

WATER PERMIT NO. 2761-2

Name of Applicant: John Ishmael

Address: 29480 308th Ave, Winner SD 57580

Phone: 605 842-5314

Amount of Water Claimed: 2.38 cfs

Total Acres: 167 acres

Source of Water Supply: Benson Dam

Water to be used for: irrigation

County: Trip

Type of Waste Disposal System:

Location: 25 miles southwest of Winner

PRIORITY

Date Received: 5-8-17

Application/License Fee: \$ 1050

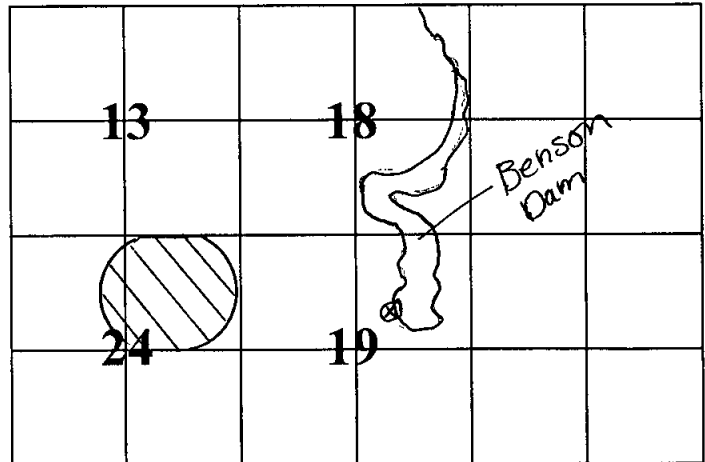
Corrected Application Received:

Period of Annual Use: May 1 – October 31

Remarks: Storage in Benson Dam is authorized by Water Right No. 2084-2

Diversion Point: SW 1/4 SE 1/4 Sec 19-T96N-
R77W

Land to be Irrigated: NE 1/4, E 1/2 NW 1/4 Sec
24-T96N-R78W



Depth of Well: NA

Well Driller:

Remarks:

Type of Map: aerial

Prepared by:

Reviewed and the Number Assigned on: 5-9-17

By: **Karen Schlaak**

Notice of Hearing - date to intervene: _____

RECEIVED

MAY - 8 2017

WATER RIGHTS
PROGRAM

Mail to: DENR - Water Rights 523 E Capitol Ave Pierre, SD 57501-3182 ph. (605) 773-3352	No. <u>2761-2</u> (office use only)	Hydrologic Unit <u>10150006</u>
	Basin <u>Niobrara Trib</u>	
	Newspaper <u>Winner Advocate</u>	
	<u>Capital Journal</u>	

Application For Permit To Appropriate Water For Irrigation

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

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

1. Name to Appear on Irrigation Permit John Ishmael
Note: The "Name to Appear on Irrigation Permit" must be the name in which the property to be irrigated is held in.
- Mailing Address 29480 308th Ave Winner SD 57580
(Address) (City) (State) (Zip Code)
- Phone 557-3525 Mobile 842-5314 Email jbarjcatlleco@yahoo.com
2. Amount of water claimed 2.38 *CFS or 1100 **GPM ***AF Total Acreage 167
(*Cubic Feet per Second) (**Gallons per Minute) (***) Acre Feet - storage capacity of dam/dugout or annual use if applicable)
3. Source of water supply Dam - Benson Dam
4. Location of point of diversion 19 96N 77W See permit
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
- # 2084-2 (SW1/4 NE1/4 Sec 19-T96N-R77W) County Tripp
5. County or counties where water will be used Tripp
6. Annual period during which water is to be used May - October 31
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 of the NE 1/4 249678	39.0	NE 1/4 of the NW 1/4 249678	5.5
SE 1/4 of the NE 1/4 249678	39.0	SE 1/4 of the NW 1/4 249678	5.5
SW 1/4 of the NE 1/4 249678	39.0		
NW 1/4 of the NE 1/4 249678	39.0		

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

wanting to irrigate to raise more hay & corn
for livestock feed.

