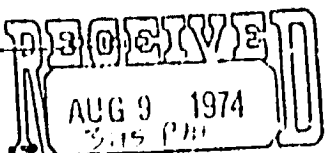


Water Right Number 2105-3

1. Considered 9-11, 1974
2. Name of Applicant HAROLD J. DOWNES
3. Post Office Address HILLSBORO, CALIFORNIA
4. Amount of Water claimed 2.5
5. Source of Water supply MISSOURI RIVER
6. Water to be used for IRRIGATION
Acres to be irrigated 174
7. Water to be diverted and used in HUGHES County
about 25E, 15S miles of PIERRE
8. Proof of Publication Received 9-3-74
Not Received
9. Application Approved
Subject to
Not Approved
Action Deferred
10. Remarks:

Map No. 1504-3 Water Division No. 3 MISSOURI RIVER
(Blanks to be Filled by the Engineer for the W. R. C.)No. 2105-3

APPLICATION FOR PERMIT

STATE WATER RIGHTS COMM.
PIERRE, SOUTH DAKOTA

To Appropriate Water within the State of South Dakota

(NOTE--Draw a line through items not applicable)

1. Name of Applicant Harold J. Downes NR, Harold St 57536
Postoffice address 2260 Ralston Ave. Ellensburg, Calif. 94010
If a corporation show date and place of incorporation _____
2. Method of accomplishing work (contract, employment of others, or by direct labor) _____
3. Name of diversion work Downes #4
4. Amount of water claimed (cubic feet per second) 2.5
5. Source of water supply Missouri River
6. Location of point of diversion Between points South 38° West, 260 rods and South 9° 45' West, 192 Rods, both from the NE Corner, Section 23, T108N, R75W
County Hughes
7. Annual period or periods during which water is to be used April thru October
8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation etc.) irrigation
9. For irrigation use, Total number of acres to be irrigated 174

List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

Land Description	No. Acres Irr.	Land Description	No. Acres Irr.
SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 14, T108N, R75W	16		
N $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 15, T108N, R75W	80		
W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 22, T108N, R75W	8		
<u>15</u>			

Attach sheet if more space is needed

10. Time required to complete construction of water supply system 5 years. Additional time required to complete application of water to the proposed beneficial use 4 years.
11. Choice of newspaper for Notice of Intent to Appropriate Water publication Capitol Journal, Pierre, SD
12. Principal Feature of the Proposed Water Supply System.

A. Works proposed to divert water from its natural source.

Pump motor

B. Works proposed to transport water to place of use.

line to existing storage and repumped to fields

C. Works proposed to apply water to beneficial use.

Gated Pipe

Estimated Total Cost \$ _____

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map.
(See instructions concerning preparation.)

STATE OF SOUTH DAKOTA)

County of Hughes) ss.I, Harold J. Downes the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary constructionSigned Harold J. DownesSubscribed and sworn to before me this 9th day of August, 1974

Notary Public (or other qualified officer)

Betty Westlund, Land/Water Clerk II

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 2105-3
HAROLD J. DOWNES 3850 RALSTON AVE, HILLSBORO,
 (Applicant) (Post Office Address)
CALIFORNIA, 94010 With the following modifications: RR 2 Harold SD
 (State)

Date of first receipt of application AUGUST 9 19 74
 Date of return to applicant for correction, amendments or changes required --- 19 ---
 Date of receipt of corrected application --- 19 ---
 Approved SEPTEMBER 11 19 74 Recorded in Book 13 Page 73

WATER RIGHT PERMIT NO. 2105-3

The Water Rights Commission hereby grants and issues this Water Right Permit No. 2105-3 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as modified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is AUGUST 9 19 74
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before MARCH 11 19 77
3. The whole of said work is to be completed on or before SEPTEMBER 11 19 79
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith SEPTEMBER 11 19 83
5. The water appropriated shall be used for the purpose of IRRIGATION
6. 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.
7. The amount of the appropriation herein granted shall not exceed 2.5 cubic feet per second; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for beneficial uses served, and if for the irrigation purposes said appropriation must be limited to not more than 3 acre feet per acre per year and 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 SEPTEMBER 11 19 83; said water to be used during the following described annual period: APRIL THRU OCTOBER

Witness my hand this 13TH day of SEPTEMBER 19 74

WATER RIGHTS COMMISSION
 By: John Hatcher
Donald Deisell
 Chief Engineer, Executive Officer

Certificate of Construction Issued MAY 2 19 80
 Water License Issued MAY 2 19 80

Permit No. 2105-3

Water Diversion No. 3 Missouri River Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That Harold J. Downes

_____ the holder _____ of
Permit No. 2105-3, issued upon Application No. 2105-3, bearing date of priority of August 9, 1974
_____ authorizing the diversion of 2.5 cu. ft. per second of the waters of the
Missouri River _____ County of Hughes, State of South Dakota at _____
points located 2620 ft. east and 3200 ft. south of the NW corner and 3100 ft.
south and 1200 ft. west of the NE corner all in Section 23 - T108N - R75W
_____, for Irrigation

_____ purposes, has _____ complied with the provisions of the laws of the State of South Dakota relating to proof of
completion of the works of diversion set out and described in said Permit; that said works are found in satisfactory
condition for diverting and conveying to the place of intended use 19.78 (pumping rate) cu. ft. per second of water.

Date May 2, 1980

John Hatch
JOHN HATCH, Chief Engineer
Water Rights, WND

WATER LICENSE NO. 2105-3

(1) WHEREAS, On the 9th day of August A. D. 19 74

Harold J. Downes

made Water Right Application No. 2105-3 for a permit to use 2.5 cubic feet per second of the waters of the Missouri River

County of Hughes State of South Dakota, for Irrigation

purposes; and

(2) WHEREAS, On the 11th day of September A. D. 19 74

Permit No. 2105-3 with a date of priority of August 9, 1974

was issued to said applicant for the diversion of said water, and provided for the completion of construction of the water supply system therein described on or before the 11th day of September A. D. 19 79 and for the application to beneficial use of said water on or before the 11th day of September A. D. 19 83

and:

(3) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to completion of the construction of the water supply system and is entitled to divert 2.5 cubic feet per second of water for beneficial use and,

(4) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to the application of water to beneficial use of the following extent,

to irrigate the following lands all in T108N - R75W

Section 15, NW $\frac{1}{4}$ SW $\frac{1}{4}$ 40 acres

SW $\frac{1}{4}$ SW $\frac{1}{4}$ 38 "

Section 22, NW $\frac{1}{4}$ NW $\frac{1}{4}$ 38 "

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 40 "

Section 14, SW $\frac{1}{4}$ SW $\frac{1}{4}$ 16 "

172 TOTAL ACRES

* The same pumps and motors are used for Permits Nos. 1000-3; 1032-3 and 1057-3

(5) NOW, THEREFORE, By the virtue of the authority vested in us by the laws of the State of South Dakota, We hereby grant and confirm to Harold J. Downes

of Hillsborough, Calif.

the holder _____ and owner _____ of said permit No. 2105-3 a water right, dating from August 9, 1974

to use of 2.5 cubic feet per second of the waters of the Missouri River

in the County of Hughes and State of South Dakota, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted at points located 2620 ft. east and 3200 ft. south of the NW corner and 3100 ft. south and 1200 ft. west of the NE corner, a 1 in Section 23 - T108N - R75W

and conduct to and upon portions of land in Sections 14, 15 and 22, T108N - R75W, more fully described on the face of this License.

for the purpose of Irrigation

Subject to any limitations listed in Water Right Permit No. 2105-3 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this 2nd day of May A. D.
Nineteen Hundred and Eighty

Board of Water Management

By:

John Hatch
Chief Engineer

JOHN HATCH

No. 2105-3

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Hughes) ss.

