

WATER PERMIT NO. 2662-2

Name of Applicant: M L T Investments

Address: PO Box 230, Valentine NE 69201 Phone: 402 376-3039

Amount of Water Claimed: 1.89 Total Acres: 140 ac

Source of Water Supply: groundwater (2 wells)

Water to be used for: irrigation County: TD

Type of Waste Disposal System:

Location: 15 miles southwest of Mission

PRIORITY Date Received: 1-18-11

Application/License Fee: \$1050

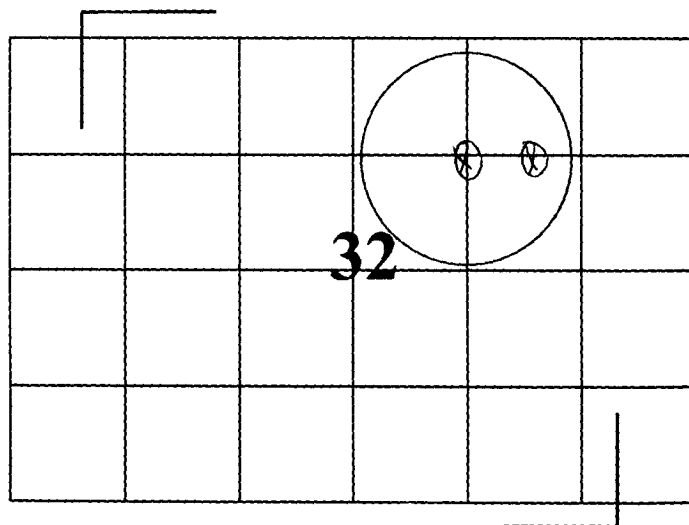
Corrected Application Received:

Period of Annual Use: March 1 – November 30

Remarks:

Diversion Point: NE ¼ Sec 32-T37N-R29W

Land to be Irrigated: NE ¼ Sec 32-T37N-R29W⁹



Depth of Well: 260 feet deep

Well Driller:

Remarks:

Type of Map: aerial

Prepared by: Kay Hand, Valentine FSA

Reviewed and the Number Assigned on: 1-18-11

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

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

RECEIVED

JAN 18 2011

WATER RIGHTS
PROGRAM

Mail to: PMB 2020 DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	(office use only)	
	No. <u>2662-2</u>	Hydrologic Unit <u>10140203</u>
	Basin <u>White River</u>	
	Newspaper <u>Todd Co. Tribune</u>	<u>P.O. Box 229</u> <u>605-856-4469</u> <u>Mission 57555</u>

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.)

1. Name of Applicant M L T Investments Phone 402-376-3039
(check one) Owner ☐ Tenant/lessee
Mailing Address PO Box 230 Valentine NE 69201
(Address) (City) (State) (Zip Code)

2. Amount of water claimed 1.89 *CFS or 850 **GPM ***AF Total Acreage 140
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Two wells on S 32 T37N R29W NE 1/4

4. Location of point of diversion (example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W) County Todd

5. County or counties where water will be used Todd

6. Annual period during which water is to be used March - November

7. 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
S 32 T 37N R 29W - NE 1/4 NE 1/4	35		
S 32 T 37N R 29W - NW 1/4 NE 1/4	35		
S 32 T 37N R 29W - SW 1/4 - NE 1/4	35		
S 32 T 37N R 29W - SE 1/4 NE 1/4	35		

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

STATE OF SOUTH DAKOTA)

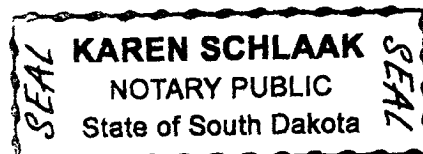
County of Hughes) SS

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

I, Leonard Danielski, 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 Leonard Danielski

Subscribed and sworn to before me this 18th day of January, 20 11

My Commission Expires 4/1/2013

Karen Schlaak
Notary Public signature

**SOUTH DAKOTA
WATER PERMIT NO. 2662-2**

Date of first receipt of application January 18, 2011.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2662-2 to MLT Investments, c/o Leonard Danielski, PO Box 230, Valentine NE 69201 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. 2662-2 appropriates 1.89 cubic feet of water per second from two wells to be completed into the Ogallala Aquifer (approximately 260 feet deep) located in NE 1/4 Section 32 for irrigation of 140 acres located in the NE 1/4 Section 32; all in T37N-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 – November 30.
3. The date from which applicant may claim right is January 18, 2011.
4. The date of approval of Permit No. 2662-2 is July 13, 2011.
5. One-fifth of the construction is to be completed on or before January 13, 2014.
6. All construction is to be completed on or before July 13, 2016.
7. Water is to be put to beneficial use on or before July 13, 2020.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

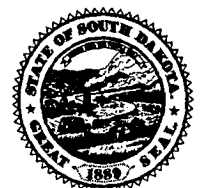
QUALIFICATIONS

1. The wells 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. 2662-2 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.

WATER MANAGEMENT BOARD

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

SEP 08 2011
date



Supplemental Information

(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter 28" Depth 260'
- b) Casing Type PVC Diameter 16" Thickness .616
- c) Screen Type slot Diameter 16" Thickness .616
- d) Gravel Pack B Pack Length of Gravel Pack 260'
- e) Depth to Top of Water Bearing Material 160
- f) Depth to Water (ground surface to water level) 80
- g) Distance to nearest existing domestic well: 1/4 mile
- On applicant's property yes On property owned by others No

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

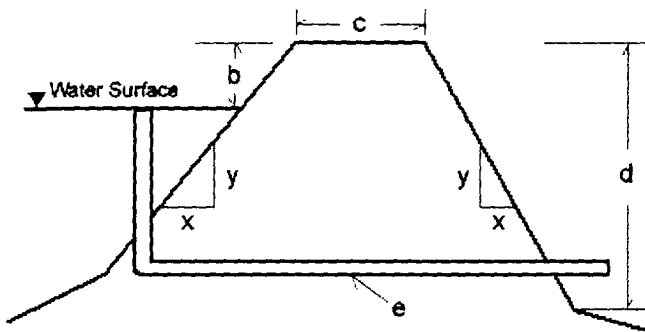
3. Dugout Information

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

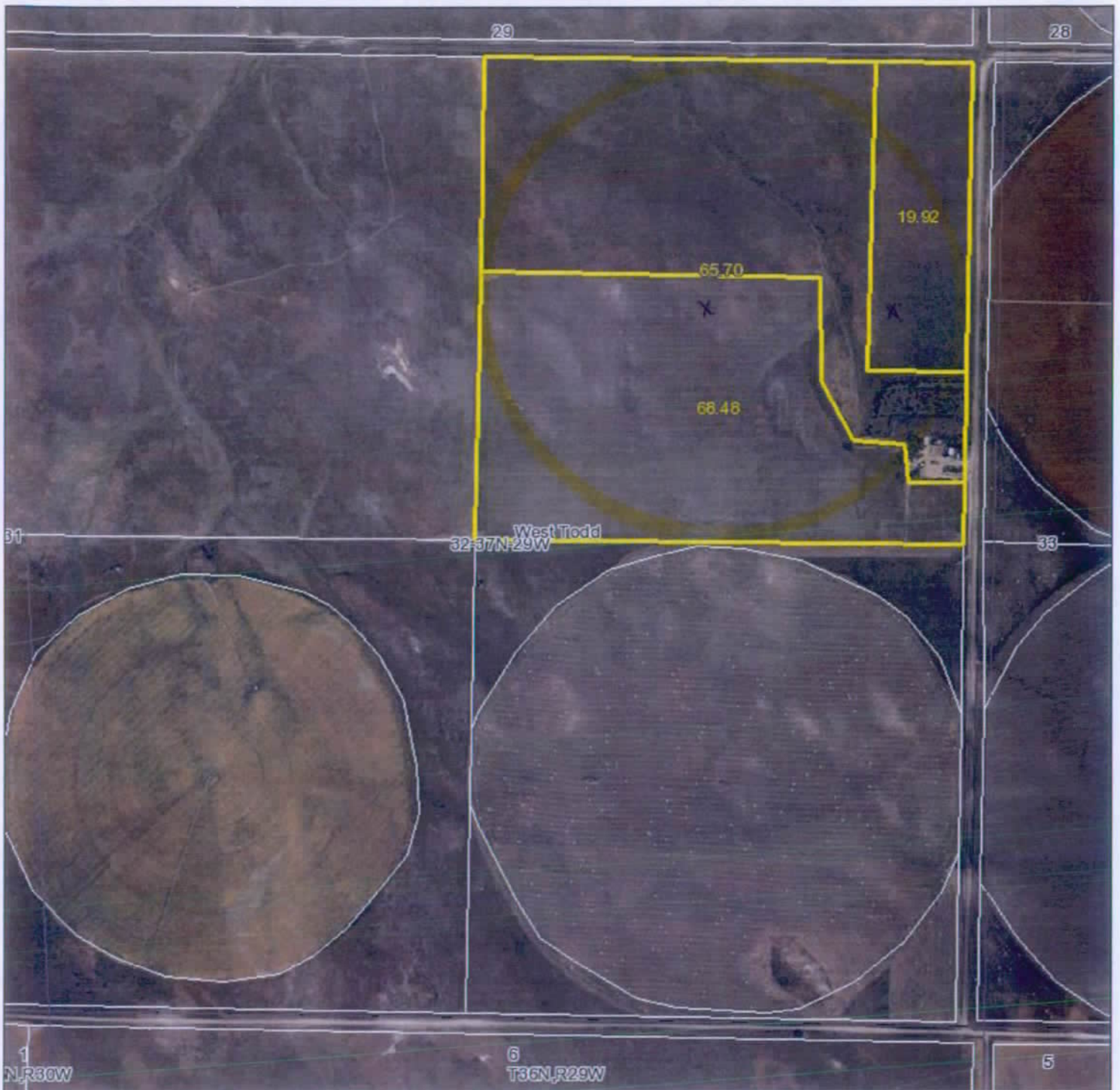
4. Water Storage Dams

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 (e.g. 3 to 1 is a typical slope)
Upstream _____
Downstream _____
- h) Surface Area of Impoundment _____
- i) Storage _____ Acre Feet
- j) Drainage Area Above Dam _____ Acres



Aerial Map



RECEIVED

JAN 18 2011

32-37N-29W

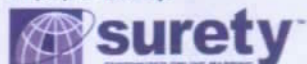
Todd County

South Dakota

map center: 43° 8' 8.96, 100° 46' 35.89

scale: 10215

Maps provided by:



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WATER RIGHTS
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Valentine Farm Service Agency

Kay M. Hand, Program Technician

1/11/2011

Field borders provided by Farm Service Agency as of 5/21/2008. Aerial photography provided by Aerial Photography Field Office.

1-14-11

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 1/18, 2011

RECEIVED OF MLT Investments PO Box 230 Valentine NE 69201

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

Fee for Application for Permit No. <u>2662-2</u> to Appropriate Water, to construct and to put water to beneficial use	850	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>2662-2</u>	200	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	1050 00

No.

04848

By

Harold Edrle
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. 2662-2, MLT Investments**

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. 2662-2, MLT Investments, c/o Leonard Danielski, PO Box 230, Valentine NE 69201.

The Chief Engineer is recommending APPROVAL of Application No. 2662-2 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 qualifications:

1. The wells approved 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. 2662-2 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
March 10, 2011

REPORT ON WATER PERMIT NO. 2662-2

For MLT Investments.

March 4, 2011

Application No. 2661-2 proposes to appropriate 1.89 cfs (850 gpm) from two wells approximately 260 feet deep located in the NE $\frac{1}{4}$ of section 32 for irrigation of 140 acres located in the NE $\frac{1}{4}$ of section 32; all in T37N R29W in Todd County.

AQUIFER – OGALLALA (OGLL)

The Ogallala consists primarily of poorly consolidated, fine to medium grained sandstone with some interbedded clay and silt (Carter, 1998). The aquifer is estimated to contain over 17 million acre-feet of water in storage in Todd and Mellette Counties with nearly all of that in Todd County (Carter, 1998). Carter also reported the direction of water movement is probably to the northeast in the area of this application. The Ogallala aquifer is under water table conditions and directly overlies the Arikaree which is also considered an aquifer in this area. There appears to be hydraulic communication between the two aquifers at least to some extent. In fact the limited information available indicates the water level in the Ogallala is higher than the Arikaree indicating the potential for downward movement from the Ogallala into the Arikaree. In general however there is a water quality difference between the aquifers.

In a previous study the Ogallala aquifer was estimated to underlie 412,800 acres and contain 12.384 million acre-feet of recoverable water in storage in Todd County (Allen, 1985). Actually this estimate and the USGS estimate by Carter are reasonably close. Recharge to the aquifer has been estimated at a rate of about 1.3 inches per year to 1.8 inches per year (Kolm, 1983). This would equate to a range of 44,700 acre-feet to 61,900 acre-feet annually for recharge. Discharge from the aquifer are from wells both domestic and irrigation, discharges to streams and directly to the atmosphere by evapotranspiration. Reported water use from the Ogallala aquifer in Todd County for irrigation has never exceeded 16,000 acre-feet in a given year. This is well below the estimated recharge of at least 44,700 acre-feet annually. To be fair, there is some municipal use, a rural water system and tribal irrigation from the Ogallala aquifer but the estimated recharge appears to more than sufficient to meet all uses.

No test wells were filed with this application. Data from the county study, nearby irrigation wells and observation wells in the area indicate that the Ogallala aquifer could contain about 150 feet of saturated thickness at this site.

The Water Rights Program monitors three observation wells in the immediate area. TD-76C is located about one mile south, TD-76D is located about one mile east and TD-76B is located about one mile north of this proposed well site. Water levels for these observation wells indicate good correlation with climatic conditions. The water level record indicates that the aquifer is capable of sustaining additional withdrawals (Water Rights, 2011). Hydrographs for these observation wells are included with this report. Water levels in this area of this proposed site show a gradual decline and some influence

due to seasonal pumping. This is probably due to the concentrated usage for irrigation in the immediate area. Even though recharge is sufficient to maintain development pumping this amount of water from a relatively small or concentrated area will depress the water table until a point of equilibrium can be maintained. That is as the water table is depressed more water will tend to move into the area to balance what is being pumped out. The hydrographs do not indicate these slight declines to be serious.

REVIEW OF EXISTING WATER PERMITS/RIGHTS

The nearest permitted wells are for Water Right Nos. 1224-2 (about one-half mile east) and No. 1272A-2 (about one mile southeast) all from this proposed site. Interference is not a concern. Drawdown created by pumping is not significant at this distance between wells. This is shown by the observation record in this area and in other areas of Todd County with observation wells near irrigation wells. From the map submitted with the application it appears that there is irrigation developed in the southwest and maybe the southeast quarters of section 32 and there are no South Dakota permits on that land. This land could be developed by Rosebud Sioux Tribe or simply not permitted.

CONCLUSIONS

1. Water is available from the Ogallala aquifer.
2. The aquifer is under water table conditions in this area. Drawdown created by pumping is not significant at the distance between existing wells. Interference is not a concern.
3. The wells authorized by this application must be constructed in accordance with SD Well Construction Standards.



James A Goodman
Natural Resources Engineer

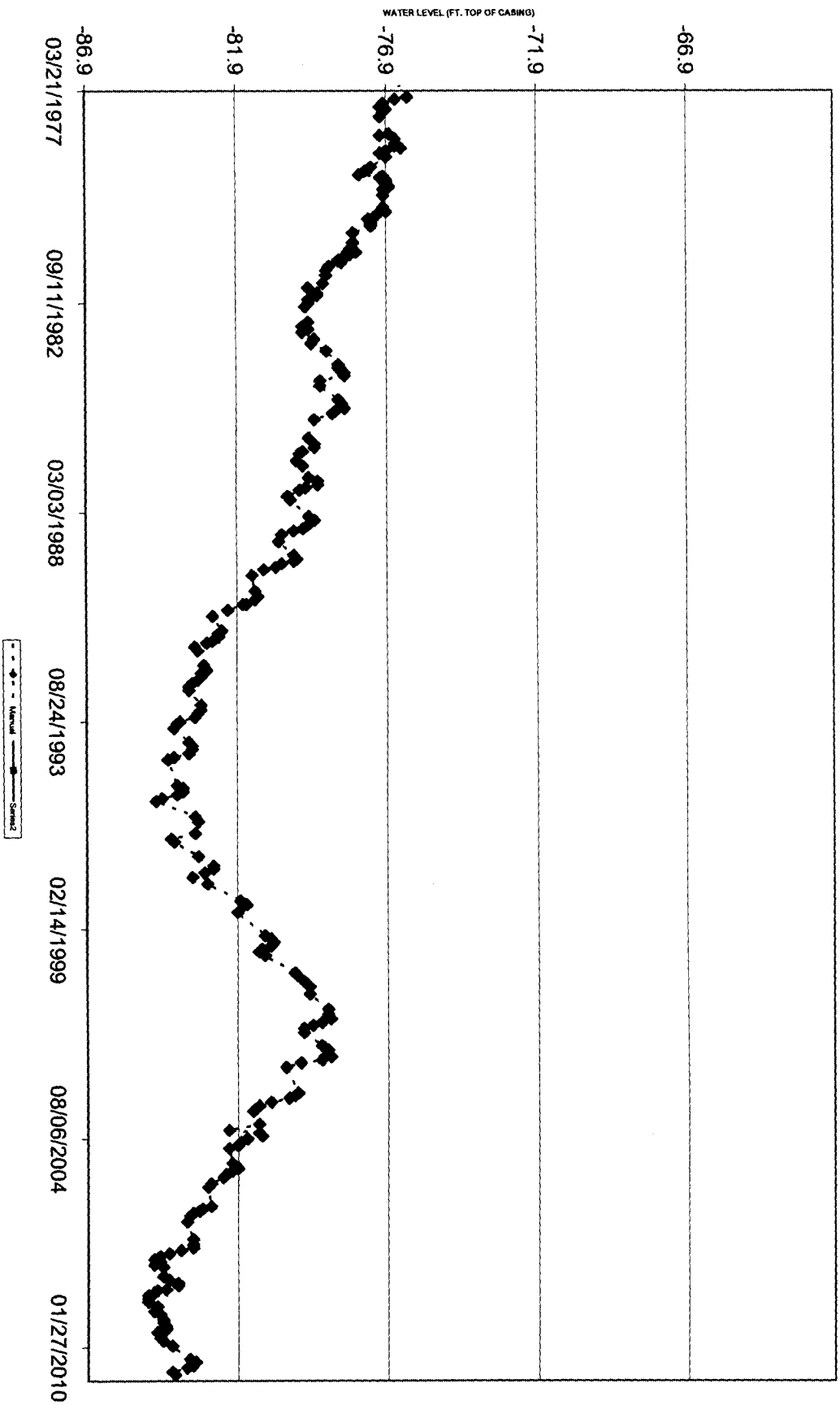
BIBLIOGRAPHY

Allen, J.C., and others, 1985, Analysis of Groundwater and Streamflow Data Western Dakotas Region of South Dakota, Task 3 and 4: Groundwater Resource Inventory, SD DENR, SDGS, Vermillion, SD, 57069.

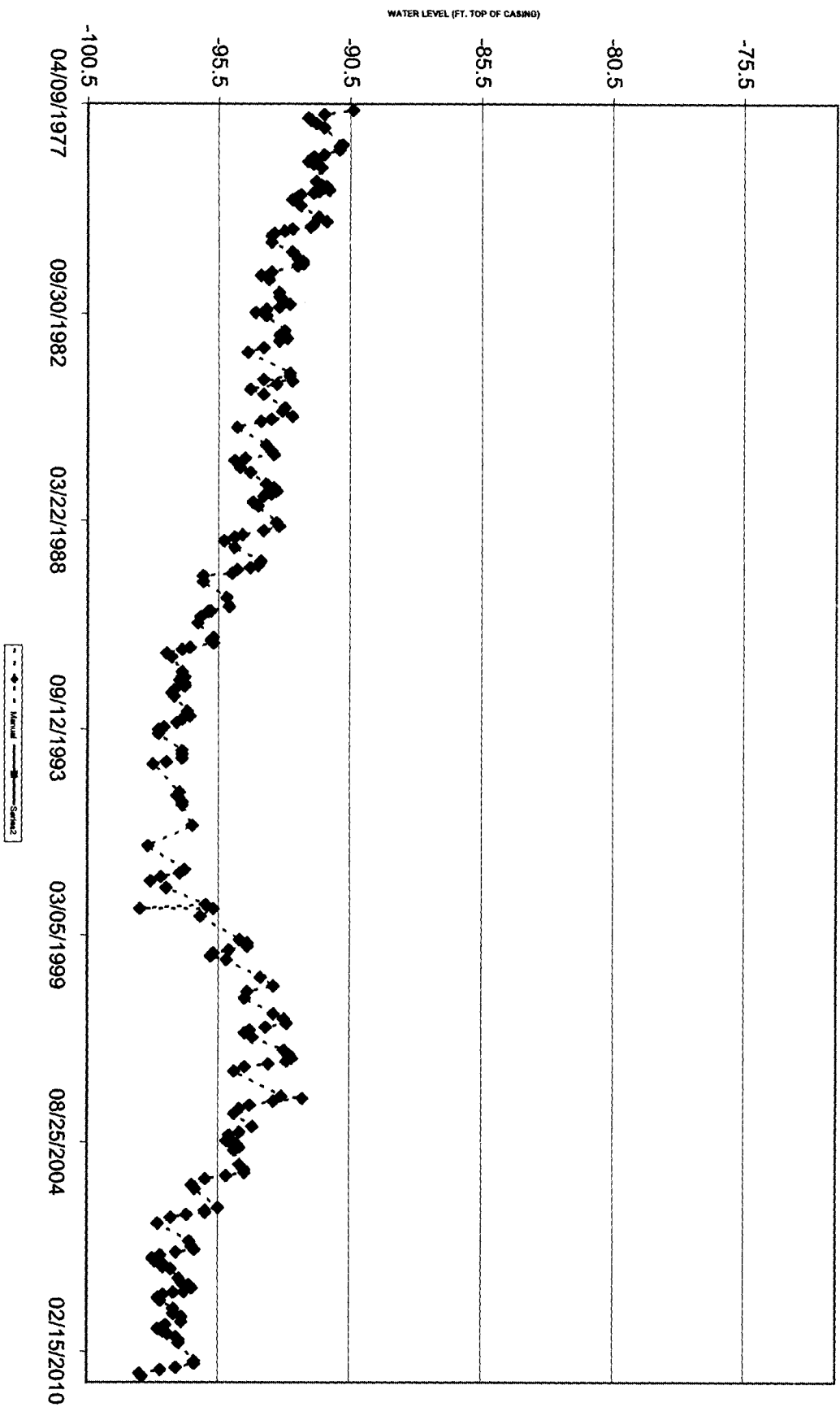
Kolm, K.E., H.L. Case III, 1983, A Two-Dimensional, Finite-Difference Model of the High Plains Aquifer in Southern South Dakota, USGS Water Resources Investigations Report 83-4175, Lakewood, Colorado, 80225.

