

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>1504B-3</u> (office use only) Hydrologic Unit <u>10160006</u>
	Basin <u>James River</u>
	Newspaper <u>Redfield Press</u>

RECEIVED
DEC 17 2003
WATER RIGHTS
PROGRAM

Application For Permit To Appropriate Water For Irrigation

Type of Application: Transfer from Don Mendel 1504-3
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.) From Don Mendel
Permit 1504-3 747 GPM on 1.66 CFS All Parties IN Agreement

- Name of Applicant Larry Wipt Phone 605 472-0369
(check one) X Owner Tenant/lessee
Mailing Address 18212 SP Hwy 37 Frankfort State SD 57440
(Street, RR, or Box and City) (Zip Code)
- Amount of water claimed 1.66 *CFS or 747 **GPM ***AF Total Acreage 136.00
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable
- Source of water supply Well
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)
1 Well Center of SW1/4 28-115-61
County Spink
- County or counties where water will be used Spink
- Annual period during which water is to be used Apr. 1 Thru Sept November 1
- 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
<u>SW 28-115-61 CB</u>	<u>34.00</u>		
<u>SW 28 115-61 CA</u>	<u>34.00</u>		
<u>SW 28 115-61 CC</u>	<u>34.00</u>		
<u>SW 28 115-61 CD</u>	<u>34.00</u>		

8. Give a description of the project. (Attach sheet if more space is needed)
136.0 TOTAL Acres to be Irr in SW1/4 28-115-61
Well in Center of SW1/4 - 28-115-61 - Center Pivot
To Irrigate 136.0 Acres Corn - Wheat ACF - Soybeans
IN ROTATION

STATE OF SOUTH DAKOTA) SS
County of Spink

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, Larry Wipt, 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 Larry Wipt

Subscribed and sworn to before me this 15 day of December 2004

Bonnie M. Wagner
Notary Public signature

SOUTH DAKOTA
WATER PERMIT NO. 1504B-3 FOR IRRIGATION

Date of first receipt of application December 17, 2003.

Date of return to applicant for corrections, amendments or changes December 18, 2003.

Date of receipt of corrected application December 30, 2003.

The Water Management Board approved Water Permit No. 1504B-3 on March 3, 2004 for Larry Wipf, 18212 SD Hwy 37, Frankfort SD 57440-7314 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. 1504B-3 amends Water Right No. 1504-3 by transferring a portion of the irrigated acres and diversion authority to other land. Water Right No. 1504-3 appropriates 2.22 cubic feet of water per second (cfs) from one well located in the SE¼ NE¼ Section 15 to irrigate 370 acres located in the NW¼, SW ¼ Section 14 and the S ½ NE ¼ Section 15; all in T115N-R61W. This permit authorizes severing 136 acres and diversion authority of 1.66 cfs and simultaneously transfer and become appurtenant to land in the SW ¼ Section 28-T115N-R61W. The well will be in the approximate center of the SW ¼ Section 28-T115N-R61W. The water source for this irrigation system is the Tulare:East James Aquifer.
2. The amount of the appropriation may not exceed 3 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 – November 1.
3. The date from which applicant may claim right is February 9, 1968 (established by Water Right 1504-3).
4. One-fifth of the construction is to be completed on or before September 3, 2006.
5. All construction is to be completed on or before March 3, 2009.
6. Water is to be put to beneficial use on or before March 3, 2013.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. The well authorized by Permit No. 1504B-3 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28.
3. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

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

APR 30 2004

date



Supplemental Information

(type or print in ink)

1. Well Information - Proposed construction

- a) Drill Hole Diameter 28' Depth 170'
- b) Casing Type Plastic Diameter 16" Thickness 5/8"
- c) Screen Type SS Diameter 16 Thickness _____
- d) Gravel Pack Thickness 6 Length of Gravel Pack 140'
- e) Depth to Top of Water Bearing Material 23
- f) Depth to Water (ground surface to water level) 40
- g) Distance to nearest existing domestic well:
 On applicants property No On property owned by others yes 4000 feet

2. Dugout Information Estimates

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

3. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below. The locations of each dam should be shown on the map submitted with the application.

- a) If a private engineering firm or government agency was involved in the design of this dam please give their name and address

b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____
 If Pipe, diameter _____

f) Secondary Spillway Capacity _____
 Spillway width _____

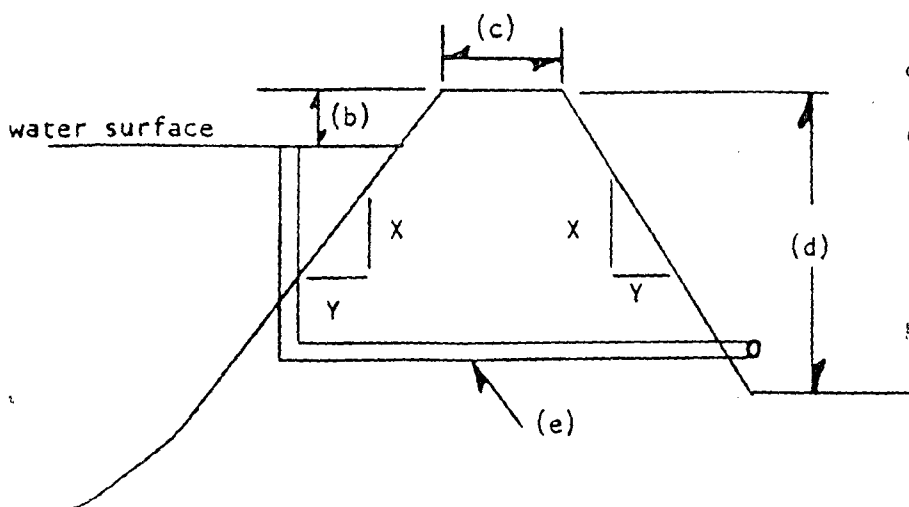
g) X & Y Slope
 Upstream _____

Downstream _____

Surface Area of Impoundment _____

Storage _____ acre feet

Drainage area above dam _____



Signature of Applicant

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date January 2, 20 04

RECEIVED OF Larry Wipf, 18214 SD Hwy 37, Frankfort SD 57440

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

Fee for Application for Permit No. <u>1504B-3</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>1504B-3</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. 004072

By Harland Erbeley
Chief Engineer HE

PRODUCTIVITY INDEX (CROPLAND)

WIPF FARMS

Spink County

160.0

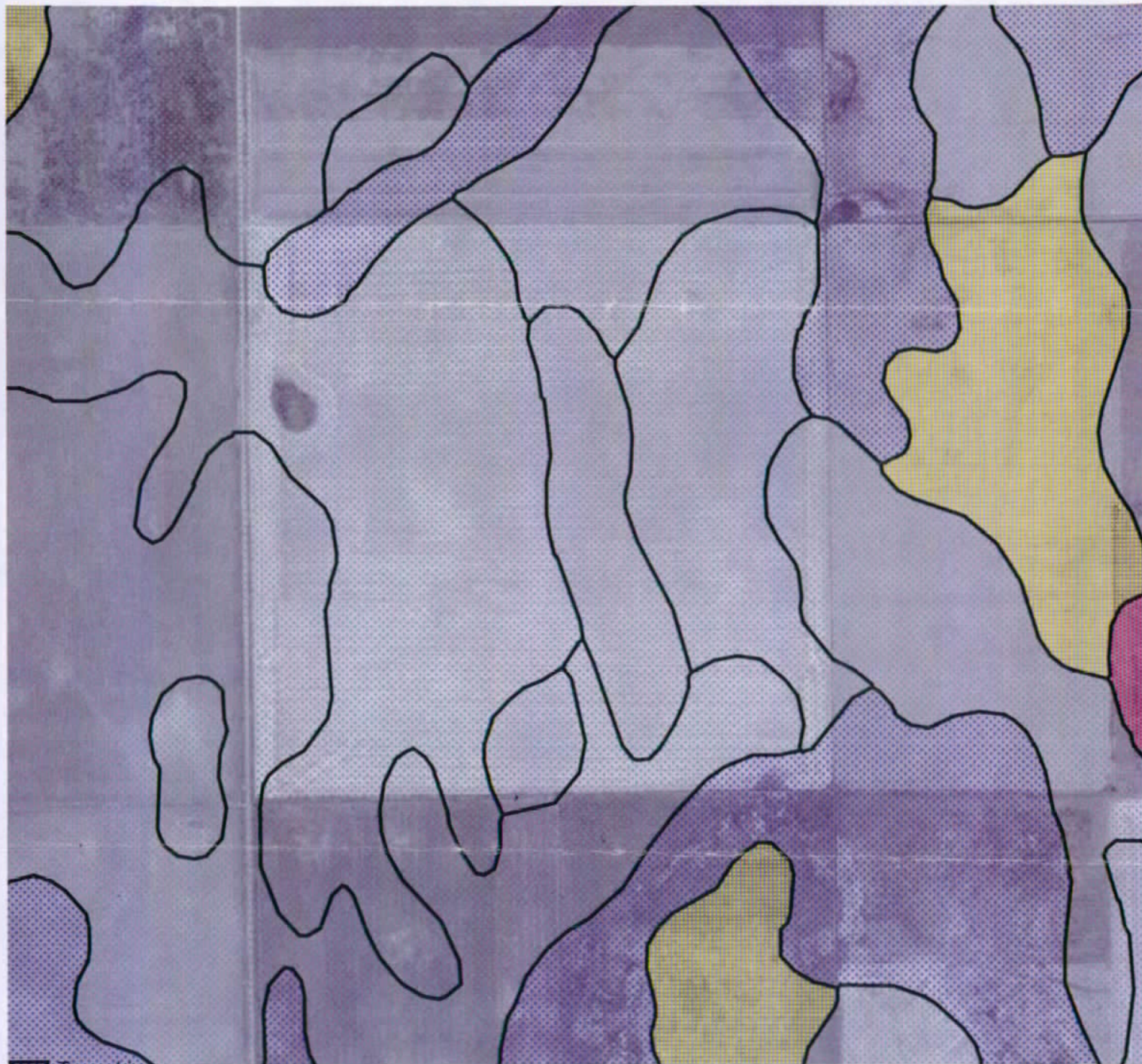
Date: 12/10/2003

Redfield

USDA/NRCS

Shane Jordan

(605)472-1437 EXT. #3



- Townships
- Productivity Index
- very poor
 - poor
 - fair
 - good
 - very good

