

WATER PERMIT NO. 2663-2

Name of Applicant: Danielski Harvesting and Farms

Address: PO Box 230, Valentine NE 68201 Phone:

Amount of Water Claimed: 1.10 Total Acres: 24 acres

Source of Water Supply: 2 add'l wells

Water to be used for: irrigation County: Todd

Type of Waste Disposal System:

Location: 15 miles southwest of Mission

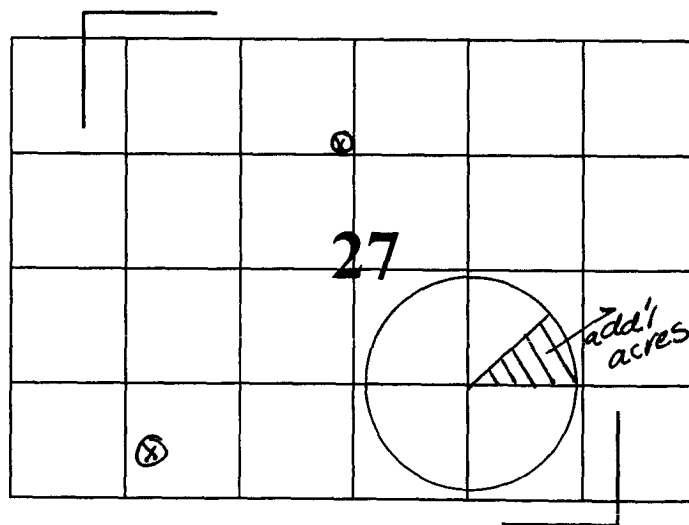
PRIORITY Date Received: 2-10-11 Application/License Fee: \$700

Corrected Application Received: Period of Annual Use: March 1 – November 30

Remarks: Additional acres and an amendment to Water Right No. 1615-2 for 2 additional wells

Diversion Point: SW ¼ SW ¼ and NE ¼ NE ¼ Sec
27-T37N-R29W

Land to be Irrigated: NE ¼ SE ¼ Sec 27-T37N-
R29W



Depth of Well: 240 feet deep

Well Driller: Remarks:

Type of Map: aerial

Prepared by: Eric Gronlund

Reviewed and the Number Assigned on: 2-11-11

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

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

Mail to: PMB 2020 DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>2663-2</u> (office use only) Hydrologic Unit <u>10150006</u>
	Basin <u>Nebraska Tributary</u>
	Newspaper <u>Todd Co. Tribune PO Box 229</u>

RECEIVED
FEB 10 2011
WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water For Irrigation

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

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

This application is new for additional acreage and an amendment to Water Right No. 1615-2 for two additional wells

1. Name of Applicant Danielski Harvesting and Farms Phone _____
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address PO Box 230 Valentine NE 69201
(Address) (City) (State) (Zip Code)

2. Amount of water claimed 1.1 *CFS or _____ **GPM _____ ***AF _____ Total Acreage 24
(*Cubic Feet per Second) (**Gallons per Minute) (***Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply groundwater

4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) County Todd
two additional wells in the SW 1/4 SW 1/4 & NE 1/4 NE 1/4 Section 27, T37N, R29W
Ten other existing wells are currently authorized by Water Right No. 1615-2

5. County or counties where water will be used Todd

6. Annual period during which water is to be used March 1 through November 30

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
NE 1/4 SE 1/4 Section 27, T37N, R29W *	24		
existing 993 acres as authorized by WR 1615-2			

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

* The 24 acre increase in the irrigated acres in NE 1/4 SE 1/4 Sec. 27 resulted from removal of the farmstead and trees which now allows the pivot to make full rotation.

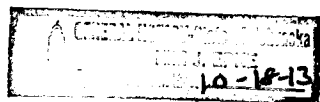
Nebraska
STATE OF ~~SOUTH DAKOTA~~)
County of Cherry) SS

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 9 day of February 2011



K. J. G.
Notary Public signature

**SOUTH DAKOTA
WATER PERMIT NO. 2663-2**

Date of first receipt of application February 10, 2011.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2663-2 to Danielski Harvesting and Farming, 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. 2663-2 appropriates 1.1 cubic feet of water per second (cfs) of additional diversion rate authority, irrigates additional acreage and adds two additional diversion points to Water Right No. 1615-2. Water Right No. 1615-2 authorizes 13.4 cfs from 10 wells to irrigate 993 acres located in the Sections 26 and 27; T37N-R29W. This permit authorizes irrigation of an additional 24 acres located in the NE 1/4 SE 1/4 Section 27 and two additional wells 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.
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 February 10, 2011.
4. The date of approval of Permit No. 2663-2 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. 2663-2 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 _____ Depth 240 feet
- b) Casing Type _____ Diameter _____ Thickness _____
- c) Screen Type _____ Diameter _____ Thickness _____
- d) Gravel Pack _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth to Water (ground surface to water level) _____
- g) Distance to nearest existing domestic well:
- On applicant's property _____ On property owned by others _____

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

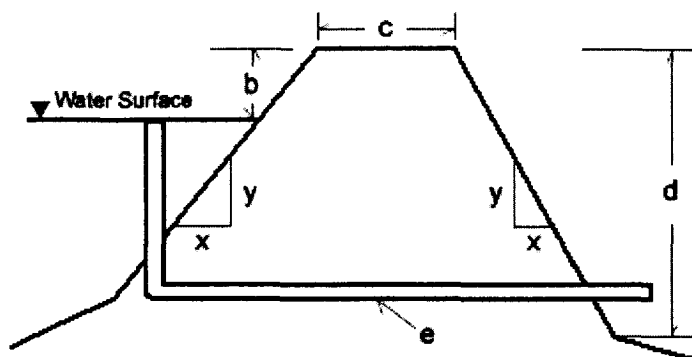
3. Dugout Information

- 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



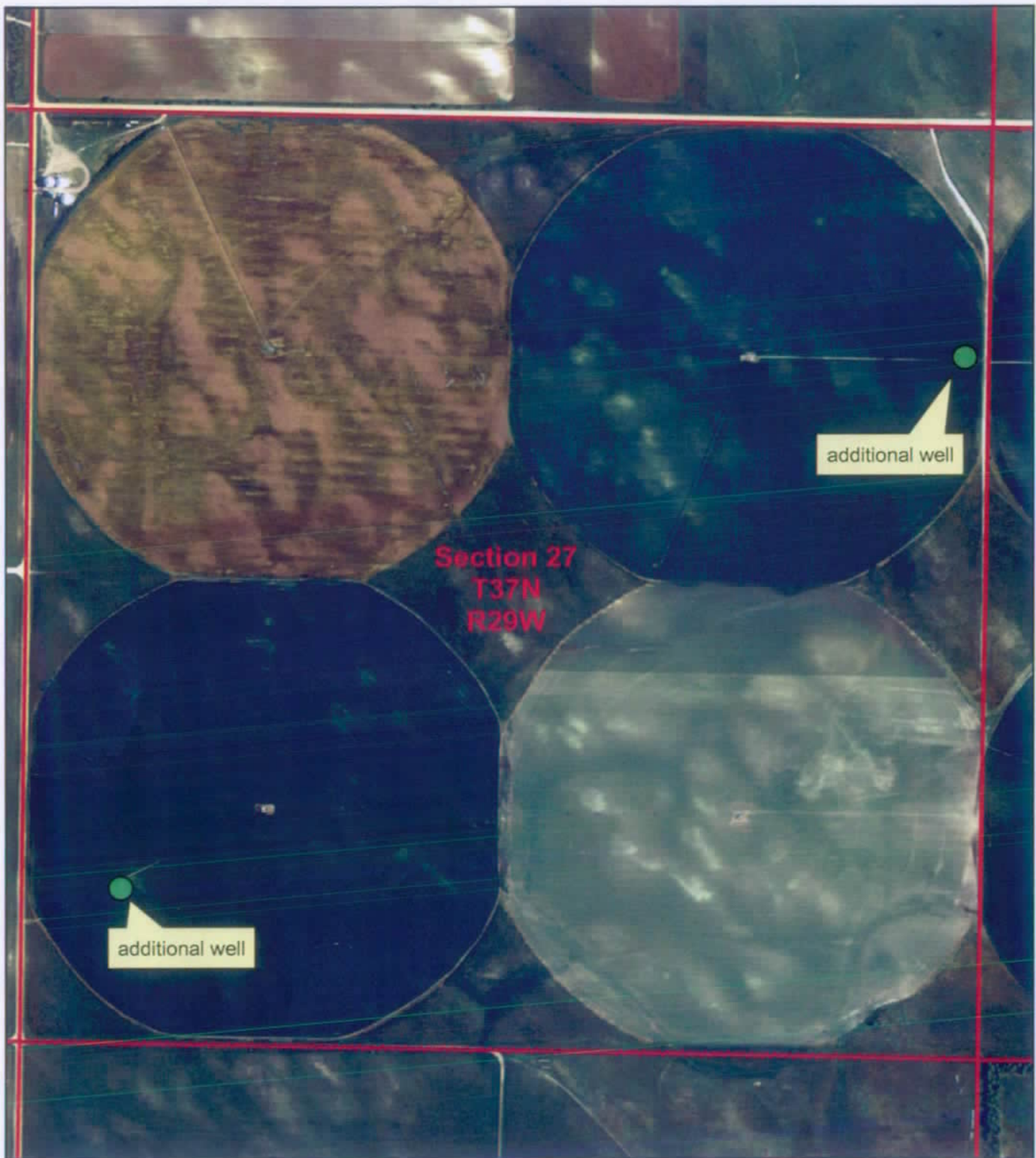
● Original wells

● Proposed additional wells

● Add'l wells that were authorized in 2001 and 2003

▨ acreage original part of farmstead that was cleared and now is irrigated

Eric Lundberg
Water Rights Program
2/11/11



1,300 650 0 1,300 Feet



Two proposed additional wells to be used as helper wells for the pivots located in the SW 1/4 and NE 1/4 Section 27, T37N, R29W

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 2/10, 20 11

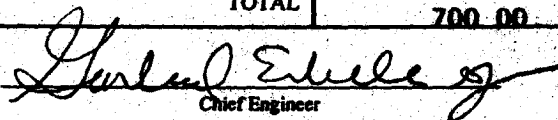
RECEIVED OF Danielaki Harvesting & Farming PO Box 230 Valentine NE 69201

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

Fee for Application for Permit No. <u>2663-2</u> to Appropriate Water, to construct and to put water to beneficial use	500	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>2663-2</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	700 00

No. **04934**

By


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

February 4, 2011

Gary Garvin
Danielski Harvesting and Farms
PO Box 230
Valentine NE 69201

Dear Gary:

As I explained to you on the phone, during DENR's review of Danielski Harvesting and Farms request for two additional diversion points under Water Right No. 1615-2 it became apparent that more acres are being irrigated than authorized by the water right. A copy of Water Right No. 1615-2 and an overview map of the lands irrigated and well locations are attached.

This is the perfect time to get any issues corrected so the water right accurately reflects what is occurring in the field. I have attached a list of possible issues to address as well as a partially completed application. Also, I included a blank application in the event you just need to start from scratch.

I will take care of the map requirement. Danielski Harvesting and Farms will need to complete primarily Item No. 2 on the application and sign in the presence of a notary. Since there are new acres this application is considered "new" and a filing fee is required.

Gary, hopefully I didn't make this too confusing. Please contact me if you have questions.

Sincerely,

Eric Gronlund
Water Rights Program, DENR
605 773-3352

enclosure

Issues regarding the application

1. Application includes the two additional wells intended help in supplying the pivots located in the SW $\frac{1}{4}$ and NE $\frac{1}{4}$ of Section 27
2. Application includes an additional 24 acres of irrigation in NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 27. WR No. 1615-2 authorizes only 10 acres in this quarter-quarter. Since the farmstead and trees have been removed which allows for full pivot rotation, an estimated total of 34 acres are now being irrigated.
3. Water Right No. 1615-2 appropriates a total of 13.4 cubic feet of water per second (6,014 gpm) for irrigation of land under 8 pivots. This equates to 750 gpm per pivot. Please check these numbers against what the systems actually produce. If the diversion capability is greater than 6,014 gpm, now is the time to correct that issue. Item No. 2 on the application is the place to include this. If the diversion capability is 6,014 gpm or less, just write in "no add'l. If it is greater than 6,014 gpm, write in the incremental increase under either the space for cfs or gpm.
4. I left the "Total Acreage on Item No. 2 blank. Currently, I know the application has to be for at least 24 additional acres. However, in reviewing the past irrigation questionnaires for this water right, it is commonly reported that about 1,045 acres are irrigated. This is 52 acres greater than the 993 acres authorized by the water right. In 2009 and 2010, a total of 1,061 acres were reported which presumably reflects additional acres irrigate due to the farmstead being removed in SE $\frac{1}{4}$ Section 27 (see No. 2). If in addition to 24 acres described in No. 2, more than 993 acres are being irrigated, the application should reflect that amount. Example: If 993 acres plus the 24 acres now irrigated, the blank for total acres on Item No. 2 should be 24 acres. If in addition to the 24 acres and 993 authorized acres (1,017 acres) more acres are actually irrigated, the "Total Acreage should reflect that total number of acres above 993 acres. Also, provide DENR the number of acres irrigated by each pivot so we can assign where the additional acres are located relative what is current authorized by WR No. 1615-2
5. The application filing fee will be based on the number of additional acres being irrigated. See attached instruction sheet.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2663-2, Danielski Harvesting and Farms**

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. 2663-2, Danielski Harvesting and Farms, c/o Leonard Danielski, PO Box 230, Valentine NE 69201.

The Chief Engineer is recommending APPROVAL of Application No. 2663-2 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. 2663-2 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. 2663-2
For Danielski Harvesting and Farms.
March 4, 2011

Application No. 2663-2 proposes to appropriate 1.1 cfs (495 gpm) of additional diversion rate authority, irrigate additional acreage and add two additional diversion points to Water Right No. 1615-2 authorizes 13.4 cfs from 10 wells to irrigate 993 acres located in section 26 and 27; T37N R29W in Todd County. This application proposes to irrigate an additional 24 acres located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of section 27 and two additional wells approximately 240 feet deep located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ and the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of section 27; all in T37N R29W. The two additional wells are intended to help supply 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.

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 should contain about 100 feet to 150 feet of saturated thickness at these sites.

The Water Rights Program monitors two observation wells in the immediate area. TD-76D is located less than one-half mile west and TD-76G is located about two miles east of these proposed well sites. Water levels for the observation wells indicate good correlation with climatic conditions. The water level record indicates that the aquifer is

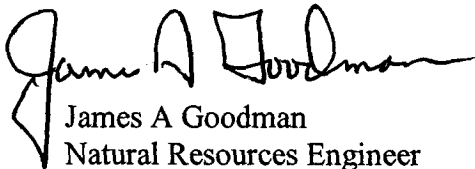
capable of sustaining additional withdrawals (Water Rights, 2011). Hydrographs for these observation wells are included with this report. Water levels in this area of this proposed site show a gradual decline and some influence due to seasonal pumping. This is probably due to the concentrated usage for 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

This application is located in the middle of existing water right No. 1615-2. Interference is not expected to be a concern. Drawdown will be created by pumping but at the distances between diversions and at the expected pumping rates this should not be significant.

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

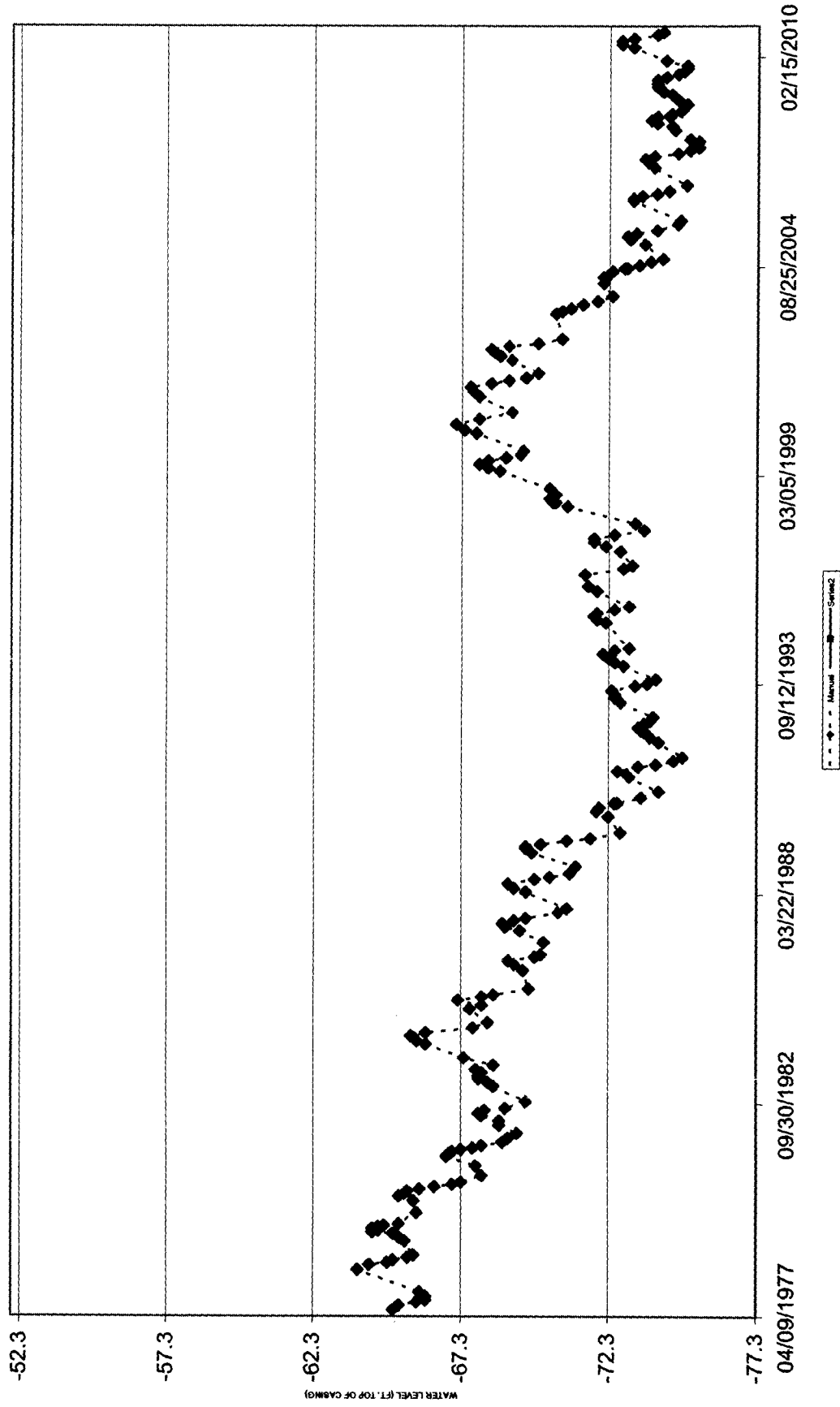
BIBLIOGRAPHY

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.

