



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

May 10, 2000

Joe Ebbers
RR #2, Box 77
Castlewood, SD 57223

Dear Mr. Ebbers:

As per our telephone conversation, I am enclosing a copy of the cover letter sent to Mr. Krein and three file documentations of conversations in this matter.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352

enclosure

NOTICE OF TRANSFER OF OWNERSHIP

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



No. _____

Date: 2/10/00

I/We request that Water Permit/Right No. 2127-3

formerly owned by: Shirley Hagseth

be transferred to: (name & address) Joe Ebberts RR 2 Box 77

Custerwood, SD 57223 Telephone No. (605) 873-2737

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

66 Acres E 1/2 NE 1/4 Sec 13 T112N, S14W

I/We understand that the validity of Water Permit/Right No. 2127-3 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 attached to cover the filing fees as required under SDCL 46-2-13.

STATE OF SOUTH DAKOTA)

County of Hauke)

I/We Joe Ebberts 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, and that I know of my own personal knowledge that the information herein stated is true.

Joe Ebberts
(Signed)

Subscribed and sworn to before me this 10th day of February, 192000.

Doris F. Koiste
(Notary Public)

My Commission expires 11-11-2003

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

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

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

№ 416440

Pierre, _____ March 23, 2000

RECEIVED OF Joe Ebberts, RR 2, Box 77, Castlewood, SD 57223
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 Water Right No. 2127-3

Fee for Filing Extension Request _____

Fee for _____

2 50

(Any Other Work Provided by Law)

Total

2 50

By W. C. and E. C. Ebberts
Chief Engineer

Water Rights Program - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Joe Ebbers, RR # 2, Box 77, Castlewood SD 57223

DATE: April 18, 2000 TELEPHONE:

RE: Discussion of letter to him and reissued Water Right No. 2127A-3

COMMENTS:

Mr. Ebbers called regarding the letter he received along with his portion of Water Right No. 2127-3 which was sent to him as reissued Water License No. 2127A-3. Mr. Ebbers indicated that in the purchase of the land he received the irrigation equipment and the well. He was under the impression that the entire water right should have been issued to him. He was further concerned that in the reissuance of Water Right No. 2127B-3 to Roger Krein that we provided Mr. Krein access to the well located on the Ebber property.

I explained that under SDCL 46-5-34 irrigation rights are appurtenant to the land. That means that when parcels of land held under a water right are sold to separate owners, the water right is divided proportionately based on the irrigated acres now owned by each of the new landowners. This split of the water right also includes the proportionate share of the diversion rate from the water source (aquifer). I further stated that I do not believe that the reissued water right provides access to the well on another person's property, unless some agreement exists or there was something in the purchase agreement to that effect.

We discussed how Mr. Foster (who is somehow affiliated with Mr. Krein) represented to Genny McMath that he had an agreement worked out with Mr. Ebbers for use of Ebbers' well. Mr. Ebbers flatly denied that there has been or ever will be an agreement for the use of his well by Mr. Krein and Mr. Foster. He indicated that in his purchase of the property he got exclusive ownership and use of the well. I again stated that I do not believe the water right grants access or use of his well by others. However, in splitting the water right between the two parties, we had an obligation to provide each party their rightful share of the irrigated acres and the accompanying diversion rate. To do otherwise could deprive Mr. Krein the ability to drill his own well and retain the 1974 priority date.

We had a brief discussion on whether Mr. Krein intended to irrigate. I stated that under water rights law a person has to irrigate at least once every three years unless legal excuse exists or the water right is subject to forfeiture. I can not at this point speculate on Krein's intentions.

I told him that it was clear to us and the prior file documentation indicates there was an obvious difference point of view the two landowners had to whether an agreement to the use of the well existed. Mr. Ebbers asked whether he should get an attorney's opinion to ensure his rights are protected.

We discussed Mr. Ebberts filing an application for additional water in order to provide him adequate water to operate the system. Our discussion gravitated towards him looking at replacing his existing system (traveling gun) to a center pivot that would make half (windshield wipe) rotation. Since that pivot could operate at 900 gpm he was adjusting his application for the appropriate additional amount of water (585 gpm). I stated the application/licensing fee will be \$200 and that we should have map and well information already on file.

