

WATER PERMIT NO. 730A-2

Name of Applicant: Jim & Denise Baker

Address: PO Box 148, Hermosa SD 57744

Phone: 605 255-4170

Amount of Water Claimed: no add'l

Total Acres: no add'l

Source of Water Supply: Cheyenne River

Water to be used for: irrigation

County: Custer

Type of Waste Disposal System:

Location: approximately 20 miles southeast of Hermosa

PRIORITY

Date Received: 11-29-06

Application/License Fee: \$100

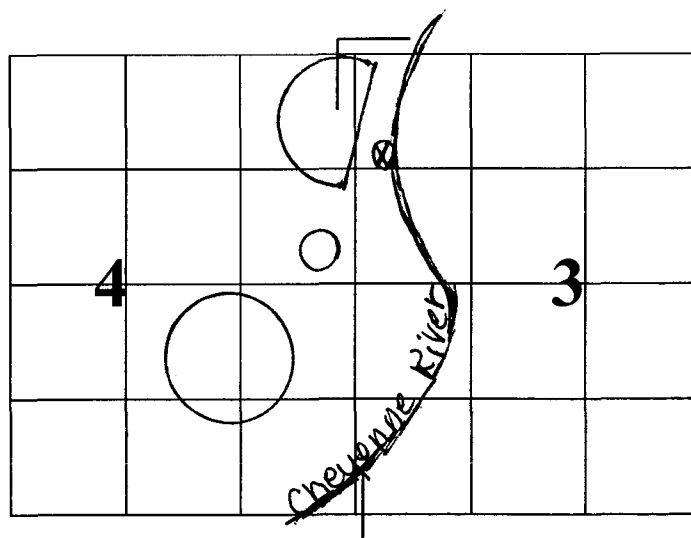
Corrected Application Received:

Period of Annual Use: April 1 – October 31

Remarks: change location of 91.2 acres authorized by Water Right No. 730-2

Diversion Point: NW ¼ NW ¼ Sec 3-T5S-R10E

Land to be Irrigated: SE ¼, E ½ NE ¼ Sec 4 and
NW ¼ NW ¼ Sec 3; all in T5S-R10E



Depth of Well: NA

Well Driller:

Remarks:

Type of Map: aerial

Prepared by: Cindy Walker, FSA

Reviewed and the Number Assigned on: 11-29-06

By: Karen Schlaak

Notice of Hearing - date to intervene: _____

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>730A-2</u> (office use only) <u>10120109</u>
	Basin <u>Upper Cheyenne</u>
	Newspaper <u>Custer Co. Chronicle Custer SD</u>
	<u>605-673-2217</u>

RECEIVED
NOV 29 2006
WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water For Irrigation

Type of Application: New Vested Right ✓ Amendment/Correction to Permit No. 730-2
(Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.) Switch from flood to sprinkler and moving over acres that are irrigated.

- Name of Applicant Jim & Denise Baker Phone 605-255-4170
(check one) ✓ Owner Tenant/lessee
Mailing Address PO Box 148 Hermosa State S.D. 57744
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed No Add'l *CFS or **GPM ***AF Total Acreage No Add'l
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)
- Source of water supply Cheyenne River
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) point of Diversion will not change. See Permit No. 730-2
NW1/4 NW1/4 Sec 3 T5S R10E County Custer
- County or counties where water will be used Custer
- Annual period during which water is to be used April 1st through Oct. 31st
- 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
North Pivot		South Pivot	
NE 1/4 of Section 4		SE 1/4 of Section 4	59
SW 1/4 of SE 1/4 of Section 33	29.5		
NW 1/4 of Section 3			

8. Give a description of the project. (Attach sheet if more space is needed)
Switching from flood irrigation to sprinkler. Our permit is for 91.2 acres we need to move ~~some~~ some acres to different ground, that will allow us to utilize a pivot.

STATE OF SOUTH DAKOTA) SS
County of Custer

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

I, Denise Baker, 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 Denise Baker

Subscribed and sworn to before me this 27 day of Nov 2006

**SOUTH DAKOTA
WATER PERMIT NO. 730A-2**

Date of first receipt of application November 29, 2006.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 730A-2 to Jim and Denise Baker, PO Box 148, Hermosa SD 57744 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. 730A-2 amends Water Right No. 730-2 by transferring portions of the irrigated acres to other land. Water Right No. 730-2 appropriates 1.3 cubic feet of water per second from the Cheyenne River located in the NW ¼ NW ¼ Section 3-T5S-R10E to irrigate 91.2 acres located in the SE ¼ Section 33-T4S-R10E, W ½ NW ¼, NW ¼ SW ¼ Section 3-T5S-R10E and E ½ NE ¼, NE ¼ SE ¼ Section 4-T5S-R10E. This permit authorizes the switch from flood irrigation to pivot systems utilizing the existing Cheyenne River diversion point. The permit holder is authorized to transfer a portion of the 91.2 acres to accommodate installation of a center pivot. The irrigated acres will now be located in the SE ¼, E ½ NE ¼ Section 4 and NW ¼ NW ¼ Section 3; all in T5S-R10E. No increase in diversion rate or number of acres irrigated is authorized by this permit.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: April 1 – October 31.
3. The date from which applicant may claim right is October 13, 1961.
4. The date of approval of Permit No. 730A-2 is March 5, 2007.
5. One-fifth of the construction is to be completed on or before September 5, 2009.
6. All construction is to be completed on or before March 5, 2012.
7. Water is to be put to beneficial use on or before March 5, 2016.
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. Natural flows in the Cheyenne River are not a dependable source of water during the latter part of the summer season. It is likely that water diversion restrictions under this Permit to appropriate water will be necessary at times to assure domestic water supplied, including stockwater, and water supplies for prior water rights.
2. 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

APR 20 2007
date



Breakdown of Acreage by quarter-quarter section for Water Permit Application No. 730A-2

This is a estimation of the acreage to be irrigated based on the map submitted by Jim and Denise Baker. The breakdown was conducted by Eric Gronlund using ArcMap and the 2004 FSA aerial photo. The windshield wipe pivot was downsided as their configuration was greater than the 29.5 acre stated on the map. The pivot coverage will be limited to 29.5 acres. Total irrigated acreage transferred can not exceed the 91.2 acres authorize by Water Right No. 730-2.