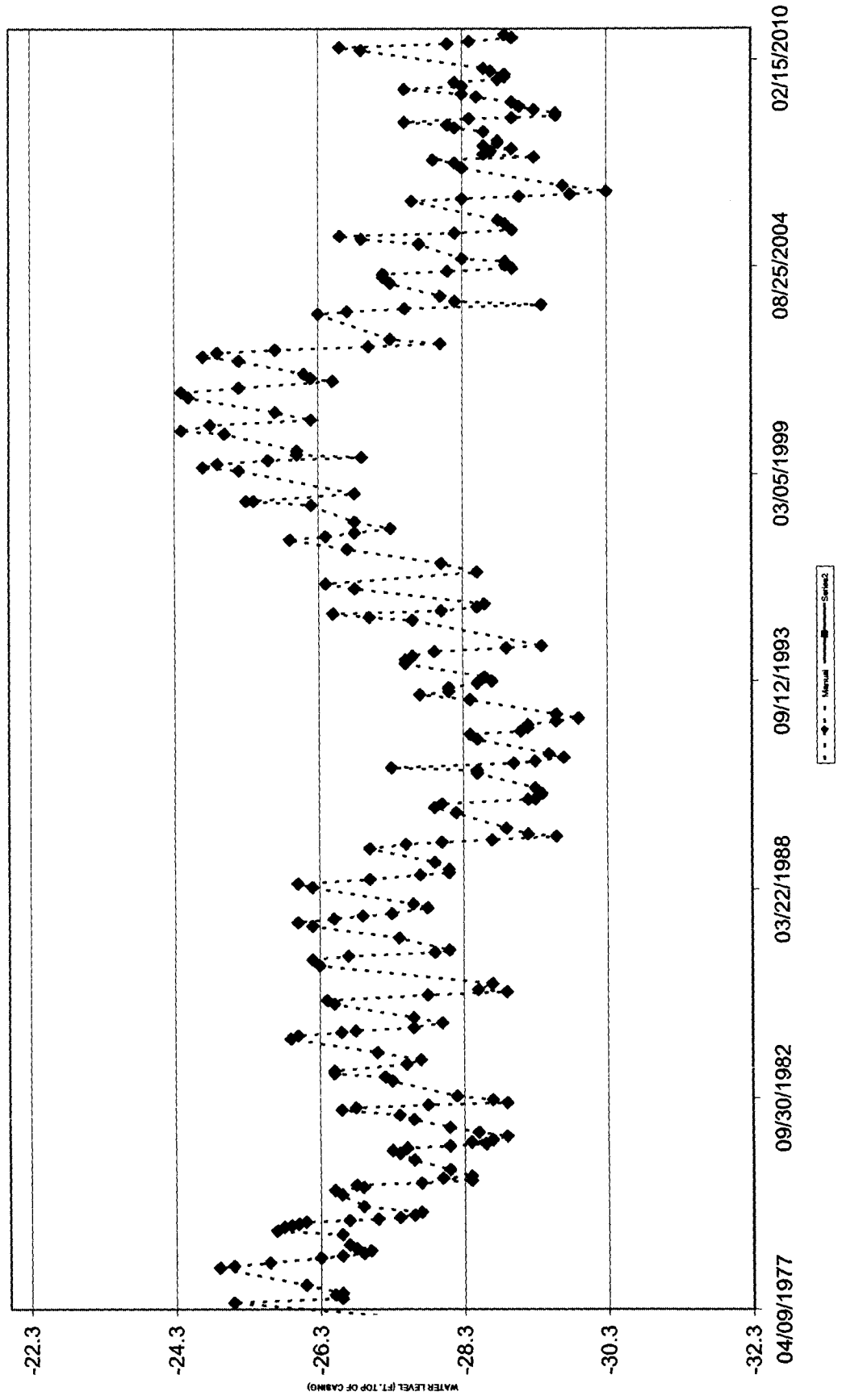
Kolm, K.E., H.L. Case III, 1983, A Two-Dimensional, Finite-Difference Model of the High Plains Aquifer in Southern South Dakota, USGS Water Resources Investigations Report 83-4175, Lakewood, Colorado, 80225.

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-76D



WATER RIGHTS' OBSERVATION WELL
TD-76G



Danielski

RECEIVED

APR - 4 2011

WATER RIGHTS
PROGRAM

Affidavit of Publication

State of South Dakota

County of Todd

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, **\$61.50** 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: _____

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

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 Danielaki Harvesting and Farms, c/o Leonard Danielaki, 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 13.4 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 24 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 DOTI 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, Room 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 Aquifer (approximately 250 feet deep) located in center of the SW 1/4 Section 9 for irrigation of 160 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 DOTI 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, Room 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 Danielaki, 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 DOTI 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, Room 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 \$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 Danielaki, 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 DOTI 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, Room 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, LLC 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 22 for irrigation of 260 acres located in the S 1/2 Section 22, 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 DOTI 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, Room 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 applications may be obtained from the RST Solid Waste Collections, PO Box 806, 53 Fairgrounds Street, Rosebud, South Dakota, 57570, Phone (605) 747-2424 Fax (605) 747-5372

Sealed bids proposals will be mailed to the following address:

Rosebud Sioux Tribe

Attn: Louis Wayne Boyd, RST Treasurer

PO Box 430

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 email, 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.

Contact 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/or all bids, proposals, and/or contracts, and accept any bid, proposal, 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 Tribe Law Enforcement Services is requesting BIDS from vendors for the following equipment:

Descriptions Total Value Price Per Unit Grand Total

Clock Model 22 Glen 40

40 Caliber R&W

2-30 Round Magazines

Triglon Highlights "Installed"

Remington 870 40

Raytheon Tactical

Chin Wing Night

2 Shot Kestrel

Tactical Choke

13PM 14" 40

Platform 8.5x 45

Flip-up Front & Rear Night

Tactical Potent

6 Pos Collapsible Block

2-30 Round Magazines

Cleaning Kit, Wiping & Case

ISO Tech Model 516 40

Non-Right Vision Compaction

CH22 Lithium Batteries

60 MOA Chisel/ 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 bids shall be mailed to the following address:

Louis W. Boyd, Treasurer

Rosebud Sioux Tribe

1 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 Horne, 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 Sisseton Mini 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 TELCO Office, Pierre, South Dakota on April 11-12:00 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 - Sisseton Mini Wiconi (May 2004) can be examined or obtained at the office of DOW/ILRM, 16 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 TELCO Office

Rosebud, South Dakota 57570

and Construction Industry Center

2771 Plant / P.O. Box 1227

Rapid City, South Dakota 57509

and Sioux Falls Builders Exchange

1418 "O" Avenue

Sioux Falls, South Dakota 57104

and Billings Builders Exchange

2050 Broadwater Avenue, Suite A

Billings, Montana 59102

and Construction Plans Exchange

215 Airport Road

Umarck, ND 58504

and Fargo-Moorhead Builders and Traders Exchange

1010 Page Drive

Fargo, ND 58107

and Plains Builders Exchange

220 N. Kiwanis Ave

Box 1396

Sioux Falls, SD 57101-1396

Any security in the amount of 10 percent of the bid must accompany 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 TELCO office (DEPARTMENT OF PUBLIC WORKS) if the bid will not be awarded to any 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 \$94.87

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

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**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 No. 2663-2 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 Danielski Harvesting and Farms, 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-----

No. 2663-2

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 No. 2663-2 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

Danielski Harvesting & Farms
Leonard Danielski
PO Box 230
Valentine NE 69201

Dear Mr. Danielski:

Water Permit Application No. 2663-2 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Publisher of the Todd 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 recommendation of the Chief Engineer and report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352
eric.gronlund@state.sd.us

enclosures

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

Instruction to Newspaper - Publish first Notice on March 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 NO. 2663-2 to Appropriate Water

Notice is given that Danielski Harvesting and Farms, c/o Leonard Danielski, 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 13.4 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 24 acres located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 27 and two additional wells be completed into the Ogallala Aquifer (approximately 240 feet deep) located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ and NE $\frac{1}{4}$ NE $\frac{1}{4}$ 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. 2663-3 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on this application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or 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 _____.



**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

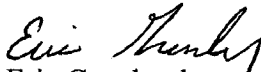
Syed Huq
Water Resources
Rosebud Sioux Tribe
PO Box 910
Rosebud SD 57570

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

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.

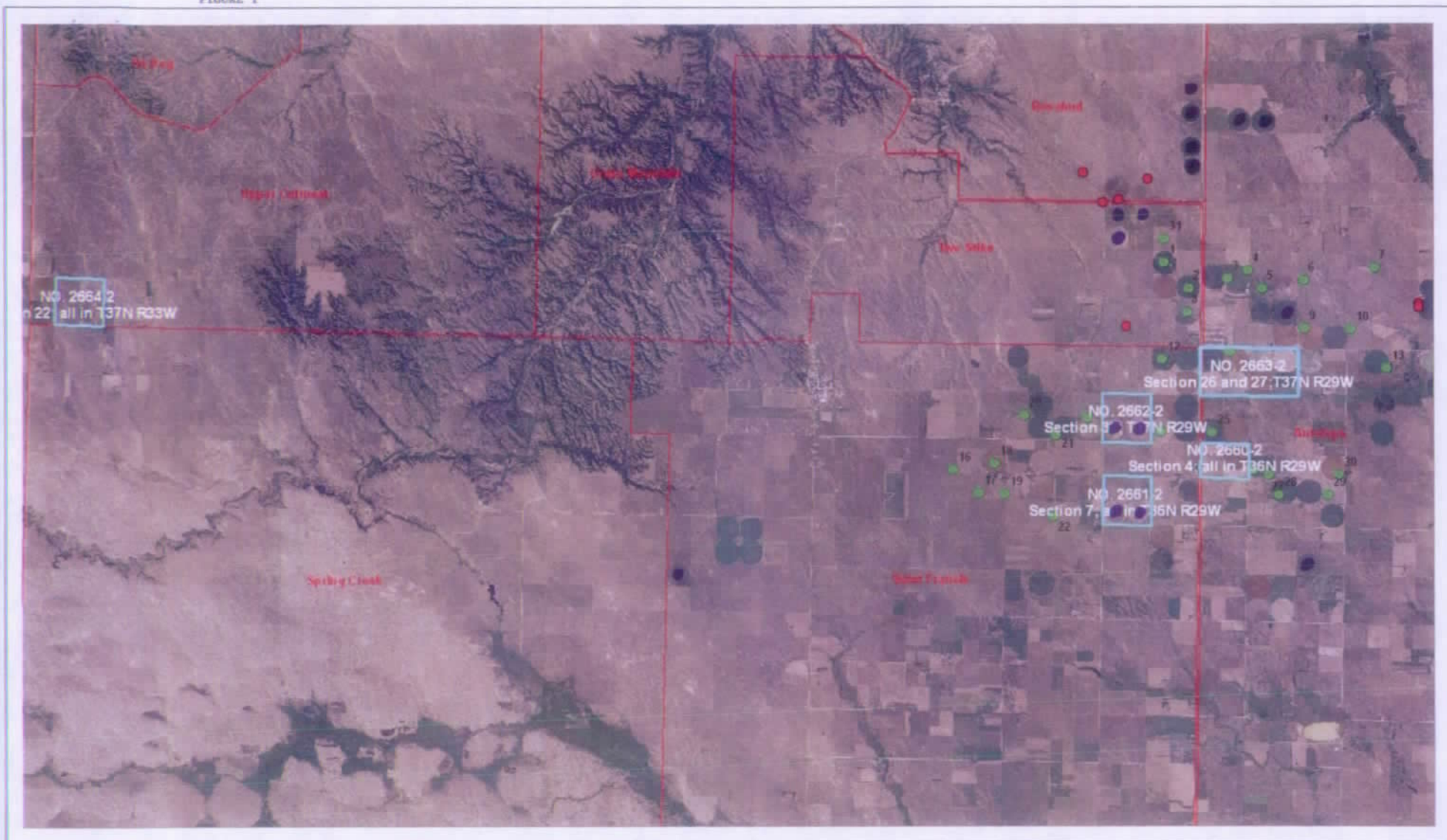
C.c. Chief Engineer, DENR, Pierre, SD

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

FIGURE 1



Legend

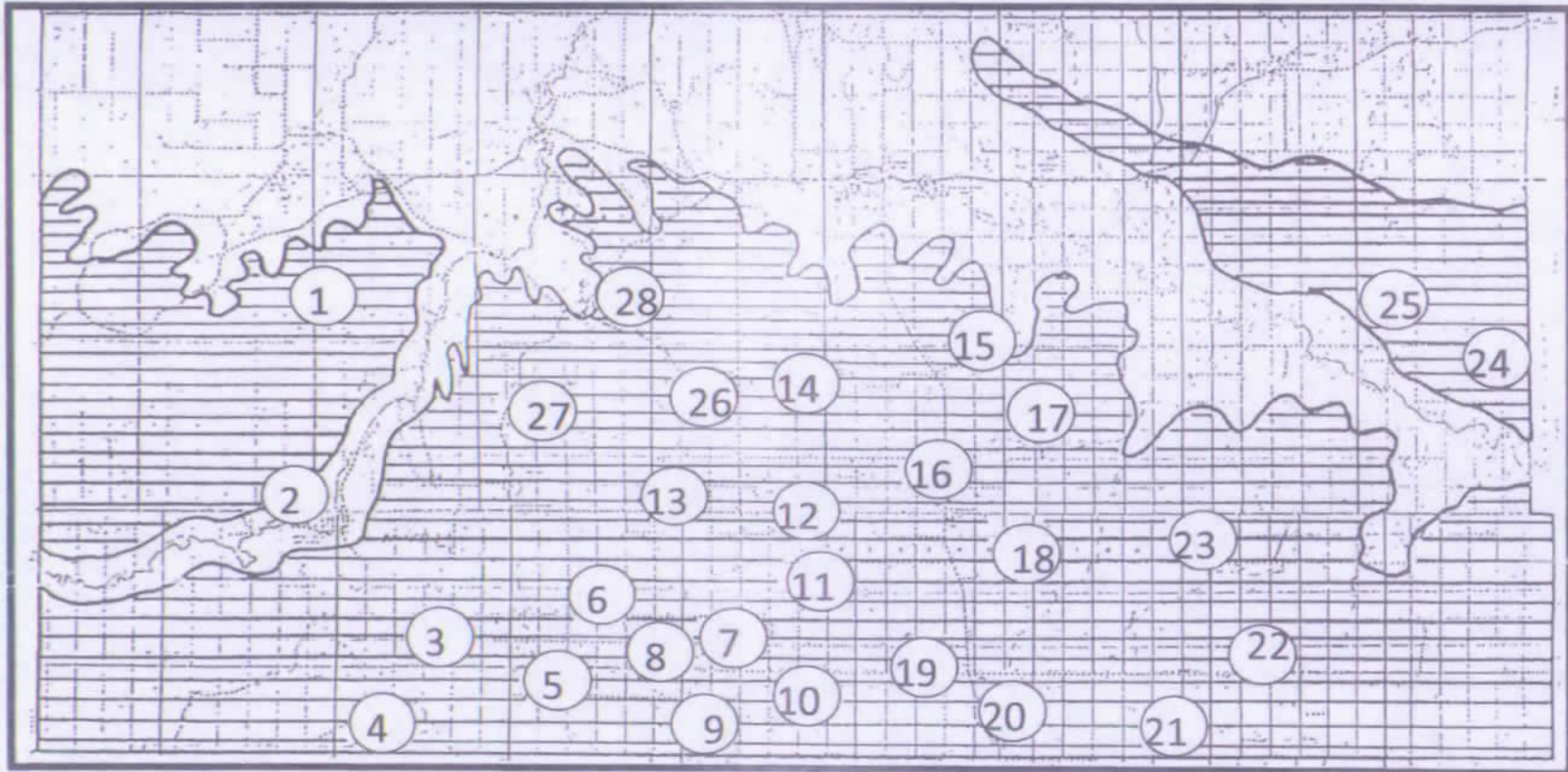
- Irrigation Wells
- prodwells
- Tribal Irrigation Wells