Water Rights, 2011, Unpublished Observation Well Records for the Ogallala Aquifer in Todd County, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.

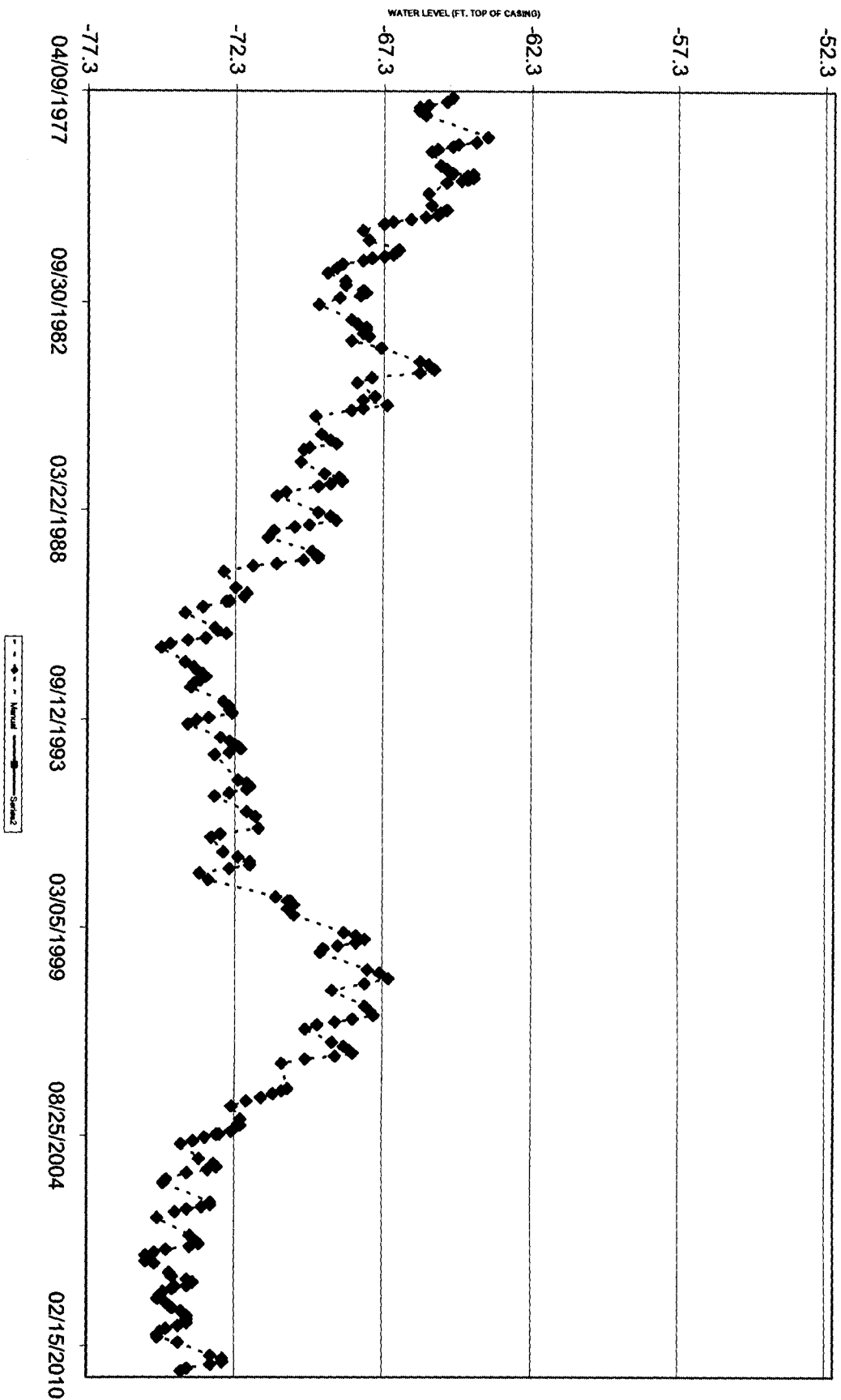
WATER RIGHTS' OBSERVATION WELL
TD-76B



WATER RIGHTS' OBSERVATION WELL
TD-76C



WATER RIGHTS' OBSERVATION WELL
TD-76D



MLT Investments

Affidavit of Publication
State of South Dakota
County of Todd

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APR - 4 2011

WATER RIGHTS
PROGRAM

Darcey Buresh, being, first duly sworn, on oath, says: That he/she is an employee of Huether Brothers Publishing, Inc., and that the **Todd County Tribune** is, and during all the times hereinafter mentioned was, a weekly legal newspaper as defined in the SDCL 17-2-2.1 through the 17-2-2.4 inclusive; that said newspaper has been published within the said county of Todd and State of South Dakota, for at least one year next prior to the first publication of the attached public notice, and that the printed copy of which, taken from the paper in which the same was published, and which is hereto attached and made a part of this affidavit, was published in said newspaper for 2 successive week(s) to wit:

March 23, 2011

March 30, 2011

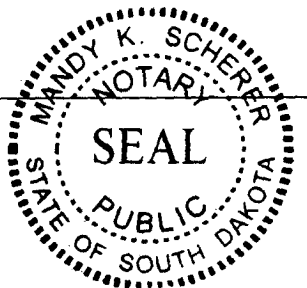
That the full amount of the fee charged for the publication of the attached public notice, **\$57.81** insures to the sole benefit of the publisher or publishers; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are:

Signed: Darcey Bu

Subscribed and sworn to before me this 30th day of March, 2011.

Mandy K. Scherer
Notary Public

My Commission Expires
December 9, 2015





PUBLIC NOTICES



Public Notice Advertising • Protects Your Right to Know

Notice of Application No. 2663-2 to Appropriate Water

Notice is given that Danielki Harvesting and Farms, c/o Leonard Danielki, PO Box 230, Valentine, NE 69201, has filed an application for a water permit to appropriate 1.1 cubic feet of water per second of additional diversion rate authority, irrigate additional acreage and add two additional diversion points to Water Right No. 1615-2. Water Right No. 1615-2 authorizes 1.4 cubic feet of water per second (cfs) from 10 wells to irrigate 993 acres located in the Sections 26 and 27, T37N-R29W. This application proposes to irrigate an additional 240 acres located in the NE 1/4 SE 1/4 Section 27 and two additional wells to be completed into the Ogallala Aquifer (approximately 240 feet deep) located in the SW 1/4 SW 1/4 and NE 1/4 NE 1/4 Section 27; all in T37N-R29W. The two additional wells are intended to help supply the water to the pivots in sections 26 and 27 and the additional diversion rate authority is to reflect the statutory limit for irrigation of the 1,017 acres being irrigated.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2663-2 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 hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Posa 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 11, 2011.

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. Published twice at the total approximate cost of \$61.50. Published: March 23 and March 30, 2011

Notice of Application No. 2569A-2 to Reinstate Water Permit No. 2569-2

Notice is given that Harvey P. Gunnink, 214 N Hall St, Valentine, NE 69201, has filed an application for a water permit to reinstate Permit No. 2569-2. Water permit No. 2569-2 appropriates 2.28 cubic feet of water per second from one well to be completed into the Ogallala Formation (approximately 250 feet deep) located in center of the SW 1/4 Section 9 for irrigation of 140 acres located in the SW 1/4 Section 9; all in T37N-R29W. The permit was approved January 2, 2006, and the project was to be completed January 2, 2011, with water being put to beneficial use by January 2, 2015. Application No. 2569A-2 proposes to reinstate Water Permit No. 2569-2 since the project has not been completed. Approval of No. 2569A-2 will cancel No. 2569-2.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends REINSTATEMENT of Application No. 2569A-2 because unappropriated water is available. 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 hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Posa 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 4, 2011.

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. Published twice at the total approximate cost of \$54.12. Published: March 16 and 23, 2011

Notice of Application No. 2660-2 to Appropriate Water

Notice is given that Mission Farms, Inc., c/o Leonard Danielki, PO Box 230, Valentine, NE 69201, has filed an application for a water permit to appropriate 1.89 cubic feet of water per second from two wells to be completed into the Ogallala Aquifer (approximately 260 feet deep) located in the NW 1/4 Section 4 for irrigation of 140 acres located in the N 1/2 SW 1/4 and Lots 3 and 4, Section 4; all in T36N-R29W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2660-2 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 hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Posa 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 4, 2011.

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. Published twice at the total approximate cost of \$51.66. Published: March 16 and March 23, 2011

Notice of Application No. 2661-2 and 2662-2 to Appropriate Water

Notice is given that M.L.T. Investments, c/o Leonard Danielki, PO Box 230, Valentine, NE 69201, has filed an application for a water permit to appropriate water.

Application No. 2661-2 proposes to appropriate 1.89 cubic feet of water per second from two wells to be completed into the Ogallala Aquifer (approximately 260 feet deep) located in the NE 1/4 Section 7 for irrigation of 140 acres located in the NE 1/4 Section 7; all in T36N-R29W.

Application No. 2662-2 proposes to appropriate 1.89 cfs from two wells to be completed into the Ogallala Aquifer (approximately 260 feet deep) located in the NE 1/4 Section 32 for irrigation of 140 acres located in the NE 1/4 Section 32; all in T37N-R29W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 2661-2 and 2662-2 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 hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Posa 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 11, 2011.

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.

Published twice at the total approximate cost of \$57.81. Published: March 23 and March 30, 2011

Notice of Application No. 2664-2 to Appropriate Water

Notice is given that O'Neill Farms Inc., c/o Tony O'Neill, HC 77, Box 33A, Cody NE, 69211, has filed an application for a water permit to appropriate 2.22 cubic feet of water per second from one well to be completed into the Ogallala Aquifer (approximately 240 feet deep) located in the SW 1/4 NE 1/4 Section 29 for irrigation of 260 acres located in the E 1/2 Section 29; all in T37N-R33W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2664-2 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 hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Posa 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 11, 2011.

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. Published twice at the total approximate cost of \$50.43. Published: March 23 and March 30, 2011

Invitation for Bids 11-030

Notice is hereby given for the Rosebud Sioux Tribe Solid Waste Collections Department is seeking sealed bids for:

(2) "25- yard rear-loading refuse collection trucks"

RST BID #11-030

Copies of specifications may be obtained from the RST Solid Waste Collections, PO Box 806, 53 Background Street, Rosebud, South Dakota, 57570. Phone (605) 747-2424 Fax (605) 747-5372

Sealed bid proposals will be mailed to the following address:

Rosebud Sioux Tribe
Attn: Louise Wayne Boyd, RST Treasurer
PO Box 430
11 Legion Ave
Rosebud, SD 57570

Sealed bid proposals shall be submitted in a sealed envelope clearly marked as RST Solid Waste Collections, RST BID #11-030 on the front envelope. Failure to mark envelope will result in a NO proposal and will be mailed back to the sender.

Rosebud Sioux Tribe will not accept e-mail, fax, and/or telephone proposals.

Sealed bid proposals will be accepted until March 31st, 2011 at 5:00 p.m. (CDT) All bids will be publicly opened on April 1, 2011, at 2:00 p.m. (CDT) at the RST Tribal Administration Building in the RST Treasurer's Office.

Consent: Tammi R. Young, RST Solid Waste Collections Director, for further pertinent information on this bid advertisement.

The Rosebud Sioux Tribe has the right to reject any and all bids, waive informality or accept any bid or combination thereof which appears to serve the best interest of the tribe. Award of the bid will be subject to the Rosebud Sioux Tribe Business regulatory requirements. Business Firms must provide proof of suspension of debarment certification.

Information on the required RST Business License can be contacted at RST Revenue Office at (605) 747-5045.

Published three times at the total approximate cost of \$65.86. Published: March 16, 23 and 30, 2011

Advertisement for Bids RST #11-028

Law Enforcement Equipment

Rosebud Sioux Tribal Law Enforcement Services is requesting BIDS from vendors for the following equipment:

Description	Total Units	Price Per Unit	Grand Total
40x40 Model 22 (ten 4)	40		
40x40 Caliber MAG			
210 Round Magazine			
210x Nightlight "Installed"			

Responsible RST 40

Express Tactical

Onsite Nightlight

2 Night Extension

Tactical Choke

OPM 16" 40

Platoon 5.56 x 45

Plus up from 4 Night Night

Tactical Pistol

6 Pcs Collapsible Block

2.10 Round Magazine

Cleaning Kit, Ring & Case

GO Tech Model 516 40

Non-Night Vision Compatible

CR123 Lithium Batteries

65 MOA C/Chisel 1 MOA Dot Reticle

Bid Rules & Requirements

Sealed bid is required!!

Written bid on vendor letter head is required!!

Solicitation Opens: Wednesday, March 9, 2011

Solicitation Closes: Monday, March 28, 2011 at 12:00 p.m.

Sealed bids will be opened by the RST Tribal Treasurer on Monday, March 28, 2011 at 12:00 p.m.

When submitting bids/quotes, the vendor shall reference RST BID #11-028 on the sealed envelope.

Sealed bid shall be mailed to the following address:

Louise W. Boyd, Treasurer

Rosebud Sioux Tribe

11 Legion Avenue

Rosebud, South Dakota 57570

Winning Bid/Quote shall be awarded to the vendor whose bid is responsive and is the most advantageous to the Rosebud Sioux Tribe, price and other factors such as discounts, shipping/handling costs shall be considered in determining the most responsive bid.

Rosebud Sioux Tribe reserves the right to reject any or all bids/quotes.

If you have any questions regarding the above solicitation you are encouraged to contact Edwin Young, Captain of Police or Grace Her

Mary Herera, Chief of Police at (605) 747-5928.

Published twice at the total approximate cost of \$73.80.

Published: March 16 and 23, 2011

Advertisement for Bid, standby power generators

The Rosebud Sioux Tribal Water System includes several facilities that require standby power generators. American Recovery and Reinvestment Act (ARRA) funds have been provided to furnish and install generators at 11 project facilities and purchase up to two portable generators. The Standby Generator Project consists of furnishing and installing diesel generators at 11 facilities and providing up to two portable generators. The diesel generators will be installed at various locations in Todd and Mellette Counties, South Dakota on the Rosebud Indian Reservation. The portable generators will be delivered to the Silemuni Mni Wiconi Administration Building in Rosebud, South Dakota.

Sealed bids for furnishing and installing the generators will be received by the Treasurer at the Tribal Office, Rosebud, South Dakota until 1:30 p.m. local time (central daylight savings) on April 7, 2011, and then publicly opened and read aloud at TECRO Office. Please reference Bid # 11-029 on your bid package.

A Pre-Bid Conference will be held at the Rosebud Sioux Office of Water Resources on March 24, 2011 at 10:00 am local time (central daylight savings).

The Bidding Documents consisting of one set of drawings and specifications and the Standard Specifications and Construction Details - Sioux Falls Mni Wiconi (May 2004) can be examined or obtained at the office of DOWI, 116 W. 8th Street, P.O. Box 7010, Sheridan, Wyoming 82801 (307-672-9006) upon payment of \$50.00 (non-refundable).

In addition, the Drawings, Specifications and Form of Contract Documents may also be examined at the following locations:

Office of Water Resources
Administrative Building
Rosebud, South Dakota 57570
and
TECRO Office
Rosebud, South Dakota 57570
and
Construction Industry Center
2771 Plain / P.O. Box 1227
Rapid City, South Dakota 57509
and
Sioux Falls Builders Exchange
1418 "C" Avenue
Sioux Falls, South Dakota 57104
and
Billings Builders Exchange
2050 Broadway Avenue, Suite A
Billings, Montana 59102
and
Construction Plans Exchange
215 Airport Road
Dismal, ND 58504
and
Fargo-Moorhead Builders and Traders Exchange
610 Page Drive
Fargo, ND 58107
and
Plains Builders Exchange
220 N. Kiwanis Ave
P.O. Box 1396
Sioux Falls, SD 57101-1396

Bid security in the amount of 10 percent of the Bid must accompany each Bid in accordance with the Instructions to Bidders.

By submitting a proposal, the Bidder agrees to comply with the provisions of the Rosebud Sioux Tribe's Tribal Employment Contracting Rights Ordinance (TECRO). The CONTRACTOR shall contact the TECRO office BEFORE a Bid will be accepted. The work will not be awarded to a Bidder listed in the Federal Government's Excluded Parties List System (EPLS).

The Rosebud Sioux Tribe reserves the right to reject any and all bids, waive informality, or accept any bid or combination thereof which appears to serve the best interests of the Tribe. Published twice at the total approximate cost of \$84.87. Published: March 9 and March 23, 2011

Stretch your advertising dollar

Contact your local newspaper or S.D. Newspaper Association for details.

1-800-658-3697

Basement Walls Bowed?

Foundation Settling?

Wet Basement?

Multiple Solutions & Financing Available • Free Estimates

800-392-3389

BLACKBURN BASEMENT SYSTEMS

www.blackburnbasementrepair.com

Notice of Application No. 2661-2 and 2662-2 to Appropriate Water

Notice is given that M L T Investments, c/o Leonard Danielski, PO Box 230, Valentine NE 69201, has filed an application for a water permit to appropriate water.

Application No. 2662-1 proposes to appropriate 1.89 cubic feet of water per second(cfs) from two wells to be completed into the Ogallala Aquifer (approximately 260 feet deep) located in the NE 1/4 Section 7 for irrigation of 140 acres located in the NE 1/4 Section 7; all in T36N-R29W.

Application No. 2662-2 proposes to appropriate 1.89 (cfs) from two wells to be completed into the Ogallala Aquifer (approximately 260 feet deep) located in the NE 1/4 Section 32 for irrigation of 140 acres located in the NE 1/4 Section 32; all in T37N-R29W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 2661-2 and 2662-2 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 hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605) 773-3352" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by April 11, 2011.

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.

Published twice at the total approximate cost of \$57.81

Published: March 23 and March 30, 2011



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 11, 2011

Todd County Tribune
PO Box 229
Mission SD 57555

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application Nos. 2661-2 & 2662-2 to Appropriate Water to be published twice. Please publish the first notice on March 23, 2011 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 MLT Investments, c/o Leonard Danielski, PO Box 230, Valentine NE 69201 (Ph # 402-376-3039).

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-----

Nos. 2661-2 & 2662-2

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

Date _____

We are in receipt of your letter of March 11, 2011 enclosing Notice to Appropriate Water by Application Nos. 2661-2 & 2662-2 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 11, 2011

MLT Investments
Leonard Danielski
PO Box 230
Valentine NE 69201

Dear Mr. Danielski:

Water Permit Application Nos. 2661-2 & 2662-2 for irrigation use have 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 County 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 recommendations of the Chief Engineer and reports 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
eric.gronlund@state.sd.us

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendations, 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 applications.

Instruction to Newspaper - Publish first Notice on March 23, 2011 with the second publication 7 days later. The applicant is responsible for payment. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352 or email: Karen.schlaak@state.sd.us.

NOTICE OF APPLICATION NOS. 2661-2 and 2662-2 to Appropriate Water

Notice is given that M L T Investments, c/o Leonard Danielski, PO Box 230, Valentine NE 69201 has filed the following applications for a permit to appropriate water.

Application No. 2661-2 proposes to appropriate 1.89 cubic feet of water per second (cfs) from two wells to be completed into the Ogallala Aquifer (approximately 260 feet deep) located in NE ¼ Section 7 for irrigation of 140 acres located in the NE ¼ Section 7; all in T36N-R29W.

Application No. 2662-2 proposes to appropriate 1.89 cfs from two wells to be completed into the Ogallala Aquifer (approximately 260 feet deep) located in the NE ¼ Section 32 for irrigation of 140 acres located in the NE ¼ Section 32; all in T37N-R29W.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application Nos. 2661-2 and 2662-2 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 these applications, as recommended, unless a petition is filed opposing the applications or the applicant files a petition contesting the Chief Engineer's recommendations. If a petition opposing the applications or contesting the recommendations is filed, then a hearing will be scheduled and the Water Management Board will consider these applications. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting these applications 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 recommendations. 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 11, 2011.

The petition may be informal, but must include a statement describing the petitioner's interest in the applications, the petitioner's reasons for opposing or supporting the applications, 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 these applications. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Published twice at the total approximate cost of_____.



**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 11, 2011

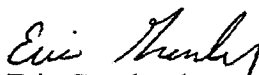
Syed Huq
Water Resources
Rosebud Sioux Tribe
PO Box 910
Rosebud SD 57570

Mr. Huq:

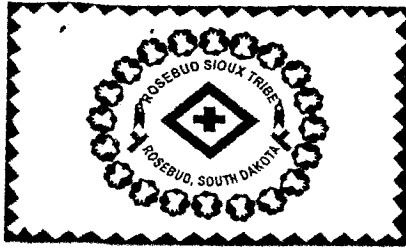
Please find enclosed the staff reports, recommendations and publication notices for a five water permit application filed in Todd County. Public notice is to be published in the Todd County Tribune.

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

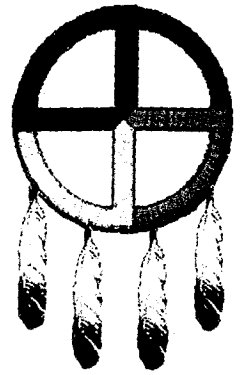
enclosures



Sicangu Treaty Office

Rosebud Sioux Tribe

P.O. Box 430
Rosebud, SD 57570
Office (605) 747-4775
Cell (605) 828-1284
Sicangulakotatreatycouncil@yahoo.com



March 28, 2011

RECEIVED

APR - 1 2011

WATER RIGHTS
PROGRAM

PETITION

Eric Gronland
Secretary, Department Environmental & Natural Resources
State of South Dakota

RE: Chief Engineer "Water Rights Program"
Recommending Approval of Applications No. 2663-2, Reinstate Water Permit
No. 2569-2, Application 2660-2 to appropriate water, Application no. 2661-2 &
2662-2 to appropriate and Application no. 2664-2 to appropriate water.