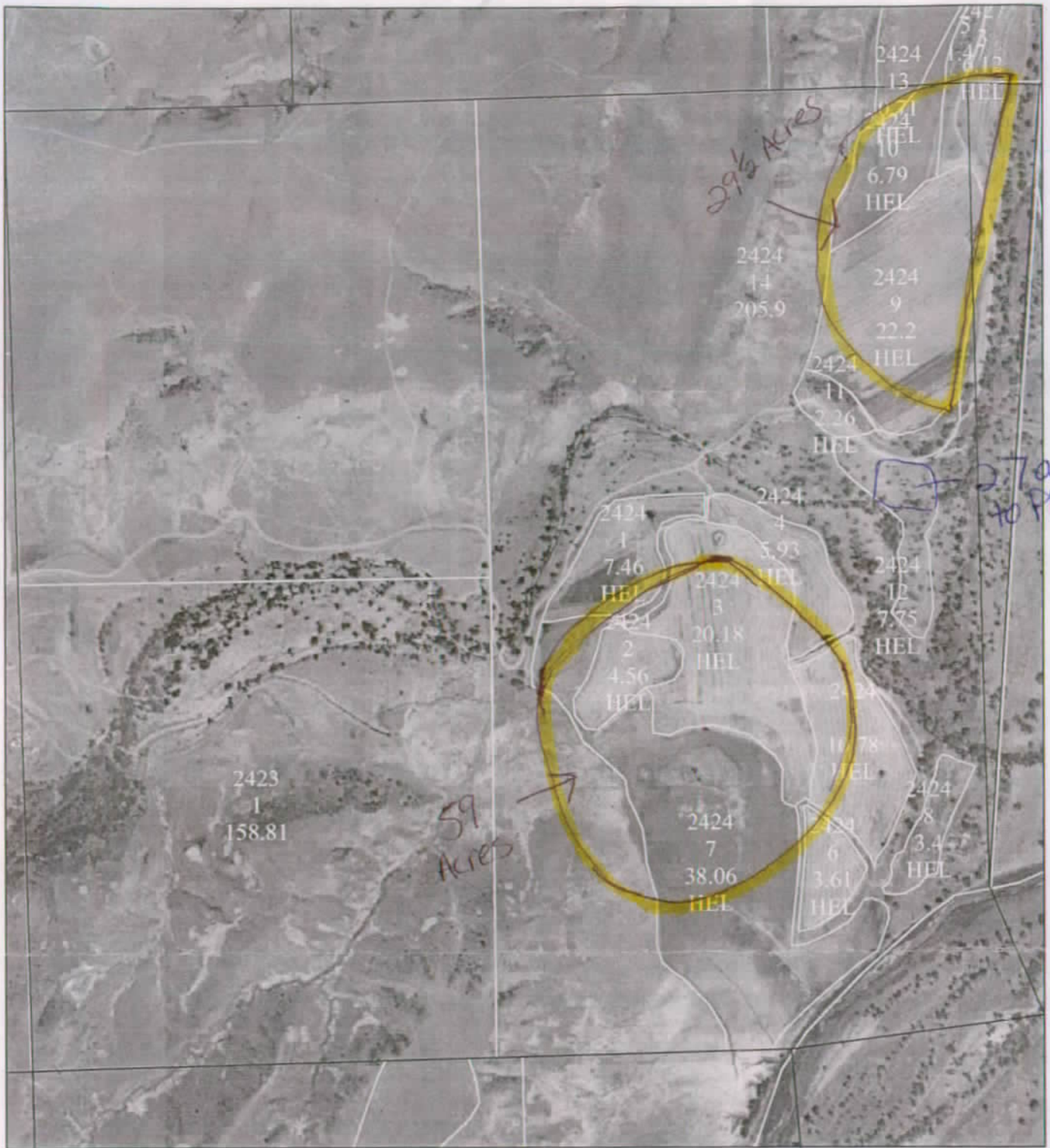
All in Section 4, T5S, R10E

NE ¼ NE ¼	25.0
SE ¼ NE ¼	7.2
NW ¼ SE ¼	36.0
NE ¼ SE ¼	6.5
SW ¼ SE ¼	15.0
SE ¼ SE ¼	1.5
Total	91.2

Schlaak, Karen

From: Gronlund, Eric
Sent: Monday, November 13, 2006 2:05 PM
To: Schlaak, Karen
Cc: Rath, Mark
Subject: Baker WR's from Cheyenne River

Denise Baker called about changing acres on the Cheyenne River. She didn't know who to breakdown the acreage. I said if the map clearly showed the new acres to be irrigation, that I would help with the breakdown of acres.



United States Department of Agriculture
Farm Service Agency

4-5S-10E

Custer County, SD

1:9,158



September 18, 2006

Farm Service Agency
Fall River - Custer County
389 South Chicago St.
Hot Springs, SD 57747-2323

Cindy Walker
Program Technician

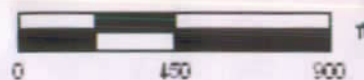


Data use subject to license.

© 2004 DeLorme. XMap® 4.5.

www.delorme.com

4-58-10E



Data Zoom 14-0

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date November 28 29, 2006

RECEIVED OF Jim Baker, PO Box 148, Hermosa SD 57744

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

Fee for Application for Permit No. <u>730A-2</u> to Appropriate Water, to construct and to put water to beneficial use	50	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>730A-2</u>	50	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	100.00

No.

02654

By

Darland Erbe
Chief Engineer *gm*



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 730A-2**

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. 730A-2, Jim and Denise Baker, PO Box 148, Hermosa SD 57744.

