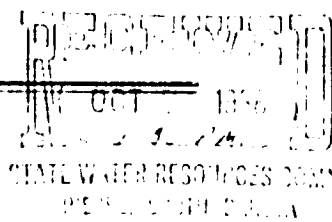


- 15000-2
1. Considered 12-4, 1968
 2. Name of Applicant WILLARD ZNEBEK
 3. Post Office Address HOVEN
 4. Amount of water claimed 3.42
 5. Source of water supply GROUND WATER
 6. Water to be used for IRRIGATION
Acres to be irrigated 240
 7. Water to be diverted and used in POTTER county
about 3S 1E miles of HOVEN
 8. Proof of Publication
Received
Not Received 1st
 9. Application
Approved
Subject to
Not Approved
Action deferred
 10. Remarks:

No. 1622-3Water Division No. 3 MISSOURI RIVER District
(Blanks to be filled by the Engineer for the W. R. C.)

APPLICATION FOR PERMIT To appropriate Water within the State of South Dakota

(NOTE—Draw a line through items not applicable.)

1. Name of applicant Willard Zweber
Postoffice address Hoven, County Potter, State So. Dak.

- I. If a corporation _____
- (a) Name of same _____
- (b) Date and place of incorporation _____
- (c) Amount of capital stock _____
- (d) Amount paid in _____
- (e) Names and addresses of directors _____

(NOTE—A certified copy of articles of incorporation must accompany the application.)

II. Method of accomplishing the work and financial resources of the applicant:

- (a) Method of accomplishing work (Whether by contract, employment of others, or by direct labor)
contract and direct labor
- (b) Cash on hand, \$ adequate (c) Treasury stock, \$ _____
- (d) Bonds to be issued, \$ _____ (e) Other resources, \$ _____

2. Name of diversion work Zweber Irrigation Project #1
3. Amount of water claimed 3.42 cubic feet per second
4. Source of water supply ground water
5. Location of point of diversion Well #1, Center of NW $\frac{1}{4}$, Sec. 22; Well #2, NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 22, all in T120N, R74W.
- _____ on _____ bank Potter County.
6. Annual period or periods during which water is to be used April thru October
7. To be used for:

- I. Irrigation or domestic use: Gravity, overhead sprinkling or combination system? Sprinkler

- (a) Number of acres to be irrigated 240 acres.
NW $\frac{1}{4}$, 130 acres, SW $\frac{1}{4}$, 110 acres, all in
- (b) Legal subdivisions to be irrigated Section 22, T120N, R74W.

(NOTE—A list of lands to be irrigated, giving each subdivision and fraction with acreage thereof, should be written here, or may be appended as a part of this application. Same must also be shown on accompanying map.)

- (c) Statement as to domestic use (giving location, etc.) _____

II. Stockwatering, mining, milling, power, fish culture, fire protection and public recreation:

- (a) Nature of use _____
Name any of the above uses claimed
- (b) Amount of power to be generated _____ horse power.
Amount claimed for engine cooling _____
- (c) Location of plant _____
- (d) Method of developing power _____
- (e) Point where water will be returned, to stream _____

MAP No 1169-3

8. Estimated cost of work:

(a) Head Gates, \$..... (b) Pumping plant, \$.....
 (c) Fluming, \$..... (d) Canal-earth, \$..... Rock, \$.....
 (e) Other structures \$. Total, \$.....

9. Description of diversion works:

I. Nature of works: (Reservoir, dam, ditch, flume, pumping plant, etc.)

Wells, pump, mainline and sprinkler system

II. Dimensions of works.

(a) Dam: Height.....feet; length at bottom feet; length at topfeet; thickness at bottomfeet; thickness at topfeet; slope at front water face; slope at back face material used in construction
 (b) Reservoir: Capacity when filledacre feet. Surface area at highwater mark.....acres.

DEPTH AT OUTLET- FEET	SURFACE AREA AT EACH DEPTH AT OUTLET-ACRES	ACRE- FEET CAPACITY

(c)* Head gate: Width.....feet; heightfeet;
 Material
 (d) Canal: Total lengthmiles.

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER-LINE	GRADE PER MILE
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet

(Give dimensions where reductions in size are made.)

10. Time required for completion of work fiveyears.
 11. Time required for complete application of water to the proposed beneficial use four years.
 12. Choice of newspaper for publication of notice of intention to appropriate
 Hoven Review, Hoven, S.D.

STATE OF SOUTH DAKOTA

County of Hughes } ss.

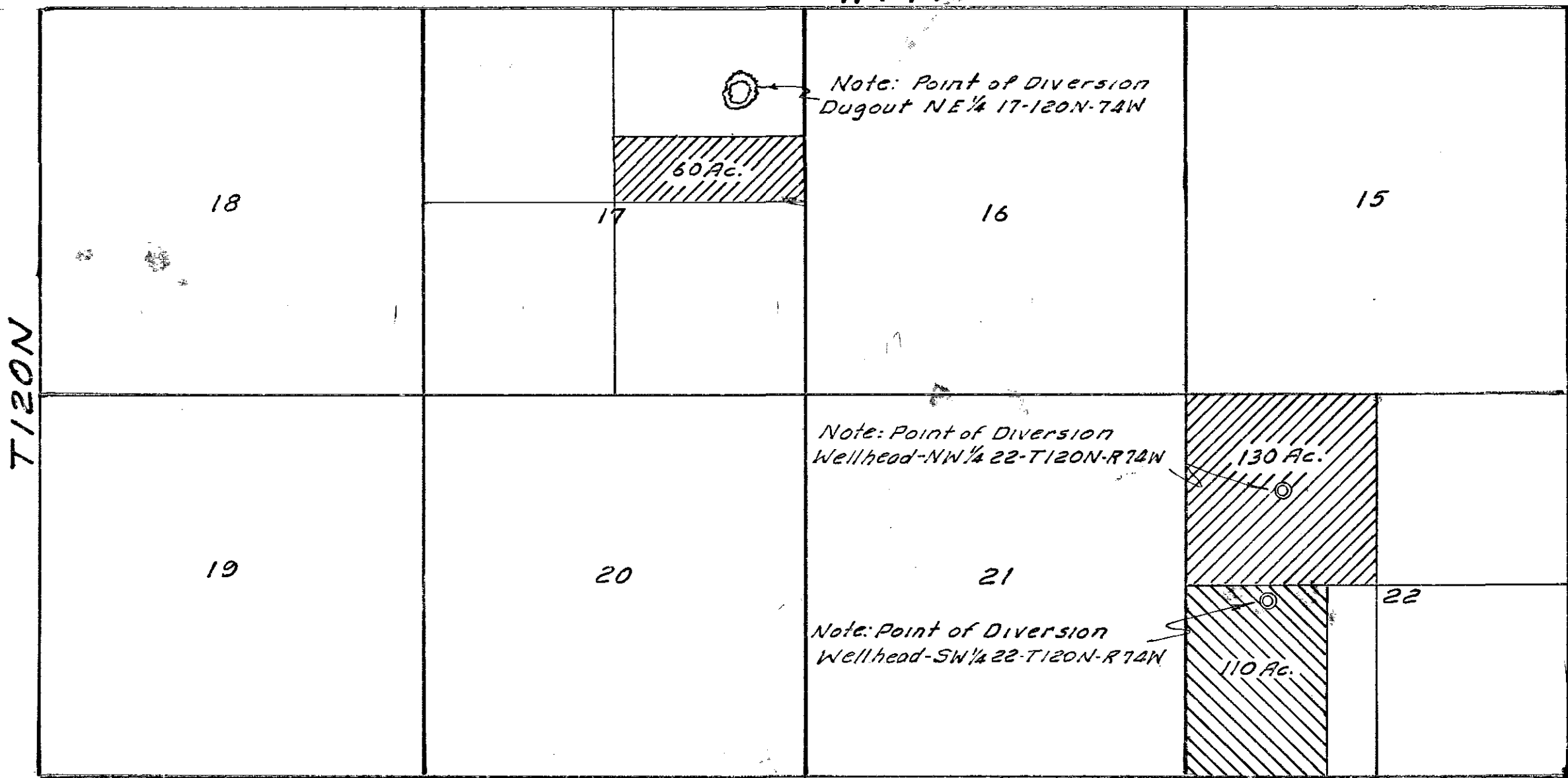
I, Willard Zweber, being first duly sworn on my oath depose and say: That my relation to the above described undertaking is that of owner, that I have read the above foregoing statement, examined the map accompanying the same, and that I know of my own personal knowledge that the matters therein stated and shown are true.

Signed *Willard Zweber*
 7th October 1968

Subscribed and sworn to before me this day of 19.....

Notary Public (or other qualified officer.)