FIGURE 1

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



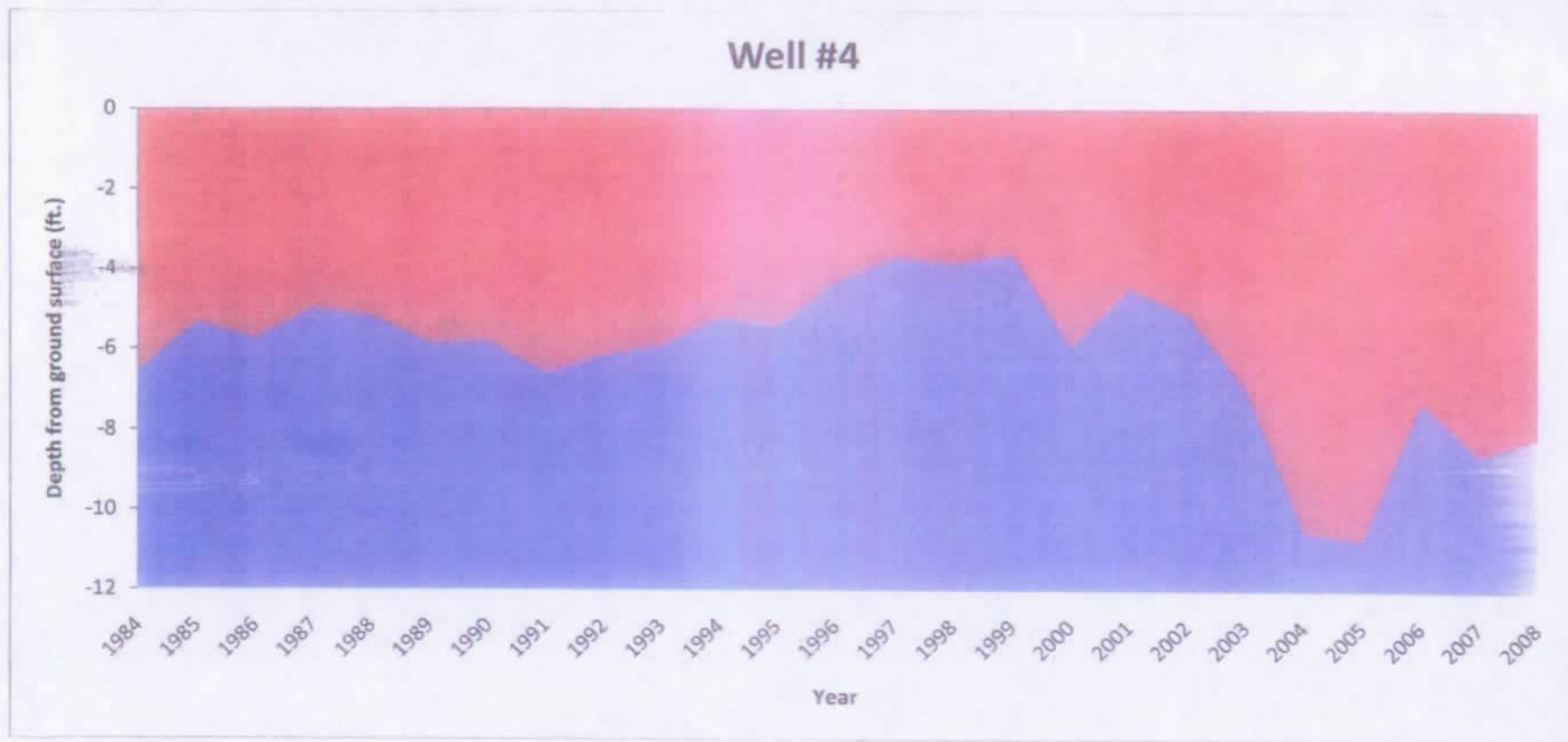


Figure 3

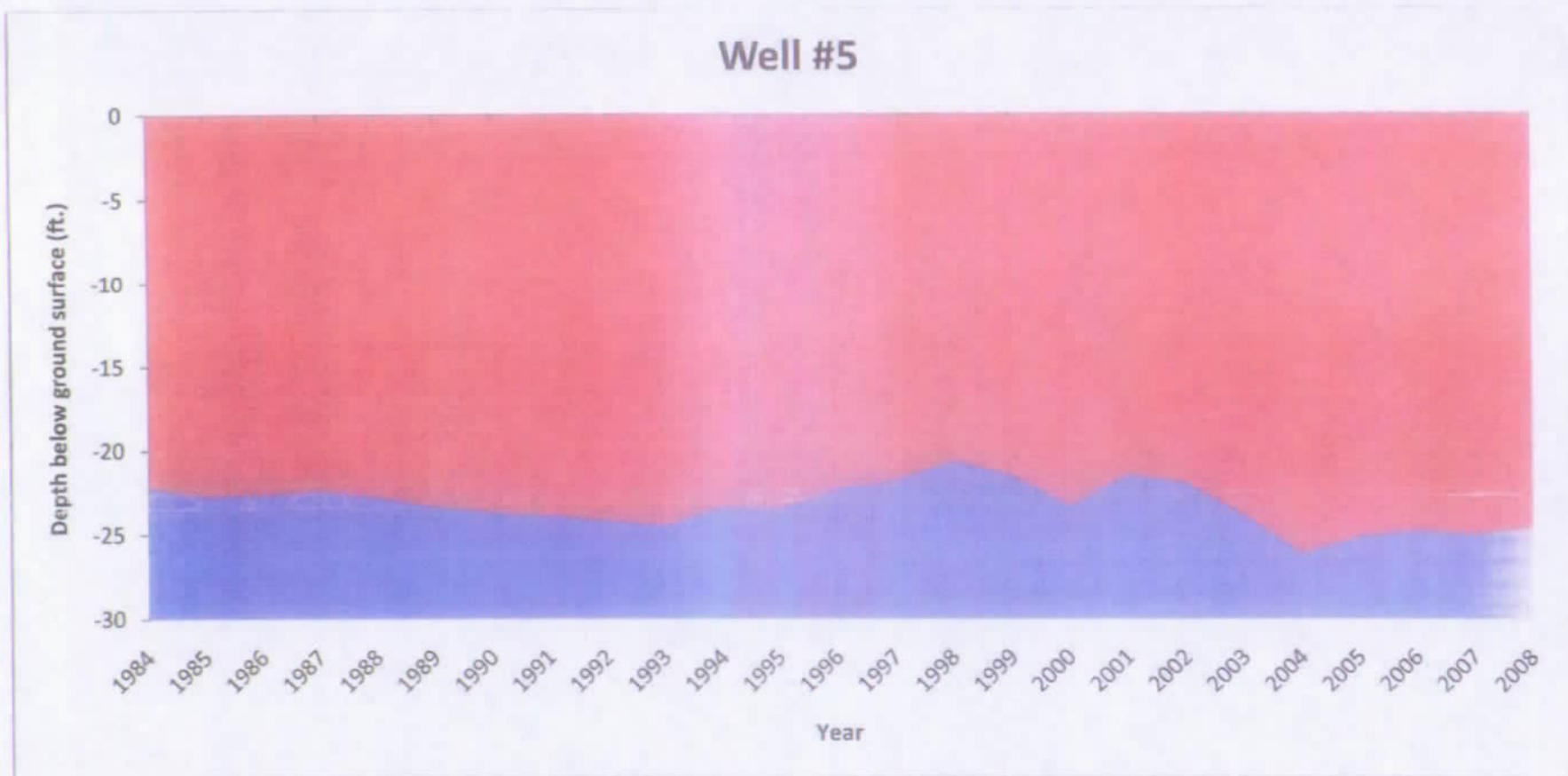


Figure 3

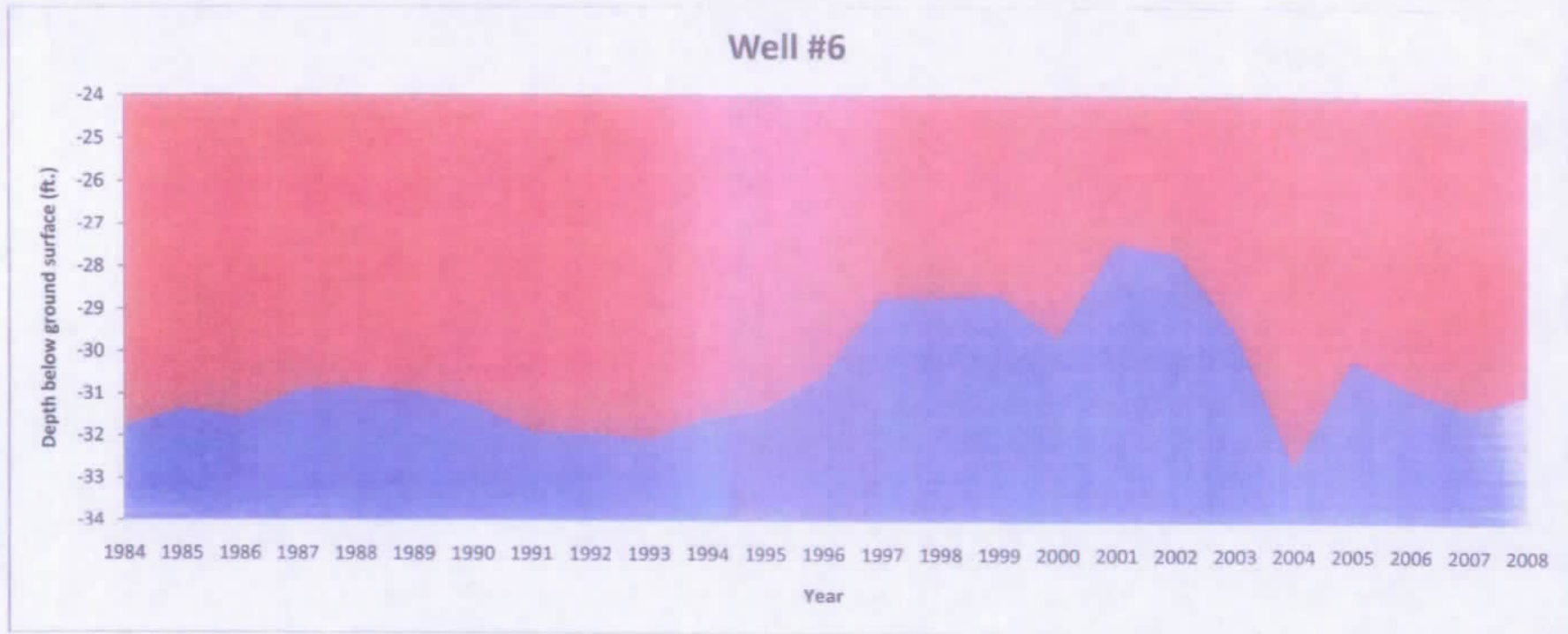


Figure 3

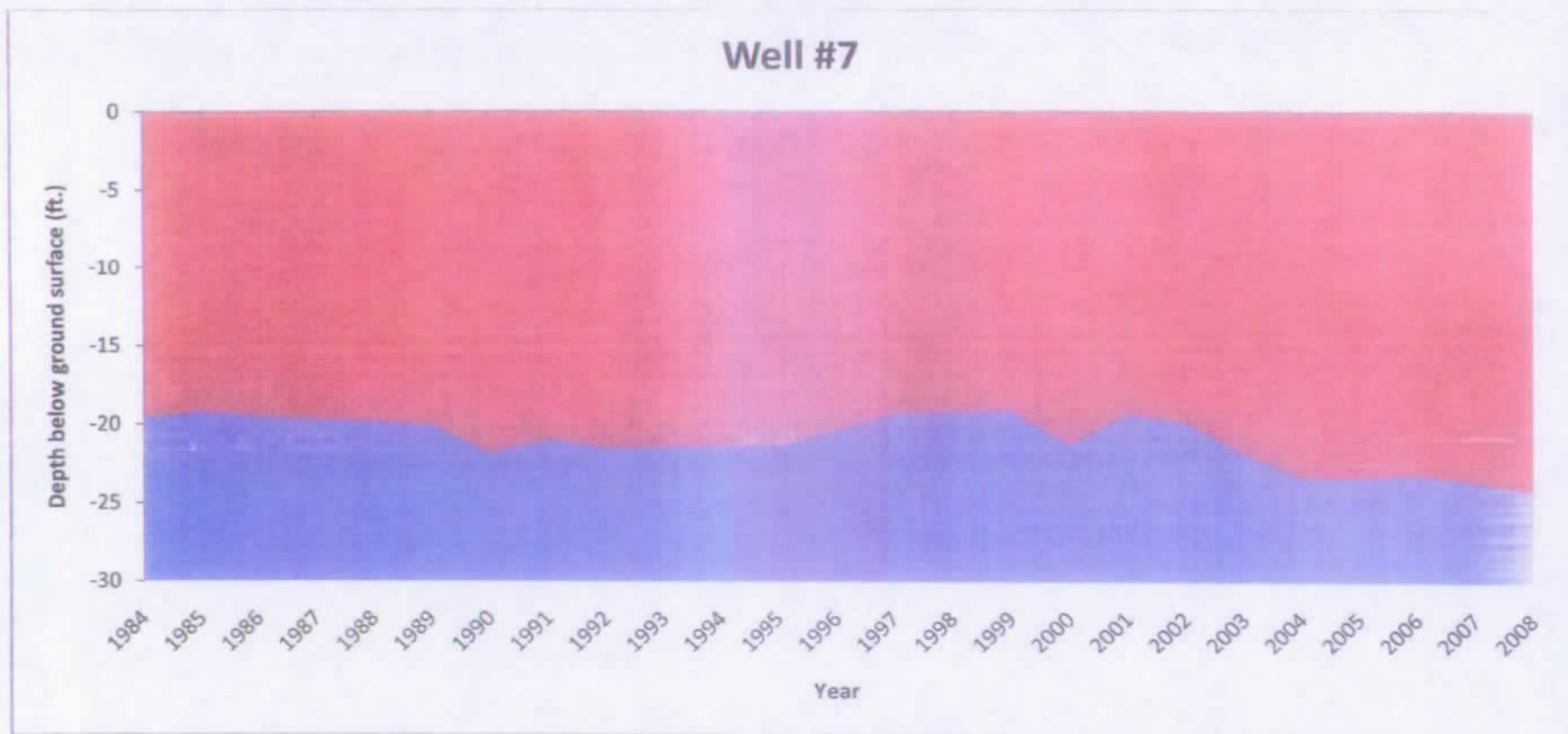


Figure 3

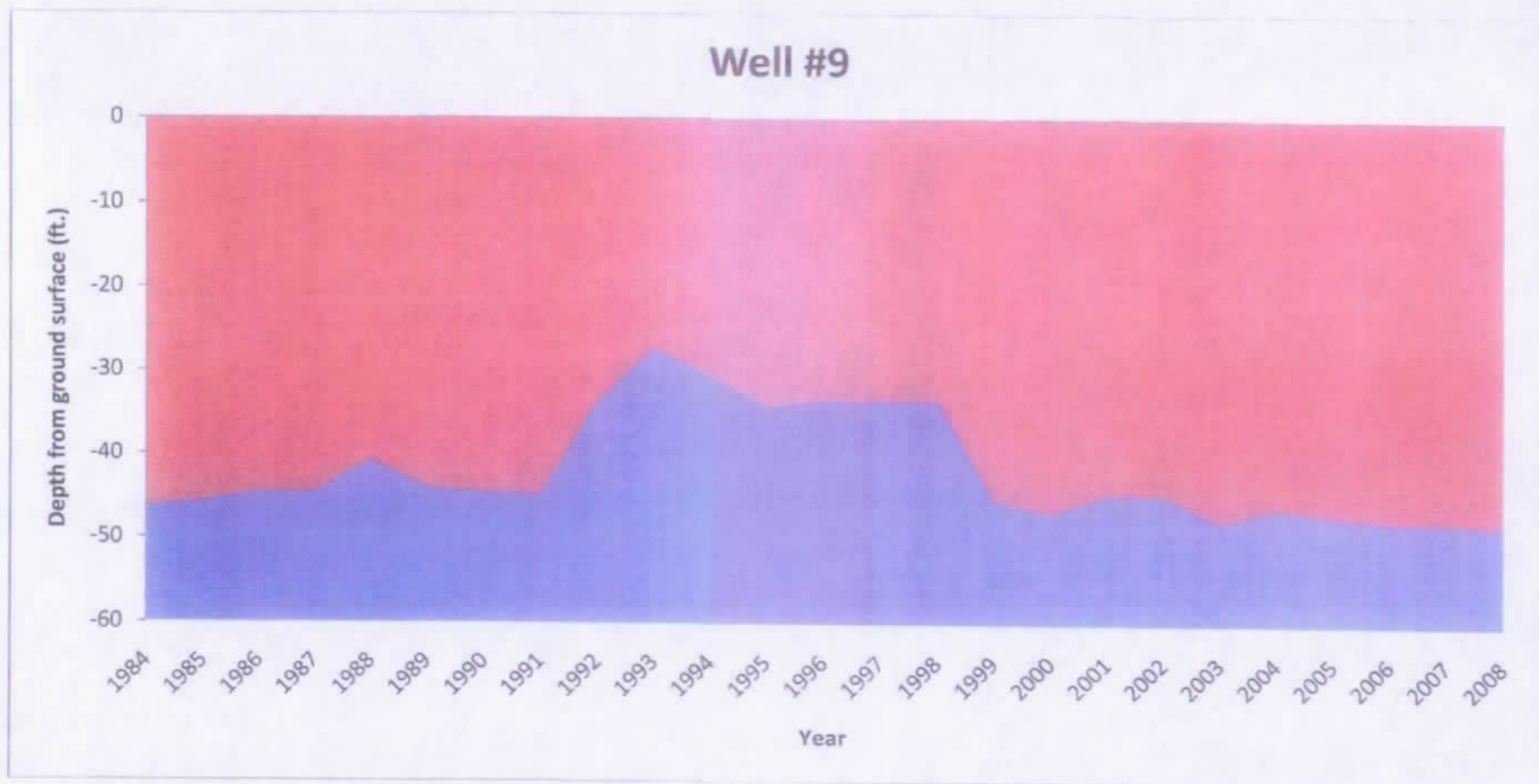


Figure 3

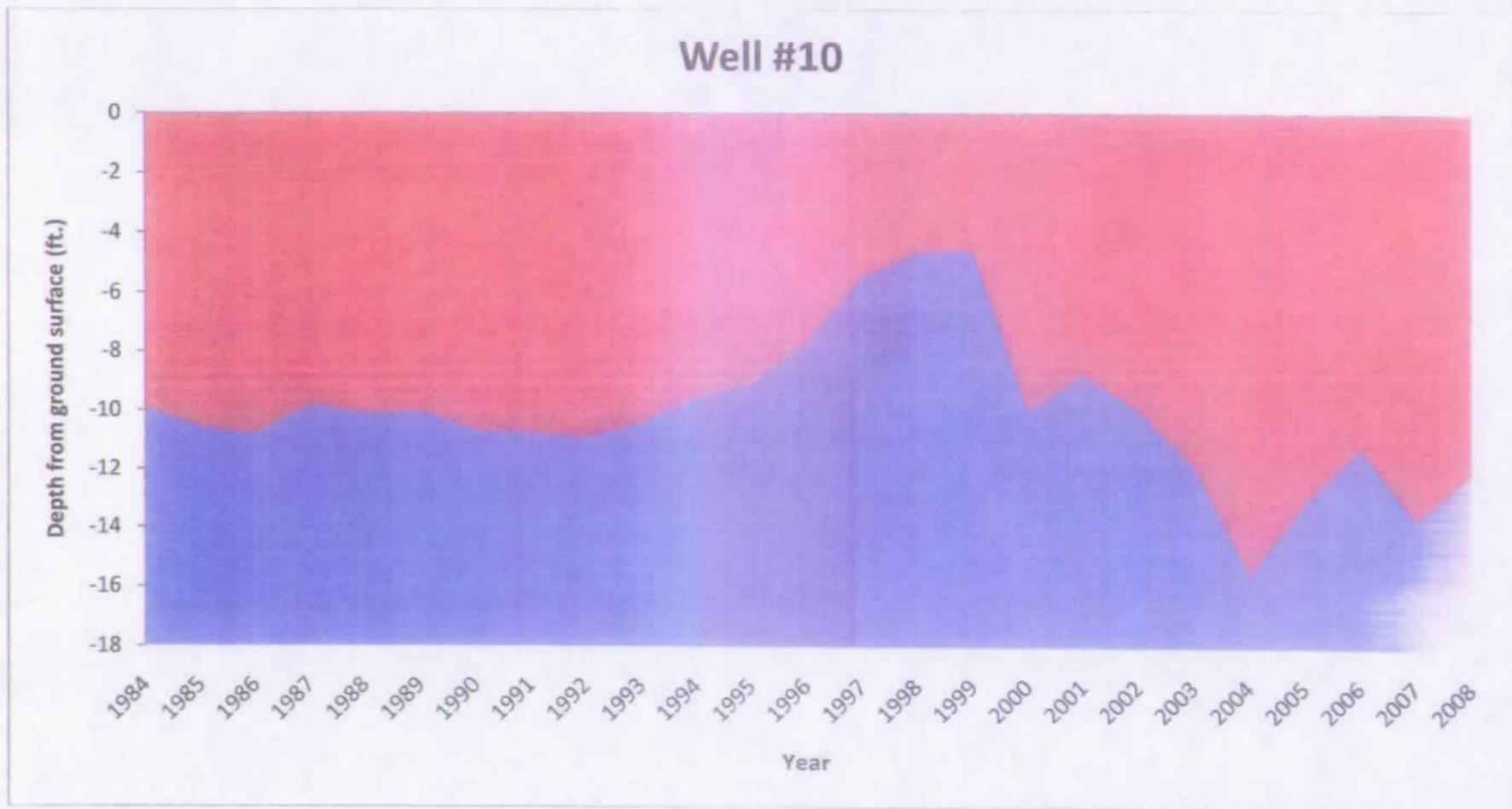


Figure 3

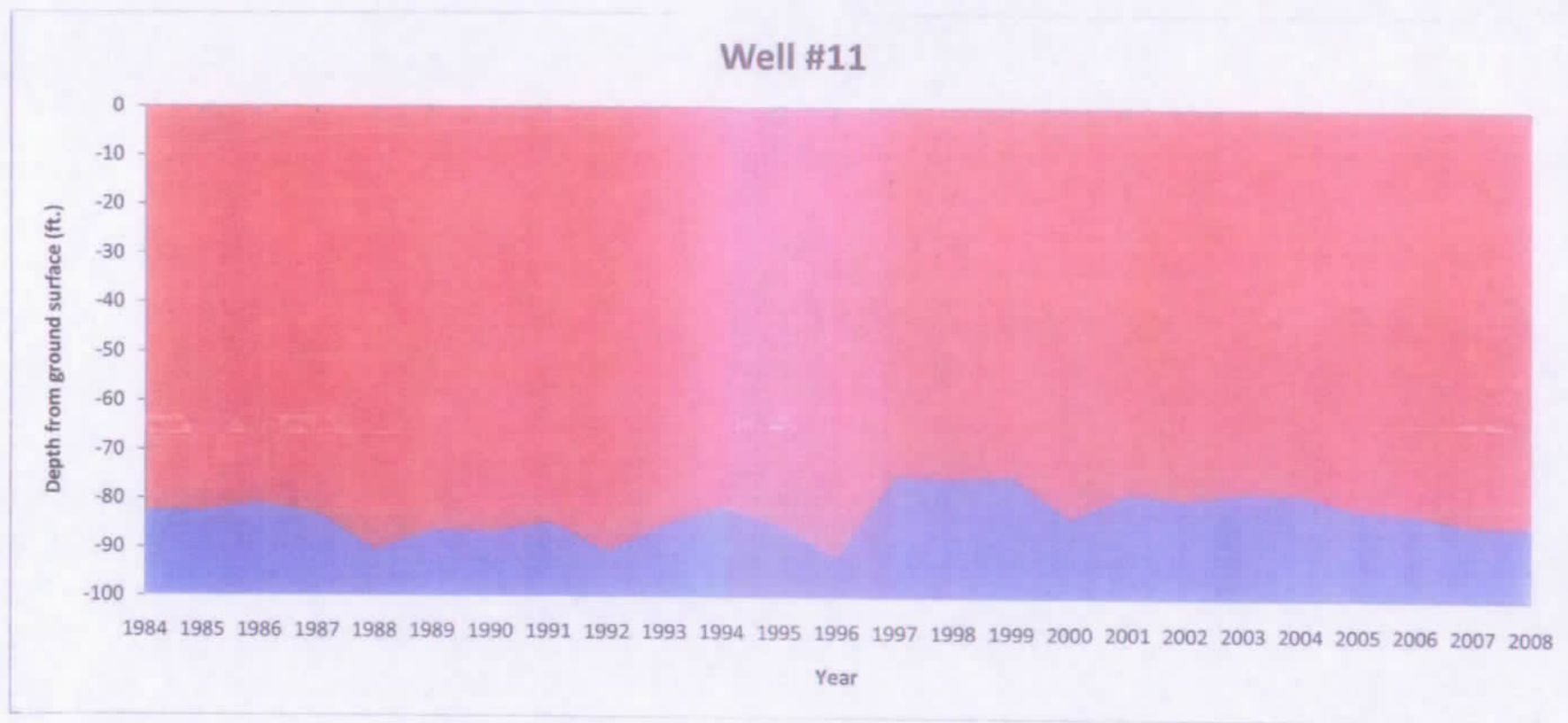


Figure 3



Figure 3

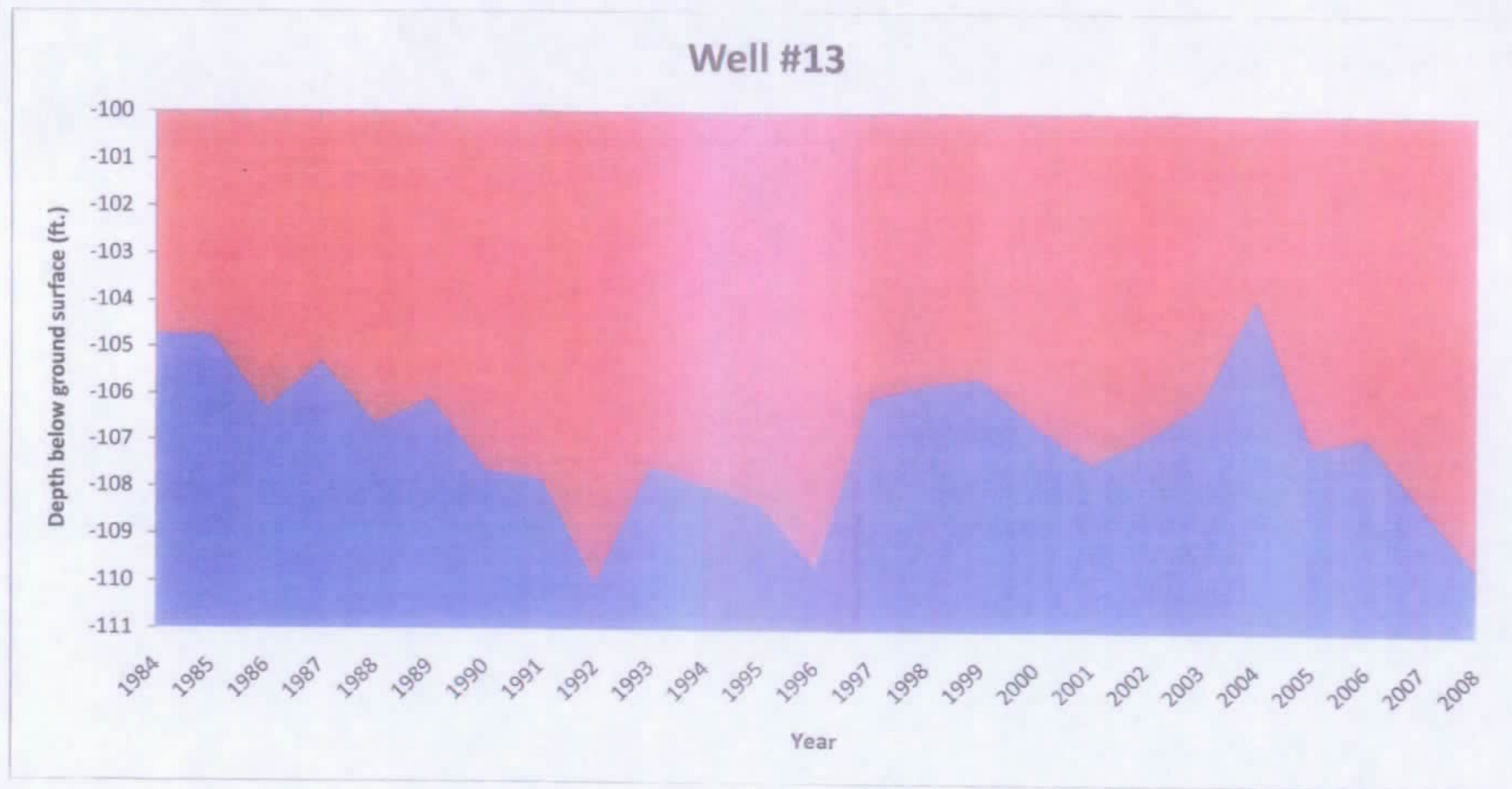


Figure 3

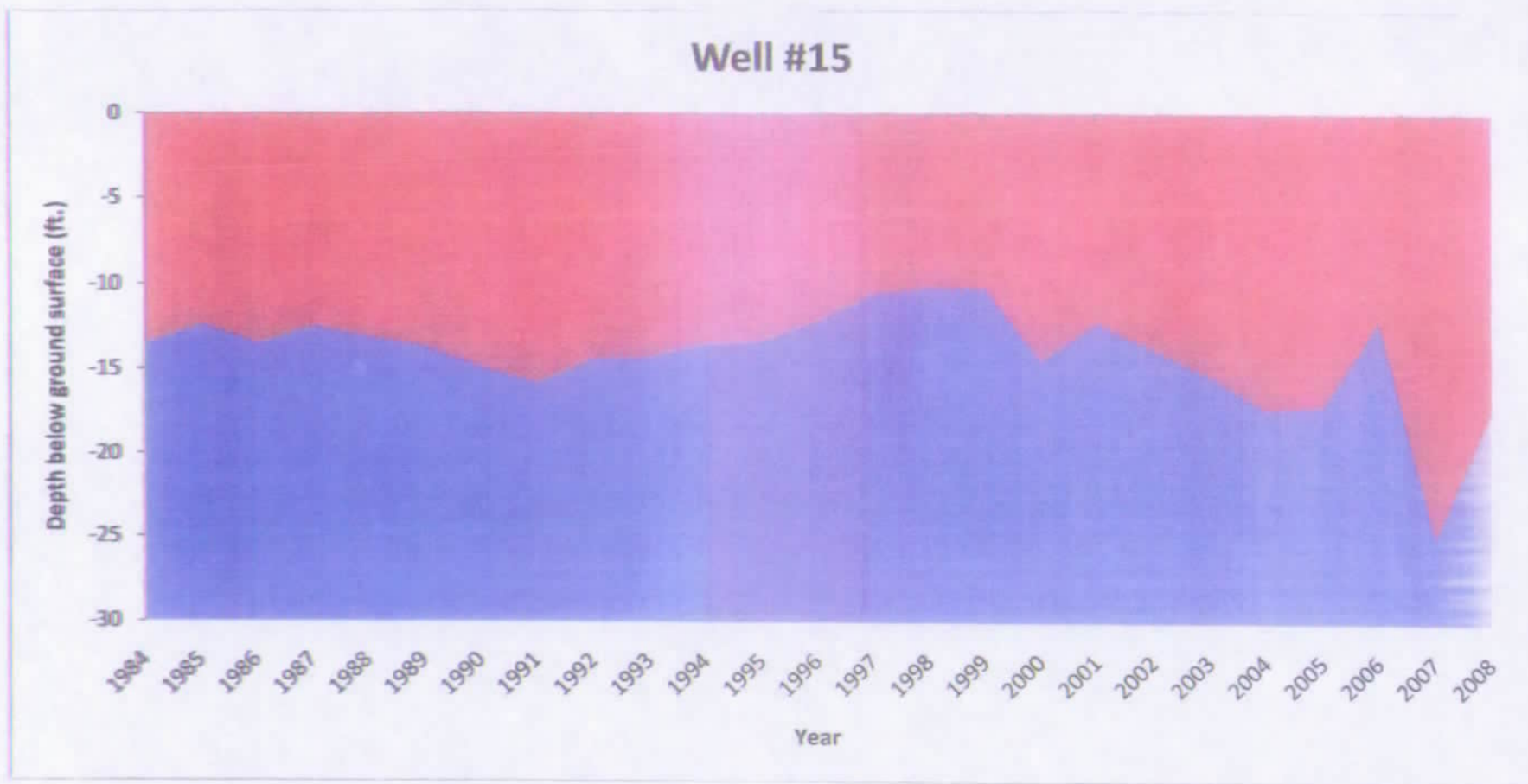


Figure 3

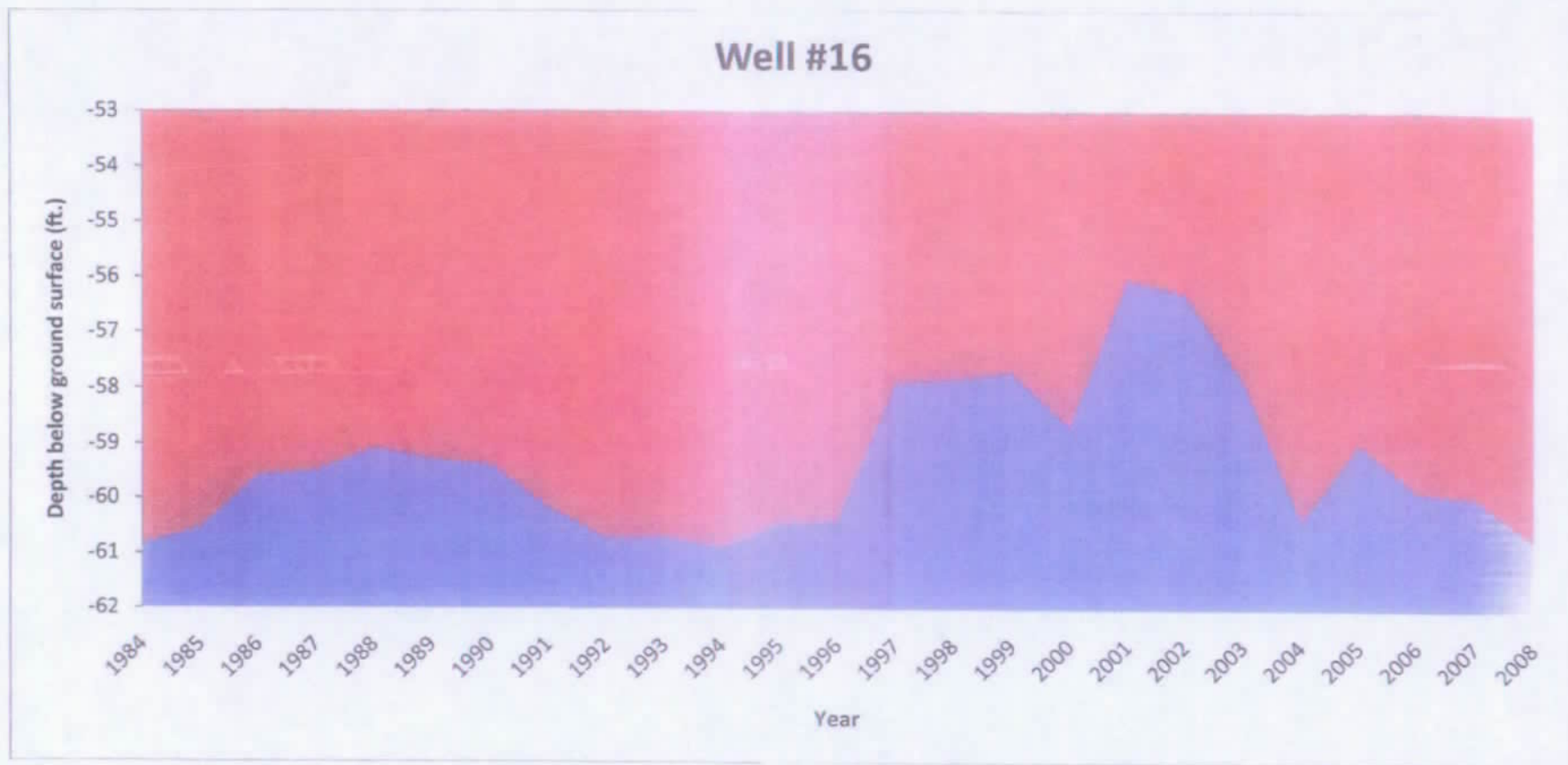


Figure 3

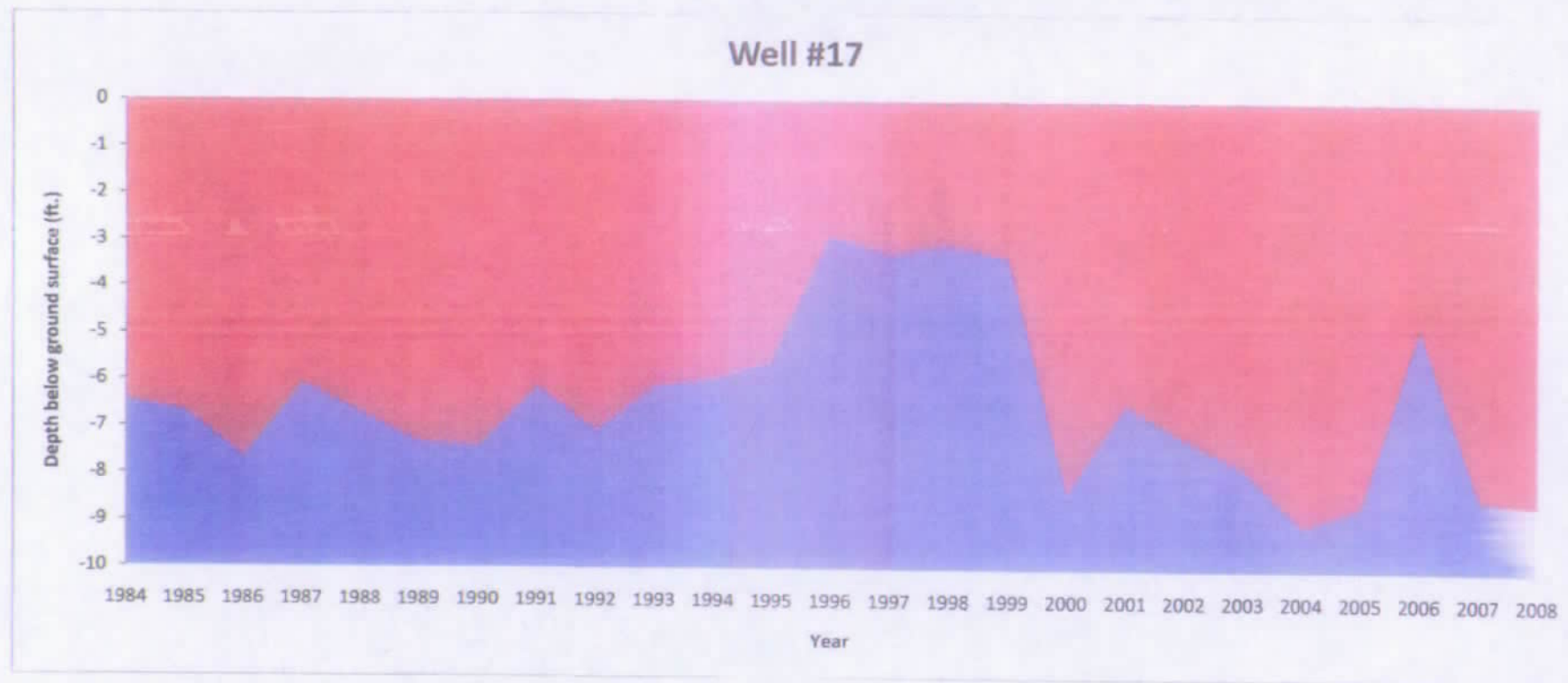


Figure 3

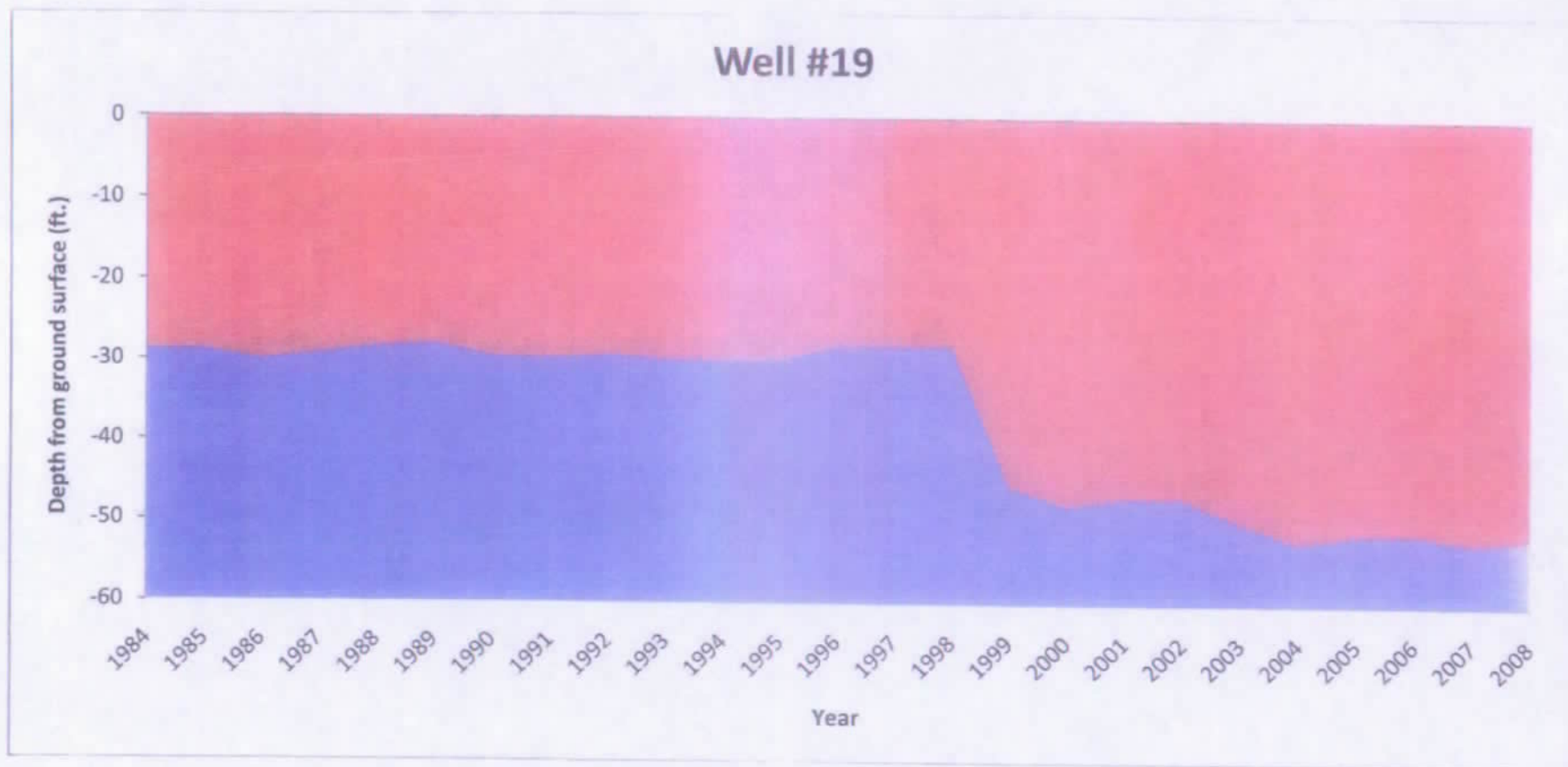


Figure 3

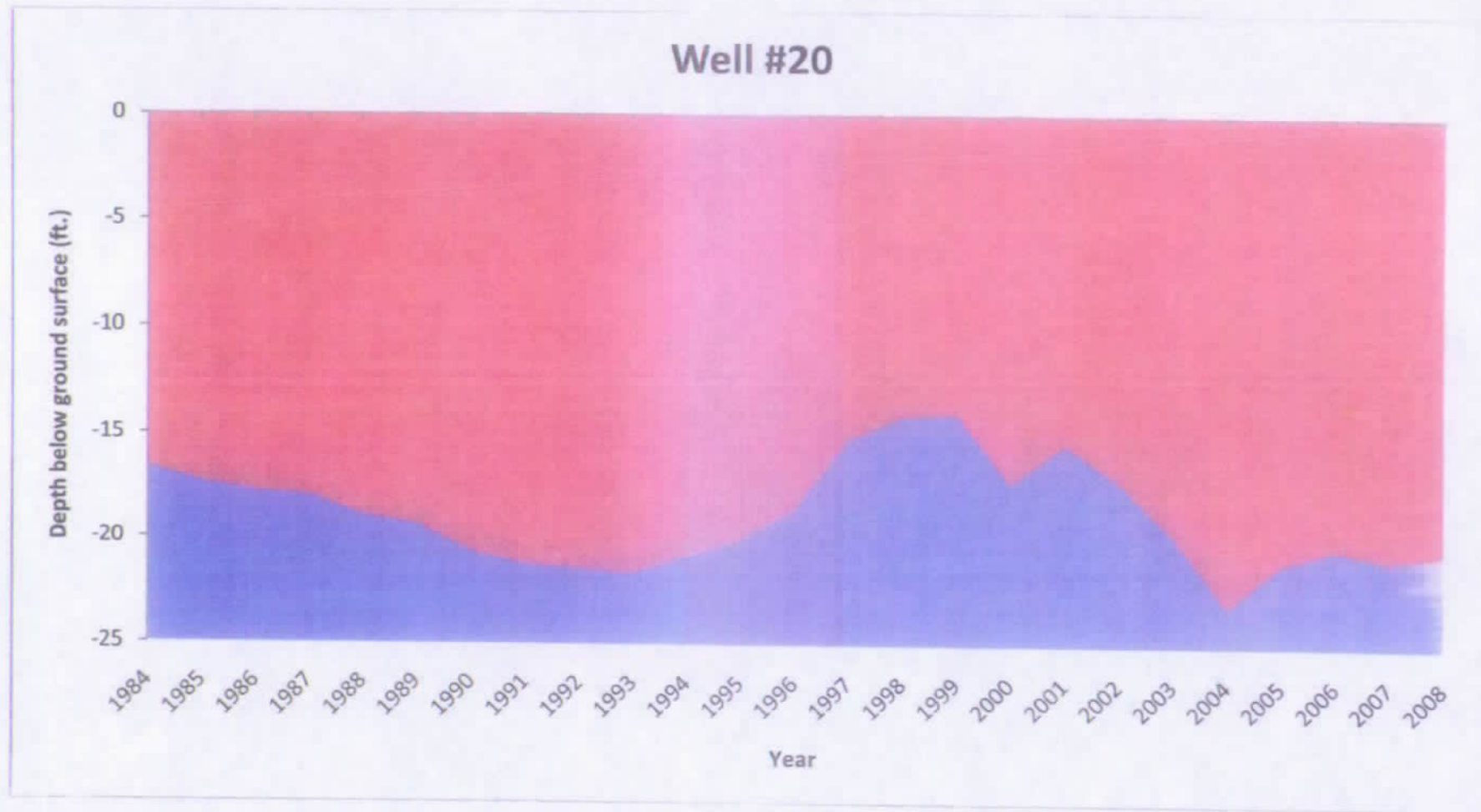


Figure 3

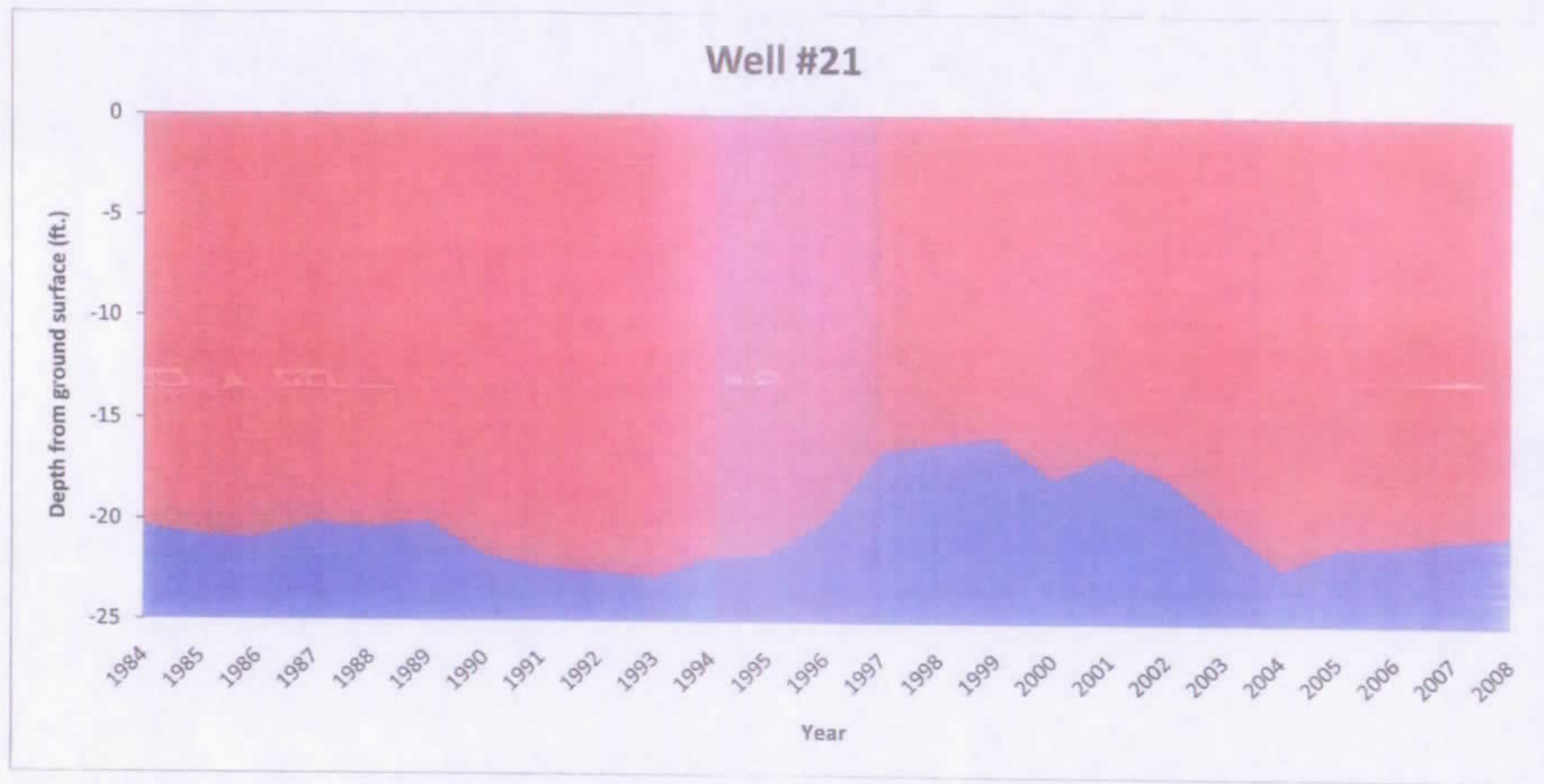


Figure 3

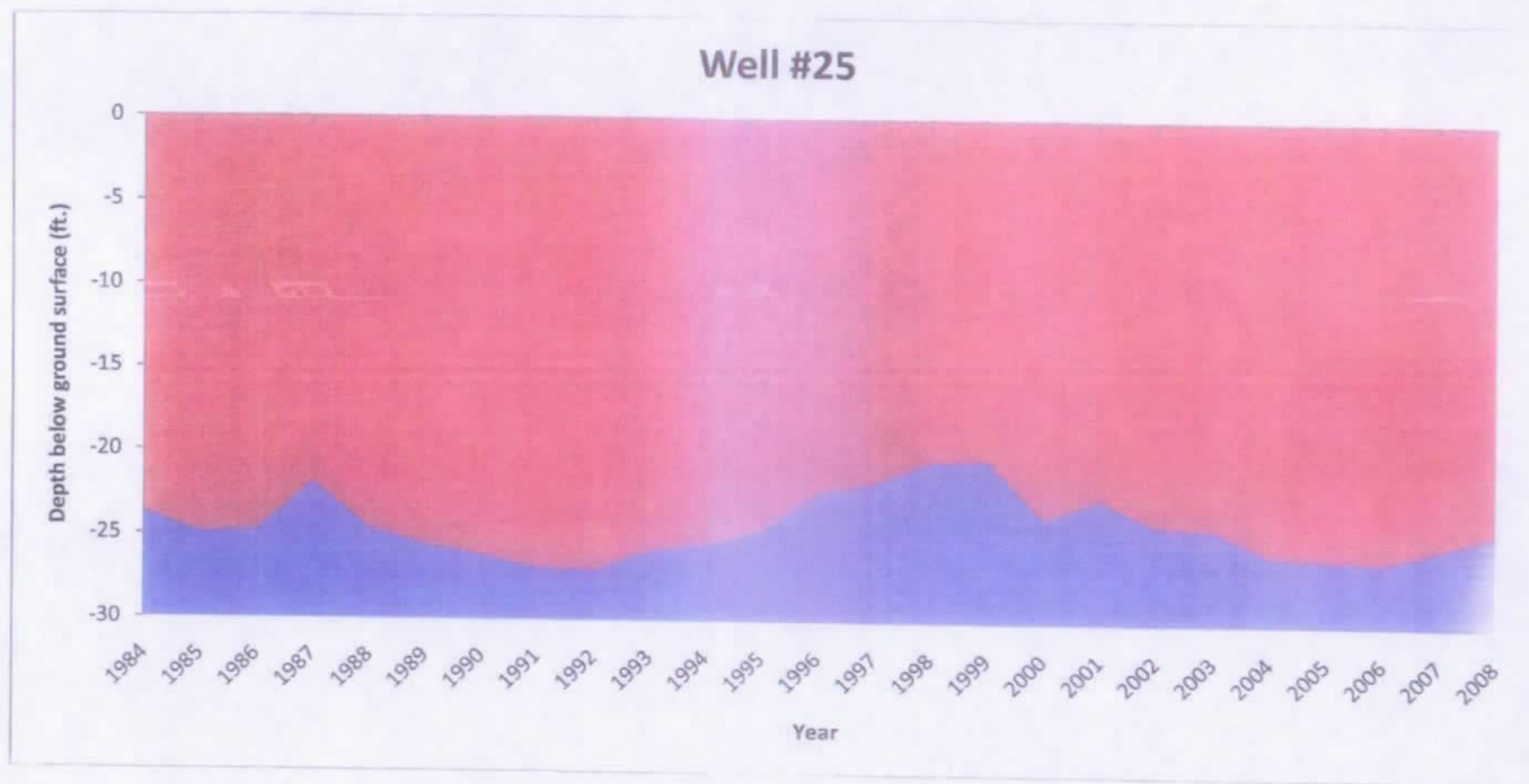


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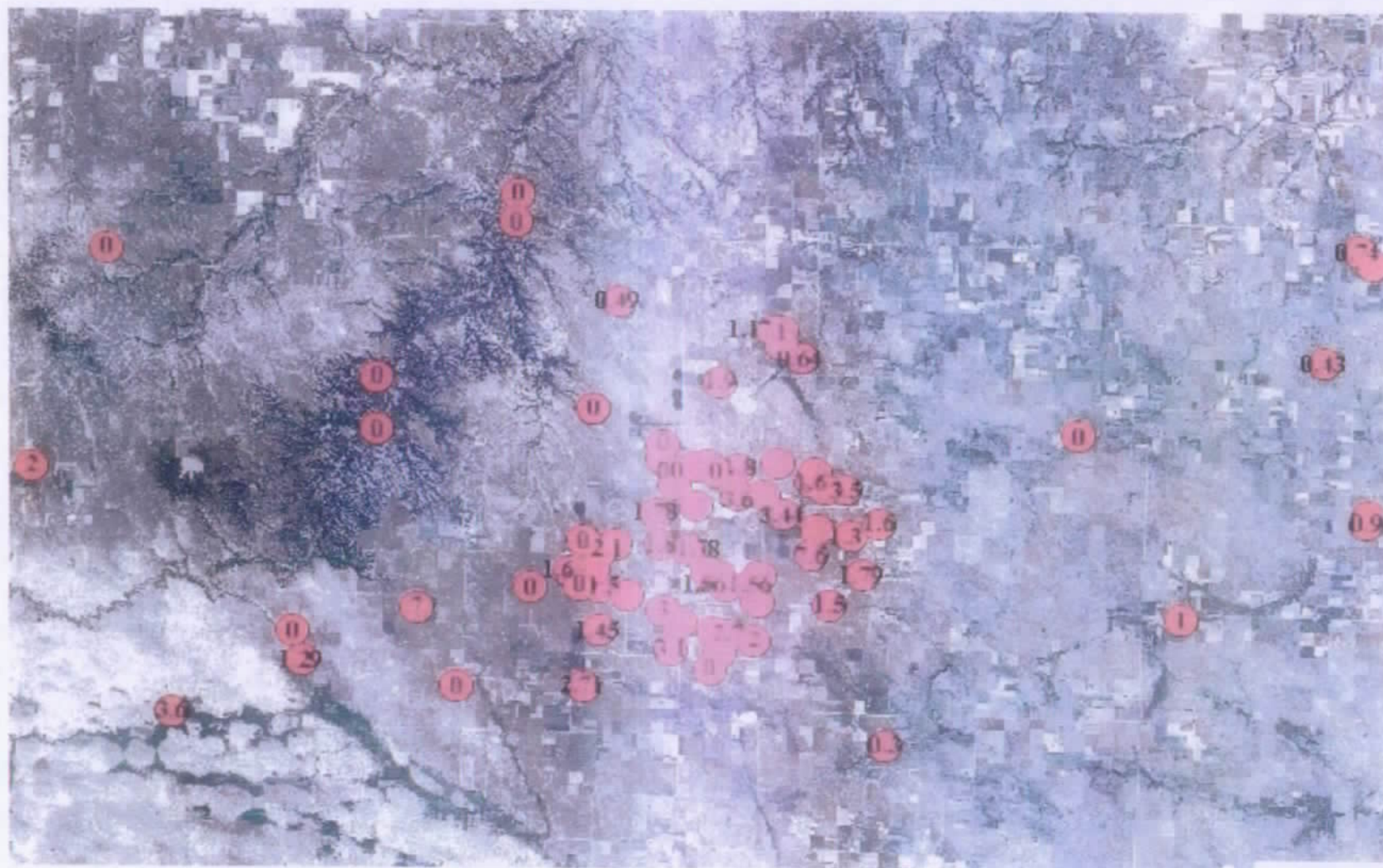


Figure 4

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)

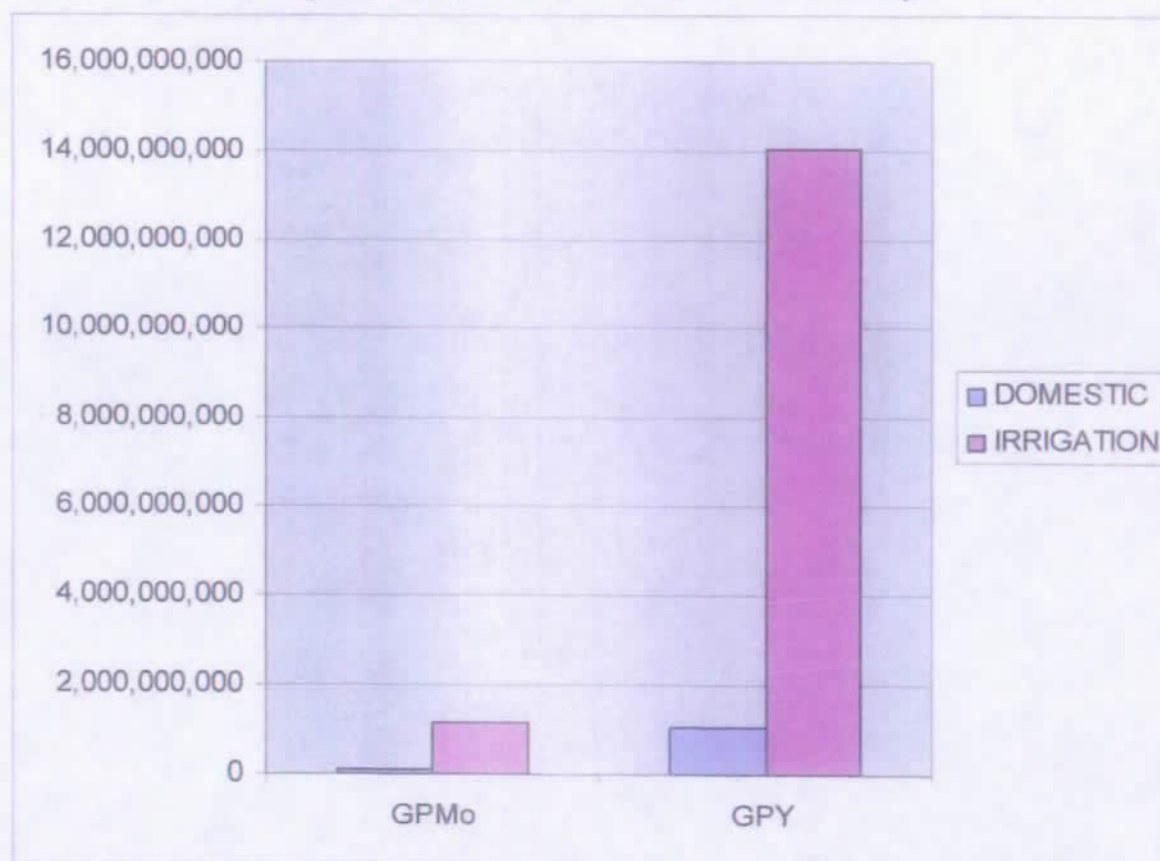
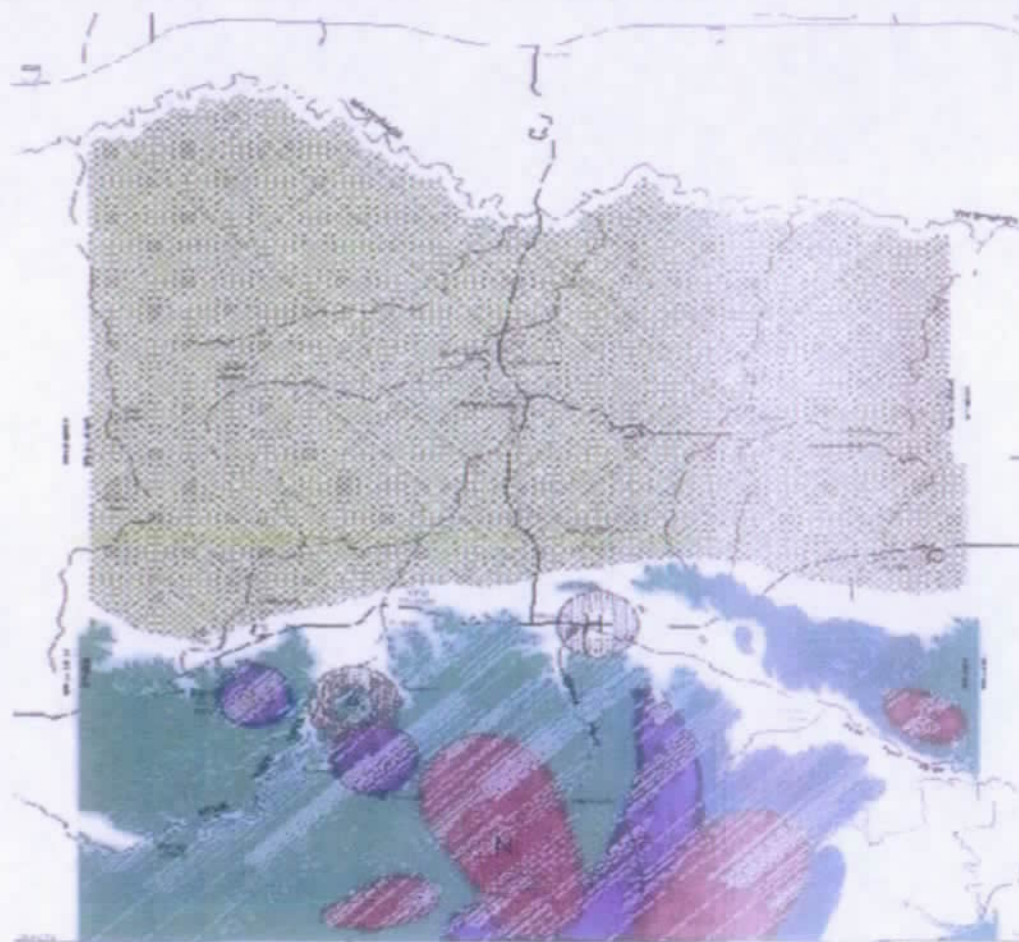


Figure 5



Groundwater Contamination

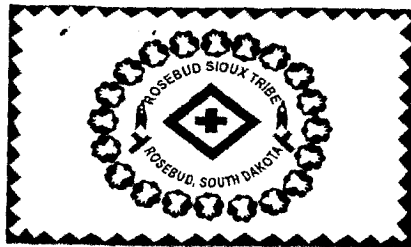


- Nitrates
- Arsenic
- Hydrocarbons



Figure 6

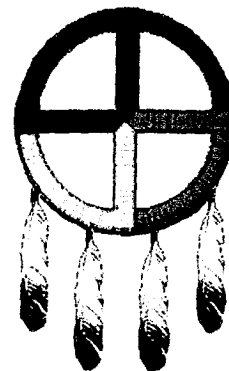




Sicangu Treaty Office