The United States government has agreed by the Treaty of 1868 known as "Fort Laramie Treaty of 1868," to designate the Great Sioux Nation territory and could not be occupied by whites in Article XVI (16) of the "Fort Laramie Treaty of 1868".

In Article II (2) of the Fort Laramie Treaty of 1868, stated the exact Legal Description of the Great Sioux Nation boundaries. (Copy of Article II is attached herein). Congress attempted to enter into another Treaty in 1877, but could not obtain $\frac{3}{4}$ of the adult male for a legal Treaty. Congress passed the Act of 1877 in violation of the Fort Laramie Treaty of 1868. In 1889, Congress declared the Dakota Territory as South Dakota.

We are dealing with a Treaty violation of the Fort Laramie Treaty of 1868. We are not dealing with a Congressional Act of 1877 and 1889.

As a Band of the Great Sioux Nation and a Federally Recognized Tribe since 1934, we have yet to educate the State of South Dakota on our Sovereign Tribal Rights.

No where in the "1868 Treaty" did we agree or give up our Tribal Sovereignty with our Federal Reservation.

Page 2

There is based our Sovereign Rights of the Fort Laramie Treaty of 1868. We object completely on issuing the applications to appropriate more water to said permits herein and the reinstatement of Water Permits 2569A-2 and 2569-2.

Should these permits be approved by the Water Management Board of the State of South Dakota, the Rosebud Sioux Tribe will treat it as a Treaty violation of the Fort Laramie Treaty of 1868 and invoke Article I of the Fort Laramie Treaty of 1868 and the Rosebud Sioux Tribe will file a complaint in the appropriate Federal judicial system for adjudication for violating Article II and Article XVI of the Fort Laramie Treaty of 1868.

With Respect,

A handwritten signature in black ink, appearing to read 'E. Charging Elk', with a long horizontal line extending to the right.

Edward Charging Elk, Executive Director
Sicangu Lakota Treaty Council
Rosebud Sioux Tribe

Attachments: Article II
Article XVI

proper, but no one sustaining loss while violating the provisions of this treaty, or the laws of the United States, shall be reimbursed therefor.

ARTICLE II.

The United States agrees that the following district of country, to wit, viz: commencing on the east bank of the Missouri river where the 46th parallel of north latitude crosses the same, thence along low-water mark down said east bank to a point opposite where the northern line of the State of Nebraska strikes the river, thence west across said river, and along the northern line of Nebraska to the 104th degree of longitude west from Greenwich, thence north on said meridian to a point where the 46th parallel of north latitude intercepts the same, thence due east along said parallel to the place of beginning; and in addition thereto, all existing reservations of the east bank of said river, shall be and the same is, set apart for the absolute and undisturbed use and occupation of the Indians herein named, and for such other friendly tribes or individual Indians as from time to time they may be willing, with the consent of the United States, to admit amongst them; and the United States now solemnly agrees that no persons, except those herein designated and authorized so to do, and except such officers, agents, and employees of the government as may be authorized to enter upon Indian reservations in discharge of duties enjoined by law, shall ever be permitted to pass over, settle upon, or reside in the territory described in this article, or in such territory as may be added to this reservation for the use of said Indians, and henceforth they will and do hereby relinquish all claims or right in and to any portion of the United States or Territories, except such as is embraced within the limits aforesaid, and except as hereinafter provided.

ARTICLE III.

If it should appear from actual survey or other satisfactory examination of said tract of land that it contains less than 160 acres of tillable land for each person who, at the time, may be authorized to reside on it under the provisions of this treaty, and a very considerable number of such persons shall be disposed to comence cultivating the soil as

Reservation boundaries:
East bank boundary
cedes river to tribes.

Certain persons not to
enter or reside thereon.

Not to be occupied
by whites, etc.

ARTICLE XVI.

The United States hereby agrees and stipulates that the country north of the North Platte river and east of the summits of the Big Horn mountains shall be held and considered to be unceded Indian territory, and also stipulates and agrees that no white person or persons shall be permitted to settle upon or occupy any portion of the same; or without the consent of the Indians, first had and obtained, to pass through the same; and it is further agreed by the United States, that within ninety days after the conclusion of peace with all the bands of the Sioux nation, the military posts now established in the territory in this article named shall be abandoned, and that the road leading to them and by them to the settlements in the Territory of Montana shall be closed.

ARTICLE XVII.

It is hereby expressly understood and agreed by and between the respective parties to this treaty that the execution of this treaty and its ratification by the United States Senate shall have the effect, and shall be construed as abrogating and annulling all treaties and agreements heretofore entered into between the respective parties hereto, so far as such treaties and agreements obligate the United States to furnish and provide money, clothing, or other articles of property to such Indians and bands of Indians as become parties to this treaty, but no further.

In testimony of all which, we, the said commissioners, and we, the chiefs and headmen of the Brule band of the Sioux nation, have hereunto set our hands and seals at Fort Laramie, Dakota Territory, this twenty-ninth day of April, in the year one thousand eight hundred and sixty-eight.

N. G. TAYLOR,

W. T. SHERMAN, *Lieutenant General.*

WM. S. HARNEY, *Brevet Major General U.S. Army.*

JOHN B. SANBORN.

S. F. TAPPAN,

C. C. AUGUR, *Brevet Major General.*

ALFRED H. TERRY, *Brevet Major General.*

Tribal Land Enterprise

A Sub-ordinate Organization of the
Rosebud Sioux Tribe
Incorporated Under Act of June 18, 1934, (48 Stat 984)

10 Legion Ave. P.O. Box 159
Rosebud, S.D. 57570
Telephone 605 747-2371
Fax # 605 747-2400

RECEIVED

APR 12 2011

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

March 30, 2011

Mr. Steven M. Pirner, Secretary
Department of Environment and Natural resources
State of South Dakota
Foss Building
523 E. Capitol
Pierre, SD 57501

Subject: Notice of applications to appropriate water from within Rosebud Sioux Tribal Reservation

Dear Mr. Pirner:

We have received copies of recommendations of Chief Engineer, State of South Dakota for water permit applications Nos # 2660-2, 2661-2, 2662-2, 2663-2, 2664-2 and 2569A-2 located within the exterior boundaries of our Reservation namely Rosebud Sioux Reservation.

We regret very much why your office the State of South Dakota issues water permits within the exterior boundaries of our Reservation? If you did not, the applicants would be required to seek water permits from the Rosebud Sioux Tribal Water Resources office. The water permits that are issued on our Reservation will derive their water from the Ogallala Aquifer. For your information the Ogallala Aquifer provides drinking/domestic water to over 80 percent of our tribal population. The production wells that provide the drinking/ domestic water are located in close proximity to the water permits recommended for approval. There are several center pivot irrigation systems with their respective wells located in close proximity to the water permits recommended for approval. Our production wells, irrigation wells, tribal and non tribal and the recommended water permits are all located within our Reservation deriving water from the Ogallala Aquifer and all of them are reflected in the map (Figure 1).

At one time all the lands within our Reservation were tribal trust lands. Some of those lands are fee lands now but under no authority, the water and mineral rights were transferred from tribal trust lands to non Indians and as such the jurisdiction to the water rights within the exterior boundaries of our Reservation rests with our Tribal government and not the State of South Dakota.

We have monitoring wells drilled into the Ogallala Aquifer that are used to monitor the water table fluctuation once a month. I have attached a copy of the map showing the locations of the monitor wells which are numbered (Figure 2).

There are several monitor wells, the hydrographs of which generated from 1984 to 2008 reflects a declining trend for the water table. I have included some of them for ready reference (Figure 3).

Based on all the irrigation water permits issued by the State of South Dakota, it is estimated that over 14 billion gallons of water are pumped per year from the Ogallala Aquifer on our Reservation as compared to 1 billion gallons per year for domestic, municipal and industrial purposes. I have included a map showing the location of all the irrigation wells (Figure 4) and a graph showing the water usage for irrigation and domestic (Figure 5). For your information groundwater has been contaminated by nitrates, arsenic and hydrocarbons on our Reservation (Figure 6). Nitrates most likely were derived from nitrate bearing fertilizers used by the center pivot irrigation systems.

We are extremely alarmed by your claim that unappropriated water is available and that existing rights will not be unlawfully impaired. We have not seen any documentation substantiating your claim.

We are only claiming this specific jurisdiction in only one county of Todd, where the State must not issue water permits and direct the applicants to contact the Rosebud Sioux Tribal office of Water Resources. The State on the other hand has 65 other counties to enforce their jurisdiction, should that be applicable.

Rosebud Sioux Tribe desires to cooperate with the State of South Dakota but it must be based on mutual respect and understanding.

Thank you for your time and assistance. If you have any questions or comments please give me a call at (605)747-2381 or my Staff, Syed Huq, Director, Water Resources at (605)747-2559.

Sincerely,



Ms. Patricia Jones

Acting Director

Tribal Land Enterprises

Attachments.

C.c. Chief Engineer, DENR, Pierre, SD

Mr. J. R. LaPlante. Secretary, Department of Tribal Relations, Pierre, SD

Mr. Russell Eagle Bear, Chairman, RST Land and Natural Resources Committee

Ms. Paula Antoine, Director, RST Land Office

NO. 2664 2
n 22 all in T37N R33W

NO. 2563-2
Section 26 and 27, T37N R29W

NO. 2662-2
Section 3 T 7N R29W

NO. 2650-2
Section 4; all in T36N R29W

NO 2661 2
Section 7, T36N R29W

2/2

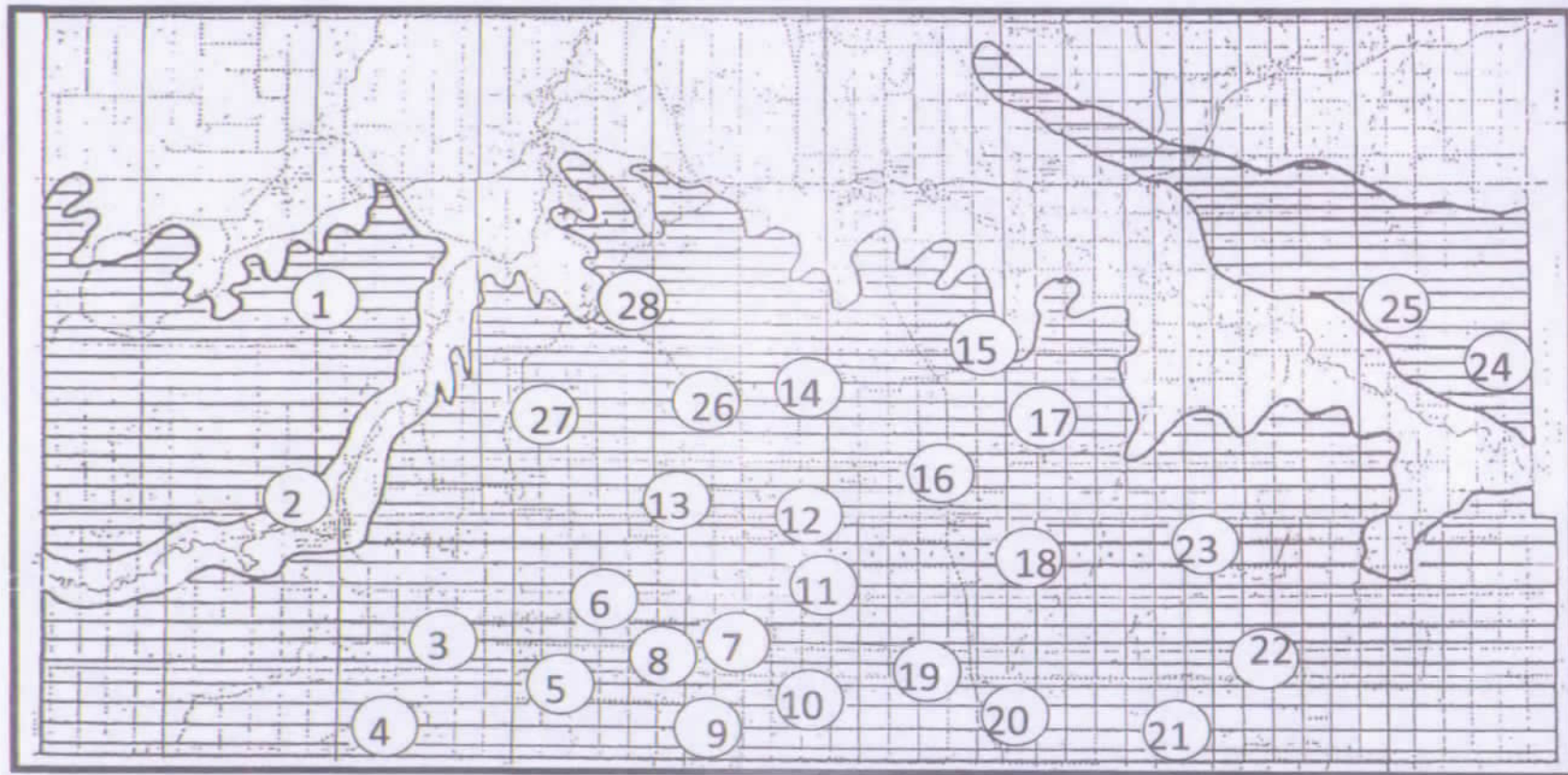
- Irrigation Wells
- prodwells
- Tribal Irrigation Wells

doi:10.1017/S0022292412001619 Printed in the United Kingdom

*These lines are not based on Cadastral Survey
they are derived from GIS databases.*