I, John H. Hipple hereby

certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Daily Capital Journal

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

city of Pierre

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

August 22, 1974 and

August 29, 1974

John H. Hipple
(Signature)

Business Manager
(Title)

August 29, 1974
(Date Signed)

No. 1728 21 dly Aug. 22-29

No. 2105-3

NOTICE

INTENT TO APPROPRIATE

WATER

Notice is hereby given that Harold J. Downes, whose post office address is Hillsboro, California, has made an application in accordance with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use 2.5 cubic feet of water per second of time from the Missouri River through the Downes No. 24, the point of diversion of which is to be located in the NW 1/4 SW 1/4 and NE 1/4 SW 1/4 of Section 23, Twp. 108N, Range 75W. Said water to be used for the purpose of providing irrigation on the following described land:

SW 1/4 SW 1/4 Section 14, N 1/2 NW 1/4, Section 22, T 108N, R 75W, Section 15, T 108N, R 75W.

This application No. 2105-3 will be considered by the Water Resources Commission at their office at Pierre upon the 11th day of September, 1974, at 2:30 p.m. All interested persons may appear and be heard.

WATER RESOURCES
COMMISSION

By: BURTON F. JONES,
Water Rights Specialist

RECEIVED
SEP 3 1974

STATE WATER RIGHTS COMM.
PIERRE, SOUTH DAKOTA

Form 6 - Notice of Intent to Appropriate Water

2105-3

Publish first publication, on or before August 29, 19 74

NOTICE
INTENT TO APPROPRIATE WATER

Pierre, South Dakota 57501

August 12, 1974, is

Harold J. Downes

Notice is hereby given that _____
whose post office address is Hillboro, California, South Dakota, has made an application in accordance
with the provisions of the water laws of South Dakota for a permit to appropriate for beneficial use

2.5 cubic feet of water per second of time from the Missouri River through the
Downes 04, the point of diversion of which is to be located in the _____

NW 1/4 SW 1/4 and NE 1/4 SW 1/4

of Section 23, Twp. 108N, Range 75W. Said water to be used for the purpose
of providing irrigation on the following described land:

SW 1/4 SW 1/4, Section 14; N 1/2 NW 1/4, Section 22; 1 1/2 SW 1/4, Section 15, T108N, R75W

This application No. 2105-3 will be considered by the Water Resources Commission at their office at
Pierre upon the 11th day of SEPTEMBER, 1974, at 2:30 P.M. M. All interested
persons may appear and be heard.

WATER RESOURCES COMMISSION

By:

BURTON F. JONES, Water Rights Specialist

BFJ/bw

cc: Harold J. Downes, 716 W. Pleasant Drive, Pierre, S.D. 57501

Form 10.

No. _____

NOTICE OF COMPLETION OF WORKS AND/OR APPLICATION OF WATER TO BENEFICIAL USE

Post Office

3250 Kalsbeum Ave. Hill, SD 57131

Date

Sept 23, 1974

TO: WATER RIGHTS COMMISSION
State Office Building No. 2
Pierre, South Dakota 57501

Dear Sirs:

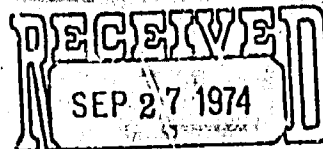
This is to inform you that I have completed the construction of the water diversion system and/or that I have put the water to beneficial use to the maximum extent it is going to be used, not exceeding the amounts as specified in Water Right Permit No. 2105-3.

Water Right Permit No. 2105-3 states that the diversion system is to be constructed by Sept 11, 1979 and that the water is to be put to beneficial use by Sept 11, 1983, 1983.

The diversion system was completed on August 15, 1974. Applying the water to beneficial use was completed on Sept 1, 1974.

You may schedule an inspection so that the Certificate of Construction and/or the Water License may be issued, thus completing my acquisition of a water right.

Harold J. Downes
(Signature)



STATE WATER RIGHTS COMM.
PIERRE, SOUTH DAKOTA

all 3 last for ...
13 ...
1332-2

1687-3 D Eugene ...

2105-2 Model ... 3700 ...

11-13-79 ... 104624

Pump ... No H 78-55-57

11-13-79 Type 11-B F ... 2800

D. H. H. ... 11 D. H. F. ...

Pump - No tag

3440 ...

Pump No tag

East Pump ...

D Eugene ...

11-13-79 ...

11

Pump - Corbett Model 2611W 6284.2

Ser # 2377

② Motor 100 lbs 1/2 HP, 1800 RPM

Ser # 1164244

Pump - Johnston, Ser # JN 2986

③ Motor 1/2 HP, 1800 RPM

Ser # 1164243

Pump - Johnston

Ser # JN 2985

21053

W. H. Odum

5-12-77

Dr. Paul H. Odum

W. H. Odum

Dr. Paul H. Odum

W. H. Odum

Harold Dammes

1974

COUNTY, SOUTH DAKOTA

TOWNSHIP No. 128 N

RANGE No. 72 E

(With surrounding tier of sections of adjacent townships)

36	31	32	33	34	35	36	31
1	6	5	4	3	2	1	6
12	7	8	9	10	11	12	7
13	18	17	16	15	14	13	18
24	19	20	21	22	23	24	19
25	30	29	28	27	26	25	30
36	31	32	33	34	35	36	31
1	6	5	4	3	2	1	6

Permit No. 2105-3Water Division 3 Missouri River Water DistrictREPORT OF EXAMINATION OF WORKS
AND/OR APPLICATION OF WATER TO BENEFICIAL USE

TO: WATER RIGHTS, WATER MANAGEMENT BOARD / FOSS BLDG., PIERRE, SOUTH DAKOTA 57501

I have this day made a thorough examination of the water use system constructed by Hareld J. Downes
3250 Adiston Ave.of Hillsborough, California 94010 holderof Permit No. 2105-3, bearing date of priority of August 9, 1974authorizing the diversion of 2.5 cu. ft. per second of the waters of Missouri Riverfor Irrigation purposes, in Hughes County.

I have to report on the condition of the same as follows:

The Water Use System consists of,

A. Works used to divert the water:

Same pumps and Motors as used for Permits No. 1000-3, 1032-3, and 1657-3

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

Approx. 1 3/4 miles of 10" pvc. from pipelines for other permits.

C. Works used to apply water to beneficial use.

4000 ft - 10" Gated PipeThe system is in the following condition: GoodThe point of diversion is located 2670' E and 3200' S of the NW cor Sec. 23 T108N R75W.and 3100' S and 1200' W of the NE cor Sec. 23, T108N R75WThe works are capable of diverting and conveying to the place of use 19.78 (pumping rate)cu. ft. per second of water which is to be used for IrrigationWater has been put to beneficial use to the maximum extent as follows: In Sec. 15, T108N R75WNW 1/4 SW 1/4 - 40 Ac. SW 1/4 SW 1/4 - 30 Ac.In Sec. 22, T108N R75W NW 1/4 NE 1/4 - 38 Ac. NE 1/4 NE 1/4 - 40 Ac.In Sec. 14, T108N R75W SW 1/4 SW 1/4 - 16 Ac.comprising a total of 172 acres of land.Date November 13, 1977
Leroy J. Monaghan
(Signature)

RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

No 4 7438

April 7

1980

PIERRE,

19

RECEIVED OF Harold J. Downes, 3250 Ralston Ave, Hillstorough CA 94010
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit to Appropriate Water No. (examination, processing, recording and filing)		
Fee for Inspecting Construction, and Issuing Cert. of Construction No. <u>2105-3</u>)	12	00
Fee for Inspecting Beneficial Use, and Issuing Water License No. <u>2105-3</u>)		
Fee for Issuing Location Certificate-Dry Draw, No.		
Fee for filling		
Fee for certified copy of		
Fee for Print copy of map		
Fee for Certifying		
Fee for		
(any other work as provided by law)		
TOTAL	12	00