R74W



Mrs. Rose Zweber } Owners
Willard Zweber }

SURVEYOR'S CERTIFICATE

and Willard Zweber

I, MAYNARD C. SOMMER, REGISTERED LAND SURVEYOR FOR THE STATE OF SOUTH DAKOTA, DO HEREBY CERTIFY THAT AT THE REQUEST OF MRS. ROSE ZWEBER, ~~THE~~ OWNER, I HAVE SHOWN THE LANDS PROPOSED TO BE IRRIGATED, WITHIN HER OWNERSHIP BOUNDARIES ON October 22nd, 1968, FOR WHICH APPLICATION FOR APPROPRIATIVE WATER RIGHT IS MADE AND THAT THIS MAP IS A TRUE REPRESENTATION THEREOF.

WITNESS MY HAND AND SEAL THIS 22nd DAY OF October, 1968.

Maynard C. Sommer
REGISTERED LAND SURVEYOR

STATE OF SOUTH DAKOTA
SS
COUNTY OF HUGHES

ON THIS 22nd DAY OF October, 1968, BEFORE ME THE UNDERSIGNED NOTARY PUBLIC, IN AND FOR THE STATE OF SOUTH DAKOTA, PERSONALLY APPEARED BEFORE ME MAYNARD C. SOMMER, KNOWN TO ME TO BE THE PERSON WHO EXECUTED THE FOREGOING SURVEYOR'S CERTIFICATE AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

WITNESS MY HAND AND SEAL THIS 22nd DAY OF October, 1968.

MY COMMISSION EXPIRES: January 19, 1975

AB Snell
NOTARY PUBLIC

Remarks by State Water Resources Commission:

- The irrigation well approved under this Permit is located near domestic wells which may obtain water from the same aquifer. -----
----- The irrigation well owner, under this Permit, shall control his irrigation withdrawals so there is not a reduction of needed -----
----- water supplies in existing domestic wells. -----

STATE OF SOUTH DAKOTA
County of HUGHES } ss.

Pierre, South Dakota, DECEMBER 9, 1968

This is to certify that the foregoing application was received by the Commission at 1:31 o'clock
p.m. upon the 7TH day of OCTOBER, 1968

State Water Resources Commission
By: Auston Lyn
for Chief Engineer, Executive Officer

Number of permit 1622-3

Date of first receipt of application OCTOBER 7, 1968

Date of return to applicant for correction, amendments or changes required as follows: _____, 19____

Date of receipt of corrected application _____, 19____

Date from which applicant may claim right OCTOBER 7, 1968

Approved DECEMBER 4, 1968, Recorded in Book 10 Page 294

This is to certify that we have examined the foregoing application for a permit to appropriate water of the State of South Dakota, and we hereby grant the same as stated herein, subject, however, to the following limitations and conditions:

- 1st. The equivalent of at least one-fifth of the work above specified is to be completed on or before JUNE 4, 1971
- 2nd. The whole of said work is to be completed on or before DECEMBER 4, 1973
- 3rd. The limit of time for proof of beneficial use of water appropriated in accordance herewith is DECEMBER 4, 1977
- 4th. The water appropriated shall be used for the purpose of IRRIGATION

5th. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.

6th. The amount of the appropriation herein granted shall not exceed 342 cubic feet per second; neither shall it exceed the capacity of the above described system of diversion works, nor the least amount of water that experience may hereafter indicate as necessary for the production of crops in the exercise of the best husbandry; and further said appropriation must be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually

and beneficially applied for irrigation on or before DECEMBER 4, 1977; said water to be used during the following described annual period:

APRIL THRU OCTOBER

Witness my hand this 9TH day of DECEMBER, 1968

State Water Resources Commission

By: [Signature]
Chief Engineer, Executive Officer

Certificate of Construction Issued _____, 19____

Water License Issued _____, 19____

9. (Continued)

III. Well Specifications

(a) Hole and casing

Size of drill hole or excavation 24 in, Depth 75Type of casing Steel
(wood, concrete, steel, etc.)Size of casing 18, Thickness of casing 12Length of casing 78. If collection gallery, length, size and depth of gallery _____

(b) Screens

Type of perforated screen SlottedSize of perforated screen 3/16 (diameter), 15 (length)Thickness of gravel pack 3 in, length of gravel pack 75

(c) Water Bearing Materials

Distance to water 48 Character of water bearing materials GravelThickness of water bearing material 25

(d) Pump and Motor

Type of pump Turpine
(centrifugal, propeller, mixed flow, etc.)Name of pump Barkley, size 8 in CaKind of motor Electric
(gasoline, electric, diesel, etc.)Horsepower 75, Name of Motor GE

(e) Complete well

Capacity 1000 at drawdown of 22, Estimated cost 3300.00(f) Owner of land upon which well is located William Zander

Name

Address Howard S. Park

(g) Distance to nearest existing wells

On same owner's property 80 rods. On property owned by others 240 rods

on or before
(First Publication November 7 1968.)

APPROPRIATION OF WATER

Office of State Water Resources Commission,

Pierre, S. Dak., October 2 1968

Notice is hereby given that Willard Zweber whose postoffice address is Hoven S. Dak., has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 3.42 cubic feet of water per second of time from the ground water through the Zweber Irrigation Project #1, the point of diversion of which are to be located on the center of the NW 1/4 and ~~XXXXXX~~ in the NW 1/4 of the SW 1/4 of Section 22 Twp. 120N Range 74W. Said water to be used for the purpose of providing irrigation portions of the following described land:

the NW 1/4 Section 22, T120N, R74W

~~XXXXXX~~ ~~XXXXXX~~ purpose

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 4th day of December, 1968, at 2:00 P.M. All interested persons may appear and be heard.

Appropriate action will be taken by the Water Resources Commission after suitable time has elapsed for the consideration of any or all information presented.

cc: Willard Zweber, Hoven, D.

State Water Resources Commission

By:

~~Chief Engineer, Executive Officer~~

Burton F. Jones

Water Rights Specialist

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA } ss.

County Potter

Robert Seann being duly sworn, deposes and says the annexed printed copy of Notice of Intention to Appropriate Water was taken from the

Hoven Review a newspaper which during the whole time of publication of said notice herein after stated, has been and is printed and published in the

Hoven Review of Potter County of

Hoven and State of South Dakota; that the said notice was published in said newspaper on the following dates:

October 24, 1968

October 31, 1968

November 7, 1968

November 14, 1968

In each and every issue of the full number thereof, the first publication being made on the 24th day of October

1968 and the last publication on the 14th day of

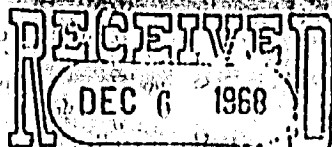
November 1968, upon which days or times

of publication aforesaid the newspaper was regularly published, and that during the whole time of said publication he

was owner the printer 2 and publisher 2 of the said newspaper.

Robert Seann

Subscribed and sworn to before me this 15th day of November A.D. 1968



STATE WATER RESOURCES
PIERRE, SOUTH DAKOTA

APPROPRIATION OF WATER

Office of State Water Resources
Commission

Pierre, S. Dak., October 9, 1968

NOTICE is hereby given that Willard Zweber, whose post-office address is Hoven, S. Dak., has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 3.42 cubic feet of water per second of time from ground water through the Zweber Irrigation Project No. 1, the point of diversion of which are to be located in the Center of NW 1/4 and NW 1/4 of the SW 1/4 of Section 22, Twp. 120N, Range 74W. Said water to be used for the purpose of providing irrigation on portions of the following described land: the NW 1/4 Section 22, T120N, R74W.

This application will be taken up by the State Water Resources Commission at their office at Pierre for consideration upon the 4th day of December, 1968, at 2:00 P.M. All interested persons may appear and be heard.

Appropriate action will be taken by the State Water Resources Commission after suitable time has elapsed for the consideration of any or all information presented.

cc: Willard Zweber, Hoven, S. D.

State Water Resources
Commission

By: Burton F. Jones,
2-35c Water Rights Specialist

Notary Public G.C. Seann County, S. D.

South Dakota
Department of Natural Resource Development

WATER RIGHTS COMMISSION
Joe Foss Building, Pierre, South Dakota 57501
Phone 605/224-3151

No. 1622-3 & 1623-3

March 16, 1977

Willard Zweber
Hoven
South Dakota 57460

Dear Mr. Zweber:

Existing Water Rights, Deferred Applications, and Advertised Applications in the Hoven Area will be discussed and referred or advertised applications will be considered by the Water Rights Commission during their March 23-24, 1977 meeting, at 9:00 A.M., March 24, 1977. Any comments concerning the attached Hoven Area Report or the applications can be presented at this hearing.

The Commission will be meeting in the South Dakota Education Association Auditorium, 411 E. Capitol, Pierre, S.D.