I, John Ishmael Farmer, the applicant, certify under
Name of Person Title (if applicable)

penalty of perjury that I have read this application, examined the attached map, and that the matters stated are true. I further certify, if acting on behalf of an entity or individual other than myself, that I am authorized to submit this application.

**SOUTH DAKOTA
WATER PERMIT NO. 2761-2**

Date of first receipt of application May 8, 2017.

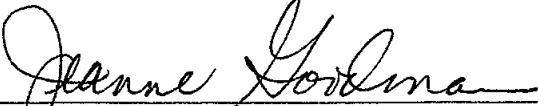
The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2761-2 to John Ishmael, 29480 308th Ave, Winner SD 57580 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 2761-2 appropriates 2.38 cubic feet of water per second (cfs) from Benson Dam to irrigate 167 acres. Water Right No. 2084-2 authorizes the storage of 1,450 acre-feet of water annually from runoff into Benson Dam in the Willow Creek drainage area with water impounded in the NE 1/4 Section 19 and SE 1/4, E 1/2 NE 1/4 Section 18; all in T96N-R77W. This permit appropriates 2.38 cfs from the Benson Dam diversion point located in the SW 1/4 NE 1/4 Section 19-T96N-R77W for irrigation of 167 acres located in the NE 1/4, E 1/2 NW 1/4 Section 24-T96N-R78W.
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: May 1 – October 31.
3. The date from which applicant may claim right is May 8, 2017.
4. The date of approval of Permit No. 2761-2 is July 17, 2017.
5. One-fifth of the construction is to be completed on or before January 17, 2020.
6. All construction is to be completed on or before July 17, 2022.
7. Water is to be put to beneficial use on or before July 17, 2026.
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. Low flows as needed for downstream domestic use, including livestock watering, and prior water rights must be bypassed. This permit does not authorize the diversion of water from Willow Creek when the flow in the Keya Paha River at the USGS gaging station located at Wewela is 15 cfs or less, unless written authorization is received from the chief engineer. When flows at the Wewela gaging station are 15 cfs or less, only water previously stored in storage dam may be pumped, all inflows into the dam must be bypassed. Diversions under this permit shall be in accordance with any written orders issued by the chief engineer.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
3. Permit Nos. 2084-2 and 2761-2 combined authorize total storage of up to 1,450 acre feet of water annually in the dam.

WATER MANAGEMENT BOARD

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

AUG 02 2017
date



Supplemental Information

(type or print)

1. Well Information (check one or both as applicable) ☐ Drilling new well(s) ☐ Using existing well(s)a) If new wells, how many ____ Have test holes been drilled ☐ Yes ☐ No Drilled by ____
(if yes, please provide copies of logs)

b) If existing wells, how many ____ Provide copy of log(s), if available. Drilled by ____

For either Existing or Proposed Wells:

c) Well Depth (required) ____ Depth to Top of Water Bearing Material ____ Depth to Water from Surface ____

d) Distance to nearest domestic well on applicant's property ____ 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 ____

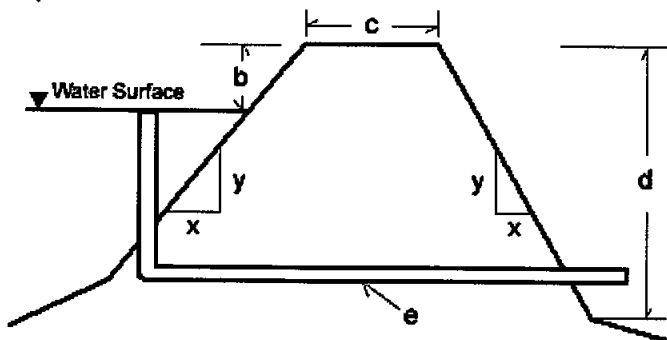
b) Depth to water (ground surface to water level) ____

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:

See permit ~~for~~ #2084-2
for existing dam
information



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

DAM INFORMATION: (Benson Dam, ID No. 2242)

