarks: Additional acres to an existing system - based on inspection by Tim Schaal

Diversion Point: center NW 1/4

Sec 12-T37N-R34W

Land to be Irrigated: E 1/2 SE 1/4 Sec 2 and
W 1/2 SW 1/4 Sec 1; all in T37N-R34W

Depth of Well: 301 feet

Well Driller: Niobrara Valley Irrigation

Remarks: existing well

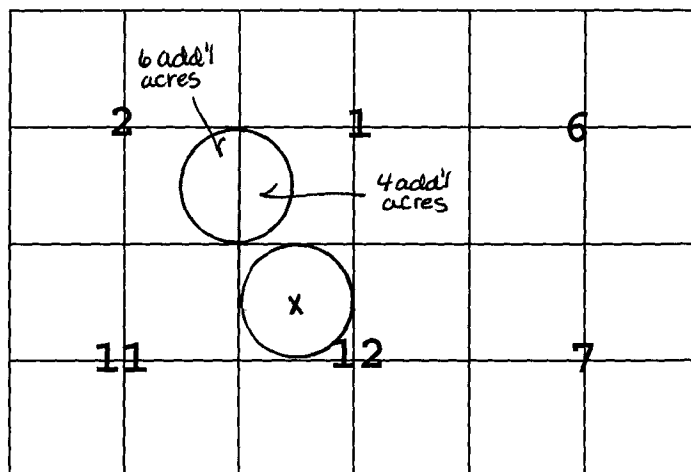
Type of Map: aerial

Prepared by: Tim Schaal

Reviewed and the Number Assigned on: 12-15-1997

By: Karen Schlaak

Notice of Hearing - date to intervene: _____



SOUTH DAKOTA
WATER PERMIT NO. 2398-2

Date of first receipt of application December 15, 1997.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2398-2 to Wendell Johnson, Box 487, Martin SD 57551 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. 2398-2 authorizes the irrigation of 10 additional acres. Water Permit No. 1697A-2 appropriates 2.30 cubic feet of water per second from one well (Ogallala Group Formation) 301 feet deep located in the approximate center of the NW 1/4 Section 12 to irrigate 262 acres located in the NW 1/4 Section 12, E 1/2 SE 1/4 Section 2 and W 1/2 SW 1/4 Section 1; all in T37N-R34W. This permit is to irrigate 10 additional acres located in the E 1/2 SE 1/4 Section 2 and the W 1/2 SW 1/4 Section 1; all in T37N-R34W. This permit does not authorize any increase in the developed diversion rate.
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 31.
3. The date from which applicant may claim right is December 15, 1997.
4. The date of approval of Permit No. 2398-2 is February 9, 1998.
5. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

FEB 27 1998

date



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

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	(office use only)
	No. <u>2398-2</u> Hydrologic Unit <u>10140203</u>
	Basin <u>White River</u>
Newspaper <u>Bennett Co Booster II, Martin, SD</u>	



Application For Permit To Appropriate Water For Irrigation

Type of Application: New Vested Right X Amendment/Correction to Permit No. 1697A-2
(check one) (Use predates Mar 2, 1955)

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

For irrigation of 10 additional acres not authorized by Water Permit No. 1697A-2

- Name of Applicant Wendell Johnson
Mailing Address Box 487, Martin SD 57551
(Street, RR, or Box) (Zip Code)
- Amount of water claimed no additional *CFS or **GPM ***AF Total Acreage 10 add'l acres
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout if applicable
- Source of water supply groundwater (one well)
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
approximate center of NW 1/4 Section 12-T37N-R34W County Bennett
- County or counties where water will be used Bennett
- Annual period during which water is to be used April 1 - October 31
- List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
E 1/2 SE 1/4 Sec 2-T37N-R34W	6		
W 1/2 SW 1/4 Sec 1-T37N-R34W	4		

8. Give a description of the project. (Attach sheet if more space is needed)

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

STATE OF SOUTH DAKOTA)