LEGAL DESCRIPTION: SW 28-115-61



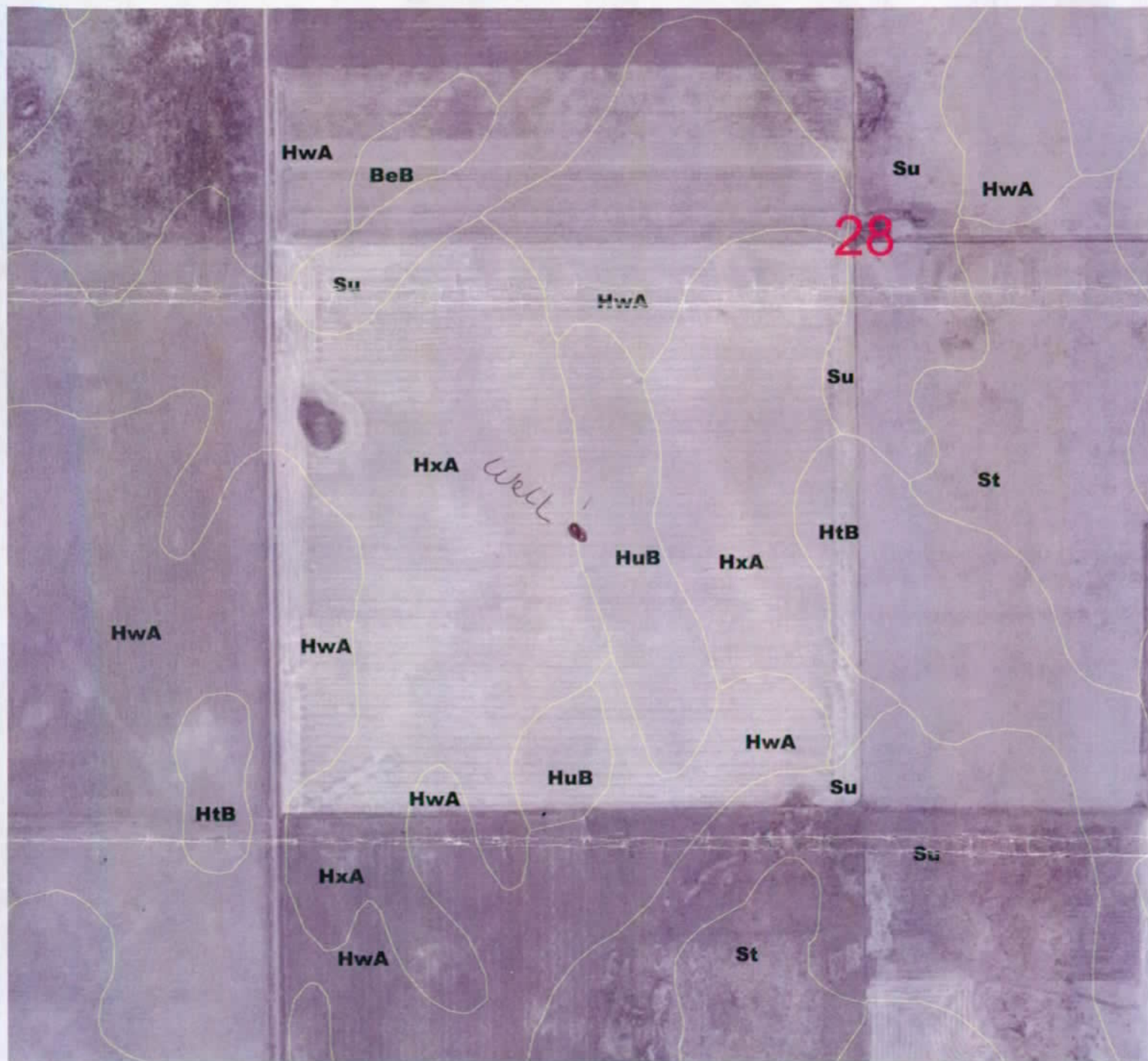
1000 0 1000 2000 Feet

Larry Wip9
~~WIP~~

SOILS MAPPING UNIT MAP

Spink County
160.0
Date: 12/10/2003

Redfield
USDA/NRCS
Shane Jordan
(605)472-1437 EXT. #3



LEGAL DESCRIPTION: SW 28-115-61

Soil_a_sd115.shp
Townships
USDA

Shane Jordan - DC
NRCS - Redfield FO



1000 0 1000 2000 Feet

**FARM AND RANCH
TABLE OF SOIL INTERPRETIVE GROUPS
Spink County**

Map Symbol	Soil Mapping Unit Name	Component Name	Slope %	Cropland Capability Unit	Pasture/ Hayland Group	Range Site	Windbreak Group	Other	
								K	I
BeB	BEADLE-STICKNEY COMPLEX, 1 TO 6 PERCENT SLOPES	BEADLE	2 - 6	IIIe3	E	Cy	4	0.28	48
HtB	HOUDEK-ETHAN-PROSPER LOAMS, 1 TO 6 PERCENT SLOPES	HOUDEK	2 - 6	IIe2	F	Si	3	0.24	48
HuB	HOUDEK-PROSPER LOAMS, 1 TO 6 PERCENT SLOPES	HOUDEK	2 - 6	IIe2	F	Si	3	0.24	48
HwA	HOUDEK-STICKNEY COMPLEX, 0 TO 2 PERCENT SLOPES	HOUDEK	0 - 2	IIc2	F	Si	3	0.24	48
HxA	HOUDEK-STICKNEY-TETONKA COMPLEX, 0 TO 2 PERCENT SLOPES	HOUDEK	0 - 2	IIc2	F	Si	3	0.24	48
Su	STICKNEY-DUDLEY-HOVEN SILT LOAMS, 0 TO 2 PERCENT SLOPES	STICKNEY	0 - 2	IIIs1	E	Cy	4	0.37	48

Interpretive Grouping	LAND USES AND SOILS INFORMATION ON YOUR OPERATING UNIT
	Crop
IIc2	Deep, and moderately deep, loamy, well drained soils on nearly level (0 to 2%) uplands. Moisture is inadequate in most years and these soils have slight to moderate wind erosion hazard.
IIe2	Deep, loamy soils on gently undulating (2 to 6%) upland slopes. They have moderate wind and water erosion hazards.
IIIe3	Deep, loamy and clayey soils on gently sloping and gently undulating (2 to 6%) uplands. These soils have clayey or claypan subsoils that restrict root and water penetration. They have moderate to severe water and slight to moderate wind erosion hazards.
IIIs1	Deep, loamy soils on nearly level (0 to 2%) uplands that have claypan subsoils. The clayey subsoils restrict rooting, water penetration, and water release to plants. They have a slight to moderate wind erosion hazard.

Interpretive Grouping	LAND USES AND SOILS INFORMATION ON YOUR OPERATING UNIT
	Forage Suitability
E	Silty Clay - These soils are in the foot slope and toe slope landscape positions. They are slow or moderately slowly permeable soils that contain high contents of soluble salts in the underlying material. An unfavorable root zone limits choices and productivity of climatically adapted grasses and legumes. This group consists mainly of deep and moderately deep and well to somewhat poorly drained soils. They have medium or moderately fine textured surface layers over fine or moderately fine textured subsoils. Species best suited to this group of soils include alfalfa, green needlegrass, intermediate wheatgrass, smooth brome grass, big bluestem, and switchgrass. The major management concern on this site is maintaining plant vigor and soil tilth. Proper grazing use, deferred grazing, planned grazing systems, and proper hayland management will improve plant vigor and soil tilth.
F	Silty - These soils are in all landscape positions except basin. They are medium or moderately fine textured soils with moderate or moderately slow permeability. Some of these soils are rarely flooded and calcareous or have a short duration water table. All climatically adapted grasses and legumes are suited but bunch type species are not recommended on slope gradients of six percent or greater. This group consists mainly of deep and moderately deep and well to somewhat poorly drained soils. Species best suited to this group of soils include alfalfa, green needlegrass, intermediate wheatgrass, smooth brome grass, big bluestem, and switchgrass. The major management concern on this site is maintaining plant vigor and soil tilth. Proper grazing use, deferred grazing, planned grazing systems, and proper hayland management will improve plant vigor and soil tilth.

Interpretive Grouping	LAND USES AND SOILS INFORMATION ON YOUR OPERATING UNIT
	Ecological Site
Cy	Clayey ecological site: Climax plant cover is a mixture characteristic of the transition between the true and mixed prairie. Western wheatgrass and green needlegrass are the major constant dominants. Warm season grasses are present but are not abundant. An understory of short grasses is present. Forbs are woody plants are not abundant on this site. With overuse the bluestems and green needlegrass decrease and are replaced by an increase in western wheatgrass. Continued overuse results in western wheatgrass being replaced by short grasses.
Si	Silty ecological site: Climax plant cover is a mixture characteristic of the transition between the true and mixed prairie. Green needlegrass and western wheatgrass are the major constant dominants. Other cool season species are needleandthread, characteristic of mixed prairie, and porcupinegrass, of true prairie. Warm season grasses such as big and little bluestem, prairie dropseed, and sideoats grama are of considerable importance. Blue grama, Kentucky bluegrass, and sedges make up the understory. Forbs and shrubs, though generally not abundant, are an important part of the climax vegetation. With overuse the bluestems, prairie dropseed, porcupinegrass, and green needlegrass decrease and are replaced by western wheatgrass and needleandthread. Continued overuse results in a cover of short grasses such as blue grama or Kentucky bluegrass.

Interpretive Grouping	LAND USES AND SOILS INFORMATION ON YOUR OPERATING UNIT
	Windbreaks
3	CONSERVATION TREE/SHRUB GROUP 3 - Soils in this group are deep; at least 40 inches to a restrictive layer. The depth to a water table during the growing season is greater than 5 feet. Soils within this group are well drained, loamy textured soils with moderate and moderately slow permeability on uplands. These soils are well suited to all types of woody plantings. Except for those trees and shrubs that require abundant moisture, all climatically suited trees and shrubs have the potential to grow well. Competition from grass and weeds is the principal concern in establishing and managing trees and shrubs on these soils. Water erosion is a concern on the gently sloping to moderately steep areas.
4	CONSERVATION TREE/SHRUB GROUP 4 - Soil depth to a restrictive layer is at least 20 inches. Soils in this group have loamy surface textures with clayey subsoils. They have slow or very slow permeability, and occur on uplands. These soils are fairly well suited to woody plantings. Most of the climatically suited trees and shrubs grow well; however optimum growth is not possible because of the limited available water capacity and root development zone. High clay content and water availability have an effect on the selection of tree and shrubs species suitable for these soils. Competition from grass and weeds is the principal concern in establishment and management of trees and shrubs. Water erosion is a concern on the gently sloping to moderately steep areas.