Please advise if you have any questions concerning the hearing.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Commission

JH/bw

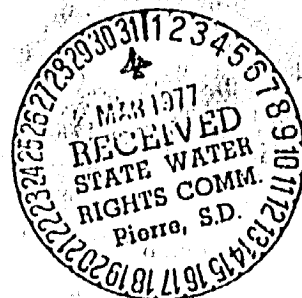
Telephone:
Office 655
225-3763

KING AND KING
ATTORNEYS AT LAW
Offices 402 — 403
Capitol Building
415 Main Street
Aberdeen, South Dakota 57401

Residential Phones
H. I. King — 225-7635
Rory King — 225-4893

March 29, 1977

Water Rights Commission Staff
Attention Mr. Burton Jones

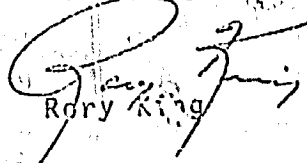


Dear Mr. Jones:

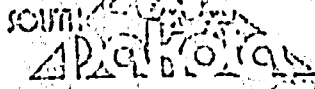
Mr. and Mrs. Zweber have informed me that I made a mistake in my presentation before the Commission on March 24, 1977. In response to the recommendation of the Staff that the second well on Section Seventeen be shut down, I indicated that the Zwebers had come to the Commission in March, 1976, and that you had reviewed their maps and records and had indicated that everything was in order. The second well on Section Seventeen was dug when the water ran short in July, 1976. In March, 1976, when you reviewed their records, there was only one well on Section Seventeen.

This error was entirely mine, and I sincerely apologize.

Sincerely,


Rory King

RK:pf
cc Mr. John Wagner
Chairman
Water Rights Commission



1622-3, 1623-3.
1704-3, 2271, 2598-3

Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501

Phone 605/224-3151

April 2, 1977

Rory King, Attorney
415 South Main
Aberdeen, S.D. 57401

Ron Wheeler, Attorney
201 Farmers & Merchants Bank Bldg.
Huron, South Dakota 57350

Gentlemen:

The Water Rights Commission will not at this time, meet to reconsider their action taken March 24, 1977 concerning ground water Water Rights held by Messrs. Zweber, Frost, Turner and Hageman. Commission Members have been contacted and all are willing to hold a special meeting; however, they do not believe a meeting should be scheduled, unless new information can be presented.

The Commission Staff is to continue to monitor ground water levels in the Hoven area. If water levels show noticeable recovery, the Chief Engineer could authorize pumping by Messrs. Frost, Turner and Hageman on a restricted or full-time basis following contact with and agreement by Commission Members.

The Staff also intends to make final inspections for licensing of Water Rights held by Messrs. Zweber, Turner, Frost and Hageman. Since their permits are new, Messrs. Frost and Hageman are authorized up to five years to complete their projects. However, unless their projects are not complete, we would expect to make final inspections at this time. The permit holders are authorized, but not entitled to, a specified number of cubic feet per second (cfs) based upon the number of acres authorized. The amount of water licensed on each permit is based upon well capacity, providing the cfs is the same or less than the authorized cfs. We would expect that Mr. Zweber (No. 1622-3) will be licensed for four wells based upon his statements at the March 24, 1977 meeting, that Mr. Turner will be licensed for one well, Mr. Hageman for three wells and Mr. Frost for three wells. Any Additional wells would have to be either replacement wells for older abandoned wells or a new water right permit would be required before new wells could be pumped.

Mr. Rory King, Attorney
Mr. Ron Wheeler, Attorney
April 5, 1977

Page 2.

We also intend to recommend to the Commission that measurement devices be required for all irrigation projects in the Hoven South Aquifer to allow well production to be monitored. This would be done in accordance with SDCL 46-2-9 and 46-2-11.

Attached is a copy of the Excerpts from the March 23-24, 1977 Water Rights Commission meeting which pertain to the Willard Zweber matter. The Excerpts have not been approved by the Commission and are submitted for your information only.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Commission
Department of Natural Resource
Development
Foss Building
Pierre, South Dakota 57501

JH/bw
Encl: As stated
cc: Water Rights Commission
Willard Zweber
Allen Turner
Gillis Hageman
Clarence Frost

1423 3



Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501
Phone 605/224-3151

May 9, 1979

TO: Permit Holders in the Hoven South Aquifer
FROM: John Hatch, Chief Engineer, Water Rights Commission

Willard Zweber has indicated that he does not think the Commission Staff has monitored pumping and water levels in the Hoven South Aquifer as thoroughly as it should be, and has requested time to discuss this with the Commission.

The Water Rights Commission will discuss water rights in the Hoven South Aquifer at 10:45 a.m., May 25, 1979 at the Lincoln Room, Howard Johnson Motel, 2211 LaCrosse, Rapid City, South Dakota.

This hearing will be conducted in accordance with the provisions of SDCL 46-1-1 thru 46-1-9; 46-1-14; 46-2-9 thru 46-2-11; 46-2-13; 46-5-1 thru 46-5-8; 46-5-10 thru 46-5-22; 46-5-41; 46-6-3; 46-6-5; 46-6-6.1; 46-6-10; 46-6-3.1; 46-6-14 and Commission Rules ARSD 52:01:01:01 thru 52:01:01:13.

After consideration of the testimony the Commission can alter, conditionally alter, or continue the operating procedure adopted at a previous hearing.

This hearing is an adversary proceeding. Any person 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 at the hearing. Decisions of the Commission may be appealed to the Courts as provided by law.

Very truly yours,

A handwritten signature of John Hatch is written over the typed name.

JOHN HATCH, Chief Engineer
Water Rights Commission

JH:kjw

Telephone:
Code 605
225-3783

ATTORNEYS AT LAW
Offices 402 — 403
Capitol Building
415 Main Street
Aberdeen, South Dakota 57401

Residential Phones
H. I. King — 225-7833
Rory King — 229-4389

May 19, 1977

RECEIVED

MAY 20 1977

DEPT. OF NATURAL
RESOURCE DEVELOPMENT

Mr. Ronald J. Wheeler
Churchill, Manolis & Wheeler
201 Farmers & Merchants Bank Building
Huron, South Dakota 57350

Mr. Warren R. Neufeld
Assistant Attorney General
State Capitol Building
Pierre, South Dakota 57501

Mr. Don Wagner, Chairman
Water Rights Commission
Department of Natural Resource Development
Pierre, South Dakota 57501

Miss Janet Pearson
Water Rights Commission
Department of Natural Resource Development
Pierre, South Dakota 57501

Dear Sirs and Madam:

Enclosed please find my proposed Findings of Fact and Conclusions of Law.

The Findings and Conclusions coincide with those submitted by Mr. Wheeler with the exception that I have deleted his paragraph X. The Zwebers do not feel that sufficient evidence was presented to establish the fact their poor performance is due to well construction or to aquifer formation.

Mr. and Mrs. Zweber have specific objection to Findings of Fact III, IV, XI and XIII of Janet Pearson's proposed Findings of Fact.

Sincerely,

Rory King
Rory King *pf*

RK: *pf*
ENC.

cc Water Rights Commission Members

May 18, 1977

Donald Wagner, Chairman
Water Rights Commission
Ralph, South Dakota 57650

Ronald J. Wheeler, Esquire
Churchill, Manolis, Wheeler & Freeman
Farmers and Merchants Bank Bldg.
P.O. Box 176
Huron, South Dakota 57530

Rory King, Esquire
Attorney at Law
P. O. Box 204
Aberdeen, South Dakota 57401

Warren R. Neufeld, Esquire
Assistant Attorney General
State of South Dakota
State Capitol Bldg.
Pierre, South Dakota 57501

Re: Matter of the Complaint of Willard Zweber

Dear Sirs:

Enclosed please find proposed findings of fact on behalf
of the staff of the Water Rights Commission and in consultation
with John Hatch, Chief Engineer.

Very truly yours,

Janet Helen Pearson
Legal Counsel

JHP:kjw

CHURCHILL, MANOLIS, WHEELER & FREEMAN

ATTORNEYS AT LAW

FARMERS AND MERCHANTS BANK BUILDING

P.O. BOX 176

PIERRE, SOUTH DAKOTA 57501

605 352 8624

RECEIVED

MAY 17 1977

DEPT. OF NATURAL
RESOURCE DEVELOPMENT

IRWIN A. CHURCHILL 1882-1961
JOHN F. SAUER 1901-1962
WILLIAM S. CHURCHILL
GEORGE N. MANOLIS
RONALD J. WHEELER
RODNEY FREEMAN JR.

May 16, 1977

Mr. Rory King
Attorney at Law
Post Office Box 204
Aberdeen, South Dakota 57401

Mr. Warren R. Neufeld
Assistant Attorney General
State of South Dakota
State Capitol Building
Pierre, South Dakota 57501

Mr. Don Wagner
Ralph
South Dakota 57650

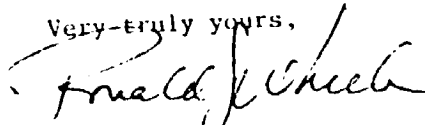
Re: Water Rights Commission Appeal

Gentlemen:

Enclosed please find a copy of my proposed
Findings of Fact and Conclusions of Law in connection with this matter.