The Chief Engineer is recommending APPROVAL of Application No. 730A-2 because 1) the proposed diversion can be developed without unlawful impairment of existing rights, 2) the proposed use is a beneficial use and 3) it is in the public interest with the following qualification:

1. Natural flows in the Cheyenne River are not a dependable source of water during the latter part of the summer season. It is likely that water diversions restrictions under this Permit to appropriate water will be necessary at times to assure domestic water supplied, including stockwater, and water supplies for prior water rights.
2. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Garland Erbele, Chief Engineer
December 20, 2006

REPORT ON WATER PERMIT APPLICATION NO. 730A-2

Jim and Denise Baker

December 18, 2006

Application No. 730A-2, Jim and Denise Baker, proposes to amend Water Right No. 730-2 by transferring portions of the irrigated acres to other land. Water Right No. 730-2 appropriates 1.3 cubic feet of water per second (cfs) from the Cheyenne River located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 3-T5S-R10E to irrigate 91.2 acres located in the SE $\frac{1}{4}$ Section 33-T4S-R10E, W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 3-T5S-R10E and E $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 4-T5S-R10E. This application proposes to switch the method of irrigation from flood to center pivot systems utilizing the existing Cheyenne River diversion point. In order to accommodate the pivots, the applicant is requesting to transfer a portion of the 91.2 acres to accommodate the installation of center pivots. The irrigated acres will now be located in the SE $\frac{1}{4}$ and the E $\frac{1}{2}$ NE $\frac{1}{4}$ Section 4 and NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 3; all in T5S-R10E. No increase diversion rate or number of acres irrigated is requested by this application and the priority date October 31, 1961 will be retained. The project is located approximately 20 miles southeast of the town of Hermosa in Custer County.

Review of the Water Source

The Cheyenne River headwaters in the high plains of Wyoming in the Thunder Basin National Grasslands and meanders around the southern end of the Black Hills entering South Dakota about 14 miles northwest of the town of Edgemont, SD. The river then passes through narrows south of Hot Springs, SD, the location of Angostura Dam. Construction of Angostura Dam, part of the Angostura Unit irrigation system, was completed in 1949. The Bureau of Reclamation (BOR) holds South Dakota Water Right No. US579-2 for an annual one-time fill of 138,761 acre-feet of water stored in Angostura Reservoir for irrigation and other purposes. Since October 1949 the flow in the Cheyenne River downstream of Angostura Dam has been regulated primarily to serve the irrigation needs of the Angostura Irrigation District. Water is diverted directly from Angostura Reservoir and delivered through a main canal to the Irrigation District. Average precipitation in the area is approximately 16-inches per year, most of which occurs from April through September. There are numerous tributaries located along the southern and eastern flanks of the Black Hills that contribute flow to the Cheyenne River. The major source of flow upstream of this project is from the Fall River and return flow from the Angostura Irrigation District.

Since 1998 USGS has maintained a stream flow gaging station at Red Shirt, SD approximately 3 $\frac{1}{2}$ miles downstream of this project and 14 river miles downstream of the last Angostura Irrigation District wasteway at the mouth of Cottonwood Creek. Limited data, 1998 through 2005, from this gaging station for the May through September interval, when Cheyenne River flows are mainly regulated by output to the Irrigation District from Angostura Dam, indicate there is a 90-percent probability the median flow rate will range from 63 to 120 cfs or greater downstream of the proposed project during this interval of any given year. There is a 75-percent probability the median flow rate will range from 69 to 190-cfs or greater for the same interval at this location. (Table 3)

Table 3. Monthly Flow(cfs) probability for USGS Gaging Station at Red Shirt

Probability	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
90%	67	61	112	112	120	87	63	64	81	98	86	66
75%	70	65	141	123	190	91	69	72	85	104	98	80
50%	71	72	198	151	309	97	78	87	89	115	113	104
25%	99	98	214	466	363	441	139	114	113	150	506	99
10%	111	113	233	670	390	627	165	129	123	171	736	140

USGS Wasta, SD stream flow gaging station data from 1950 through 2005 indicate there is a 90-percent probability the median flow rate in the Cheyenne River at this location will range from 47 to 60 cfs or greater during the May through September interval of any given year. There is a 75-percent probability the median flow rate will range from 66 to 95 cfs or greater for the same interval at this location. (Table 4)

Table 4. Monthly Flow(cfs) probability for USGS Gaging Station near Wasta

Probability	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
90%	30	50	102	78	60	53	47	47	51	62	70	45
75%	48	78	146	117	95	93	72	66	73	84	93	73
50%	80	110	240	214	237	272	142	104	100	112	119	100
25%	135	179	471	383	623	925	353	176	152	168	160	130
10%	220	349	867	839	1560	2130	725	425	282	279	292	230

The presumption can be made that the stream flow rates recorded at the cited gaging stations are post withdrawal of the majority of those Water Right allocations upstream of the gage's location during the normal irrigation season.

Review of the Project and Existing Water Rights

Water Right No. 730-2 was originally issued to L.J. Markitan in 1961. This flood irrigation system was constructed and the water license was issued in August 1964. The Bakers transferred the water right from Mr. Markitan in May of 2005

South Dakota water law allows irrigation to be severed from the original land and simultaneously transferred and become appurtenant to other land. South Dakota Codified Law SDCL 46-5-34 states:

Irrigation rights appurtenant to land -- Amendment of permit required for severance and transfer. All water used in this state for irrigation purposes shall remain appurtenant to the land upon which it is used. However, if for any reason it should become impracticable to use all or any part of the water beneficially or economically for irrigation of any land to which the right of its use is appurtenant, all or any part of the right may be severed from the land and simultaneously transferred and become appurtenant to other land without losing priority of right previously established, subject to existing rights, upon approval of

an application for an amended permit. No increase in total acres irrigated may be allowed under this section.

Jim and Denise Baker, owners of the property, are proposing to relocate a portion of the acres to facilitate the installation and utilization of a center pivot irrigator. Sprinkler center pivot irrigation is a more efficient method of applying water compared to flood irrigation. The applicants will maintain the existing diversion point and authorized diversion rate of 1.30 cfs. The priority date of October 31, 1961 will be retained.

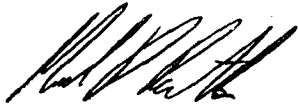
Downstream of this proposed project's location to Red Shirt, SD there are two existing water rights appropriating 1.97 cfs. In the river reach from Red Shirt to Wasta, SD there are 10 water rights appropriating 27.35-cfs.