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 envoke 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 flourish 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.*



**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
Danielski Harvesting & 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

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Notice of Hearing on Water Permit Application No. 2663-2, Danielski Harvesting & Farms

A petition opposing approval of Water Permit Application No. 2663-2 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. 2663-2 proposes 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 13.4 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 24 acres located in the NE 1/4 SE 1/4 Section 27 and two additional wells 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.

The Water Management Board will conduct a hearing to consider Application No. 2663-2 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. 2663-2 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 the application based on the evidence presented at the public hearing.

The hearing on Application No. 2663-2 will be held in conjunction with five other pending applications for irrigation in Todd County. They are Application No. 2569A-2 filed by Harvey Gunnink, Application No. 2660-2, Mission Farms, Application Nos. 2661-2 and 2662-2 filed by MLT Investments and Application No. 2664-2, 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 application. 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 No. 2663-2. 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.

The application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-23; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 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.

CERTIFICATION

I hereby certify that on April 11, 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 11, 2011, regarding scheduling the hearing for Water Right Permit Application No. 2663-2, as addressed below:

Leonard Danielski
Danielski Harvesting and Farming
PO Box 230
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
300 N. Dakota Avenue, Suite 403
Sioux Falls SD 57104



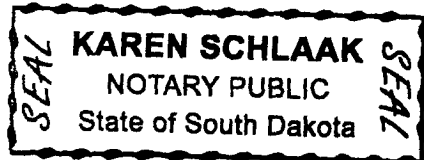
Gail Jacobson
Water Rights Program, DENR

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 11th 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

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 Brunknerd*

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

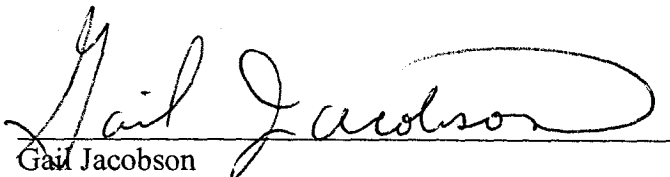
Edward Charging Elk, Executive Director
Sicangu Lakota Treaty Council
Rosebud Sioux Tribe
PO Box 430
Rosebud SD 57570

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