As you can see by this letter, I am sending
a copy of the same to all of the other commissioners and to Janet Pearson.

Very truly yours,



Ronald J. Wheeler
of Churchill, Manolis, Wheeler & Freeman

RJW:mi

Enclosure

cc: Water Rights Commission Members
Ms. Janet Pearson - original Decision

CHURCHILL, MANOLIS, WHEELER & FREEMAN
ATTORNEYS AT LAW
FARMERS AND MERCHANTS BANK BUILDING
P.O. BOX 176
HURON, SOUTH DAKOTA 57350

605 352-8624

RECEIVED

MAY 20 1977

DEPT. OF NATURAL
RESOURCE DEVELOPMENT

IRWIN A. CHURCHILL 1882-1961
JOHN P. SAUER 1901-1965
WILLIAM S. CHURCHILL
GEORGE H. MANOLIS
RONALD J. WHEELER
RODNEY FREEMAN JR.

May 19, 1977

Ms. Janet Helen Pearson
Legal Counsel
Department of Natural Resource Development
Office of the Secretary
Office Building Number 2
Pierre, South Dakota 57501

Re: Matter of the Complaint of Willard Zweber

Dear Janet:

I am in receipt of your proposed Findings of Fact in connection with the above matter.

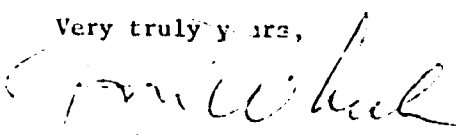
Although I have no strenuous objections to them, I feel that I cannot stipulate to their being entered by the Commission over mine.

Therefore, I would ask that you file my original Decision as a proposed Decision with the Commission, and the Chairman can then sign whichever one he wants.

Incidentally, I assume that your Conclusions of Law would be identical to mine; but since they are not part of your attached Findings, I do not know that for a fact.

If you have any questions about this, please contact me.

Very truly yours,


Ronald J. Wheeler
of Churchill, Manolis, Wheeler & Freeman

RJW:mf

cc: Mr. Donald Wagner, Chairman
Water Rights Commission
Ralph, South Dakota 57650

1523-2

AUGUST 18, 1977

Memorandum :
Hoven Area

TO: FILE

FROM: James Winterton
Division of Water Rights

1. Water levels checked in the observation wells.

SW-11 read 8.5 feet

SW-1A read 20.3 feet

Both wells were within the limits established by the Water Rights Commission for this particular area. This writer then gave authorization to the irrigators to again use their systems, but only if a flow meter had been installed on the system.

2. This writer contacted Mr. Gillis Hogeman and inspected his flow meter. He had just completed installing the meter that week. He was advised that he could go ahead and again use his system.

3. This writer called to Mr. Frost's place but he was not home, therefore a message was left that he could go ahead with his irrigation.

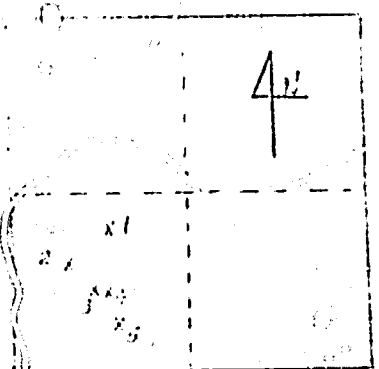
4. This writer then drove to Bi Turner's place

and advised him of the situation. On this date he still had not installed a flow meter but it was on its way. This writer advised him that upon installing the meter, he was free to go ahead with the irrigation.

5. This writer then contacted Mr. Willard Zweber and told him the situation. On this date he was not operating his systems. When asked if he had installed a flow meter, he stated that he had not, however he would not be using his system for the remainder of the year. With the rains received over the past weekend, he felt he had all the water needed for the season. Mr. Zweber stated that he would be installing a flow meter before starting his irrigation the next spring.

Signed
James M. Winterlin

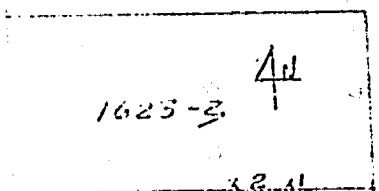
24 Aug 1971
 File
 1622-3
 Zucker



Clarence Fost
 Permit 2578-3
 Well 1 $\frac{1}{2}$ = 48.6 ft.
 2 40.6 ft.
 3 50.2 ft.
 4 53.0 ft.
 5 50.8 ft.

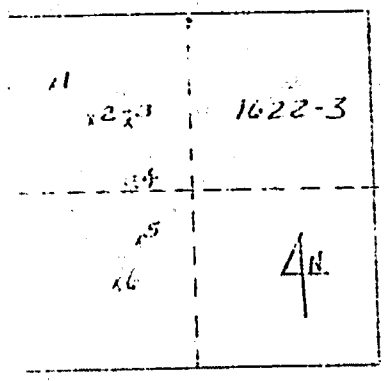
Sec. 4, T120N, R74W

Willard Zucker

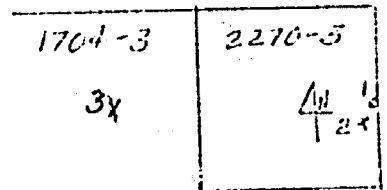


Well 1. $\frac{1}{2}$ 4.25 ft.
 2. $\frac{1}{2}$ 4.10

N $\frac{1}{2}$ Sec 17, T120N, R74W



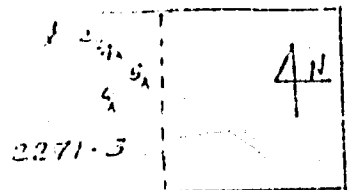
$\frac{1}{2}$ Well 1. 45.8 ft
 2. 47.1
 3. 48.1 corr. p.p.e (old well)
 4. 51.9
 5. 55.3
 6. 50.1



Allen Turner
 Well #1 $\frac{1}{2}$ 19.3 ft production well
 #2 $\frac{1}{2}$ 18.6 " 4" service well
 #3 $\frac{1}{2}$ 28.4 " Production well

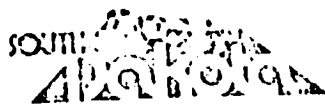
NE $\frac{1}{4}$, 16, 124, 74 NW $\frac{1}{4}$ 15, 120N, 74W

Gillis Hagaman



Well #1 $\frac{1}{2}$ 15.7 ft production well
 #2 $\frac{1}{2}$ 13.1 4" observation well
 #3 $\frac{1}{2}$ 15.6 4" " "
 #4 $\frac{1}{2}$ 15.3 Production well
 #5 $\frac{1}{2}$ 18.4 " "
 #6 $\frac{1}{2}$ 18.4 " "

Sec. 1, T124N, R74W



Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501
Phone 605/773-3151

August 18, 1978

WATER RIGHTS COMMISSION

Gentlemen:

August 16, 1978, Marvin Knecht of this office was in the Hoven area and measured water levels in the Zweber, Hageman, Frost, and Turner irrigation wells. We had some body in the area August 7; however, the electric reader wire became entangled in one of Mr. Zweber's wells and the bottom portion of lead wire was broken off. Since our other electric readers had been used in the Carl Estabrook pump test and then for a pump test being supervised by the State Geological Survey, the broken reader was the only reader available. We were unable to get the electric reader repaired until August 11. The other electric readers have since been returned; however, in the meantime, Mr. Zweber contacted several Commission members.

Mr. Zweber had reported that Turner and Hageman were pumping air. Mr. Hageman, Mr. Turner, and Mr. Frost each reported they have had mechanical problems, not water shortage problems.

Measurements taken during 1978 have been as follows:

Zweber 1622-3 (Home place)							
date	gpm	Well #1 59' deep	Well #2 64' deep	Well #3 68' deep	Main Well #4	Well #5	Meter reading (gallons)
5-24		45.8'	47.1'	51.9'	55.3	50.1	not installed (zero)
not pumping		(47.5' 10-25-76)	(53.8' 10-25-76)				
6-20	600 ⁺	53.86'	53.51'	60.12'	65.16'	61.96'	2,624,900
pumping							
7-6	600	55.5'	54.2'	60.08'	65.3'	61.37'	4,492,500
pumping							
8-7	600	57.32'	55.86'		wire caught in well		9,874,800
pumping							
8-16	600	55.2'	61.01'	62.39'	69.1'		11,766,100
pumping		(pumping restricted because well pumping air)			(after gpm reduced to 580 gpm)		

Zweber 1623-3 (north permit)			
date	gpm	main well 30' deep	east well meter reading (gallons)
5-24		4.10'	4.25'
not pumping			not installed (zero)
6-20		4.87'	6.58'
not pumping			229,900
7-6		3.51'	5.7'
not pumping			499,000

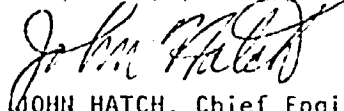
August 18, 1978
James River Irrigators
page 4

Information thus far indicates that Mr. Zweber's water shortage problems at the home place are within his own well field. If other irrigation pumping was affecting Mr. Zweber's pumping, then observation well PT 76H should be dropping also. In order to maintain the 600 gpm he needs for his center pivot, the water levels in his wells have continued to drop even though the water level in PT 76H has not dropped.