Since the construction of Angostura reservoir in the late 1940's, the Water Rights Program has issued shutoff orders three different years for the river reach downstream of the reservoir due to lack of water in the river. In 1989 and 1990 shutoff orders were issued to junior water rights holder in the reach Angostura Dam to Wasta, SD. During the summer of 2006 shutoff orders were again issued to junior water right holders for the reach Angostura Dam to the Belle Fourche River confluence.

Approval of this request would not be expected to adversely affect existing water rights.

Conclusions

1. This application proposes to sever irrigation from a portion of the 91.2 acres and simultaneously transfer and become appurtenant to new land. The request is to facilitate the utilization of center pivot irrigation.
2. SDCL 46-5-34 allows irrigation water rights to be severed from the land and simultaneously transferred and become appurtenant to other land without losing priority of right previously established.
3. The proposed sprinkler center pivot irrigation is a more efficient method of applying water compared to the existing flood irrigation.
4. Approval of this request would not be expected to adversely affect existing water rights.



Mark D. Rath
Natural Resources Engineering Specialist

Affidavit of Publication

State of South Dakota)

)ss.

County of Custer)

Charles W. Najacht of said county, being duly sworn, on oath says that he is publisher of the Custer County Chronicle, a weekly newspaper printed and published in Custer City, said County of Custer 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 next prior to the publication of the notice herein, mentioned, and was and is printed wholly or in part in an office maintained at said place of publication: that the

DENR - Jim Baker
Notice of Application

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 each week for 2 successive week(s), on which said newspaper was regularly published, to wit:

Jan 3, 2007; Jan 10, 2007;

_____;

_____;

_____;

the full amount of the fees for the publication of the annexed notice is \$ 44.24.

Charles M. Siggett

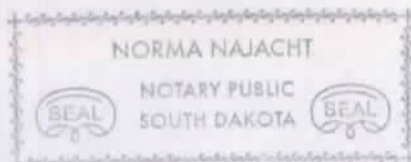
Subscribed and sworn to me before this 10

of January, 2007;

Norma Najacht

NOTARY PUBLIC

MY COMMISSION EXPIRES: May 8, 2012



NOTICE OF APPLICATION

NO. 730A-2 TO APPROPRIATE WATER

Notice is given that Jim and Denise Baker, PO Box 148, Hermosa SD 57744 have filed an application for a water permit to amend Water Right No. 730-2 by transferring portions of the irrigated acres to other land. Water Right No. 730-2 appropriates 1.3 cubic feet of water per second from the Cheyenne River located in the NW 1/4, NW 1/4, Section 3-T5S-R10E to irrigate 91.2 acres located in the SE 1/4, Section 33-T4S-R10E, W 1/2 NW 1/4, NW 1/4, SW 1/4, Section 3-T5S-R10E and E 1/2 NE 1/4, NE 1/4, SE 1/4, Section 4-T5S-R10E. This application proposes to switch from flood irrigation to pivot systems utilizing the existing Cheyenne River diversion point. The applicant is requesting to transfer a portion of the 91.2 acres to accommodate installation of a center pivot. The irrigated acres will now be located in the SE 1/4, E 1/2, NE 1/2, Section 4 and NW 1/4, NW 1/4, Section 3; all in T5S-R10E. No increase diversion rate or number of acres irrigated is authorized by this application.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 730A-2 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by January 22, 2007.

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. Pinner, Secretary, Department of Environment and Natural Resources.

#3, 1/3, 1/10

RECEIVED

FEB 02 2007

WATER RIGHTS PROGRAM



December 22, 2006

Custer Co. Chronicle
PO Box 551
Custer SD 57730

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 730A-2 to Appropriate Water to be published twice. Please publish the first notice on January 3, 2007 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.

Please BILL the APPLICANT for the cost of publication. The APPLICANT is Jim and Denise Baker, PO Box 148, Hermosa SD (Ph # 605-255-4170).

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. 730A-2

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

Date _____

We are in receipt of your letter of December 22, 2006 enclosing Notice to Appropriate Water by Application No. 730A -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.

December 22, 2006

Jim & Denise Baker
PO Box 148
Hermosa SD 57744

Dear Mr. & Mrs. Baker:

Water Permit Application No. 730A-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 Custer Co Chronicle printed at Custer, SD (Ph # 605-673-2217). 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 a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

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

Instruction to Newspaper - Publish first Notice on January 3, 2007 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 730A-2 to Appropriate Water

Notice is given that Jim and Denise Baker, PO Box 148, Hermosa SD 57744 have filed an application for a water permit to amend Water Right No. 730-2 by transferring portions of the irrigated acres to other land. Water Right No. 730-2 appropriates 1.3 cubic feet of water per second from the Cheyenne River located in the NW ¼ NW ¼ Section 3-T5S-R10E to irrigate 91.2 acres located in the SE ¼ Section 33-T4S-R10E, W ½ NW ¼, NW ¼ SW ¼ Section 3-T5S-R10E and E ½ NE ¼, NE ¼ SE ¼ Section 4-T5S-R10E. This application proposes to switch from flood irrigation to pivot systems utilizing the existing Cheyenne River diversion point. The applicant is requesting to transfer a portion of the 91.2 acres to accommodate installation of a center pivot. The irrigated acres will now be located in the SE ¼, E ½ NE ¼ Section 4 and NW ¼ NW ¼ Section 3; all in T5S-R10E. No increase diversion rate or number of acres irrigated is authorized by this application.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 730A-2 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

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

February 6, 2007

Jim & Denise Baker
PO Box 148
Hermosa SD 57744

Dear Mr. & Mrs. Baker:

The Notice of Application No. 730A-2 was published with several errors in the legal description of the location of the diversion point and the acres to be irrigated. The locations did not include commas. Enclosed is the affidavit which indicates where the errors occurred. Therefore, the notice of hearing needs to be readvertised to correct the errors. The notice been sent to the Publisher of the Custer County Chronicle (Ph # 605 673-2217). For your information, a copy of the notice is enclosed.

Be sure to contact the above newspaper to authorize publication of the Notice.

Please contact us if you have any questions.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

c: Custer County Chronicle

Affidavit of Publication

State of South Dakota)

)ss.

