

WATER PERMIT NO. 2624-2

Name of Applicant: Edward E Hill

Address: PO Box 24, Kilgore NE 69216 Phone: 402 966-2104

Amount of Water Claimed: 1.78 cfs Total Acres: 136

Source of Water Supply: groundwater (one well)

Water to be used for: irrigation County: Todd

Type of Waste Disposal System:

Location: 15 miles southeast of Mission

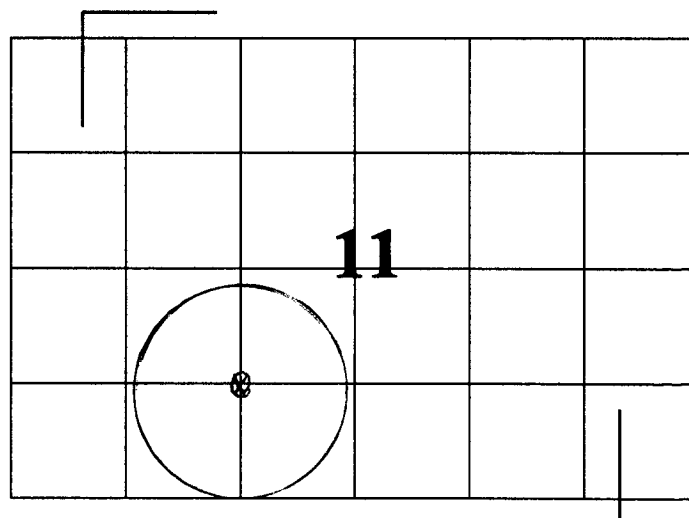
PRIORITY Date Received: 1-18-08 Application/License Fee: \$300

Corrected Application Received: Period of Annual Use: March 1 – October 31

Remarks:

Diversion Point: center of SW ¼ Sec 11-T36N-R29W

Land to be Irrigated: SW ¼ Sec 11-T36N-R29W



Depth of Well: 200 feet deep

Well Driller:

Remarks:

Type of Map: soils map

Prepared by: Nell Heyring, Todd Co NRCS

Reviewed and the Number Assigned on: 1-22-08

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

Mail to:
Water Rights Program
Joe Foss Building
523 E. Capitol
Pierre, SD 57501-3181
(605) 773-3352

(office use only)
No. 2624-2 Hydrologic Unit 10150006
Basin Niobrara Tributary
Newspaper Todd Co. Tribune P.O. Box 229
605-856-4469 (Wed) Martin 57551

RECEIVED
JAN 18 2008
WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water For Irrigation

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. _____
(Use predates Mar 2, 1955)

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

- Name of Applicant Edward E. Hill Phone (402) 966-2104
(check one) ☐ Owner ☐ Tenant/lessee
Mailing Address PO Box 24, Kilgore State NE 69216
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed 1.78 *CFS or 800 **GPM *** AF Total Acreage 136
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply groundwater
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Todd
one well - approximate center of the SW 1/4 Section 11, T36N, R29W
- County or counties where water will be used Todd
- Annual period during which water is to be used March 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
NE 1/4 SW 1/4 Section 11, T36N, R29W	34		
SE 1/4 SW 1/4 Section 11, T36N, R29W	34		
NW 1/4 SW 1/4 Section 11, T36N, R29W	34		
SW 1/4 SW 1/4 Section 11, T36N, R29W	34		

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

establish irrigation on SW 1/4 Section 11, T36N, R29W

STATE OF SOUTH DAKOTA) SS
County of Hughes

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)

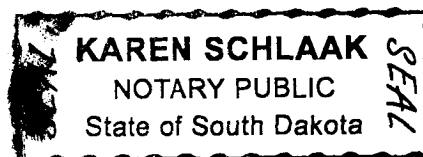
I, Edward E Hill, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Applicant's signature Edward E Hill

Subscribed and sworn to before me this 12th day of Aug 20 04

Karen Schlaak

Notary Public signature



SOUTH DAKOTA
WATER PERMIT NO. 2624-2 FOR IRRIGATION

Date of first receipt of application January 18, 2008.

The Water Management Board approved Water Permit No. 2624-2 on July 2, 2008 for Edward E Hill, PO Box 24, Kilgore NE 69216 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. 2624-2 appropriates 1.78 cubic feet of water per second from one well to be completed into the Ogallala Formation (approximately 200 feet deep) located in center of the SW 1/4 Section 11 to irrigate 136 acres located in the SW 1/4 Section 11; all in T36N-R29W.
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: March 1 – October 31.
3. The date from which applicant may claim right is January 18, 2008.
4. One-fifth of the construction is to be completed on or before January 2, 2011.
5. All construction is to be completed on or before July 2, 2013.
6. Water is to be put to beneficial use on or before July 2, 2017.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The 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. The wells authorized by Permit No. 2624-2 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: Garland Erbele

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

SEP 17 2008

date



(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter 30" Depth 200'
- b) Casing Type PVC Diameter 16" Thickness .616
- c) Screen Type 0.08 Diameter 16' Thickness .616
- d) Gravel Pack A Pack Length of Gravel Pack 130
- e) Depth to Top of Water Bearing Material Approx. 40"
- f) Depth to Water (ground surface to water level) Approx. 40'
- g) Distance to nearest existing domestic well:
On applicants property 1320' east On property owned by others 2640'

2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field) _____
- b) System Capacity (gallons) _____ Year Constructed _____
- c) Connected to the City of _____ Sanitary System

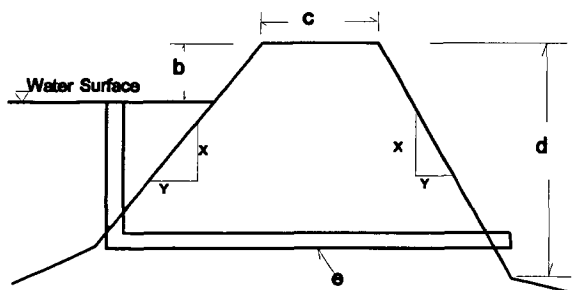
3. Dugout Information

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

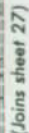
4. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to 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:



- b) Freeboard _____
- c) Crest Width _____
Crest Length _____
- d) Height _____
- e) Primary Outlet Capacity _____
If pipe, diameter _____
- f) Secondary Spillway Capacity _____
Spillway Width _____
- g) X & Y Slope _____
Upstream _____
Downstream _____
- h) Surface Area of Impoundment _____
- i) Storage _____ Acre Feet
- j) Drainage Area Above Dam _____ Acres



T. 36 N. | T. 37 N.

The area shown on this map sheet is part of the Rosebud Indian Reservation.

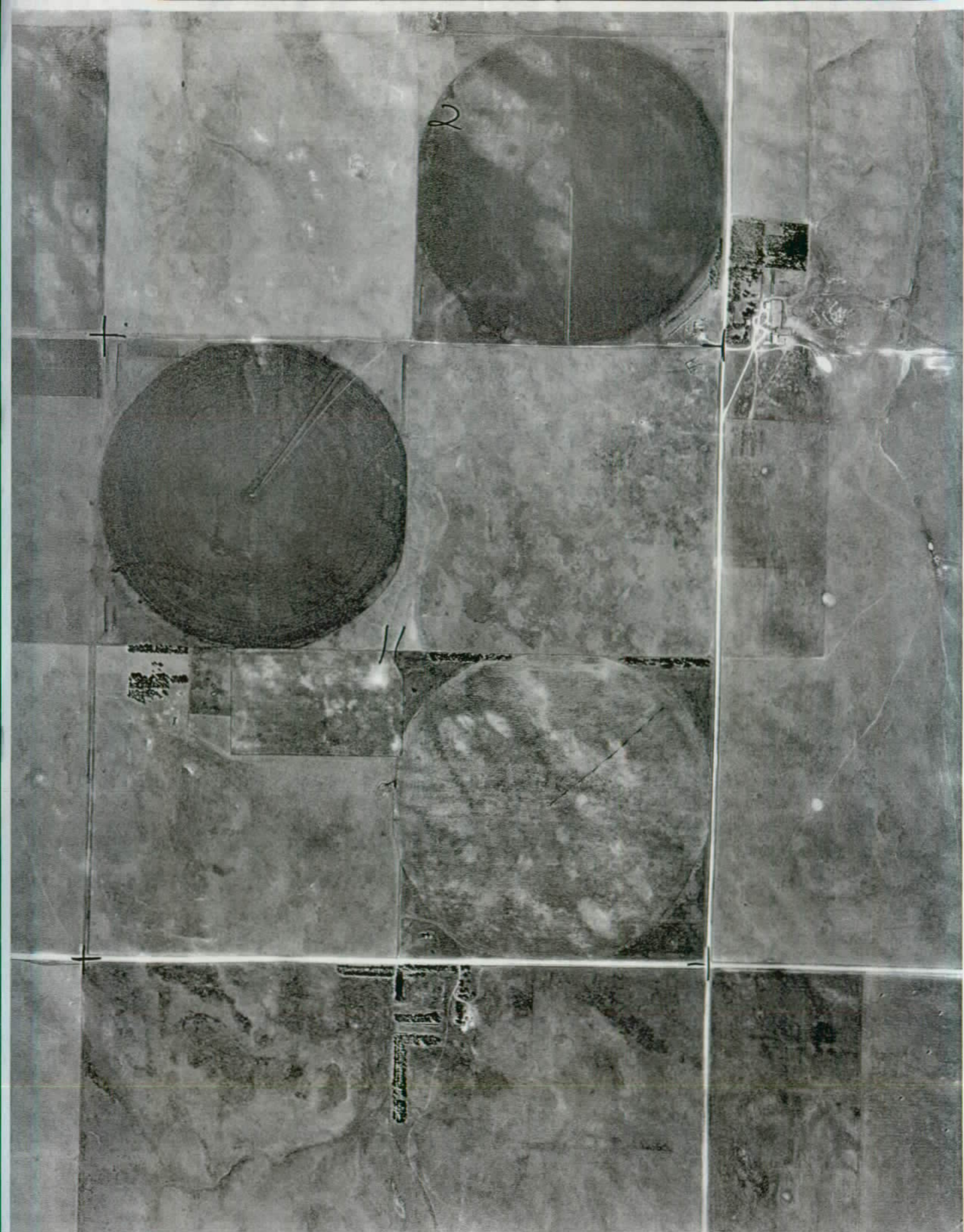
and division corners are approximately positioned on this map.

band diameter: common and approximately positioned at mid-line.

photobase from 1963 aerial photography. Positions of 10,000-foot grid ticks are approximate and based on the South Dakota coordinate system south zone

and division corners are approximately equal to this man

Cell Mapping, SCT
NRCS



NOTICE OF WELL CONSTRUCTION

(I) WELL CONSTRUCTION

Location of well: Center 1/4 N.W. 1/4 Section 11 Township 36 Range 29
 Well owner Irwin Jackson Mission Route Valentine, Nebraska
 (Name) (Address)
 Date well drilling completed 10-29-76 Purpose of well irrigation
 (domestic, irrigation, municipal, industrial, other)

WELL LOG

Layers, top to top in feet	Description of layer
0-80	ss, cs
80-83	clay
83-131	ss, cs
131-135	clay
135-160	ss, cs
160-164	clay
164-180	cs
180-209	ss, cs
209-212	clay
212-231	ss, cs
231-240	clay
240-243	med sand

Depth to top of water producing aquifer 85 ft.
 Depth to static water level 38 ft.
 Name of producing aquifer (if known) _____
 Total depth of drill hole 245 ft.
 Depth to bottom of casing 245 ft.

Casing information: In the space below show kind, size, weight, lengths per diameter, etc., for production casing and surface casing, if used.

Casing is 16 inch .219 wall steel casing
 160 feet perforated casing
 85 feet plain casing

Screen information: In the space below show length of screen below bottom of casing, diameter and kind of screen or casing perforations.

Perforated casing has 40 mill slots
 per foot. Slots are .150 x 3 inches.

NOTICE OF WELL CONSTRUCTION

WELL LOCATION

(I) WELL CONSTRUCTION

Location of well ^{Center} 1/4 S.E. 1/4 Section 11 Township 36 N Range 29 W
 Well owner Robert Hill _(Name) Crookston, Nebraska _(Address)
 Date well drilling completed 1-5-76 Purpose of well irrigation
 (domestic, irrigation, municipal, industrial, other)

WELL LOG

Layers, top to top in feet	Description of layer
0-20	sandstone
20-76	ss. coarse sand
76-80	clay & mag
80-128	ss. coarse sand
128-137	clay
137-171	coarse sand
171-174	clay
174-180	coarse sand
180-211	coarse sand
211-220	clay
220-240	red rock

Depth to top of water producing aquifer 68 ft.
 Depth to static water level 35 ft.
 Name of producing aquifer (if known) _____
 Total depth of drill hole 210 ft.
 Depth to bottom of casing 210 ft.

Casing information: In the space below show kind, size, weight, lengths per diameter, etc., for production casing and surface casing, if used.

Casing is 16 inch .219 wall steel

Screen information: In the space below show length of screen below bottom of casing, diameter and kind of screen or casing perforations.

Perforated casing has 40 mill slots per foot. Slots are .150 x 3 inches.

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 1/22, 20 08

RECEIVED OF Ed Hill Farms RR 1 Box 24 Kilgore NE 68216

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	250	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. _____	50	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	300 00

No.