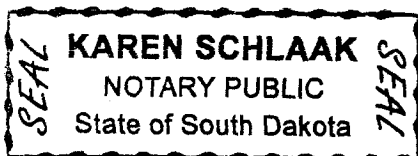
Tony O'Neill
O'Neill Farms Inc
HC 77 Box 33A
Cody NE 69211


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

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

FROM: Garland Erbele, Chief Engineer
Water Rights Program

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

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

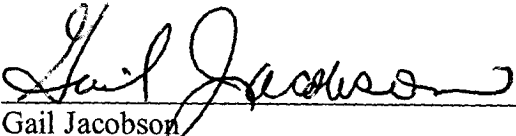
Tony O'Neill
O'Neill Farms Inc
HC 77 Box 33A
Cody NE 69211

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:

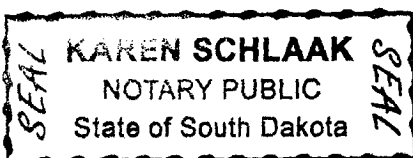
Jeff Hallem, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501-8501


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





2663-2
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

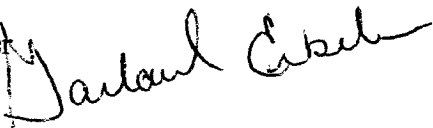
June 23, 2011

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

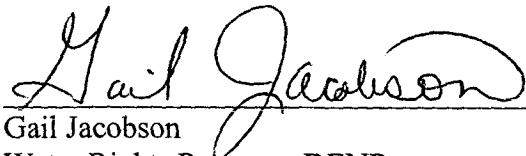
Tony O'Neill
O'Neill Farms Inc
HC 77 Box 33A
Cody NE 69211

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

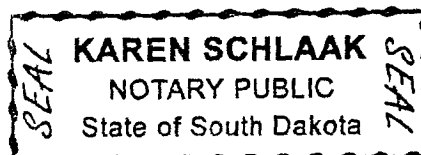

Gail Jacobson

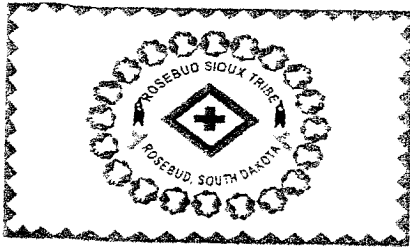
Water Rights Program, DENR

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



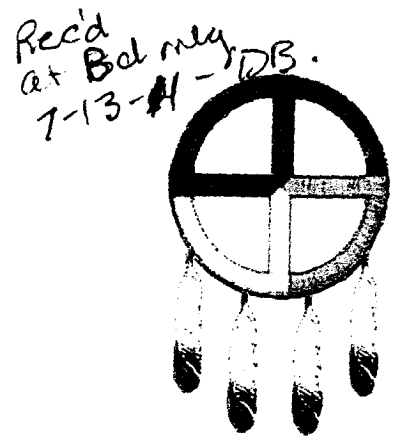


July 12, 2011

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.