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location SW 1/4 SW 1/4 Sec 28 Twp 115 Rg 61

County

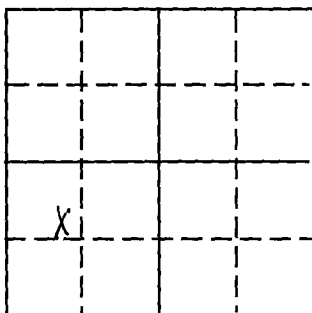
Spink

North

Please mark well location with an "X"

W

E



1 Mile

Well Completion Date

10/22/2003

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

? 4000 ft. from A Farm yard (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Forward

CASING DATA:

☐ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
LB/FT	3.00 IN	0.0 FT	170.0 FT	6.50 IN
LB/FT	IN	FT	FT	IN
LB/FT	IN	FT	FT	IN

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight	From	To
Cement	5	Lb/gal	0.0 Ft	20.0 Ft
		Lb/gal	Ft	Ft

Describe grouting procedure

Line to 20 Ft

SCREEN:

☐ Perforated pipe ☒ Manufactured
Diameter 3.00 Inches Length 20.0 FeetMaterial PVCSlot Size .016 Set From 150.0 Feet to 170.0 Feet

Other information _____

WAS A PACKER OR SEAL USED?

☐ Yes ☒ No

If so, what material? _____

Describe packer(s) and location _____

DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? Pellets
☐ No, Why Not? _____

Lab sample sent to for water quality analysis

Well Owner: Larry Wipf

Business Name: _____

Address: 18212 SD Hwy 37City, State, Zip: Frankfort SD 57440

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
Yellow Clay	0	18
Yellow Sand	18	33
Med Gray Sand	33	55
Fine Gray Sand	55	60
Fine Gray Sand w/ Blue Clay Brks	60	80
Med Fine w/ Coal	80	100
Coarse Sand	100	120
Coarse Sand w/ Coal Breaks	120	140
Med Sand w/ Coal Breaks	140	170

STATIC WATER LEVEL 40.0 FEET

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ Inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced flow rate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☒ Pumped Describe: 75 GPM with air compressor
☐ Bailed

☐ Other

Pumping Level Below Land Surface

_____ Ft. After _____ Hrs. pumped _____ GPM

_____ Ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate: _____ GPM

REMARKS

Shale 170

This well was drilled under license # 440

And this report is true and accurate.

Drilling firm: Pullman Well Drilling Inc

Signature of License Representative:

Signature of Well Owner or Equitable Property Holder:

Date: 10-29-03



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

December 18, 2003

Larry Wipf
18212 SD Hwy 37
Frankfort SD 57440

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DEC 30 2003

WATER RIGHTS
PROGRAM

Dear Mr. Wipf:

Thank you for submitting the *Application for a transfer a portion of Mr. Don Mendel's water right to your acreage*. There are a number of issues that will need to be addressed in order to complete the application prior to the Water Rights Program processing the application.

1. The total application filing fee for this type of transfer is \$100. Enclosed is the \$300 check you submitted. Please remit a check in the amount of \$100.
2. The period of annual use listed on your application is inconsistent with Mendel's existing water right. The period of use authorized by Water Right No. 1504-3 is April 1 through November. I suggest that the application state an annual period of use consistent with Water Right No. 1504-3. Do you concur? *yes I do*
3. Please mark the proposed location of the well and outline the acres to be irrigated on the enclosed map and return.
4. The statute (SDCL 46-5-34) which provides the basis for being able to amend a permit to severe and transfer acres states "... should it become impracticable to use all or any part of 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...." This requires the applicant to present a basis that meets the criteria of the statute for the transfer to other lands. Please provide an explanation of how it is impractical beneficially or economically to irrigate the present Mendel lands.

The Water Rights Program has concerns about the status on Mr. Mendel's water right because of numerous years of nonuse. A review of the irrigation questionnaires indicates that irrigation has not been conducted on this acreage since 1990. Also, a Water Rights Program staff person conducted a visual inspection of water rights from the Tulare:East James Aquifer last spring. This review found no irrigation equipment on Mr. Mendel's land and no sign of irrigation. The well was in place. The Water Management Board will ultimately need to make a determination on the status of the water right in determining whether to approve the transfer you are proposing.

Mr. Wipf, the questions listed above will need to be answered in order to complete the application prior to the Water Rights Program processing the application. If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Eric Gronlund".

Eric Gronlund
Water Rights Program, DENR
(605) 773-3352
eric.gronlund@state.sd.us

enclosures

December 19, 2003

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DEC 22 2003

WATER RIGHTS
PROGRAM

Garland Erbele, Chief Engineer
Water Rights Program, DENR
523 East Capitol
Pierre, SD 57501-3182

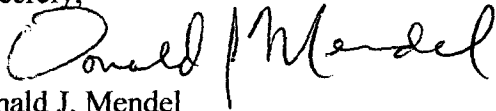
Dear Mr. Erbele:

This letter is in regard to the transfer of water right No. 1504-3, a subject which has been discussed with you in earlier communications. This is to affirm that water right No. 1504-3 was transferred to me when I purchased this farm from Irvin Wurz in 1981. I continued to irrigate annually with tow lines until the early 1990's. We were in an abnormal wet cycle until 2000, and it was not practical or in some cases even feasible to irrigate with tow lines during that period. In the last couple of years I have contemplated updating the irrigation equipment to center pivot, but several current considerations have delayed that action. I am retiring from active farming; I have a son whose National Guard Unit has been activated to military service in Iraq; and I have two neighbors and friends who are very interested in my transferring my water permit to them. I am in full agreement to transfer permit No. 1504-3 to them, and they will apply separately by the end of this year.

If there are any questions about this, please contact me. If it is necessary for me to appear before the Water Rights Board at the appropriate time please advise and I will be happy to do so.

Thank you for your help in this matter.

Sincerely,



Donald J. Mendel
17909 406 Ave.
Doland, SD 57436

Telephone 635-6587

Cc.Eric Gronlund

Dear Mr. Gronlund,

Governor Wallman informed me that Don Mendel has furnished you statements in addition to this one that explains why it is not practical to irrigate his land and why he wishes to transfer the Water Permit to me and Harry Wallman - you have those on file - we will certainly come to the meeting when scheduled. Thank you for your assistance in this.

December 19, 2003

Garland Erbele, Chief Engineer
Water Rights Program, DENR
523 East Capitol
Pierre, SD 57501-3182

Jerry Wipf

Dear Mr. Erbele:

This letter is in regard to the transfer of water right No. 1504-3, a subject which has been discussed with you in earlier communications. This is to affirm that water right No. 1504-3 was transferred to me when I purchased this farm from Irvin Wurz in 1981. I continued to irrigate annually with tow lines until the early 1990's. We were in an abnormal wet cycle until 2000, and it was not practical or in some cases even feasible to irrigate with tow lines during that period. In the last couple of years I have contemplated updating the irrigation equipment to center pivot, but several current considerations have delayed that action. I am retiring from active farming; I have a son whose National Guard Unit has been activated to military service in Iraq; and I have two neighbors and friends who are very interested in my transferring my water permit to them. I am in full agreement to transfer permit No. 1504-3 to them, and they will apply separately by the end of this year.

If there are any questions about this, please contact me. If it is necessary for me to appear before the Water Rights Board at the appropriate time please advise and I will be happy to do so.

Thank you for your help in this matter.

Sincerely,

Donald J. Mendel
17909 406 Ave.
Doland, SD 57436

Telephone 635-6587

Cc: Eric Gronlund

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WATER RIGHTS
PROGRAM

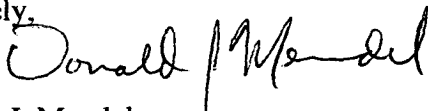
December 20, 2003

To Whom It May Concern:

This is in reference to water right No. 1504-3 and the visual inspection report of the Water Rights Program staff person made in the spring of 2003. The report was quoted as stating that, "found no irrigation equipment on Mr. Mendel's land and no sign of irrigation". As owner and operator I am clarifying that report. The irrigation equipment is still physically present on the premises, even though it is not visible from the road. The irrigation well and pump are located in the S1/2 of the NE1/4 of 15-115-61 Harrison Twp, Spink County. The well and pump are in pastureland 60 rods to the west of and in a different quarter section than the irrigated cropland. The portable LP power unit was and still is in machine shed storage. The irrigation pipe is stored on the old farm site, NW1/4 14-115-61. The tow lines were not in use at the time of the inspection, but were present and stored along the east and west boundary fences. None of this equipment is visible from the road.

At the time of the staff person visit, we visited about the wet cycle of the 90's, and that if 2003 would be "normal" or "dry" as 2002 had been, then 2004 would be the third year of statutory grace for keeping my water permit active. In this conversation no request was made to view irrigation equipment, other than the notation that my system was a tow-line system and not a center pivot.

Sincerely,



Donald J. Mendel
17909 406 Ave.
Doland, SD 57436

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JAN 07 2004

WATER RIGHTS
PROGRAM

December 20, 2003

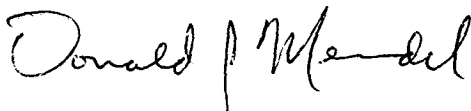
Eric Gronlund
Water Rights Program, DENR
523 East Capitol
Pierre, SD 57501-3182

Dear Mr. Gronlund:

This is in regard to the transfer of water right No. 1504-3 and meeting the criteria set forth in SDCL 46-5-34. In the current economic agricultural environment it is impractical to use this water right beneficially or economically for irrigation on the land to which it is appurtenant for the following reasons:

1. There is no part of the land to which the water right is appurtenant which can accommodate a standard sized center pivot. The land is transversed by an irregular creek and contains several "farmed wetlands". A standard size pivot could not make a full circle, and would be subject to getting stuck in the farmed wetlands. (See inclosed map)
2. The well is located 140 rods (2300 feet) from the center of where a proposed pivot would be. The well is also at an elevation 40 feet below the proposed pivot center.
3. At the time the permit was originally granted, irrigating with tow lines was economically practical and feasible. Tow line irrigation is no longer feasible because the economics have changed drastically in the last 25 years. Tow lines are labor intensive. The cost of farm labor has increased dramatically. High labor costs for irrigation is economically feasible only for high return specialty crops. Tow lines damage crops when moving the lines, which occurs every day during the irrigation season. High per unit returns are needed to offset the crop damage which is inevitable with tow line irrigation. In the current agricultural economic environment per unit returns are barely break even at best. There is no margin for deliberate crop damage in production practices.
4. Since tow lines are not economically practical and feasible, even though they were some years ago, and since a center pivot on this unit is not economically practical, I submit that this water right be transferred to other Spink County land which is suitable for center pivot irrigation where it will be of economic benefit to my friends and neighbors.