WATER RIGHTS COMMISSION

By John Hatch
Chief Engineer, Executive Officer
JOHN HATCH kw

Spiehs/gS/605-224-8618

November 28, 2000

Chief, Pierre Real Estate Office

SUBJECT: Big Bend Project - Irrigation Easement Nos. DACW45-2-78-6068 (Former Black Cummins Diesel Pump Station), DACW45-2-82-6115 (Former Brown/Yellow Cummins Diesel Pump Station), and DACW45-2-81-6150 (Former Isuzu Diesel Pump Station), Compliance Inspections, Harold Downes, Hughes County, South Dakota

Mr. Harold J. Downes
1301 Shorebird Lane
Carlsbad, California 92009

Irrigation Easement No. DACW45-2-78-6068 (Former Black Cummins Diesel Pump Station) was inspected by George Spiehs on November 24, 2000, and Irrigation Easement Nos. DACW45-2-82-6115 and DACW45-2-81-6150 were inspected by George Spiehs on March 7, 2000. **THE THREE EASEMENTS OF THE SUBJECT DISCUSSION WILL REMAIN IN UNSATISFACTORY STATUS FOR THE FOLLOWING REASONS, UNTIL THE SPECIFIED RESTORATION WORK IS COMPLETED:**

[REDACTED]

(1). Additional dirt fill must be placed in the two spill remediation sites at the former pump station to elevate the sites to the original ground level. The undated supplement to your letter of June 13, 2000 stated that there has been some settling of the backfill at the remediation sites, and your intention was to return to Joe Creek during the fall of 2000 and haul in the dirt from one of your fields to level the remediation sites with the surrounding ground level. Since the balance of the backfilling was not completed during the fall of 2000, this work must be completed by July 1, 2001.

(2). The borrow soil must not be taken from the Big Bend Project lands.

(3). There is no need to re-seed the two spill remediation sites and the borrow site for the black Cummins pump site, because these disturbed sites are all located within a large weedy area left for wildlife habitat.

[REDACTED]

[REDACTED]

Please inform this office by February 1, 2001 of your future intentions pertaining to the use of this easement.

[REDACTED]

b. Easement No. DACW45-2-82-6115 (Former Brown/Yellow Cummins Diesel Pump Station):

(1). The remediation pits, (3ca) resulting from petroleum spills have been filled with replacement soil and were disked, but the disturbed sites have not been re-seeded to permanent pasture grass. These sites must be tilled and re-seeded to common crested wheatgrass by May 1, 2001.

(2). The soil borrow site is located upland from the new turbine pump on the Big Bend Project. The borrow site has been re-shaped and disked, but hasn't been re-seeded to permanent pasture grass. The borrow site must be tilled and re-seeded to common crested wheatgrass by May 1, 2001.

(3). We are requiring re-seeding of the remediation sites and the soil borrow site, because these sites were vegetated with good native grass prior to the remediation of the petroleum spills at the pump station, and are either now vegetated with weeds or are barren. We are in complete disagreement with your assessment reported in the undated supplemental letter to your letter of June 13, 2000, concerning the type of vegetation now existing on the disturbed sites. George Spiehs will be happy to re-inspect these sites with your accompaniment, if you will call him at 605-224-8618 when you return to the Joe Creek Farm.

c. Easement No. DACW45-2-81-6150 (Former Isuzu Diesel Pump Site):

(1). The petroleum spill remediation site located near the pump site was re-seeded during the spring of 1998 to perennial ryegrass with a nurse crop of milo. The ryegrass died due to dry weather conditions and the fact that lawn grass will not survive in a Hughes County pasture without irrigation.

(2). The petroleum spill remediation site at the former fuel tank site has not been re-seeded, and has been overtaken by weeds.

(3). The spill remediation sites along the discharge pipeline, beside the turbine pump, and at the former fuel tank site must be tilled and re-seeded to common crested wheatgrass or smooth brome by May 1, 2001. Smooth brome grass is recommended for planting along the discharge pipeline, the site for which has been impacted by some water erosion.

(4). We are requiring re-seeding of the remediation sites, because these sites were vegetated with good native grass prior to the remediation of the petroleum spills, and are now either vegetated with weeds or are barren. We are in complete disagreement with your assessment reported in the undated supplemental letter to your letter of June 13, 2000, concerning the type of vegetation now existing on the disturbed sites. George Spiehs will be happy to re-inspect these sites with your accompaniment, if you will call him at 605-224-8618 when you return to the Joe Creek Farm.

Your easement instruments constitute a binding contract between yourself and the Secretary of the Army. For your information, we invite you to review condition Nos. 11, 12, 20, and 21 for each easement instrument. Condition No. 11 for each instrument states that this easement may be terminated by the Secretary of the Army for failure, neglect, or refusal by the grantee fully and promptly to comply with any and all of the conditions of this grant, or for nonuse, or for abandonment. Additionally, special condition No. 20 or 21 (the condition number varies according to the easement instrument) states that The grantee shall not remove or damage any trees or shrubs within the premises or in any manner substantially change the contour or condition of the premises herein granted, in addition the grantee shall restore all disturbed land within the granted premises, and re-seed same to natural grasses, to maintain the area in a condition like or equal to that which existed prior to the work herein authorized. Condition No. 12 for each instrument states that Upon the expiration or termination of this grant, the grantee shall, without expense to the United States, and within such time as the Secretary of the Army may indicate, remove the said line from said land and restore the premises hereby authorized to be used and occupied to a condition satisfactory to the said officer. In the event the grantee shall fail, neglect, or refuse to remove the said line and so restore the premises, the United States shall have the option either to take over the said line as the property of the United States, without compensation therefore, or to remove the said line and perform the restoration work as aforesaid at the expense of the grantee, and in no event shall the grantee have any claim for damages against the United States or its officers or agents, on account of the taking over of said line or on account of its removal.



Thank you in advance for your cooperation with these matters.

If you have any questions or comments, feel free to contact this office at 605-224-8618.

Sincerely,

Dale A. Kastner
Chief, Pierre Real Estate Office

CF:



South Dakota DENR
Water Rights Division
Attn: J. McMath
523 E. Capital Ave.
Pierre, SD 57501

CENWO-OD-BB-N (Olson/Vaughn)
CENWO-OD-T (Moore)
CENWO-RE-MC



January 16, 2002

NOTICE

2105-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

TO: HAROLD J DOWNES, 1301 SHOREBIRD LANE, CARLSBAD, CA 92009
FROM: Ron Duvall, Natural Resources Engineer
for Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 2001 Irrigation Questionnaires

Our records indicate that the 2001 Irrigation Questionnaires have not been submitted for Permit Nos. 4949-3 & 5345-3, 1000-3, 1032-3, 1657-3, 2105-3 & 4293-3. The request for the Questionnaires was dated October 12, 2001. The Water Management Board has directed that owners of water permits who have not submitted the 2001 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) 1000-3, 1032-3, 1657-3, 2105-3 & 4293-3 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) 4949-3 & 5345-3 qualification:

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

The hearing will be held at 10:00 am, March 13, 2002 in the Visitor Center (west side of Capitol Lake), 650 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) 4949-3 & 5345-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1000-3, 1032-3, 1657-3, 2105-3 & 4293-3 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 on/or before March 8, 2002, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath (605) 773-3352.

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.