County of Bennett ss

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

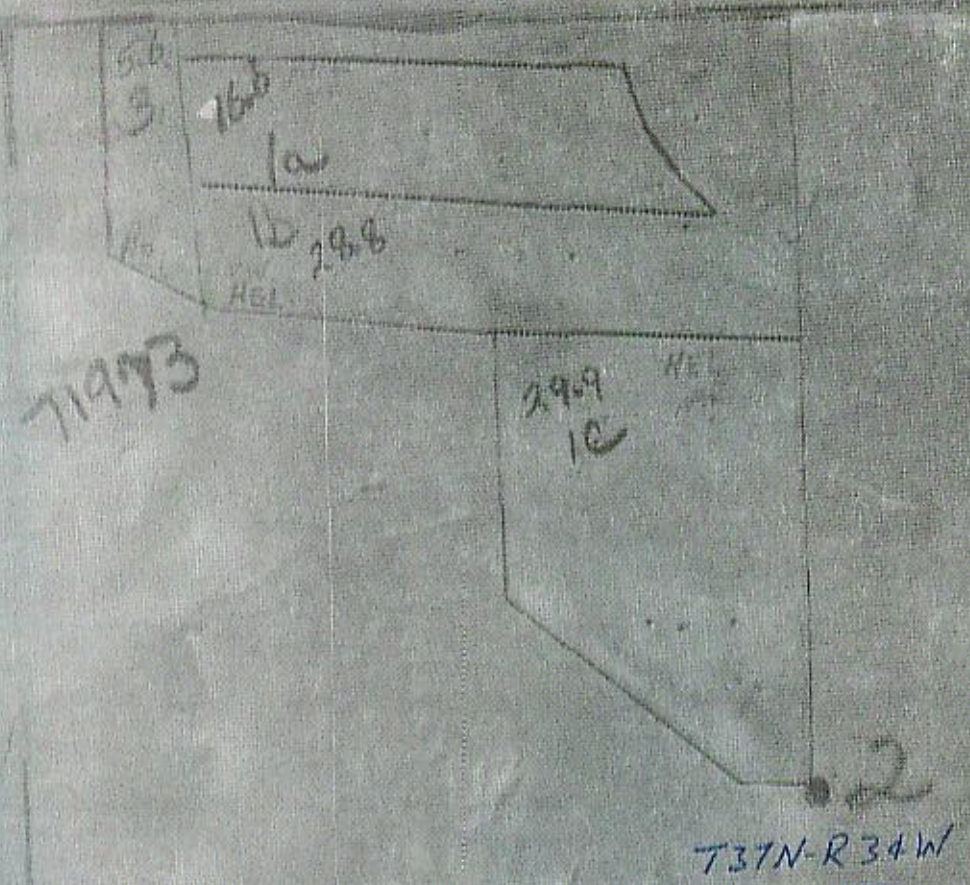
Signed Wendell L. Johnson
Wendell Johnson aka Wendell L. Johnson

Subscribed and sworn to before me this 11th day of December 19 97

Luella Cozad
Notary Public
My commission expires: 3/11/2001

NOT TO SCALE

Wendell Johnson



T37N-R34W

2-425 R' Lane Bishop



Timothy G Schaal
August 16, 1995

2398-2

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

No 415563

Pierre, December 15, 19 97

RECEIVED OF Wendell or Elsie Johnson, P.O. Box 487, Martin, SD 57551
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. 1697A-2

Fee for Filing Transfer Form _____

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

50 00

50 00

By _____
Chief Engineer

John Hatch (Signature)

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

NO 415564

Pierre, December 15, 19 97

RECEIVED OF Wendell or Elsie Johnson, P.O. Box 487, Martin, SD 57551
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. <u>2398-2</u> to Appropriate Water, to construct 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 _____		

(Any Other Work Provided by Law)	Total	150 00

By _____
Chief Engineer

John Hatch



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 25, 1995

Wendell Johnson
Box 487
Martin, SD 57551

Dear Mr. Johnson:

On July 16, 1995, I contacted your son and made an inspection of Water Permit No. 1697A-2. Water Permit No. 1697A-2 was approved on June 1, 1993, to amend Water Permit No. 1697-2 by moving the center pivot to cover the E 1/2 SE 1/4 of Section 2 and the W 1/2 SW 1/4 of Section 1-T37N-R34W. The amendment did not include any increase in diversion rate or number of acres irrigated.

Your son indicated that you replaced the old center pivot with a new pivot that covers 140 acres, resulting in an increase of 10 additional acres. These 10 acres need to be covered by a Water Permit. Enclosed is a partially completed application to amend Water Permit No. 1697A-2 to include these 10 additional acres. The application forms need to be signed and notarized and returned to us along with a \$150.00 filing fee.

Also associated with obtaining your license for Water Permit Application No. 1697A-2 is a \$50.00 inspection fee. This fee will apply to both Water Permit No. 1697A-2 and the new application. Once the new application is approved, we can incorporate the Water Permits and issue the license.

If you have any questions, please feel free to contact us.

Sincerely,

Timothy G. Schaal, P.E.
Natural Resources Engineer III
Water Rights Program
(605) 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 27, 1995

Wendell Johnson
Box 487
Martin SD 57551

Dear Mr. Johnson:

On August 25, 1995, you were sent applications forms for a permit to appropriate water based on an inspection of Water Permit No. 1697A-2 by Tim Schaal, an engineer with this office. This inspection showed that your system was not developed as originally permitted. This application is necessary to obtain a permit which will reflect your water use. To date, we have not received a response from you regarding this application.

Enclosed is another partially completed application form. Please review the application and have it signed and notarized. Return the application with the required \$50.00 filing fee.

Obtaining water permits that accurately reflect your water use ultimately benefits you by protecting your right to use water. Water Permit No. 1697A-2 can not be licensed until this application is processed and a permit obtained to reflect your current water use in accordance with state statutes. Except for domestic use, any water user without a water right is not entitled to receive protection in the event of interference by a new or future user who has a water right.

Pursuant to South Dakota Codified Laws 46-1-15, 46-5-9, 46-5-10 and 46-2-18, you must have a water permit prior to using water.