Rosebud Reservation, TODD COUNTY



Location of Monitoring Wells On
The Ogallala Aquifer Rosebud Reservation

Figure 2



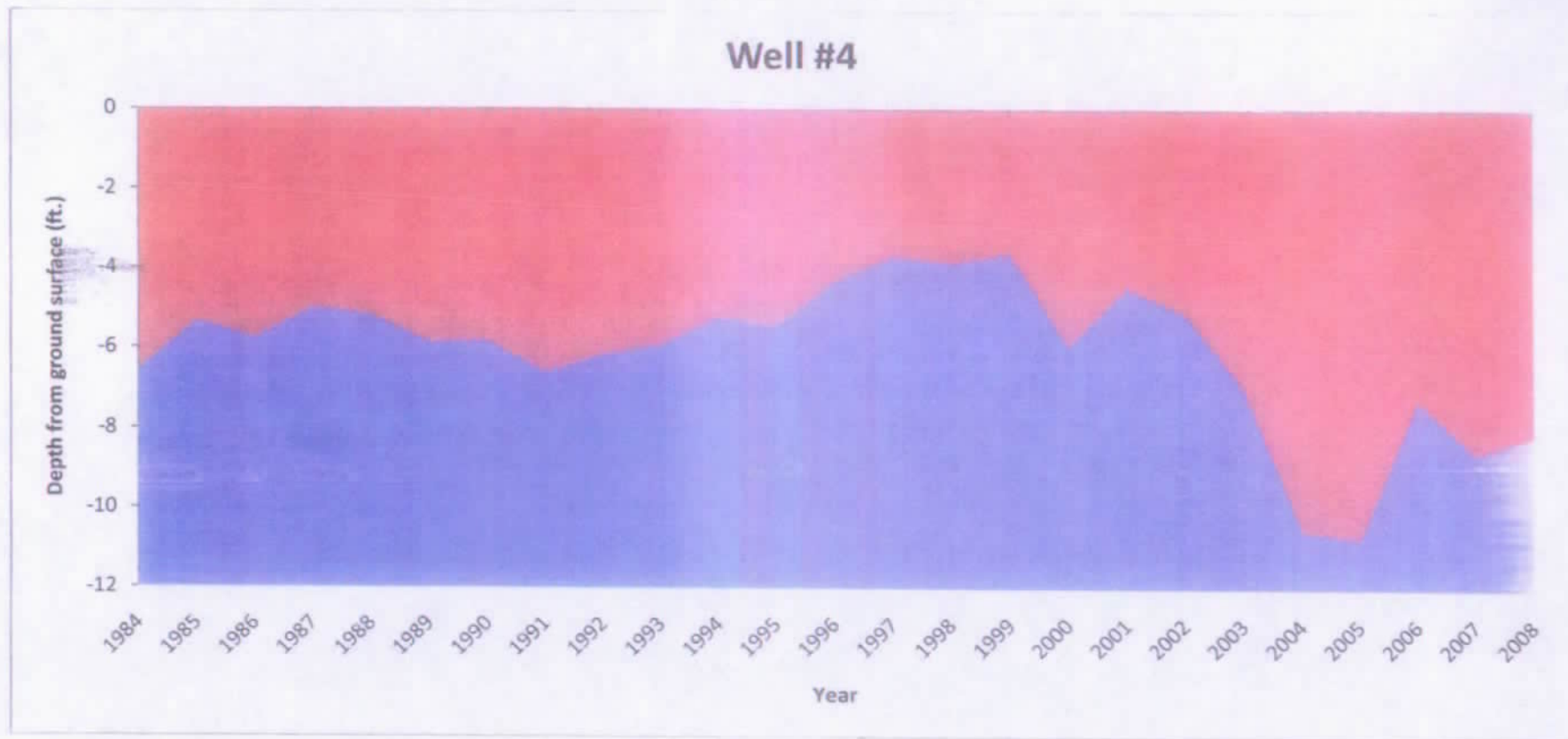


Figure 3

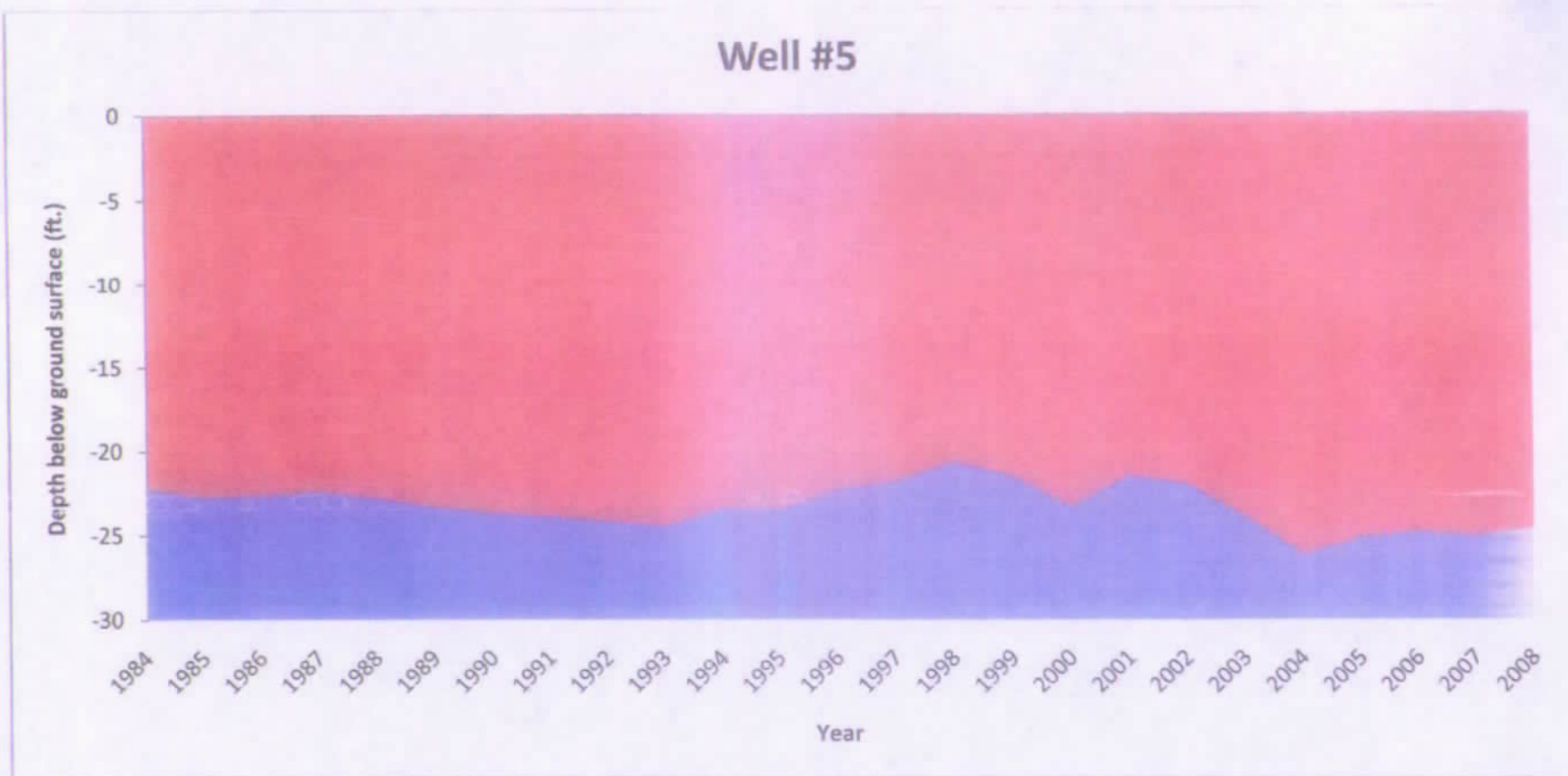


Figure 3

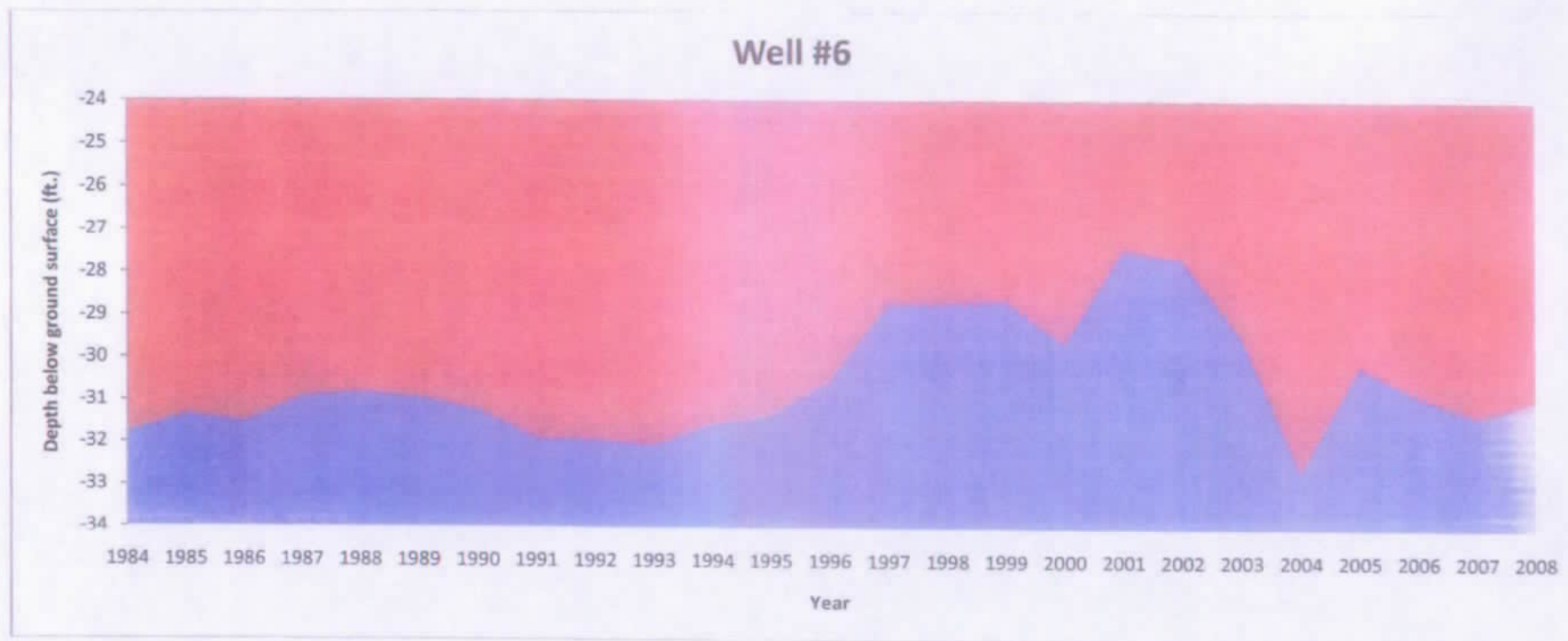


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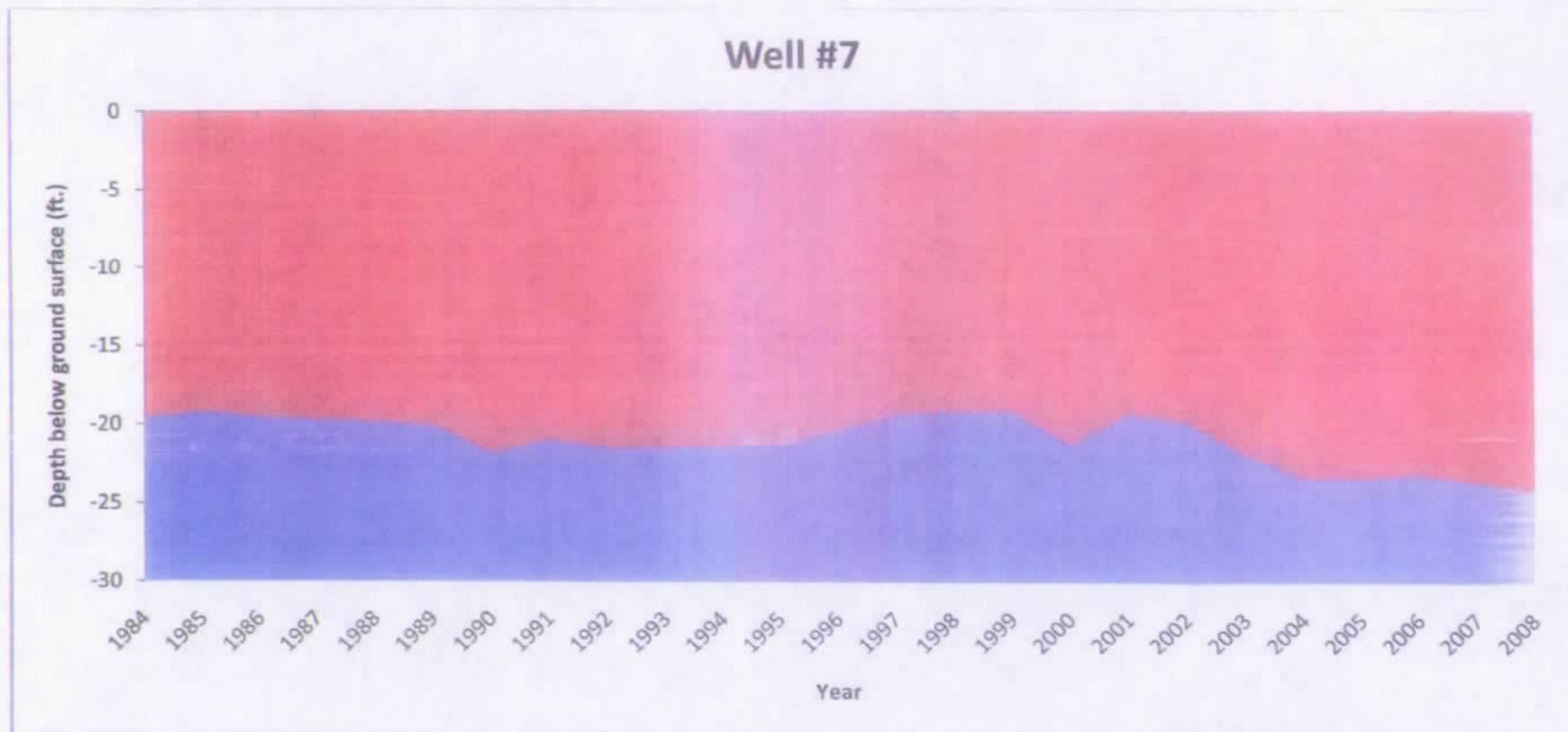


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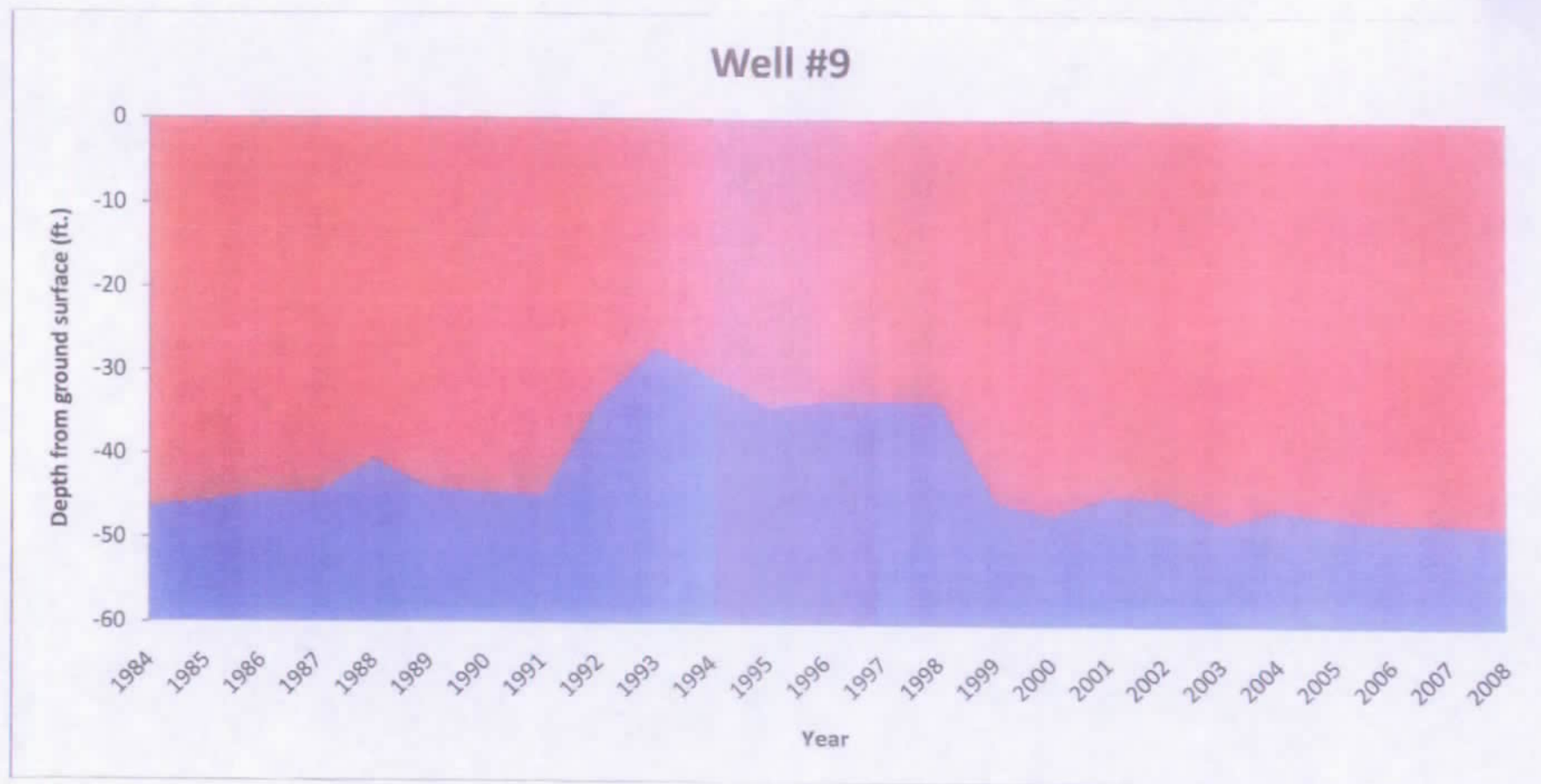


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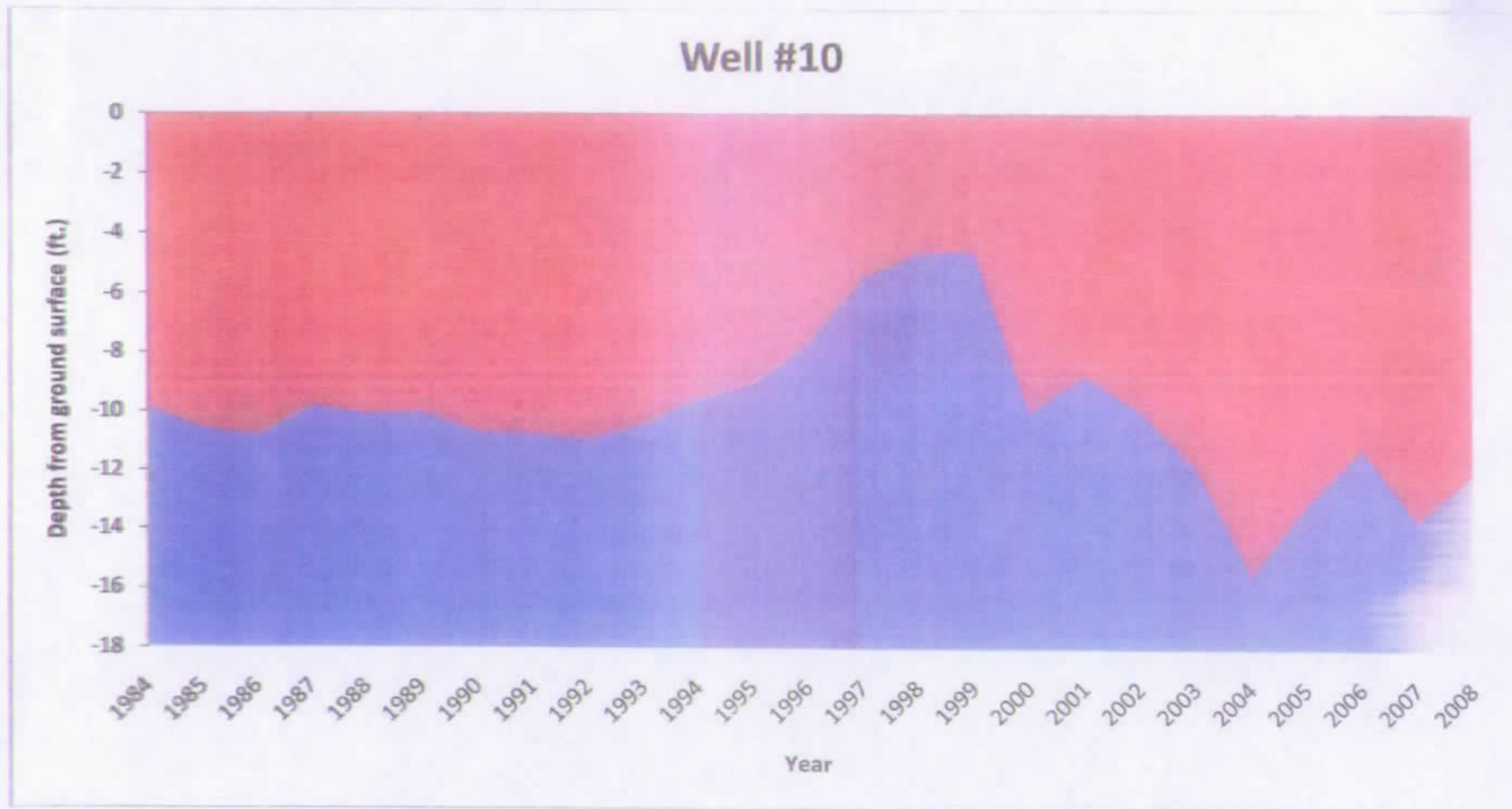


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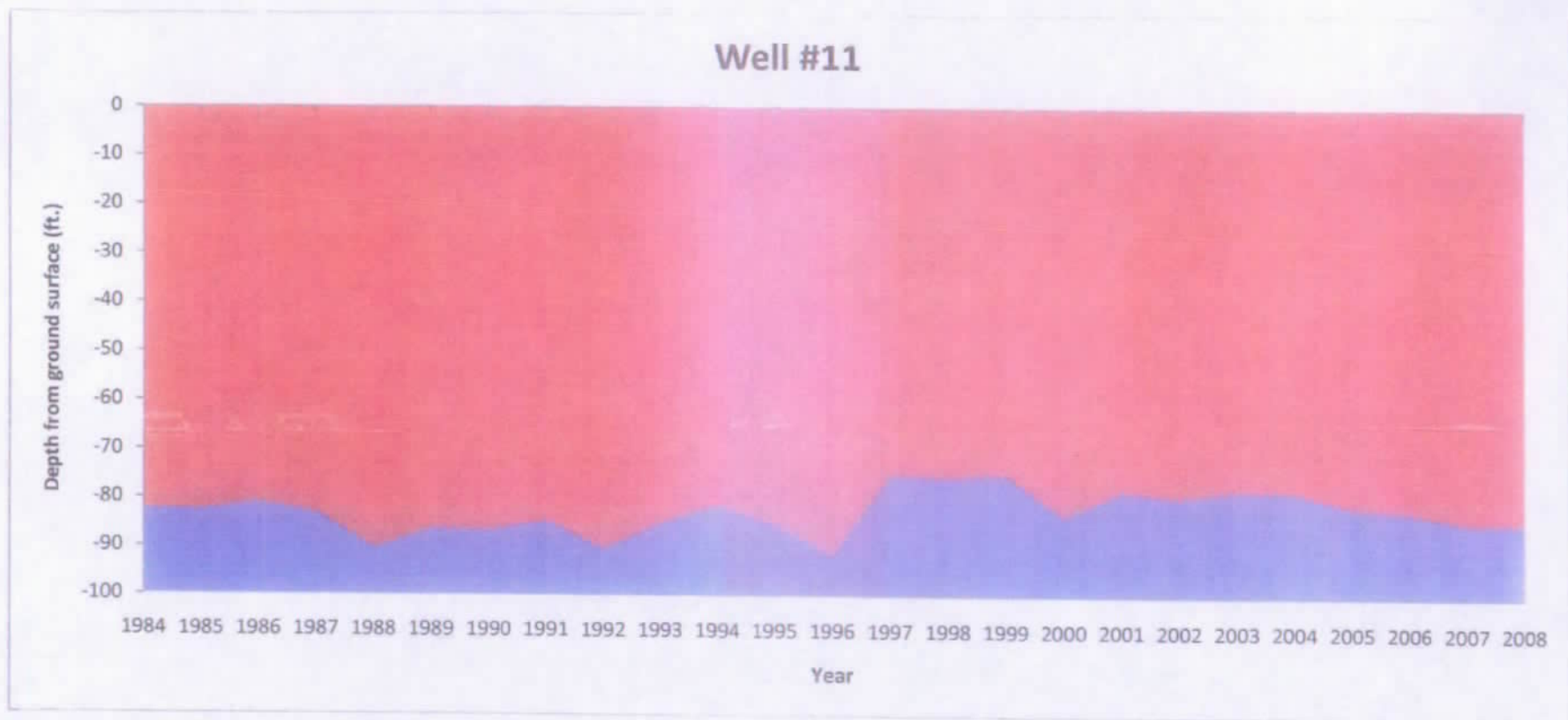


Figure 3



Figure 3

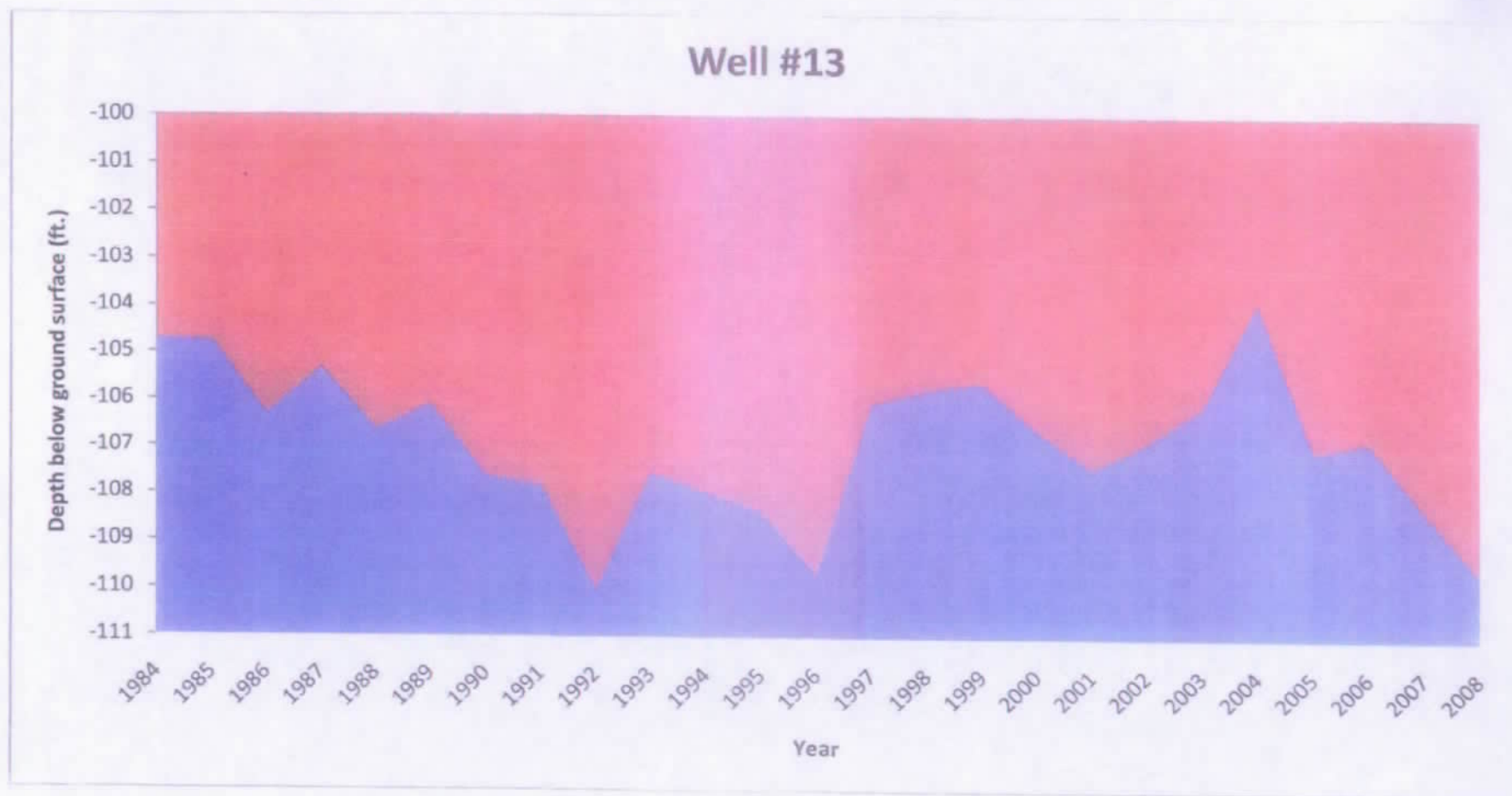


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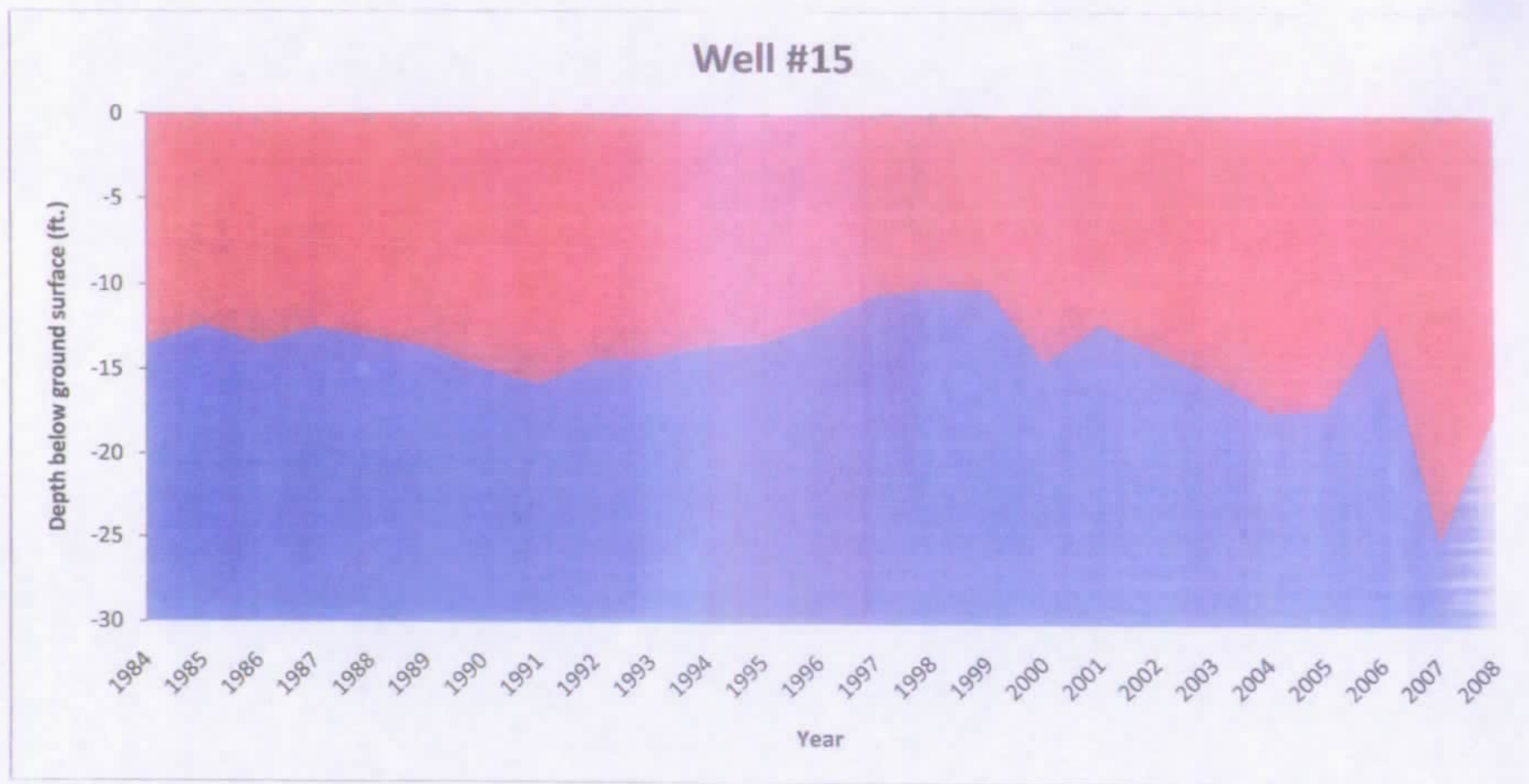