2105-3

SENDER: COMPLETE THIS SECTION

- Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

HAROLD J DOWNES
1301 SHOREBIRD LANE
CARLSBAD CA 92009

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) **HAROLD DOWNES** B. Date of Delivery **1-25-02**

C. Signature **X Harold Downes** ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☒ Yes
If YES, enter delivery address ☐ No

3. Service Type ☒ Certified Mail ☐ Express ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ Signature Required

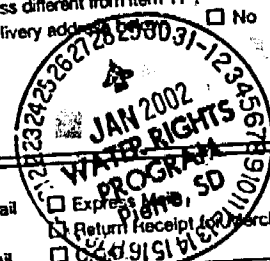
4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article **7001 2510 0004 4797 5774**

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-11-0952





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 23, 2002

Harold J Downes
1301 Shorebird Lane
Carlsbad, CA 92009

RE: Water Permit or Right Nos. 1000-3, 1032-3, 1657-3, 2105-3, 4293-3, 4949-3 & 5345-3

Dear Mr. Downes:

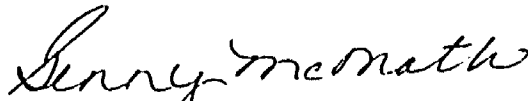
I am writing to acknowledge receipt of your 2001 irrigation questionnaires. You may disregard the January 16, 2002, "Notice" concerning reporting requirements for Water Permit or Right Nos. 1000-3, 1032-3, 1657-3, 2105-3, 4293-3, 4949-3 & 5345-3.

I completed questionnaires for you based on our January 23rd telephone conversation. The forms I completed reflect that you did not irrigate in 2001. The systems were turned on briefly at the end of the season to determine if they worked properly.

The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

Thank you for calling and if you have any questions, please contact me.

Sincerely,


Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352

Garland Erbele, Chief Engineer Water Rights Program
Department of Environment and Natural Resources
Joe Foss Building
523 East Capitol.
Pierre, South Dakota 57501-3182

RECEIVED

OCT 24 2003

WATER RIGHTS
PROGRAM

Dear Sir:

Since we first started irrigating on the Joe Creek Terrace nearly 50 years ago, before Lake Sharpe was formed, we have seen many changes. We have always found the personnel in your department most helpful and cooperative. Relying on the precedents thus set, we are submitting herewith our water rights reports along with notes accurately reporting the facts as we know them. This year catches us in a state of flux or change in that we have found it no longer economically desirable to pursue further the flood and gated pipe way of distributing water on our crops. While the pivot systems are somewhat more capital intensive, they offer the advantages of less water use, more efficient distribution, less labor intensive, less erosion, and less pollution. We took the first steps in switching over by replacing all the diesel operated pump stations with electric systems in 1997 admittedly with more than a little pressure from the Corps of Engineers.

Accordingly, we are progressively changing to pivot systems. We installed our first pivot this year and hope to have four more installed by the end of this year or at least in time for the 2004 crop season. By the 2005 season we hope to have completed the pivotization of all our irrigable holdings on the Joe Creek Terrace. So much for the big picture.

Several of the permits obviously will need amendment. We would like to wait until we have finished the current redevelopment before making those changes. However we need the advice of your department on this point. Would you please ask whoever is charged with the responsibility for reading these reports to cast one eye on this letter and the notes included herewith to better understand what we are trying to do?

We expect to be at Joe Creek from October 25-30. The farm phone is 875-3384 and my cellphone is 760-419-8951.

Sincerely,



Harold and Mary Ann Downes

1301 Shorebird Lane

Carlsbad, CA 92009

October 21, 2003

Note to # 5345-3: If this is the 25- acre strip adjacent Lake Sharpe, we lost the lease and don't believe we will recover it under current Corps of Engineers policies. Accordingly this permit may be a candidate for revision or cancellation. It was represented to us by the Corps at the time of non-renewal of our lease that the land was to be used as a wild life preserve. However, it has been farmed and crop has been taken from it in the form of hay in recent years in apparent contradiction of the use used as a basis for non-renewal of our long standing lease arrangement. If the Corps were to change its policies we would want to lease it again and make use of this permit.

If, on the other hand, this pertains to land on Joe Creek Terrace itself, we are currently irrigating it by gravity and gated pipe and are currently in the planning stages of installing additional center pivots on Secs 23 and 24 to replace the gated pipe system which has been employed since the date of permit #1000-3. We hope to have the new systems operational for the 2004 season.

Note to 4949-3: We are currently lessees of the land in Sec 21 but do not currently hold the lease in Sec 16. Accordingly, this permit should be amended to eliminate reference to the land in Sec 16. Also, we are in planning stages of installing a center pivot to replace the gated pipe system which we have always used in Sec 21. When this comes to pass, we would want to change the diversion point shown in this permit to that employed in #2105 for the land in the NW quarter of 22 and the NW quarter of 15 108-75 since the use of center pivots requires less water more efficiently distributed with less erosion than the flood systems. This change is tentatively foreseen for crop year 2005. We would like to withhold amending this permit until some of the things we are planning become fait accompli so as to incorporate all the changes with a single amendment or updating.

2105-3

Spiehs/gS/605-224-8618

August 1, 2001

Chief, Pierre Real Estate Office

SUBJECT: Big Bend Project - Irrigation Easement Nos. DACW45-2-78-6068 (Former Black Cummins Diesel Pump Station), DACW45-2-82-6115 (Former Brown/Yellow Cummins Diesel Pump Station), and DACW45-2-81-6150 (Former Isuzu Diesel Pump Station), Compliance Inspections, Harold Downes, Hughes County, South Dakota

Mr. Harold Downes
31724 Joe Creek Road
Harrold, South Dakota 57536-7000

Dear Mr. Downes:

George Spiehs inspected the subject easements on July 12, 2001, with accompaniment by yourself and Ranger Lanny Hoffer. The conditions observed to be existing on the three-easement rights-of-way were then furnished to Konrad Olson, the Big Bend Park Manager, who furnished the direction for which this letter is in response. The current status and remaining restoration requirements for each of the three easements are as follows:

a. Easement No. DACW45-2-78-6068 (Former Black Cummins Diesel Pump Station/South Dakota Water Right No. 2105-3)

The restoration of the two remediation sites is considered to be satisfactory, and re-seeding isn't required, because the two remediation sites and the soil borrow site are located within a large weedy area designated for wildlife production.

If you don't install a pumping system on this right-of-way by the end of the 2002 irrigation season, the easement will be terminated for non-use, in accordance with direction from our District office in Omaha. This easement hasn't been equipped with a pumping system or utilized subsequent to 1997.

b. Easement No. DACW 45-2-82-6115 (Former Brown/Yellow Cummins Diesel Pump Station):

The site restoration in result of the petroleum remediation work will be satisfactory as soon as you establish an average stand of perennial grass on the remediation site beside the electric powered turbine pump by hand re-seeding. The site should be re-seeded late in the fall of 2001 with common crested wheatgrass, and if needed, in the spring of 2002, prior to April 15th. The recommended time for dormant seeding in the fall is after November 1.

2105-3

c. Easement No. DACW45-2-81-6150 (Former Isuzu Diesel Pump Station):

The site restoration in result of the petroleum remediation work will be satisfactory as soon as you establish an average stand of perennial grass on the remediation site beside the electric powered turbine pump by hand re-seeding. The site should be re-seeded late in the fall of 2001 with common crested wheatgrass, and if needed, in the spring of 2002, prior to April 15th. The recommended time for dormant seeding in the fall is after November 1.

The pumping equipment located on this easement wasn't utilized for irrigation during 2001.

Thank you in advance for your cooperation with these matters.