At this time, even if Frost, Hageman and Turner were shut off, Mr. Zweber would still experience the same water shortage conditions. During those years when ground water levels are high, the water levels in Mr. Zweber's wells will still drop and if he were to pump enough water we would still expect him to experience water shortage problems even though PT-76H would still reflect the higher water levels.

The primary problem is that the sand and gravel materials in the Zweber well field are not the type that high capacity wells can be developed in to provide the amount of water necessary for sustained pumping at the continuous rate necessary for irrigation with a center pivot.

Very truly yours,

A handwritten signature in dark ink, appearing to read "John Hatch", with a stylized flourish at the end.

JOHN HATCH, Chief Engineer
Water Rights Commission

JH/gy

Observation Well Measurements

PT 76H located corner of Zweber's home place between Zweber's and Hageman's land.

1-9	29.8'
3-22	no reading
4-11	29.5'
6-12	29.2'
6-20	29.5'
7-6	29.6'
8-7	29.8'
8-16	29.5'

PT 76B located about $\frac{1}{2}$ mile west of PT 76H and Northeast from Hageman's wells
(this well is within the Hageman irrigation wells cone of influence)

1-9	18.8'
3-22	no reading
4-11	18.2'
6-1	18.3'
6-12	18.1'
6-8	18.6'
6-12	18.1'
6-20	19.0'
6-28	19.3'
7-6	19.2'
7-10	18.9'
7-25	19.5'
8-7	20.0'
8-16	20.2'

SW 6A located on corner west of Hageman's (Hageman, Turner, & Frost to be shut
off if water level drops to 21.5')

1-9	20.3'
3-22	18.7'
4-11	19.4'
6-12	19.4'
6-20	19.5'
7-6	19.5'
8-7	19.8'
8-16	19.7'

SW 4 (Hageman, Turner & Frost to be shut off if waterlevel drops to 9.0')
located west of SW-6A

1-9	7.8'
3-22	7.2'
4-11	5.3'
6-12	6.4'
6-20	7.0'
7-6	6.2'
8-7	7.1'
8-16	7.3'

August 18, 1978
James River Irrigators
page 2

Zueber 1623-3 (north permit) cont.

date	gpm	main well 30' deep	east well	meter reading (gallons)
8-7 (pumping)	450			3,833,400
8-16 (not pumping)		7.43'	8.28'	4,982,900

Hageman 2271-3

date	gpm	main well	SE of main well	NW of main well	South (infield)	meter readings (gallons)	observation wells near main well used for pump test	
							South (closest)	North
5-24		15.3'	18.4'	15.7'	18.4'	not installed	15.6'	15.1'
not pumping								
6-20	600	31.95'	25.26'	33.44'	25.49'	11,666,500	21.54'	20.1'
pumping								
7-6						15,970,500		
not pumping								
8-7	600					32,182,800		
pumping								
8-16		19.2'	21.9'	19.23'		36,591,100	19.25'	18.81'
not pumping						42,773,600		
9/11								

Frost 2598-3

date	gpm	#1 north well	#3 1st well SE pivot	#4 2nd well SE of pivot	#2 NW of pivot	#5 SE of pivot	meter readings (gallons)
5-24		48.6'	50.2'	53.0'	40.2'	50.8'	not installed
not pumping							
6-20	600	56.77'	wire hangup-	60.0'	50.0'	63.83'	41,158,300
pumping			no reading				
7-6	600						47,834,300
pumping							
8-7	500		pump motor				70,671,600
pumping			defective				
			well out				
			of service				
8-16		52.01'	54.51'	56.15'	44.7'		74,771,700
not pumping							

Turner 1704-3

date	gpm	well	meter reading (gallons)
5-24		28.4'	not installed
not pumping			(zero)
6-20		26.63'	4,027,400
pump pulled (acidizing well)			
7-6 (not pumping)			4,567,300
8-7	400		13,984,400
pumping			
8-16 (not pumping)		28.25'	17,277,900

402-3

SOUTH DAKOTA
Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501
Phone 605/224-3151

May 9, 1979

TO: Permit Holders in the Hoven South Aquifer
FROM: John Hatch, Chief Engineer, Water Rights Commission

Willard Zweber has indicated that he does not think the Commission Staff has monitored pumping and water levels in the Hoven South Aquifer as thoroughly as it should be, and has requested time to discuss this with the Commission.

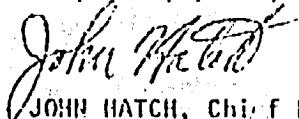
The Water Rights Commission will discuss water rights in the Hoven South Aquifer at 10:45 a.m., May 25, 1979 at the Lincoln Room, Howard Johnson Hotel, 2211 LaCrosse, Rapid City, South Dakota.

This hearing will be conducted in accordance with the provisions of SDCL 46-1-1 thru 46-1-9; 46-1-14; 46-2-9 thru 46-2-11; 46-2-13; 46-5-1 thru 46-5-8; 46-5-10 thru 46-5-22; 46-5-41; 46-6-3; 46-6-5; 46-6-6.1; 46-6-10; 46-6-3.1; 46-6-14 and Commission Rules ARSD 52:01:01:01 thru 52:01:01:13.

After consideration of the testimony the Commission can alter, conditionally alter, or continue the operating procedure adopted at a previous hearing.

This hearing is an adversary proceeding. Any person 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 at the hearing. Decisions of the Commission may be appealed to the Courts as provided by law.

Very truly yours,



JOHN HATCH, Chief Engineer
Water Rights Commission

JH:kjw

1622-3

May 11, 1979

Mrs. Willard Zweber
Hoven,
SD 57450

Dear Mr. Zweber:

Per your telephone request, enclosed are the readings on the irrigation wells taken by Marvin Knecht on April 30, 1979. He indicated he had sent you the readings on the observation wells. We are also enclosing copies of the Form 2A submitted by you at the time your original application was submitted, and also the Form 2A submitted by Allen Turner.

Permit 1622-3 Zweber

Main Well 55' 5"
South Well #5 50' 5 3/4"
Well #3 53' 3"
Well #1 46' 1/2"
Well #2 47' 7"

Permit 1623-3 Zweber

Main Well 4' 4"
East Irri. Well 5' 11"

Meter reading
55,000 acre feet

Permit 2271-3 Hageman

Main Irri. Well 15' 8 1/2"
South Obs. Well 15' 8 1/2"
North Obs. Well 15' 5 7/8"
South Well in Field 18' 7 3/8"
SE Irri Well 18' 9 1/8"
NE Irri Well 16' 1 1/8"

Service well by Irri. well 18' 10 1/2"

Permit 2598-3 Frost

North Well 49' 1 1/4"
NW Well 41' 1/2"
Well close to pivot 50' 8 1/2"
Well SE of pivot 52' 5 3/4"
South Well 51' 3 1/2"

Meter reading
5,466,350

Permit 1704-3 Turner

Irri. Well 26' 1 1/2"

If you have further questions, feel free to contact this office.

Sincerely,

Burton F. Jones
Water Rights Specialist IV

BFJ:plh

SOUTH DAKOTA
Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501

Phone 605/773-3151 3352

June 13, 1979

Willard Zweber
Hoven, SD 57450

Allen Turner
Hoven, SD 57450

Clarence Frost
Hoven, SD 57450

Gillis Hageman
Hoven, SD 57450

Gentlemen:

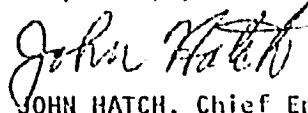
The Water Rights Commission requested that proposed Findings of Fact, Conclusions of Law and a Proposed Decision regarding their decision May 25, 1979 be prepared. Their order changing the shut off level, based upon Observation Well SW-4 from 9.0 feet to 7.0 feet will not go into effect until the final Findings, Conclusions and Decision are adopted.

At this time, we do not know when the next meeting will be scheduled, since the Governor's Reorganization abolished the Water Rights Commission with a new Water Management Board to be appointed effective July 1, 1979. Following the appointment of the new Board, a meeting date will be set and the Findings, Conclusions, and Decision will be considered at that time.

Assistant Attorneys General will prepare the requested documents; however, each of you may prepare or have your attorney prepare proposed Findings, Conclusions and Decision if you wish.

We will notify you when the next meeting is scheduled. For your information, the water level measured in SW-4 June 11, 1979 was 7.3 feet. Shutoff will not be required until the Board adopts Findings, Conclusions and a Decision or unless the existing 9.0 foot shutoff level is reached.