03387

By

Paul E. Eshel
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2624-2, Edward E. Hill**

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. 2624-2, Edward E. Hill, PO Box 24, Kilgore, NE 69216.

The Chief Engineer is recommending APPROVAL of Application No. 2624-2 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) it is in the public interest with the following qualification:

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. The well authorized by Permit No. 2624-2 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Garland Erbele, Chief Engineer
February 29, 2008

Report on Application for Water Right

Permit No. 2624-2

Edward E. Hill of

PO Box 24 Kilgore, NE. 69216

01 February 2008

Application No. 2624-2 seeks to appropriate 1.78 cubic feet per second of water from one well to be completed near the center of the SW $\frac{1}{4}$ of Section 11 Township 36 North Range 29 West, approximately 15 miles south east of Mission, South Dakota. The well has not been constructed at the time of application for this water right. The property on which this water right is being sought is deeded land that lies within the boundaries of the Rosebud Sioux Indian Reservation. Water diverted under this application will be put to use to irrigate approximately 136 acres of land. Water for irrigation will be used March 1 to October 31 of each year as needed.

Aquifer- Ogallala (OGLL)

In the area of Township 36 North Range 29 West the White River, Arikaree and Ogallala Aquifers are present. They are hydraulically connected and are often considered as one unit referred to as the High Plains Aquifer. The High Plains Aquifer is comprised of several geologic units underlying seven states from South Dakota to Texas. In Todd County the Ogallala Aquifer is an alluvial aquifer underlain by the Arikaree and White River Aquifers. It is overlain by unconsolidated deposits of wind blown sand and alluvium (Carter, 1998). The Ogallala Aquifer underlies an estimated 950 square miles in Todd County with 17 million acre-feet of water in storage (Carter, 1998). The general direction of ground water flow for the Ogallala Aquifer in the area of Township 36 North Range 29 West is to the south east (Carter, 1998). Recharge rates for the Ogallala Aquifer have been stated to be between 1.0 and 3.07 inches per year (Long et al., 2003) Applying these recharge rates to the aerial extent of the Ogallala Aquifer underlying Todd County gives a range of recharge between 50,667 ac-ft and 155,546 ac-ft annually with an arithmetic mean of 103,107 ac-ft of annual recharge. Discharge from the Ogallala Aquifer occurs to streams and springs as well as by evapo-transpiration where the aquifer is at or near the land surface. Withdrawals from the aquifer are primarily from irrigation wells. Withdrawals also take place from wells that supply livestock and domestic users. The average thickness of the Ogallala Aquifer in Todd County is 137 feet (Carter, 1998).

Water Availability

The water rights program maintains 78 observation wells completed to the Ogallala Aquifer with 22 of these wells located in Todd County. These wells are monitored monthly and water levels have been plotted over time. Several graphs are presented representing the water levels of the observation wells in close proximity to Section 11 Township 36 North Range 29 West. Observation well TD-76F is located approximately 1.25 miles south west of the location in question. A graph of the water level in this well shows a slight decline over the study period, figure 1. This decline may be a result of increased pumping in close proximity to this well. There

are several irrigation wells near this observation well. There may be irrigation wells owned by the Rosebud Sioux Tribe in close proximity to this observation well that the water rights program has no way of knowing the location of. Observation well TD-76G is located approximately 2.75 miles north east of the proposed diversion. The graph of the water level over time from this observation well show no downward trend and is typical of other observation wells completed to the Ogallala Aquifer in Todd County, figure 2. Observation well TD-90A is located approximately 2.25 miles south west of the proposed site and shows a water level trend similar to that of observation well TD-76G, figure 3.

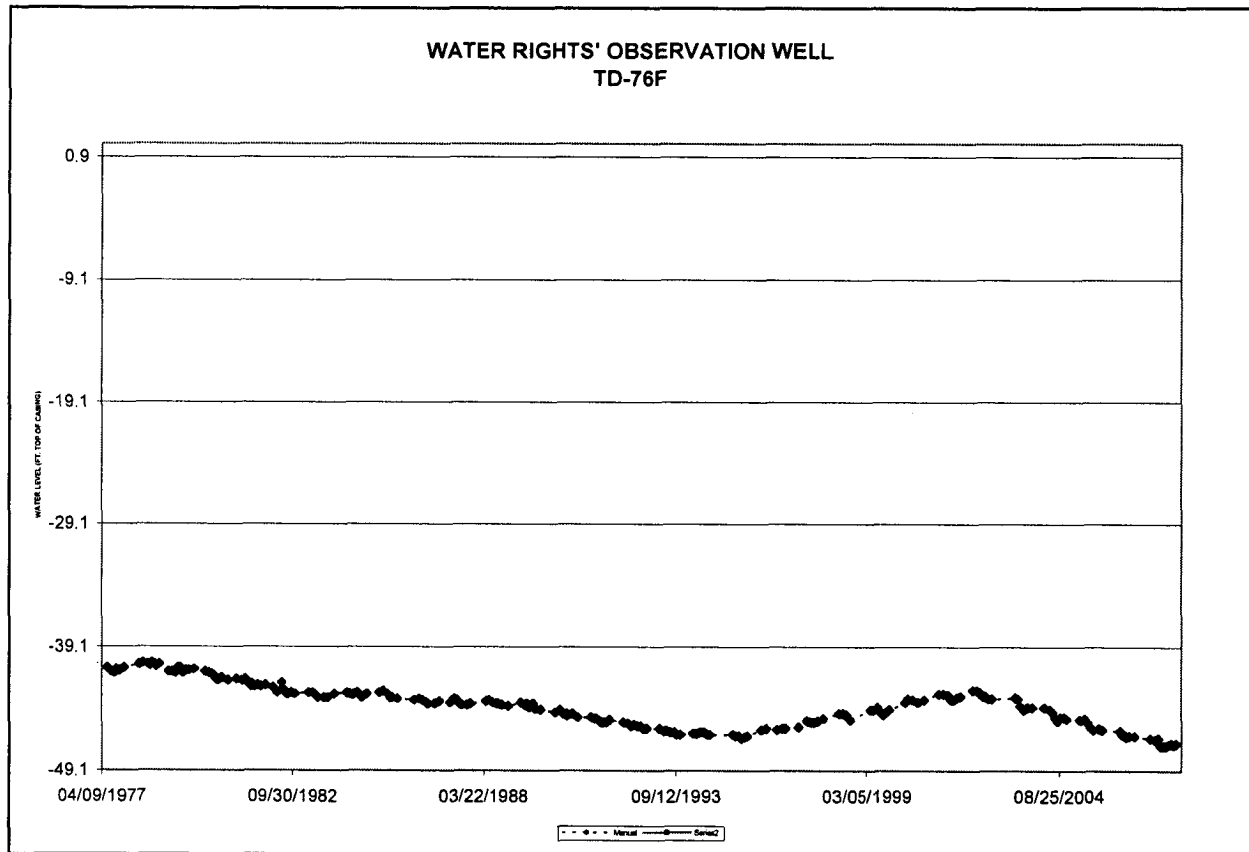


Figure 1: Observation well

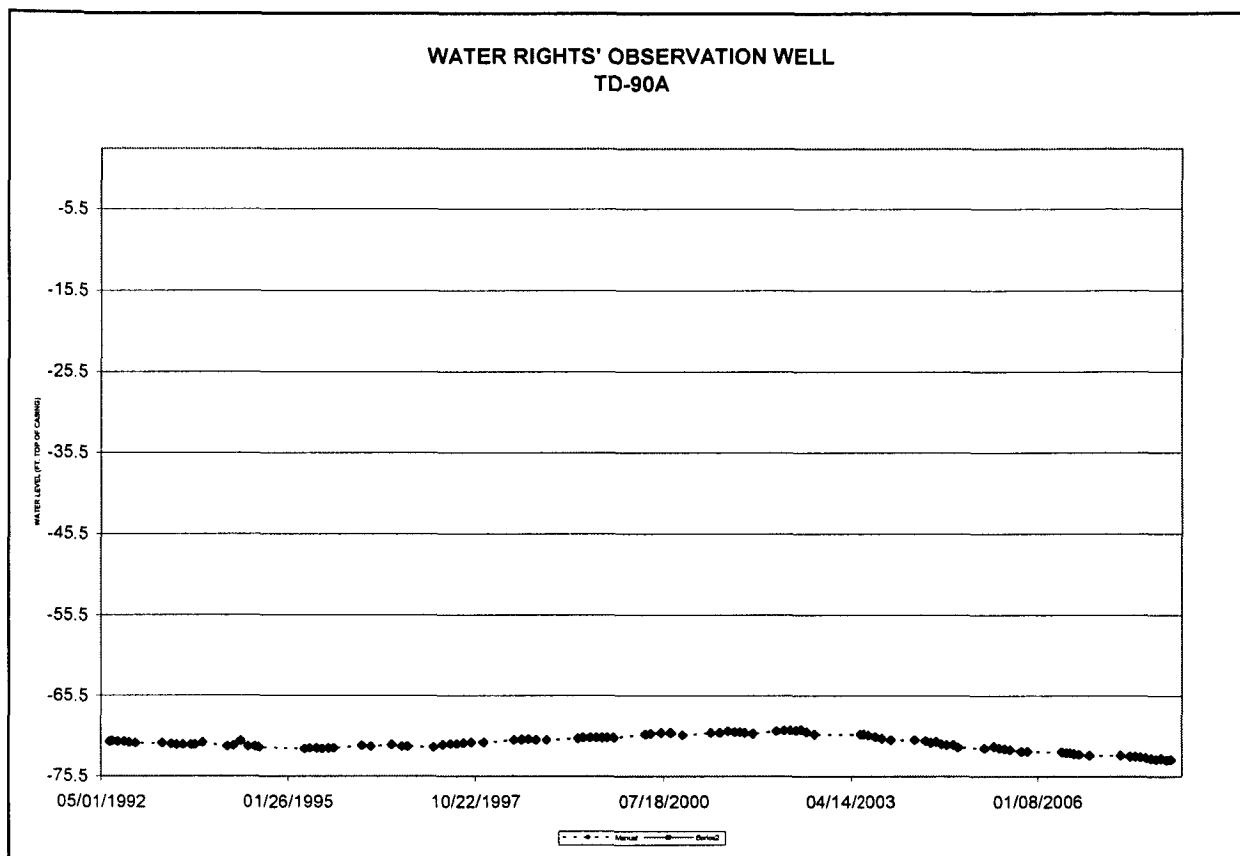


Figure 2: Observation well

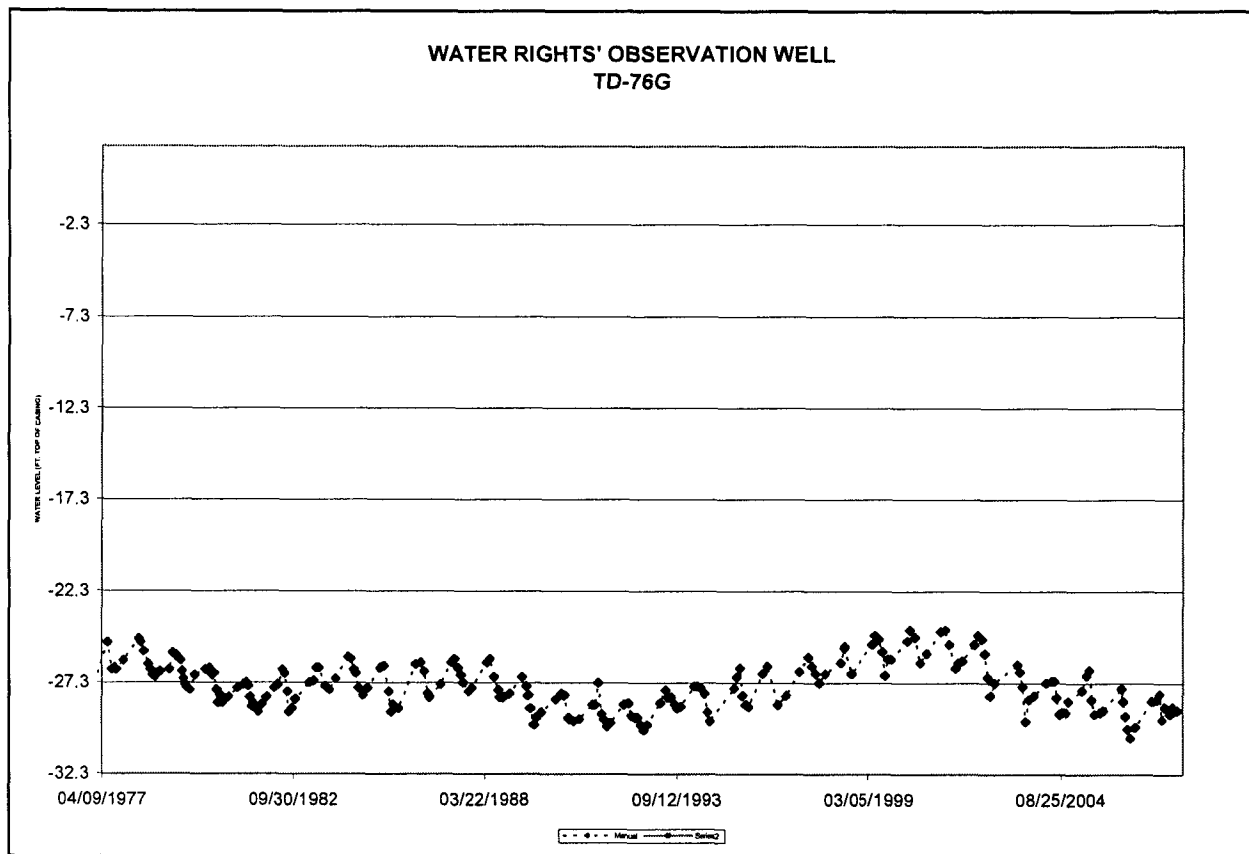


Figure 3: Observation well

Existing Water Rights

There are 9 water rights within a 2 mile radius of 2624-2 appropriating a total of 30.98 cfs of water from the Ogallala Aquifer (Table 1).