If you have any questions or comments, feel free to contact this office at 605-224-8618

Sincerely,

Dale A. Kastner
Chief, Pierre Real Estate Office

CF:

→ South Dakota DENR
Water Rights Division
Attn: J. Mc Math
523 E. Capital Ave.
Pierre, SD 57501

CENWO-OD-BB-N (Olson/Vaughn)
CENWO-OD-T (Rocheford)
CENWO-RE-MC





2105-3
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 20, 2005

NOTICE

TO: HAROLD J DOWNES, 1301 SHOREBIRD LANE, CARLSBAD, CA 92009

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

SUBJECT: Reporting Requirement for 2004 Irrigation Questionnaires

Our records indicate that the 2004 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 22, 2004. The Water Management Board has directed that owners of water permits who have not submitted the 2004 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) 1000-3, 1032-3, 1657-3, 2105-3 & 4293-3 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) 4949-3 & 5345-3 qualification:

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

The hearing will be held at 8:30 am, March 2, 2005 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) 4949-3 & 5345-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1000-3, 1032-3, 1657-3, 2105-3 & 4293-3 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 on/or before February 25, 2005, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath (605) 773-3352.

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.



2105-3

**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 22, 2005

Harold J Downes
1301 Shorebird Lane
Carlsbad CA 92009

RE: Water Permit/Right Nos. 1000-3, 1032-3, 1657-3, 2105-3, 4293-3, 4949-3 and 5345-3

Dear Mr. Downes:

I am writing to acknowledge receipt of your 2004 irrigation questionnaires. You may disregard the January 20, 2005, "Notice" concerning reporting requirements for Water Permit/Right Nos. 1000-3, 1032-3, 1657-3, 2105-3, 4293-3, 4949-3 and 5345-3.

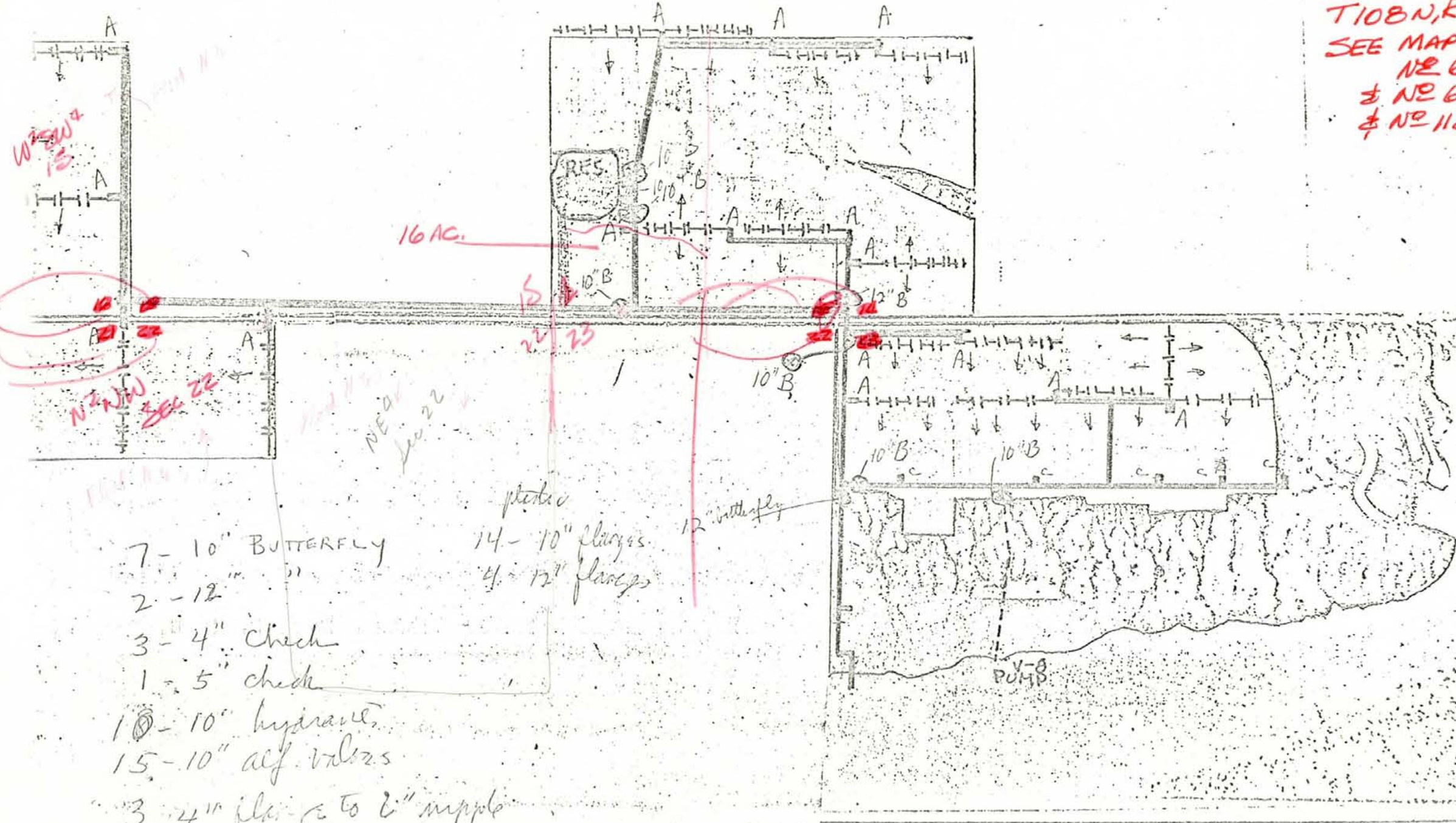
The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352

T108N, R15W
 SEE MAP
 NE 673-3
 ± NE 644-3
 ± NE 1189-3



- 7- 10" BUTTERFLY
- 2- 12" "
- 3- 4" Check
- 1- 5" check
- 10- 10" hydrants
- 15- 10" air valves

- 14- 10" flanges
- 4- 12" flanges

- 3- 4" flange to 2" nipple
- 4- 5" flange to 6" nipple

JD
 12-20-733- 6" elbows & union
 1- 6" flange drill

~~MAP NO 1504-3~~ APPC NO 2105-3

1000-3

1032-3

1657-3

2105-3

4293-3

4949-3

5345-3

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME: Albert Hattum, 21862 West Bend Rd, Harrold SD

DATE: September 25, 2006

TELEPHONE: 605 875-3248

RE: irrigation questionnaires for former Harold Downes land

COMMENTS:

Mr. Hattum stopped by the office to complete the 2005 irrigation questionnaires for Water Right Nos. 1000-3, 1032-3, 1657-3, 2105-3, 4293-3 and Water Permit Nos. 4949-3 and 5345-3. He farmed the land for the "Downes". Harold Downes had originally submitted the forms in November, 2005. The information contained on the forms did not appear to be correct and Mr. Hattum was contacted to review the data and make any necessary changes.

Since the updated irrigation questionnaire information for 2005 was received so late, the information did not become part of the permanent record for 2005. The completed questionnaires will still be scanned however the information will not be contained in the yearly report.

September 26, 2006: John Downes (son) and Michele Downes (daughter) to Mary Ann Downes stopped by the office to submit the "Notice of Transfer of Ownership" changes needed to transfer all Harold Downes' water rights to Mary Ann (Harold's wife). Michele Downes requested that the annual irrigation questionnaires be sent directly to her and she would work with Mr. Hattum to get them completed and submitted back to the office. Send the forms to her at:

Michele Downes 1682 NW Hopper St Roseburg OR 97470	phone: 541 464-8902 cell: 760 417-5711 work: 541 440-1000
--	---

Genny McMath
Genny McMath
Environmental Scientist

John C. Downes
Senior Claims Counsel
Surety & Financial Claims



ZURICH

Zurich North America
P.O. Box 17097
Baltimore, MD 21297-1097
Phone (800) 670-7077 Ext. 1
Fax (800) 329-6112
sfs.claims@zurichna.com

Michele Downes
1682 NW Hopper St
Roseburg OR 97470
760-417-5711
541-464-8902

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date September 26, 2006

RECEIVED OF John Downes, 723 Bay Front Ln., Oak Harbor WA 98277

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		
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>4293-3</u> <u>2105-3</u>	2	50
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	2.50

No.