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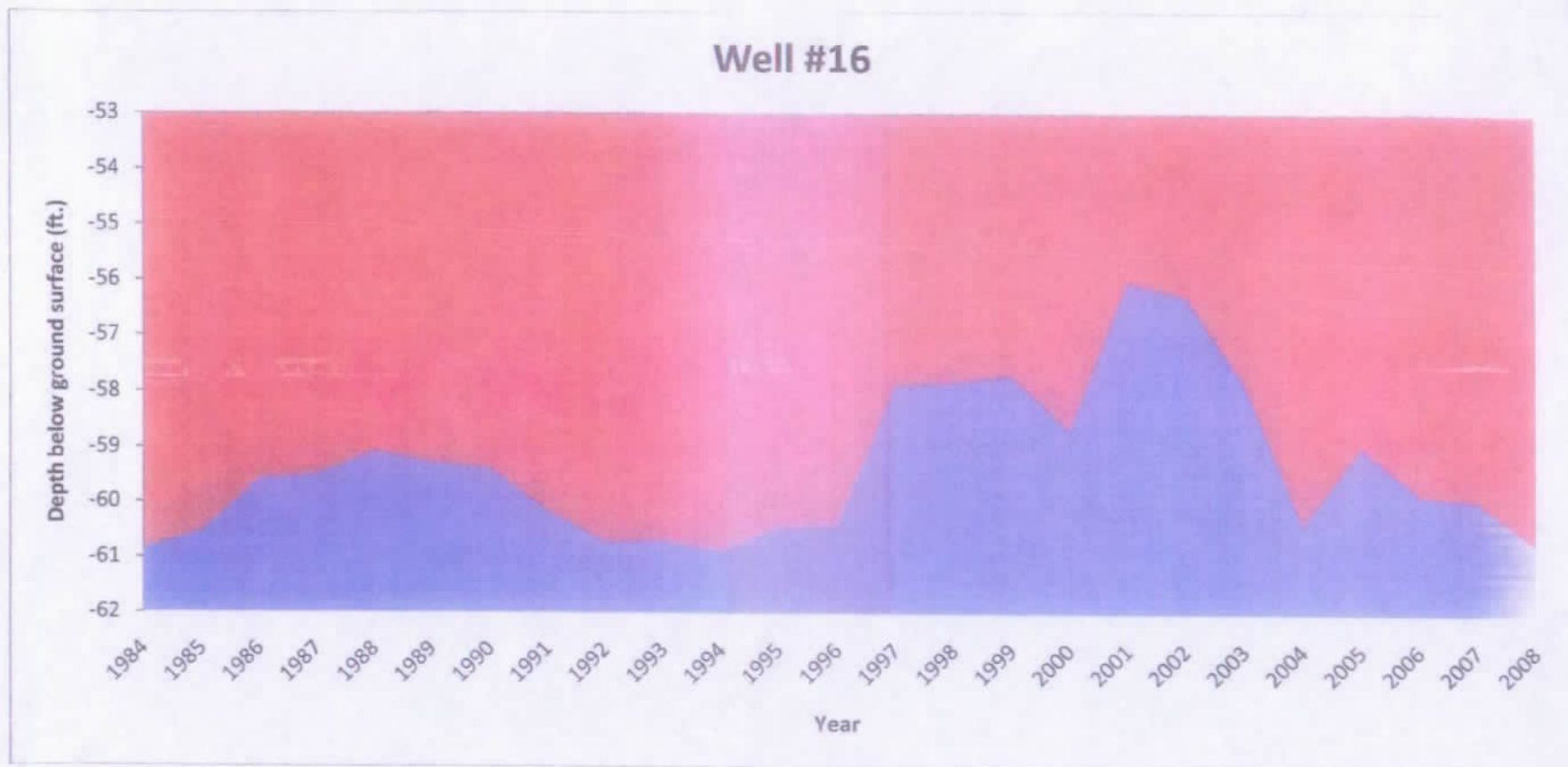


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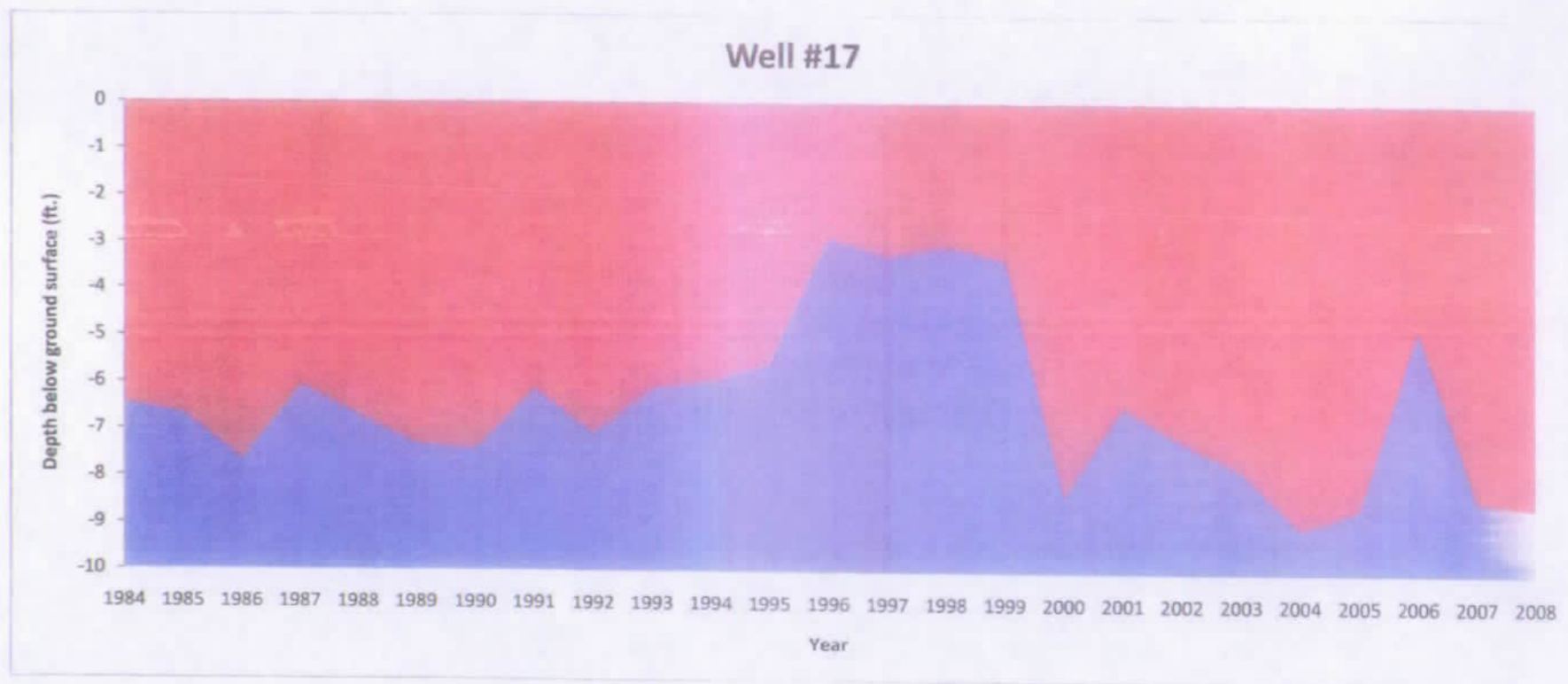


Figure 3

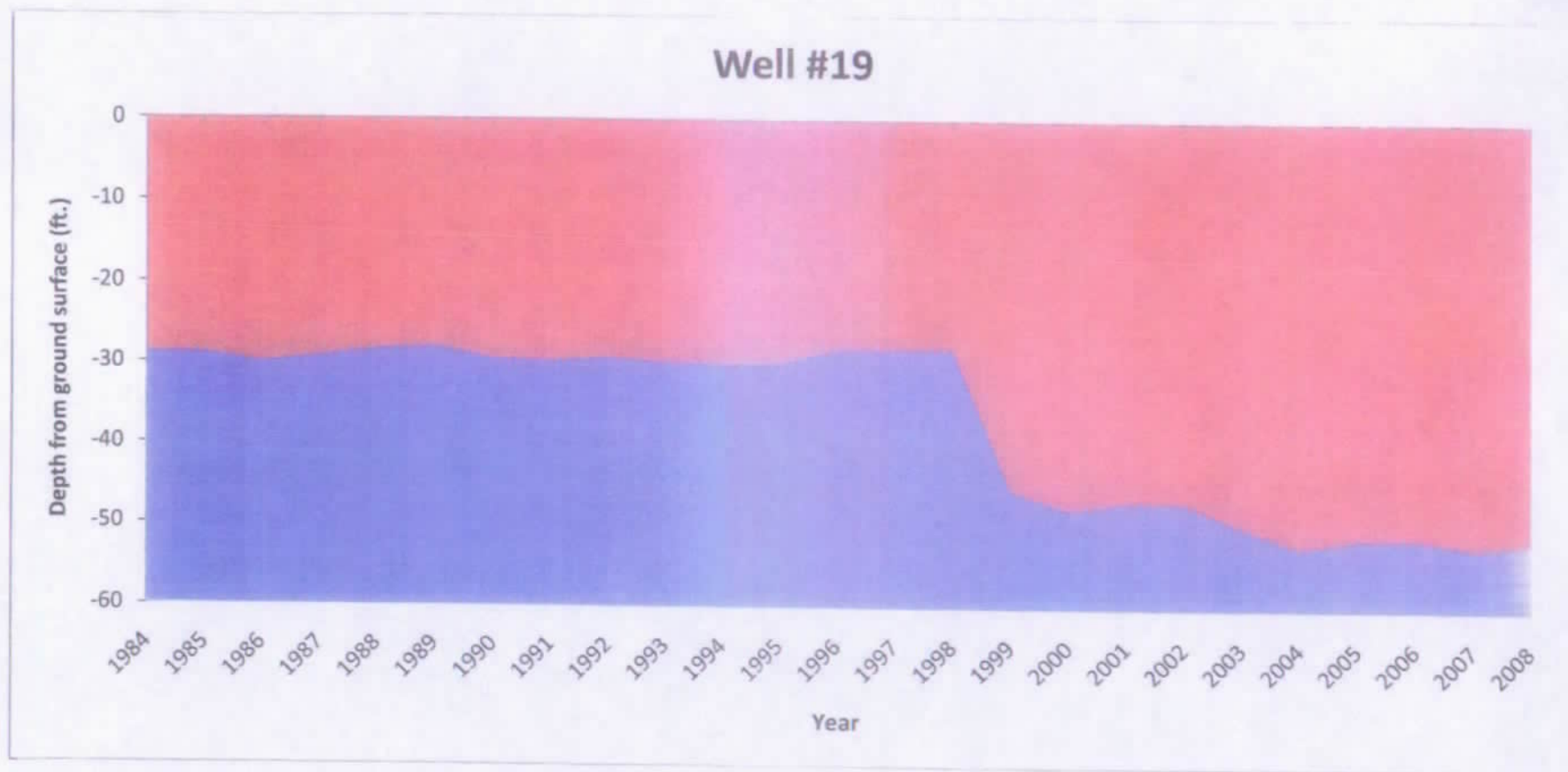


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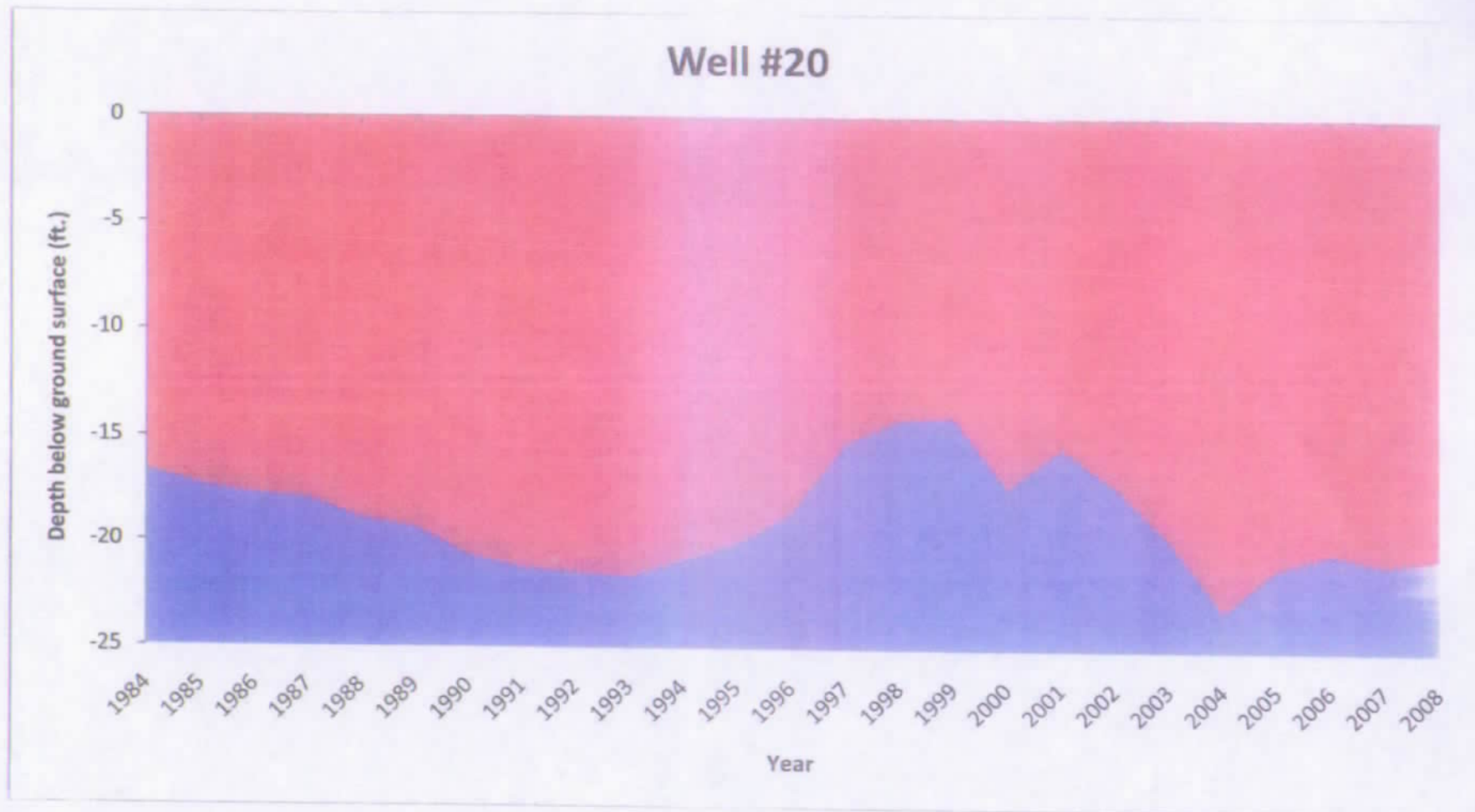


