

**WATER PERMIT NO. 2211A-3**

Name of Applicant: Western Trust Co., Gary Hoffman, Trustee

Address: PO Box 1052, Watertown SD 57201 Phone: 605 874-2903

Amount of Water Claimed: no add'l Total Acres: no add'l

Source of Water Supply: runoff

Water to be used for: irrigation County: Brookings

Type of Waste Disposal System:

Location: 6 miles south of Brookings

PRIORITY Date Received: 6-19-2003 Application/License Fee: \$100

Corrected Application Received: Period of Annual Use: May 1 – October 31

Remarks: This is an additional diversion point to Water Right No. 2211-3

Diversion Point: SW ¼ SE ¼ Sec 26-T109N-R50W

Land to be Irrigated: SE ¼, S ½ NE ¼, SE ¼ NW  
¼, NE ¼ SW ¼ Sec 26-T109N-R50W

Depth of Well: NA

Well Driller: : NA

Remarks:

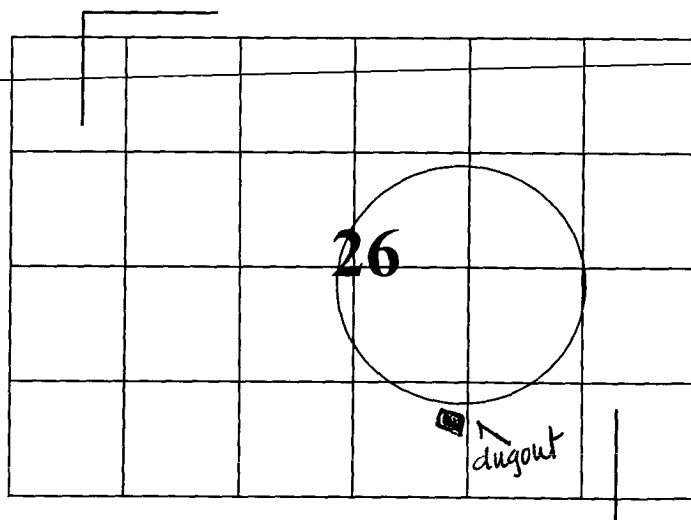
Type of Map: aerial photo

Prepared by: Kevin Luoma, NRCS

Reviewed and the Number Assigned on: 6-20-2003

By: **Karen Schlaak**

Notice of Hearing - date to intervene: \_\_\_\_\_



|                                                                                                                    |                                                      |                                                    |
|--------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|----------------------------------------------------|
| Mail to:<br>Water Rights Program<br>Joe Foss Building<br>523 E. Capitol<br>Pierre, SD 57501-3181<br>(605) 773-3352 | No. <u>2211A-3</u> (office use only)                 | RECEIVED<br>JUN 19 2003<br>WATER RIGHTS<br>PROGRAM |
|                                                                                                                    | Basin <u>Sioux River</u>                             |                                                    |
|                                                                                                                    | Newspaper <u>Brookings Register</u> <u>Brookings</u> |                                                    |
|                                                                                                                    | Hydrologic Unit <u>10170202</u>                      |                                                    |

## Application For Permit To Appropriate Water For Irrigation

Type of Application: New Vested Right ☒ Amendment/Correction to Permit No. 2211-3  
(Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.) Diversion Pond  
120 feet long by 120 feet wide and 30 feet deep.

1. Name of Applicant Gary Hoffman, Trustee - Western Trust Co. Phone (605) 874-2903  
(check one) ☒ Owner ☐ Tenant/lessee  
Mailing Address P.O. Box 1052 - Watertown State S.D. 57201  
(Street, RR, or Box and City) no add'l (Zip Code)

2. Amount of water claimed Don't know \*CFS or 800 \*\*GPM Don't know \*\*\*AF Total Acreage 164 (no add'l)  
(\*Cubic Feet per Second) (\*\*Gallons per Minute) (\*\*\*) Acre Feet - storage capacity of dam/dugout or annual use if applicable

3. Source of water supply Present Gravel Pit dugout

4. Location of point of diversion (example - 3 wells in SW 1/4 NE 1/4 section 12-T104N-R53W) Diversion Pond in the SE 1/4  
(SW 1/4 SE 1/4) and E 1/2 SW 1/4 of Section 26-105-50 (Separate legal description  
Sheet by Professional Engineer - Wayne Haug - is attached) County - Brookings

5. County or counties where water will be used Brookings County

6. Annual period during which water is to be used May thru August October 31

7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.  
(Attach sheet if more space is needed)

| Land Description      | Acres | Land Description      | Acres |
|-----------------------|-------|-----------------------|-------|
| Sec 26-T109N-R50W, BD | 3.00  | Sec 26-T109N-R50W, DB | 40.00 |
| Sec 26-T109N-R50W, AC | 36.00 | Sec 26-T109N-R50W, DA | 37.00 |
| Sec 26-T109N-R50W, AD | 28.00 | Sec 26-T109N-R50W, DC | 8.00  |
| Sec 26-T109N-R50W, CA | 7.00  | Sec 26-T109N-R50W, DD | 5.00  |

8. Give a description of the project. (Attach sheet if more space is needed)

STATE OF SOUTH DAKOTA) SS  
County of Codington

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

I, GARY G. HOFFMAN Trustee, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Applicant's signature Gary G. Hoffman Trustee  
Western Trust Co

Subscribed and sworn to before me this 18<sup>th</sup> day of June 20 03

Deb Seiler  
Notary Public signature

**SOUTH DAKOTA**  
**WATER PERMIT NO. 2211A-3**

Date of first receipt of application June 19, 2003.