Sincerely,

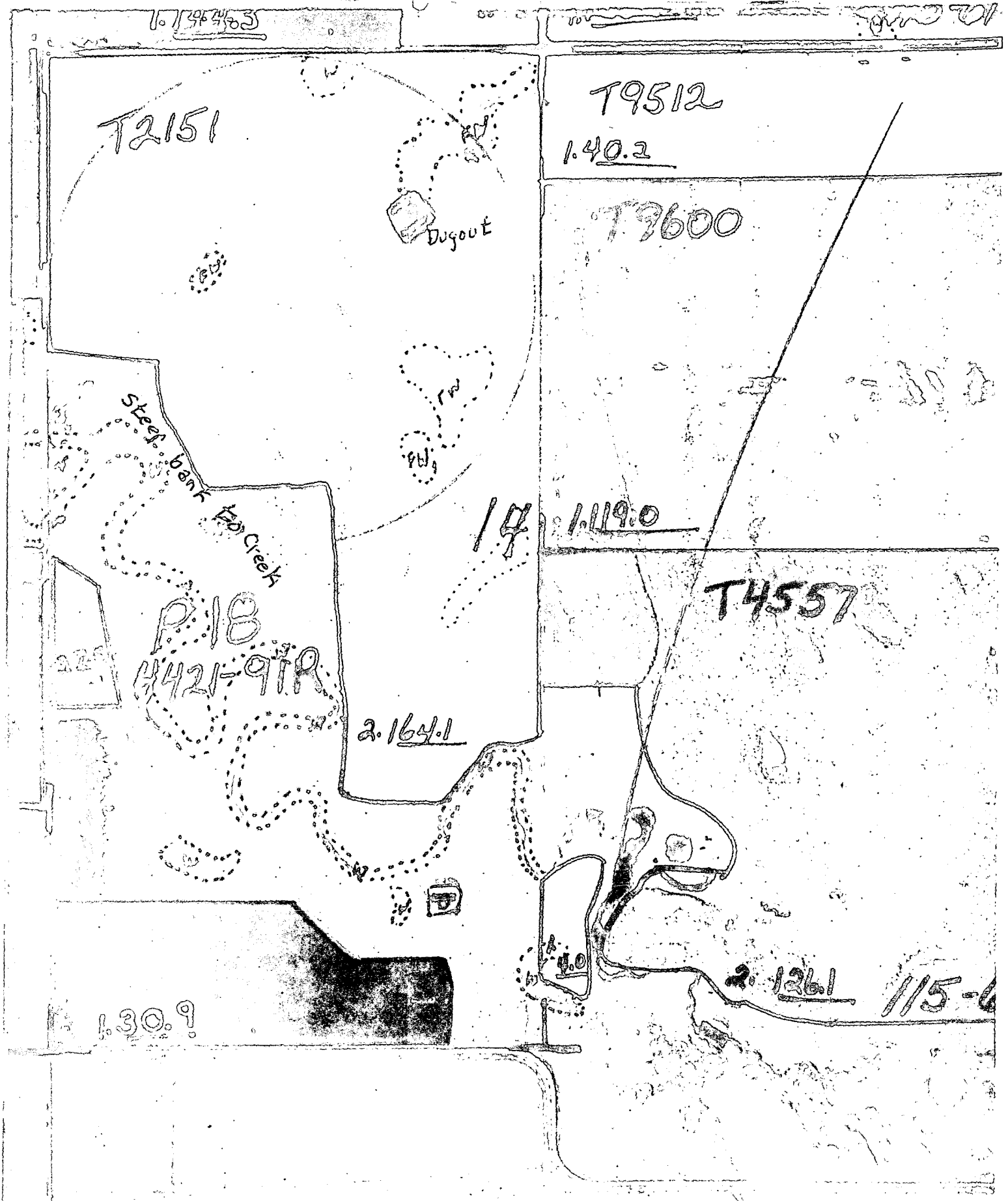


Donald J. Mendel

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JAN 07 2004
WATER RIGHTS
PROGRAM

MAP NOT TO SCALE
THIS IS NOT AN OFFICIAL WETLAND MAP.

44'





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 27, 2004

Larry Wipf
18212 SD Hwy 37
Frankfort SD 57440

Harvey Wollman
40004 184th Street
Frankfort SD 57440

Dear Mr. Wipf and Mr. Wollman:

Please find enclosed a copy of the staff report prepared on Water Permit Application Nos. 1504A-3 and 1504B-3.

These applications are scheduled for consideration before the Water Management Board at 1:30 PM on March 3, 2004, in the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD 57501.

Currently, the Chief Engineer has recommended deferral of the applications until the Water Management Board makes a determination on the validity of Water Right No. 1504-3 held by Donald Mendel. The hearing to consider cancellation of Water Right No. 1504-3 will take place just prior to the hearing on these applications. Depending on the Board's determination on the status of Water Right No. 1504-3, the Chief Engineer will revise his recommendation accordingly.

If you have any questions on the upcoming hearings, please feel free to contact me.

Sincerely,

Eric Gronlund
Water Rights Program, DENR
(605) 773-3352

cc: Don Mendel

enclosure

REPORT ON WATER PERMIT APPLICATION NOS. 1504A-3 AND 1504B-3
For Harvey Wollman and Larry Wipf
January 30, 2004

Application Nos. 1504A-3 for Harvey Wollman proposes to transfer 16 acres of irrigated land and 0.55 cfs diversion rate authorized by Water Right No. 1504-3 to water permit No. 2729A-3. The total appropriation under water permit No. 2729A-3 would be 1.66 cfs for irrigation of 136 acres located in the NW ¼ of section 1, T114N R62W.

Application No. 1504B-3 for Larry Wipf proposes to transfer 136 acres of irrigated land and a diversion rate of 1.66 cfs from Water Right No. 1504-3 to a well located near the center of the SW ¼ and 136 acres of land located in the SW ¼ of section 28, T115N R61W.

AQUIFER – TULARE EAST JAMES (T-EJ)

The Tulare East James is a predominantly buried outwash (sand and gravel) aquifer which has been declared fully appropriated based upon water use by the Water Management Board. This means that additional appropriations (new permits) can not be granted because water is not available from the Tulare East James aquifer. At this time there three sets of findings of fact and conclusions of law which have not yet been adopted which could affect appropriations from the Tulare East James aquifer. However, application Nos. 1504A-3 and 1504B-3 should not be affected by those circumstances.

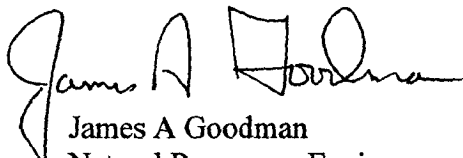
The question becomes can the original Water Right No. 1504-3 be amended and transferred to two new users. Evidence indicates that Water Right No. 1504-3 should be cancelled because it has been forfeited for nonuse. Originally, Water Right No. 1504-3 authorized irrigation of 370 acres with a diversion rate of 2.22 cfs. But according to irrigation questionnaire reporting these lands have not been irrigated since 1990.

REVIEW OF EXISTING WATER PERMITS/RIGHTS

The transfer to 1504A-3 would not increase the potential for interference. The nearest irrigation well would be about one-half mile to the south which is sufficient to minimize any potential impacts. A hydrograph for observation well SP-77U is included with this report. This observation well is located within one mile of the permit application and represents ground water levels for the area. The transfer of 1504B-3 could increase the potential for interference. The nearest existing irrigation well is about 2000 feet northeast of the well for this application. There will be drawdown created by pumping that will overlap but both the distance between wells and large saturated thickness (about 130 feet from test well log) should help to minimize potential impacts at this site. A hydrograph of observation well SP-77N is included with this report. This observation well is within one mile of this application and represents ground water levels for this area. Both water level records indicate that pumping does not significantly affect water levels in these areas. The hydrographs indicate the aquifer is capable of sustaining these proposed changes (Water Rights, 2004).

CONCLUSIONS

1. Ground water for new appropriations is not available from the Tulare East James aquifer. Both of these applications propose to use water transferred from an existing water right in the Tulare East James aquifer. The source of water for Water Right No. 1504-3 is also the Tulare East James aquifer. If Water Right No. 1504-3 is determined to be a valid right then it can be split and transferred.
2. The aquifer is under water table conditions at both sites. Water can be transferred to each site without impairing existing rights. There is an increased potential for interference at the 1504B-3 site, however, the saturated thickness and distance between production wells should minimize this potential.
3. If these applications are approved any new wells must be constructed in accordance with SD Well Construction Standards.
4. Evidence from the irrigation questionnaire filed for Water Right No. 1504-3 indicates that no irrigation has been conducted under this right since about 1990. This right appears to have been forfeited according to SDCL 46-5-37. It is up to the Water Management Board to determine if legal excuse exists for this Water Right under ARSD 74:02:01:37.01.
5. SDCL 46-5-34 allows amendment of an existing right. It appears that in order to transfer a portion of this water right (diversion rate and land) to the two applications the only criteria would be that both parties obtain sufficient land and water to meet their needs yet still remain within the original conditions of the water right. Any remaining waters not put to use would be subject to abandonment and forfeiture just like any other water permit/right.