County of Custer)

Charles W. Najacht of said county, being duly sworn, on oath says that he is publisher of the Custer County Chronicle, a weekly newspaper printed and published in Custer City, said County of Custer 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 next prior to the publication of the notice herein, mentioned, and was and is printed wholly or in part in an office maintained at said place of publication; that the

Notice Application

Jim Baker

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 each week for 2 successive week(s), on which said newspaper was regularly published, to wit:

Feb. 14, 2007; Feb. 21, 2007;

_____;

_____;

_____;

_____;

the full amount of the fees for the publication of the annexed notice is \$ _____.

Charles W. Najacht

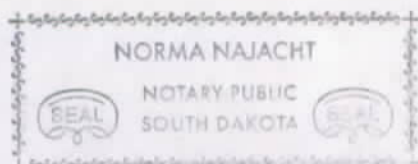
Subscribed and sworn to me before this 21

of February, 2007;

Norma Najacht

NOTARY PUBLIC

MY COMMISSION EXPIRES: May 5, 2012



NOTICE OF APPLICATION

NO. 730A-2 TO APPROPRIATE WATER

Notice is given that Jim and Denise Baker, PO Box 148, Hermosa SD 57744 have filed an application for a water permit to amend Water Right No. 730-2 by transferring portions of the irrigated acres to other land. Water Right No. 730-2 appropriates 1.3 cubic feet of water per second from the Cheyenne River located in the NW 1/4 NW 1/4 Section 3-T5S-R10E to irrigate 91.2 acres located in the SE 1/4 Section 33-T4S-R10E, W 1/2 NW 1/4, NW 1/4 SW 1/4 Section 3-T5S-R10E and E 1/2 NE 1/4, NE 1/4 SE 1/4 Section 4-T5S-R10E. This application proposes to switch from flood irrigation to pivot systems utilizing the existing Cheyenne River diversion point. The applicant is requesting to transfer a portion of the 91.2 acres to accommodate installation of a center pivot. The irrigated acres will now be located in the SE 1/4, E 1/2 NE 1/4 Section 4 and NW 1/4 NW 1/4 Section 3; all in T5S-R10E. No increase diversion rate or number of acres irrigated is authorized by this application.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 730A-2 because 1) existing rights will not be unlawfully impaired; 2) it is a beneficial use of water; and 3) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by March 5, 2007.

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.

#3, 2/14, 2/21

RECEIVED
MAR - 2 2007
WATER RIGHTS
PROGRAM



February 6, 2007

Custer Co. Chronicle
PO Box 551
Custer SD 57730

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 730A-2 to Appropriate Water to be published twice. Please publish the first notice on February 14, 2007 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.

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. 730A-2

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

Date _____

We are in receipt of your letter of February 14, 2007 enclosing Notice to Appropriate Water by Application No. 730A-2 which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper

Instruction to Newspaper - Publish first Notice on February 14, 2007 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 730A-2 to Appropriate Water

Notice is given that Jim and Denise Baker, PO Box 148, Hermosa SD 57744 have filed an application for a water permit to amend Water Right No. 730-2 by transferring portions of the irrigated acres to other land. Water Right No. 730-2 appropriates 1.3 cubic feet of water per second from the Cheyenne River located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 3-T5S-R10E to irrigate 91.2 acres located in the SE $\frac{1}{4}$ Section 33-T4S-R10E, W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 3-T5S-R10E and E $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 4-T5S-R10E. This application proposes to switch from flood irrigation to pivot systems utilizing the existing Cheyenne River diversion point. The applicant is requesting to transfer a portion of the 91.2 acres to accommodate installation of a center pivot. The irrigated acres will now be located in the SE $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ Section 4 and NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 3; all in T5S-R10E. No increase diversion rate or number of acres irrigated is authorized by this application.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 730A-2 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by March 5, 2007.

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.



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 5, 2007

Dear Water Right Holder;

Due to the ongoing drought I am advising Cheyenne River water right holders of the possibility of shutoff orders in 2007 for the river reach from Angostura Dam to the Belle Fourche River confluence. This is **not a shutoff order**.

As a result of the continuing lack of precipitation, tributary flows throughout the Cheyenne River basin remain well below the historical average. Angostura Reservoir ended February almost 21-feet below full and the forecast for improved conditions throughout the summer months is not favorable.

This letter is only intended to give you advanced warning that your ability to divert water may be cut short this year. If shut-off orders are issued, you will receive another letter from the department. In the meantime, water right holders can help by closely monitoring water usage and trying to avoid wasting water.

South Dakota water law gives the highest priority to domestic use, which includes livestock watering. There is generally adequate water available to meet both domestic use and other needs. However, once water availability reaches critical low levels, other uses, including irrigation, will begin to interfere with domestic use. If levels become critically low, the department must issue shut-off orders to protect domestic water uses. Once these orders are issued, the department will continue to monitor water availability and should conditions improve, the shutoff orders would be rescinded.

If you are interested, the US Geological Survey has an Internet site showing river flows at 150 stream gauging stations across the state. Go to sd.water.usgs.gov and click on "Realtime streamflow data via satellite".

Thank you for your cooperation. If you have any questions, please contact Mark Rath or Mike DeFea at (605) 773-3352.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program



APR 20 2007

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

JIM AND DENISE BAKER
PO BOX 148
HERMOSA SD 57744

Dear Mr. and Mrs. Baker:

Enclosed is Water Permit No. 730A-2 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

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

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

Sincerely,

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

enclosures

MAY 29, 2007

WATER RIGHTS
PROGRAMNOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USE

730A-2

Date 4-24-07

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

FROM:

Jim Baker / Denise Baker
(name)

PO Box 148
(address)

Hermosa SD 57744
(city, state, zip)

605-255-4170
(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. 730A-2 states that the water use system is to be constructed by March 5, 2012, and water is to be put to beneficial use by March 5, 2016.
(date) (date)

The water use system was completed on May 19, 2007.
(date)

Applying the water to beneficial use was completed on May 19, 2007.
(date)

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

Denise Baker
(signature)





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

NOTICE OF SHUTOFF ORDER

July 10, 2007

TO: JIM OR DENISE BAKER
PO BOX 148
HERMOSA SD 57744

FROM: GARLAND ERBELE, Chief Engineer
SD DENR Water Rights Program

SUBJECT: Cheyenne River Shutoff Order for Junior Priority Date Water Rights

Shutoff Order for Water Right Nos. 730-2 (730A-2)

To protect the senior priority water rights, the department is issuing shutoff orders to junior water right holders with priority dates between January 1, 1955 and December 31, 1969 for the river reach between the Angostura Dam to Belle Fourche River confluence. Effective immediately, diversions of water from the Cheyenne River and tributaries will not be allowed for those permits with a priority dates after January 1, 1955.