The Chief Engineer, on behalf of the Water Management Board, issues Water Permit No. 2211A-3 to Western Trust Company, Gary Hoffman, Trustee, PO Box 1052, Watertown SD 57201 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 2211A-3 authorizes an additional point of diversion. Water Right No. 2211-3 authorizes 2.23 cubic feet of water per second from a gravel pit to irrigate 164 acres located in the SE ¼, S ½ NE ¼, SE ¼ NW ¼, NE ¼ SW ¼ Section 26-T109N-R50W. This permit authorizes construction of a dugout located in the SW ¼ SE ¼ Section 26-T109N-R50W to supplement irrigation from the gravel pit. The dugout (approximate storage capacity of 4.0 acre feet) will be constructed to a depth to intercept ground water from the Big Sioux:Brookings Aquifer. The dugout will also receive incidental surface run-off. No increase in the amount of water appropriated or acres irrigated are authorized by this permit.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – October 31.
3. The date from which applicant may claim right is June 19, 2003.
4. The date of approval of Permit No. 2211A-3 is September 8 2003.
5. One-fifth of the construction is to be completed on or before March 8, 2006.
6. All construction is to be completed on or before September 8, 2008.
7. Water is to be put to beneficial use on or before September 8, 2012.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

**QUALIFICATIONS**

1. The dugout approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The owner of this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. Water Permit No. 2211A-3 authorizes a dugout with an approximate storage capacity of 4.0 acre feet of water.
3. The diversion rate from Water Right No. 2211-3 and Permit No. 2211A-3, combined, may not exceed 2.23 cfs for the irrigation of the 164 acres authorized under Water Right No. 2211-3.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

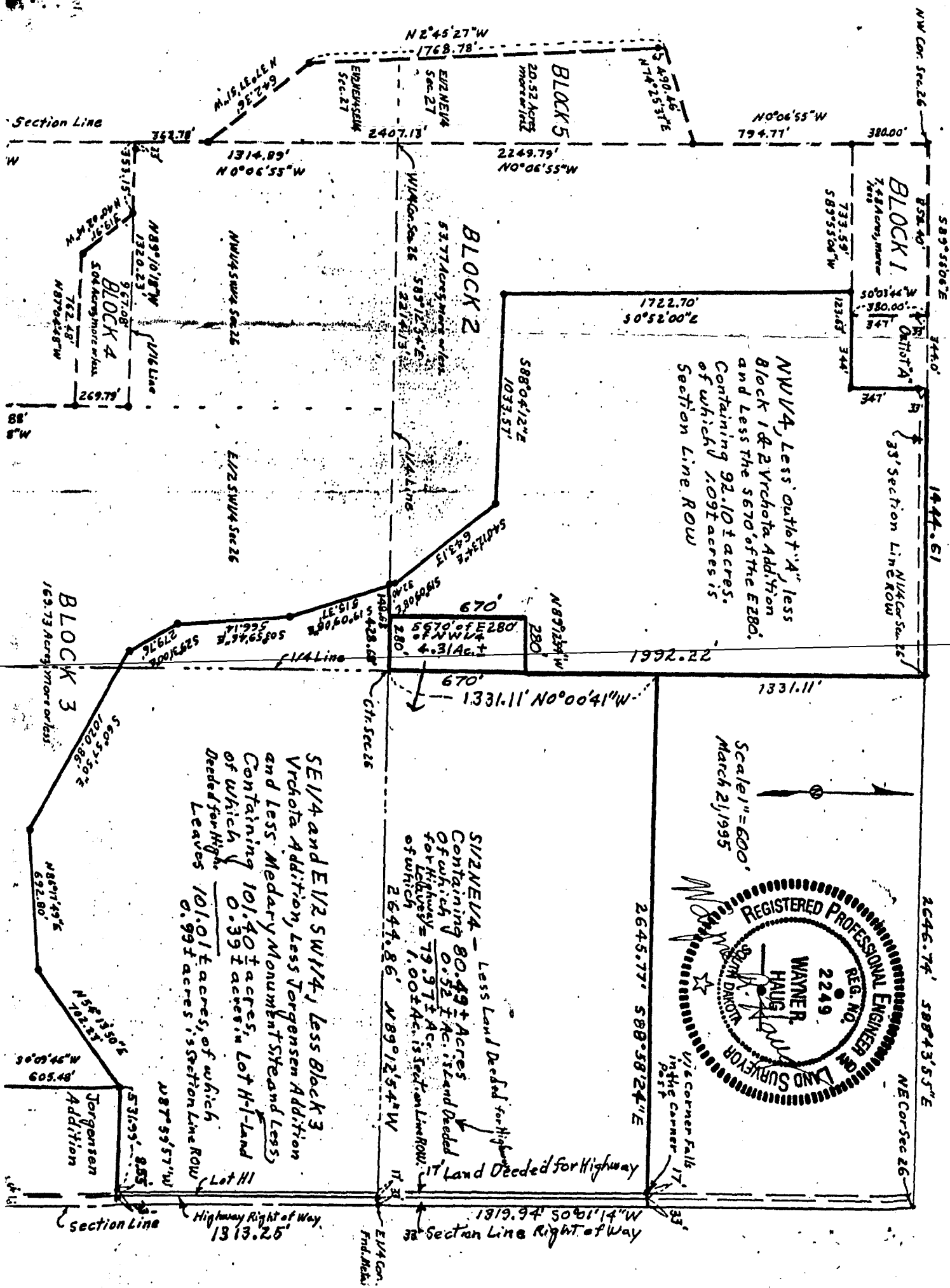
**WATER MANAGEMENT BOARD**

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

SEP 26 2003

date







United States  
Department of  
Agriculture

Natural  
Resources  
Conservation  
Service

105 South Crescent  
Flandreau, SD 57028-1802  
(605) 997-2949 ext.3 (phone)  
(605) 997-5132 (fax)

**DATE:** June 9, 2003

Dear Mr. Hoffman:

A Highly Erodible Land and Wetland Conservation (HEL/WC) determination, SCS-CPA-026 form, has been previously issued for this tract. Therefore, I am sending this response to inform you of the effects the proposed action(s) will have on your USDA program eligibility.

**Installation of irrigation pond, as marked on the map, WILL NOT effect wetlands. Pond can be installed, as proposed, without effecting USDA program eligibility.**

**However, the area where you want to build the pond is near the old town of Medary. You may want to contact the State Historical Preservation Office (SHPO) prior to construction to ensure you will not excavate anything during construction. I have enclosed some information on the old town.**

**In addition, construction of the pond adjacent to the Big Sioux River could trap the Topeka Shiner minnow, which is on the endangered species list. If floodwater spills into the pond, the shiner may become trapped and could be considered a taking of a federally protected species under the Endangered Species Act. You may want to contract the US Fish and Wildlife Service to determine what impact, if any, the pond could be on the Topeka Shiner.**

This determination is for USDA purposes only. This is **NOT** a county drainage permit. You may need to obtain a County Drainage Permit before any work is started. Please refer to the attached notice for additional information.

If you have any questions, please stop in or call me at (605) 997-2949 ext.3.