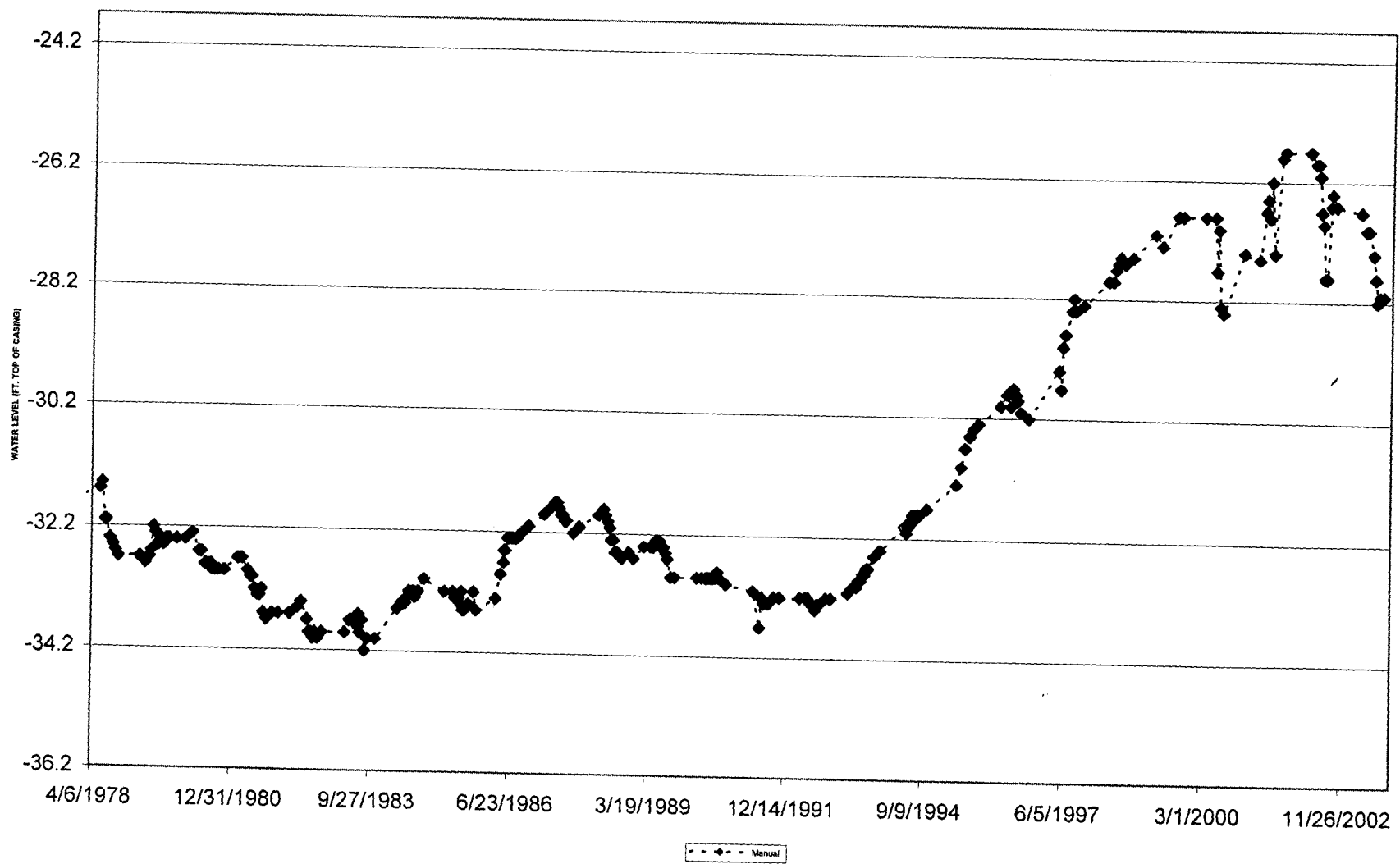


James A Goodman
Natural Resources Engineer

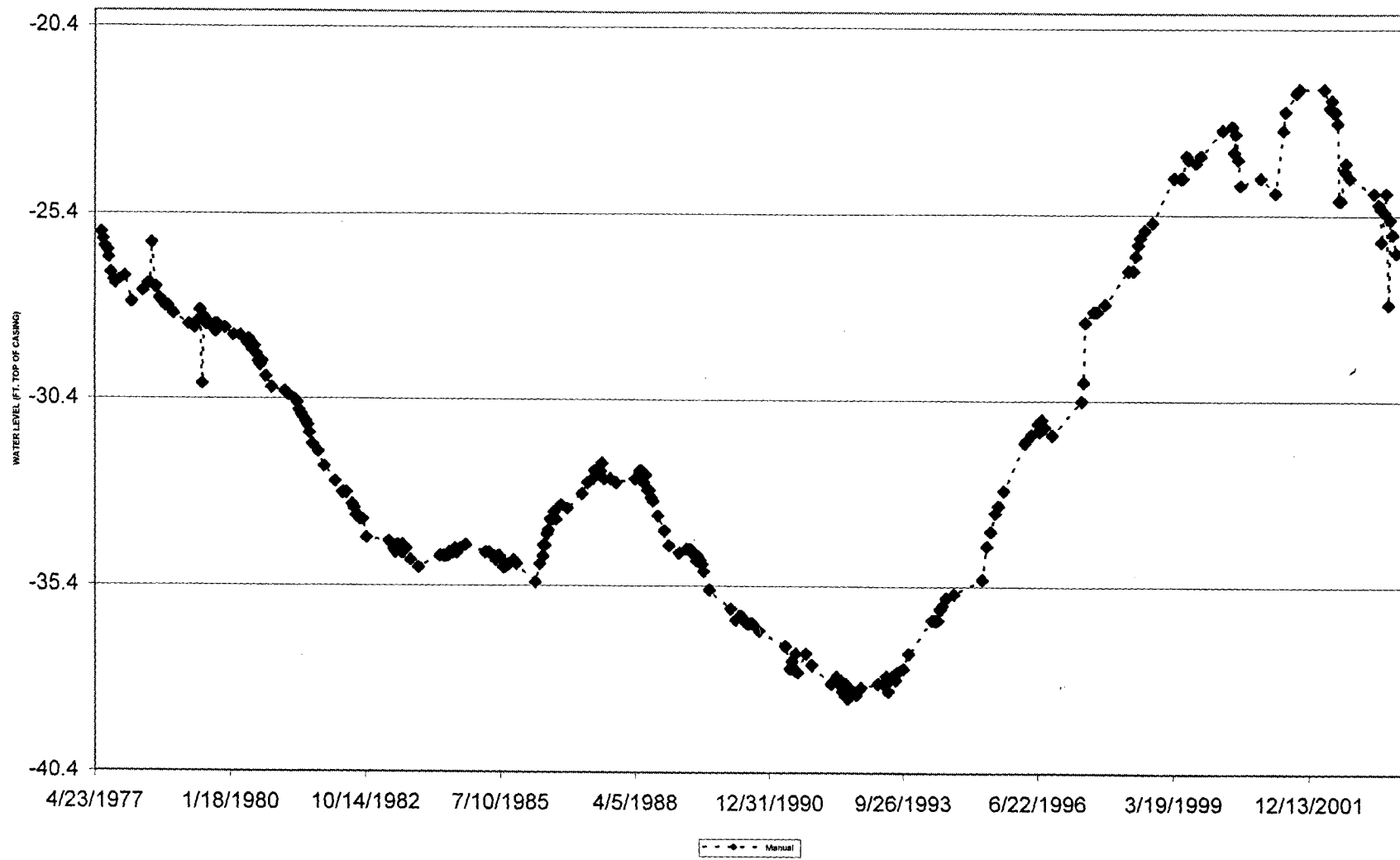
BIBLIOGRAPHY

Water Rights, 2004, Unpublished Observation Well Data for Spink County, SD DENR, DES, Water Rights Program, Pierre, SD, 57501.

WATER RIGHTS' OBSERVATION WELL
SP-77U



**WATER RIGHTS' OBSERVATION WELL
SP-77N**





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www.state.sd.us/denr

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 1504B-3, Larry Wipf**

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. 1504B-3, Larry Wipf, 18212 SD Hwy 37, Frankfort SD 57440

The Chief Engineer is recommending DEFERRAL of Application No. 1504B-3 until the Water Management Board makes a determination on validity of Water Right No. 1504-3 as set forth in the Notice of Cancellation dated January 29, 2004.

Garland Erbele, Chief Engineer
January 29, 2004



**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.

January 29, 2004

Larry Wipf
18212 SD Hwy 37
Frankfort SD 57440

Dear Mr. Wipf:

Water Permit Application No. 1504B-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Redfield Press printed at Redfield, SD (Ph # 605-472-0822). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice and the recommendation of the Chief Engineer are enclosed. The report on the application will be sent to you in the near future. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

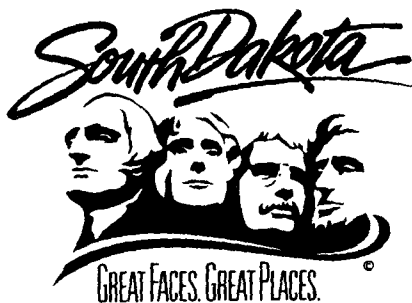
Be sure to contact the above newspaper to authorize publication of your Notice of Hearing and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization, the publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. 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

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

January 29, 2004

Redfield Press
PO Box 440
Redfield SD 57469-0440

ATTENTION: Legal Public Notice

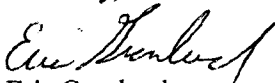
Enclosed is a Notice of Hearing on Application No. 1504B-3 to Amend by Transferring a Portion of Water Right No. 1504-3 to be published twice. Please publish the first notice on February 4, 2004 with the second publication 7 days later.

The applicant must verify to you that the notice is to be published, before you make the first publication. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Larry Wipf, 18212 SD Hwy 37, Frankfort SD (Ph # 605-472-0369).

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. 1504B-3

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

Date _____

We are in receipt of your letter of January 29, 2004 enclosing Notice of Hearing to Appropriate Water by Application No. 1504B-3 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 4, 2004 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 1504B-3 to Amend by Transferring a Portion of Water Right No. 1504-3

Notice is given that Larry Wipf, 18212 SD Hwy 37, Frankfort SD 57440 has filed an application to amend a portion of Water Right No. 1504-3 held by Donald Mendel. Application No. 1504B-3 proposes to amend Water Right No. 1504-3 by transferring a portion the irrigated acres and diversion authority to other land. Water Right No. 1504-3 appropriates 2.22 cubic feet of water per second (cfs) from one well located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15 to irrigate 370 acres located in the NW $\frac{1}{4}$, SW $\frac{1}{4}$ Section 14 and the S $\frac{1}{2}$ NE $\frac{1}{4}$ Section 15; all in T115N-R61W. This application proposes to sever 136 acres and a diversion authority of 1.66 cubic feet of water per second (cfs) and simultaneously transfer and become appurtenant to land in the SW $\frac{1}{4}$ Section 28, T115N, R61W. The well will be in the approximate center of the SW $\frac{1}{4}$ Section 28 T115N R61W. The water source for this irrigation system is the Tulare:East James Aquifer and no increase in the diversion rate or number of acres irrigated is authorized by this application.