02595

By

Darland White
Chief Engineer
gm

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 2105-3

Date: 9/12/06

I/We request that Water Right No. 2105-3

formerly owned by: Harold J Downes

be transferred to: (name & address) MARY ANN DOWNES
1301 SHOREBIRD LANE
CARLSBAD, CA 92011 Telephone No. (760) 602-8437

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

172 acres - SW ¼ SW ¼ Section 14; W ½ SW ¼ Section 15; NW ¼ NW ¼ & NE ¼ NE ¼ Section 22
all in T108N, R75W

I/We understand that the validity of Water Right No. 2105-3 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 Two Dollars and Fifty Cents (\$2.50) 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 MARY ANN DOWNES the new owner, certify that the above information is true and correct.

+ Mary Ann Downes
(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.

RECEIVED
SEP 26 2006
WATER RIGHTS
PROGRAM



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 27, 2006

Mary Ann Downes
1301 Shorebird Ln
Carlsbad CA 92011

RE: Water Right or Permit Nos. 1000-3, 1032-3, 1647-3, 2105-3, 4293-3, 4949-3, 5345-3

Dear Mrs. Downes:

On September 26th, John and Michele Downes stopped by the office with the transfer forms you signed for changing ownership on Water Right Nos. 1000-3, 1032-3, 1647-3, 2105-3, 4293-3 and Water Permit Nos. 4949-3 and 5345-3. The transfers have been completed. The water rights and permits formerly listed in the name of Harold Downes are now listed in your name.

The receipts for the filing fees are being forwarded to John Downes by copy of this letter.

During a review of the water rights, we found the original water license for No. 2105-3 contained an error in the legal description. The error is being corrected and a new copy of the water license will be forwarded to you as soon as it is issued and signed. Also, it came to our attention that the irrigation systems described under Water Right Nos. 1000-3, 1032-3 and 1647-3 were operated interchangeably from the same diversion points. For ease of reporting information on the annual irrigation questionnaires, the water licenses are being combined into one. Nothing is lost during this process and you will retain the original priority dates. A copy of the final license will also be sent to you under separate cover once it is issued and signed by the Chief Engineer.

If I can answer any questions for you, please contact me.

Sincerely,

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

c: John Downes



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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www.state.sd.us/denr

NOV 01 2008

1000-3
1032-3
1657-3
2105-3

Mary Ann Downes
1301 Shorebird Lane
Carlsbad CA 92009

Dear Mrs. Downes:

Enclosed are your Reissued Water License Nos. 1657-3 and 2105-3. Water License No. 2105-3 was reissued to correct an error in the legal description of the irrigated acreage. Water License No. 1657-3 was reissued to incorporate the applicable portions of Water Right Nos. 1000-3 and 1032-3. In each case, all original priority dates were retained.

As long as you use the water beneficially, as stated in the Water License, State Water Laws provide that you have a continuing right to use the water.

Sincerely,

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

enclosures

c: Michele Downes w/copies of licenses

STATE OF SOUTH DAKOTA

REISSUED WATER LICENSE NO. 2105-3

(1) Harold J Downes was issued Water License No. 2105-3, May 2, 1980 for a water right to divert 2.50 cubic feet of water per second from the Missouri River, Hughes County, South Dakota for irrigation purposes. Water License No. 2105-3, with a priority date of August 9, 1974 was issued to the permit holder for diversion of water with construction of the described water supply system and the application to beneficial use of water completed.

On September 26, 2006, Water Right No. 2105-3 was transferred to Mary Ann Downes, 1301 Shorebird Ln, Carlsbad, CA 92009.

A review of the water right found the original license contained an error in the legal description of the irrigated acres. The land described as being in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 22 should have been NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 22. This description is consistent with how the application was originally submitted and advertised. Water License No. 2105-3 is being reissued to correct the error. The reissued license does not authorize additional acres or diversion rate and does not alter the remaining portions of the water right.

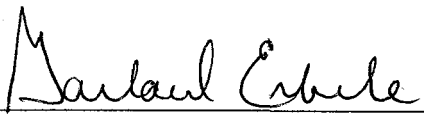
(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the water supply system and is entitled to divert 2.50 cubic feet of water per second for beneficial use. The location of the diversion points are between 2,620 feet E and 3,200 feet S of the NW corner of Section 23 and 3,100 feet S and 1,200 feet W of the NE corner of Section 23, T108N, R75W (NE $\frac{1}{4}$ SW $\frac{1}{4}$ & NE $\frac{1}{4}$ SE $\frac{1}{4}$).

(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 14, T108N, R75W		Section 15, T108N, R75W		Section 22, T108N, R75W	
SW $\frac{1}{4}$ SW $\frac{1}{4}$	16 acres	NW $\frac{1}{4}$ SW $\frac{1}{4}$	40 acres	NW $\frac{1}{4}$ NW $\frac{1}{4}$	38 acres
		SW $\frac{1}{4}$ SW $\frac{1}{4}$	38 acres	NE $\frac{1}{4}$ NW $\frac{1}{4}$	40 acres
Total 172 acres					

(4) Pursuant to South Dakota Water Law 46-5-30.1 Mary Ann Downes, 1301 Shorebird Ln, Carlsbad CA 92009 the holder and/or owner of Water Right No. 2105-3 is issued a license to appropriate water, the right to use 2.50 cubic feet of water per second from the Missouri River with a priority date of August 9, 1974 from the locations specified in (2) of this license. The water is to be conducted to and upon lands described above for the purpose of irrigation.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 2105-3.


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

NOV 01 2006
date





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 23, 2009

NOTICE

TO: JOHN DOWNES, MGR, 723 DAY FRONT, OAK HARBOR, WA 98277

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

SUBJECT: Reporting Requirement for 2008 Irrigation Questionnaires

Our records indicate that the 2008 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 24, 2008. The Water Management Board has directed that owners of water permits who have not submitted the 2008 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) 1657-3, 2105-3 & 4293-3 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) 4949-3 & 5345-3 qualification:

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

The hearing will be held at **10:00 am, March 11, 2009** 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) 4949-3 & 5345-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1657-3, 2105-3 & 4293-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

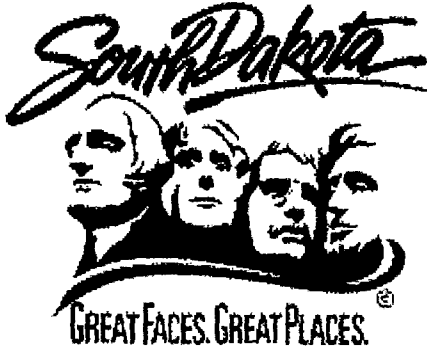
The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by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

If the questionnaire(s) is (are) received in this office on/or before **March 6, 2009**, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352. If you prefer, you can complete the questionnaire on-line at the following link:

<https://www.state.sd.us/eforms/secure/eforms/E0455V7-IQ.pdf>

c: MARY ANN DOWNES, 1301 SHOREBIRD LN, CARLSBAD CA 92011

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 12, 2009

John Downes, Mgr
723 Day Front
Oak Harbor WA 98277

RE: Water Right or Permit Nos. 1657-3, 2105-3, 4293-3 4949-3 and 5345-3

Dear Mr. Downes:

On March 11th, the Water Management Board ordered Water Permit Nos. 4949-3 and 5345-3 be suspended if the 2008 irrigation questionnaires were not received prior to April 11, 2009.

The questionnaire information for your water permits and rights was received on March 11th. Since the irrigation questionnaires are on file, no violations have occurred and no suspensions will take place. You are hereby authorized to irrigate during the 2009 irrigation season.