- 1) Height to crest 35 feet
- 2) Height to primary spillway 25 feet
- 3) Height to secondary spillway 30 feet
- 4) Crest width 15 feet
- 5) Crest length 700 feet
- 6) Spillway length XXX feet
- 7) Spillway width 150 & 80 with 5 ft. CMP primary feet
- 8) Approx. storage (Normal) 1450 acre-feet
- 9) Approx. storage (Maximum) 2900 acre-feet
- 10) Date constructed: 1977

CHEMIGATION EQUIPMENT:

- 1) Does chemigate NO

PERMIT QUALIFICATIONS AND REGULATIONS:

- 1) Soil and water permit lands agree with lands being irrigated and lands listed on permit N/A
- 2) Special qualifications to permit being abided by yes
- 3) All structures, wells and lands on map yes
- 4) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period yes



United States Department of Agriculture
Farm Service Agency

PLSS: 19_96_77
Farm: 5382

Tripp County
1:7,796

RECEIVED
MAY - 8 2017
WATER RIGHTS PROGRAM



April 20, 2011

Wetland Determination Identifiers

- Restricted Use
- ▽ Limited Restrictions
- Exempt from Conservation Compliance Provisions

Common Land Units

//// Non Cropland

Disclaimer: Wetland identifiers do not represent the size, shape or specific determination of the area. Refer to your original dermination (CPA-026 and attached maps) for exact wetland boundaries and determinations, or contact NRCS.

2010 Ortho-Photography - Not to Scale



United States Department of Agriculture
Farm Service Agency

RECEIVED

PLSS: 24_96_78
Farm: 5382

Tripp County

1:7,904

MAY - 8 2017

WATER RIGHTS
PROGRAM



April 20, 2011

Wetland Determination Identifiers

- Restricted Use
- ▽ Limited Restrictions
- Exempt from Conservation Compliance Provisions

Common Land Units

//// Non Cropland

Disclaimer: Wetland identifiers do not represent the size, shape or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact wetland boundaries and determinations, or contact NRCS.

2010 Ortho-Photography - Not to Scale



Sec 11
T096N
R78W

Sec 12
T096N
R78W

Sec 7
T096N
R77W

Sec 8
T096N
R77W

Sec 14
T096N
R78W

Sec 13
T096N
R78W

Sec 18
T096N
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Sec 17
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Sec 31
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Sec 32
T096N
R77W

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

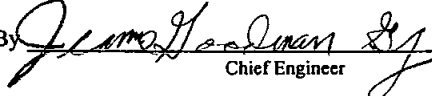
Date 5/8, 20 17

RECEIVED OF John J Ishmael 29480 308th Ave Winner SD 57580

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

Fee for Application for Permit No. <u>27661-a</u> to Appropriate Water, to construct and to put water to beneficial use	850	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>27661-a</u>	200	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	1050 00

No. **08246**

By 
Chief Engineer

Schlaak, Karen

From: Schlaak, Karen
Sent: Monday, May 08, 2017 11:51 AM
To: 'jbarjcattleco@yahoo.com'
Subject: Application for Permit to Appropriate Water

Mr. Ishmael,

We have received your Application for Permit to Appropriate Water today. I have a couple of items that need to be clarified.

- The application states two different amounts of water claimed. One amount is 2.38 cubic feet of water per second (cfs) (1071 gallons per minute) which is the statutory limit for irrigation of 167 acres. The other amount listed is 1100 gallons per minute which equals 2.45 cfs which is over the statutory limit. Which amount are you requesting? If you request 2.45 cfs, please justify in writing your request for a diversion rate greater than the statutory limit (please explain diversion rate requirement for the project).
- Also what is the status of Water Right No. 2084-2 which authorizes storage in Benson Dam and irrigation of 550 acres? Is the Water Right going transferred to you? Do you need Notice of Transfer Form?

If you have additional questions, please contact Eric Gronlund or me.

Karen Schlaak

SD DENR, Water Rights Program
(605) 773-3352



Schlaak, Karen

From: John Ishmael <jbarjcattleco@yahoo.com>
Sent: Monday, May 08, 2017 8:29 PM
To: Schlaak, Karen
Subject: [EXT] Re: Application for Permit to Appropriate Water

It would be the first one at 2.38 cfs. We are in the process of buying the land from Bob and Judy and once we get the contract drawn up he's gonna sign the transfer which Eric gave us when we visited him a couple weeks ago. He just said it would be fine to fill out this application first since it takes some time for you guys to look it over and so forth. Thanks John.