State Law (SDCL 46-5-34) allows an irrigation water right to be severed from a parcel of land and simultaneously transferred to another parcel if it is impractical to use all or any part of the water beneficially or economically for irrigation on the current land. Mr. Wipf indicates that because of a creek and bridge crossing it is impractical to beneficially or economically for Mr. Mendel to irrigate the land. Mr. Mendel is in agreement with the proposed transfer.

At the same time this application was filed, Harvey Wollman also filed an application to transfer a portion of Water Right No. 1540-3 to different acres. See the public notice for Application No. 1504A-3 published in this addition.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends DEFERRAL of Application No. 1504B-3 until the Water Management Board makes a determination on validity of Water Right No. 1504-3 as set forth in the Notice of Cancellation dated January 29, 2004. If the Board rules that Water Right No. 1504-3 is not subject to cancellation, a hearing on this application will commence immediately and the Chief Engineer may revise his recommendation. Any party desiring to participate in the hearing must file a petition to intervene as set forth in the following paragraphs.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to 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 February 23, 2004. 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.

The Water Management Board will consider this application at 1:30 P.M., March 3, 2004 in the Matthew Training Center, Foss Building, 523 E Capitol, Pierre SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The March 3, 2004 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by February 23, 2004.

Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by February 23, 2004, at the above Water Rights Program address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

Since this application does not involve a monetary controversy in excess of \$2,500.00 or termination of a property right in accordance with SDCL 1-26-18.3, the Chief Engineer has determined this contested case may not be referred to the Office of Hearing Examiners. If any party disagrees with this determination, the Chief Engineer shall be notified by February 23, 2004.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-20, 46-2A-21; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

Affidavit of Publication

STATE OF SOUTH DAKOTA,
County of Spink: ss.

I, Mark E. Davis, of said County & State, being first duly sworn on oath, say that THE REDFIELD PRESS is a legal weekly newspaper as defined in Sec. 65.0508 South Dakota Code 1939, as amended by Chapter 298 of the Session of Laws of 1939, printed and published in the English language in the City of Redfield, in said County and State, by THE REDFIELD PRESS, and has been such newspaper during the time hereinafter mentioned, and that I Mark E. Davis, the undersigned, am Publisher of said newspaper in charge of the advertising department thereof, and have personal knowledge of all the facts stated in this affidavit, and that the legal or official notice entitled:

29 Notice of Hearing. Water right no. 1504-3

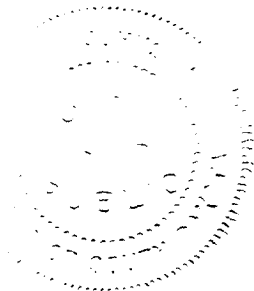
A printed copy of which is hereto attached, was printed and published in said newspaper in 2 successive issues, to wit: The first publication being made on February 4, 2004 and the last publication being made on February 11, 2004 that the full amount of the fee charged for publishing the same to-wit: the sum Sixty and 56100 Dollars, insures to the benefit of the publisher of THE REDFIELD PRESS, that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever.



Subscribed and sworn to before me this 19th day
of February, 2004.


Notary Public, South Dakota

My commission expires 11/10/09



RECEIVED
FEB 24 2004
WATER RIGHTS
PROGRAM

Notice of Hearing

28

NOTICE OF HEARING ON APPLICATION NO. 1504B-3 TO AMEND BY TRANSFERRING A PORTION OF WATER RIGHT NO 1504-3

Notice was given that Larry Wipf, 18212 SD Hwy 37, Frankfort SD 57440 has filed an application to amend a portion of Water Rights No. 1504-3 held by Donald Mendel. Application No. 1504B-3 proposes to amend Water Right No. 1504-3 by transferring a portion the irrigated acres and diversion authority to other land. Water Right No. 1504-3 appropriates 2.22 cubic feet of water per second (cfs) from one well located in the SE 1/4 NE 1/4 Section 15 to irrigate 370 acres located in the NW 1/4, SW 1/4 Section 14 and the S 1/2 NE 1/4 Section 15; all in T115N-R61W. This application proposes to sever 136 acres and diversion authority of 1.66 cubic feet of water per second (cfs) and simultaneously transfer and become appurtenant to land in the SW 1/4 Section 28, T115N, R61W. The well will be in the approximated center of the SW 1/4 Section 28 T115N R61W. The water source for the irrigation system is the Tulare: East James Aquifer and no increase in the diversion rate or number of acres irrigated is authorized by this application.

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Legal

for an automatic delay must be filed by February 23, 2004.

Any hearing will be adversary proceeding. Any person filing a petition and /or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact Eric Gronlund by February 23, 2004, at the above Water Rights Program address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

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(February 4, 11)



APR 30 2004

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

Larry Wipf
18212 SD Hwy 37
Frankfort SD 57440-7314

Dear Mr. Wipf:

Enclosed is Water Permit No. 1504B-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

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

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

Sincerely,

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

enclosures

SOUTH DAKOTA WATER WELL COMPLETION REPORT

11-02

Location SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec 29 Twp 115 Rg 61

County

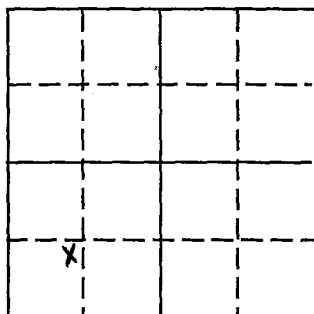
Spink

North

Please mark well location with an "X"

W

E



1 Mile

Well Completion Date

5/10/2004

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

? ft. from In Pasture (identify source)

PROPOSED USE:

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

METHOD OF DRILLING:

Reverse

CASING DATA:

☐ Steel ☒ Plastic ☐ Other

If other describe

PIPEWEIGHT LB/FT	DIAMETER IN	FROM FT	TO FT	HOLE DIAMETER IN
	16.00	0.0	106.0	24.00

GROUTING DATA:

Grout Type	No. of Sacks	Grout Weight Lb/gal	From Ft	To Ft
Cement	40		0.0	20.0

Describe grouting procedure

SCREEN:

☐ Perforated pipe ☒ Manufactured
Diameter 16.00 Inches Length 20.0 FeetMaterial PVCSlot Size .057 Set From 106.0 Feet to 126.0 Feet

Other information

WAS A PACKER OR SEAL USED?

☒ Yes ☐ No
If so, what material? Gravel

Describe packer(s) and location

Gravel Packed

DISINFECTION: Was well disinfected upon completion?

☒ Yes, How? Pellets

Lab sample sent to for water quality analysis

☐ No, Why Not?
Well Owner: Allen Wipf

Business Name:

Address: 18212 SD Hwy 37City, State, Zip: Frankfort SD 57440

WELL LOG:

DEPTH

FORMATION	FROM	TO
Yellow Clay	0	15
Med Yellow Sand	15	20
Fine to Med Gray Sand w/Coal	20	30
Med to Coarse Sand w/ Coal	30	60
Coarse Sand	60	126
Shale	126	127

STATIC WATER LEVEL

40'

FEET

If flowing: closed in pressure

PSI

GPM flow

through

Inch pipe

Controlled by

☐ Valve

☐ Reducers

☐ Other

Reduced flow rate

GPM

Can well be completely shut in?

WELL TEST DATA:

☐ Pumped Describe:

☐ Bailed

☐ Other

Pumping Level Below Land Surface

Ft. After

Hrs. pumped

GPM

Ft. After

Hrs. pumped

GPM

If pump installed, pump rate:

GPM

REMARKS

This well was drilled under license #

440

And this report is true and accurate.

Drilling firm: Pullman Well Drilling Inc.

Signature of License Representative:

Ken Palmer

RECEIVED

Signature of Well Owner or Equitable Property Holder:

OCT - 1 2004

WATER RIGHTS PROGRAM

Date:

9-29-04

10-4-04



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 28, 2013

1504B-3

Larry Wipf
40476 184th ST
Doland SD 57436 7400

Dear Mr. Wipf:

Enclosed is a "Notice" dated October 18, 2013 concerning the 2013 irrigation questionnaire.

The notice was originally mailed to 18212 SD Hwy 37, Frankfort 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

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 1504B-3

I have this day, May 23, 2012, made a thorough examination of the water use system constructed by Larry Wipf, 18212 SD Hwy 37, Frankfort SD 57440-7314 of Water Permit Nos. 1504B-3, bearing the priority of February 9, 1968 authorizing the diversion of 1.66 cu. ft. per second of the Tulare:East James aquifer for irrigation purposes, in Spink County.

Inspection contact:

Allen Wipf accompanied me on licensing investigation

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Pullman
- 2) No. of Wells 1
- 3) Depth(s) 127 feet
- 4) Well logs is available yes

Comment: well completion report appears to errantly reference Section 29 instead of Section 28.

Casing:

- 1) Diameter 16 inches
- 2) Length 106 feet
- 3) Type Plastic

Screen:

- 1) Type PVC
- 2) Length 20 feet
- 3) Static water level 40 feet

Pump:

- 1) Make Amarillo turbine
- 2) Model S80A
- 3) Size
- 4) Capacity 750 GPM

Motor:

- 1) Make John Deere diesel
- 2) Model No. 2640F
- 3) Horsepower rating 80 hp

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

- 1) Type _____
- 2) Size 8 inches
- 3) Length approx. 1,750 feet

Comments: Well in SW ¼ is very near pivot center.

C. Works used to apply water to beneficial use:

Center pivot:

- 1) Make T-L
- 2) Overall length approx. 1,370 feet (including area with water applied by end gun)
- 3) Number of towers 8
- 4) End gun Yes
- 5) Capacity 750 GPM

Comments:

Chemigation Equipment:

- 1) Does chemigate Yes -chemigation equipment was in place
- 2) Main line check valve yes
- 3) Inspection port/air relief yes
- 4) Low pressure drain yes
- 5) Discharge is 20' from source yes
- 6) Interlock type electrical
- 7) Injection pump type
- 8) Injection check valve yes
- 9) Injection line check valve or positive displacement pump yes

Comments:

D. 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 - irrigation commenced in 2004

List any extended period of nonuse: none

3) Exceptions to compliance are: none

E. Condition and Location:

1. The system is in excellent condition with the point(s) of diversion located as follows: approximately 1,320 feet north and 1,320 feet east of the SW corner Section 28 T115N, R61W (Lat 44.73742 Lon -98.17508)

2. The works are capable of diverting and conveying to the place of use 1.66 cu. ft. per second of water and is used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

Section 28, T115N, R61W

NW ¼ SW ¼ 34 acres

NE ¼ SW ¼ 34 acres

SW ¼ SW ¼ 34 acres

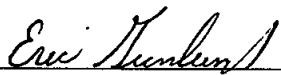
SE ¼ SW ¼ 34 acres

comprising a total of 136 acres of land and the license should be issued for 1.66 cfs.