Table 1: Water rights near 2624-2

Water Rights within 2 mile radius of 2624-2					
Permit No.	Name	Lic. Cfs	Permit No.	Name	Lic. Cfs
1224-2	Mission Farms	14.3	1597A-2	Danielski Farms	1.56
1681-2	Gunnink Farms	1.78	1543A-2	Danielski Farms	2.7
1289-2	Ed Hill	3.68	1216A-2	Tinant	2
2381-2	Ed Hill	1.56	1596A-2	Danielski Farms	1.56
1220-2	Ed Hill	1.84			

Figures 1, 2, and 3 give a good indication of how the Ogallala Aquifer responds to pumping in this area. There is a possibility that pumping from one well might have an impact on a nearby well, but the impact is most likely to be minimal and not adverse. This is supported by the data from the observation well monitoring program.

Conclusions

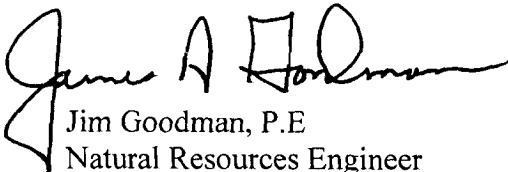
1. The Ogallala Aquifer is an unconfined aquifer in Todd County South Dakota.
2. There is unappropriated water available in the Ogallala Aquifer.
3. Developing the diversion requested will not have an adverse impact on existing water rights or domestic wells.
4. The well constructed under this permit shall be constructed by a licensed well driller and shall comply with all applicable well construction standards.

Submitted by:



Mark Costello
Natural Resources Engineer
DENR, Water Rights

Reviewed by:



Jim Goodman, P.E
Natural Resources Engineer
DENR, Water Rights

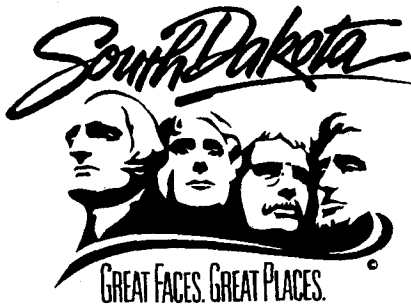
Bibliography

Carter, J.M., *Water Resources of Mellette and Todd Counties, South Dakota*, Water Resources Investigation Report 98-4146. US Geological Survey, Rapid City, South Dakota 1998.

Long, A.J, Putnam, L.D, Carter, J. M, *Simulated Ground Water Flow in the Ogallala and Arikaree Aquifers, Rosebud Indian Reservation Are, South Dakota*. Water Resources Investigations Report 03-4043. U.S Geological Survey, Rapid City, South Dakota, 2003.

SD DENR Water Rights, Irrigation Questionnaire Summary, South Dakota DENR, Foss Building, Capitol St. Pierre, SD.

SD DENR, Water Rights, Water Rights and Well Locations database. South Dakota DENR, Foss Bldg.. Capitol St., Pierre, SD.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 17, 2008

Todd Co. Tribune
PO Box 229
Martin SD 57555

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 2624-2 to Appropriate Water to be published twice. Please publish the first notice on March 26, 2008 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

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 Edward E Hill, PO Box 24, Kilgore NE 69216 (Ph # 402-966-2104).

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

No. 2624-2

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

Date _____

We are in receipt of your letter of March 17, 2008 enclosing Notice to Appropriate Water by Application No. 2624-2 which was first published in our issue of _____. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name

Newspaper



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

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

March 17, 2008

Edward E Hill
PO Box 24
Kilgore NE 69216

Dear Mr. Hill:

Water Permit Application No. 2624-2 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Publisher of the Todd Co. Tribune printed at Mission SD (Ph # 605-856-4469). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and 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 and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization, the publisher has been instructed to publish your notice once each week for two consecutive weeks. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
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.

Instruction to Newspaper - Publish first Notice on March 26, 2008 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 2624-2 to Appropriate Water

Notice is given that Edward E Hill, PO Box 24, Kilgore NE 69216 has filed an application for a water permit to appropriate 1.78 cubic feet of water per second from one well to be completed into the Ogallala Formation (approximately 200 feet deep) located in center of the SW ¼ Section 11 to irrigate 136 acres located in the SW ¼ Section 11; all in T36N-R29W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2624-2 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 this 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 this 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 recommendations 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 April 14, 2008.

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

State of South Dakota
County of Todd

RECEIVED

APR 16 2008

WATER RIGHTS
PROGRAM

Mandy K. Scherer, being duly sworn,
says: That The Todd County Tribune is, and dur-
ing all the times hereinafter mentioned was, a
weekly legal newspaper as defined in SDCL 17-2-
2.1 through 17-2-2.4 inclusive, as amended,
published at Mission, Todd County, South
Dakota by Huether Brothers Publishing, Inc.;
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 of advertise-
ment, a printed copy of which is attached, was
published in said newspaper for 2 suc-
cessive issues, bearing the following dates:

March 26, 2008
April 2, 2008

that the full amount of the fee charged for pub-
lishing the same, to-wit, the sum of
\$49.40, insures solely to the benefit of
the publisher of said newspaper; that no agree-
ment 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 by any
other person.

Mandy K. Scherer
Bookkeeper

NOTICE OF APPLICATION NO. 2624-2 to Appropriate Water

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Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-
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by either an interested person or the applicant must be filed by April 14,
2008.

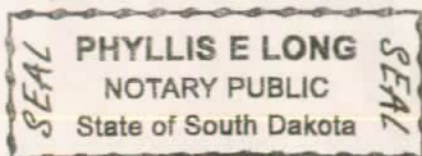
The petition may be informal, but must include a statement describ-
ing the petitioner's interest in the application, the petitioner's reasons for
opposing or supporting the application, and the signature and mailing
address of the petitioner or the petitioner's legal counsel, if legal counsel
is obtained.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

Pub.: March 26 and April 2, 2008

Subscribed and sworn to before me this 2nd
day of April A.D., 2008.

Phyllis E. Long

Notary Public



My Commission Expires
August 30, 2012

Hill



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 15, 2008

Syed Huq
Water Resources
Rosebud Sioux Tribe
PO Box 910
Rosebud SD 57570

Mr. Huq:

Mr. Ed Hill has filed a water right permit application to develop a new center pivot irrigation system in Todd County. A copy of Mr. Hill's application and the staff draft report is enclosed. Please review this information and contact Jim Goodman at 605 773-3352 or Mark Costello at 605 394-2229 if the Rosebud Sioux Tribe has additional information or concerns on this area's ground water resources that are not addressed by the draft report.

This information is being sent to you as part of the DENR's commitment to keep the Rosebud Sioux Tribe informed of water permitting issues in Todd County. Please let us know by March 3, 2008 if the Tribe has additional information or concerns regarding this application that you feel need to be addressed. After March 3rd, the application will be public noticed. I will ensure that you are provided a copy of this notice.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352

enclosures



Rosebud Sioux Tribe

Sicangu Oyate

P.O. Box 430

Rosebud, SD 57570

Phone 605-747-2381 - Fax 605-747-2243

Rodney M. Bordeaux
President
William "Willie" Kindle
Vice President
Louis Wayne Boyd
Treasurer
Gerri Night Pipe
Secretary
Webster Two Hawk
Sergeant-at-arms

RECEIVED

MAR - 3 2008

WATER RIGHTS
PROGRAM

February 27, 2008

Mr. Eric Grunlund
Water Rights Program
Department of Environment and Natural Resources
State of South Dakota
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3182

Dear Mr. Grunlund:

Thank you for providing information on the proposed water right permit application to develop a new center pivot irrigation system in Todd County within the exterior boundary of Rosebud Sioux Tribal Reservation. The proposed water rights permit from Mr. Edward E. Hill at location SW ¼ Section 11, T36N, R29W for 800 gallons per minute was evaluated for potential impact. Rosebud Sioux Tribe has a network of monitor wells and copy of a map depicting the locations is attached. The water levels in the monitor wells are recorded once every month. The monitor wells have been installed to monitor the Ogllala Aquifer.

A table depicting the water level fluctuation in the monitor wells from 1984-2006 is attached for ready reference.

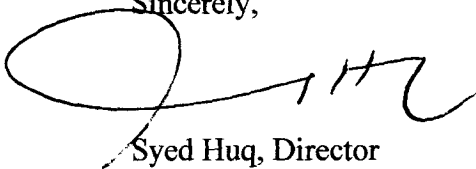
A map showing the location of the proposed water right permit, the closest tribal monitor well, Tribal production wells, existing center pivot irrigation systems and land ownership is attached for a clear perspective.

As can be visualized from the table and the map that the Tribal monitor well no. 12 is the closest to the proposed water permit and the water level fluctuation in well no. 12 has not

been drastic. The proposed water permit obviously will be an additional stress to the status quo of the Aquifer. We will send a copy of the information on the proposed water permit to USGS office in Rapid City, where a more careful evaluation will be conducted using a computer model that has been developed to evaluate the High Plains Aquifer on the Rosebud Reservation. Pertinent information will be provided to you at a later date. The Tribe strongly feels that within the exterior boundary of our Reservation, individuals can apply for water permits directly to the Tribe and all applications will be given a fair assessment, evaluation and appropriate necessary action.

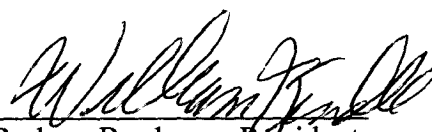
It is imperative to note that the northern tip of the High Plains Aquifer occurs on the Rosebud Reservation and it is a precious resource. Todd County, which is the exterior boundary of Rosebud Reservation is one of the poorest county in the country according to the Census Bureau. Depletion of the Ogllala Aquifer on Rosebud Reservation will greatly jeopardize the health and welfare of the people of Rosebud Reservation. Again we thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to be 'Syed Huq', written over a large, loopy circular flourish.

Syed Huq, Director
Water Resources and Environment

Concurred:

A handwritten signature in black ink, appearing to be 'Rodney Bordeaux', written over a horizontal line.
Handwritten initials 'for' in black ink, positioned to the left of the printed name.

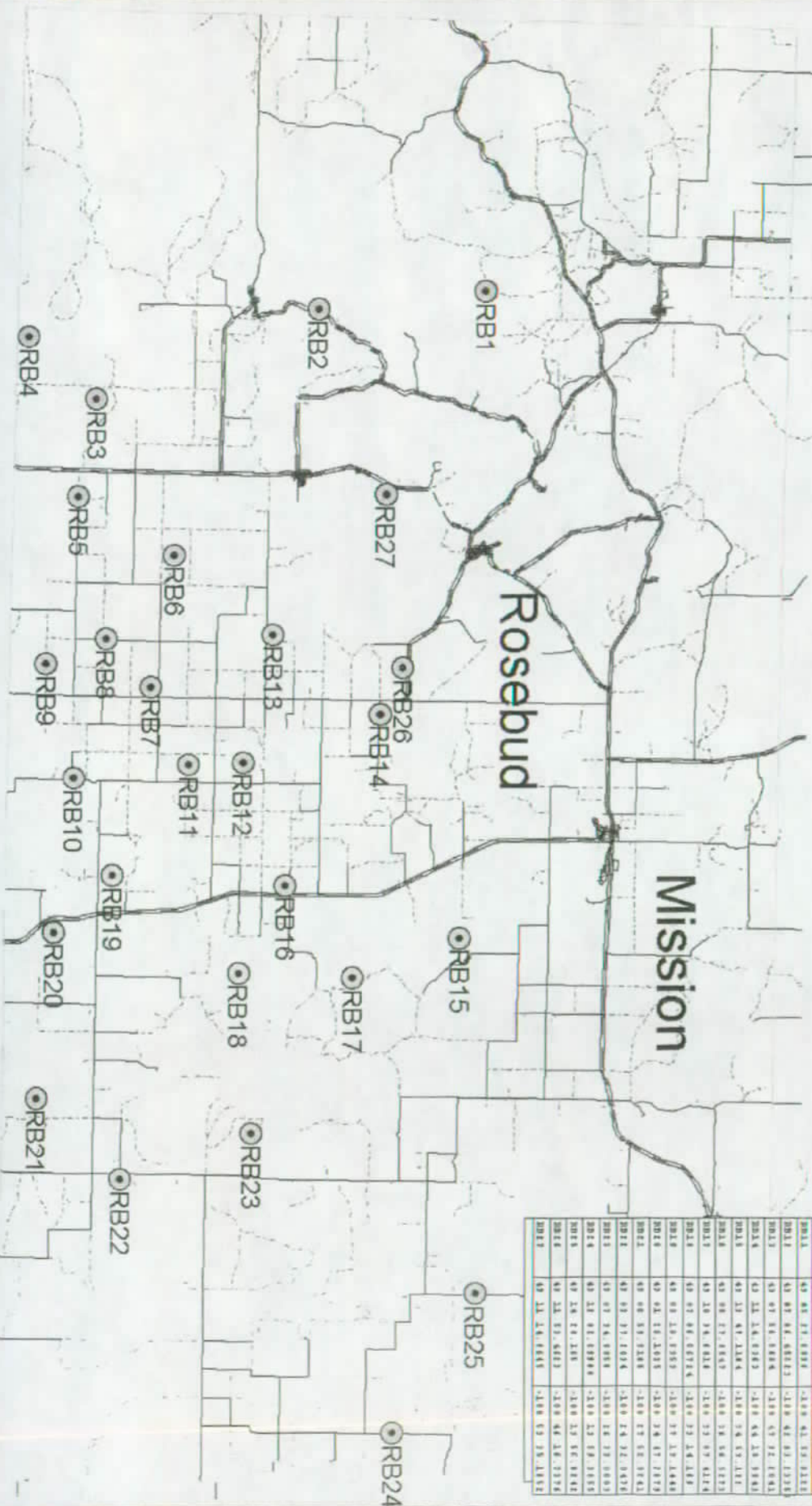
Rodney Bordeaux, President
Rosebud Sioux Tribe