Flow in the Cheyenne River continues to decline to the point where domestic use of water, which includes livestock watering from the river, has become a concern. This order will be rescinded as soon as conditions improve. If conditions do not improve, this order will remain in effect until the end of the calendar year.

The USGS maintains a website where you can view real-time stream flow measurements at several sites along the river, the web address is:

<http://waterdata.usgs.gov/sd/nwis/rt>

I am asking for your cooperation in complying with this shutoff order. The ongoing drought is creating hardship for all the water right holders along the river.

If you have any questions, please contact Mark Rath or Lynn Beck with the Water Rights Program at (605) 773-3352. Thank you.



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 22, 2010

NOTICE

TO: JIM & DENISE BAKER, PO BOX 148, HERMOSA, SD 57744 0148

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

SUBJECT: Reporting Requirement for 2009 Irrigation Questionnaires

Our records indicate that the 2009 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 16, 2009. The Water Management Board has directed that owners of water permits who have not submitted the 2009 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 730-2 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 730A-2 qualification:

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

The hearing will be held at **10:00 am, March 10, 2010** 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) 730A-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 730-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaire(s) is (are) received in this office on/or before **March 5, 2010**, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 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.aspx>

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.

[Track & Confirm](#)[FAQs](#)

Track & Confirm

Search Results

Label/Receipt Number: 2303 2160 0000 0802 9655

Service(s): **Signature Confirmation™**Status: **Delivered**

Your item was delivered at 4:08 PM on January 25, 2010 in HERMOSA, SD 57744. The item was signed for by D BAKER.

Track & Confirm

Enter Label/Receipt Number.

[Go >](#)

Detailed Results:

- Delivered, January 25, 2010, 4:08 pm, HERMOSA, SD 57744
- Notice Left, January 25, 2010, 10:58 am, HERMOSA, SD 57744
- Notice Left, January 23, 2010, 7:53 am, HERMOSA, SD 57744
- Arrival at Post Office, January 23, 2010, 7:40 am, HERMOSA, SD 57744

Notification Options

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Proof of Delivery

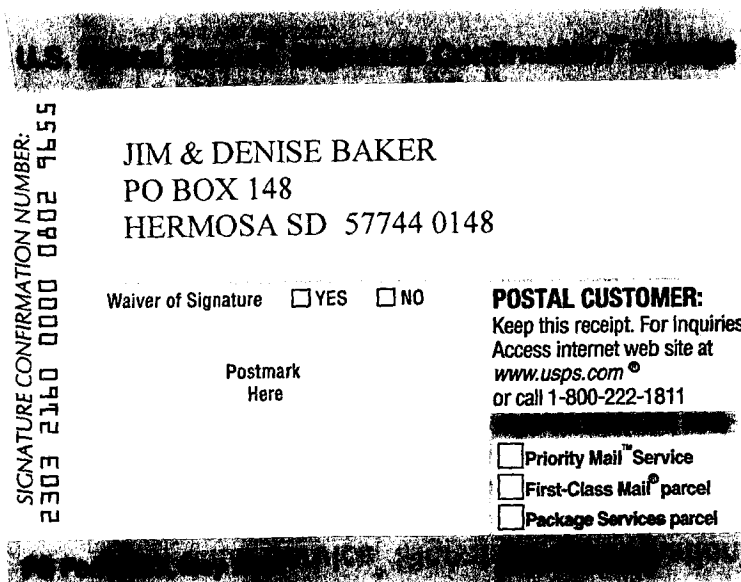
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No FEAR Act EEO Data

FOIA





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 4, 2010

730-2
730A-2

Jim & Denise Baker
PO Box 148
Hermosa SD 57744-0148

Dear Mr. & Mrs. Baker:

I am writing to acknowledge receipt of your 2009 irrigation questionnaires. You may disregard the January 22, 2010, "Notice" concerning reporting requirements for Water Right No. 730-2 and Water Permit No. 730A-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,

A handwritten signature in cursive script that reads "Genny McMath".

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



730A-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 24, 2012

NOTICE

TO: JIM & DENISE BAKER, PO BOX 148, HERMOSA, SD 57744 0148
FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program
SUBJECT: Reporting Requirement for 2011 Irrigation Questionnaires

Our records indicate that the 2011 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 14, 2011. The Water Management Board has directed that owners of water permits who have not submitted the 2011 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 730-2 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 730A-2 qualification:

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

The hearing will be held at **10:00 am, March 7, 2012** 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) 730A-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 730-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaire(s) is (are) received in this office on/or before **March 2, 2012**, 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:
<http://denr.sd.gov/iq.aspx>

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 21, 2012

730-2
730A-2

Jim & Denise Baker
PO Box 148
Hermosa SD 57744 0148

Dear Mr. & Mrs. Baker:

I am writing to acknowledge receipt of your 2011 irrigation questionnaires.

You may disregard the January 24, 2012, "Notice" concerning reporting requirements for Water Right No. 730-2 and Water Permit No. 730A-2. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

October 22, 2012

730-2
730A-2

Jim & Denise Baker
15003 SD Hwy 40
Hermosa SD 57744 5121

Dear Mr. & Mrs. Baker:

Enclosed is a "Notice" dated October 12, 2012 concerning the 2012 irrigation questionnaire.

The notice was originally mailed to PO Box 148, Hermosa SD. The post office notified us that your address has changed and I will update our records accordingly.

If you have any questions, please contact me.