3. All structures, wells and lands on map yes

F. Comments or other permit(s) associated with the project:

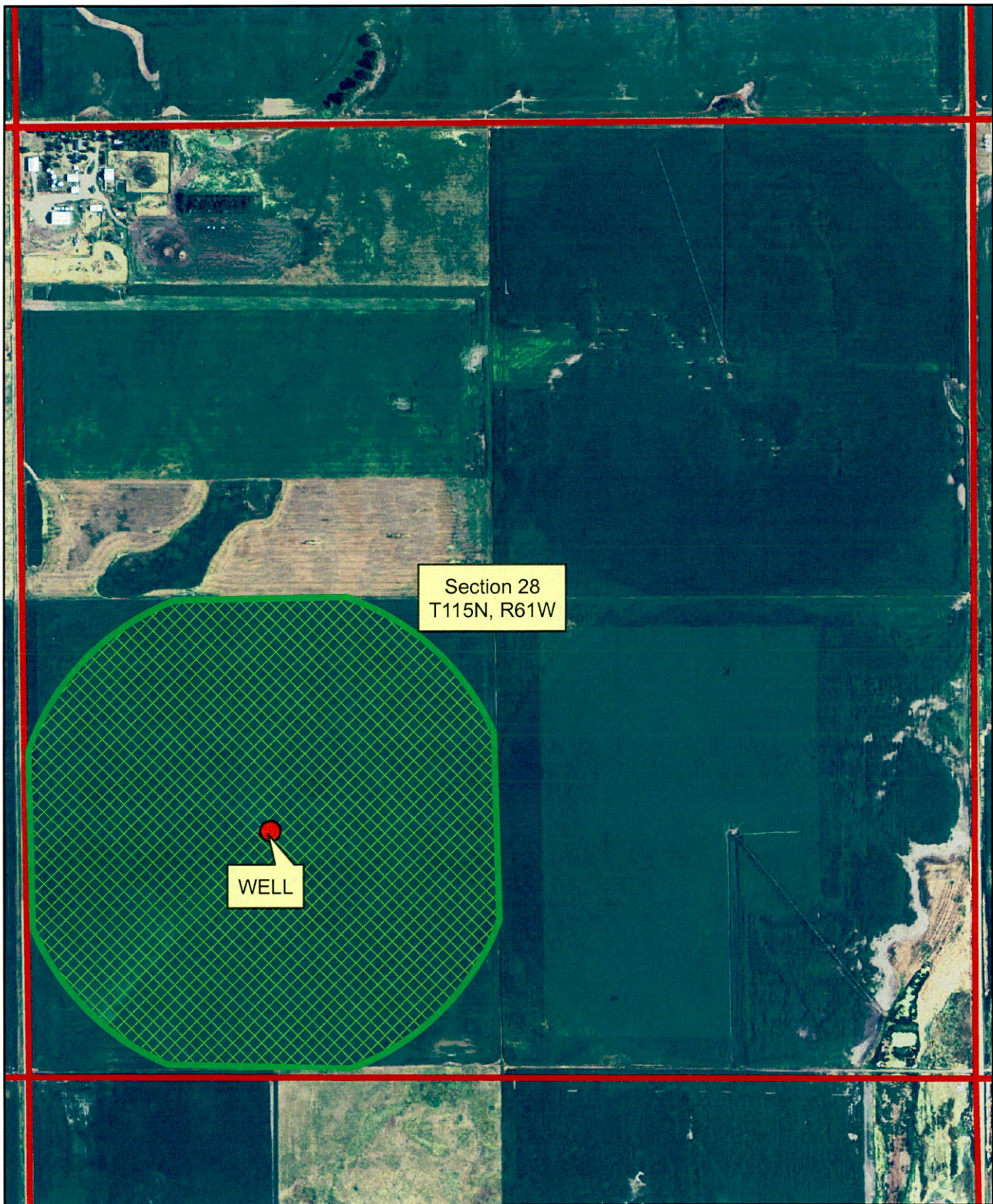
- System capacity is based largely on what Mr. Allen Wipf stated that the well produces and pivot is set to operate at which is 750 gpm (note: actual conversion of 1.66 cfs equates to 745 gpm)
- Water Permit No. 1504B-3 retained the priority date established by Water Right No. 1504-3 upon transfer to new land. Along with that the water right is afforded 3 acre feet per acre per year.



Eric Gronlund

Natural Resources Engineer III
DENR, Water Rights Program

Date report completed: September 12, 2014



1,000 500 0 1,000 Feet



Eric Gronlund

Eric Gronlund
Water Rights Program, DENR
Date of Investigation - May 23, 2012



**DEPARTMENT OF ENVIRONMENT
and NATURAL RESOURCES**

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



1504B-3

SEP 24 2014

Larry Wipf
18212 SD Hwy 37
Frankfort SD 57440

Dear Mr. Wipf:

Enclosed is Water License No. 1504B-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 1504B-3, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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

Sincerely,

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

enclosures

**STATE OF SOUTH DAKOTA
WATER LICENSE NO. 1504B-3**

(1) Larry Wipf, 18212 SD Hwy 37, Frankfort SD 57440 made Application No. 1504B-3, December 17, 2003 for a water permit to amend Water Right No. 1504-3. No. 1504B-3 severed 136 acres and 1.66 cubic feet of water per second and simultaneously transferred it to become appurtenant to land in the SW ¼ Section 28, T115N, R61W. The water source for the irrigation system is the Tulare East James Aquifer. Permit No. 1504B-3, with a priority date of February 9, 1968 (established under Water Right No. 1504-3) was approved March 3, 2004 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before March 3, 2009 and for the application to beneficial use of water on or before March 3, 2013.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the water supply system and is entitled to divert 1.66 cubic feet of water per second for beneficial use.

The location of the diversion point is approximately 1,320 feet north and 1,320 feet east of the SW corner of Section 28, T115N, R61W (center of the SW ¼).

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

Section 28, T115N, R61W	NE ¼ SW ¼	34 acres
	NE ¼ SW ¼	34 acres
	SW ¼ SW ¼	34 acres
	SE ¼ SW ¼	34 acres
	Total	136 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 Larry Wipf, 18212 SD Hwy 37, Frankfort SD 57440-7314 the holder and/or owner of Water Right No. 1504B-3 is issued a license to appropriate water, the right to use 1.66 cubic feet of water per second from ground water (one well, Tulare East James Aquifer) with a priority date of February 9, 1968 from the location specified in (2) of this license for irrigation purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 1504B-3 and subject to the following qualifications:

- The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
- The well authorized by Permit No. 1504B-3 shall be constructed by a licensed well driller and construction of the well and installation of the pump shall comply with the Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) pursuant to Section 74:02:04:28. *Well drilled in 2004 by Pullman Well Drilling Inc. A copy of the log is on file with the Water Rights Program.*
- This Permit is approved subject to the irrigation water use questionnaire being submitted each year.



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

SEP 24 2014

date



NOTICE OF TRANSFER OF OWNERSHIP

PAID

MAR 18 2019

Ck# 33100

To: Chief Engineer
Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

RECEIVED

MAR 07 2019

WATER RIGHTS
PROGRAM

No. 1504B-3

Date: 3-1-19

I/We request that Water Right/Permit No. 1504B-3

formerly owned by: Harry Wipf

be transferred to: (name & address) RHN LLC, 4535 Mormon Cadee Rd
haCrosse, WI 54601

Telephone No. 608-788-7962

Title to the following described land(s)/property has been transferred as described above:

SW 1/4, Section 28 of T115-N & R-61-W

I/We understand that the validity of Water Right/Permit No. 1504B-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

A fee of Fifty Dollars (\$50.00) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

I/We Reuben Nicolai the new owner, certify that the above information is true and correct.

Reuben Nicolai
(Signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date March 18

, 20 19

Reuben Nicolai 4800 S 33rd St La Crosse, WI 54601

RECEIVED OF _____

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	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. _____		
Fee for Filing Transfer Form <u>1504B-3</u>		
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. _____	50	00
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	

No. **09093**

By

Jeanne Goodman
Chief Engineer

zm

1504B-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 21, 2019

1504B-3
1723-3
3390-3A

RHN LLC
Reuben Nicolai
4535 Mormon Coulee Rd
LaCrosse WI 54601

Dear Mr. Nicolai:

I am writing to acknowledge receipt of the transfer forms and filing fees submitted for transferring Water Right Nos. 1504B-3, 1723-3 and 3390-3A.

The ownership changes have been completed. The above listed water rights, formerly held by Larry or Allen Wipf are now listed under RHN LLC.

Enclosed for your records are Receipt Nos. 09093, 09094 and 09096 in the amounts of \$50 each. If I can answer any questions for you, please let me know.

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

enclosures

1504B-3



DENR
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

January 22, 2021

NOTICE

TO: RHN LLC, REUBEN NICOLAI, 4535 MORMAN COULEE RD, LACROSSE, WI 54601
FROM: Ron Duvall, Natural Resources Engineer
for Jeanne Goodman, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2020 Irrigation Questionnaires

Our records indicate your 2020 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 23, 2020. The Water Management Board has directed that owners of water permits who have not submitted the 2020 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) 1723-3 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) 1504B-3 & 3390-3A qualification:

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

The hearing will be held at **Wednesday, March 3, 2021 at 10:00 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) 1504B-3 & 3390-3A in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1723-3 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 questionnaires are received in this office before the **March 3, 2021** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires 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: EITZVP**

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.

1504B-3



DENR
SOUTH DAKOTA

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

February 3, 2021

Reuben Nicolai
RHN LLC
4535 Morman Coulee Rd
LaCrosse WI 54601

RE: Water Right or Permit Nos. 1504B-3, 1723-3, 2211A-3, 3386-3, 3390-3A, 4295-3A, 4648-3, 8189-3
& 8190-3

Dear Mr. Nicolai:

I am writing to acknowledge receipt of your 2020 irrigation questionnaires. They were submitted January 26th by Troy Rasmussen.