Sent from Yahoo Mail for iPhone

On Monday, May 8, 2017, 11:51 AM, Schlaak, Karen <Karen.Schlaak@state.sd.us> wrote:

Mr. Ishmael,

We have received your Application for Permit to Appropriate Water today. I have a couple of items that need to be clarified.

- The application states two different amounts of water claimed. One amount is 2.38 cubic feet of water per second (cfs) (1071 gallons per minute) which is the statutory limit for irrigation of 167 acres. The other amount listed is 1100 gallons per minute which equals 2.45 cfs which is over the statutory limit. Which amount are you requesting? If you request 2.45 cfs, please justify in writing your request for a diversion rate greater than the statutory limit (please explain diversion rate requirement for the project).
- Also what is the status of Water Right No. 2084-2 which authorizes storage in Benson Dam and irrigation of 550 acres? Is the Water Right going transferred to you? Do you need Notice of Transfer Form?

If you have additional questions, please contact Eric Gronlund or me.

Karen Schlaak

SD DENR, Water Rights Program

(605) 773-3352





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

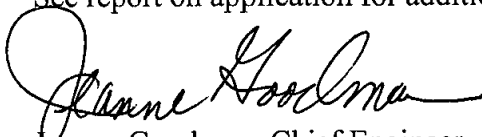
**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2761-2, John Ishmael**

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. 2761-2, John Ishmael, 29480 308th Avenue, Winner SD 57580.

The Chief Engineer is recommending APPROVAL of Application No. 2761-2 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. Low flows as needed for downstream domestic use, including livestock watering, and prior water rights must be bypassed. This permit does not authorize the diversion of water from Willow Creek when the flow in the Keya Paha River at the USGS gaging station located at Wewela is 15 cfs or less, unless written authorization is received from the chief engineer. When flows at the Wewela gaging station are 15 cfs or less, only water previously stored in storage dam may be pumped, all inflows into the dam must be bypassed. Diversions under this permit shall be in accordance with any written orders issued by the chief engineer.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.
3. Permit Nos. 2084-2 and 2761-2 combined authorize total storage of up to 1,450 acre feet of water annually in the dam.

See report on application for additional information.


Jeanne Goodman, Chief Engineer
June 28, 2017

REPORT ON WATER PERMIT APPLICATION NO. 2761-2

John Ishmael

June 21, 2017

Application No. 2761-2, John Ishmael, proposes to appropriate 2.38 cubic feet of water per second (cfs) from Benson Dam to irrigate 167 acres. Water Right No. 2084-2 authorizes the storage of 1,450 acre-feet of water annually from runoff into Benson Dam in the Willow Creek drainage area with water impounded in the NE 1/4 Section 19 and SE 1/4, E 1/2 NE 1/4 Section 18; all in T96N-R77W. This application proposes to appropriate 2.38 cfs from Benson Dam located in the SW 1/4 SE 1/4 Section 19-T96N-R77W irrigation of 167 acres located in the NE 1/4, E 1/4 NW 1/4 Section 24-T96N-R78W. The proposed project is located approximately 25 miles southwest of Winner in Tripp County.

Review of the Proposed Project and Water Source

The applicant indicated he is in the process of purchasing the land covering the dam, the irrigated acres authorized by Water Right No. 2084-2 and the land where this proposed project is located. Originally most of the acres requested to be irrigated by this application were covered under Water Permit No. 2084-2, but when Water Rights staff made the inspection for licensing in 1997 the inspection found the irrigation in Section 24 had not been developed. Water Right No. 2084-2 authorizes the storage of 1,450 acre-feet of water in the Benson Dam on Willow Creek and the irrigation of 550 acres at diversion rate of 7.86 cfs. This application proposes to irrigate an additional 167 acres at a rate of 2.38 cfs from this same dam. The applicant is not proposing any additional storage.