Rosebud Sioux Tribe Ground Water Monitor Wells



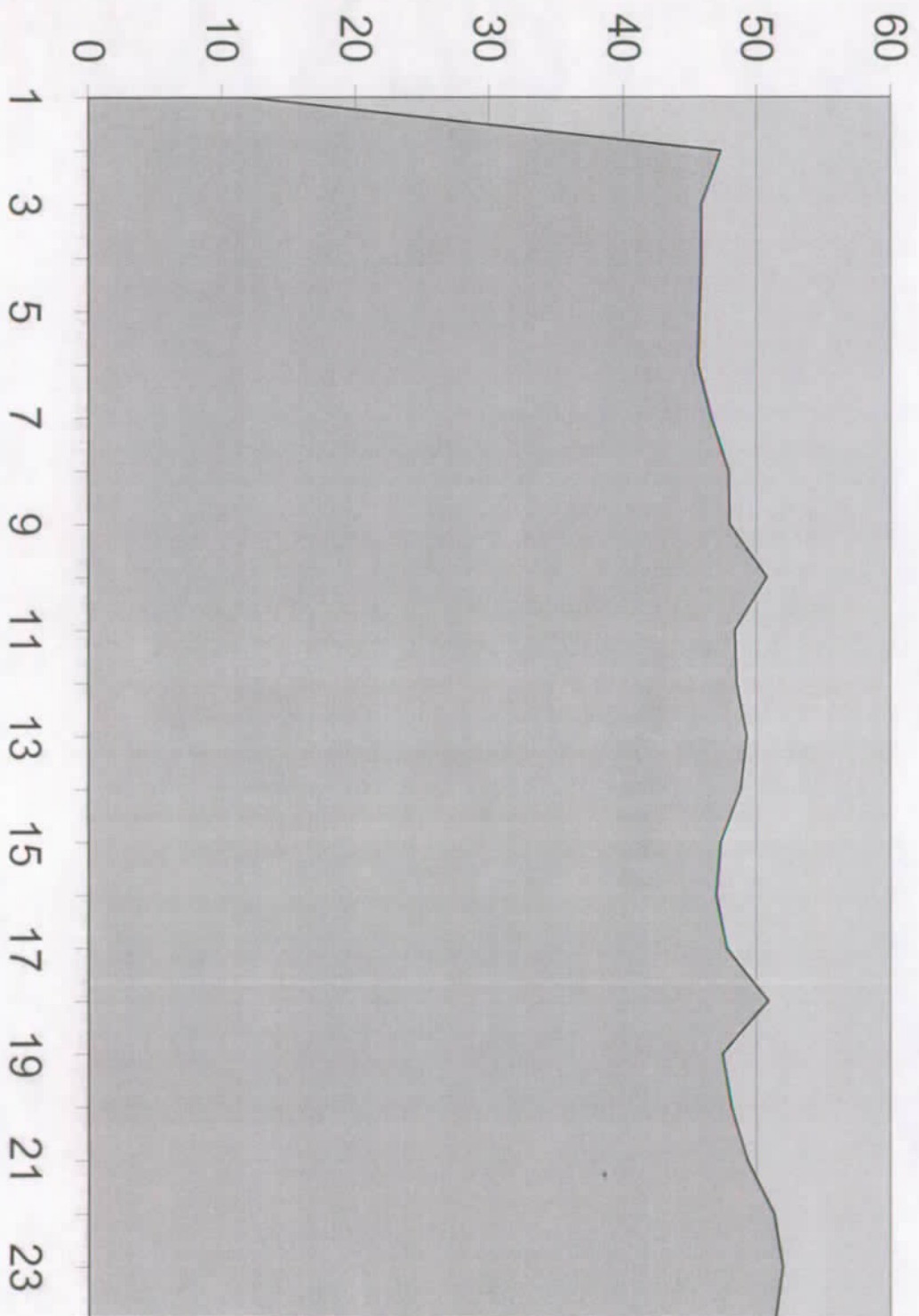
Monitor Wells

Todd Co.



Well No.	Lat	Long
RB1	45 24 51.50550	-102 07 10 7330
RB2	45 08 01.00000	-102 02 26 100
RB3	45 08 17.19722	-100 57 25 1737
RB4	45 08 24.25222	-100 57 46 483
RB5	45 02 51.19900	-100 53 20 1862
RB6	45 06 11.01000	-100 56 46 1980
RB7	45 06 24.17222	-100 46 23 2280
RB8	45 02 49.22222	-100 47 23 1930
RB9	45 02 04.23070	-100 46 45 0830
RB10	45 02 11.10111	-100 42 23 1970
RB11	45 01 17.00000	-100 42 10 1230
RB12	45 01 02.00122	-100 42 01 1330
RB13	45 01 04.00000	-100 42 01 1330
RB14	45 01 24.00000	-100 42 01 1330
RB15	45 01 47.00000	-100 42 01 1330
RB16	45 01 47.00000	-100 42 01 1330
RB17	45 01 47.00000	-100 42 01 1330
RB18	45 01 47.00000	-100 42 01 1330
RB19	45 01 47.00000	-100 42 01 1330
RB20	45 01 47.00000	-100 42 01 1330
RB21	45 01 47.00000	-100 42 01 1330
RB22	45 01 47.00000	-100 42 01 1330
RB23	45 01 47.00000	-100 42 01 1330
RB24	45 01 47.00000	-100 42 01 1330
RB25	45 01 47.00000	-100 42 01 1330

Well #12



Series1

RST Production Well 84-1

5.59 Miles

Allotted
Land

Fee
Land

Tribal
Land

RST Monitoring Well 12

Proposed Hill Irrigation Well

Rosebud Sioux Tribe: Depth to water levels in Tribal Monitor wells 1984-2006

Well #	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
1	173.52	172.43	173.21	172.51	172.13	171.08	171.26	172.2	171.47	170.78	170.11	0	0	0	0	0	171.95	168.23	167.76	170.22	170.43	171.23	166.6
2	0	0	162.5	161.72	161.11	0	161.93	161.8	0	0	0	0	0	0	0	0	30.91	28.85	28.24	29.6	32.02	30.41	30.31
3	59.88	58.66	57.56	57.08	56.81	57.04	57.65	58.7	58.69	58.97	58.2	57.79	56.35	53.05	53.01	53.09	54.32	51.52	51.12	53.69	57.28	56.1	55.84
4	6.55	5.32	5.75	4.99	5.17	5.85	5.81	6.6	6.14	5.91	5.22	5.44	4.34	3.67	3.85	3.6	5.95	4.48	5.11	6.97	10.52	10.72	7.26
5	22.26	22.76	22.63	22.41	22.8	23.34	23.67	23.9	24.15	24.48	23.38	23.49	22.28	21.79	20.62	21.5	23.3	21.45	21.97	23.92	26.15	25.13	24.8
6	31.77	31.32	31.52	30.9	30.81	30.93	31.22	31.9	31.92	32.06	31.55	31.33	30.51	28.71	28.7	28.63	29.65	27.44	27.65	29.47	32.67	30.15	30.86
7	19.55	19.2	19.47	19.67	19.78	20.01	21.8	20.9	21.43	21.45	21.31	21.2	20.28	19.21	19.12	19.05	21.23	19.21	19.76	21.86	23.3	23.31	23.1
8	50.12	49.92	48.96	48.64	52.9	48.36	64.81	49.25	49.24	49.58	49.52	49.48	47.91	47.38	47.34	47.33	48.88	46.76	46.58	49.08	38.17	48.87	48.47
9	46.32	45.66	44.58	44.55	40.62	44.06	44.54	44.9	33.71	27.19	30.56	34.17	33.41	0	0	45.37	46.95	44.68	44.73	47.93	46.23	47.11	47.78
10	9.89	10.57	10.8	9.79	10.09	10.02	10.68	10.75	10.91	10.43	9.54	9.05	7.71	5.46	4.65	4.57	10	8.75	9.94	11.87	15.58	13.12	11.21
11	82.41	82.38	80.72	83	90.32	86.23	86.58	84.5	90.42	84.94	81.3	85.04	91.41	74.76	75.28	74.68	83.45	78.09	79.44	77.92	78.11	81.37	82.2
12	47.32	45.81	45.82	45.69	45.59	46.56	47.93	48	50.81	48.39	48.55	49.31	48.84	47.29	46.93	47.74	50.91	47.42	48.11	49.34	51.34	51.98	51.45
13	104.72	104.75	106.32	105.31	106.64	106.1	107.62	107.8	110.02	107.54	107.94	108.35	109.68	106.04	105.75	105.59	106.62	107.43	8.84	106.1	103.87	107.05	106.83
14	0	0	70.43	70.15	69.96	69.81	78.64	70.2	0	0	0	0	0	0	0	68.2	68	65.75	65.23	60.6	72.09	68.55	70
15	13.48	12.36	13.49	12.5	13.07	13.67	14.89	15.8	14.37	14.27	13.49	13.32	12.11	10.52	10.13	10.18	14.44	12.24	13.76	15.34	17.34	17.08	59.92
16	60.83	60.53	59.57	59.48	59.06	59.27	59.37	60.15	60.7	60.67	60.87	60.43	60.39	57.86	57.8	57.69	58.67	56.03	56.28	57.84	60.39	58.96	59.85
17	6.44	6.67	7.66	6.06	6.69	7.32	7.42	6.12	7.07	6.11	5.95	5.57	2.86	3.26	3.05	3.34	8.38	6.47	7.2	7.82	9.05	8.63	4.8
18	150.56	150.53	149.71	148.53	147.66	147.21	146.74	147.11	146.68	147.49	147.38	147.39	147.48	144.89	147.6	144.54	145.5	143.26	141.7	143.54	147.25	142.65	142.05
19	28.81	28.78	29.92	29.11	28.24	27.85	29.38	29.64	29.19	29.79	29.9	29.77	28.03	0	0	45.6	47.9	46.96	46.97	50	52.41	51.25	51.2
20	16.61	17.32	17.77	17.97	18.9	19.33	20.67	21.23	21.44	21.65	20.84	20.05	18.59	15.19	14.12	13.99	17.34	15.39	17.24	19.8	23.18	21.09	20.4
21	20.32	20.79	20.88	20.13	20.33	20.06	21.72	22.31	22.51	22.78	21.79	21.62	19.91	16.45	16.06	15.78	17.8	16.56	17.84	20.09	22.26	21.14	21.07
22	31.45	32.21	32.66	31.97	31.99	31.32	32.52	33.66	33.67	34.17	33.17	33.05	29.95	28.91	28.99	28.85	31.53	29.53	30.58	32.94	34.89	35.04	34.8
23	29.21	29.51	30.32	29.08	28.94	28.09	28.67	30.01	30.84	31.13	30.51	30.65	27.12	23.32	23.4	22.65	23.53	24.6	24.6	24.27	26.21	25.8	24.65
24	25.12	24.22	24.92	25.49	24.96	24.69	26.14	28.35	28.22	0	0	0	0	0	0	0	0	0	0	0	0	0	0
25	23.69	24.89	24.76	21.84	24.57	25.51	26.12	26.88	26.99	25.78	25.4	24.57	22.28	21.68	20.39	20.25	23.8	22.53	24.17	24.3	25.85	26.01	26.17
26	72.32	72.29	71.78	72.8	75.1	77.24	76.32	75.18	76.15	67.2	75.04	75.71	0	0	0	68.64	83.31	81.45	83	81.75	84.64	83.11	78.05
27	123.21	122.84	123.62	122.41	122.02	121.87	121.64	121.85	121.92	121.11	121.53	117.99	91.14	116.56	116.38	116.35	117.28	109.84	113.93	114.41	113.24	114.18	114.04
28	0	0	0	0	0	0	19.02	0	17.94	18.37	0	0	0	0	0	0	48.93	45.42	45.45	47.93	37.41	36.78	37.54



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 17, 2008

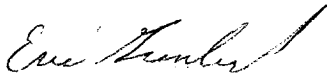
Syed Huq
Water Resources
Rosebud Sioux Tribe
PO Box 910
Rosebud SD 57570

Mr. Huq:

Mr. Ed Hill has filed a water right permit application to develop a new center pivot irrigation system in Todd County. A copy of the report, recommendation and public notice are enclosed. A draft report on the application had been previously sent to you. The notice is scheduled to be published in the Todd Co. Tribune on March 26 and April 3, 2008.