Sincerely,

Karen Schlaak

Karen Schlaak
Environmental Scientist
Phone: (605) 773-3352

enclosure

File No. 1697A-2

Water Rights Division -DENR
Conversation or File Documentation

NAME OF PERSON OR FILE: Wendell Johnson

ADDRESS: Box 487, Martin, SD 57551

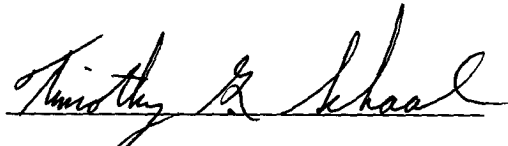
COUNTY: Bennett

DATE: October 31, 1995

TELEPHONE: XXXXXXXX

RE: Application to Amend #1697A-2

I talked to Wendell Johnson today about the application we sent him to amend Water Permit No. 1697A-2 for 10 additional acres. Mr. Johnson was not very happy about this and thought it was pretty nit-picky. He did not think they irrigated 140 acres with that pivot. I told him to check with the ASCS and they could maybe send us a letter stating the amount of acres irrigated. Also told him he could remove some of the pivot or end sprinklers so he only has 130 acres. He said he would check with ASCS and let us know.



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

File No. 1697A-2

Water Rights Division -DENR
Conversation or File Documentation

NAME OF PERSON OR FILE: Wendell Johnson

ADDRESS: Box 487

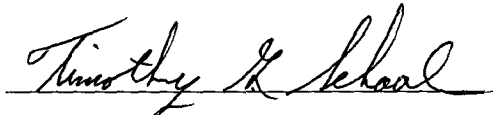
COUNTY: Bennett

DATE: November 20, 1997

TELEPHONE: 685-6996

RE: Application to amend Water Permit No. 1697A-2

I talked to Wendell Johnson again today about Water Permit Application No. 1697A-2 and the need to correct it for the 10 additional acres he is irrigating. He filed Water Permit Application No. 1697A-2 to move his center pivot to irrigate the E 1/2 SE 1/4 of Section 2 and W 1/2 SW 1/4 Section 1 of T37N-R34W and abandon the E 1/2 SW 1/4 of Section 1-T37N-R34W. This pivot was licensed for 130 acres and when he moved it he replaced it with a 140 acre pivot. He is not very happy about this, but I explained to him there is nothing we can do except to correct it with this 10 acre application. I told him the application fee will be \$150.00, the inspection fee will be \$50.00, and he will be responsible for the cost of publication. He said to send him the papers and he would pay, but would still not be very happy.



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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 20, 1997

Wendell Johnson
Box 487
Martin SD 57551

Dear Mr. Johnson:

Enclosed is a partially completed *Application for Permit to Appropriate Water for Irrigation* form to include the additional 10 acres you are irrigating. This form needs to be signed and notarized. As stated in your phone conversation with Tim Schaal, the application fee will be \$150.00 and the inspection fee will be \$50.00.

Upon receipt of the signed and notarized application and the fees totaling \$200.00, further processing of the application will continue.

If you have any questions, please contact Tim Schaal or me.

Sincerely,

Karen Schlaak
Water Rights Program
605 77-3352

enclosure

WATER PERMIT APPLICATIONS NO. 2398-2

WENDELL JOHNSON

JANUARY 8, 1998

Water Permit Application No. 2398-2 proposes to irrigate 10 additional acres from an existing well. This application is the result of a staff inspection of works for the purpose of licensing Water Permit No. 1697-2. Permit No. 1697-2 appropriates 2.3 cubic feet of water per second from a well (Ogallala Formation) 301 feet deep located in the approximate center of the NW¼ Section 12 to irrigate 262 acres located in the NW¼ Section 12, E ½ SE¼ Section 2 and W½ SW¼ Section 1; all in T37N-R34W. This application is to irrigate 10 additional acres located in the E½ SE¼ Section 2, and the W½ SW¼ Section 1; all in T37N-R34W. If approved, this application does not authorize any increase in the developed diversion rate.

AQUIFER: Ogallala (OGLL)

GENERAL:

The High Plains Aquifer consists of the upper sandstone units of the Arikaree Formation, the Ogallala Formation, and the Sand Hills Formation, and any terrace or alluvial deposits, all of which are hydraulically connected (Kolm, 1983). The High Plains Aquifer underlies 4,750 square miles of South Dakota and contains an estimated 700 million acre feet of water in the state (Gutentag, 1984). The Ogallala Formation, which consists of clays, silts, sands and surface gravel deposits makes up a major part of the High Plains Aquifer. The Ogallala Formation underlies approximately 280,960 acres of Bennett County and contains an estimated 2,809,600 acre-feet of recoverable water in storage in the county (Allen, 1984). The saturated thickness of the aquifer is estimated to be 200-400 feet in this area. (Kolm, 1983). The aquifer is under unconfined conditions with the water table controlled locally by topography. Precipitation is the principal source of recharge to the aquifer. The annual recharge rate has been estimated to be 8 percent of the precipitation rate, or about 1.3 in./yr to 1.8 in./yr (Kolm, 1983). Natural discharge occurs to streams and springs, and directly to the atmosphere by evapotranspiration.

WATER AVAILABILITY:

Water Rights Program monitors 84 observation wells completed into the Ogallala Formation, of which 20 are located in Bennett County. Water Rights' Observation Wells BT-76A, BT-76C, BT-78K, and BT-76B are located within approximately 3 miles of the well used for this application. These observation wells are read monthly and hydrographs of the water levels (figures 1-4) show only slight fluctuations due to existing pumping and changes in climatic conditions (Water Rights, 1998).