Finally, I stated that I would send him a copy of the past file documentations on this issue.

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: Eric Hurlbert

File No. 2127-3

WATER RIGHTS PROGRAM -- FILE DOCUMENTATIONNAME & ADDRESS: Joe Ebbers, RR #2 Box 77, Castlewood, SD 57223DATE: April 18, 2000TELEPHONE: 605 873-2111 (work #)RE: Transfer of Water Right No. 2127-3

Mr. Ebbers called in regard to the "Notice of Transfer of Ownership" form he submitted in March to transfer part of the land in No. 2127-3 to his name. He wondered what the status of the transfer was. I told him that I was currently waiting to hear from the owner of the adjacent land so the transfers could be done at the same time. The water right will be divided into two because of separate ownership.

Mr. Ebbers said he purchased, the well, system and the land in Section 13. The remaining land (Section 12) is owned by Ron Foster. Mr. Foster's land does not include the well. He said that Mr. Foster will have to drill a new well if he wants to irrigate the land in Section 12.

Mr. Ebbers wanted to know if he could go ahead and irrigate the land. I told him yes, as long as the water right was not lost due to abandonment or forfeiture. I explained legal excuse to him and the fact that the land needed to be irrigated at least once every three years to maintain the water right. He said as far as he knew, it had been wet enough that irrigation was not required.

The water right will be divided as follows:

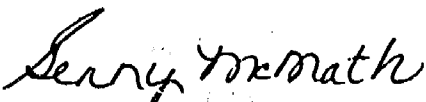
No. 2127A-3: E ½ NE ¼ Section 13, T112N, R51W (66 acres and 0.70 cfs) to Joe Ebbers

No. 2127B-3: E ½ SE ¼ Section 12, T112N, R51W (60 acres and 0.64 cfs) to Ron Foster

Since only one well is authorized, the well will be listed on both water rights. Mr. Foster will either have to drill a new well if he intends to irrigate or work out an access agreement with Mr. Ebbers.

I told Mr. Ebbers that he would need to obtain a water permit for the additional diversion rate he would need to operate his system. The investigation report says the well & big gun produce 600 gpm.

Mr. Ebbers said to go ahead and send him the paperwork and we could get started with the application process.


Genny McMath
Environmental Scientist

File No. 2127-3
& 2127B-3

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Ron Foster, 46571 196th Ave, Estelline, SD 57234

DATE: April 19, 2000

TELEPHONE: 605 873-2245

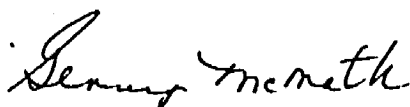
RE: status of transfer

COMMENTS:

I phoned Mr. Foster to see if he had the transfer materials I sent to him for transferring portions of No. 2127-3 to his name. He said he gave them to his son. Since we spoke last, he has sold the land to his son. His son will be submitting the ownership change and filing fee.

I asked Mr. Foster about use of the well and he says they have an agreement worked out with Mr. Ebbers to use the well. This seems to be contrary to what Mr. Ebbers told me.

I spoke with Eric Gronlund about the possibility of a new application for the Fosters and he indicated we would go ahead and divide the water right up between the two owners and then in the cover letter to Mr. Foster let him know that having a water right for use of the well does not grant him access rights. Use of the well will be contingent upon him working out an agreement with Mr. Ebbers.



Genny McMath
Environmental Scientist

STATE OF SOUTH DAKOTA
REISSUED WATER LICENSE NO. 2127A-3
DIVISION OF NO. 2127-3 INTO NOS. 2127A-3 AND 2127B-3

(1) Mearl Hagseth was issued Water License No. 2127-3, January 22, 1979, for a water right to divert 1.34 cubic feet of water per second (cfs) from ground water (one well), Brookings County, South Dakota for irrigation purposes. Water License No. 2127-3, with a priority date of October 9, 1974 was issued to the permit holder for diversion of water with construction of the described water supply system completed and the application to beneficial use of said completed.