Very truly yours,



JOHN HATCH, Chief Engineer
Water Rights Commission

JH/gy

cc: John Smith, Assistant Attorney General
Ron Wheeler, Attorney

Department of Natural Resource Development

WATER RIGHTS COMMISSION
Joe Foss Building, Pierre, South Dakota 57501
Phone 605/773-8151 3352

June 19, 1979

TO: Water Right Permit Owners, Hoven South Aquifer, No. 1622-3 & 1623-3,
Willard Zweber, No. 1704-3 & 2270-3, Allen Turner, No. 2271-3, Gillis
Hageman, No. 2598-3, Clarence Frost

FROM: John Hatch, Chief Engineer, Water Rights Commission

SUBJECT: Consideration and Adoption of Final Decision to Include Findings of
Fact and Conclusions of Law in Matter of Hoven South Aquifer

The Chairman of the South Dakota Water Rights Commission, Mr. Stanley Jensen has called a Special Meeting of the Water Rights Commission in accordance with § 46-2-2 to consider and adopt a Final Decision including Findings of Fact and Conclusions of Law in the matter of the Hoven South Aquifer. The meeting will be at 1:00 p.m., June 27, 1979 in Room 468, State Capitol Building, Pierre, South Dakota.

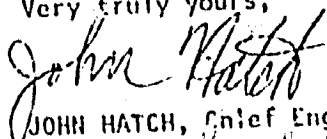
This hearing will be conducted in accordance with the provisions of § 46-1-1 thru 46-1-9; 46-1-14; 46-2-9 thru 46-2-11; 46-2-13; 46-5-1 thru 46-5-8; 46-5-10 thru 46-5-22; 46-5-41; 46-6-3; 46-6-5; 46-6-6.1; 46-6-10; 46-6-3.1; 46-6-14 and Commission Rules ARSD 52:01:01:01 thru 52:01:01:13.

The Water Rights Commission at its meeting May 25, 1979 following a public hearing ordered that the 9.0 foot shut off level established May 10, 1977 for observation well SW-4 be raised to 7.0 feet. When the water level drops to 7.0 feet or below, irrigation pumping authorized by Water Right Permits No. 1704-3 & 2270-3, Allen Turner; No. 2271-3, Gillis Hageman and No. 2598-3, Clarence Frost is to be shut off. Adoption of a Final Decision, including Findings of Fact and Conclusions of Law will modify the 9.0 foot shut off order issued May 10, 1977. All parties may submit or mail proposed Decisions, Findings and Conclusions to the Commission members (mailing addresses enclosed) prior to consideration by the Commission, if they wish.

Following consideration of proposed Decision, Findings and Conclusions, the Commission can adopt a Decision, make Findings and Conclusions to implement the 7.0 foot level, change the shut off level or rehear the entire matter.

This hearing is an adversary proceeding. Any person 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 at the hearing. Decisions of the Commission may be appealed to the Courts as provided by law.

Very truly yours,


JOHN HATCH, Chief Engineer
Water Rights Commission

JH:kjw

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF HUGHES

SIXTH JUDICIAL CIRCUIT

* * * * *

Cross-Appeal from the Department of Natural
Resources Development, Water Rights Commis-
sion, of the State of South Dakota;

In the Matter of the Complaint of Willard
Zweber.

* * * * *



* * * * *

NOTICE OF CROSS-APPEAL

* * * * *

TO: WATER RIGHTS COMMISSION OF THE
DEPARTMENT OF NATURAL RESOURCES DEVELOPMENT
STATE OF SOUTH DAKOTA

RONALD J. WHEELER
HURON, SOUTH DAKOTA
ATTORNEY FOR CLARENCE FROST,
ALLEN TURNER AND GILLIS HAGEMAN,
APPELLANTS HEREIN

YOU WILL PLEASE TAKE NOTICE that Willard Zweber, Appellee
herein, does hereby cross-appeal to the Circuit Court of Hughes
County, South Dakota, from the Findings of Fact and Conclusions of
Law of the Water Rights Commission of the State of South Dakota in
the above entitled matter, which Findings and Conclusions adversely
affect Appellee, and which Findings and Conclusions are dated June
27, 1979, and were served upon Appellee on June 29, 1979.

Dated this 29 day of June, 1979.

SIEGEL, BARNETT, SCHUTZ, O'KEEFE, JEWETT
& KING

[Signature]
Attorneys for Appellee Willard Zweber
500 Capitol Building
P. O. Box 1269
Aberdeen, South Dakota 57401

The undersigned, attorneys for Appellee Willard Zweber,
hereby certify that on the 29 day of June, 1979, a
true copy of the foregoing NOTICE OF CROSS-APPEAL was mailed by
first-class mail to the Water Rights Commission, Department of
Natural Resource Development, Joe Foss Building, Pierre, South
Dakota 57501; and to the attorney for Appellants, Ronald J. Wheeler,
Churchill, Manolis, Wheeler & Freeman, 201 Farmers & Merchants
Bank Building, Huron, South Dakota 57350.

Dated this 29 day of June, 1979.

SIEGEL, BARNETT, SCHUTZ, O'KEEFE, JEWETT
& KING

[Signature]

March 20, 1980

Mr. & Mrs. Willard Zweber
Hoven, SD 57450

Dear Mr. & Mrs. Zweber:

November 26, 1979, you requested that we make final inspections of your Water Permits. During a review of deferred applications, we note that you have two deferred applications Nos. 4062-3 & 4063-3 for additional diversion points (wells) for your existing permits. As I recall, when 4062-3 and 4063-3 were considered, the former Water Rights Commission deferred the applications, but allowed, by motion, additional wells.

Before making final inspections, I want to have the Attorney General's Office review this matter.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights, WMD

JH/gy

Water Management Board

Water Rights Division

Department of Water and Natural Resources



* * * * *

In the Matter of the Complaint *
of WILLARD ZWEBER *

MOTION

* * * * *

COMES NOW Rory King, attorney for Willard Zweber, Com-
plainant, and moves the Board to enter an Order dismissing Willard
Zweber's Complaint without prejudice, on the following grounds:

1. The irrigation season is over, and there is
therefore no imminent need for a hearing;
2. The harvest is in process, and a fall hearing
would interfere with the harvest operations
of both Complainant and Respondents;
3. Complainant feels that the commission's
determination should be made based upon
information obtained by a further summer
of monitoring the aquifer.

Complainant, by and through his attorney, further moves
the Board to order a continued monitoring of the hydrology of the
Hoven South aquifer, with a view toward determining the existence
and cause of problems with the various irrigation systems pumping
from the aquifer.

Dated this 5th day of September, 1979.

SIEGEL, BARNETT, SCHUTZ, O'KEEFE, JEWETT
& KING
500 Capitol Building - Box 1269
Aberdeen, South Dakota 57401

Rory King
Attorneys for Complainant

SIEGEL, BARNETT, SCHUTZ, O'KEEFE, JEWETT & KING

ATTORNEYS AT LAW

500 CAPITOL BUILDING

ABERDEEN, SOUTH DAKOTA 57401

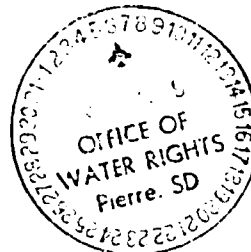
STAN SIEGEL
JOSEPH H. BARNETT
RAYMOND M. SCHUTZ
TERENCE A. O'KEEFE
HARVEY C. JEWETT
RORY KING
JEFFREY T. SVEEN

INVEST OFFICE BOX 1065

TELEPHONE 225-5420
AREA CODE 605

September 5, 1979

Mr. John Hatch
Water Rights Commission Staff
Pierre, South Dakota 57501



Dear John:

I talked with you by phone on August 29 and informed you that Mr. and Mrs. Zweber had decided to dismiss their complaint without prejudice. I talked with Ron Wheeler on the same day, and he indicated that his clients might possibly object to the dismissal of the complaint. He indicated that his clients may want to have the matter heard immediately and may bring a counter complaint charging a lack of priority. He was going to try to contact his clients and get back to me prior to the weekend, but he was apparently unable to do so. I talked to Ron Wheeler again by phone today and he has still not conferred with his clients.

It is my understanding that Mr. Wheeler did inform John Smith that the meeting of September 14 should be cancelled, but that a time slot be made available during the meeting of September 27, 1979, in case Wheeler's clients decided that they did not want to stipulate to the dismissal of the complaint. If the hearing is scheduled for September 27, there is a possibility that the Zweber's may move to continue the hearing at that time.

Thank you very much.

Sincerely,

of SIEGEL, BARNETT, SCHUTZ, O'KEEFE, JEWETT
& KING

RK : df

cc: Mr. John Smith

P.S. to John Hatch: After talking to John Smith today, I herewith submit a formal Motion for dismissal of our Complaint without prejudice. As I indicated to John Smith, if Ron Wheeler decides that he will not agree to the dismissal, we will withdraw the above Motion.