The Board also moved to amend Water Right Nos. 1657-3, 2105-3 and 4293-3 to include the following qualification:

- **Water Right Nos. 1657-3, 2105-3 and 4293-3 are approved subject to the Irrigation Water Use Questionnaire being submitted each year.**

The action to amend Water Right Nos. 1657-3, 2105-3 and 4293-3 became effective immediately. The amendment means that future violations for failure to return the annual irrigation questionnaire may result in the Water Management Board suspending the water rights.

If you have any questions, please contact Genny McMath at (605) 773-3352.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program

c: Albert Hattum, 21862 W Bend Rd, Harrold SD 57536



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 22, 2010

NOTICE

TO: JOHN DOWNES, MGR, 723 DAY FRONT, OAK HARBOR, WA 98277

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

SUBJECT: Reporting Requirement for 2009 Irrigation Questionnaire(s)

Our records indicate that the 2009 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 1657-3, 2105-3, 4293-3, 4949-3 & 5345-3. The request for the Questionnaire was dated October 16, 2009. The Water Management Board has directed that owners of water permits who have not submitted the 2009 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 1657-3, 2105-3, 4293-3, 4949-3 & 5345-3 qualification:

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

The hearing will be held at **10:00 am, March 10, 2010** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 1657-3, 2105-3, 4293-3, 4949-3 & 5345-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office on/or before **March 5, 2010**, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <https://denr.sd.gov/iq.aspx>

c: MARY ANN DOWNES, 1301 SHOREBIRD LN, CARLSBAD CA 92011

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 3, 2010

John Downes, Mgr
723 Day Front
Oak Harbor WA 98277

RE: Water Right Nos. 1657-3, 2105-3, 4293-3, 4949-3 & 5345-3

Dear Mr. Downes:

I am writing to acknowledge receipt of your 2009 irrigation questionnaires. You may disregard the January 22, 2010, "Notice" concerning reporting requirements for Water Right Nos. 1657-3, 2105-3, 4293-3, 4949-3 & 5345-3. Mr. Hattum delivered the information to our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

As we discussed through email communication, future irrigation questionnaires will be directed to Mr. Hattum for completion. By copy of this letter, I am sending him a map showing the areas covered for irrigation. This should make completion of the forms easier.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is written in a cursive, flowing style.

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

c: Albert Hattum
Mary Ann Downes



2105-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 15, 2016

NOTICE

TO: ALBERT HATTUM, RENTER, 21862 W BEND RD, HARROLD, SD 57536

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

SUBJECT: Reporting Requirement for 2015 Irrigation Questionnaires

Our records indicate your 2015 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 23, 2015. The Water Management Board has directed that owners of water permits who have not submitted the 2015 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) 1994-3 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) 1657-3, 2105-3, 4293-3, 4949-3 & 5345-3 qualification:

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

The hearing will be held at **Thursday, March 3, 2016 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) 1657-3, 2105-3, 4293-3, 4949-3 & 5345-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1994-3 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 questionnaire(s) is (are) received in this office before the **March 3, 2016** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

c: JOHN C DOWNES, PO BOX 968037, SCHAUMBURG IL 60196

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

denr.sd.gov

January 22, 2016

Albert Hattum
21862 W Bend Rd
Harrold SD 57536

Dear Mr. Hattum:

I am writing to acknowledge receipt of your 2015 irrigation questionnaires for Water Permit or Right Nos. 1657-3, 1994-3, 2105-3, 4293-3, 4949-3 & 5345-3.

You may disregard the January 15, 2016, "Notice" concerning reporting requirements for the above listed water permits and water 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,

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

c: John C Downes, PO Box 968037, Schaumburg IL 60196



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 20, 2017

NOTICE

TO: ALBERT HATTUM, RENTER, 21862 W BEND RD, HARROLD, SD 57536

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

SUBJECT: Reporting Requirement for 2016 Irrigation Questionnaires

Our records indicate your 2016 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 21, 2016. The Water Management Board has directed that owners of water permits who have not submitted the 2016 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) 1994-3 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) 1657-3, 2105-3, 4293-3, 4949-3 & 5345-3 qualification:

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

The hearing will be held at **Wednesday, March 1, 2017 at 11:00 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) 1657-3, 2105-3, 4293-3, 4949-3 & 5345-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1994-3 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 1, 2017** 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: <http://denr.sd.gov/iq.aspx>

c: JOHN C DOWNES, PO BOX 968037, SCHAUMBURG IL 60196

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.

2105-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

denr.sd.gov

February 1, 2017

Albert Hattum
21862 W Bend Rd
Harrold SD 57536

RE: Water Permit/Right Nos. 1657-3, 1994-3, 2105-3, 4293-3, 4949-3 and 5345-3

Dear Mr. Hattum:

I am writing to acknowledge receipt of your 2016 irrigation questionnaires.

You may disregard the January 20, 2017, "Notice" concerning reporting requirements for Water Permit/Right Nos. 1657-3, 1994-3, 2105-3, 4293-3, 4949-3 and 5345-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

Please keep in mind, these forms are due annually on December 1st, not the end of January.
If you have any questions, please contact me.

Sincerely,

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

c: John C Downes



2105-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
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PIERRE SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

January 26, 2018

NOTICE

TO: ALBERT HATTUM, RENTER, 21862 W BEND RD, HARROLD, SD 57536

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

SUBJECT: Reporting Requirement for 2017 Irrigation Questionnaires

Our records indicate your 2017 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 20, 2017. The Water Management Board has directed that owners of water permits who have not submitted the 2017 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) 1994-3 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) 1657-3, 2105-3, 4293-3 & 5345-3 qualification:

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

The hearing will be held at **Wednesday, March 7, 2018 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) 1657-3, 2105-3, 4293-3 & 5345-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1994-3 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 7, 2018** 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: <http://denr.sd.gov/iq.aspx>

c: JOHN C DOWNES, 723 BAY FRONT LN, OAK HARBOR WA 98277

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



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 5, 2018

Albert Hattum
21862 W Bend Rd
Harrold SD 57536

RE: Water Permit/Right Nos. 1657-3, 1994-3, 2105-3, 4293-3 & 5345-3

Dear Mr. Hattum:

I am writing to acknowledge receipt of your 2017 irrigation questionnaires.

You may disregard the January 26, 2018, "Notice" concerning reporting requirements for Water or Permit Nos. 1657-3, 1994-3, 2105-3, 4293-3 & 5345-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

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

c: John C Downes



2105-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 25, 2019

NOTICE

TO: ALBERT HATTUM, RENTER, 21862 W BEND RD, HARROLD, SD 57536

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

SUBJECT: Reporting Requirement for 2018 Irrigation Questionnaires

Our records indicate your 2018 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 30, 2018. The Water Management Board has directed that owners of water permits who have not submitted the 2018 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) 1994-3 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) 1657-3, 2105-3, 4293-3 & 5345-3 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, 2019 at 10:30 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) 1657-3, 2105-3, 4293-3 & 5345-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1994-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

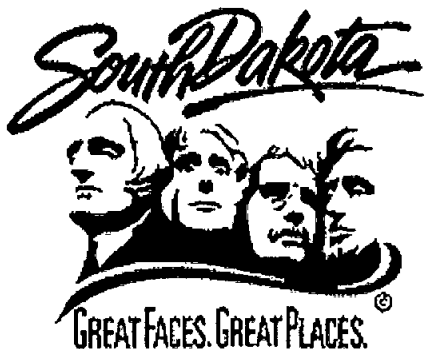
The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by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

If the questionnaires are received in this office before the **March 6, 2019** 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: <http://denr.sd.gov/iq.aspx>

c: JOHN C DOWNES, 723 BAY FRONT LN, OAK HARBOR WA 98277

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.