WATER RIGHT'S OBSERVATION WELL BT-76A

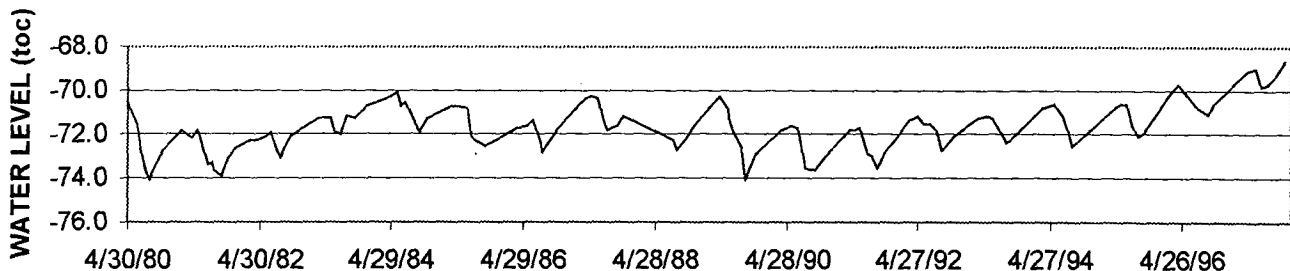


Figure 1

WATER RIGHT'S OBSERVATION WELL BT-76C

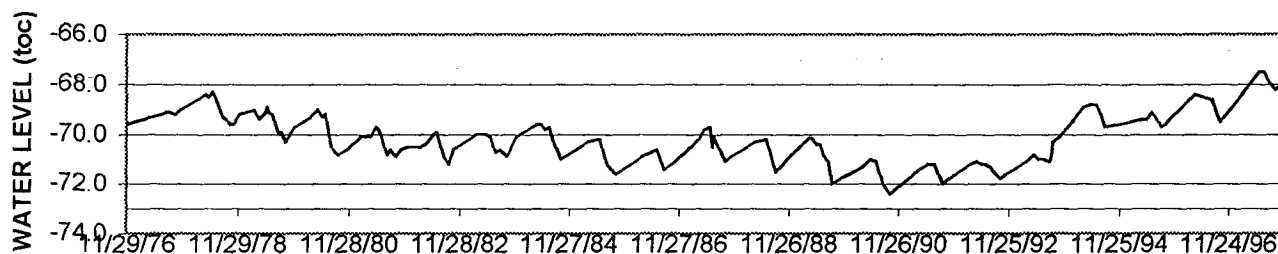


Figure 2

WATER RIGHT'S OBSERVATION WELL BT-78K

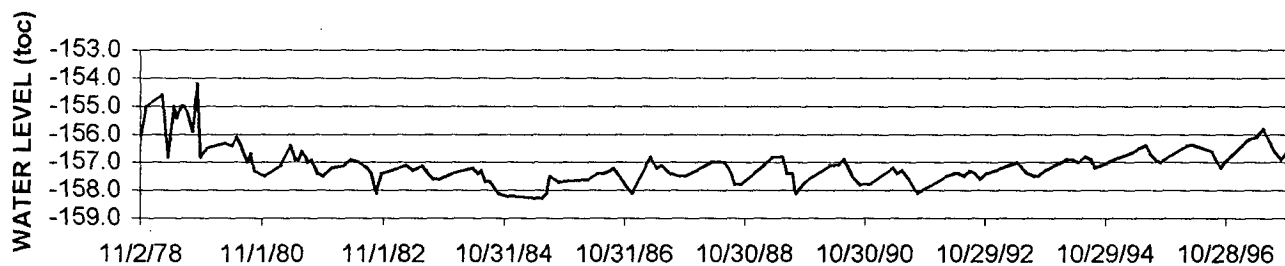


Figure 3

WATER RIGHT'S OBSERVATION WELL BT-76B

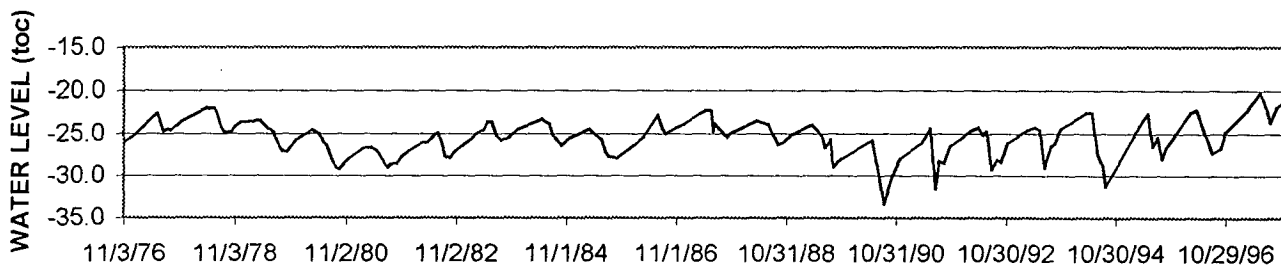


Figure 4

There are 110 permits/rights which appropriate water from the Ogallala aquifer in South Dakota. There are 45 permits/rights from the Ogallala in Bennett County. Irrigation is the major water use from the aquifer. Reported pumpage from the Ogallala for irrigation use can be seen in figure 5.