Sincerely,

Joel Curran  
District Conservationist

cc: Moody County Farm Service Agency w/attachments

UNITED STATES  
DEPARTMENT OF  
AGRICULTURE

Natural Resources  
Conservation  
Service

Box 396  
Howard, SD  
57349  
772-5642

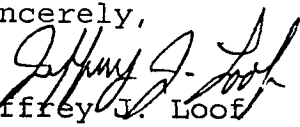
April 12, 1999

Lance Rom, Cultural Resources Specialist  
Natural Resources Conservation Service  
1530 Samco Rd., Suite 4  
Rapid City, SD 57702-8007

Lance:

Enclosed is a Level III Cultural Resources Inventory Report  
of the Jason Vichota Dugouts in Brookings County.

Sincerely,

  
Jeffrey J. Loof  
District Conservationist

cc: Darrell Granbois, DC, Brookings FO

**A Level III Cultural Resource Inventory**

**Of**

**the Jason Vichota Dugouts**

**by**

**Jeffrey J. Loof**

**Project #99BK01**

**March, 1999**

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**Principal Investigator**

**U.S. Department of Agriculture**

**Natural Resources Conservation Service**

**Howard, SD**

**Abstract:** A Level III cultural resource inventory was conducted of the Jason Vichota Dugouts. Cultural resources were located but were not evaluated for the National Register of Historic Places. The site will be avoided by all project related activities.

**Project Description:** Two livestock dugouts will be constructed to standard dimensions, which are approximately 60' by 120' (top dimensions) with a depth of 10-12'. Excavated material will be placed in two piles either side of the dugout or removed from the project area. Heavy equipment such as draglines or earthmovers (scrapers) will be used to construct the dugouts.

**Environment:** The project areas are located on a floodplain. The soils are Moritz-Lamoure silty clay loam and Fairdale loam. No bedrock outcrops were observed within the project area. The vegetation cover (approx. 45-100%) consists primarily of Reed Canarygrass and Kentucky Bluegrass. The project area is drained by the Big Sioux River, a perennial river. Elevation of the project area varies between 1560 and 1580 feet above mean sea level. Previous surface disturbance includes a vehicle trail with minimal disturbance.

**Cultural Resources Review:** Prior to the field work a files search was conducted with the S.D. Archaeological Research Center. No sites or surveys have been reported to that office. However, the town of Medary site is east and south of the project areas. This town site is monumented on the road's edge.

Information about the town was gathered and is made a part of the report. The Brookings County Historical Society is available, as needed, to provide additional information. Board members for the society are: Larry Barnet (Chairman), Grace Linn, Barbara Behrends and Barb Telkamp (local historian).

**Research Design:** This inventory was conducted to determine if any National Register of Historic Places eligible cultural resources were present in the project area, and if so, how the proposed project might affect them.

**Field Work:** On March 4, 1999, Jeff Loof and Josh Henderson conducted an initial field inventory. Due to high vegetation cover of the project area, very little soil surface was seen. Consequently, on March 23, 1999, Brenda Shierts, Bruce Kunze, Josh Henderson and Jeff Loof conducted 5 subsurface test holes, using an 8" auger. As a result, no artifacts or indications of a cultural resource were found. The adjacent cutbanks along the Big Sioux River and a portion of the adjoining cropland were surveyed as well. There was no snow cover. The surface visibility varied between 40-100%.

**Results:** As a result of the initial field survey and the subsequent subsurface testing, no artifacts or indications of a cultural resource existing on the projects areas were found. The probability of unlocated cultural resources existing within the project area is minimal.

**Recommendation:** Cultural resource clearance is recommended because no National Register of Historic Places eligible cultural resources will be impacted by the proposed action.

Project #99BK01  
Brookings Field Office  
T109N, R50W, Section 26  
Brookings County, South Dakota  
USGS 7.5' Medary quad. map



Department of Education and Cultural Affairs  
Office of History



Archaeological Research Center  
Post Office Box 1257  
Rapid City, SD 57709-1257  
2425 East Saint Charles Street  
Rapid City, SD 57703-4164  
605-394-1936 FAX 605-394-1941  
email: [wwwsarc@www.sdsmt.edu](mailto:wwwsarc@www.sdsmt.edu)  
<http://www.sdsmt.edu/wwwsarc/>

February 24, 1999

Jeffrey J. Loof

Natural Resources  
Conservation Services  
Post Office Box 396  
Howard, SD. 57349

RE: TOWNSHIP 109N, RANGE 50W, SECTION 26

Dear Jeff:

I have completed the above subject inventory search with the following results.

No sites or surveys have been reported to our office for the project location or the one mile radius of the project. This area of the Big Sioux River has had very few surveys.

~~This site file search is a review of existing archaeological~~  
information located within a one mile radius of your APE (area of potential effect). Comments concerning the likelihood that unidentified historic properties exist in the APE may or may not be included. Information concerning other types of known historic properties (architecture and/or history) may be available at the State Historic Preservation Office. The views of the State Historic Preservation Officer regarding potential further actions to identify historic properties that may be affected is still required (36 CFR 800.4 (a)(1)(iii)).

If additional assistance is needed please do not hesitate to contact our office.

Sincerely,

Patricia L. Hofer  
Senior Secretary

cc: Bruce Penner, Review and Compliance, SHPO  
Mike Kuck, Natural Resource Planning Coordinator  
Lance Rom, Cultural Resource Specialist