This information is being sent to you as part of the DENR's commitment to keep the Rosebud Sioux Tribe informed of water permitting issues in Todd County

Sincerely,


Eric Gronlund
Water Rights Program
(605) 773-3352

enclosures



Rosebud Sioux Tribe

Sicangu Oyate

P.O. Box 430

Rosebud, SD 57570

Phone 605-747-2381 - Fax 605-747-2243

Rodney M. Bordeaux

President

William "Willie" Kindle

Vice President

Louis Wayne Boyd

Treasurer

Gerri Night Pipe

Secretary

Webster Two Hawk

Sergeant-at-Arms

RECEIVED

April 3, 2008

APR - 4 2008

Mr. Steven M. Pirner, Secretary
Department of Environment and Natural Resources
State of South Dakota
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3182

DEPT. OF ENVIRONMENT AND
NATURAL RESOURCES,
SECRETARY'S OFFICE

Dear Mr. Pirner:

This letter pertains to our opposition to the proposed water rights permit for Mr. Edward E. Hill at location SW 1/4, Section 11, T36N, R29W for 800 gallons per minute. Please refer to our letter dated February 27, 2008 sent to Mr. Eric Grunlund, Water Rights Program.

Rosebud Sioux Tribe strongly urges the State of South Dakota to recognize and respect the exterior boundary of Rosebud Reservation which happens to be Todd County in South Dakota. In doing so, water rights permits must be addressed by Rosebud Sioux Tribe and not the State of South Dakota within the exterior boundary of Rosebud Reservation.

The water rights permit for Mr. Edward Hill has the potential to jeopardize the health and welfare of tribal members on our Reservation.

As mentioned in our previous letter that USGS is evaluating the impact of water permits issued by the State of South Dakota on the Ogllala Aquifer within our Reservation.

We believe that the Tribes and States can coexist in harmony, only we need to respect each other's sovereignty based on the U.S. Constitution.

If you have any questions or comments please give me a call at (605) 747-2381 or Syed Huq, Direct of Water Resources at (605) 747-2559. Thank you.

Sincerely,

Rodney Bordeaux, President
Rosebud Sioux Tribe

CC: RST Tribal Council

RECEIVED

APR - 7 2008

WATER RIGHTS
PROGRAM

PO Box 118
St. Francis, SD 57572

Water Rights Program
Foss Building, 523 E. Capitol
Pierre, SD 57501

April 3, 2008

Re: Notice of Application No. 2624-2 to Appropriate Water

Mr. Eric Grunland:

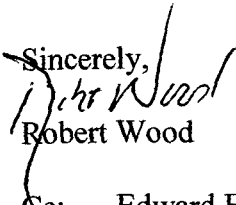
This is a formal written notice to express my **opposition** to the above application and that I wish to "petition" such application to drill for water at location SW $\frac{1}{4}$, Section 11, T36N-R29W for a permit issued to Mr. Edward E. Hill.

My home residence is located approximately $\frac{1}{2}$ a mile directly south of the selected site where the drilling of water will occur. My property and fence line are adjacent to the above site and is located at NE $\frac{1}{4}$, SE $\frac{1}{4}$ Section 36 T36N-R31W.

The reason for my opposition is:

1. Only Water Source. My well is the only source of water I have for my home residence and for my livestock and this source comes from the Ogallala Formation. I have concerns that appropriating 1.78 cubic feet of water per second (800 gallons per minute) out of this formation may have some effect on the depth and quality of my water. If the water levels drop I will surely get sand in the water.
2. Depletion of well. If my current water levels drop I will be forced to have my well drilled deeper. An expense I can not afford.
3. Sand. Sand in the water will burn out my pump – as I have already had to replace a pump once because of sand. This is another expense I can not afford to be paying all the time.
4. Drought. South Dakota will most surely be in another drought this season and we don't need another irrigation system draining an already scarce resource. If I'm not mistaken I believe the State of Nebraska currently has restrictions on any drilling for water into the Ogallala Formation because of drought concerns.

Sincerely,


Robert Wood

Cc: Edward E. Hill



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

April 8, 2008

NOTICE

TO: Edward E. Hill
PO Box 24
Kilgore NE 69216

Robert Wood
PO Box 118
St. Francis SD 57572

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

SUBJECT: Notice of Hearing on Water Permit Application No. 2624-2

A petition has been submitted in opposition to issuance of Water Permit Application No. 2624-2 filed by Edward Hill. The petition was filed in response to the Notice of Application to appropriate water published in the Todd Co. Tribune printed in Mission SD. This notice schedules a hearing before the Water Management Board to consider this application. A copy of petition is enclosed to the applicant.

Application No. 2624-2 proposes to appropriate 1.78 cubic feet of water per second from one well to be completed into the Ogallala Formation (approximately 200 feet deep) located in center of the SW 1/4 Section 11 to irrigate 136 acres located in the SW 1/4 Section 11; all in T36N-R29W.

The Water Management Board will conduct a hearing to consider Application No. 2624-2 at 1:30 PM on Wednesday, May 7, 2008 in the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. Future notice will be provided to all parties if there are changes to the hearing time. Pursuant to SDCL 46-2-9, 46-2-11, and 46-2A-23, the Board has legal authority and jurisdiction to conduct this hearing.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2624-2 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. 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 the application based on the evidence presented at the public hearing.

The May 7, 2008, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any party of record opposing the application. The request for an automatic delay must be filed by April 25, 2008.

This hearing may be an adversarial proceeding. Any party of record and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Enclosed is a copy of the report, recommendation and petition in the matter of Water Permit Application No. 2624-2. State law directs the Chief Engineer to provide Water Management Board members with a copy of all pleadings including petitions for each proceeding. This same information will be sent to the Board members in advance of the hearing. In addition, enclosed are two documents intended to acquaint parties with the hearing process entitled "Procedure for Hearings before the Water Management Board" and "Summary of South Dakota Water Laws and Rules". You are encouraged to review these documents prior to the hearing.

Please notify Eric Gronlund at (605) 773-3352 by April 25, 2008, if you have any questions about the hearing process. In addition, please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing.

The application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-23; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31, 46-6-3, 46-6-3.1; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

Questions regarding the hearing process may be directed to Eric Gronlund, Water Rights Program at (605) 773-3352.

c: Diane Best, Assistant Attorney General

NOTE: Since this matter does not involve a monetary controversy in excess of \$2,500.00 or termination of a property right in accordance with SDCL 1-26-18.3, the Chief Engineer has determined this contested case need not be referred to the Office of Hearing Examiners. If any party disagrees with this determination, the Chief Engineer shall be notified by April 25, 2008.

CERTIFICATION

I hereby certify that on April 8, 2008, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated April 8, 2008, regarding hearing for Water Right Permit Application No. 2624-2, as addressed below:

Edward E. Hill
PO Box 24
Kilgore NE 69216

Robert Wood
PO Box 118
St. Francis SD 57572

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

Diane Best, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501-8501



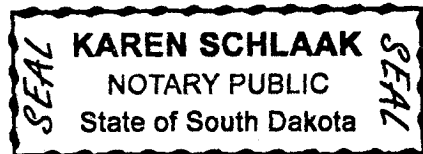
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 8th day of April 2008.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 15, 2008

Rodney Bordeaux, President
Rosebud Sioux Tribe
PO Box 430
Rosebud SD 57570

Honorable President Bordeaux:

I am responding to your letter to Steve Pirner in opposition to the water right permit application filed by Mr. Edward E. Hill in Todd County. Your letter constitutes a petition to intervene in the hearing process that is scheduled for May 7th in Pierre before the Water Management Board. You will be receiving a separate notice that is provided to all parties regarding this hearing.

In addition to the Rosebud Sioux Tribe, a petition was also filed by Robert Wood of St. Francis. These petitions were in response to the Notice of Application to appropriate water published in the Todd Co. Tribune printed in Mission SD and personal notification sent to Syed Huq, Director of Water Resources for the Rosebud Sioux Tribe.

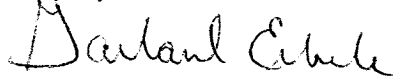
Application No. 2624-2 filed by Edward Hill proposes to appropriate 1.78 cubic feet of water per second from one well to be completed into the Ogallala Formation (approximately 200 feet deep) located in center of the SW 1/4 Section 11 to irrigate 136 acres located in the SW 1/4 Section 11; all in T36N-R29W. The property proposed for irrigation is owned by the Hill family who are not tribal members. The land is in fee status and is not trust property.

The Water Management Board will conduct a hearing to consider Application No. 2624-2 at 1:30 PM on Wednesday, May 7, 2008 in the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. Future notice will be provided to the Rosebud Sioux Tribe if there are changes to the hearing time.

The notice being sent to parties to formally scheduling a hearing will include a copy of the report, recommendation and petitions petition that were filed. This is the same report that was sent to Syed Huq for comment prior to the application being public noticed. In addition, two documents entitled "Procedure for Hearings before the Water Management Board" and "Summary of South Dakota Water Laws and Rules" which are intended to acquaint parties with the hearing process are being sent. I encourage parties to review these documents prior to the hearing.

We remain committed to communicating and working with the tribe to ensure that the Oglala Aquifer as a water source is protected for the benefit of the Rosebud Sioux Tribe and citizens of the state of South Dakota.

Sincerely,

A handwritten signature in cursive script, appearing to read "Garland Erbele".

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

cc: Syed Huq, Director of Water Resources



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 16, 2008

NOTICE

TO: Edward E. Hill Robert Wood
PO Box 24 PO Box 118
Kilgore NE 69216 St. Francis SD 57572

Rodney Bordeaux, President
Rosebud Sioux Tribe
PO Box 430
Rosebud SD 57570

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Notice of Hearing on Water Permit Application No. 2624-2, Edward Hill

This notice is a supplement to the April 8th notice scheduling a hearing on Water Permit Application No. 2624-2 filed by Edward Hill. An additional petition has been submitted by the Rosebud Sioux Tribe. The petitions were filed in response to the Notice of Application to appropriate water published in the Todd Co. Tribune printed in Mission SD. This notice schedules a hearing before the Water Management Board to consider this application.

Application No. 2624-2 proposes to appropriate 1.78 cubic feet of water per second from one well to be completed into the Ogallala Formation (approximately 200 feet deep) located in center of the SW 1/4 Section 11 to irrigate 136 acres located in the SW 1/4 Section 11; all in T36N-R29W.

The Water Management Board will conduct a hearing to consider Application No. 2624-2 at 1:30 PM on Wednesday, May 7, 2008 in the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD. Future notice will be provided to all parties if there are changes to the hearing time. Pursuant to SDCL 46-2-9, 46-2-11, and 46-2A-23, the Board has legal authority and jurisdiction to conduct this hearing.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2624-2 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. 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 the application based on the evidence presented at the public hearing.

The May 7, 2008, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any party of record opposing the application. The request for an automatic delay must be filed by April 28, 2008.

This hearing may be an adversarial proceeding. Any party of record and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Enclosed in the mailing to President Rodney Bordeaux is a copy of the report, recommendation and petitions in the matter of Water Permit Application No. 6959-3. Since this information was previously sent to Mr. Hill and Mr. Wood, only a copy of the Rosebud Sioux Tribe petition is enclosed in their mailing. State law directs the Chief Engineer to provide Water Management Board members with a copy of all pleadings including petitions for each proceeding. This same information will be sent to the Board members in advance of the hearing. In addition, enclosed in the Rosebud Sioux Tribe mailing are two documents previously sent to the other parties. These documents entitled "Procedure for Hearings before the Water Management Board" and "Summary of South Dakota Water Laws and Rules" are intended to acquaint parties with the hearing process. All parties are encouraged to review these documents prior to the hearing.

Please notify Eric Gronlund at (605) 773-3352 by April 28, 2008, if you have any questions about the hearing process. In addition, please notify the Department of Environment and Natural Resources at least 48 hours before the hearing if you have a disability for which special arrangements must be made at the hearing.

The application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-23; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31, 46-6-3, 46-6-3.1; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

Questions regarding the hearing process may be directed to Eric Gronlund, Water Rights Program at (605) 773-3352.

c: Diane Best, Assistant Attorney General

NOTE: Since this matter does not involve a monetary controversy in excess of \$2,500.00 or termination of a property right in accordance with SDCL 1-26-18.3, the Chief Engineer has determined this contested case need not be referred to the Office of Hearing Examiners. If any party disagrees with this determination, the Chief Engineer shall be notified by April 28, 2008.