RK



Department of Water & Natural Resources

Joe Foss Building
Pierre, South Dakota 57501

Division of Water Rights
605 773-3352

January 12, 1980

TO: People Interested in Hoven Area Water Supplies & Deferred Applications
FROM: John Hatch, Chief Engineer, Water Rights Division
SUBJECT: Review of Water Status and Reconsideration of Deferred Applications

The Water Management Board will reconsider deferred water permit applications in the Hoven Area in Potter & Walworth Counties at 8:30 am on January 29, 1981 at Meeting Room #1, Kneip Building, Church & Illinois, Pierre SD.

This reconsideration hearing will be conducted in accordance with the provisions of SDCL 46-1-1 thru 46-1-9; 46-1-14; 46-2-9 thru 46-2-11; 46-2-13; 46-5-1 thru 46-5-8; 46-5-10 thru 46-5-22; 46-5-41; 46-6-3; 46-6-5; 46-6-6.1; 46-6-10; 46-6-3.1; 46-6-14 and Board Rules ARSD 52:01:01:01 thru 52:01:01:13.

These applications were previously deferred by the Board pending staff investigation. A report on the deferred applications has been prepared by the Water Rights Staff and is enclosed.

After reconsideration of the deferred applications the Board can approve, conditionally approve, defer, or deny all or part of the Applications.

This hearing is an adversary proceeding. Any person 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 at the hearing. Decisions of the Board may be appealed to the Courts as provided by law.

You are also notified that SDCL 1-26 provides any interested party the opportunity to meet informally with the Water Rights Division Staff to discuss proposed recommendations by the staff to the Board prior to the scheduled hearing. If we do not hear from you, we will assume that the opportunity for an informal meeting is being waived and you wish to proceed directly to the hearing on the applications before the Board.

Any handicapped person wishing to attend this hearing can contact the Water Rights Division, DWNR, Joe Foss Building, Pierre SD, prior to the hearing date for assistance to assure access to the hearing.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division

kw

enclosure

Equal Opportunity Employer

STATE OF SOUTH DAKOTA
WATER MANAGEMENT BOARD

IN THE MATTER OF ADDITIONAL POINTS)	FINDINGS OF FACT
OF DIVERSION FOR WATER PERMIT NO.)	CONCLUSIONS OF LAW
1622-3)	FINAL DECISION

Having heard and considered all the evidence presented before the Board in the above-entitled matter on January 29, 1981 at the Richard B. Kneip Building, Pierre, South Dakota, the Board hereby makes the following:

FINDINGS OF FACT

1. That on October 7, 1968 application for Water Permit No. 1622-3 was received by the Water Resources Commission from Willard Zweber.
2. That Application No. 1622-3 specified two points of diversion to withdraw 3.42 c.f.s. of water for irrigation purposes.
3. That the application was duly advertised in the Hoven Review on October 24, October 31, November 7, and November 14, 1968.
4. That the Water Resources Commission considered and approved the application at its meeting on December 4, 1968.
5. That within the five-year construction period allowed under the permit, three wells were drilled on the lands covered by this permit.
6. That the five-year construction period terminated on December 4, 1973.
7. That at the July 27 and 28, 1977 meeting of the Water Rights Commission, Mr. Zweber orally requested an additional two points of diversion for Permit 1622-3.
8. That those two additional points of diversion were already constructed prior to Zweber's request.
9. That this request was not advertised, nor was an application submitted to the Commission.
10. That there was no evidence offered of engineering, physical, or legal difficulties to explain the reasons for not fully constructing the system within five years.
11. That the Commission granted Zweber's request for additional diversion points for Permit 1622-3.

12. That at the same meeting, the Commission decided to reconsider at a later meeting its action permitting the additional diversion points.

13. At the Commission's November 30 and December 1, 1977 meeting this action was reconsidered, but deferred until January 16, 1978 when the Commission again failed to take action.

14. That all interested parties were notified that the action approving additional points of diversion would be reconsidered at the meeting of the Water Management Board on January 29, 1981.

CONCLUSIONS OF LAW

1. That the Water Management Board has jurisdiction to reconsider the approval of water permits.

2. That all parties were duly notified that the Board would reconsider the granting of additional points of diversion on Water Permit 1622-3.

3. That the application by Zweber for additional diversion points under 1622-3 did not follow the requirements of South Dakota law.

4. That the request for additional diversion points did not constitute an application for an extension of the construction period of Water Permit No. 1622-3.

5. That a request for an extension of the construction period must be made before the construction period has terminated.

6. That there were insufficient grounds for granting an extension of the construction period of Permit No. 1622-3.

7. That a water permit holder is limited to the number of points of diversion on the application as approved by the Board.

8. That a water permit holder may change the plans of construction with the approval of the Board to include additional points of diversion, but only within the permitted construction period.

9. That a right to use water is limited by the amount of water applied to beneficial use by a water right holder within the term of construction.

10. That a change in point of diversion is not the equivalent of adding additional diversion points under a permit.

11. That to change a point of diversion, application must be made to the Water Management Board and notice must be published before the Board can consider the request.

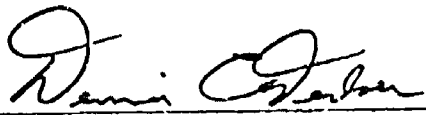
12. That the Water Rights Commission was without legal authority to approve the two additional diversion points requested on Permit No. 1622-3 in 1977.

13. That the Board must rescind the action taken by the Water Rights Commission at its July 27 and 28, 1977 meeting which granted the additional diversion points to Permit 1622-3.

FINAL DECISION

That action of the Water Rights Commission in approving two additional points of diversion under Permit 1622-3 is hereby rescinded.

Dated this 26th day of March, 1981.


CHAIRMAN


SECRETARY



1622-3
DEPARTMENT OF WATER & NATURAL RESOURCES
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

September 9, 1992

Willard Zweber
RR
Hoven, SD 57450

Dear Mr. Zweber:

Please find enclosed a partially completed application form and instruction sheet for 3 wells located in the NE 1/4 SW 1/4 Section 22, T120N, R74W. You will not have to provide a map, as I have already prepared one.

Also, enclosed is a copy of the map that I have prepared. Please make any corrections as to the locations of the wells. Indicate who drilled which wells, and the year drilled.

The three wells on this application are not covered under Permit Nos. 1622-3 and 4062-3. The wells under the above permits were to be located in the SE 1/4 NW 1/4 and the NW 1/4 SW 1/4. Three wells were located in the SE 1/4 NW 1/4, and three wells are located in the NE 1/4 SW 1/4. The wells in the NE 1/4 SW 1/4 are not covered under Permit Nos. 1622-3 or 4062-3; therefore, a new application is required for these wells.

After the application has been sent in and approved, the permits will be licensed, as per no. 9 on the instruction sheet.

If you have any questions, please feel free to contact me.

Sincerely,

Lynn Beck
Natural Resources Engineer
Water Rights Division
(605) 773-3352

encl

CHECK LIST FOR FIELD INSPECTION

Permit Number _____ Date _____

Other permit(s) associated with the project _____

NOTE: For Permits with additional wells or changes in well locations, record the following for each well: pumping capacity, date constructed, well driller and if a well log is available.

1. Diversion point legal location: _____

2. Well Information: Well Drilling Firm _____ 3 6 1 2 4

No. of Wells _____ Depth(s) 68 65 5

a) Casing 1) diameter _____ inches b) Screen 1) type _____

2) length _____ feet 2) length _____ feet

3) type _____ c) Pump 1) make _____

d) Static Water Level _____ feet 2) model _____

e) Motor: 3) size _____ inches

1) make _____ 4) capacity _____ GPM

2) model No. _____ 5) turbine pump - No. of stages _____

3) horsepower rating _____ 6) operating pressure _____ PSI

3. Distribution lines or canals:

a) type _____ b) size _____ c) length _____

4. System Type:

a) Sideroll:

1) length _____ feet

2) diameter of pipe _____ inches

3) sprinkler spacing _____ feet

b) Towline:

1) length _____ feet

2) sprinkler spacing _____ feet

4. System Type (continued):

c) Siphons:

1) size _____ inches

2) number _____

e) Center pivot:

1) make _____

2) overall length _____ feet

3) number of towers _____

4) distance between towers _____ feet

5) end gun _____ (Y/N)

6) high or low pressure _____

7) capacity _____ GPM

d) Gated pipe:

1) length _____ feet

2) diameter _____ inches

3) spacing of gates _____ inches

f) Gun:

1) make _____

2) nozzle size _____ inches

3) capacity _____ GPM

4) hose size _____ inches

5) hose length _____ feet

5. Dam Information.

a) height to crest _____ feet

b) height to primary spillway _____ feet

c) height to secondary spillway _____ feet

d) crest width _____ feet

e) crest length _____ feet

f) spillway length _____ feet

g) spillway width _____ feet

h) approx. storage _____ ac-ft

i) approx. storage to crest _____ ac-ft

j) date constructed _____

k) outlet tubes:

1) diameter _____ inches

2) type _____

3) valved _____ (Y/N)

4) valve type _____

5) location on structure _____

l) category of dam _____ (I,II,III)

m) inspection sheet completed _____ (Y/N)

n) name of contractor _____

6. Chemigation Equipment

b) main line check valve _____ (Y/N)

d) low pressure drain _____ (Y/N)

f) interlock type _____

g) injection pump type _____

i) injection line check valve or positive displacement pump _____ (Y/N)

j) all chemigation equipment appears to be installed in proper position and comply with chemigation laws and rules _____ (Y/N)

k) comments :

a) does chemigate _____ (Y/N)

c) inspection port/air relief _____ (Y/N)

e) discharge is 20' from source _____ (Y/N)

h) injection check valve _____ (Y/N)

CHECK LIST FOR FIELD INSPECTION

Permit Number _____ Date _____

Other permit(s) associated with the project _____

NOTE: For Permits with additional wells or changes in well locations, record the following for each well: pumping capacity, date constructed, well driller and if a well log is available.