The water source for the proposed project is from Willow Creek. Upstream of Benson Dam there is an 83.5 square mile drainage basin. Willow Creek is a tributary to the Keya Paha River with the confluence with the Keya Paha River located approximately 2.5 miles downstream from the dam. In February of 1991 the Water Management Board held a hearing to establish a more manageable "cutoff" system on the Keya Paha River. Based upon testimony taken during that hearing the Water Management Board adopted the following qualification:

Low flows as needed for downstream domestic use, including livestock watering, and prior water rights must be bypassed. This permit does not authorize the diversion of water from the Keya Paha River or contributing tributaries when the flow in the Keya Paha River at the USGS gaging station located at Wewela is 15 cfs or less, unless written authorization is received from the chief engineer. Diversions under this permit shall be in accordance with any written orders issued by the chief engineer.

A review of DENR Water Right Program records show since the Water Management Board adopted the 15 cfs bypass requirement in 1991, the Chief Engineer has issued shutoff orders for Keya Paha River and tributary water right holders four separate years, (Water Rights 2017). This equates to approximately 15% of the years the river flows drop below 15 cfs sometime during the irrigation season.

The USGS has operated a stream gaging station, USGS 06464500 Keya Paha River at Wewela SD, for over 70 years, (USGS 2017). The long term statistical data from the Keya Paha stream flow Wewela gage for the 70 years of record, 1937 to 2017, indicates at the 10 percentile level the monthly mean flow is less than 15 cfs for the months August and September of any given year.

Percentile	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
10%	22.7	22.6	94.0	104.1	58.4	58.6	23.4	10.7	8.9	18.9	24.1	14.4
25%	23.9	42.7	143.3	101.1	103.9	56.4	30.0	16.1	19.3	29.1	28.1	23
50%	30.3	65.2	116.1	146.0	126.8	130.0	46.9	29.2	33.6	40.3	55.2	50.6

Table 1. USGS 06464500 – Keya Paha River at Wewela SD; 70 years of record, 1937 to 2017; flow, cfs.

Based upon the shutoff order history and a review of the historical stream flow data, there is a reasonable probability there is water is available for this proposed application.

Review of Existing Water Rights

There is one existing water right/permit, No. 2084-2 appropriating 7.86 cfs from Willow Creek, the water right is for irrigation the applicant is in the process of purchasing. There are existing water rights/permits, appropriating 21.89 cfs from Keya Paha River and other basin tributaries. Based upon the 1991 Water Management Board adopted qualification, all of these existing rights are subject to the 15 cfs bypass requirement at the USGS gaging station at Wewela.

Discussion

The applicant proposes to irrigate 167 acres at a diversion rate 2.38 cfs from an existing dam on Willow Creek. If this permit is approved, it should contain a similar qualification to address low flow conditions on the Keya Paha River. However, since this application if approved and the existing irrigation authorized by No. 2084-2 would pump from storage, a cease pumping order is not reasonable as long as any inflows are passed through the dam. Pumping water stored in the dam prior to when a shutoff order is issued, should be allowed. If approved the permit should contain the following qualification:

Low flows as needed for downstream domestic use, including livestock watering, and prior water rights must be bypassed. This permit does not authorize the diversion of water from Willow Creek when the flow in the Keya Paha River at the USGS gaging station located at Wewela is 15 cfs or less, unless written authorization is received from the chief engineer. When flows at the Wewela gaging station are 15 cfs or less, only water previously stored in Benson Dam may be pumped, all inflows into the dam must be bypassed. Diversions under this permit shall be in accordance with any written orders issued by the chief engineer.

Conclusions

1. This application proposes to appropriate 2.38 cubic feet of water per second (cfs) from Willow Creek for irrigation use purposes.

2. Based upon a review of the shutoff order history and of the historical stream flow data, there is a reasonable probability there is water is available for this proposed application.
3. If approved the permit should contain the following qualification:

Low flows as needed for downstream domestic use, including livestock watering, and prior water rights must be bypassed. This permit does not authorize the diversion of water from Willow Creek when the flow in the Keya Paha River at the USGS gaging station located at Wewela is 15 cfs or less, unless written authorization is received from the chief engineer. When flows at the Wewela gaging station are 15 cfs or less, only water previously stored in storage dam may be pumped, all inflows into the dam must be bypassed. Diversions under this permit shall be in accordance with any written orders issued by the chief engineer.