STATE OF SOUTH DAKOTA  
GEOLOGICAL SURVEY  
DEPARTMENT OF HIGHWAYS

6672 IV SE  
(BROOKINGS)

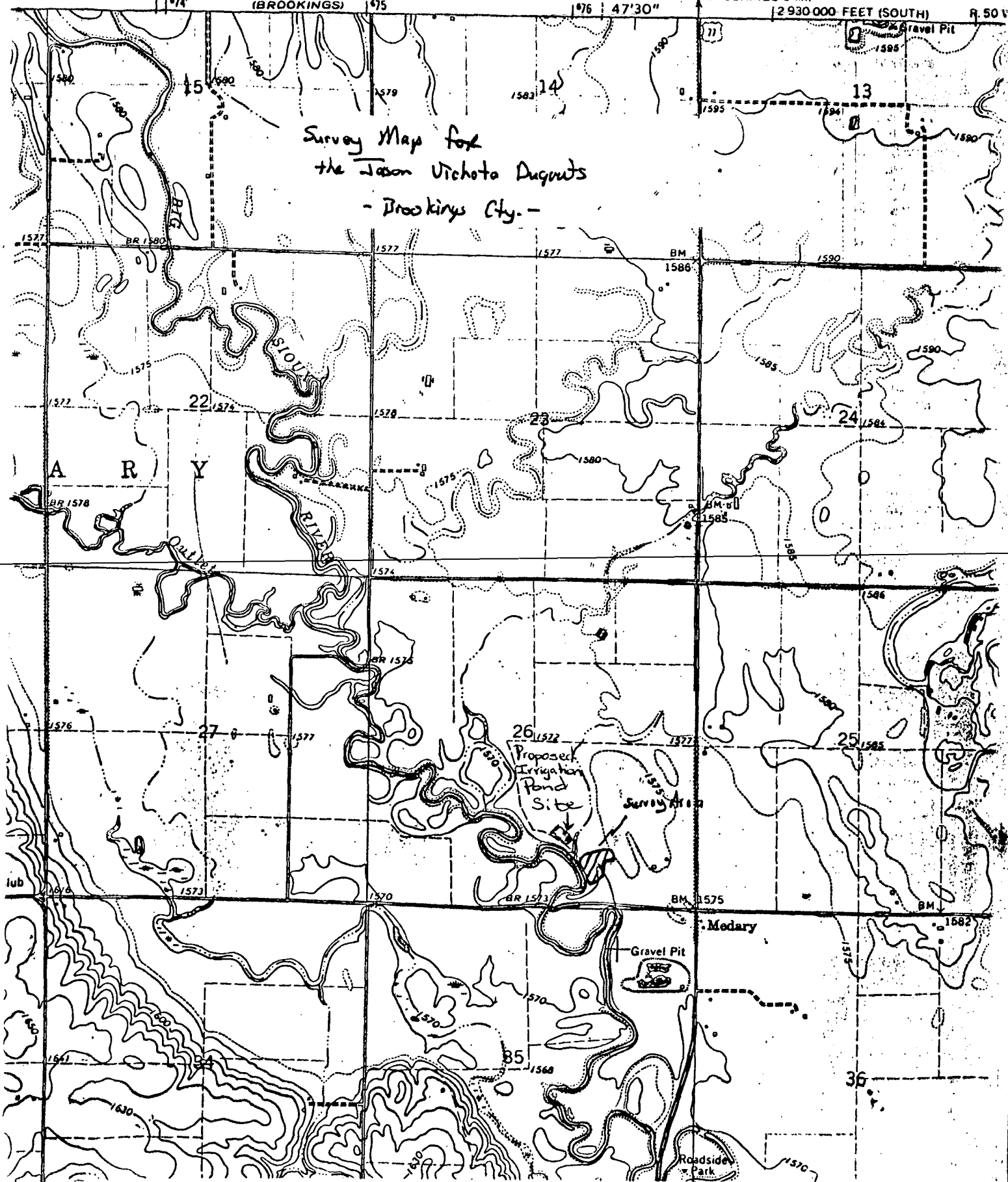
CLEAR LAKE 40 MI.  
BROOKINGS 5 MI.

7.5

2 930 000 FEET (SOUTH)

R. 50 V

Survey Map for  
the Jason Vichota Dugouts  
- Brookings Cty. -



# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date June 20, 20 03

RECEIVED OF Gary Hoffman, Trustee, Western Trust Co., PO Box 1052, Watertown SD 57201

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

|                                                                                                                         |       |        |
|-------------------------------------------------------------------------------------------------------------------------|-------|--------|
| Fee for Application for Permit No. <u>2211A-3</u> to Appropriate Water, to construct and to put water to beneficial use | 50    | 00     |
| Fee for Application for Permit No. _____ to Appropriate Water for Future use                                            |       |        |
| Fee to retain Future Use Permit No. _____ after period of seven years.                                                  |       |        |
| Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>2211A-3</u>            | 50    | 00     |
| Fee for Filing Transfer Form _____                                                                                      |       |        |
| Fee for _____                                                                                                           |       |        |
| Fee for Issuing New Well Driller's License No. _____ for C.Y. _____                                                     |       |        |
| Fee for Renewal of Well Driller's License No. _____ for C.Y. _____                                                      |       |        |
| Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____                                                  |       |        |
| Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____                                               |       |        |
| (Any Other Work Provided by Law)                                                                                        | TOTAL | 100.00 |

No.

**000804**

By

Darlene White

Chief Engineer

gm

File Nos. 603-3  
2211-3

## **Water Rights Program -- File Documentation**

**NAME:** Gary Hoffman, Trustee, Western Trust Co.

**ADDRESS:** PO Box 1052, Watertown SD 57201

**DATE:** April 29, 2003      **COUNTY:** Moody      **TELEPHONE:** 605 874-2903

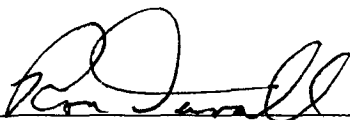
**RE:** Additional diversion points

### **COMMENTS:**

I contacted Mr. Hoffman to determine whether the proposed additional wells to irrigate acreage under Water Right No. 603-3 would result in an increase in the permitted diversion rate of 1,243 gpm. Mr. Hoffman indicated that the capacity of the three existing wells has declined and he wants the additional wells to boost the capacity to what it used to be. The total diversion will not exceed the 1,243 gpm authorized under No. 603-3. I also informed Mr. Hoffman that No. 603-3 authorized two wells and that three wells are in existence. Mr. Hoffman indicated that all three wells were in existence when he obtained the property approximately 10 years ago. I told Mr. Hoffman the eastern most well must have been added between the time of licensing in 1969 and when he obtained the property.

### **RECOMMENDED ACTION:**

I advised Mr. Hoffman that we will wait until we receive the test hole logs from Pullman well drilling and find out the exact number and location of any additional wells. Once that information is obtained then we can make a determination whether any additional permitting is necessary. I told Mr. Hoffman if the additional wells (including the eastern most well) are all in the same water source and the diversion rate is not increased, then probably no additional permitting will be needed. Also, Mr. Hoffman is proposing to supplement diversion from a gravel pit under No. 2211-3 with additional wells. The same criteria apply for determining whether any additional permitting is necessary. Mr. Hoffman does not intend to increase the diversion under No. 2211-3 but rather take pumping pressure off the gravel pit to minimize impacts to a bait shop which utilizes the same gravel pit area for fish rearing.