Figure 3

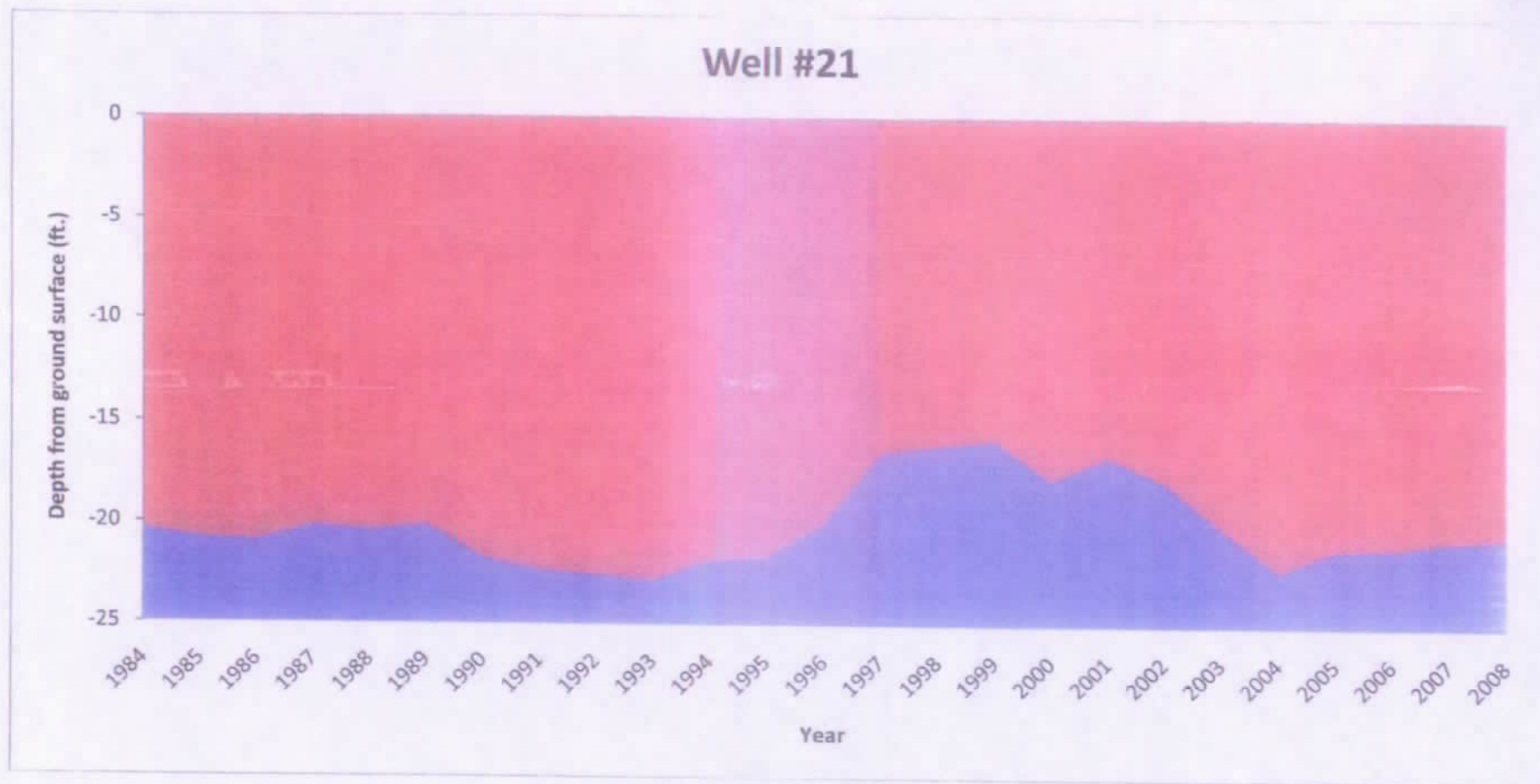


Figure 3

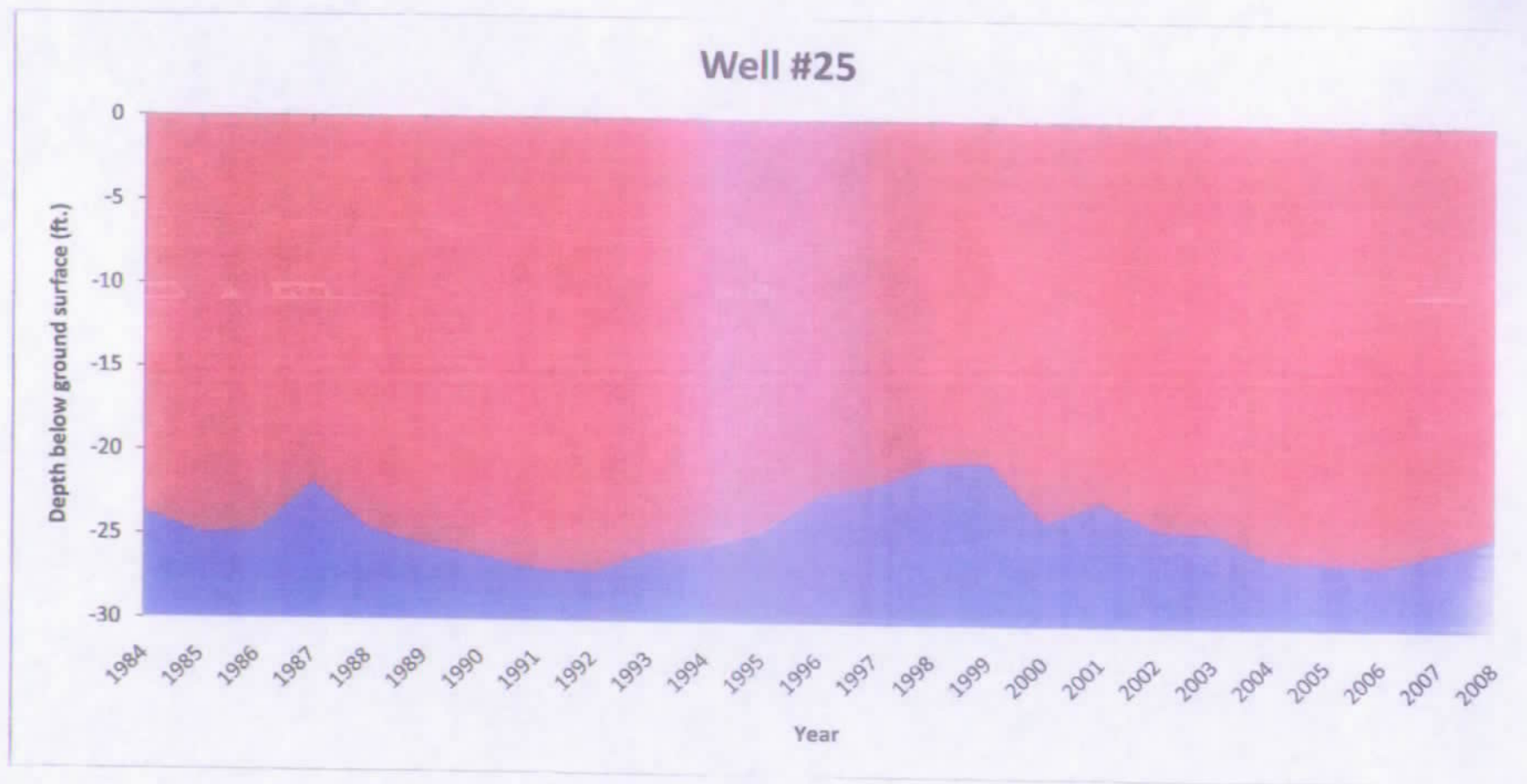


Figure 3

Location of Irrigation Wells

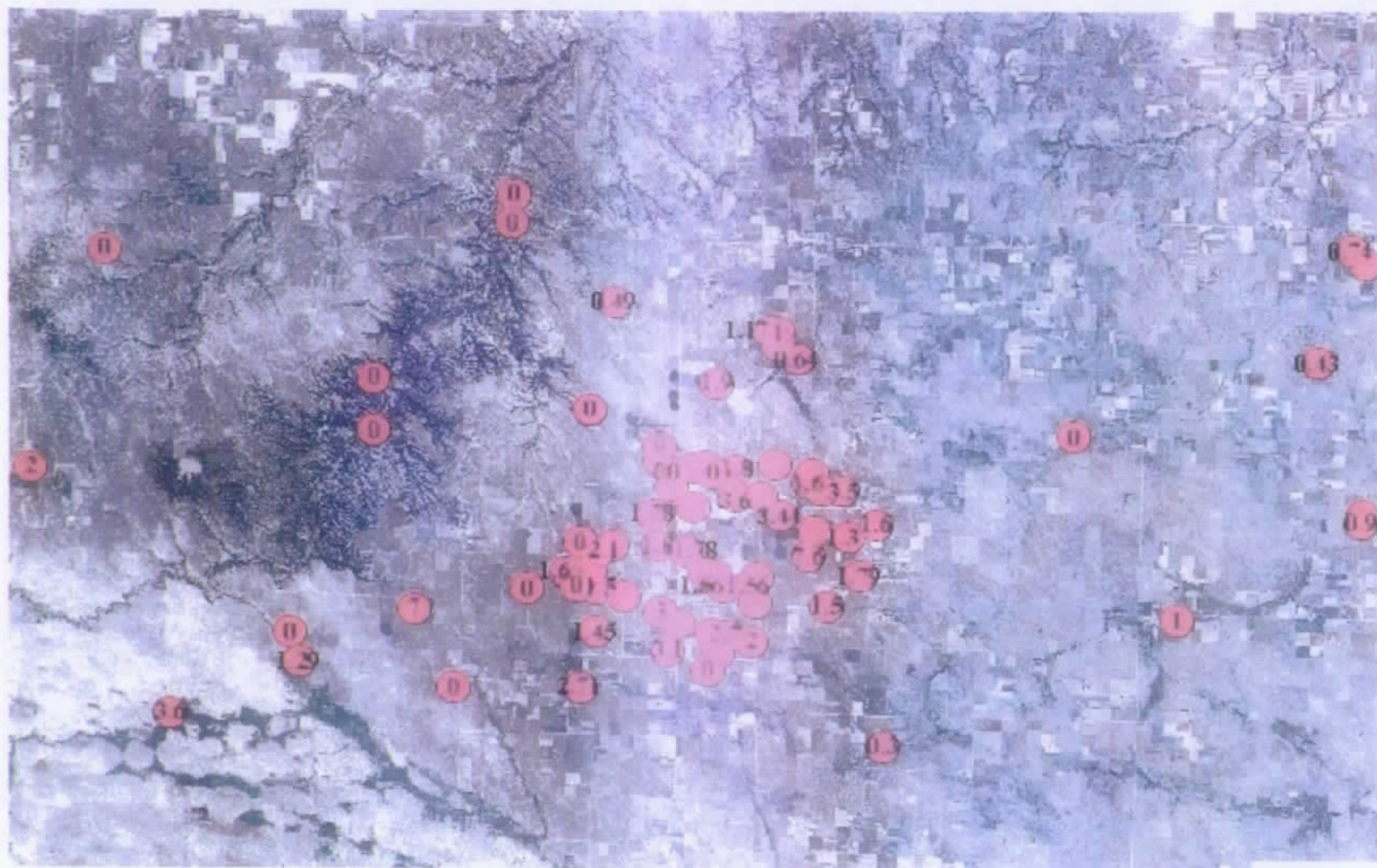


Figure 4

Total Irrigation Water Use – 2,752,149,300 GPM

(Equals 14,035,961,430 GPY)

(Based on 5-Month Irrigation Season)

Total Domestic, Municipal. & Industrial Use – 86,964,900 GPM

(Equals 1,043,578,880 GPY)

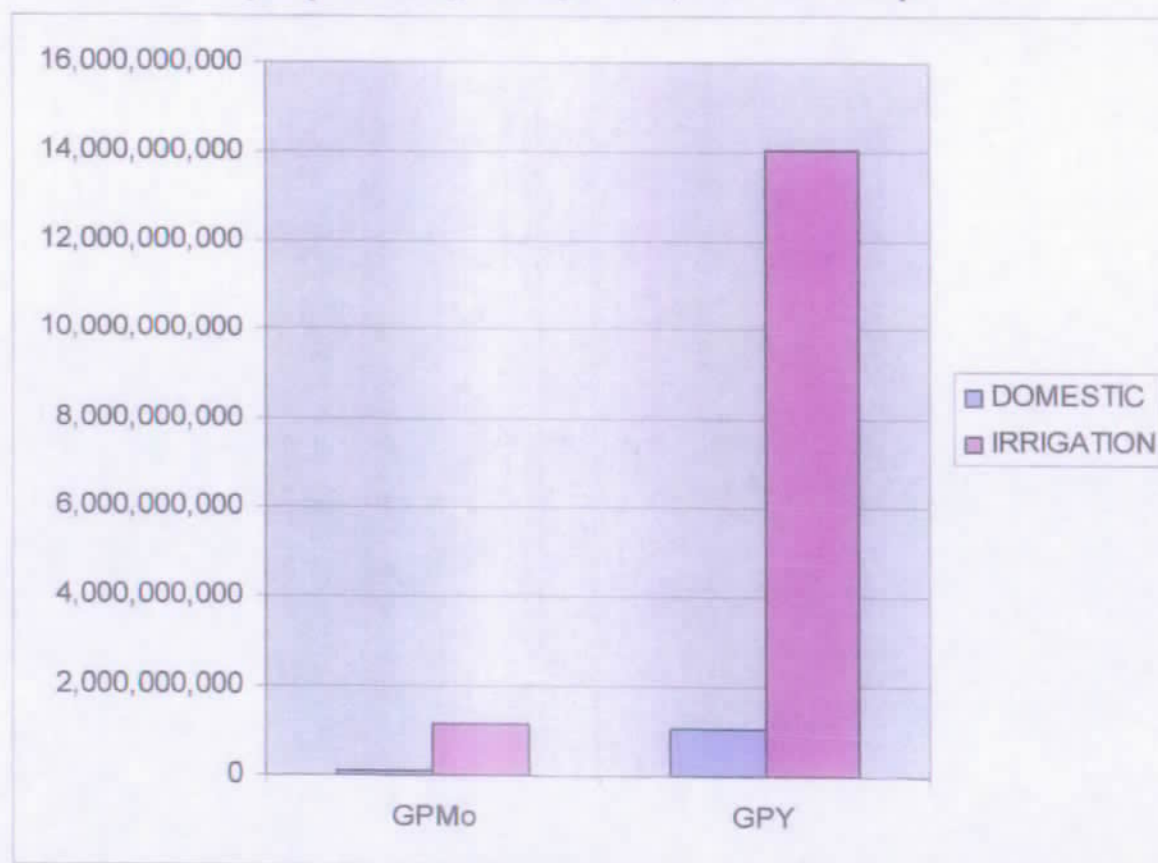
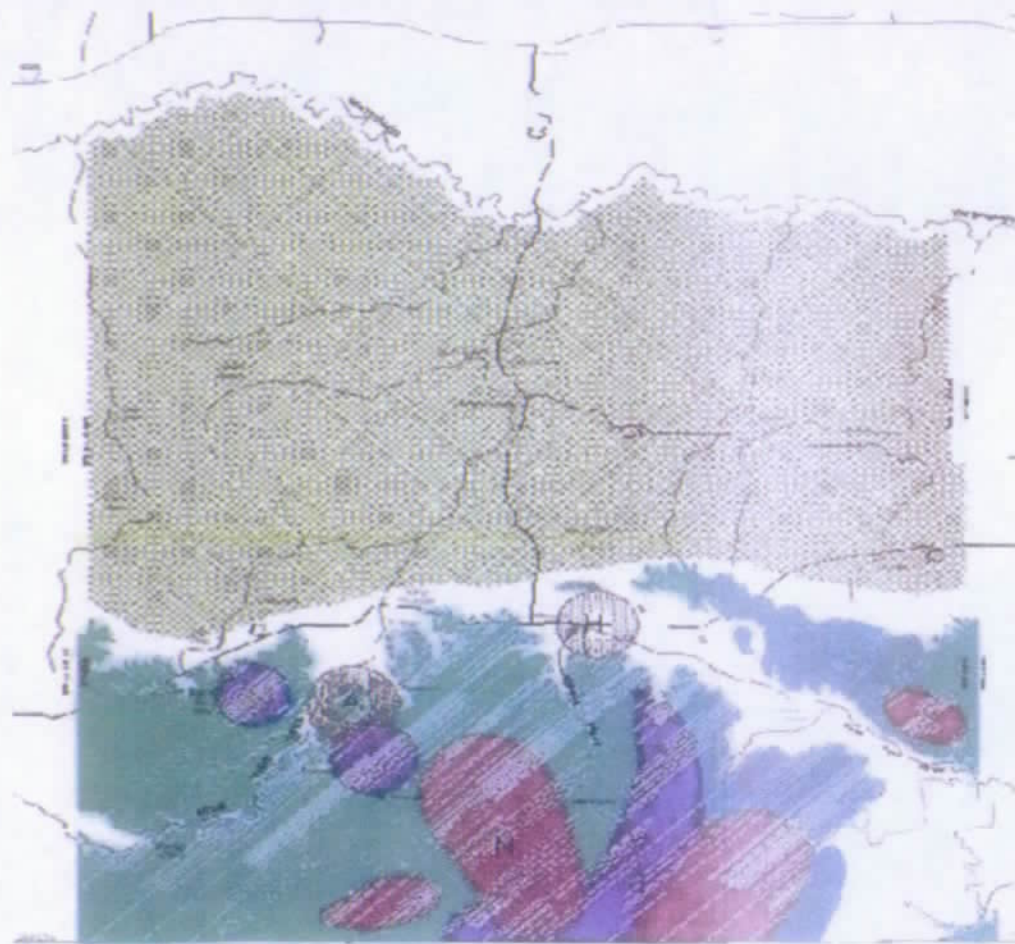


Figure 5



Groundwater Contamination



- Nitrates
- Arsenic
- Hydrocarbons

Figure 6





**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 11, 2011

NOTICE

TO: Leonard Danielski
M L T Investments
PO Box 230
Valentine NE 69201

Edward Charging Elk, Executive Director
Sicangu Lakota Treaty Council
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 Nos. 2661-2 and 2662-2, M L T Investments

A petition opposing approval of Water Permit Application Nos. 2661-2 and 2662-2 has been filed by the Sicangu Lakota Treaty Council of the Rosebud Sioux Tribe in response to the Notice of Application published in the Todd County Tribune. This notice schedules a hearing on the application before the South Dakota Water Management Board.

Application No. 2661-2 proposes to appropriate 1.89 cubic feet of water per second (cfs) from two wells to be completed into the Ogallala Aquifer (approximately 260 feet deep) located in NE 1/4 Section 7 for irrigation of 140 acres located in the NE 1/4 Section 7; all in T36N-R29W.

Application No. 2662-2 proposes to appropriate 1.89 cfs from two wells to be completed into the Ogallala Aquifer (approximately 260 feet deep) located in the NE 1/4 Section 32 for irrigation of 140 acres located in the NE 1/4 Section 32; all in T37N-R29W.

The Water Management Board will conduct a hearing to consider Application No. 2661-2 and 2662-2 at 1:00 PM (CDT) on Wednesday, May 4, 2011 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 is a change to the hearing time or date. 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 Permit No. 2661-2 and 2662-2 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. 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 either application based on the evidence presented at the public hearing.

The hearing on Application No. 2661-2 and 2662-2 will be held in conjunction with four other pending applications for irrigation in Todd County. They are Application No. 2569A-2 filed by Harvey Gunnink, Application No. 2660-2, Mission Farms, Investments and Farming and Application No. 2663-2, Danielski Harvesting & Farming and Application No. 2664-2 filed by O'Neill Farms.

The May 4, 2011, 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 applications. The request for an automatic delay must be filed by April 25, 2011.

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, affidavit of publication and petition in the matter of Water Permit Application Nos. 2661-2 and 2662-2. 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.

These applications are 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; 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 or eric.gronlund@state.sd.us. 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.

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, 2011.



**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 14, 2011

NOTICE

TO: Leonard Danielski for
M L T Investments,
Mission Farms &
Danielski Harvesting and Farms
PO Box 230
Valentine NE 69201

Edward Charging Elk, Executive Director
Sicangu Lakota Treaty Council
Rosebud Sioux Tribe
PO Box 430
Rosebud SD 57570

Ms. Patricia Jones, Acting Director
Tribal Land Enterprise
PO Box 159
Rosebud SD 57570

Harvey F Gunnink
214 N Hall Street
Valentine NE 69201

Jay Gunnink
HC 78 Box 22
Crookston NE 69212

Tony O'Neill
O'Neill Farms Inc
HC 77 Box 33A
Cody NE 69211

FROM: *for* Garland Erbele, Chief Engineer
Water Rights Program *Eric Brunkner*

SUBJECT: Notice of Hearing on Water Permit Application Nos. 2569A-2, 2660-2, 2661-2, 2662-2, 2663-2, and 2664-2

Notice was sent April 11th scheduling a May 4, 2011 hearing before the South Dakota Water Management Board on Water Permit Application Nos. 2569A-2, 2660-2, 2661-2, 2662-2, 2663-2 and 2664-2. Since that time a letter has been filed by the Tribal Land Enterprise, a sub-ordinate organization of the Rosebud Sioux Tribe in response to the public notice published in the Todd County Tribune. This letter is deemed to constitute a petition to intervene in the hearing process. Therefore, Tribal Land Enterprise is a party to this proceeding.

Attached in this notice to Ms. Jones with the Tribal Land Enterprise are the April 11th notices scheduling the May 4th hearing for these applications. Included are the staff reports, recommendations, affidavit of publications on each application and the petition filed by the Sicangu Treaty Office. Also enclosed are two documents intended to acquaint parties with the hearing process.

Enclosed to the applicants and the Sicangu Treaty Office in this notice is the recent Tribal Land Office filing.

The Water Management Board will conduct a hearing to consider these applications at 1:00 PM (CDT) on Wednesday, May 4, 2011 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 is a change to the hearing time or date. Pursuant to SDCL 46-2-9, 46-2-11, and 46-2A-23, the Board has legal authority and jurisdiction to conduct this hearing. The hearing may continue to the morning of May 5, 2011 so parties should plan accordingly. All provisions set forth in the April 11th notice still apply including that the May 4th hearing date may be automatically delayed for at least 20 days upon written request filed by April 25, 2011.

Questions regarding the hearing process may be directed to Eric Gronlund, Water Rights Program at (605) 773-3352 or eric.gronlund@state.sd.us.

c: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on April 14, 2011, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Hearing dated April 14, 2011, regarding scheduling the hearing for Water Right Permit Application Nos. 2569A-2, 2660-2, 2661-2, 2662-2, 2663-2 and 2664-2, as addressed below:

Leonard Danielski for
M L T Investments,
Mission Farms &
Danielski Harvesting and Farms
PO Box 230
Valentine NE 69201

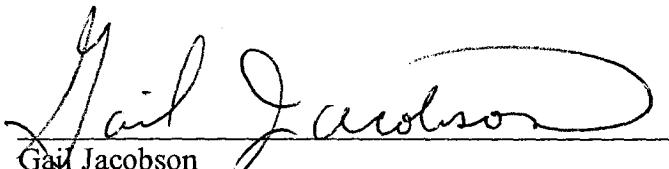
Edward Charging Elk, Executive Director
Sicangu Lakota Treaty Council
Rosebud Sioux Tribe
PO Box 430
Rosebud SD 57570

Ms. Patricia Jones, Acting Director
Tribal Land Enterprise
PO Box 159
Rosebud SD 57570

Harvey F Gunnink
214 N Hall Street
Valentine NE 69201

Jay Gunnink
HC 78 Box 22
Crookston NE 69212

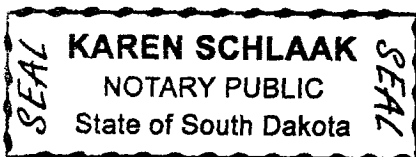
Tony O'Neill
O'Neill Farms Inc
HC 77 Box 33A
Cody NE 69211


Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 14th day of April, 2011.


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, 2011

NOTICE

TO: William Quigley
Quigley, Dill & Quigley
PO Box 748
Valentine NE 69201

Edward Charging Elk, Executive Director
Sicangu Lakota Treaty Council
Rosebud Sioux Tribe
PO Box 430
Rosebud SD 57570

Tony O'Neill
O'Neill Farms Inc
HC 77 Box 33A
Cody NE 69211

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 Mr. Quigley and Mr. O'Neill to prepare proposed Findings of Fact, Conclusions of Law and a Final Decision in the matter of the approval of Water Permit Application Nos. 2569A-2, 2660-2, 2661-2, 2662-2, 2663-2 and 2664-2. The Board will consider adoption of Findings, Conclusions and Final Decision at 10:00 AM, on July 13, 2011, in the Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol Avenue, Pierre SD. Notice will be provided if there is a change in the hearing date or time.

The Board requested that a copy of the proposed Findings, Conclusions and Final Decision be mailed to each Board member and parties by June 23, 2011. 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 July 4, 2011. Board counsel requests that the draft findings or alternative findings be provided in a WORD format file via email to jeff.hallem@state.sd.us.

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 13, 2011. The public hearing was completed on May 4, 2011. 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
Ms. Patricia Jones, Tribal Land Enterprise, PO Box 159, Rosebud SD 57570

CERTIFICATION

I hereby certify that on May 9, 2011, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Hearing dated May 9, 2011, regarding preparation of findings of fact, conclusions of law and final decision for Water Right Permit Application Nos. 2569A-2, 2660-2, 2661-2, 2662-2, 2663-2 and 2664-2, as addressed below:

William Quigley
Quigley, Dill & Quigley
PO Box 748
Valentine NE 69201

Edward Charging Elk, Executive Director
Sicangu Lakota Treaty Council
Rosebud Sioux Tribe
PO Box 430
Rosebud SD 57570

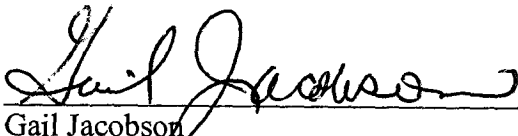
Tony O'Neill
O'Neill Farms Inc
HC 77 Box 33A
Cody NE 69211

Diane Best, Assistant Attorney General
300 N. Dakota Avenue, Suite 403
Sioux Falls SD 57104

Ms. Patricia Jones
Tribal Land Enterprises
PO Box 159
Rosebud SD 57570

Sent Inter-office Mail to:

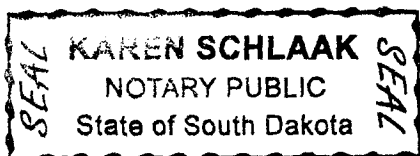
Jeff Hallem, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501-8501


Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 9th day of May, 2011.


Karen Schlaak
Notary Public
My Commission expires April 1, 2013





2662-2
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

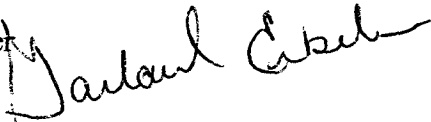
June 23, 2011

NOTICE

TO: William Quigley
Quigley, Dill & Quigley
PO Box 748
Valentine NE 69201

Edward Charging Elk, Executive Director
Sicangu Lakota Treaty Council
Rosebud Sioux Tribe
PO Box 430
Rosebud SD 57570

Tony O'Neill
O'Neill Farms Inc
HC 77 Box 33A
Cody NE 69211

FROM: Garland Erbele, Chief Engineer
Water Rights Program 

SUBJECT: Change in Time for Consideration of Findings of Fact, Conclusions of Law and Final Decision

Due to agenda scheduling, the Water Management Board will now consider adoption of Findings, Conclusions and Final Decision in the matter of Water Permit Application Nos. 2569A-2, 2660-2, 2661-2, 2662-2, 2663-2 and 2664-2 at 11:00 AM, on July 13, 2011, in the Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol Avenue, Pierre SD. The agenda time is an estimate.