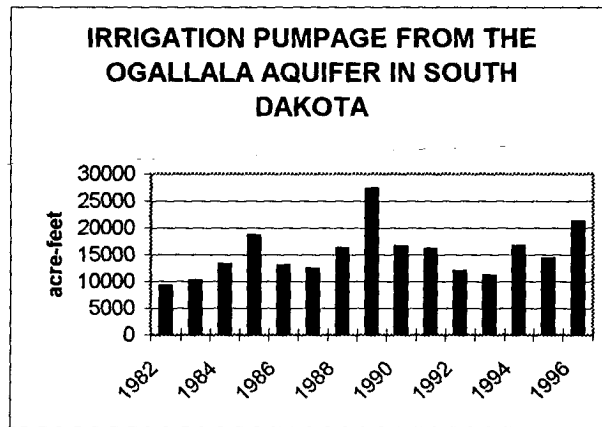


Figure 5

AFFECTS ON EXISTING RIGHTS:

Since the Ogallala Aquifer is under unconfined conditions, drawdown from pumping an individual well is not expected be significant very far from the well. There are four irrigation permits/rights belonging to others within two miles of the well sites proposed by these applications. They include:

PERMIT No.	OWNER
1672-2	Jerry Donovan
1207-2	Jerry Donovan
1637-2	Tony & Rick O'Neill
1211-2	Tony & Rick O'Neill

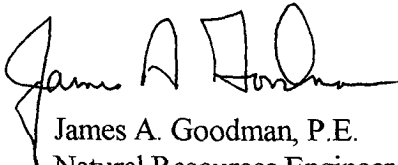
CONCLUSIONS:

1. The Ogallala Aquifer is a viable aquifer in this area, and water is available for these appropriations.
2. Well interference should not be a problem in this area.
3. This is an existing use of water, this application if approved, does not authorize any increase in the developed diversion rate. This application is the result of a staff inspection conducted by Tim Schaal.



Ken Buhler
Natural Resources Engineer

approved by



James A. Goodman, P.E.
Natural Resources Engineer

REFERENCES:

- Allen, J.C., D.Iles, A.Petres, 1984, Analysis of Groundwater and Streamflow Data, Western Dakotas Region of South Dakota, Task 3 & 4: Groundwater Resources Inventory, US Army Corps of Engineers Contract DAWC 45-82-C-015, SD DENR- Geological Survey, Vermillion SD
- Gutentag, E.D., F.Heimes, N.Krothe, R.Luckey, J.Weeks, 1984, Geohydrology of the High Plains Aquifer in Parts of Colorado, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, and Wyoming, United States Printing Office, U.S. Geological Survey Professional Paper 1400-B, Washington, D.C.
- Kolm, K.E., H.Case, 1983, A Two-Dimensional, Finite-Difference Model of the High Plains Aquifer in Southern South Dakota, U.S. Geological Survey Water-Resources Investigations Report 83-4175
- Water Rights Program, 1998, "Domestic Well Log Files, Observation Well Files, and Water Permit Files," DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2398-2, Wendell Johnson**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 2398-2, Wendell Johnson, Box 487, Martin, SD 57551.

The Chief Engineer is recommending APPROVAL of Application No. 2398-2 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion has been developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualifications:

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. This permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

A handwritten signature in black ink, appearing to read "John Hatch", written in a cursive style.

JOHN HATCH, Chief Engineer
January 9, 1998



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

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

January 13, 1998

Wendell Johnson
Box 487
Martin, SD 57551

Dear Mr. Johnson:

Water Permit Application No. 2398-2 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 Bennett Co. Booster II printed at Martin, SD (Ph # (605) 685-6866). For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 13, 1998

Bennett Co. Booster II
Box 610
Martin, SD 57551-0610

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 2398-2 to be published twice. Please publish the first notice on January 21, 1998, with the second publication 7 days later.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is Wendell Johnson, Box 487, Martin, SD 57551 (Ph # (605) 685-6996).

A copy of BOTH publications must be SENT to the WATER RIGHTS PROGRAM. 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. No action may be taken on the permit application 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 Program
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 January 21, 1998, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 2398-2 to Appropriate Water
and to Amend Water Permit No. 1697A-2

Notice is given that Wendell Johnson, Box 487, Martin SD 57551 has filed an application for a water permit to irrigate an additional 10 acres. Water Permit No. 1697A-2 appropriates 2.30 cubic feet of water per second from one well (Ogallala Group Formation) 301 feet deep located in the approximate center of the NW 1/4 Section 12 to irrigate 262 acres located in the NW 1/4 Section 12, E 1/2 SE 1/4 Section 2 and W 1/2 SW 1/4 Section 1; all in T37N-R34W. This application is to irrigate 10 additional acres located in the E 1/2 SE 1/4 Section 2 and the W 1/2 SW 1/4 Section 1; all in T37N-R34W. This application, if approved, does not authorize any increase in the developed diversion rate.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2398-2 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. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and chief engineer. The applicant must file a petition if contesting the chief engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by February 9, 1998.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Nettie H. Myers, Secretary, Department of Environment and Natural Resources.