Ron Duvall, Natural Resources Engineer  
Water Rights Program

## **Water Rights Program -- File Documentation**

**NAME:** Gary Hoffman, Western Trust Co

**ADDRESS:** PO Box 1052, Watertown SD 57201

**DATE:** June 18, 2003      **COUNTY:** Brookings      **TELEPHONE:** 874-2903

**RE:** Additional diversion point

### **COMMENTS:**

Gary Hoffman called on June 18, 2003 regarding construction of an additional diversion point to supplement the gravel pit authorized by Water Right No. 2211-3. Mr. Hoffman had some test drilling completed but the driller did not believe the shallow aquifer had the ability to deliver sufficient water to a well or wells.

The well driller suggested that Mr. Hoffman consider digging a dugout to use as a supplemental diversion point. Currently, a gravel pit is used as the sole diversion point under No. 2211-3 but use of this diversion point may adversely impact a nearby fish rearing business that makes use of a series of gravel pits. Mr. Hoffman wants to split the diversion as evenly as possible between the current diversion point and the proposed dugout to minimize impacts to the fish rearing business.

I informed Mr. Hoffman that even though there is no intent to increase the diversion rate or increase irrigated acres we would still process the permit application in the same manner as a new application. I noted the past controversy regarding water use affecting the fish rearing business and the proximity of the proposed dugout to the Big Sioux River as reasons for following the regular permitting procedure.



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Ron Duvall, Natural Resources Engineer  
Water Rights Program

Department of Environment & Natural Resources  
Joe Foss Building  
523 East Capitol  
Pierre, S.D. 57501-3182

Western Trust Company  
Gary Hoffman, TRustee  
P.O. Box 1052  
Watertown, S.D. 57201  
Phone: (605) 874-2903

June 18, 2003

Attention: Ron Deval

RE: Proposed Diversion Pond

RECEIVED

JUN 19 2003

WATER RIGHTS  
PROGRAM

Dear Ron:

Enclosed is the information on my proposed Diversion Pond. I haven't contacted the State Historical Preservation Office yet regarding the town of Medary. I am quite sure that I am not in any area that would have any effect on the Historical Preservation of the old town of Medary.

Jason Vichota dug two dug-outs 120' X 60' closer to the old town of Medary. (Copy of that information is enclosed.) They found nothing.

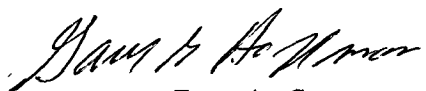
The irrigation pond that I am proposing is located NW of the Jason Vichota dugouts which is further away from the old town of Medary. I am quite sure that I would not destroy any Historical Preservation of any kind.

I have not contacted the U.S. Fish & Wildlife yet either. I will check on the Topeka Shiner - minnow. I am planning on talking to the U.S. Fish & Wildlife to see if the irrigation pond would have any negative effect on the minnows. I presume it would not. However I will check with the U.S. Fish & Wildlife to make sure.

If you have any questions please write me or phone me at my address or phone number listed above.

Thank You !

Sincerely,



Western Trust Company  
Gary G. Hoffman, Trustee

**Water Rights Division - DENR**

Conversation or File Documentation

**Name of Person:** Gary Hoffman, Western Trust Co.

**File No. 2211A-3**

**Address:** PO Box 1052, Watertown SD 57201 **County:** Brookings

**Date:** June 27, 2003 **Telephone:** (605) 874-2903

**RE:** About Water Permit No. 2211A-3

**Comments:** I talked to Gary about getting approval from United States Fish & Wildlife (USFS) about this permit possible impacting the Topeka Shiner. I also asked him if he has got approval from the State Historic Preservation Office. He told me that he talked to the USFS Brookings Office and they don't have a problem with it. The USFS Brookings Office told him to contact their Sioux Falls Office. Gary is still waiting to hear back from them. He hasn't contacted the State Historic Preservation Office. Gary told me that he will not start the project before getting approval letters from USFS, State Historic Preservation, and our office.

He also told me that Mark Froning doesn't have a problem with the project.



---

Stacy J. Johnson  
Natural Resources Project Engineer

**Water Rights Division - DENR**

Conversation or File Documentation

**Name of Person:** Gary Hoffman, Western Trust Co.

**File No. 2211A-3**

**Address:** PO Box 1052, Watertown SD 57201 **County:** Brookings

**Date:** July 16, 2003 **Telephone:** (605) 874-2903

**RE:** About Water Permit No. 2211A-3

**Comments:** Gary asked me about the permit process. I explained the permit process to him. I also told him that we wanted copies of the approval letters from the United States Fish & Wildlife (USFS) in regards to the Topeka Shiner and from the State Historic Preservation Office. He told me that his neighbors are in favor of him getting this water permit. He is going to contact USFS and the State Historic Preservation Office about getting approval letters from them.



Stacy J. Johnson  
Natural Resources Project Engineer

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**Water Rights Division - DENR**

Conversation or File Documentation

**Name of Person:** Natalie Gates United States Fish and Wildlife Service (USFS) **File**  
**No. 2211A-3** **Address:** 420 S Garfield, Pierre SD 57501 **County:** Brookings  
**Date:** July 25, 2003 **Telephone:** (605) 224-8693  
**RE:** About Water Permit No. 2211A-3

**Comments:** I talked to Natalie Gates with USFS about Gary Hoffman's water permit application in regards to the Topeka Shiner issue. She told me that since Gary isn't receiving federal funds to develop his project that he doesn't need an approval letter from USFS. She also told me he is going to screen his dugout. This should help to prevent any impact to the Topeka Shiner.



Stacy J. Johnson  
Natural Resources Project Engineer

**Water Rights Division - DENR**

Conversation or File Documentation

**Name of Person:** Gary Hoffman, Western Trust Co.

**File No. 2211A-3**

**Address:** PO Box 1052, Watertown SD 57201 **County:** Brookings

**Date:** August 1, 2003 **Telephone:** (605) 880-9246 (Cell phone)

**RE:** About Water Permit No. 2211A-3

**Comments:** I talked to Gary about getting USFS approval for his water permit application. I told him that in talking to Natalie Gates that since his project doesn't have federal funding involved in it that it doesn't need USFS approval. I also I told him that since he is going to screen his dugout that he shouldn't be impacting the Topeka Shiner.

I told him that we are moving forward with his application regards if he gets approval letters from USFS and from the State Historical Preservation Office. I also told him that if we approve his water permit application that he does have to meet other agencies requirements for his water permit application. Also told him that if this application goes in front of the Water Management Board that it is good idea to have the necessary approval letters to show the Board that all the necessary procedures where followed.

He told me that he will be contacting the State Historical Preservation Office. He is having some test holes drilled to find out what is below where his dugout will be located.