CERTIFICATION

I hereby certify that on April 16, 2008, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated April 16, 2008, regarding hearing for Water Right Permit Application No. 2624-2, as addressed below:

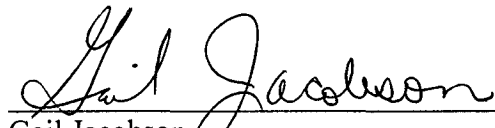
Edward E. Hill
PO Box 24
Kilgore NE 69216

Robert Wood
PO Box 118
St. Francis SD 57572

Rodney Bordeaux, President
Rosebud Sioux Tribe
PO Box 430
Rosebud SD 57570

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

Diane Best, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501-8501



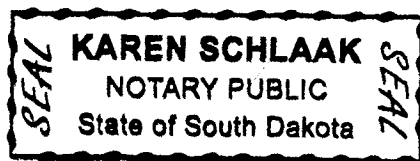
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 16th day of April 2008.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

May 9, 2008

NOTICE

TO: Edward E. Hill
PO Box 24
Kilgore NE 69216

Michael Valandra, Sr.
Counsel Representative #5
Box 234
St. Francis SD 57572

Rodney Bordeaux, President
Rosebud Sioux Tribe
PO Box 430
Rosebud SD 57570

FROM: Garland Erbele, Chief Engineer
Water Rights Program

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

The Water Management Board directed Diane Best, counsel for the Water Right Program, to prepare proposed Findings of Fact, Conclusions of Law and a Final Decision in the matter of Water Permit Application No. 2624-2 filed by Edward Hill. The Board will consider adoption of Findings, Conclusions and Final Decision at 8:45 AM, on July 2, 2008, in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre SD.

The Board requested that a copy of the proposed Findings, Conclusions and Final Decision be mailed to each Board member and parties by June 12, 2008. Written objections or comments in support of the proposed Findings, Conclusions and Final Decision, or alternative Findings, Conclusions and Final Decision are to be mailed to each Board member, the Board attorney (mailing list enclosed) by June 23, 2008

At the Board's discretion, oral arguments by parties who timely filed written comments in opposition or support of the proposed Findings, Conclusions and Final Decision, or alternative Findings, Conclusions and Final Decision may be made on July 2, 2008. The public hearing was completed on May 7, 2008. No additional testimony will be received.

If you have questions about the findings process, please contact Eric Gronlund at (605) 773-3352.

Enclosure

c: Jeff Hallem, Assistant Attorney General
Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on May 9, 2008, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated May 9, 2008, regarding preparation of findings of fact, conclusions of law and a final decision for Water Right Permit Application No. 2624-2, as addressed below:

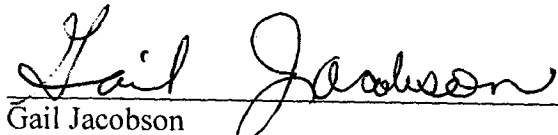
Edward E. Hill
PO Box 24
Kilgore NE 69216

Michael Valandra, Sr.
Counsel Representative #5
Box 234
St. Francis SD 57572

Rodney Bordeaux, President
Rosebud Sioux Tribe
PO Box 430
Rosebud SD 57570

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

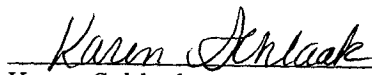
Diane Best, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501-8501



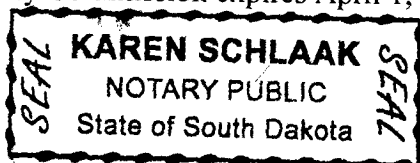
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 9th day of May 2008.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013



STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501

Phone (605) 773-3215

Fax (605) 773-4106

TTY (605) 773-6585

www.state.sd.us/atg

LARRY LONG
ATTORNEY GENERAL

RECEIVED

JUN 16 2008

WATER RIGHTS
PROGRAM

CHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

June 12, 2008

TO: Water Board and Interested Parties

FROM: Diane Best, Assistant Attorney General 

RE: In the Matter of Water Permit Application No. 2624-2,
Edward Hill

As required by the Board, I am enclosing proposed Findings of Fact and Conclusions of Law in the above-referenced matter.

It is my understanding that the parties will have until June 23, 2008, to submit responses and alternatives to these proposals and send them to all parties. Hearings on the proposed Findings will be July 2, 2008.

DB:js
Enclosure

RECEIVED

JUN 16 2008

WATER RIGHTS
PROGRAM

STATE OF SOUTH DAKOTA

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)	FINDINGS OF FACT,
APPLICATION NO. 2624-2,)	CONCLUSIONS OF LAW
EDWARD HILL)	AND FINAL DECISION
)	

FINDINGS OF FACT

1. Hearing was held on the above-entitled matter on May 7, 2008.
2. This is an application to appropriate 1.78 cubic feet per second of water. The water will be used by the Applicant for irrigation of approximately 136 acres of land located in the SW1/4 Section 11, T-36N, R29W, in Todd County approximately 15 miles southeast of Mission, South Dakota. The applicant's proposed use is crop irrigation.
3. The grant of this application would allow the Applicant to appropriate water from the Ogallala Aquifer. The point of diversion will be within the exterior boundaries of the Rosebud Sioux Reservation.
4. Edward Hill's family owns the property in question. He is not a tribal member and the land involved is not held in trust for a tribe or tribal member.
5. The source of water under the application is the Ogallala Aquifer which is an alluvial aquifer that underlies approximately 950 square miles in Todd County. It is reliably

estimated that the aquifer contains at least 17 million acre feet of recoverable water in storage in Todd County alone. The general direction of groundwater flow in this area is to the southeast.

6. Based on monitoring wells operated by the water rights program, and as described below, unappropriated water is available from the Ogallala Aquifer for this application.

7. The water rights program has 22 observation wells in Todd County. One observation well (TD-76F) is approximately 1.25 miles southwest from the site of the application and shows a slight decline over the study period from 1977 to the present. Water Rights Program expert witness Mark Costello attributes this decline to a localized phenomenon i.e. increased pumping in close proximity to the observation well. There are several irrigation wells near the observation well.

8. In addition to TD-76F, the Water Rights Program operates two other observation wells in this aquifer in Todd County. Observation well TD-76F is approximately 2.75 miles northeast of the proposed diversion. Observation well TD-90A is approximately 2.5 miles southwest of the proposed diversion. Each shows that the aquifer is responsive to climatic conditions. The water levels rise during times of increased rainfall and gradually decline with time until there is once again a recharge event. Based on the observation wells, which

are spaced in various places in the aquifer, water is available from the aquifer for this water use. Mr. Costello also examined monthly readings from observation wells maintained by the RST including the RST observation well (Well No. 12). Based on available information the RST observation well data (Exhibit 7) is consistent with the State observation well data as graphed in the Costello expert report.

9. Water Rights Program witness Mark Costello also testified that the proposed irrigation is unlikely to impair existing water rights. In making this analysis, witness Costello considered information regarding irrigation systems authorized by the State of South Dakota. There are nine South Dakota Water Permits within two miles of this diversion. Based on the Costello expert opinion, these wells are unlikely to experience adverse impairment from the applicants' use for irrigation. There are no other state issued water rights within two miles of the applicant's proposed site.

10. In addition, the nine existing State issued water permits hold priority dates prior to this application. Because those water rights hold priority dates previous to the application involved here, they would have protection under state law against adverse interference.

11. The Rosebud Sioux Tribe (RST) intervened in this proceeding and presented testimony through Darrell Kills-In-

Sight Marcus, Reuben McCloskey, Michael Valandra, Sr., and Steven Valandra. They were chosen by the Tribal Council to represent the RST. Darrell Kills-In-Sight Marcus appeared as a consultant.

The RST or its members may claim an even earlier priority date though the State granted water rights based on treaties or federal water law doctrines. These Findings of Fact and Conclusions of law do not purport to determine the existence of, quantify or adjudicate any tribal claim to a treaty or federal law right, whether denominated a "Winters Right" or otherwise.

12. During testimony Mark Costello testified that he had considered the monitoring wells operated by the Rosebud Sioux Tribe in the Ogallala Aquifers when offering his opinions regarding water availability and lack of impairment of existing water rights (along with published studies of water sources in the area as cited in his report). At the hearing the RST witnesses did not contradict the data from the RST monitoring wells as discussed by Costello.

13. Costello testified that he used the state database of monitoring wells and used information provided by the RST. DENR witness James Goodman, a long time ground water expert employed by the DENR also testified that the DENR considers, to the extent practical, the Rosebud Sioux Tribe information in

reviewing water rights applications and in administering water rights, when access is available to such information.

14. The RST representatives asserted that there has been a lack of formal communications between the Rosebud Tribe and the State of South Dakota on water administration.

15. DENR witness Eric Gronlund testified that a copy of the application and draft expert report in this case was sent on February 15, 2008, to Syed Huq and the Tribal Chairman responded on February 27. On March 17, the final report was sent to the Tribe. It was also published in area newspapers. A Notice was also sent to all parties that included information on the procedural requirements for hearing.

16. The RST representatives did not dispute that the RST water rights specialist Syed Huq had been sent a letter specifically with respect to the Edward Hill application even before the matter was published in the newspaper. He indicated, however, that letter had only been sent to Mr. Huq and not to the entire treaty council. In this particular case, there was sufficient time available for the RST to supply additional information to the DENR for analysis and for RST preparation for presenting of such information at hearing, considering that both the Chairman and Mr. Huq were aware of the proceeding and could have coordinated with the Rosebud representatives and the other

witness who were present. Neither the Chairman nor Mr. Huq were present at the hearing.

17. Darrell Kills-In-Sight Marcus asserted that this Board lacks authority over the present application and fails to recognize the Winters doctrine, is an infringement on inherent Tribal authority and is contrary to principles of self-government and Tribal sovereignty. He testified that his view was the same as the view he had presented on behalf of the Sicangu Nation in the separate application of Tom Milligan, which had been heard by the Water Board in December. (The Sicangu Nation did not intervene as a party in this case.)

18. Mr. Marcus testified in the Milligan case that he was concerned about the implications of this water right on tribal sovereignty and on tribal water rights in general. He stated that he represents grassroots traditional people that do not recognize the tribal organization which currently exists under the 1934 Indian Reorganization Act. In the presently pending case he testified on behalf of the RST. The Board does not purport to determine the relationship among the tribal entities. It appears, however, that there is a lack of communication among the RST personnel or interests when communications regarding water rights are received by RST from the State. This confusion should not weigh against the present application filed by Mr. Hill.

19. The Rosebud representatives did not challenge the DENR expert opinion that there is sufficient water available from the Ogallala Aquifer in South Dakota for this particular application or that it would not impair existing rights. Michael Valandra testified that he was concerned about a different water permit already held by Mr. Hill that is separate from the presently pending matter. That separate water right is near St. Francis, several miles away.

20. Michael Valandra also asserted that Mr. Hill lacks authority to obtain a water right unless he holds the mineral rights on the property.

21. Based on the evidence presented at hearing, the grant of this application for the use of water to irrigate 136 acres would not interfere with the Rosebud Sioux Tribe's right to make its own laws and be governed by them. The grant of the right would not interfere with any legally protected right to the Rosebud Sioux Tribe.

22. Based on the foregoing Findings of Fact, this Board finds that this Permit will not adversely impair existing water rights for appropriative use and will not interfere with the Rosebud Sioux Tribe's claims of water rights under federal doctrines or treaties, as applicable.

23. In addition to appropriative water rights, there may be domestic wells completed into the Ogallala Aquifer in this area.

24. Prior rights for appropriative water use and any right for domestic use would take priority over the appropriative water right granted in this proceeding, provided that such prior rights or domestic rights are from adequate wells, i.e., wells that are constructed sufficiently deep into the aquifer to warrant such protection. Simply put, the pump placement in a prior appropriative well or domestic well may not be protected if the well does not meet well construction standards. This Board has concluded in the past that because water resources are to be put to beneficial use to the fullest extent of which they are capable, it will not protect prior water users who do not have adequate wells to support water use.

25. The Board finds that the proposed diversion will not adversely impair existing domestic or appropriative water rights as described in the foregoing Findings of Fact.

26. The evidence available to this Board is sufficient to determine that adequate water is available from the Ogallala Aquifer for this permit and that appropriative and domestic wells completed in the Ogallala Aquifer in this area will not be unlawfully impaired.

27. The Board has also considered whether the proposed use is beneficial. The Board finds that the appropriation of water for irrigation, as described in the previous Findings of Fact, is reasonable and useful and beneficial to the appropriator. In addition to benefit to the appropriator, this Board must also consider whether the contemplated use is consistent with the interests of the public of this state in the best utilization of water supplies. This Board has consistently approved applications for water use for irrigation for crops in the past.

28. Granting the water use would not interfere with the Rosebud Sioux Tribe's right to make its own laws and be governed by them or to claim water rights under federal doctrines or treaties, as applicable.

29. The four RST witnesses are generally concerned about state infringement on tribal sovereignty. They did not assert that the specific proposed irrigation use would impair any water rights that they hold personally. In fact, none of those witnesses intervened personally.

30. Robert Wood also intervened. He did not appear at hearing. His property is about 11 miles from the property involved in this application.

31. This Board determines that the water use in this case is consistent with the interests of the public of this state in

the best utilization of water supplies. Using water for irrigation as proposed is a beneficial use.

32. This Board is also required to consider public interest. Using water for irrigation is in the public interest. No intervener asserts otherwise. The Rosebud Tribe itself has a center pivot irrigation system.