Affidavit of Publication

State of South Dakota } ss.
County of Bennett }

Dale R. Lewis

being duly sworn, says: the Bennett County Booster II is, and during all the times herinafter mentioned was, a weekly legal newspaper as defined in SDCL 17-2-2, as amended published at Martin, Bennett County, South Dakota; that affiant is and during all of said times was, an employee of the publisher of such newspaper and has personal knowledge of the facts stated in this affidavit; that the notice, order or advertisement, a printed copy of which is attached, was

published in said newspaper for two successive issues, bearing the following dates:

January 21, 1998

January 28, 1998

19

, 19

, 19

, 19

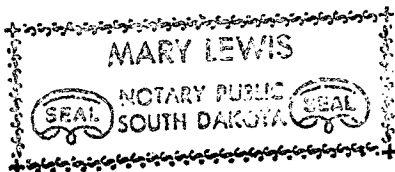
that the full amount of the fee charged for publishing

the same, to-wit, the sum of \$ 40.65, inures solely to the benefit of the publisher of said newspaper; that no agreement or understanding for the division of the fee has been made with any person, and that no part of the fee has been agreed to be paid to any other person.

Subscribed and sworn to before me this 29 day
of January, 1998.

Notary Public
County of Bennett, South Dakota

My commission expires June 27, 19~~19~~2002



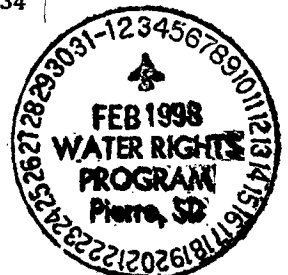
**NOTICE OF APPLICATION NO. 2398-2
to Appropriate Water and to Amend
Water Permit No. 1697A-2**

Notice is given that Wendell Johnson, Box 487, Martin, SD 57551, has filed an application for a water permit to irrigate an additional 10 acres. Water Permit No. 1697A-2 appropriates 2.30 cubic feet of water per second from one well (Ogallala Group Formation) 301 feet deep located in the approximate center of the NW1/4 Section 12 to irrigate 262 acres located in the NW1/4 Section 12, E1/2SE1/4 Section 2 and W1/2SW1/4 Section 1; all in T37N-R34W. This application is to irrigate 10 additional acres located in the E1/2SE1/4 Section 2 and the W1/2SW1/4 Section 1; all in T37N-R34W. This application, if approved, does not authorize any increase in the developed diversion rate.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2398-2 because 1) inappropriate 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. In accordance with SDCL 46-2A-23, the chief engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and the chief engineer. The applicant must file a petition if contesting the chief engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E. Capitol, Pierre, SD 57501 (605-773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by February 9, 1998.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Nettie H. Meyers, Secretary, Department of Environment and Natural Resources. 2tc-34



Permit No. 1697A-2 \2398-2
White River- Water District

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

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

I have this day, June 14, 1995, made a thorough examination of the water use system constructed by Wendell Johnson of Box 487, Martin, SD 57551 holder of Permit No. 1697A-2, bearing the priority of April 9, 1976 and February 26, 1980 authorizing the diversion of 2.30 cu. ft. per second of the waters of groundwater for irrigation purposes, in Bennett County.

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

- A. Works used to divert the water: 100 Hp U.S. Electric motor, Serial No. 6347 W05W103R103R-Z with a 12 inch Western Land Roller turbine pump, Model B76849, 1000 gpm capacity
- B. Works used to transport water to place of use:
3960 feet of 8 inch buried PVC pipe
- C. Works used to apply water to beneficial use:
Valley 9 tower Center Pivot (140 acres) &
Raincat 10 tower Center Pivot (taken from #1697-2 license)

The system is in the following condition GOOD. The point of diversion is located approximate center of NW 1/4 Sec. 12-T37N-R34W. The works are capable of diverting and conveying to the place of use 2.30 cu. ft. per second of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

NE 1/4 SE 1/4 Sec.2-T37N-R34W--35 Acres

SE 1/4 SE 1/4 " " --35

NW 1/4 SW 1/4 Sec.1-T37N-R34W--35

SW 1/4 SW 1/4 " " --35

NW 1/4 NW 1/4 Sec.12-T37N-R34W--32 Acres

NE 1/4 NW 1/4 " " --33

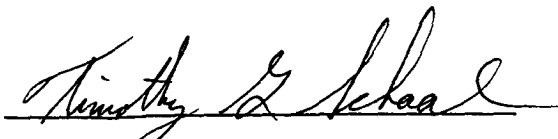
SW 1/4 NW 1/4 " " --33

SE 1/4 NW 1/4 " " --34

comprising a total of 272 acres of land and the license should be issued for 2.30 cfs. 2.22 cfs T&L

Applicable permit qualifications have been complied with: XX Yes No

Exceptions to compliance are: Date Report Completed: August 16, 1995



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

REPORT ON INSPECTION OF PERMIT NO.

Other permit(s) associated with the project: 1697A-2

DATE OF INSPECTION: June 14, 1995

NAME & ADDRESS OF INSPECTION CONTACT/ Wendell's son
RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE:

NAME & ADDRESS OF PERMIT HOLDER: Wendell Johnson, P.O. Box 487, Martin, SD 57551

DIVERSION POINT LEGAL LOCATION: Approximate center of NW 1/4 Sec. 12-T37N-R34W

WELL INFORMATION:

- 1) Well Drilling Firm: Niobrara Valley Irrigation, Inc.
- 2) No. of Wells 1
- 3) Depth(s) feet 301 feet
- 4) Well log is available Yes
- 5) Comment:

Casing:

- 1) Diameter inches 16 inch
- 2) Length feet 101 feet
- 3) Type steel

Screen:

- 1) Type perforated steel
- 2) Length feet 200 feet
- 3) Static water level feet

Pump:

- 1) Make Western Land Roller
- 2) Model B76849
- 3) Size 12 inch
- 4) Capacity GPM 1000

Motor:

- 1) Make U.S. Electric
- 2) Model No. Serial No. 6347 W05W103R013R-Z
- 3) Horsepower rating 100 hp

DISTRIBUTION LINES OR CANALS:

- 1) Type Buried PVC 2) Size 8 inches 3) Length 3960 feet

SYSTEM TYPE:

Center pivot:

- 1) Make Valley
- 2) Overall length 1395 feet
- 3) Number of towers 9
- 4) Distance between towers feet
- 5) End gun No
- 6) High or low pressure Low--35 psi
- 7) Capacity 1000 GPM

CHEMIGATION EQUIPMENT:

- 1) Does chemigate NO
- 11) Comments : Had check valve, but Mr. Johnson said they did not chemigate

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 Yes

Note: The well, pump and motor along with the Center Pivot in the E 1/2 SE 1/4 of Sec.2 and the W 1/2 SW 1/4 of Sec. 1 were inspected. The pivot in the NW 1/4 of Sec. 9 should be the same as described on the license for Water Right No. 1697-2.

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 2398-2

(1) Wendell Johnson, Box 487, Martin SD 57551 made Application No. 2398-2, December 15, 1997 for a water permit to divert no additional water, Bennett County, South Dakota for irrigation purposes. Permit No. 2398-2, with a priority date of December 15, 1997 was approved February 9, 1998 and issued to the applicant for diversion of water with construction of the described water supply system completed and the application to beneficial use of said water completed.

- Water Right No. 1697-2 (priority dates of April 9, 1976 and February 26, 1980) authorizes diversion of 2.3 cfs to irrigate 262 acres located in the NW¼ Section 12 and SW¼ Section 1, T37N, R34W;
- Water Permit No. 1697A-2 (priority date of February 26, 1980) was obtained to change the location of a portion of the irrigated acres described in No. 1697-2, from the E½ SW¼ Section 1 to the E½ SE¼ Section 2, T37N, R34W;
- Water Permit No. 2398-2 (priority date of December 15, 1997) authorizes irrigation of an additional 10 acres to the existing system.

The applicable portions of Water Right No. 1697-2 and Water Permit No. 1697A-2 are being incorporated into this Water License No. 2398-2. The investigation of the water use system reflects a capacity of 1000 gallons per minute (2.22 cubic feet per second). Water License No. 2398-2 will be issued for diversion of 2.22 cfs to irrigate 272 acres with priority dates as described in (3) of this license.

(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 2.22 cubic feet of water per second for beneficial use. The location of the diversion point is approximate center of the NW 1/4 Section 12-T37N-R34W.

(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:

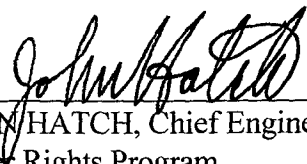
			Priority date
Sec 2-T37N-R34W	NE 1/4 SE 1/4	32 acres	February 26, 1980
	"	3 acres	December 15, 1997
	SE 1/4 SE 1/4	32 acres	February 26, 1980
	"	3 acres	December 15, 1997
Sec 1-T37N-R34W	NW 1/4 SW 1/4	33 acres	February 26, 1980
	"	2 acres	December 15, 1997
	SW 1/4 SW 1/4	33 acres	February 26, 1980
	"	2 acres	December 15, 1997
Sec 12-T37N-R34W	NW 1/4 NW 1/4	32 acres	April 9, 1976
	NE 1/4 NW 1/4	33 acres	April 9, 1976
	SW 1/4 NW 1/4	33 acres	April 9, 1976
	SE 1/4 NW 1/4	34 acres	April 9, 1976
Total		272 acres	

(continued)

Water License No. 2398-2

Page 2

(4) Pursuant to South Dakota Water Law 46-5-30.1 Wendell Johnson, Box 487, Martin SD 57551 the holder and/or owner of Incorporated Water Permit No. 2398-2 is issued a license to appropriate water, the right to use 2.22 cubic feet of water per second from groundwater (one well) with priority dates of April 9, 1976, February 26, 1980 and December 15, 1997 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 Incorporated Water Permit No. 2398-2 and subject to South Dakota State Law.



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

FEB 27 1998

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

FEB 27 1998

2398-2

Wendell Johnson
Box 487
Martin, SD 57551

Dear Mr. Johnson:

Enclosed are Water Permit and Water License No. 2398-2. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 415563 in the amount of \$50.00 which you paid for the investigation and issuance of the Water License.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 2398-2, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

As long as you use the water beneficially, as stated in the Water License, the State Water Laws provide that you have a continuing right to use the water. If you have any questions, please contact our office.

Very truly yours,

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

ks
enclosures

NOTE: The applicable portions of Water Right No. 1697-2 and Water Permit No. 1697A-2 are being incorporated into this Water License No. 2398-2.



2398-2
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 14, 2000

NOTICE

TO: WENDELL JOHNSON, BOX 487, MARTIN, SD 57551
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(s) has not been submitted for Permit No(s) 2398-2. 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(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) 2398-2 qualification:

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

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. 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) 2398-2 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, 2000, 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.

SENDER: COMPLETE THIS SECTION

- 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.