Stacy J. Johnson  
Natural Resources Project Engineer

Water Permit Application No. 22-1A-3 6-27-03

Stacy Johnson

Dimensions of Dugout

120 feet Long

120 feet wide

30 feet Depth

$$\text{Surface Area} = 120\text{ft} \times 120\text{ft} = 14,400 \text{ ft}^2$$

$$\text{Total Surface Area} = 14,400 \text{ ft}^2 \times \frac{1 \text{ Acre}}{43,560 \text{ ft}^2} = 0.330 \text{ Acres}$$

$$\text{Maximum Storage Capacity} = 0.330 \text{ Acres} \times 30\text{ft} \times 0.4 = 3.96 \text{ Ac-ft}$$

22-141 50 SHEETS  
22-142 100 SHEETS  
22-144 200 SHEETS





**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT  
APPLICATION NO. 2211A-3, Western Trust Company**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 2211A-3, Western Trust Company, c/o Gary Hoffman, Trustee, PO Box 1052, Watertown SD 57201.

The Chief Engineer is recommending APPROVAL of Application No. 2211A-3 because 1) the proposed diversion can be developed without unlawful impairment of existing rights, 2) the proposed use is a beneficial use and 3) it is in the public interest with the following qualifications:

1. The dugout approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The owner of this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. Water Permit No. 2211A-3 authorizes a dugout with an approximate storage capacity of 4.0 acre feet of water.
3. The diversion rate from Water Right No. 2211-3 and Permit No. 2211A-3, combined, may not exceed 2.23 cfs for the irrigation of the 164 acres authorized under Water Right No. 2211-3.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.

Garland Erbele, Chief Engineer  
August 14, 2003

REPORT ON WATER PERMIT APPLICATION NO. 2211A-3  
Western Trust Company  
August 5, 2003

Western Trust Company has filed an application for an additional point of diversion. Water Right No. 2211-3 authorizes 2.23 cubic feet of water per second (cfs) from a gravel pit to irrigate 164 acres located in the SE  $\frac{1}{4}$ , S  $\frac{1}{2}$  NE  $\frac{1}{4}$ , SE  $\frac{1}{4}$  NW  $\frac{1}{4}$ , and NE  $\frac{1}{4}$  SW  $\frac{1}{4}$  Section 26 T109N-R50W. This application proposes to construct a dugout located in SW  $\frac{1}{4}$  SE  $\frac{1}{4}$  Section 26 T109N-R50W. No increase in the amount of water appropriated or acres irrigated are authorized by this application.

The proposed project is located approximately six miles south of the City of Brookings in Brookings County.

**Review of the Proposed Project and Existing Water Rights**

The primary source of water for this project is the Big Sioux Brookings (BS: B) Aquifer and limited local runoff. The BS: B Aquifer is a surficial outwash (sand and gravel) which is under predominantly unconfined or water table conditions in this area. The aquifer is hydraulically connected to the Big Sioux River and ground water movement is probably toward the river.

The Water Rights Program does monitor observation wells in this area. BG-20, BG-21, and BG-57H are completed into the BS: B Aquifer and located within a one mile radius of the proposed dugout. Water levels for these wells show good response to climatic conditions, that is, rising during wet years (recharge) and gradually declining during dry years. The water level record indicates that the aquifer is capable of sustaining additional withdrawals (Water Rights, 2003). Hydrographs for these wells can be found as Attachment 1.

Water availability should not be a problem during wet years. However during dry years, the dugout may not be a reliable source of water due to fluctuation in groundwater levels and evaporation.

There are two water rights taking water from the BS: B Aquifer in close proximity to the proposed project. Water Right No. 6019-3 authorizes the use of two wells out of the BS: B Aquifer for domestic and commercial use in a fish raising (bait) operation. Part of the water is used to supply a house and office with water. The other part of the water is used to circulate water for fish rearing ponds. The wells and fish rearing ponds are located in the NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  Section 35 T109N-R50W. Water Right No. 2211-3 owned by the applicant authorizes the use of a gravel pit for irrigation of 164 acres. This water right takes water from one of the fish rearing ponds. This water right is senior to Water Right No. 6019-3.

This application proposes adding an additional diversion point to Water Right No. 2211-3. This will help to alleviate the owner from relying solely on the fish rearing pond for its water source.

There are two other water rights within a one mile radius of the proposed project taking water from the BS: B Aquifer. These water rights and the two discussed previously appropriate 7.94 cfs of groundwater. If this application is approved, it should not adversely impact these water rights.

The dugout may require maintenance because of sediment build up.

If this application is approved, it does not free the applicant from requirements that other agencies might have in regard to this project.

### **Conclusions**

1. This application is for an additional diversion point for Water Right No. 2211-3. No increase in the amount of water appropriated or acres irrigated are authorized by this application.
2. Water availability for this project should not be a problem during wet years. However during dry years, the dugout may not be a reliable source of water due to fluctuation in groundwater levels and evaporation.
3. There are five water rights within a one mile radius of the proposed project taking water from the BS: B Aquifer. If this application is approved, it should not adversely impact these water rights.
4. If this application is approved, it does not free the applicant from requirements that other agencies might have in regard to this project.



Stacy J. Johnson  
Natural Resources Project Engineer  
Reviewed by:

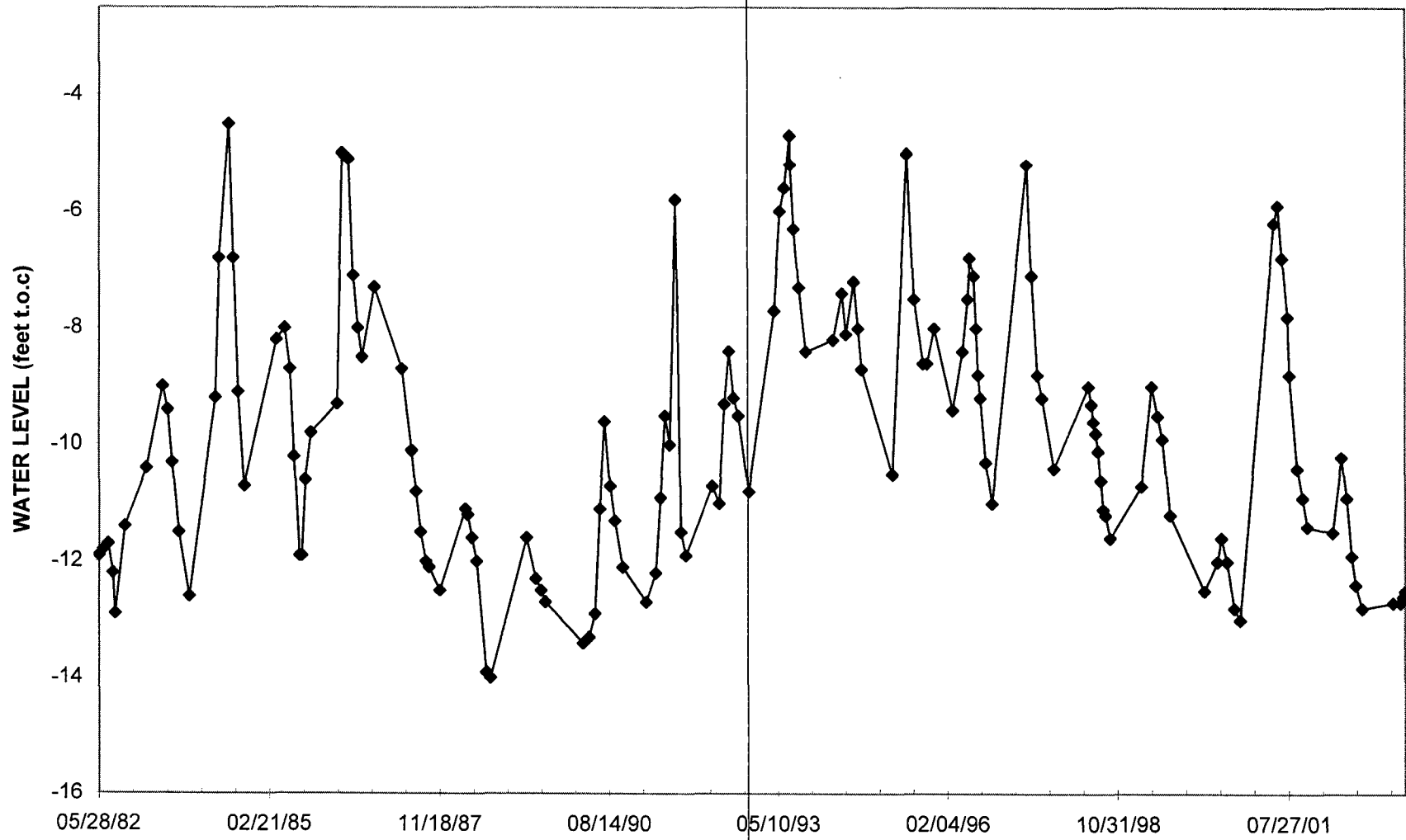


Lynn Beck  
Natural Resources Engineering Specialist

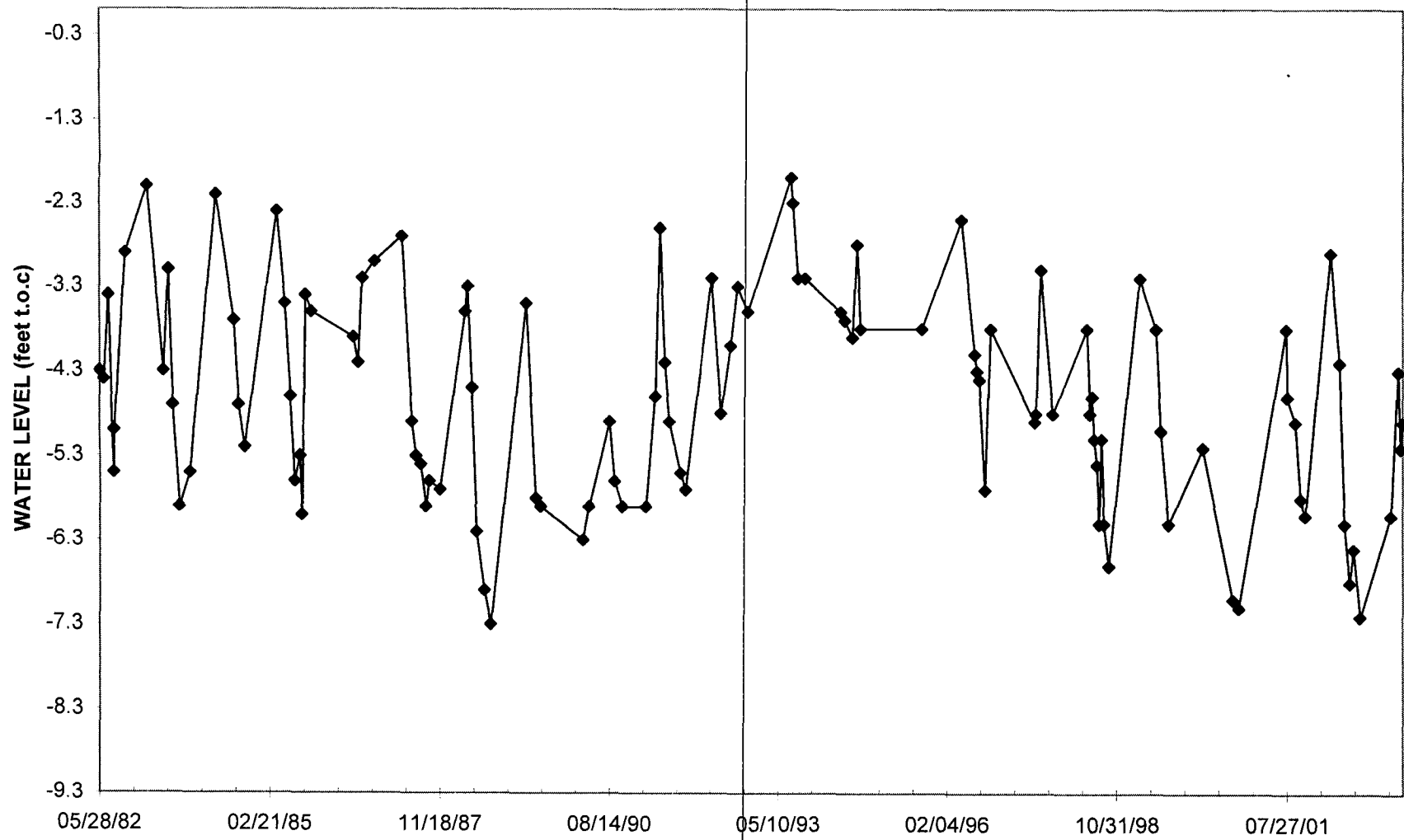
### **References**

1. Water Rights Program file, "Water Rights Nos. 692-3, 2211-3, 2406-3, 2556-3, and 6019-3", DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501.
2. Water Rights Program, 2003, "Unpublished Observation Well Data for Brookings County", SD DENR-Water Rights Program, Joe Foss Building, Pierre, SD 57501.