Mark D. Rath
Natural Resources Engineer III

References

1. Water Rights. 2017. Water Right/Permit Files, SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.
2. USGS. 2017. United States Geological Survey National Water Information System: USGS Water Data for South Dakota. <https://waterdata.usgs.gov/sd/nwis/nwis>

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JUL 07 2017

WATER RIGHTS
PROGRAM

AFFIDAVIT OF PUBLICATION

State of South Dakota, county of Tripp-ss.

Dan Bechtold

of said county being first duly sworn, on oath says that he is the Editor of the

WINNER ADVOCATE

a weekly newspaper printed and published at Winner, said county of Tripp, and has full and personal knowledge of all the facts herein stated that said newspaper is a legal newspaper and has a bona fide circulation of at least two hundred copies weekly and has been published within said county for fifty-two successive weeks prior to the publication of the notice herein mentioned, and was printed wholly or in part in an office maintained at said place of publication; that the

73 lines @ 1 column X 90%

Notice of Application

John Ishmael

a printed copy of which, taken from the paper in which the same was published, is attached to this sheet, and is made a part of this affidavit, was published in said newspaper at least once in each week for 1 week(s), on the day of each week on which said newspaper was regularly published to wit:

7-5-17

That the full amount of the fees for the publication of the *annexed notice is \$26.28

Dan Bechtold

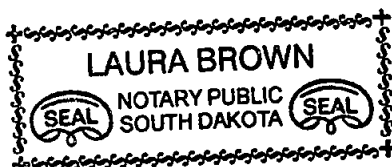
Subscribed and sworn to before me this 5th day of July, 2017

Laura Brown

Notary Public

County of Tripp, South Dakota

My Commission Expires June 20, 2019



NOTICE OF APPLICATION NO. 2761-2

to Appropriate Water

Notice is given that John Ishmael, 29480 308th Ave, Winner SD 57580 has filed an application for a water permit to appropriate 2.38 cubic feet of water per second (cfs) from Benson Dam to irrigate 167 acres. Water Right No. 2084-2 authorizes the storage of 1,450 acre-feet of water annually from runoff into Benson Dam in the Willow Creek drainage area with water impounded in the NE 1/4 Section 19 and SE 1/4, E 1/2 NE 1/4 Section 18: all in T96N-R77W. This application proposes to appropriate 2.38 cfs from the Benson Dam diversion point located in the SW 1/4 NE 1/4 Section 19-T96N-R77W for irrigation of 167 acres located in the NE 1/4, E 1/2 NW 1/4 Section 24-T96N-R78W. Benson Dam is located approximately 25 miles southwest of Winner SD.

Pursuant to SDCL 46-2A-2, The Chief Engineer recommends APPROVAL of Application No. 2761-2 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

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 and interested person or the applicant must be filed by July 17, 2017.

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.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. If a petition opposing the applicant 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.

Steven M. Pinner, Secretary, Department of Environment and Natural Resources. Published once at the total approximate cost of \$26.28 (27)

Form 8

RECEIVED

JUL 20 2017

WATER RIGHTS
PROGRAM

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)

County of Hughes) SS

I, Marylinn Baker

certify that the attached printed Notice was taken

from the Capital Journal

printed and published in Pierre

County of Hughes and

state of South Dakota. The notice was published

in the newspaper on the following date:

7-5-17

Cost of Printing \$32.48

Marylinn Baker
(Signature)

Bookkeeper
(Title)

7-18-17
(Date Signed)

Wednesday, July 5, 2017

880 Public Notice

on the application pursuant to the recommendation with no hearing held before the Water Management Board. 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. Steven M. Pinner, Secretary, Department of Environment and Natural Resources.