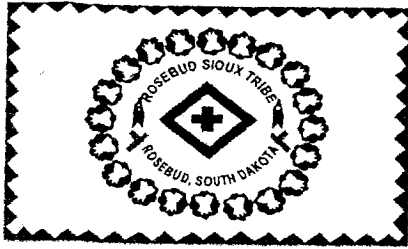
The Rosebud Sioux Tribe never or never will authorize the State of South Dakota to exercise State Jurisdiction within the exterior boundaries of Todd County or all other Trust Lands located in Mellette County, Tripp County, Gregory County, and Lyman County.



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

Attached: 900 F.2d 1164

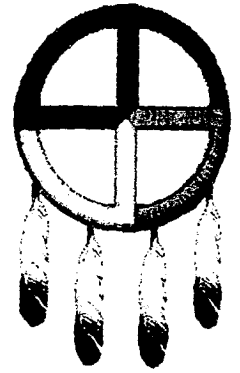
Rosebud Sioux Tribe & 3 other Sioux Tribes vs the State of South Dakota
and S.D. Highway Patrol for reference.
Titles 18 & 19 of Water Use Laws, R.S.T.



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 commence 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 APPLICATION No.	)	APPLICANTS PROPOSED FINDINGS OF
2663-2, DANIELSKI	)	FACT, CONCLUSIONS OF LAW AND FINAL
HARVESTING AND FARMING	)	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 matter. 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, 3, 4, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 20 are accepted by the

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

B. Applicant proposed Finding of Fact No. 2 is accepted by the Board as consistent with the administrative record and the Board's oral decision, corrected as follows: after "T36-R29W" insert "in Todd County."

C. Applicant proposed Finding of Fact No. 5 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.

D. Applicant proposed Finding of Fact No. 6 is accepted by the Board as consistent with the administrative record and the Board's oral decision as corrected as follows: delete "water rights program" and insert "Water Rights Program."

E. Applicant proposed Finding of Fact No. 7 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 application at issue." In the second sentence capitalize the p on "program"; delete "two" and insert "three;" and following "miles" insert "of the Danielski application."

F. Applicant proposed Finding of Fact No. 18 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."

G. Applicant proposed Finding of Fact No. 19 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."

H. Applicants proposed Conclusions of Law Nos. 3, 4, 5, 6 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.

I. 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;" and delete "well" and insert "wells."

J. 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."

K. 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."

L. 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 in the above rulings corrected as follows: at the beginning of the first sentence in paragraph 1 and at the beginning of paragraph 2 following "The" delete "well" and insert "wells."

M. DENR Findings of Fact Response Nos. 3, 4 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 in the above rulings.

N. DENR Finding of Fact Response 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 second sentence after "observation" delete "wells" and insert "well data."

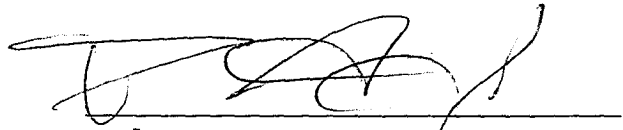
O. DENR Conclusions of Law Response Nos. 2 and 3 are adopted by the Board as consistent with the administrative record, the Board's oral decision and the Findings of Fact and Conclusions of Law adopted by the Board in the above rulings.

P. DENR Final Decision Response 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 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:



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:

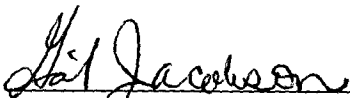
William Quigley
Quigley, Dill & Quigley
PO Box 748
Valentine NE 69201

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



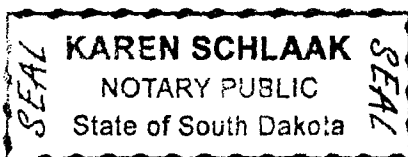
Gail Jacobson
Water Rights Program, DENR

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 APPLICATION No.	)	LAW AND FINAL DECISION
2663-2, DANIELSKI	)	
HARVESTING AN FARMING	)	

FINDINGS OF FACT

1. Hearing was held on the above-entitled matter on May 4, 2011.
2. This is an application by Danielski Harvesting and Farming, LLC. to appropriate 1.1 cubic feet of water per second of the additional diversion rate authority, irrigate additional acreage and add two additional diversion points to a Water Right No. 1615-2. Water Right No. 1615-2 authorizes 13.4 cubic feet of water per second from 10 wells to irrigate 993 acres located in the Sections 26 and 27; T37N-R39W IN Todd County. This application proposes to irrigate an additional 24 acres located in the NE 1/4 of the SE 1/4 and two additional wells to be completed into the Ogallala aquifer (approximately 240 feet deep) located in the SW 1/4 SW ¼ 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.

3. The grant of this application would allow Applicant to appropriate water from two Ogallala Aquifer wells. The water would be used for irrigation of crops. The point of diversion will be within the exterior boundaries of the Rosebud Sioux Reservation.

4. 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.

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.

6. 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.

7. Based on monitoring wells operated by the Water Rights Program, and as described below, unappropriated water is available from the Ogallala Aquifer for this application.

8. DENR Exhibit shows 7 of DENR's observation wells in Todd County and their proximity to the irrigation application at issue. The Program monitors three observation wells in the immediate area of the Danielski Applicaiton, including TD-76B, TD-76D, and TD-76G, all within approximately one-half to two 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.

9. According to testimony from the state engineers 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 this application.

10. Tom Danielski, one of the family members and officers of Danielski Harvesting and Farming, 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 substance.

11. 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 this particular application so that it would not impair existing rights. No specific objection was made to the application in this case.

12. Based on the evidence presented at hearing, the grant of this application for the use of water to irrigate 24 acres 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.

13. 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.

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

15. 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.

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

17. 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.

18. This Board determines that the water use in this 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.

19. 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.

20. 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.

21. 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 Danielski Harvesting and Farming and that entity 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 this application for water used for irrigation of 140 acres 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 diversion can be developed without unlawful impairment of existing rights. The Board concludes that any effect on either appropriative or domestic wells will not cause adverse impairment to properly constructed wells.

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 this permit will not adversely impair existing water rights for appropriative use and will not interfere with the tribal right to govern itself or to claim water rights under federal doctrines or treaties, as applicable.

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 this case.

FINAL DECISION

Application No. 2663-2 is hereby granted and a Permit shall be issued forthwith containing the following qualifications:

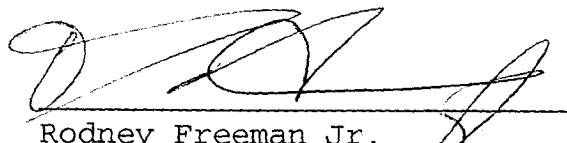
1. The wells approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having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

2. The wells authorized by Permit No. 2663-2 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with Water Management Board well construction rules, ch. 74:02:04, with the well casing pressure grouted (bottom to top) pursuant to § 74:02:04:28.

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

Dated this 14th day of July, 2011.

BY THE BOARD:


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

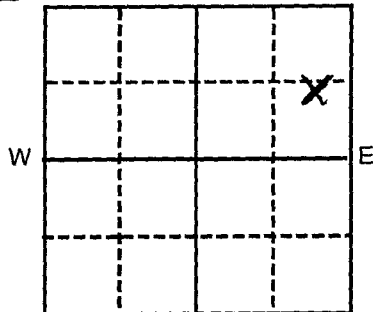
enclosures

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location SE 1/4 NE 1/4 Sec 27 Twp 37 Rg 29County Todd

North

Please mark well
location with an "X"

Well Completion Date

October 26, 2011

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	39.0 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 140.0 FeetMaterial PVCSlot Size .080 Set From 39.0 Feet to 179.0 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 / FINE TO MED	2	46
SAND W/ CLAY	46	68
SANDSTONE	68	94
SAND / FINE - MED	94	138
SAND W/ CLAY	138	164
SANDSTONE W/ CLAY	164	180

STATIC WATER LEVEL 37.0 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

161.0 Ft. After 3.0 Hrs. pumped 500.0 GPM143.0 Ft. After 3.0 Hrs. pumped 450.0 GPMIf pump installed, pump rate: 350.0 GPM

REMARKS

RECEIVED

DEC - 7 2011

WATER RIGHTS

This well was drilled under license # 189 ~~PROGRAM~~ and this report is true and accurate.Drilling firm: GROSCH IRRIGATION CO., INC.

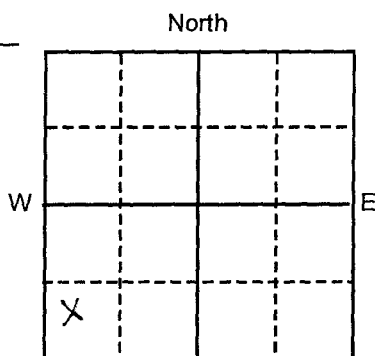
Signature of License Representative: _____

Signature of Well Owner or Equitable Property Holder: _____

Date: _____

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec 27 Twp 37 Rg 29County ToddPlease mark well
location with an "X"

Well Completion Date

November 1, 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	80.0 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 120.0 FeetMaterial PVCSlot Size .080 Set From 80.0 Feet to 200.0 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	34
sand, sandstone layers, limestone	34	68
sand, sandstone layers, limestone	68	78
sandstone, sand w/ clay	78	132
sand, sand w/ clay	132	190
sandstone w/clay, red rock	190	200

STATIC WATER LEVEL 72.0 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

176.0 Ft. After 3.0 Hrs. pumped 400.0 GPM173.0 Ft. After 350.0 Hrs. pumped 450.0 GPMIf pump installed, pump rate: 300.0 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.

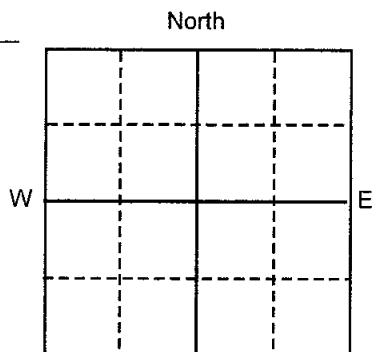
Signature of License Representative: _____

Signature of Well Owner or Equitable Property Holder: _____

Date: _____

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location NW ¼ NW ¼ Sec 27 Twp 37 Rg 29County TODDPlease mark well
location with an "X"

Well Completion Date

March 17, 2004

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	1.0 FT	103.0 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 TREMIE PIPE

SCREEN:

☒ Perforated pipe ☐ Manufactured
 Diameter 16.00 Inches Length 120.0 Feet
Material PVCSlot Size .051 Set From 103.0 Feet to 223.0 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 analysis _____
Well Owner: LEONARD DANIELSKIBusiness Name: DANIELSKI HARVESTING & FARMINGAddress: P.O. BOX 230City, State, Zip: VALENTINE NE 69201

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
sandy top soil	0	2
hard sandstone	2	18
sandstone	18	64
sandstone w/ thin silt layers	64	123
sandstone, fine pepper sand	123	131
limestone	131	133
mushy sandstone	133	184
sandstone w/ traces of red rock	184	210
red rock	210	230

STATIC WATER LEVEL 108.0 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

200.0 Ft. After 2.0 Hrs. pumped 500.0 GPM182.0 Ft. After 2.0 Hrs. pumped 400.0 GPMIf pump installed, pump rate: 350.0 GPM

REMARKS

OGALLALAThis 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: _____

Water Permit No. 2663-2
Todd County

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 Danielski Harvesting and Farms., PO Box 230, Valentine, NE 69201, holder of Water Permit No. 2663-2, bearing the priority date of February 10, 2011. Water Permit No. 2663-2 authorizes the irrigation of an additional 24 acres and the diversion of an additional 1.1 cubic feet per second (cfs) from two wells completed into the Ogallala aquifer at approximately 240 feet below ground surface to supplement the 13.4 cfs and 993 irrigated acres authorized under Water Right No. 1615-2. The 24 additional acres are located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 27, 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:
Valley Pivots

The system is in the following condition: well maintained. The wells associated with Water Permit No. 2663-2 are in the following locations:

- 1) **900 feet north and 450 feet east of the southwest corner of Section 27, T37N-R29W. Lat 43.14577 Lon 100.74693W. Southwestern well.**
- 2) **1,300 feet south and 100 feet west of the northeast corner of Section 27, T37N-R29W. Lat 43.15420N Lon 100.72960W. Northeastern well.**

In addition to the two wells inspected on September 2, 2015, ten other wells are being used to supply the eight pivots authorized by Water Right No. 1615-2 in Sections 26 and 27 of T37N-R29W. Those ten wells were not inspected on September 2, 2015. However, eight of these ten wells were in place during an inspection of Water Permit No. 1615-2 on June 26, 1978. The locations of these eight wells is as follows:

- 3) **1,320 feet south and 1,340 feet east of the northwest corner of Section 27, T37N-R29W. Lat 43.15416N Lon 100.74385W. Well #10**
- 4) **1,330 feet north and 1,330 feet east of the southwest corner of Section 27, T37N-R29W. Lat 43.14703N Lon 100.74367W. Well #11**
- 5) **1,320 feet north and 1,310 feet west of the southeast corner of Section 27, T37N-R29W. Lat 43.14706N Lon 100.73391W. Well #12**
- 6) **1,340 feet south and 1,315 feet west of the northeast corner of Section 27, T37N-R29W. Lat 43.15418N Lon 100.73375W. Well #13**
- 7) **1,330 feet south and 1,350 feet east of the northwest corner of Section 26, T37N-R29W. Lat 43.15419N Lon 100.72414W. Well #14**
- 8) **1,330 feet north and 1,320 feet east of the southwest corner of Section 26, T37N-R29W. Lat 43.14680N Lon 100.72399W. Well #15**
- 9) **1,330 feet north and 1,330 feet west of the southeast corner of Section 26, T37N-R29W. Lat 43.14704N Lon 100.71423W. Well #16**
- 10) **1,380 feet south and 1,370 feet west of the northeast corner of Section 26, T37N-R29W. Lat 43.15422N Lon 100.71425W. Well #17**

In addition to the two wells inspected on September 2, 2015 (authorized by Water Permit No 2663-2) and the eight wells inspected on June 26, 1978 (authorized by Water Permit No. 1615-2), two wells were constructed (without request for additional diversion rate authority or additional irrigated acreage) on November 20, 2001 and March 17, 2004. Neither of these wells have been inspected by the Water Rights Program. The locations of these two wells are as follows:

- 11) **2,300 feet south and 2,300 feet east of the northwest corner of Section 26, T37N-R29W. Lat 43.15143N Lon 100.72028W. Constructed on November 20, 2001**
- 12) **50 feet south and 700 feet east of the northwest corner of Section 27, T37N-R29W. Lat 43.15775N Lon 100.74637W. Constructed March 17, 2004.**

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

- 1) **34 acres in the NW ¼ NW ¼ of Section 27, T37N-R29W**
- 2) **33 acres in the SW ¼ NW ¼ of Section 27, T37N-R29W**
- 3) **34 acres in the NE ¼ NW ¼ of Section 27, T37N-R29W**
- 4) **35 acres in the SE ¼ NW ¼ of Section 27, T37N-R29W**
- 5) **34 acres in the NW ¼ SW ¼ of Section 27, T37N-R29W**
- 6) **35 acres in the SW ¼ SW ¼ of Section 27, T37N-R29W**
- 7) **33 acres in the NE ¼ SW ¼ of Section 27, T37N-R29W**
- 8) **32 acres in the SE ¼ SW ¼ of Section 27, T37N-R29W**
- 9) **33 acres in the NW ¼ NE ¼ of Section 27, T37N-R29W**
- 10) **34 acres in the SW ¼ NE ¼ of Section 27, T37N-R29W**
- 11) **33 acres in the NE ¼ NE ¼ of Section 27, T37N-R29W**
- 12) **32 acres in the SE ¼ NE ¼ of Section 27, T37N-R29W**
- 13) **35 acres in the NW ¼ SE ¼ of Section 27, T37N-R29W**
- 14) **35 acres in the SW ¼ SE ¼ of Section 27, T37N-R29W**
- 15) **34 acres in the NE ¼ SE ¼ of Section 27, T37N-R29W (24 of which are authorized under Water Permit No. 2663-2)**
- 16) **32 acres in the SE ¼ SE ¼ of Section 27, T37N-R29W**
- 17) **35 acres in the NW ¼ NW ¼ of Section 26, T37N-R29W**
- 18) **36 acres in the SW ¼ NW ¼ of Section 26, T37N-R29W**
- 19) **34 acres in the NE ¼ NW ¼ of Section 26, T37N-R29W**
- 20) **34 acres in the SE ¼ NW ¼ of Section 26, T37N-R29W**
- 21) **35 acres in the NW ¼ SW ¼ of Section 26, T37N-R29W**
- 22) **34 acres in the SW ¼ SW ¼ of Section 26, T37N-R29W**
- 23) **34 acres in the NE ¼ SW ¼ of Section 26, T37N-R29W**
- 24) **35 acres in the SE ¼ SW ¼ of Section 26, T37N-R29W**
- 25) **34 acres in the NW ¼ NE ¼ of Section 26, T37N-R29W**
- 26) **33 acres in the SW ¼ NE ¼ of Section 26, T37N-R29W**
- 27) **34 acres in the NE ¼ NE ¼ of Section 26, T37N-R29W**
- 28) **33 acres in the SE ¼ NE ¼ of Section 26, T37N-R29W**
- 29) **34 acres in the NW ¼ SE ¼ of Section 26, T37N-R29W**
- 30) **34 acres in the NE ¼ SE ¼ of Section 26, T37N-R29W**

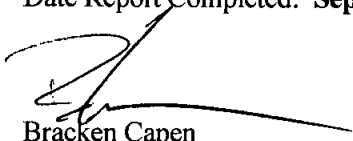
For a total of 993 acres, already licensed under Water Right No. 1615-2 and an additional 24 acres is being irrigated under Water Permit No. 2663-2 in the NE ¼ SE ¼ of Section 27, T37N-R29W. Total number of acres irrigated is 1,017. Lands not associated with Water Permit No. 2663-2 were not inspected on this day.