You may disregard the January 22, 2021, "Notice" concerning reporting requirements for the above listed water permits and rights. 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, appearing to read "Genny McMath".

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 20, 2022

NOTICE

TO: RHN LLC, REUBEN NICOLAI, 4535 MORMAN COULEE RD, LACROSSE, WI 54601
FROM: Ron Duvall, Water Rights Permitting Administrator
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2021 Irrigation Questionnaires

Our records indicate your 2021 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 22, 2021. The Water Management Board has directed that owners of water permits who have not submitted the 2021 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) 1723-3 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) 1504B-3 & 3390-3A qualification:

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

The hearing will be held at **Wednesday, March 2, 2022 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) 1504B-3 & 3390-3A in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1723-3 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 questionnaires are received in this office before the **March 2, 2022** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires 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://danr.sd.gov/iq> using this password: ZNAMSS**

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.

1504B-3



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

February 9, 2022

RHN LLC
4535 Morman Coulee Rd
LaCrosse WI 54601

Dear Audra:

I am writing to acknowledge receipt of the 2021 irrigation questionnaires for Reuben Nicolai and RHN LLC. The forms were returned by Troy Rasmussen on January 27th and the last one on February 9th.

You may disregard the January 20, 2022, "Notice" concerning reporting requirements for the following water permits & water rights:

- Reuben Nicolai: 2211A-3, 3386-3, 4295-3A, 4648-3, 8189-3 & 8190-3 and
- RHN LLC: 1504B03, 1723-3 and 3390-3A

The information was received in our office prior to the Water Management Board meeting and is no longer on the agenda.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us

c: Troy Rasmussen (email)

McMath, Genny

From: audra@nicolaiapartments.com
Sent: Tuesday, February 21, 2023 1:34 PM
To: McMath, Genny
Subject: RE: [EXT] Deed
Attachments: Trustee's Deed - Turner County-Steven-recorded.pdf; Trustee's Deed - Clark County-Steven-recorded.pdf; Trustee's Deed - Hutchinson County-Steven-recorded.pdf

Genny-

The following deeds are attached:

- Permit 4648-3 (Turner County)
 - This paperwork should now be completed by and sent to the farmer.
 - L & L Feeders
28681 459th Avenue
Davis, SD 57021
605-238-5652
- Permit 8189-3 & 8190-3 (Clark County)
 - This paperwork should now be completed by and sent to the farmer.
 - Chris Lamb
43116 182nd St.
Vienna, SD 57271-5421
605-625-5082
- Permit 5392A-3 (Hutchinson County)
 - This paperwork should now be completed by and sent to the farmer.
 - Daniel Ulmer
159 Crestview Drive
Yankton, SD 57078
605-660-0485 & 605-760-3948 (Linda)
- Permits 1723-3, 1504B-3, & 3390-3A (Spink County)
 - This deed was not received with the others, so I've requested it be sent.
 - Will forward as soon as we receive it.
 - This paperwork should now be completed by and sent to the farmer.
 - Matt VanBuskirk
Box 98
Hitchcock, SD 57348
605-690-0100

Let me know if you need anything else from me.

And again, thank you for all of your help with this.

Audra B.

McMath, Genny

Subject: FW: [EXT] Steven Nicolai - Spink County Properties

Subject: RE: [EXT] Steven Nicolai - Spink County Properties

Genny-

To keep it consistent, we should probably just keep the Spink County land in the RHN LLC. VanBuskirk can still complete the annual irrigation questionnaires.

Also, we received your letter confirming the ownership changes and updates- thank you! Water Permit # 5392A-3 in Hutchinson County was not noted for Dan Ulmer to complete. Did you need something else from us to make that update?

Thank you again for your help with everything. We really appreciate it.

Audra B.



4535 Mormon Coulee Road
La Crosse, WI 54601
608.788.7962 ~ Phone
608.788.4430 ~ Fax
www.NicolaiApartments.com

*~ **Be sure to LIKE us on Facebook** <https://www.facebook.com/NicolaiApartments> ~*

-----Original Message-----

From: "McMath, Genny" <Genny.McMath@state.sd.us>
Sent: Monday, March 6, 2023 7:00am
To: "audra@nicolaiapartments.com" <audra@nicolaiapartments.com>
Subject: RE: Steven Nicolai - Spink County Properties

Audra,
 So does this mean you do not want to transfer those in Spink County?

From: audra@nicolaiapartments.com <audra@nicolaiapartments.com>
Sent: Friday, March 3, 2023 9:44 AM
To: McMath, Genny <Genny.McMath@state.sd.us>
Subject: [EXT] Steven Nicolai - Spink County Properties

Genny-

The water transfer forms we completed for Spink County, transferring the property to Steven may not have been necessary. The property is listed under RHN LLC and that LLC was transferred to Steven. The assignment of the LLC is attached for your records.

Thanks!

Audra B.



4535 Mormon Coulee Road

La Crosse, WI 54601

608.788.7962 ~ Phone

608.788.4430 ~ Fax

www.NicolaiApartments.com

~ Be sure to LIKE us on Facebook <https://www.facebook.com/NicolaiApartments> ~

ASSIGNMENT OF LIMITED LIABILITY COMPANY INTEREST

We, Steven M. Nicolai and Ronald Helstad, as co-trustees of the Reuben Nicolai Revocable Trust do hereby assign, transfer and convey all of the Reuben Nicolai Revocable Trust's interest in RHN, LLC, a South Dakota Limited Liability Company, **effective on November 30, 2022**, to Steven M. Nicolai.

Dated this 20th day of October, 2022.

Reuben Nicolai Revocable Trust

BY: Steven M. Nicolai
Steven M. Nicolai

BY: Ronald Helstad
Ronald Helstad

STATE OF WISCONSIN)
) ss
COUNTY OF LA CROSSE)

Personally came before me this 20th day of October, 2022, the above-named Steven M. Nicolai and Ronald Helstad, as trustees of the Reuben Nicolai Revocable Trust, to me known to be the persons who executed the foregoing instrument and acknowledged the same.




Darla A. Krzoska
Notary Public, State of Wisconsin
My Commission is permanent.



1504B-3

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

March 6, 2023

1504B-3
1723-3
3390-3A

Steven M Nicolai
RHN LLC
4535 Morman Coulee Rd
LaCrosse WI 54601

Dear Mr. Nicolai:

I am writing concerning the ownership changes submitted for Water Right Nos. 1504B-3, 1723-3 and 3390-3A. It is my understanding a decision has been made not to transfer those records but to leave them in the name of RHN LLC.

The filing fees of \$150 submitted for the ownership changes will be refunded to you and sent under separate cover. It may take up to two weeks for the refund to be processed.

The annual irrigation questionnaires for these water rights will be forwarded to Matt VanBuskirk, PO Box 98, Hitchcock SD 57348. If the operator changes for any reason, please let us know.

If I can answer any questions, give me a call.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
Genny.mcmath@state.sd.us



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 19, 2024

NOTICE

TO: VAN BUSKIRK FARMS LLP, MATT VAN BUSKIRK, PO BOX 98, HITCHCOCK, SD 57348
0098

FROM: Ron Duvall, Engineer III
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2023 Irrigation Questionnaires

Our records indicate your 2023 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 20, 2023. The Water Management Board has directed owners of water permits who have not submitted the 2023 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) 1723-3 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) 1504B-3, 3390-3A, 3191-3, 5601-3, 7264-3, 7315A-3, 7316-3 & 8261-3 qualification:

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

The hearing will be held at **Wednesday, March 6, 2024 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) 1504B-3, 3390-3A, 3191-3, 5601-3, 7264-3, 7315A-3, 7316-3 & 8261-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1723-3 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 questionnaires are received in this office before the **March 6, 2024** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires for your use. If you have questions or need assistance, please contact Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: LZTUNL**

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.



1723-3 3390-3A
1504B-3

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 19, 2024

NOTICE

TO: VAN BUSKIRK FARMS LLP, MATT VAN BUSKIRK, PO BOX 98, HITCHCOCK, SD 57348 0098

FROM: Ron Duvall, Engineer III
for Eric Gronlund, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2023 Irrigation Questionnaires

Our records indicate your 2023 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 20, 2023. The Water Management Board has directed owners of water permits who have not submitted the 2023 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) 1723-3 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) 1504B-3, 3390-3A, 3191-3, 5601-3, 7264-3, 7315A-3, 7316-3 & 8261-3 qualification:

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

The hearing will be held at **Wednesday, March 6, 2024 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) 1504B-3, 3390-3A, 3191-3, 5601-3, 7264-3, 7315A-3, 7316-3 & 8261-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1723-3 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 questionnaires are received in this office before the **March 6, 2024** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires for your use. If you have questions or need assistance, please contact Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: LZTUNL**

cc: STEVEN NICOLAI, 4535 MORMAN COULEE RD, LACROSS WI 54601

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 AGRICULTURE
and NATURAL RESOURCES**

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

February 2, 2024

1504B-3, 3390-3A, 3191-3
5601-3, 7264-3, 7315A-3
1723-3, 7316-3 & 8261-3

Van Buskirk Farms LLC
c/o Matt Van Buskirk, Mgr
PO Box 98
Hitchcock SD 57348

Dear Mr. Van Buskirk:

I am writing to acknowledge the receipt of your 2023 irrigation questionnaire(s).

You may disregard the January 19, 2024, "Notice" concerning the reporting requirements for Water Permit No(s). 1504B-3, 1723-3, 3390-3A, 5601-3, 7264-3, 7315A-3, 7316-3 & 8261-3. The information was received prior to the March 6, 2024, Water Management Board meeting and these permit numbers have been removed from the agenda.

If you have any questions, please contact me.

Sincerely,

Amanda Dewell
Water Rights Program
605 773-3352
Amanda.Dewell@state.sd.us

NOTE: The irrigation questionnaire for Scott Mueller's Permit No. 3191-3 has not been received. Permit No. 3191-3 is still scheduled to be reviewed by the Water Management Board on Wednesday, March 6, 2024. If the irrigation questionnaire is returned prior to the March 6th meeting, it will be removed from the agenda.

cc: STEVEN NICOLAI, 4535 MORMAN COULEE RD, LACROSS WI
SCOTT A MUELLER, 19221 397TH AVE, HITCHCOCK SD 57348