Water Right No. 2127-3 authorizes irrigation of 126 acres in the E ½ SE ¼ Section 12 and the E ½ NE ¼ Section 13, T112N, R51W. The land described in the water right is now owned by two new owners. The water license is being divided and reissued to reflect separate ownership as follows:

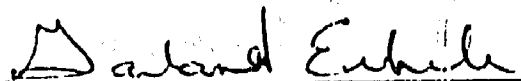
- No. 2127A-3, Joe Ebbers – authorizing diversion of 0.70 cfs from one well located in the NE ¼ NE ¼ Section 13 to irrigate 66 acres in the E ½ NE ¼ Section 13, T112N, R51W.
- No. 2127B-3, Roger Krein – authorizing diversion of 0.64 cfs from one well located in the NE ¼ NE ¼ Section 13 to irrigate 60 acres in the E ½ SE ¼ Section 12, T112N, R51W.

(2) It is certified that the water right holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 0.70 cubic feet of water per second for beneficial use. The location of the diversion point is 615'S and 220'W of the NE corner of Section 13, T112N, R51W (NE ¼ NE ¼).

(3) The water right 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 13, T112N, R51W	
NE ¼ NE ¼	29 acres
SE ¼ NE ¼	37 acres
Total	66 acres

(4) Pursuant to South Dakota Water Law 46-5-30.1 Joe Ebbers, RR 2 Box 77, Castlewood, SD 57223 the holder and/or owner of Water Right No. 2127A-3 is issued a license to appropriate water, the right to use 0.70 cubic feet of water per second from ground water (one well) with a priority date of October 9, 1974 from the location specified in (2) of this license. The water to be conducted to and upon lands specified in (3) of this license for the purpose of irrigation. This license is subject to any limitations or qualifications listed in Water Right No. 2127-3 and subject to South Dakota State Law.


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

MAY 05 2000

date





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3131
www.state.sd.us/denr

May 5, 2000

2127A-3

Joe Ebbers
RR 2 Box 77
Castlewood, SD 57223

Dear Mr. Ebbers:

Enclosed is your Water License No. 2127A-3. Water License No. 2127-3 was originally issued to Mearl Hagseth and authorized irrigation of 126 acres in the E ½ SE ¼ Section 12 and the E ½ NE ¼ Section 13, T112N, R51W. Based on new ownership of the land, the license was divided and reissued as No. 2127A-3 (Joe Ebbers) and 2127B-3 (Roger Krein). The quantity of water was divided proportionately between both owners.

Water License No. 2127A-3 allows diversion of 0.70 cubic feet of water per second (314 gallons per minute) from one well to irrigate 66 acres. In an April 18th telephone conversation, you indicated the well and irrigation system is on the land that you own. Our records show that the well and system produce 600 gpm. In order to bring your existing system into compliance with SD Water Laws, you will need to obtain a water permit for the additional diversion rate.

Enclosed is a partially completed application for a permit to appropriate water and an instruction sheet. Included is a copy of a map which compares to the original acreage and diversion point location. Please review the application and map and make any necessary corrections. The application will need to be signed in the presence of a notary.

I have highlighted the areas on the instruction sheet that pertain to this application. Please return the application, map and fee (total of \$200) to our program. If you have any questions concerning the Water License No. 2127A-3 or with the permit application materials, please contact either Genny McMath or Eric Gronlund at (605) 773-3352.

Sincerely,

Garland Erbele
Chief Engineer
Water Rights Program

enclosures



2127A-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

SEP 24 2009

6209-3
2127A-3

Joe Ebbers
46243 189th St
Castlewood SD 57223

Dear Mr. Ebbers:

Enclosed is your Water License No. 6209-3. This is the final water right document completing your process of obtaining a Water Right. Issuance of the license incorporated the applicable portions of Water Right No. 2127A-3. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 6209-3, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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

Sincerely,

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

enclosures