2105-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 19, 2019

Albert Hattum
21862 W Bend Rd
Harrold SD 57536

RE: Water Permit/Right Nos. 1657-3, 1994-3, 2105-3, 4293-3 & 5345-3

Dear Mr. Hattum:

I am writing to acknowledge receipt of your 2018 irrigation questionnaires.

You may disregard the January 25, 2019, "Notice" concerning reporting requirements for Water Permit or Right Nos. 1657-3, 1994-3, 2105-3, 4293-3 & 5345-3. 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 black ink, which appears to read "Genny McMath". The signature is fluid and cursive.

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

c: John Downes, 1301 Shorebird Ln., Carlsbad, CA 92011



2105-3
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 23, 2020

NOTICE

TO: ALBERT HATTUM, RENTER, 21862 W BEND RD, HARROLD, SD 57536

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

SUBJECT: Reporting Requirement for 2019 Irrigation Questionnaires

Our records indicate your 2019 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 18, 2019. The Water Management Board has directed that owners of water permits who have not submitted the 2019 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) 1994-3 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) 1657-3, 2105-3, 4293-3 & 5345-3 qualification:

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

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

1. Suspend or cancel Permit No(s) 1657-3, 2105-3, 4293-3 & 5345-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 1994-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

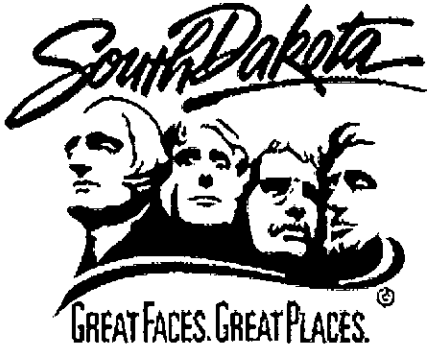
The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by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

If the questionnaires are received in this office before the **February 26, 2020** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional 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: IPRIJR**

c: JOHN C DOWNES, 723 BAY FRONT LN, OAK HARBOR WA 98277

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.

2105-3



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

February 11, 2020

Albert Hattum
21862 W Bend Rd
Harrold SD 57536

RE: Irrigation questionnaires for Water Right/Permit Nos. 1657-3, 1994-3, 2105-3, 4293-3 & 5345-3

Dear Mr. Hattum:

I am writing regarding the 2019 irrigation questionnaires. I obtained the necessary information from Mr. Downes and completed forms for our files.

You may disregard the January 23, 2020, "Notice" concerning reporting requirements for Water Right or Permit Nos. 1657-3, 1994-3, 2105-3, 4293-3 & 5345-3.

With receipt of the information, everything for 2019 is up to date. If you have any questions, please contact me.

Sincerely,

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

c: John Downes

2105-3

RECEIVED

JUN 23 2020

WATER RIGHTS
PROGRAM

MAY ADAM

— Since 1881 —

WWW.MAYADAM.NET

June 22, 202

ROBERT B. ANDERSON
TIMOTHY M. ENGEL
MICHAEL F. SHAW
BRETT KOENECKE
JUSTIN L. BELL
DOUGLAS A. ABRAHAM
TERRA M. FISHER
LAURA C. ROWE

WARREN W. MAY 1920-2018
THOMAS C. ADAM 1936-2019
BRENT A. WILBUR 1949-2006

TELEPHONE
605 224-8803
FAX
605 224-6269

E-MAIL
daa@mayadam.net

PMB 2020
DENR – Water Rights Program
523 E. Capitol Avenue
Pierre, South Dakota 57501

RE: JOHN DALY FILE
Our File: 0016/14152

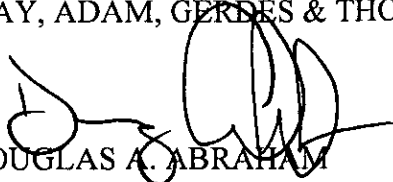
Dear Sir or Madam:

Please find enclosed with this correspondence seven Notices of Transfer of Ownership concerning a number of parcels. If you have questions or concerns regarding the enclosed information, please let me know. I have included a corresponding check in the amount of \$350 for the \$50 fee per transfer as required by SDCL 46-2-13. If you need anything further in relation to this matter, please let me know.

Best regards.

Very truly yours,

MAY, ADAM, GERDES & THOMPSON LLP



DOUGLAS A. ABRAHAM

DAA:mw
Enclosures
cc: John Daly

MAY, ADAM, GERDES & THOMPSON LLP
503 SOUTH PIERRE STREET • P.O. Box 160
PIERRE, SOUTH DAKOTA 57501-0160

RECEIVED

JUN 23 2020

WATER RIGHTS
PROGRAM

PAID

JUN 23 2020

Ck# 38060

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 2105-3

Date: _____

I/We request that Water Right No. 2105-3

formerly owned by: Mary Ann Downes

be transferred to: (name & address) John H Daly, 34662 236th St, Pukwana SD 57370

Telephone No. 605 680-1354

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

172 acres – SW ¼ SW ¼ Section 14; W ½ SW ¼ Section 15; N ½ NW ¼ Section 22, T108N, R75W

I/We understand that the validity of Water Right No. 2105-3 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 John Daly, the new owner, certify that the above information is true and correct.


(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.

2105-3

RECEIPT**WATER RIGHTS PROGRAM**

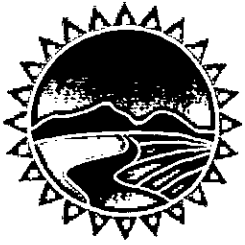
South Dakota Department of Environment and Natural Resources

Date June 23, 2020RECEIVED OF May Adam Gerdes & Thompson LLP PO Box 160 Pierre SD 57201-0160

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	\$
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>2105-3</u>	\$50.00
Fee for _____	\$
Fee for Issuing New Well Driller's License No. _____	\$
Fee for Renewal of Well Driller's License No. _____	\$
Fee for Issuing Well Pump Installer's License No. _____	\$
Fee for Renewal of Well Pump Installer's License No. _____	\$
(Any Other Work Provided by Law)	
TOTAL	\$50.00

By Eric Bronlund
 Chief Engineer
 vm



DENR
SOUTH DAKOTA

DEPARTMENT of ENVIRONMENT
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July 1, 2020

Douglas A Abraham
MAY, ADAM, GERDES & THOMPSON LLP
PO Box 160
Pierre SD 57501 0160

RE: John Daly transfers

Dear Mr. Abraham:

The seven transfer forms and filing fees you submitted on behalf of John Daly were received and four were processed. Water Right Nos. 4293-3, 2105-3, 1657-3 and Permit No. 5345-3, formerly held by Harold and/or Mary Ann Downes are now listed under John H Daly.

As we discussed on the phone, the transfers filed for Nos. 1000-3, 4949-3 and 4393-3 are not needed for the following reasons:

- **1000-3** Those acres were incorporated into Water License No. 1657-3 upon licensing, so everything irrigated is within 1657-3 (filing an ownership change for 1657-3 caught all of the acreage under both #'s)
- **4949-3**: SW ¼ Section 16 and E ½ Section 21, T108N, R75W (this one according to the 2017 inspection looks like it can be cancelled) We did not receive word back from the Tribe on any new lease.
- **4393-3** (held by Lyle Wagner) is for land in Union County (SE ¼ Sec 9, T92N, R50W).

The receipts amounting to \$200 for the transfers that were processed are enclosed. The remaining \$150 submitted for Nos. 1000-3, 4949-3 and 4393-3 will be refunded to you. The refund will be processed and sent to you within the next two weeks.

If you have any questions, please let me know.

Sincerely,

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

c: John Daly, 34662 236th St, Pukwana SD 57370