33. When considering the public interest, the Board considers a wide variety of public interest concerns including economic value in irrigated crops, and possible impacts to neighboring property owners and others using nearby lands. Such impacts must, of course, be considered in terms of the public interest (or lack thereof) relating to the specific use at hand. The Water Management Board finds that the water use for irrigation is in the public interest.

34. The foregoing Findings and Conclusions pertaining to beneficial use concerns also apply to consideration of public interest.

35. The Board finds that: (a) there is reasonable probability that there is unappropriated water available for the Applicant's proposed use; (b) the proposed diversion can be developed without unlawful impairment of existing rights; (c) the proposed use is a beneficial use; and (d) the proposed use is in the public interest.

CONCLUSIONS OF LAW

1. RST representatives assert that the Board lacks authority to grant permits on the Rosebud Reservation. The proposed point of diversion is in Todd County on the Rosebud Sioux Reservation, but both the property to be irrigated and the well in question are owned in fee title by the Hill family, entities and is not owned by a tribe or tribal member. The land is in fee status and is not trust property. No party claims otherwise as to any of these points.

2. The Board rejects the claim that landowners are required to hold mineral rights to property in order to acquire water rights. Water rights claims and mineral rights are legally distinct matters and not dependant on one another. The water Board holds jurisdiction to consider this permit under SDCL Title 46.

3. Based on the evidence presented at hearing, the Board concludes that the grant of this application for water use for irrigation of 136 acres would not interfere with the Rosebud Sioux Tribe's right to make its own laws and be governed by them. The Board makes no determination regarding the rights of the various representatives of the RST to control or influence the administration of any tribal claim to a water right.

4. There is a reasonable probability there is unappropriated water available for the Applicant's proposed use from the Ogallala Aquifer.

5. The proposed use for irrigation is a beneficial use in that it is: (a) reasonable and useful and beneficial to the appropriator and, (b) at the same time is consistent with the interests of the public of this state in the best utilization of water supplies. SDCL 46-1-6(3).

6. The proposed diversion can be developed without unlawful impairment of existing rights. The Board concludes that any effect on either appropriative or domestic wells will not cause adverse impairment to properly constructed wells.

7. The Rosebud Tribe may claim prior existing rights for water uses including irrigation and domestic water use. In these Findings of Fact or Conclusions of Law, the Board does not purport to quantify or adjudicate other uses stemming from federal doctrines or treaty rights. Based on the foregoing Findings of Fact, this Board finds that this Permit will not adversely impair existing water rights for appropriative use and will not interfere with the tribal right to govern itself or to claim water rights under federal doctrines or treaties, as applicable.

8. In light of the foregoing Findings, the proposed use for irrigation is in the public interest.

9. This Board has carefully considered the positions of the various parties in this matter. SDCL 46-1-4 requires that South Dakota's water resources be put to beneficial use to the fullest extent of which they are capable. Further, the "beneficial use" criteria for consideration of the water permit in this case requires consideration of the best utilization of the water supply. Ultimately, the legal criteria for approval of water permits in this matter are designed to provide for maximum utilization of water for the arid climate in western South Dakota. This Board finds that these legal requirements are best met by approval of the water permit at issue in this case.

FINAL DECISION

Application No. 2624-2 is hereby granted and a Permit shall be issued forthwith containing the following qualifications:

1. The well approved under this Permit may be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

2. The well authorized by Permit No. 2624-2 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water

Management Board well construction rules, ch. 74:02:04, with the well casing pressure grouted (bottom to top) pursuant to § 74:02:04:28.

3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

Dated this _____ day of July, 2008.

BY THE BOARD:

James Hutmacher, Chairman

STATE OF SOUTH DAKOTA

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 2624-2) CERTIFICATE OF SERVICE
EDWARD HILL)

The undersigned hereby certifies that true and correct copies of Proposed Findings of Fact, Conclusions of Law and Final Decision In the Matter of Water Permit Application No. 2624-2, Edward Hill, were served upon each of the following by enclosing the same in envelopes with first class postage, prepaid and affixed thereto, and depositing said envelopes in the United States mail, at Pierre, South Dakota, on this 18th day of June, 2008.

Edward Hill
P.O. Box 24
Kilgore, NE 69216

Rosebud Sioux Tribe
P.O. Box 439
Rosebud, SD 57570-0439

Michael Valandra, Sr.
Council Representative #5
P.O. Box 234
St. Francis, SD 57572-0234

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

Leo Holzbauer
29416 395th Avenue
Wagner, SD 57380

Darrell Marcus
Sicangu Nation
P.O. Box 506
St. Francis, SD 57572

Robert Wood
P.O. Box 118
St. Francis, SD 57572-0118

Syed Huq, Director
Rosebud Sioux Tribe
Water Resources
P.O. Box 430
Rosebud, SD 57570

Everett Hoyt
4422 Carriage Hills Drive
Rapid City, SD 57702

Bernita Loucks
219 42nd Street
Rapid City, SD 57702

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

Tim Bjork
112 W Oak Street
Pierre, SD 57501

Steven Valandra
P.O. Box 32
St. Francis, SD 57572-0032

Ruben McCloskey
P.O. Box 1519
Mission, SD 57555-1519

By interoffice to:

Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources
Foss Building
532 East Capitol
Pierre, SD 57501

By hand delivery to:

Jeffrey P. Hallem
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, SD 57501-8501



Diane Best
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, SD 57501-8501
Telephone: (605) 773-3215

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)	WATER MANAGEMENT BOARD'S
APPLICATION NO. 2624-2,)	RULINGS ON DENR PROPOSED
EDWARD HILL)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW AND
)	FINAL DECISION

Pursuant to the directions of the Water Management Board, counsel for the Department of Environment and Natural Resources Water Rights Program (hereinafter referred to as "DENR") prepared and submitted proposed Findings of Fact, Conclusions of Law, and Final Decision in the above-entitled matter. Neither Intervenor nor Applicant filed written objections or comments in support of these proposed Findings of Fact, Conclusions of Law and Final Decision or alternative Findings of Fact, Conclusions or Law or Final Decision within the time frame provided by the Board, during the May 7, 2008, hearing, and in the Notice issued by the Chief Engineer dated May 9, 2008. Said objections, comments, or alternative proposed pleadings were to be received by June 23, 2008. The Board, based upon review of the submission received, the administrative record, and having orally entered its decision, hereby makes the following rulings:

A. That DENR proposed Findings of Fact Nos. 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 33, 34, and 35 are accepted by the Board.

B. That DENR proposed Findings of Fact No. 8 is accepted by the Board as modified below to more accurately reflect the administrative record and for grammatical purposes to clarify that the reference "RST" is the "Rosebud Sioux Tribe":

8. In addition to TD-76F, the Water Rights Program operates two other observation wells in this aquifer in Todd County that are located near Applicant's proposed diversion. Observation well ~~TD-76F~~ TD-76G is approximately 2.75 miles northeast of the proposed diversion. Observation well TD-90A is approximately ~~2.5~~ 2.25 miles southwest of the proposed diversion. Each shows that the aquifer is responsive to climatic conditions. The water levels rise during times of increased rainfall and gradually decline with time until there is once again a recharge event. Based on the observation wells, which are spaced in various places in the aquifer, water is available from the aquifer for this water use. Mr. Costello also examined monthly readings from observation wells maintained by the Rosebud Sioux Tribe (RST) ~~RST~~ including the RST observation well (Well No. 12). Based on available information the RST observation well data (Exhibit 7) is consistent with the State

observation well data as graphed in the Costello expert report.

C. DENR proposed Finding of Fact Nos. 14 and 32 are accepted by the Board with each finding being modified for grammatical purposes by changing "Rosebud Tribe" to "Rosebud Sioux Tribe."

D. DENR proposed Finding of Fact No. 17 is accepted by the Board with the first sentence modified for grammatical purposes by changing the word "Tribal" where found to "tribal" and the second sentence modified for grammatical purposes by changing "Water Board" to "Water Management Board."

E. DENR proposed Conclusions of Law Nos. 3, 4, 5, 6, 8, and 9 are accepted by the Board.

F. DENR proposed Conclusion of Law No. 1 is accepted by the Board as modified below for grammatical purposes to reference "Rosebud Reservation" as the "Rosebud Sioux Reservation" and other minor grammatical changes:

1. RST representatives assert that the Board lacks authority to grant permits on the Rosebud Sioux Reservation. The proposed point of diversion is in Todd County on the Rosebud Sioux Reservation, but both the property to be irrigated and the well in question are owned in fee title by the Hill family, ~~entities~~ and are ~~is~~ not owned by a tribe or tribal member. The

land is in fee status and is not trust property. No party claims otherwise as to any of these points.

G. DENR proposed Conclusion of Law No. 2 is accepted by the Board with the third sentence modified for grammatical purposes, changing "water Board" to "Water Management Board" and by inserting the word "application" after the word "permit," so that the sentence reads as follows:

2. . . . The Water Management Board holds jurisdiction to consider this permit application under SDCL Title 46.

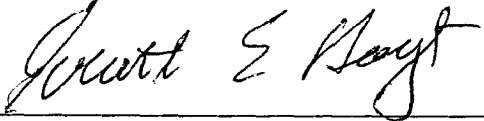
H. DENR proposed Conclusion of Law No. 7 is accepted by the Board with the first sentence modified for grammatical purposes, changing "Rosebud Tribe" to "Rosebud Sioux Tribe."

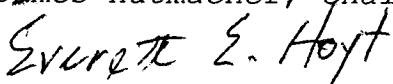
I. DENR proposed Final Decision is accepted by the Board.

The Board attorney is directed to prepare Findings of Fact, Conclusions of Law and Final Decision consistent with the above rulings to be executed by the Chairman of the Board or designee without further motion or hearing.

Dated this 2nd day of July, 2008.

SOUTH DAKOTA WATER MANAGEMENT BOARD



James Hutmacher, Chairman




DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

July 7, 2008

NOTICE

TO: Edward E. Hill
PO Box 24
Kilgore NE 69216

Michael Valandra, Sr.
Counsel Representative #5
Box 234
St. Francis SD 57572

Rodney Bordeaux, President
Rosebud Sioux Tribe
PO Box 430
Rosebud SD 57570

FROM: Garland Erbele, Chief Engineer
Water Rights Program

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

This is to notify you that the Water Management Board adopted its Final Decision, including Findings of Fact and Conclusions of Law on July 2, 2008, approving Water Permit No. 2624-2 filed by the Edward E. Hill. The Board's rulings on proposed findings and the signed Findings of Fact, Conclusions of Law and Final Decision are enclosed.

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

Enclosures

c: Jeff Hallem, Assistant Attorney General
Diane Best, Assistant Attorney General
Darrell Marcus, Sicangu Nation, PO Box 506, St. Francis SD 57572
Syed Huq, Water Resource Director, Rosebud Sioux Tribe, PO Box 430, Rosebud SD 57570
Steven Valandra, PO Box 32, St. Francis SD 57572-0032
Ruben McCloskey, PO Box 1519, Mission SD 57555-1519

CERTIFICATION

I hereby certify that on July 7, 2008, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated July 7, 2008, regarding adoption of findings of fact, conclusions of law and a final decision for Water Right Permit No. 2624-2, as addressed below:

Edward E. Hill
PO Box 24
Kilgore NE 69216

Michael Valandra, Sr.
Counsel Representative #5
Box 234
St. Francis SD 57572

Rodney Bordeaux, President
Rosebud Sioux Tribe
PO Box 430
Rosebud SD 57570

Darrell Marcus
Sicangu Nation
PO Box 506
St. Francis SD 57572

Syed Huq, Water Resource Director
Rosebud Sioux Tribe
PO Box 430
Rosebud SD 57570

Steven Valandra
PO Box 32
St. Francis SD 57572-0032

Ruben McCloskey
PO Box 1519
Mission SD 57555-1519

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

Diane Best, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501-8501

Jeff Hallem, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501-8501

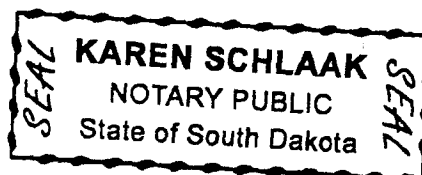

Gail Jacobson

Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 7th day of July 2008.


Karen Schlaak
Notary Public
My Commission expires April 1, 2013





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

SEP 17 2008

Edward E Hill
PO Box 24
Kilgore NE 69216

Dear Mr. Hill:

Enclosed is Water Permit No. 2624-2 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

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

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

Sincerely,

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

enclosures

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec 11 Twp 36 Rg 29

County

Todd

North

Please mark well location with an "X"

W

E

Well Completion Date

5/18/2009

1 Mile

Distance to nearest potential pollution source (Septic tank, abandoned well, feed lot, etc.)

? _____ ft. from _____ (identify source)

PROPOSED USE:

☐ Domestic/Stock ☐ Municipal ☐ Business ☐ Test Holes
☒ Irrigation ☐ Industrial ☐ Institutional ☐ Monitoring well

METHOD OF DRILLING:

REVERSE ROTARY

CASING DATA:

☐ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
20.0 LB/FT	16.00 IN	0.0 FT	71.0 FT	30.00 IN

LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
CEMENT	50	15.5 Lb/gal	20.0 Ft	0.0 Ft

Describe grouting procedure
PUMP TREMIE PIPE

SCREEN:

☒ Perforated pipe ☐ Manufactured
Diameter 16.00 Inches Length 20.0 FeetMaterial PVCSlot Size .080 Set From 71.0 Feet to 251.0 Feet

Other information _____

WAS A PACKER OR SEAL USED?