Sincerely,


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

enclosures



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 18, 2013

NOTICE

TO: JIM & DENISE BAKER, 15003 SD HWY 40, HERMOSA, SD 57744 5121

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

SUBJECT: Reporting Requirement for 2012 Irrigation Questionnaires

Our records indicate that the 2012 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 12, 2012. The Water Management Board has directed that owners of water permits who have not submitted the 2012 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 730-2 should be amended to require the Questionnaire to be submitted each year and to determine action to be taken for violation of Water Permit No(s) 730A-2 qualification:

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

The hearing will be held at **8:30 am, March 7, 2013** 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) 730A-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 730-2 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaire(s) is (are) received in this office on/or before **March 4, 2013**, 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:

<http://denr.sd.gov/iq.aspx>

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 11, 2013

730-2
730A-2

Jim & Denise Baker
15003 SD Hwy 40
Hermosa SD 57744 5121

Dear Mr. & Mrs. Baker:

I am writing to acknowledge receipt of your 2012 irrigation questionnaires.

You may disregard the January 18, 2013, "Notice" concerning reporting requirements for Water Permit No. 730A-2 and Water Right No. 730-2. The information was received in our office prior to the Water Management Board meeting and your names have been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Genny McMath".

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

Report of Examination of Works and/or Application of Water to Beneficial Use For Permits No. 730A-2

I have this day, May 19, 2016 made a thorough examination of the water use system constructed by Jim Baker, 15003 SD Hwy 40, Hermosa SD 57744 of Permit No. 730A-2, bearing the priority of 10/13/1961 authorizing the diversion of 1.3 cu. ft. per second of water of the Cheyenne River for irrigation purposes in Custer County.

Inspection contact & relationship to permit holder : **Jim Baker , owner**
605-381-3995 (cell)

A. Works used to divert the water:

Pump 1:

- 1) Make Gould
- 2) Model 3-10CH
- 3) Size turbine
- 4) Capacity 500 gpm @ 125' TDH

Power:

- 1) Source Electric
- 2) Horsepower rating 60 hp

B. Works used to transport water to place of use:

- 1) Type PVC pipe
- 2) Size 8 inches
- 3) Length 3,620 feet

C. Works used to apply water to beneficial use:

Center Pivot - North

- 1) Make T & L
- 2) Overall length 908.7 feet
- 3) Number of towers 5 End Gun No
- 4) Capacity 470 gpm
- 5) Acres 31.0 (slightly over ½ circle)

Comment: Pumps are not operated simultaneously

Center Pivot - South

- Make T & L
- Overall length 908.7 feet
- Number of towers 5 End Gun No
- Capacity 470 gpm
- Acres 60.2 (full circle)

D. Chemigation Equipment: operator does not chemigate**E. Compliance with Permit Requirements:**

- 1) Permit qualifications being abided by Yes
- 2) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period Yes
- 3) List any extended period of nonuse: none
- 4) Exceptions to compliance are: none

F. Condition and Location:

1. The system is in good condition with the point of diversion located as follows:
1,257' S and 442' E of the NW corner Section 3 T5S R10E (43.647474, -102.924160).
2. The works are capable of diverting and conveying to the place of use 1.11 cu. ft. per second of water (500 gpm) which is to be used for sprinkler irrigation. Water has been put to beneficial use to the maximum extent as follows:

Section 33 T4S R10E:

SW ¼ SE ¼ 0.2 acres

SE ¼ SE ¼ 0.2 acres

Section 3 T5S R10E:

NW ¼ NW ¼ 2.7 acres

S4 T5S R10E

NE ¼ NE ¼ 22.8 acres

SE ¼ NE ¼ 5.1 acres

NW ¼ SE ¼ 31.5 acres

NE ¼ SE ¼ 15.2 acres

SW ¼ SE ¼ 9.9 acres

SE ¼ SE ¼ 3.6 acres

comprising a total of 91.2 acres of land and the license should be issued for 1.11 cfs.

All structures, wells and lands on map: **Yes**

G. Comments or other permits associated with the project:

Permit 730A-2 amends 730-2 by transferring portions of the irrigated acreage to other land. Permit 730A-2 authorizes the switch from flood irrigation to pivot systems utilizing the existing Cheyenne diversion Point. No increase in the diversion rate of 1.3 cfs or the 91.2 acres of irrigation was authorized by permit 730A-2.