1. Article Addressed to:

WENDELL JOHNSON
BOX 487
MARTIN SD 57551

2. Article Number (Copy from service label)

PS Form 3811, July 1999

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

C. Signature

X *Ruth Weste*

☐ Agent
☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

Domestic Return Receipt

102595-99-M-1789



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 21, 2000

2398-2

Wendell Johnson
Box 487
Martin, SD 57551

Dear Mr. Johnson:

I am writing to acknowledge receipt of your 1999 irrigation questionnaire. You may disregard the January 14, 2000, "Notice" concerning reporting requirements for Water Permit No. 2398-2.

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

December 19, 2002

2398-2

Jeff Johnson
RR 1 Box 36
Tuthill SD 57574

Dear Mr. Johnson:

Enclosed, as you discussed with Eric Gronlund with our program, is a copy of Water Right No. 2398-2. The water right is currently listed in the name of Wendell Johnson.

It is our understanding that you have purchased the land described in the Water Right. 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,

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

enclosures

RECEIPT
WATER RIGHTS PROGRAM
South Dakota Department of Environment and Natural Resources

Date December 17, 2002

RECEIVED OF Jeff Johnson, HC 77 Box 36, Tuthill SD 57574

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	2	50
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>2398-2</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	2.50

No.

000466

By

Darlene E. White

Chief Engineer

gm

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 2398-2

Date: 12-20-02

I/We request that Water Right No. 2398-2

RECEIVED

formerly owned by: Wendell Johnson

DEC 24 2002

be transferred to: (name & address) Jeff Johnson

WATER RIGHTS
PROGRAM

HC 77 Box 36

Tuthill SD 57574

Telephone No. (605) 685-6913

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

272 acres - E 1/2 SE 1/4 Section 2 and W 1/2 SW 1/4 Section 1, T37N, R34W;

NW 1/4 Section 12, T37N, R34W

I/We understand that the validity of Water Right No. 2398-2 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 Jeff Johnson, the new owner, certify that the above information is true and correct.

Jeff Johnson
(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.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

December 27, 2002

2398-2

Jeff Johnson
HC 77 Box 36
Tuthill SD 57574

Dear Mr. Johnson:

I am writing to acknowledge receipt of the Notice of Transfer of Ownership form and filing fee for Water Right No. 2398-2. The transfer has been completed. The water right, formerly held by Wendell Johnson, is now listed in your name.

Enclosed is your Receipt No. 000466 in the amount of \$2.50 which 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



2398-2

**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 24, 2006

NOTICE

TO: JEFF JOHNSON, HC 77 BOX 36, TUTHILL, SD 57574

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

SUBJECT: Reporting Requirement for 2005 Irrigation Questionnaires

Our records indicate that the 2005 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 28, 2005. The Water Management Board has directed that owners of water permits who have not submitted the 2005 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 977-2 & 1680-2A should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 2398-2 & 2493-2 qualification:

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

The hearing will be held at 10:30 am, March 2, 2006 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 2398-2 & 2493-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 977-2 & 1680-2A to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or 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 **February 24, 2006**, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath (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.

2398-2



**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 25, 2006

977-2
1680-2A
2398-2
2493-2

Jeff Johnson
HC 77 Box 36
Tuthill SD 57574

Dear Mr. Johnson:

I am writing to acknowledge receipt of your 2005 irrigation questionnaires. You may disregard the January 24, 2006, "Notice" concerning reporting requirements for Water Right Nos. 977-2, 1680-2A, 2398-2 and 2493-2.

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



2398-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 23, 2009

NOTICE

TO: JEFF JOHNSON, 24178 290TH ST, TUTHILL, SD 57574

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

SUBJECT: Reporting Requirement for 2008 Irrigation Questionnaires

Our records indicate that the 2008 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 24, 2008. The Water Management Board has directed that owners of water permits who have not submitted the 2008 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 977-2 & 1680-2A should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 2398-2, 2493-2, 2599-2 & 2609-2 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 11, 2009** 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) 2398-2, 2493-2, 2599-2 & 2609-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 977-2 & 1680-2A to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or 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 6, 2009**, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352. If you prefer, you can complete the questionnaire on-line at the following link:

<https://www.state.sd.us/eforms/secure/eforms/E0455V7-IQ.pdf>

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 27, 2009

Jeff Johnson
24178 290th St
Tuthill SD 57574

RE: 2008 irrigation questionnaires for Water Permit/Right Nos. 977-2, 1680-2A, 2398-2,
2493-2, 2599-2 and 2609-2

Dear Mr. Johnson:

I am writing to acknowledge receipt of your 2008 irrigation questionnaires. You may disregard the January 23, 2009, "Notice" concerning reporting requirements for the above listed water permits and rights.

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

If you have any questions, please contact me.

Sincerely,

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

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

2398-2



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
PMB 2020
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

JUL 26 2013

2398-2
2599-2

Jeff Johnson
24178 290th St
Tuthill SD 57574

Dear Mr. Johnson:

Enclosed is Water License No. 2599-2. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 2599-2, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

The applicable portions of Water Right No. 2398-2 were incorporated into Water License No. 2599-2. As long as you use the water beneficially, as stated in the Water License, the State Water Laws provide that you have a continuing right to use the water. If you have any questions, please contact our office.

Sincerely,

A handwritten signature in black ink, reading "Jeanne Goodman". The signature is fluid and cursive, with a long, sweeping underline.

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

enclosures