☐ Yes ☒ No

If so, what material? _____

Describe packer(s) and location _____

DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? HTH
☐ No, Why Not? _____

Lab sample sent to for water quality analysis

Well Owner: ROBERT HILL

Business Name: _____

Address: R.R. 1 BOX 24City, State, Zip: KILGORE NE 69216

WELL LOG:

DEPTH

FORMATION	FROM	TO
top soil	0	2
sand,sandstone,limestone-clay layer	2	32
sand,peppersand,sandstone,clay lay	32	56
sand,sandstone,clay - limestone laye	56	72
sand, pepper sand,sandstone,clay la	72	136
sand,sandstone,pepper sand,clay la	136	186
sand,pepper sand,sandstone-clay la	186	252
red rock	252	260

STATIC WATER LEVEL 49.0 FEET

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☒ Pumped Describe: _____
☐ Bailed
☐ Other

Pumping Level Below Land Surface

1,250.0 Ft. After 2.0 Hrs. pumped 180.0 GPM1,000.0 Ft. After 2.0 Hrs. pumped 158.0 GPMIf pump installed, pump rate: 800.0 GPM

RECEIVED

JUN 22 2009

WATER RIGHTS PROGRAM

REMARKS

This well was drilled under license # 189

And this report is true and accurate.

Drilling firm: GROSCH IRRIGATION CO., INC.

Signature of License Representative: _____

Signature of Well Owner or Equitable Property Holder: _____

Date: _____

Permit No. 2624-2
Niobrara Tributary - Water District

Other permit/license(s) associated with project: None directly related to this system

Contact Person & Address: Edward Hill, PO Box 24, Kilgore NE 69216

Report Of Examination Of Works

On, September 22, 2010, I made a thorough examination of the water use system constructed by Edward E. Hill of PO Box 24, Kilgore NE 69216 holder of Permit No. 2624-2, bearing the priority of January 18, 2008 authorizing the diversion of 1.78 cu. ft. per second of the waters of the Ogallala Aquifer for irrigation purposes, in Todd County.

The system is in the following condition excellent. The point of diversion is located in the approximate center of the SW ¼ Section 11, T36N, R29W (1,320 feet north and 1,320 feet west of the SW ¼ Section 11(with a longitude of -10070348 and a latitude of 43.10757. The works are capable of diverting and conveying to the place of use 1.78 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:

all in Section 11, T36N, R29W

NW ¼ SW ¼	34 acres	SW ¼ SW ¼	34 acres
NE ¼ SW ¼	34 acres	SE ¼ SW ¼	34 acres

comprising a total of 136 acres of land and the license should be issued for 1.78 cfs.

Review of Permit Qualifications And Regulations:

- 1) Special qualifications to permit being abided by yes
- 2) All structures, wells and lands on map yes
- 3) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period yes
- 4) Exceptions to compliance are: none

Report On the Specifics of the System

Diversion Point Information:

- 1) Well Drilling Firm: Grosch Irrigation (No. 189)
- 2) No. of Wells 1
- 3) Depth(s) 260 feet
- 4) Well log is available yes

Casing:

- 1) Diameter 16 inches
- 2) Length 71 feet
- 3) Type plastic

Screen:

- 1) Type PVC
- 2) Length 180 feet
- 3) Static water level 49 feet

Pump\ Motor:

- 1) Pump Make Western Land Roller
- 2) Pump Model
- 3) Capacity 800 GPM
- 4) Motor Make General Electric
- 5) Motor Model No.
- 6) Horsepower rating 75 hp

System Type:

Center pivot:

- 1) Make Valley
- 2) Overall length 1308 feet (plus end gun of 75 feet)
- 3) Number of towers 8
- 4) End gun yes
- 5) High or low pressure
- 6) Capacity 800 GPM

Chemigation:

- 1) Does chemigate yes
- 2) Main line check valve yes
- 3) Inspection port/air relief yes
- 4) Low pressure drain yes
- 5) Discharge is 20' from source yes
- 6) Interlock type
- 7) Injection pump type
- 8) Injection check valve yes
- 9) Injection line check valve or positive displacement pump
- 10) All chemigation equipment appears to be installed in the proper position and complies with chemigation laws and rules yes, based on the opinion of the investigator the chemigation equipment complies.

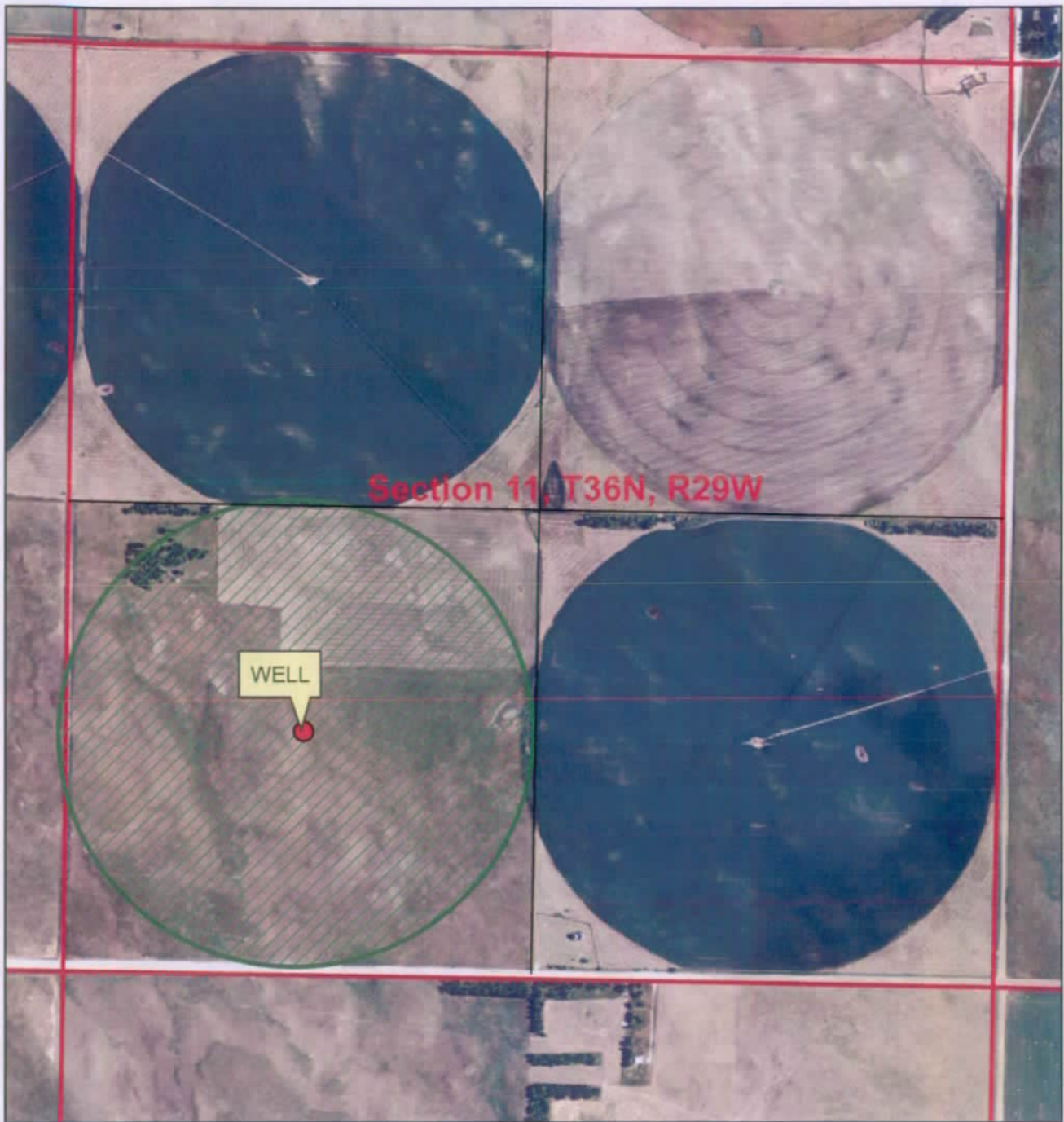
COMMENTS: Well completion report states well produces 800 gpm. The 2009 irrigation season was the first year the system was operated. Mr. Hill reported 800 gpm on the 2009 annual irrigation questionnaire. The irrigation questionnaire indicates that only 80 acres were irrigated in 2009 but that once the land is further leveled the pivot will make a full rotation. Mr. Hill stated during our on-site visit that the pivot is now able to do full rotation but that more land leveling will be done.



Eric Gronlund PE
Natural Resources Engineer
DENR, Water Rights Program

12/23/10
Date

Water Permit No. 2624-2, Edward E. Hill



0 330 660 1,320 1,980 2,640 Feet

Well - approximately 1,320 feet north and 1,320 feet east of SW corner Section 11, T36N, R29W
Latitude 43.10757
Longitude -100.70348



Eric Gronlund

Eric Gronlund
Water Rights Program, DENR
License Investigation - September 22, 2010

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

Date 9/22/10

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

FROM: Ed Hill
(name)

(address)

(city, state, zip)

(phone)

I have completed the construction of the water use system and I have put the water to beneficial use to the maximum extent it is going to be used.

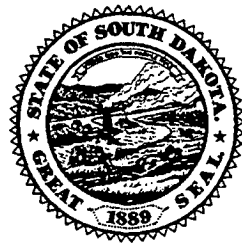
Water Permit No. 2624-2 states that the water use system is to be constructed by 7/2/13, and water is to be put to beneficial use by 7/2/2017.
(date) (date)

The water use system was completed on 2009.
(date)

Applying the water to beneficial use was completed on 2009.
(date)

You may schedule an investigation so that the water license may be issued.

Edward E Hill
(signature)





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

JAN 14 2011

2533-2
2624-2

Edward E Hill
PO Box 24
Kilgore NE 69216-0024

Dear Mr. Hill:

Enclosed are Water License Nos. 2533-2 and 2624-2. They are the final water right documents completing your process of obtaining Water Rights. Included with each 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 wells authorized by Water Right Nos. 2533-2 and 2624-2, 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 Licenses, 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, appearing to read "Garland Erbele".

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

enclosures

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 2533-2**

(1) Edward E Hill, PO Box 24, Kilgore NE 69216 made Application No. 2533-2, August 12, 2004 for a water permit to divert 1.78 cubic feet of water per second from ground water (two wells – Ogallala Aquifer), Todd County, South Dakota for irrigation purposes. Permit No. 2533-2, with a priority date of August 12, 2004 was approved November 15, 2004 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before November 15, 2009 and for the application to beneficial use of said water on or before November 15, 2013.

In 2005 and 2008, two additional diversion points were authorized for a total of four wells. Pursuant to SDCL 46-5-13.1, the location of a diversion point may be changed or additional diversion points may be licensed provided no new land is irrigated and no additional water is appropriated. The Chief Engineer made a finding pursuant to SDCL 46-5-13.1 and ARSD 74:02:01:14.01 that the additional diversion points did not increase the potential for adverse effects to existing diversions.

(2) It is certified that the permit holder 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 1.57 cubic feet of water per second for beneficial use. The location of the diversion points are:

- 1,300 feet south and 1,325 feet west of the NE corner Section 36, T36N, R31W;
- 1,250 feet south and 750 feet west of the NE corner Section 36, T36N, R31W;
- 1,250 feet south and 360 feet west of the NE corner Section 36, T36N, R31W;
- 850 feet south and 160 feet west of the NE corner Section 36, T36N, R31W;

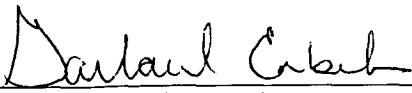
(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use to irrigate the following land:

Section 36, T36N, R31W	NW ¼ NE ¼	33 acres
	NE ¼ NE ¼	33 acres
	SW ¼ NE ¼	33 acres
	SE ¼ NE ¼	33 acres
	Total	132 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 Edward E Hill, PO Box 24, Kilgore NE 69216 the holder and/or owner of Water Right No. 2533-2 is issued a license to appropriate water, the right to use 1.57 cubic feet of water per second from ground water (four wells – Ogallala Aquifer) with a priority date of August 12, 2004 from the locations specified in (2) of this license for irrigation purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 2533-2 and subject to the following qualification:

- 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.
- The wells authorized by Permit No. 2533-2 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with the Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28. ***Wells drilled by Bill Frew Drilling and Grosch Irrigation – copies of well logs on file with the Water Rights Program.***
- This Permit is approved subject to the irrigation water use questionnaire being submitted each year.


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

JAN 14 2011

date



2624-2



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 31, 2016

Edward & Marilyn Hill
106 Lakeshore Dr
Valentine NE 69201 9300

RE: Water Right/Permit Nos. 1289-2, 2381-2, 2382-2 and 2624-2

Dear Mr. & Mrs. Hill:

Enclosed is a "Notice" dated October 21, 2016 concerning the 2016 irrigation questionnaires.

The notice was originally mailed to PO Box 24, Kilgore NE. The post office notified us that your address has changed and I will update our records accordingly.

If you have any questions, please contact me.

Sincerely,

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

enclosures