Applicable provisions of the Notice dated May 9, 2011 regarding preparation of findings of fact, conclusions of law and final decision still apply.

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

c: Jeff Hallem, Assistant Attorney General
Diane Best, Assistant Attorney General
Ms. Patricia Jones, Tribal Land Enterprise, PO Box 159, Rosebud SD 57570

CERTIFICATION

I hereby certify that on June 23, 2011, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice of Hearing dated June 23, 2011, regarding change of time for consideration of findings of fact, conclusions of law and final decision for Water Right Permit Application Nos. 2569A-2, 2660-2, 2661-2, 2662-2, 2663-2 and 2664-2, as addressed below:

William Quigley
Quigley, Dill & Quigley
PO Box 748
Valentine NE 69201

Edward Charging Elk, Executive Director
Sicangu Lakota Treaty Council
Rosebud Sioux Tribe
PO Box 430
Rosebud SD 57570

Tony O'Neill
O'Neill Farms Inc
HC 77 Box 33A
Cody NE 69211

Diane Best, Assistant Attorney General
300 N. Dakota Avenue, Suite 403
Sioux Falls SD 57104

Ms. Patricia Jones
Tribal Land Enterprises
PO Box 159
Rosebud SD 57570

Sent Inter-office Mail to:

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



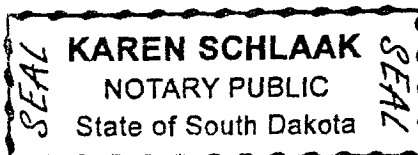
Gail Jacobson
Water Rights Program, DENR

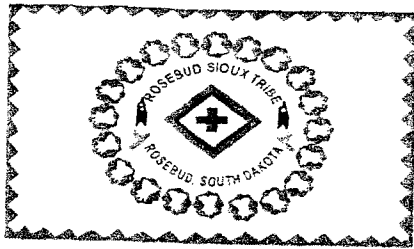
STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 23rd day of June, 2011.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013



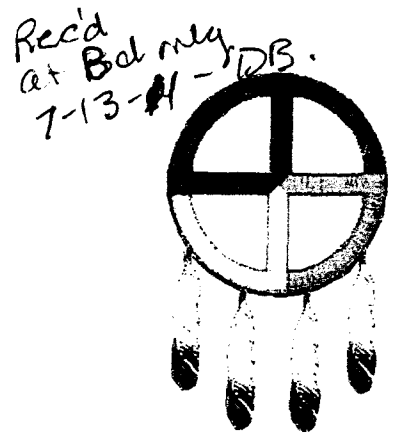


July 12, 2011

Sicangu Treaty Office

Rosebud Sioux Tribe

P.O. Box 430
Rosebud, SD 57570
Office (605) 747-4775
Cell (605) 319-6048
Sicangulakotatreatycouncil@yahoo.com



Jeffrey P. Hallem
Assistant Attorney General
Office of Attorney General
1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501

RE: In the matter of Water Permit Application Nos. 2661-2 and 2662-2, MLT Investments, LLC; No. 2663-2, Danielski Harvesting and Farming; No. 2664-2, O'Neill Farms, Inc.; No. 2660-2, Mission Farms, Inc.; No. 2569A-2, To Reinstate Water Permit No. 2569-2, Jay Gunnink, and Harvey F. Gunnink.

Mr. Hallem:

The 1851 and 1868 Fort Laramie Treaties were negotiated between the Great Sioux Nation and the United States of America. In 1889 the United States Congress gave the State of South Dakota "Statehood". It is the Great Sioux Nation contention the Act of 1877 did not abrogate the Treaty of 1868 Fort Laramie Treaty because it did not obtain $\frac{3}{4}$ adult male members of the Great Sioux Nation.

The objection of the "Sicangu Lakota Treaty Council" is based on the 1868 Fort Laramie Treaty and the Rosebud Sioux Tribe vs State of South Dakota. (Highway Patrol Public Law 280 was not exercised by the State of South Dakota on some Federal Indian Reservations as recognized in 1889).

I am willing to exercise my Indian Civil Right Act along with the 1868 Treaty Rights and seek justice in every means possible not to exclude a Class Action suit from each member/Tribe of the Great Sioux Nation.

With Respect,

Edward D/ Charging Elk
Executive Director
Member of the Great Sioux Nation

"TESTIMONY"

Prepared By: Edward Charging Elk, Executive Director
Sicangu Lakota Treaty Council
Rosebud Sioux Tribe
Rosebud, SD 57570

Tribal/Sovereignty of a Band/Tribe of the (Oceti Sakowin), Great Sioux Nation is always under attack from the State of South Dakota. We have a Treaty with the United States what is known as the "1868 Fort Laramie Treaty."

Since 1851 to the present 2011, the United States and the State of South Dakota have violated a number of Seventeen (17) Articles in the 1868 Fort Laramie Treaty.

A "Treaty" Nation to Nation is the Supreme Law of Our Land as identified within the exterior boundaries of all lands described in the 1868 Treaty Territory. The United States attempted to enter into another Treaty in 1877. The United States could not receive $\frac{3}{4}$ adult male majority, as negotiated in the 1868 Treaty. Consequently, the United States Congress adopted what is known as the "Act of 1877". This did not abrogate the 1868 Fort Laramie Treaty. Since that time the United States Congress enacted the "1889 Act" which granted Statehood to the State of South Dakota.

The United States attempted to develop regulations to address issues within the 17 Articles of the 1868 Fort Laramie Treaty. This document is known as Title 25, "Indians" Code of Federal Regulations.

The Great Sioux Nation who battled in the Indian Wars were forced on Indian Reservations. We became educated and have friends in Congress who realized what the United States done in ignoring the 1868 Fort Laramie Treaty and stole land, natural resources, and trampled on the spirituality, traditional way of life and attempted to change our families by trying to make us farmers.

The State of South Dakota has attempted to envoke and force Jurisdiction of the Indian Tribes located in South Dakota. The State used the State and Federal Courts to encroach our Tribal Sovereignty.

I feel the Kneip vs Rosebud Sioux Tribe diminished our Rosebud Indian Reservation only for the purpose of taxation. The boundaries of the Rosebud Reservation include the counties of Mellette, Tripp, Gregory, and Lyman. I know that the courts did not state it but effectively closed the county, Todd.

Page 2

I feel that the South Dakota Management Board within the Department of Environment and Natural Resources have "No Authority" in issuing Water Permit Applications to anyone within the exterior boundaries of Todd County. This is based on the 1868 Fort Laramie Treaty and Federal Law. The Federal Judicial system from District Eighth Circuit Court of Appeals to the United Supreme Court addressed that issue.

In the case of Rosebud Sioux Tribe vs State of South Dakota to include the South Dakota Highway Patrol. The case was beginning with the District Federal Court, 18th Circuit Court of Appeals and the United States Supreme Court. It ruled in favor of the Sioux Tribes of Rosebud, Oglala Sioux Tribe, Standing Rock Sioux Tribe, and the Cheyenne River Sioux Tribe, that the State of South Dakota Highway Patrol has NO JURISDICTION to enforce State Law within the exterior boundaries of the respective Reservations.

I am here to voice my concern on encroachment of Tribal Sovereignty within the exterior boundaries of Todd County, South Dakota, since we declare it a closed Reservation and Trust Lands located in the Counties of Mellette County, Tripp County, Gregory County, and Lyman County. Article III (Three) and Sixteen (16) and Public Law P.L. 280 of the 83rd Congress. Congress surely did not deny an option to the State, the power to condition its offer of full jurisdiction on Tribal consent.

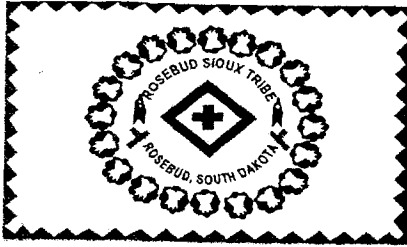
The Rosebud Sioux Tribe never or never will authorize the State of South Dakota to exercise State Jurisdiction within the exterior boundaries of Todd County or all other Trust Lands located in Mellette County, Tripp County, Gregory County, and Lyman County.



Edward Charging Elk, Executive Director
Sicangu Lakota Treaty Office
Rosebud Sioux Tribe

Attached: 900 F.2d 1164

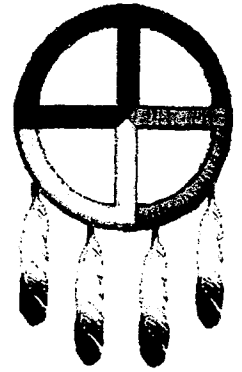
Rosebud Sioux Tribe & 3 other Sioux Tribes vs the State of South Dakota
and S.D. Highway Patrol for reference.
Titles 18 & 19 of Water Use Laws, R.S.T.



Sicangu Treaty Office

Rosebud Sioux Tribe

P.O. Box 430
Rosebud, SD 57570
Office (605) 747-4775
Cell (605) 828-1284
Sicangulakotatreatycouncil@yahoo.com



March 28, 2011

PETITION

Eric Gronland
Secretary, Department Environmental & Natural Resources
State of South Dakota

RE: Chief Engineer "Water Rights Program"
Recommending Approval of Applications No. 2663-2, Reinstate Water Permit
No. 2569-2, Application 2660-2 to appropriate water, Application no. 2661-2 &
2662-2 to appropriate and Application no. 2664-2 to appropriate water.

The United States government has agreed by the Treaty of 1868 known as "Fort Laramie Treaty of 1868," to designate the Great Sioux Nation territory and could not be occupied by whites in Article XVI (16) of the "Fort Laramie Treaty of 1868".

In Article II (2) of the Fort Laramie Treaty of 1868, stated the exact Legal Description of the Great Sioux Nation boundaries. (Copy of Article II is attached herein). Congress attempted to enter into another Treaty in 1877, but could not obtain $\frac{3}{4}$ of the adult male for a legal Treaty. Congress passed the Act of 1877 in violation of the Fort Laramie Treaty of 1868. In 1889, Congress declared the Dakota Territory as South Dakota.

We are dealing with a Treaty violation of the Fort Laramie Treaty of 1868. We are not dealing with a Congressional Act of 1877 and 1889.

As a Band of the Great Sioux Nation and a Federally Recognized Tribe since 1934, we have yet to educate the State of South Dakota on our Sovereign Tribal Rights.

No where in the "1868 Treaty" did we agree or give up our Tribal Sovereignty with our Federal Reservation.

Page 2

There is based our Sovereign Rights of the Fort Laramie Treaty of 1868. We object completely on issuing the applications to appropriate more water to said permits herein and the reinstatement of Water Permits 2569A-2 and 2569-2.

Should these permits be approved by the Water Management Board of the State of South Dakota, the Rosebud Sioux Tribe will treat it as a Treaty violation of the Fort Laramie Treaty of 1868 and invoke Article I of the Fort Laramie Treaty of 1868 and the Rosebud Sioux Tribe will file a complaint in the appropriate Federal judicial system for adjudication for violating Article II and Article XVI of the Fort Laramie Treaty of 1868.

With Respect,

A handwritten signature in black ink, appearing to read 'E. Charging Elk', with a long horizontal stroke extending to the right.

Edward Charging Elk, Executive Director
Sicangu Lakota Treaty Council
Rosebud Sioux Tribe

Attachments: Article II
Article XVI

proper, but no one sustaining loss while violating the provisions of this treaty, or the laws of the United States, shall be reimbursed therefor.

ARTICLE II.

The United States agrees that the following district of country, to wit, viz: commencing on the east bank of the Missouri river where the 46th parallel of north latitude crosses the same, thence along low-water mark down said east bank to a point opposite where the northern line of the State of Nebraska strikes the river, thence west across said river, and along the northern line of Nebraska to the 104th degree of longitude west from Greenwich, thence north on said meridian to a point where the 46th parallel of north latitude intercepts the same, thence due east along said parallel to the place of beginning; and in addition thereto, all existing reservations of the east bank of said river, shall be and the same is, set apart for the absolute and undisturbed use and occupation of the Indians herein named, and for such other friendly tribes or individual Indians as from time to time they may be willing, with the consent of the United States, to admit amongst them; and the United States now solemnly agrees that no persons, except those herein designated and authorized so to do, and except such officers, agents, and employees of the government as may be authorized to enter upon Indian reservations in discharge of duties enjoined by law, shall ever be permitted to pass over, settle upon, or reside in the territory described in this article, or in such territory as may be added to this reservation for the use of said Indians, and henceforth they will and do hereby relinquish all claims or right in and to any portion of the United States or Territories, except such as is embraced within the limits aforesaid, and except as hereinafter provided.

ARTICLE III.

If it should appear from actual survey or other satisfactory examination of said tract of land that it contains less than 160 acres of tillable land for each person who, at the time, may be authorized to reside on it under the provisions of this treaty, and a very considerable number of such persons shall be disposed to comence cultivating the soil as

Reservation boundaries:
East bank boundary
cedes river to tribes.

Certain persons not to
enter or reside thereon.

STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF WATER	)	WATER MANAGEMENT BOARDS RULINGS ON
PERMIT APPLICATIONS No.	)	APPLICANTS PROPOSED FINDINGS OF
2661-2, AND 2662-2, MLT	)	FACT, CONCLUSIONS OF LAW AND FINAL
INVESTMENTS, LLC.	)	DECISION AND DENR RESPONSE TO
	)	FINDINGS OF FACT, CONCLUSIONS OF
	)	LAW AND ORDER

Pursuant to the directions of the Water Management Board, counsel for Applicant submitted proposed Findings of Fact, Conclusion of Law and Final Decision in the above captioned matters. Subsequently, counsel for the Department of Environment and Natural Resources, Water Rights Program (DENR) submitted DENR Response to Proposed Findings of Fact, Conclusions of Law and Order.

Intervener Sicangu Lakota Treaty Council, the only intervener that appeared at the hearing, was served with copies of Applicants' and DENR's submissions. Intervener submitted for consideration a jurisdictional objection on July 13, 2011, through a letter dated July 12, 2011. The Board, upon review of the submissions received and the administrative record, and having orally entered its decision, hereby enters the following rulings:

A. Applicants proposed Findings of Fact Nos. 1, 2, 6, 8, 11, 13, 14, 15, 16, 18 and 22 are accepted by the Board as

consistent with the administrative record and the Board's oral decision.

B. Applicant proposed Findings of Fact Nos. 3 and 4 are accepted by the Board as consistent with the administrative record and the Board's oral decision, corrected as follows: in each finding delete "T36-R29" and insert "T36-R29W in Todd County."

C. Applicant proposed Finding of Fact No. 5 is accepted by the Board as consistent with the administrative record and Board's oral decision, corrected as follows: in the first sentence delete "this application" and insert "these applications;" and in the third sentence delete "point" and insert "points."

D. Applicant proposed Finding of Fact No. 7 is substantially accepted by the Board as modified below to be more consistent with the administrative record and the Board's oral decision:

5. James Goodman, an engineer from South Dakota DENR testified about water availability for the subject well application. His testimony was based on South Dakota Water Rights Program observation well data in Todd County as well as (a) information obtained from a water resources study of Mellette and Todd counties that was conducted on a cooperative basis with the Rosebud Sioux Tribe, USGS, and the South Dakota Geological Survey, (b) other studies including a groundwater recharge study, (c) DENR water rights files for Todd County, (d) his own field work in Todd County, and (e) his expertise in groundwater and groundwater formations, including the

Ogallala formation. The source of water under the application is the Ogallala Aquifer which is an aquifer under water table conditions that underlies approximately 645 square miles in Todd County. It is reliably estimated that the aquifer contains at least 12.384 million acre-feet (MAF) of recoverable water in storage in Todd County alone. The water in storage in Todd and Mellette County is 17 MAF. Based on the Goodman testimony, these are conservative estimates based on expert studies and his review of other expert studies shows that the water resource may be even more abundant. The general direction of groundwater flow in this area is to the northeast.

E. Applicant proposed Finding of Fact No. 9 is substantially accepted by the Board, modified as follows to be more consistent with the administrative record and the Board's oral decision. Delete first sentence and insert "DENR Exhibit 10 shows 7 of DENR's observation wells in Todd County and their proximity to the irrigation applications at issue." In the second sentence capitalize the p on "program" and following "miles" insert "of the MLT Investments applications."

F. Applicant proposed Finding of Fact No. 10 is accepted by the Board as consistent with the administrative record and Board's oral decision, corrected as follows: prior to "application" delete "this" and insert "each."

G. Applicant proposed Finding of Fact No. 12 is accepted by the Board as consistent with the administrative record and Board's oral decision, corrected as follows: in the fourth sentence delete "this particular application" and insert "these

particular applications;" and in the fifth sentence delete "application" and insert "applications."

H. Applicant proposed Finding of Fact No. 17 is accepted by the Board as consistent with the administrative record and Board's oral decision, corrected as follows: prior to "permit" delete "this" and insert "each."

I. Applicant proposed Finding of Fact No. 19 is accepted by the Board as consistent with the administrative record and Board's oral decision, corrected as follows: in the first sentence prior to "case" delete "this" and insert "each."

J. Applicant proposed Finding of Fact No. 20 is substantially accepted by the Board, modified as follows to more accurately reflect the administrative record and the Board's oral decision. Following "public interest" delete "and" and insert "because it increases crop production and adds economic value in."

K. Applicant proposed Finding of Fact No. 21 is accepted by the Board as consistent with the administrative record and the Board's oral decision, corrected as follows: in the last sentence delete "water management" and insert "Water Management."

L. Applicants proposed Conclusions of Law Nos. 3, 4 and 7 are accepted by the Board as consistent with the administrative

record, the Board's oral decision, and the Findings of Fact adopted by the Board in the above rulings.

M. Applicants proposed Conclusion of Law No. 1 is accepted by the Board as consistent with the administrative record, the Board's oral decision, and the Findings of Fact adopted by the Board in the above rulings, corrected as follows: in the second sentence following "proposed" delete "point of diversion is" and insert "points of diversion are."

N. Applicants proposed Conclusion of Law No. 2 is accepted by the Board as consistent with the administrative record, the Board's oral decision, and the Findings of Fact adopted by the Board in the above rulings, corrected as follows: in the first sentence capitalize the "t" on "tribe's" and "tribe."

O. Applicants proposed Conclusion of Law No. 5 is accepted by the Board as consistent with the administrative record, the Board's oral decision, and the Findings of Fact adopted by the Board in the above rulings, corrected as follows: in the first sentence delete "diversion" and insert "diversions."

P. Applicants proposed Conclusion of Law No. 6 is accepted by the Board as consistent with the administrative record, the Board's oral decision, and the Findings of Fact adopted by the Board in the above rulings, corrected as follows:

in the first sentence following "Rosebud" insert "Sioux Tribe;" and in the second sentence prior to "permit" delete "this" and insert "each."

Q. Applicants proposed Conclusion of Law No. 8 is accepted by the Board as consistent with the administrative record, the Board's oral decision, and the Findings of Fact adopted by the Board in the above rulings, corrected as follows: in the second sentence prior to "water supply" delete "utilization of;" in addition, in the fourth sentence delete "law or" and prior to "case" delete "this" and insert "each."

R. Applicants proposed Final Decision is accepted by the Board as consistent with the administrative record, the Board's oral decision, and the Findings of Fact and Conclusions of Law adopted by the Board.

S. DENR Findings of Fact Response Nos. 2, and 4 are accepted by the Board as consistent with the administrative record, the Board's oral decision and the Findings of Fact adopted by the Board in the above rulings.

T. DENR Findings of Fact Response Nos. 3 and 5 are accepted by the Board as consistent with the administrative record, the Board's oral decision and the Findings of Fact adopted by the Board, corrected as follows: Response No. 2 in the second sentence after "observation" delete "wells" and

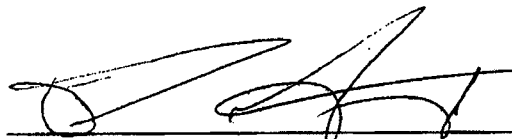
insert "well data;" Response No. 5 after "irrigation" delete "application" and insert "applications."

U. DENR Conclusions of Law Response Nos. 2 and 3 are adopted by the Board as consistent with the administrative record, the Board's oral decision and the Findings of Fact and Conclusions of Law adopted by the Board in the above rulings.

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

Dated this 14th of July, 2011.

BY THE BOARD:

A handwritten signature in black ink, appearing to be "Rodney Freeman Jr.", written over a horizontal line.

Rodney Freeman Jr.
Chairman of Water Management
Board



**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 19, 2011

NOTICE

TO: William Quigley
Quigley, Dill & Quigley
PO Box 748
Valentine NE 69201

Edward Charging Elk, Executive Director
Sicangu Lakota Treaty Council
Rosebud Sioux Tribe
PO Box 430
Rosebud SD 57570

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

SUBJECT: Adoption of Finding of Fact, Conclusion of Law and Final Decision in the matter
of Water Permit Application Nos. 2569A-2, 2660-2, 2661-2, 2662-2, 2663-2 and 2664-2

This is to notify you that the Water Management Board ruling and the Final Decision, including Findings of Fact and Conclusions of Law, were adopted July 13, 2011, by the Water Management Board Decision in the matter of the approval of Water Permit Application Nos. 2569A-2, 2660-2, 2661-2, 2662-2, 2663-2 and 2664-2. The Board rulings and signed Findings of Fact, Conclusions of Law and Final Decisions for each permit are enclosed.

South Dakota statutes provide that decisions of the Board may be appealed to the Courts pursuant to the procedures established in SDCL 1-26-31 and 1-26-32.