Steven Quissell
Water Rights Inspector
DENR, Water Rights Program

Date report completed: 5/25/2016



diversion point



pump site



south pivot

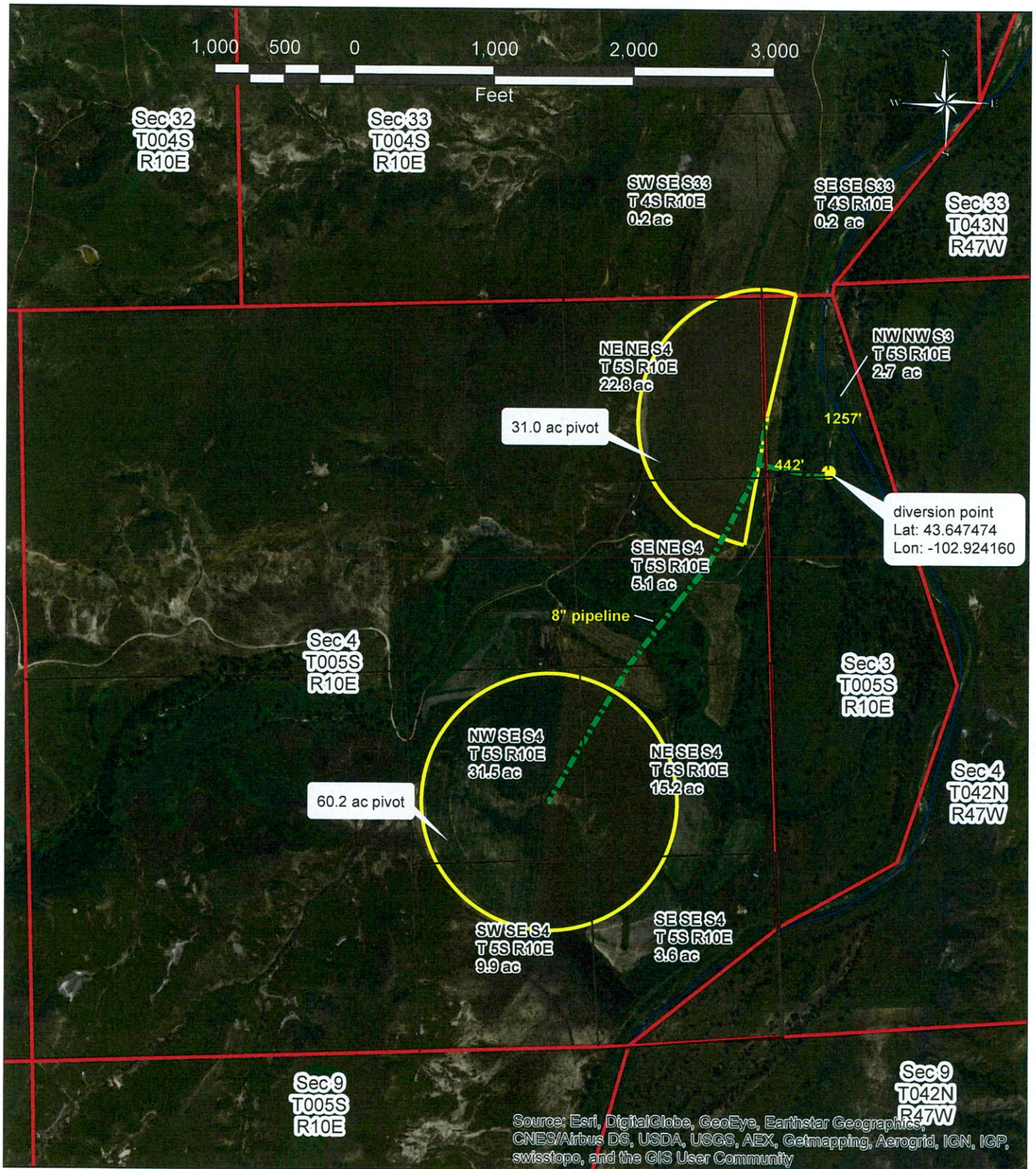


north pivot

Water Right #730A-2

Jim Baker

5/19/2016



Steven Quissell

Steven Quissell
Water Rights Inspector
DENR Water Rights Program



STATE OF SOUTH DAKOTA

WATER LICENSE NO. 730A-2

(1) Jim and Denise Baker, 15003 SD Hwy 40, Hermosa SD 57744 made Application No. 730A-2, November 26, 2006 for a water permit to transfer irrigated acres to other land located in Custer County, South Dakota for irrigation purposes. Permit No. 730A-2, with a priority date of October 13, 1961 was approved March 5, 2007 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before March 5, 2012 and for the application to beneficial use of water on or before March 5, 2016.

Water Right No. 730-2, with a priority date of October 13, 1961 authorizes 1.3 cubic feet of water per second from the Cheyenne River to irrigate 91.2 acres. The transfer of irrigated acreage by Water Permit No. 730A-2 accommodated switching from flood irrigation to pivot systems. The applicable portions of No. 730-2 are incorporated into No. 730A-2.

An investigation conducted for licensing purposes found acreage developed for irrigation outside of the area described on the permit. Pursuant to SDCL 46-5-30.5, the Chief Engineer makes a finding that existing water rights will not be impaired and the overall project, as developed, is consistent with the original application.

(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, the holder and/or owner of Incorporated Water Right No. 730A-2 is issued a license, bearing a priority date of October 13, 1961 to appropriate 1.11 cubic feet of water per second from the Cheyenne River to irrigate 91.2 acres.

The diversion point is located: 1,257 feet south and 442 feet east of the NW corner of Section 3-T5S-R10E (NW 1/4 NW 1/4). The acres authorized for irrigation are as follows:

Section 33-T4S-R10E

SW 1/4 SE 1/4 0.2 ac

SE 1/4 SE 1/4 0.2 ac

Section 3-T5S-R10E

NW 1/4 NW 1/4 2.7 ac

Section 4-T5S-R10E

NE 1/4 NE 1/4 22.8 ac

SE 1/4 NE 1/4 5.1 ac

NW 1/4 SE 1/4 31.5 ac

NE 1/4 SE 1/4 15.2 ac

SW 1/4 SE 1/4 9.9 ac

SE 1/4 SE 1/4 3.6 ac

Total 91.2 acres

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 730A-2 including the following qualifications:

- Natural flows in the Cheyenne River are not a dependable source of water during the latter part of the summer season. It is likely that water diversion restrictions under this Permit to appropriate water will be necessary at times to assure domestic water supplied, including stockwater, and water supplies for prior water rights.
- This Permit is approved subject to the irrigation water use questionnaire being submitted each year.



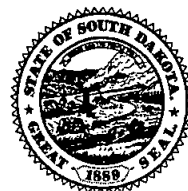
Jeanne Goodman, Chief Engineer

Water Rights Program

Department of Environment and Natural Resources

JUN 29 2016

date





730A-2

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

JUN 29 2016

730A-2

Jim & Denise Baker
15003 SD Hwy 40
Hermosa SD 57744

Dear Sir:

Enclosed is Water License No. 730A-2. This is the final water right document completing your process of obtaining a Water Right. Also, included with your license is a map prepared by the staff engineer who conducted the investigation.

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

Note: The applicable portions of No. 730-2 are incorporated into Water License No. 730A-2.

enclosures



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 20, 2026

NOTICE

TO: JIM & DENISE BAKER, 15003 SD HWY 40, HERMOSA, SD 57744 5121

FROM: Ron Duvall, Engineer III
for Adam Mathiowetz, PE, Acting Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2025 Irrigation Questionnaire(s)

Our records indicate your 2025 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 730A-2. The request for the Questionnaire was dated October 8, 2025. The Water Management Board has directed owners of water permits who have not submitted the 2025 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) 730A-2 qualification:

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

The hearing will be held on **Wednesday, March 4, 2026 at 9:30 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) 730A-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 **March 4, 2026** 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 Shannon Konst at (605) 773-3352 or email at shannon.konst@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: RSRLFI**

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.