1. Diversion point legal location: #1 1265' E and 1245' N ; #2 1700' E and 905' N ; #4 2000' E and ^{675'} ~~45'~~ S W.C. 22-120-74.

2. Well Information: Well Drilling Firm Dakota Boring - Well #1, #2, #4

No. of Wells 3 Depth(s) 68' ; 65' ; 82'

a) Casing 1) diameter 15" ; 15" ; 16" inches b) Screen 1) type Johnson Irrigator ; dilo ; dilo

2) length _____ feet 2) length _____ feet

3) type PVC c) Pump 1) make Subm. #4 Main Well

d) Static Water Level _____ feet 2) model U.S. Elec.

e) Motor: 3) size _____ inches

1) make Subm. 4) capacity 25 ; 125 ; ^{M.W.} 650 GPM

2) model No. _____ 5) turbine pump - No. of stages _____

3) horsepower rating 5, 10, 60 6) operating pressure _____ PSI

3. Distribution lines or canals:

a) type _____ b) size _____ c) length _____

4. System Type:

a) Sideroll:

1) length _____ feet

2) diameter of pipe _____ inches

3) sprinkler spacing _____ feet

b) Towline:

1) length _____ feet

2) sprinkler spacing _____ feet

CHECK LIST FOR FIELD INSPECTION

Permit Number _____ Date _____

Other permit(s) associated with the project _____

NOTE: For Permits with additional wells or changes in well locations, record the following for each well: pumping capacity, date constructed, well driller and if a well log is available.

1. Diversion point legal location: #3 2000' E and 32' N ; #6 1810' E and 1320' S
W.L.R. 22-120-74.

2. Well Information: Well Drilling Firm Vergil Worm Well # 3 & #6

No. of Wells 2 Depth(s) 75; 72

a) Casing 1) diameter 12; 12 inches b) Screen 1) type 12" galv. steel; 12" galv. steel

2) length 60; 57 feet 2) length 15; 15 feet

3) type galv. steel; galv. steel c) Pump 1) make Subm.

d) Static Water Level 46; — feet 2) model _____

e) Motor: 3) size _____ inches

1) make Subm. 4) capacity 100; 125 GPM

2) model No. _____ 5) turbine pump - No. of stages _____

3) horsepower rating 3; 5 6) operating pressure _____ PSI

3. Distribution lines or canals:

a) type _____ b) size _____ c) length _____

4. System Type:

a) Sideroll:

1) length _____ feet

2) diameter of pipe _____ inches

3) sprinkler spacing _____ feet

b) Towline:

1) length _____ feet

2) sprinkler spacing _____ feet

CHECK LIST FOR FIELD INSPECTION

Permit Number _____ Date _____

Other permit(s) associated with the project _____

NOTE: For Permits with additional wells or changes in well locations, record the following for each well: pumping capacity, date constructed, well driller and if a well log is available.

5-15
1. Diversion point legal location: #5 2000' E and 715.5 W. cr 22-120-74

2. Well Information: Well Drilling Firm Duane Martin

No. of Wells 1 Depth(s) 75

- | | |
|--|---|
| a) Casing 1) diameter <u>10</u> inches | b) Screen 1) type <u>12" Johnson Irrigator S.S.</u> |
| 2) length <u>60</u> feet | 2) length <u>15</u> feet |
| 3) type <u>galv. steel</u> | c) Pump 1) make <u>Subm.</u> |
| d) Static Water Level <u>44</u> feet | 2) model _____ |
| e) Motor: | 3) size _____ inches |
| 1) make <u>Subm.</u> | 4) capacity <u>100</u> GPM |
| 2) model No. _____ | 5) turbine pump - No. of stages <u> </u> |
| 3) horsepower rating <u>.3</u> | 6) operating pressure _____ PSI |

3. Distribution lines or canals:

a) type _____ b) size _____ c) length _____

4. System Type:

a) Sideroll:

- 1) length _____ feet
- 2) diameter of pipe _____ inches
- 3) sprinkler spacing _____ feet

b) Towline:

- 1) length _____ feet
- 2) sprinkler spacing _____ feet

Conversation or File Documentation

NAME OF PERSON OR FILE: Frank Zueber (Willard Zueber - owner)ADDRESS: RR, Hoven, SD 57450 COUNTY ButlerDATE: 10:30 1-4-93 TELEPHONE (605) 948-2488

RE: _____

COMMENTS:

Mr. Zueber came to the Water Rights Division office concerned about a request by this office that he make an application to cover some existing wells. The permits involved are 1622-3 and 4062-3.

Mr. Zueber felt that all the wells were covered except for one. Permit 4062-3 was deferred from 1977 until 1981 and Permit 1622-3 was extended to include additional wells. The decisions ^{made by WMB} according to Mr. Zueber, allowed for the additional wells.

Mr. Zueber was also concerned about priority dates on the permits. Permit 1622-3 has a priority date of October 7, 1968 and Permit 4062-3 has a priority date of July 11, 1977. Mr. Zueber thought the 5 wells that he assumed were covered under the two above permits, ~~was~~ had a priority date of October 7, 1968. Mr. Zueber is concerned that if he has to make a new application for additional wells (no add'l water) he will lose the senior priority date. I told Mr. Zueber that I would

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: Steve Rich

Water Rights Division - DWR
Conversation or File Documentation

File No. 100-100000

NAME OF PERSON OR FILE: William Zuckerman

ADDRESS: _____ COUNTY Utah

DATE: 1-19-93 TELEPHONE _____

RE: _____

COMMENTS: after Annals,

After discussing the need for additional point
of diversion on the Zuckerman project,
it was decided to have Mr Zuckerman
application for an additional point of diversion
under Permit No. 100000 and apply for a
new well to cover well #4 on map.

Two wells were drilled within the construction
period under permit no. 100000. These wells were
within 100' of the advertised point of diversion
on the map. An additional well was drilled
within the construction period but permit no. 100000
only called for two wells.

Two wells were drilled within the construction
period under permit no. 100000 at the
location advertised.

another well was drilled in 1980, well #4 on
the map.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: William Zuckerman

review the history on the two permits and write a summary before deciding if or how many wells need a new application.



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3197

December 11, 1992

Willard Zweber
RR
Hoven SD 57450

Dear Mr. Zweber:

On September 9, 1992, you were sent applications forms for a permit to appropriate water based on inspections of Water Permit Nos. 1622-3 and 4062-3 by Lynn Beck, an engineer with this office. This inspection showed that your systems were not developed as originally permitted. This application is necessary to obtain a permit which will reflect your water use. To date, we have not received a response from you regarding this application.

Enclosed is another partially completed application form. Please review the application and have it signed and notarized. Return the application with any additional information requested in the first letter to you. The filing fee for this application will be \$50.00.

Obtaining water permits that accurately reflect your water use ultimately benefits you by protecting your right to use water. Water Permit Nos. 1622-3 and 4062-3 can not be licensed until this application is processed and a permit obtained to reflect your current water use in accordance with state statutes. Except for domestic use, any water user without a water right is not entitled to receive protection in the event of interference by a new or future user who has a water right.

Pursuant to South Dakota Codified Laws 46-1-15, 46-5-9, 46-5-10 and 46-2-18, you must have a water permit prior to using water.

Sincerely,

Karen Schlaak

Karen Schlaak
Natural Resources Analyst
Phone: (605) 773-3352

enclosures



1622-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

101 FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-1001

NOV 14 1994

5763-3

Willard Zweber
RR 1, Box 106
Hoven, SD 57450

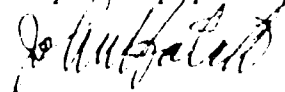
Dear Mr. Zweber:

Enclosed is Water License No. 5763-3. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 413936 in the amount of \$50.00 which you paid for the inspection and issuance of the Water License.

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. 5763-3, 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.

Very truly yours,


JOHN HATCH, Chief Engineer
Water Rights Division
(605) 773-3352

rd
enclosures

NOTE: The applicable portions of Water Permit Nos. 1622-3 and 4062-3 have been incorporated into this Water License No. 5763-3.