Enclosures

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

CERTIFICATION

I hereby certify that on July 19, 2011, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated July 19, 2011, regarding adoption of findings of fact, conclusions of law and final decision for Water Right Permit Application Nos. 2569A-2, 2660-2, 2661-2, 2662-2, 2663-2 and 2664-2, as addressed below:

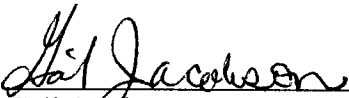
William Quigley
Quigley, Dill & Quigley
PO Box 748
Valentine NE 69201

Edward Charging Elk, Executive Director
Sicangu Lakota Treaty Council
Rosebud Sioux Tribe
PO Box 430
Rosebud SD 57570

Diane Best, Assistant Attorney General
317 N Main
Sioux Falls SD 57104

Sent Inter-office Mail to:

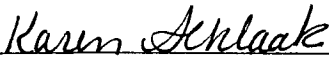
Jeff Hallem, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501-8501



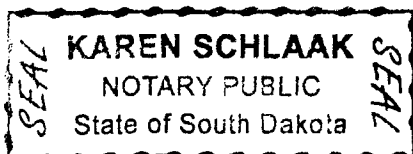
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 19th day of July, 2011.



Karen Schlaak
Notary Public
My Commission expires April 1, 2013



STATE OF SOUTH DAKOTA

BEFORE THE WATER MANAGEMENT BOARD

	)	
IN THE MATTER OF WATER	)	FINDINGS OF FACT, CONCLUSIONS OF
PERMIT APPLICATIONS No.	)	LAW AND FINAL DECISION
2661-2, AND 2662-2, MLT	)	
INVESTMENTS, LLC.	)	

FINDINGS OF FACT

1. Hearing was held on the above-entitled matter on May 4, 2011
2. Two applications are filed by MLT INVESTMENTS, LLC, to appropriate water from the Ogallala Aquifer for irrigation of crops in Todd County.
3. Application No. 2661-2 proposes to appropriate 1.89 cubic feet of water per second (cfs) from two wells to be completed into the Ogallala Aquifer (approximately 260 feet deep) located in the NE 1/4 Section 7 for irrigation of 140 acres located in the NE 1/4 Section 7; all in T36-R29W in Todd County.
4. Application No. 2662-2 proposes to appropriate 1.89 cubic feet of water per second (cfs) from two wells to be completed into the Ogallala Aquifer (approximately 260 feet deep) located in the NE 1/4 Section 32 for irrigation of 140 acres located in the NE 1/4 Section 32; all in T37-R29W in Todd County.
5. The grant of these applications would allow Applicant to appropriate water from four Ogallala Aquifer wells. The water

would be used for irrigation of crops. The points of diversion will be within the exterior boundaries of the Rosebud Sioux Reservation.

6. The Applicant owns the property in question. The Applicant is a family-owned business, including Tom Danielski, Leonard Danielski and Mike Danielski, all brothers. None of the family is a tribal member and the land involved is not held in trust for a tribe or a tribal member

7. James Goodman, an engineer from South Dakota DENR testified about water availability for the subject well application. His testimony was based on South Dakota Water Rights Program observation well data in Todd County as well as (a) information obtained from a water resources study of Mellette and Todd counties that was conducted on a cooperative basis by the Rosebud Sioux Tribe, USGS, and the South Dakota Geological Survey, (b) other studies including a groundwater recharge study, (c) DENR water rights files for Todd County, (d) his own field work in Todd County, and (e) his expertise in groundwater and groundwater formations, including the Ogallala formation. The source of water under the application is the Ogallala Aquifer which is an alluvial aquifer under water table conditions that underlies approximately 645 square miles in Todd County. It is reliably estimated that the aquifer contains at least 12.384 million acre-feet (MAF) of recoverable water in storage in Todd

County alone. The water in storage in Todd and Mellette county is 17 MAF. Based on the Goodman testimony, these are conservative estimates based on expert studies and his review of other expert studies shows that the water resource may be even more abundant. The general direction of groundwater flow in this area is to the northeast.

8. The Ogallala Aquifer is lies under Todd, Mellette, Bennett, Shannon, Tripp and Gregory Counties in South Dakota as well as two-thirds of the state of Nebraska. It is connected with the Arikaree Aquifer which also extends beyond Todd County. Both Aquifers discharge into streams that flow outside Todd County including the Little White River, the Keya Paha River, and the Niobrara River.

9. DENR Exhibit 10 shows 7 of DENR's observation wells in Todd County and their proximity to the irrigation applications at issue. The program monitors four observation wells in the immediate area of the MLT Investments applications, including TD-76B, TD-76C, TD-76-D, and TD-90A, all within approximately 1 1/2 miles. Water levels for these observation wells indicate good correlation with climatic conditions. The water level record indicates that the aquifer is capable of sustaining additional withdrawals. Water levels in the area of this proposed site showed gradual decline and some influence due to seasonal pumping. This is probably due to the concentrated usage for

irrigation in the immediate area. Even though recharge is sufficient to maintain development pumping this amount of water from a relatively small or concentrated area would depress the water table until appointed equilibrium can be maintained. That is as a water table is depressed more water will tend to move into the area to balance what is being pumped out. The hydrographs did not indicate the slight declines to be serious.

10. Testimony from engineers from the Water Rights Program indicated that granting the permits would have no negative effect on the availability of water for domestic, agricultural, or domestic purposes and that unappropriated water is available from the Ogallala Aquifer for each application.

11. Tom Danielski, one of the family members and officers of Applicant, testified that in his opinion the granting of the Permit would not impair any others' rights and that there was sufficient water available. He testified that his farming and irrigation methods protect the aquifer from contamination from foreign substances.

12. Two interveners filed petitions to intervene concerning this permit, including the Rosebud Sioux Tribe Tribal Land Enterprises and Sicangu Lakota Treaty Council. The only intervener that appeared and testified in this matter was Edward Charging Elk from the Sicangu Lakota Treaty Council for the Rosebud Sioux Tribe. Mr. Charging Elk gave argument about the

lack of jurisdiction of the State of South Dakota to issue water permits on reservation land. He did not challenge the state's expert opinion that there is sufficient water available from the Ogallala Aquifer in South Dakota for these particular applications so that it would not impair existing rights. No specific objection was made to the applications in this case.

13. Based on the evidence presented at hearing, the grant of these two applications for the use of water to irrigate 140 acres in each of two separate tracts would not interfere with the Rosebud Sioux Tribe's right or the right of the Sicangu Lakota Treaty Council to make its own laws and be governed by them.

14. 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 or the Sicangu Lakota Treaty Council's claims of water rights under federal doctrines or treaties, as applicable.

15. Prior rights for appropriative water use and any right for domestic use would take priority over the appropriative water right granted in this proceeding.

16. 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.

17. The evidence available to this Board is sufficient to determine that adequate water is available from the Ogallala Aquifer for each permit.

18. The Board has also considered whether the proposed use is beneficial. The Board finds that the appropriation of water for irrigation, as described in 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 in the past.

19. This Board determines that the water use in each case is consistent with the interests of the public of the state in the best utilization of water supplies. Using water for irrigation as proposed is a beneficial use.

20. This Board is also required to consider public interest. Using water for irrigation is in the public interest because it increases crop production and adds economic value in agricultural areas such as Todd County.

21. 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 used for irrigation is in the public interest.

22. 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. The Board has jurisdiction of this matter. The proposed points of diversion are in Todd County on the Rosebud Sioux Tribe Reservation, the property to be irrigated and the wells in question are owned by MLT Investments, LLC who is neither a tribe nor a tribal member. The land is in fee status and is not trust property. No party claims otherwise as to any of these points.

2. Based on the evidence presented at hearing, the Board concludes that the grant of these applications for water used for irrigation of 140 acres in each of two separate tracts would not interfere with the Rosebud Sioux Tribe's right to make its own laws and be governed by them. Moreover, the grant of this right would not interfere with any legally protected right of

the Rosebud Sioux Tribe. The Board makes no determination regarding the rights of the interveners, Tribal Land Enterprises and Sicangu Treaty Council, to control or influence administration of any tribal claim to a water right.

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

4. 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).

5. The proposed diversions 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.

6. The Rosebud Sioux 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 each 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.

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

8. This Board has carefully considered the positions of the various parties in this matter. SDCL 46-1-4 requires 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 a 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 these legal requirements are best met by approval of the permit at issue in each case.

FINAL DECISION

Application No. 2661-2 and Application No. 2662-2 are hereby granted and a Permit shall be issued forthwith containing the following qualifications:

1. The wells approved under these Permits will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under these Permits shall control withdrawals so there is not a reduction of needed water

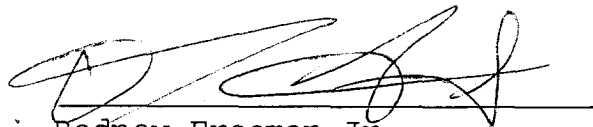
supplies in adequate domestic wells or in adequate wells having prior water rights.

2. The wells authorized by Permit No. 2661-2 and Permit No. 2662-2 shall be constructed by a licensed well driller and construction of the wells and installation of the pumps 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. These Permits are approved subject to the irrigation water use questionnaire being submitted each year.

Dated this 14th day of July, 2011.

BY THE BOARD:

A handwritten signature in black ink, appearing to read 'Rodney Freeman Jr.', is written over a horizontal line.

Rodney Freeman Jr.
Chairman of Water Management
Board



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

SEP 08 2011

Leonard Danielski
PO Box 230
Valentine NE 69201

Dear Mr. Danielski:

Enclosed are Water Permit Nos. 2660-2, 2661-2, 2662-2 and 2663-2 authorizing construction of your water diversion systems and beneficial use of the water, not exceeding the limits as specified in the Water Permits.

Form 10's, *Notice of Completion of Works and Application of Water to Beneficial Use*, are enclosed. Please return the completed forms after you have finished the systems and have put the water to beneficial use. An investigation can then be scheduled so the water licenses 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

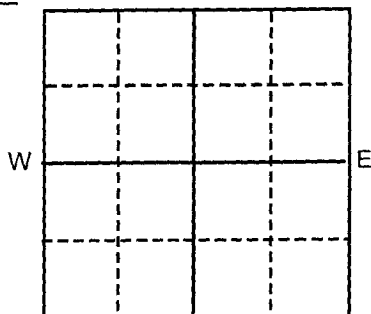
enclosures

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location NE 1/4 NE 1/4 Sec 32 Twp 37 Rg 29County Todd

North

Please mark well
location with an "X"

Well Completion Date

October 13, 2011

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	81.0 FT	28.00 IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ 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
		Lb/gal	Ft	Ft

Describe grouting procedure
pumped by tremme pipe

SCREEN:

☒ Perforated pipe ☐ Manufactured
Diameter 16.00 Inches Length 140.0 FeetMaterial PVCSlot Size .080 Set From 81.0 Feet to 221.0 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 to which water
quality sample sent for analysisWell Owner: Leonard DanielskiBusiness Name: Danielski Harvesting & FarmingAddress: P.O. Box 230City, State, Zip: Valentine NE 69201

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
top soil	0	2
sand, sandstone, limestone, ls layers	2	42
sand, sand w/clay, sandstone layers	40	96
limestone, sandstone, sand	96	126
sandstone, sand w/clay,	126	168
sand, sandstone layers	168	208
sandstone w/ clay, red rock	208	221

STATIC WATER LEVEL 77.0 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

160.0 Ft. After 3.0 Hrs. pumped 550.0 GPM153.0 Ft. After 3.0 Hrs. pumped 500.0 GPMIf pump installed, pump rate: 450.0 GPM

REMARKS

RECEIVED

DEC - 7 2011

WATER RIGHTS
PROGRAMThis well was drilled under license # 189 and this
report is true and accurate.Drilling firm: GROSCH IRRIGATION CO., INC.

Signature of License Representative:

POA

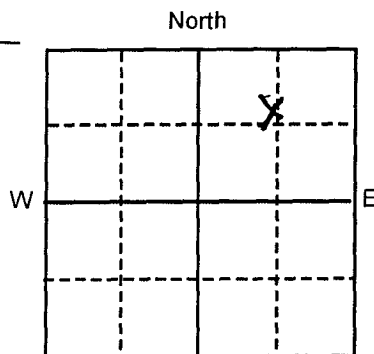
Signature of Well Owner or Equitable Property Holder:

Date: _____

12/16/11

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location NW 1/4 NE 1/4 Sec 32 Twp 37 Rg 29County ToddPlease mark well
location with an "X"

Well Completion Date

October 25, 2011

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

ft. from _____ (identify source)

PROPOSED USE:

☐ Domestic/Stock
☒ Irrigation
☐ Municipal
☐ Industrial
☐ Business
☐ Institutional
☐ Test holes
☐ 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	81.0 FT	28.00 IN
LB/FT	IN	FT	FT	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
		Lb/gal	Ft	Ft

Describe grouting procedure
pumped by tremmie pipe

SCREEN:

☒ Perforated pipe ☐ Manufactured
Diameter 16.00 Inches Length 160.0 FeetMaterial PVCSlot Size .080 Set From 81.0 Feet to 241.0 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 to which water
quality sample sent for analysisWell Owner: Leonard DanielskiBusiness Name: Danielski Harvesting & FarmingAddress: P.O. Box 230City, State, Zip: Valentine NE 69201

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
top soil	0	2
sand, sandstone, limestone layers	2	102
limestone	102	104
sandstone, sand, limestone layers	104	144
sand w/clay, sandstone layers	144	166
sand, sandstone layers	166	230
sandstone w/ clay, red rock	230	240

STATIC WATER LEVEL 81.0 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

143.0 Ft. After 3.0 Hrs. pumped 500.0 GPM133.0 Ft. After 3.0 Hrs. pumped 400.0 GPMIf pump installed, pump rate: 400.0 GPM

REMARKS

RECEIVED

DEC - 7 2011

WATER RIGHTS
PROGRAMThis 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: _____

Report of Examination of Works and/or Application of Water to Beneficial Use

To: Chief Engineer, Water Rights Program, DENR, Foss Bldg., Pierre, SD 57501

I have this day, September 2, 2015 made a thorough examination of the water system used by MLT Investments., PO Box 230, Valentine, NE 69201, holder of Water Permit No. 2662-2, bearing the priority date of January 18, 2011. Water Permit No. 2662-2 authorizes the diversion of 1.89 cubic feet per second (cfs) from two wells completed into the Ogallala aquifer at approximately 260 feet below ground surface for the purposes of irrigating 140 acres in Todd County as follows: 35 acres in the NW ¼ NE ¼ of Section 32, 35 acres in the NE ¼ NE ¼ of Section 32, 35 acres in the SE ¼ NE ¼ of Section 32, 35 acres in the SW ¼ NE ¼ of Section 32, all in T37N-R29W.

I have the following conditions to report for the system in question:

- 1) Works used to divert water:
Two irrigation pumps, manufacturer unknown.
- 2) Works used to transport water to a place of use:
Underground pipes.
- 3) Works used to apply water to beneficial use:
One Valley Pivot

The system is in the following condition: well maintained. The wells are in the following locations:

- 1) **1,300 feet south and 1,300 feet west of the northeast corner of Section 32, T37N-R29W. Lat 43.13980N Lon 100.77338W. Western well.**
- 2) **1,300 feet south and 470 feet west of the northeast corner of Section 32, T37N-R29W. Lat 43.13973 Lon 100.77011W. Eastern well.**

The lands irrigated by the fore mentioned well are as follows:

- 1) **35 acres in the NW ¼ NE ¼ of Section 32, T37N-R29W**
- 2) **35 acres in the NE ¼ NE ¼ of Section 32, T37N-R29W**
- 3) **35 acres in the SE ¼ NE ¼ of Section 32, T37N-R29W**
- 4) **35 acres in the SW ¼ NE ¼ of Section 32, T37N-R29W**

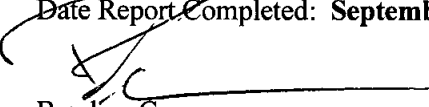
For a total of 140 acres.

License should be issued for the diversion rate of: **1.78 cfs or 800 gpm.**

Applicable permit qualifications have been complied with: **Yes**

Exceptions to compliance are: **None**

Date Report Completed: **September 10, 2015**


Bracken Capen
Natural Resources Engineer
DENR, Water Rights Program

FIELD INVESTIGATION REPORT FOR WATER PERMIT NO. 2662-2

DATE OF INVESTIGATION:	September 2, 2015
NAME & ADDRESS OF PERMIT HOLDER	MLT Investments. PO Box 230 Valentine, NE 69201
NAME & ADDRESS OF INVESTIGATION CONTACT/ RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE	Chris Danielski
DIVERSION POINT LEGAL LOCATIONS	1) 1,300 feet south and 1,300 feet west of the northeast corner of Section 32, T37N-R29W. Lat 43.13980N Lon 100.77338W. Western well. 2) 1,300 feet south and 470 feet west of the northeast corner of Section 32, T37N-R29W. Lat 43.13973 Lon 100.77011W. Eastern well.

WELL INFORMATION:

- 1) Well Drilling Firm: **Grosch Irrigation Co. Inc.**
- 2) Number of Wells: **2**
- 3) Depth: **241, 221 feet**
- 4) Well Log Available: **Yes, both**
- 5) Comment:

Pumps

- 1) Make: **Unknown**
- 2) Model:
- 3) Size:
- 4) Capacity: **400 gpm for each well**

Casing

- 1) Diameter: **16 inches**
- 2) Length: **81, 81 feet**
- 3) Type: **Plastic**

Screen

- 1) Type: **Perforated Pipe**
- 2) Length: **160, 140 feet**
- 3) Static Water Level: **81, 73 feet**

Motor

- 1) Make: **US Motors, GE**
- 2) Model No:
- 3) Power: **50, 50 hp**

System Type

- 1) Make: **Valley**
- 2) Overall length: **1,300 feet**
- 3) Number of Towers: **8 towers**
- 4) Distance Between Towers:
- 5) End Gun: **Yes**
- 6) Pressure:
- 7) Capacity: **800 gpm**

CHEMIGATION EQUIPMENT: **Yes**

- 1) Mainline Check Valve: **Yes**
- 2) Low Pressure Drain: **Yes**
- 3) Inspection Port/Air Relief: **Yes**
- 4) Discharge 20 Feet Away: **No**
- 5) Injection Line Check Valve or Positive Displacement Pump: **Injection Line Check Valve**
- 6) Injection Check Valve: **Yes**
- 7) Properly Installed: **Yes, except for the 20 foot discharge hose.**

PERMIT QUALIFICATIONS:

- 1) Special qualifications to permit being abided by: **N/A**
- 2) All structures, wells, and lands on map: **Yes**
- 3) Irrigation Questionnaires checked to determine if permit owner started irrigation by end of construction period: **Reported irrigation from 2012 to present.**

Sec 29
T037N
R29W

Water Permit No. 2662-2

Sec 28
T037N
R29W

35 Acres
NW 1/4 NE 1/4
Section 32

35 Acres
NE 1/4 NE 1/4
Section 32

35 Acres
SW 1/4 NE 1/4
Section 32

35 Acres
SE 1/4 NE 1/4
Section 32

Sec 32
T037N
R29W

Todd

Sec 33
T037N
R29W

Sec 1
T036N
R29W

Sec 6
T036N
R29W

32

33

6

5

Sec 5
T036N
R29W

Legend

-  Irrigated_Acres
-  Section Boundaries - PLSS
-  Well Locations



0 0.075 0.15 0.3 Miles

Prepared by Bracken Capen
Natural Resources Engineer
DENR, Water Rights Program



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

MAIL TO: PMB 2020
DENR - Water Rights Program
523 E Capitol Ave
Pierre, SD 57501-3182
ph. (605) 773-3352

Date 9/2/13

FROM: Chris Danielski
(name)
633 W Hwy 20
(address)
Valentine NE 57701 402-376-3039
(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.

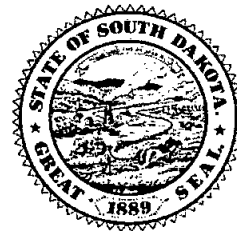
Water Permit No. 2662-2 states that the water use system is to be constructed by
1-18-16, and water is to be put to beneficial use by 1-18-20
(date) (date)

The water use system was completed on 4-1-13
(date)

Applying the water to beneficial use was completed on 4-1-13
(date)

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

Chris Danielski



2662-2



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

SEP 29 2015

2661-2
2662-2

Leonard Danielski
MLT Investments
PO Box 230
Valentine NE 69201

Dear Mr. Danielski:

Enclosed are your Water License Nos. 2661-2 and 2662-2. 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 your water rights, 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.

In regard to the equipment used for applying chemicals and/or fertilizer through your irrigation system, the staff engineer found the systems did not have a hose to allow for discharge at least 20 feet from the water source. Prior to applying chemicals or fertilizer through the systems, you must ensure a hose is properly installed.

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

Sincerely,

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

enclosures

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 2662-2**

(1) MLT Investments, PO Box 230, Valentine NE 69201 made Application No. 2662-2, January 18, 2011 for a water permit to divert 1.89 cubic feet of water per second from ground water – two wells (Ogallala Aquifer), Todd County, South Dakota for irrigation purposes. Permit No. 2662-2, with a priority date of January 18, 2011 was approved July 13, 2011 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before July 13, 2016 and for the application to beneficial use of said water on or before July 13, 2020.

The Permit holder submitted a "*Notice of Completion of Works and Application of Water to Beneficial Use*" on September 2, 2015. The "*Notice*" stated the water use system was completed the water placed to beneficial use in April, 2013.

(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 1.78 cubic feet of water per second for beneficial use.

The location of the diversion points are:

- west well: 1,300 feet south & 1,300 feet west of the NE corner of Section 32, T37N, R29W (near the center of the NE $\frac{1}{4}$);
- east well: 1,300 feet south & 470 feet west of the NE corner of Section 32, T37N, R29W (NE $\frac{1}{4}$ NE $\frac{1}{4}$).

(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 32, T37N, R29W	NW $\frac{1}{4}$ NE $\frac{1}{4}$	35 acres
	NE $\frac{1}{4}$ NE $\frac{1}{4}$	35 acres
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	35 acres
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	35 acres
Total		140 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 MLT Investments, PO Box 230, Valentine NE 69201 the holder and/or owner of Water Right No. 2662-2 is issued a license to appropriate water, the right to use 1.78 cubic feet of water per second from ground water – two wells (Ogallala Aquifer) with a priority date of January 18, 2011 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. 2662-2 and subject to the following qualifications:

- The wells 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. 2662-2 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. ***Both wells were drilled in October, 2011 by Grosch Irrigation Co Inc. Copies of the well logs are on file with the Water Rights Program.***

continued

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



Jeanne Goodman, Chief Engineer

Water Rights Program

Department of Environment and Natural Resources

SEP 29 2015

date