Published once at the total approximate cost of \$32.48

SNAXLP15758

July 7/6

NOTICE OF APPLICATION NO. 2761-2 to Appropriate Water

Notice is given that John Ishmael, 26480 308th Ave, Winner SD 57580 has filed an application for a water permit to appropriate 2.38 cubic feet of water per second (cfs) from Benson Dam to irrigate 167 acres. Water Right No. 2084-2 authorizes the storage of 1,450 acre-feet of water annually from runoff into Benson Dam in the Willow Creek drainage area with water impounded in the NE 1/4 Section 19 and SE 1/4, E 1/2 NE 1/4 Section 18, all in T66N-R77W. This application proposes to appropriate 2.38 cfs from the Benson Dam diversion point located in the SW 1/4 NE 1/4 Section 19-T66N-R77W for irrigation of 167 acres located in the NE 1/4, E 1/2 NW 1/4 Section 24-T66N-R78W. Benson Dam is located approximately 25 miles southwest of Winner SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2761-2 with qualifications because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <http://denr.sd.gov/public> or contact Eric Gronlund for this information, or other information, at the Water Rights Program address provided below.

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 July 17, 2017.

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.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act

Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, June 28, 2017 11:14 AM
To: legals@capjournal.com
Subject: 2761-2, John Ishmael
Attachments: 2761-2public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on July 5, 2017.

John Ishmael, 29480 308th Ave, Winner SD 57580 (605 557-3525 or c 605 842-5314) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

Let me know if you have questions. Please acknowledge receipt of this email.

Karen Schlaak

SD DENR, Water Rights Program
(605) 773-3352



Schlaak, Karen

From: Schlaak, Karen
Sent: Wednesday, June 28, 2017 11:13 AM
To: winneradvocate@hotmail.com
Subject: 2761-2, John Ishmael
Attachments: 2761-2public.short.docx; FORM8.FRM.doc

Attached is a notice to be published on July 5, 2017.

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Karen Schlaak
SD DENR, Water Rights Program
(605) 773-3352



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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.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. 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.

Steven M. Pirner, Secretary, Department of Environment and Natural Resources. Published once at the total approximate cost of _____.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

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

June 28, 2017

John Ishmael
29480 308th Ave
Winner SD 57580

Dear Mr. Ishmael:

Water Permit Application No. 2761-2 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 Winner Advocate printed at Winner SD (Ph # 605 842-1481) and the Capitol Journal printed at Pierre SD (Ph # 605 224-7301). You will need to contact the newspapers 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 newspapers to authorize publication of your Notice and to arrange for payment. Early contact with the papers can eliminate delays. Upon receiving authorization from you, the publisher has been instructed to publish your notice. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

AUG 02 2017

John Ishmael
29480 308th Ave
Winner SD 57580

Dear Mr. Ishmael:

Enclosed is Water Permit No. 2761-2 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

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

An information 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,

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

enclosures



2761-2
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 23, 2020

NOTICE

TO: JOHN ISHMAEL, 29480 308TH AVE, WINNER, SD 57580

FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2019 Irrigation Questionnaire(s)

Our records indicate your 2019 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 2761-2. The request for the Questionnaire was dated October 18, 2019. The Water Management Board has directed that owners of water permits who have not submitted the 2019 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 2761-2 qualification:

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

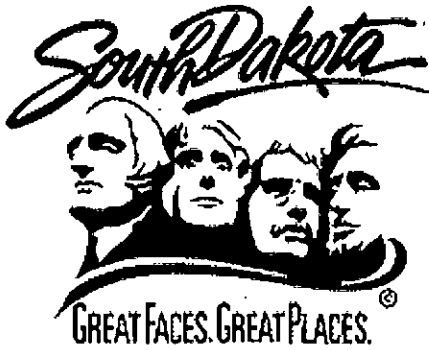
The hearing will be held at **Wednesday, February 26, 2020 at 8:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 2761-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **February 26, 2020** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://denr.sd.gov/iq> using this password: KMESAB**

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.denr.sd.gov

January 29, 2020

2761-2

John Ishmael
29480 308th Ave
Winner SD 57580

Dear Mr. Ishmael:

I am writing to acknowledge receipt of your 2019 irrigation questionnaire.

You may disregard the January 23, 2020, "Notice" concerning reporting requirements for Water Permit No. 2761-2. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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