License should be issued for the diversion rate of: **1.1 cfs or 500 gpm for Water Permit No. 2663-2.**
The total diversion rate authorized under Water Right No. 1615-2 should reflect this 1.1 cfs increase for a total of 14.5 cfs or 6,500 gpm.

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

Exceptions to compliance are: **None**

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

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

Bracken Capen
Natural Resources Engineer
DENR, Water Rights Program

FIELD INVESTIGATION REPORT FOR WATER PERMIT NO. 2663-2

DATE OF INVESTIGATION:	September 2, 2015
NAME & ADDRESS OF PERMIT HOLDER	Danielski Harvesting and Farms 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) 900 feet north and 450 feet east of the southwest corner of Section 27, T37N-R29W. Lat 43.14577 Lon 100.74693W. Southwestern well. 2) 1,300 feet south and 100 feet west of the northeast corner of Section 27, T37N-R29W. Lat 43.15420N Lon 100.72960W. Northeastern well.

WELL INFORMATION:

- 1) Well Drilling Firm: **Grosch Irrigation Co. Inc.**
- 2) Number of Wells: **2**
- 3) Depth: **200, 179 feet**
- 4) Well Log Available: **Yes, both**
- 5) Comment:

- 2) Model No:
- 3) Power: **40, 40 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 for all relevant pivots.**

Pumps

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

Casing

- 1) Diameter: **16 inches**
- 2) Length: **80, 39 feet**
- 3) Type: **Plastic**

Screen

- 1) Type: **Perforated Pipe**
- 2) Length: **120, 140 feet**
- 3) Static Water Level: **72, 37 feet**

Motor

- 1) Make: **US Motors**

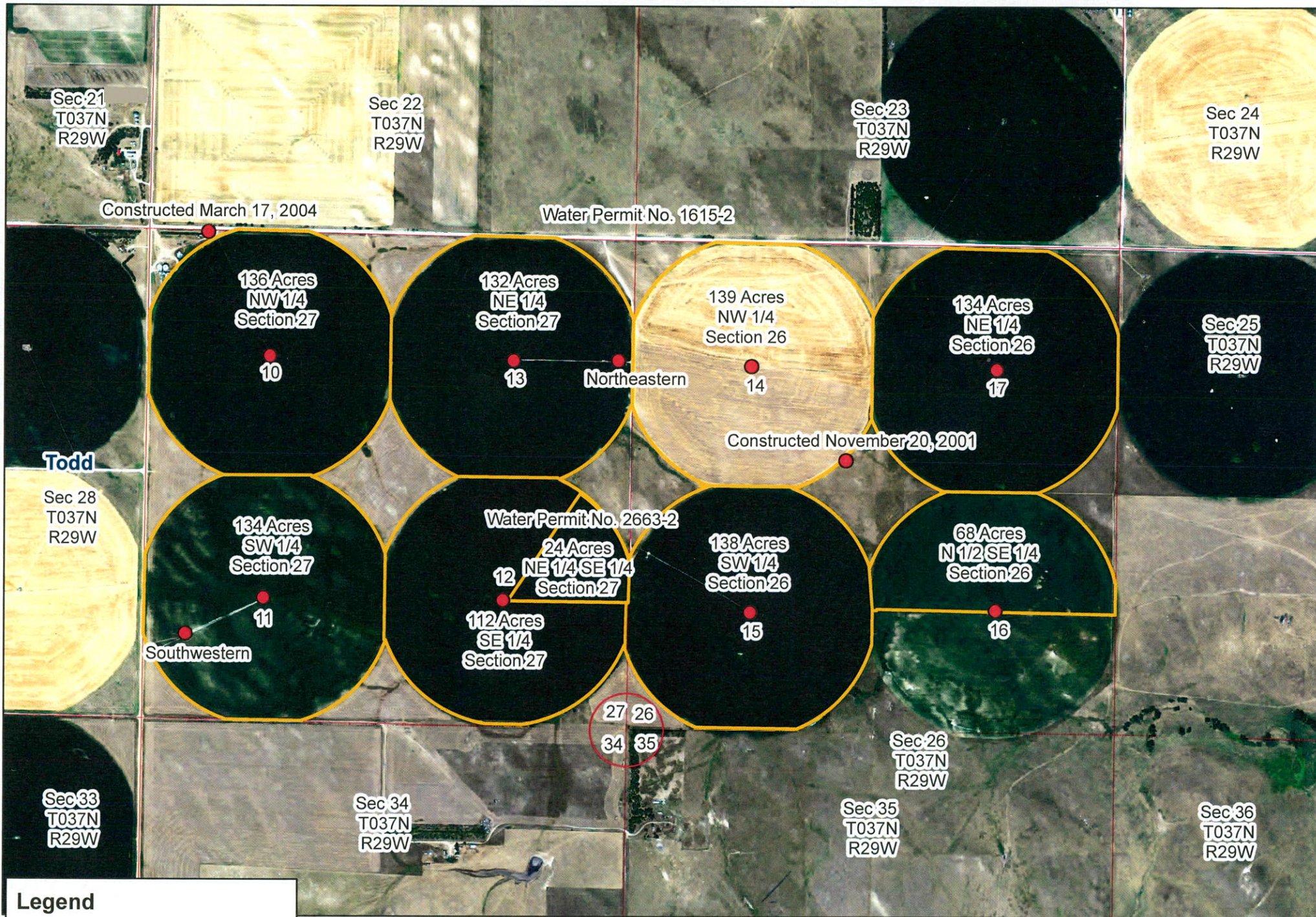
CHEMIGATION EQUIPMENT: Yes

- 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.**

Comment: Water Permit No. 2663-2 will be incorporated into Water Right No 1615-2 upon licensing.



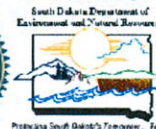
Legend

- Irrigated_Acres
- Section Boundaries - PLSS
- Well Locations



0 0.1 0.2 0.4 Miles

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



SD EForm - 1311LD V1

Form 10

**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)

Valeramp

(city)

NE

(state)

69701

(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. 2663-2 states that the water use system is to be constructed by

2-10-16

(date)

, and water is to be put to beneficial use by 2-10-20

(date)

The water use system was completed on

4-1-13

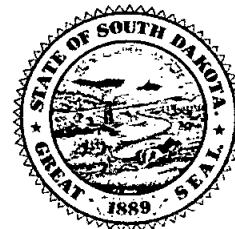
(date)

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.



STATE OF SOUTH DAKOTA
WATER LICENSE NO. 2663-2

(1) Danielski Harvesting & Farming, PO Box 230, Valentine NE 69201 made Application No. 2663-2, February 10, 2011 for a water permit to divert 1.10 cubic feet of water per second (cfs) from ground water (two wells, Ogallala Aquifer), Todd County, South Dakota for irrigation purposes. Permit No. 2663-2, with a priority date of February 10, 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.

Permit No. 2663-2 was obtained to add 24 acres, additional diversion authority and two additional wells to the system authorized under Water Right No. 1615-2. The two additional wells were intended to help supply water to the pivots in Sections 26 and 27 with the additional diversion authority to reflect the statutory limit for irrigation of a total of 1,107 acres being irrigated.

The Permit holder submitted a "*Notice of Completion of Works and Application of Water to Beneficial Use*" on September 2, 2013. The "*Notice*" stated the water use system was completed and water placed to beneficial use on April 1, 2013.

Water Permit No. 1615-2, with priority dates of December 10, 1975 (11.7 cfs) and June 26, 1978 (1.78 cfs) authorizes diversion of 13.4 cfs from eight wells to irrigate 993 acres located in Sections 26 and 27, T37N, R29W. In 2001 and 2003, requests were approved for two additional wells. Pursuant to SDCL 46-5-13.1, the Chief Engineer made a finding that the additional diversion points did not increase the potential for adverse effects to existing diversions.

The applicable portions of Water Right No. 1615-2 have been incorporated into this Water License No. 2663-2. Priority dates retained are as follows: December 10, 1975 (11.7 cfs); June 26, 1978 (1.7 cfs) and February 10, 2011 (1.1 cfs).

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

The location of the diversion points are:

- 900 feet N & 450 feet E of the SW corner of Section 27, T37N, R29W (SW $\frac{1}{4}$ SW $\frac{1}{4}$)*
- 1,300 feet S & 100 feet W of the NE corner of Section 27, T37N, R29W (NE $\frac{1}{4}$ NE $\frac{1}{4}$)*
- 1,320 feet S & 1,340 feet E of the NW corner of Section 27, T37N, R29W (approx. center of NW $\frac{1}{4}$)
- 1,330 feet N & 1,330 feet E of the SW corner of Section 27, T37N, R29W (approx. center of SW $\frac{1}{4}$)
- 1,320 feet N & 1,310 feet W of the SE corner of Section 27, T37N, R29W (approx. center of SE $\frac{1}{4}$)
- 1,340 feet S & 1,315 feet W of the NE corner of Section 27, T37N, R29W (approx. center of NE $\frac{1}{4}$)
- 1,330 feet S & 1,350 feet E of the NW corner of Section 26, T37N, R29W (approx. center of NW $\frac{1}{4}$)
- 1,330 feet N & 1,320 feet E of the SW corner of Section 26, T37N, R29W (approx. center of SW $\frac{1}{4}$)
- 1,330 feet N & 1,330 feet W of the SE corner of Section 26, T37N-R29W (approx. center of SE $\frac{1}{4}$)
- 1,380 feet S & 1,370 feet W of the NE corner of Section 26, T37N, R29W (SW $\frac{1}{4}$ NE $\frac{1}{4}$)
- 2,300 feet S & 2,300 feet E of the NW corner of Section 26, T37N, R29W (SE $\frac{1}{4}$ NW $\frac{1}{4}$)
- 50 feet S & 700 feet E of the NW corner of Section 27, T37N, R29W (NW $\frac{1}{4}$ NW $\frac{1}{4}$)

**First two wells listed were authorized under Permit No. 2663-2; remaining 10 wells authorized under Water Right No. 1615-2*

continued

(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 27, T37N, R29W		Section 26, T37N, R29W	
NW ¼	136 acres	NW ¼	139 acres
SW ¼	134 acres	SW ¼	138 acres
NE ¼	132 acres	NE ¼	134 acres
SE ¼	136 acres	N ½ SE ¼	68 acres

Total of 1,017 acres

**24 acres in the NE ¼ SE ¼ Section 27 were authorized under No. 2663-2; the remaining acres were licensed under Water Right No. 1615-2.*

(4) Pursuant to South Dakota Water Law 46-5-30.1 Danielski Harvesting and Farming, PO Box 230, Valentine NE 69201 the holder and/or owner of Incorporated Water Right No. 2663-2 is issued a license to appropriate water, the right to use 14.5 cubic feet of water per second from ground water (12 wells – Ogallala Aquifer) with priority dates of December 10, 1975 (11.7 cfs); June 26, 1978 (1.7 cfs) and February 10, 2011 (1.1 cfs) 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. 2663-2 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. 2663-2 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. ***The two wells authorized under No. 2663-2 were drilled by Grosch Drilling. Copies of the well completion reports are on file with the Water Rights Program.***
- This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

Jeanne Goodman

Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

AUG 16 2016
date





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

AUG 16 2016

1615-2
2663-2

Chris Danielski
Danielski Harvesting & Farming
PO Box 230
Valentine NE 69201

Dear Mr. Danielski:

Enclosed is Water License No. 2663-2. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the wells authorized by Water Right No. 2663-2, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

In regard to the equipment used for applying chemicals and/or fertilizer through your irrigation systems, the staff engineer indicated he spoke with you about the absence of a low pressure drain. Enclosed is a copy of Water Management Board rules dealing with chemigation. "Appendix A" shows the minimum requirements for the equipment. Low pressure drains are required and must be in place to prevent contamination of the water source. If after reading through the rules you have questions concerning placement of the equipment, please contact Ron Duvall with our program (his card is attached).

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

Note: At the time of licensing, the applicable portions of Water Right No. 1615-2 were incorporated into Water License No. 2663-2.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

No. 1615-2

2663-2

July 13, 2016

Danielski Harvesting and Farms
c/o Leonard Danielski
PO Box 230
Valentine NE 69201

Dear Mr. Danielski:

On July 6, 2016, a staff member from the Department of Environment and Natural Resources (DENR) observed overspray from the irrigation system located in the Section 27-T37N-R29W onto the adjacent east/west road (see attached photo). This irrigation system is covered by Water Right Nos. 1615-2 and 2663-2.

It is common for center pivots to have stops which are used to shut off the end gun when the pivot nears a road. Please take steps to insure end gun stops are functioning properly so there is not direct overspray on to the road.

A water right holder is not allowed to operate an irrigation system in violation of state water law, which includes end gun overspray upon land not authorized by the water right.

If you don't believe this irrigation system is causing the overspray, or if you have any questions, please contact me at (605) 773-3352 or by email at eric.gronlund@state.sd.us.

Thank you for your cooperation,

Eric Gronlund
Water Rights Program, DENR
605 773-3352

enclosure

Overspray Report

Date of Picture: 07/06/2016

County: Todd

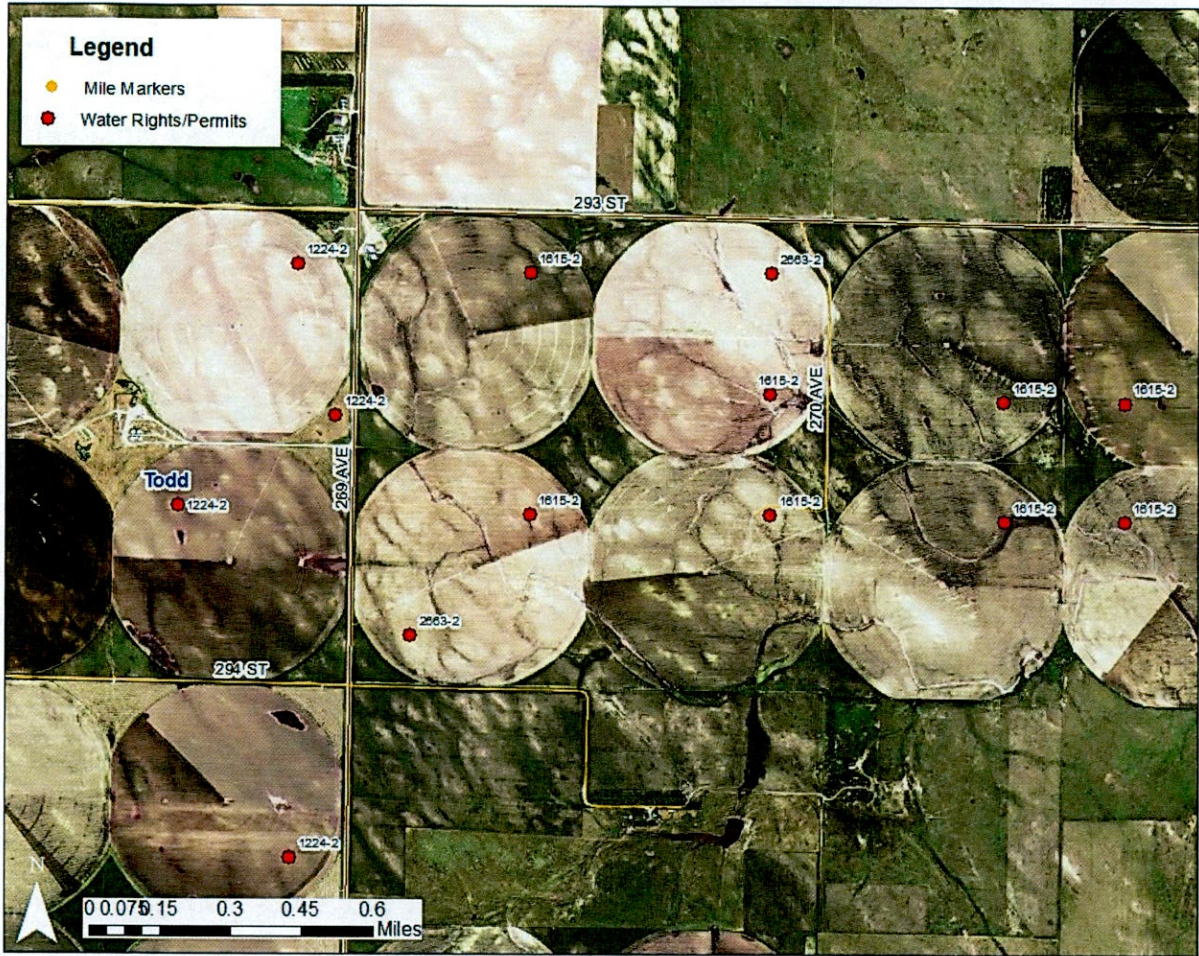
Water Right/Permit No.: 1615-2 and 2663-2 (additional appropriation for pivots under 1615-2)

Reported by: West River Water Rights Program Seasonal Well Technician



Description from summer help: "This photo was taken facing East on 293 st between 269 Ave and 270 Ave."

Notes: both pivot that match description are covered under 1615-2



Schlaak, Karen

From: Gronlund, Eric
Sent: Wednesday, August 24, 2016 1:09 PM
To: Schlaak, Karen
Subject: Danielski

Received a voice mail from Len Danielski regarding the letter we sent on endgun overspray. The message included that the install "Ag Sense" to their irrigation systems and that messed up their endgun stops functioning properly. They have reset them and they should be functioning properly now. They will continue to monitor.

In the event we need to contact him, his cell phone number is 402 389-1198.