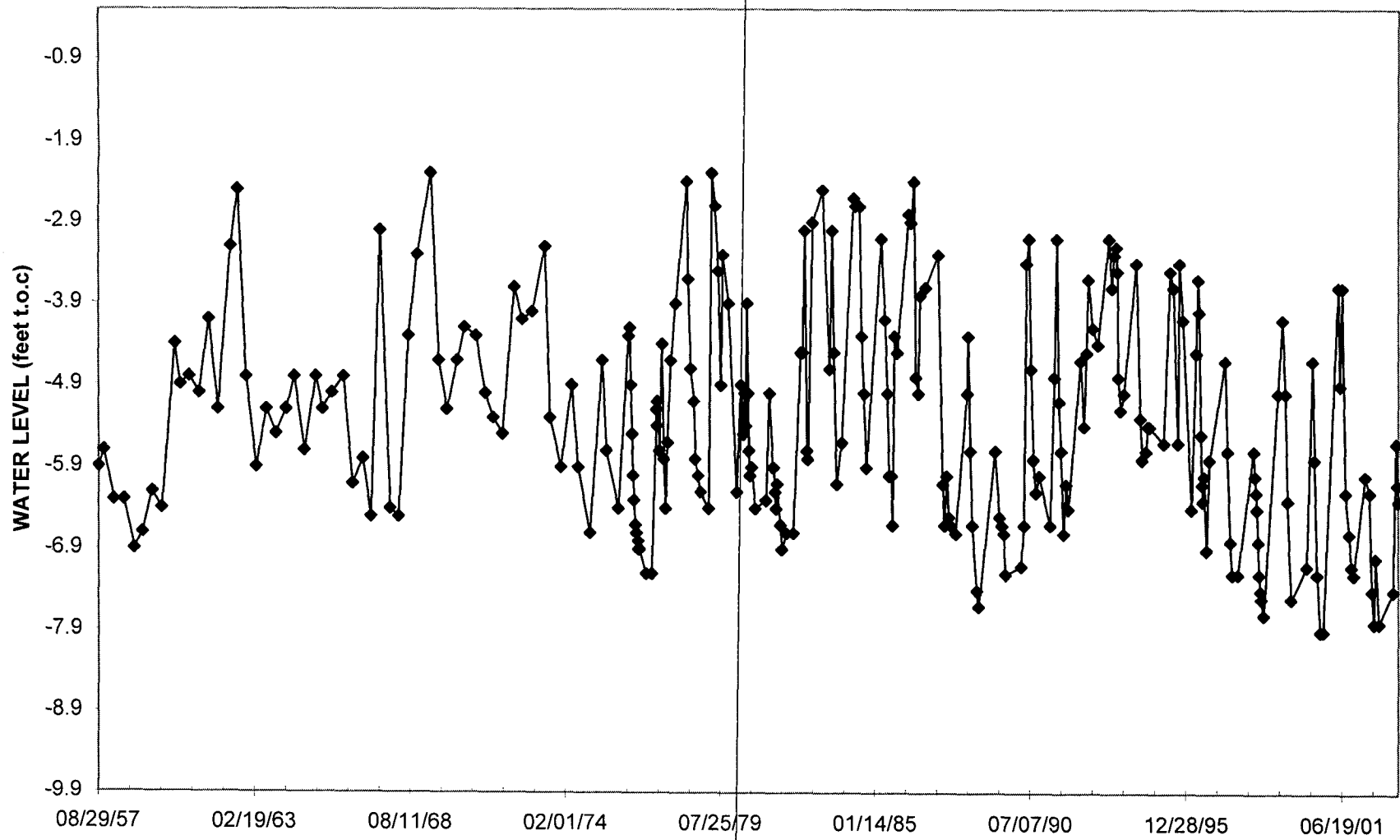
**WATER RIGHTS' OBSERVATION WELL  
BG-#20**



**WATER RIGHTS' OBSERVATION WELL  
BG-#21**



WATER RIGHTS' OBSERVATION WELL  
BG-57H



# Water Permit Application No. 2211A-3



*Stacy J. Johnson*  
Stacy J. Johnson  
Natural Resources Project Engineer  
SD DENR Water Rights Program  
Date 8-5-03

## Legend

- Water Permits/Rights
- Brookings Sections
- Observation wells



0 1 Miles



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

PMB 2020  
JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

August 15, 2003

Mark Froning  
Dakota Wholesale Bait  
21927 471<sup>st</sup> Avenue  
Brookings SD 57006

Dear Mr. Froning:

I am writing regarding Water Permit Application No. 2211A-3 filed by the Western Trust Company (Gary Hoffman). Enclosed is a copy of the recommendation, report and notice of hearing on this application. The notice is to be published in the Brookings Register on August 22 and 29, 2003.

This information is being sent to you because of the interest you have shown to Mr. Hoffman's activities.

Sincerely,

  
Eric Gronlund  
Water Rights Program  
(605) 773-3352

enclosures



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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[www.state.sd.us/denr](http://www.state.sd.us/denr)

August 15, 2003

Brookings Register  
PO Box 177  
Brookings SD 57006-0117

ATTENTION: Legal Public Notice

Enclosed is a Notice of Hearing on Application No. 2211A-3 to Appropriate Water to be published twice. Please publish the first notice on August 22, 2003 with the second publication 7 days later.

The applicant must verify to you that the notice is to be published, before you make the first publication. **Please BILL the APPLICANT for the cost of publication.** The APPLICANT is Western Trust Company, Gary Hoffman Trustee, PO Box 1052, Watertown SD 57201 (Ph # 605-874-2903).

**Please send the Water Rights Program the first publication immediately.** The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,

Eric Gronlund  
Natural Resources Engineer  
605 773-3352

enclosures

CUT HERE

No. 2211A-3

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

Date \_\_\_\_\_

We are in receipt of your letter of August 15, 2003 enclosing Notice of Hearing to Appropriate Water by Application No. 2211A-3 which was first published in our issue of \_\_\_\_\_. **ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.**

Name \_\_\_\_\_

Newspaper \_\_\_\_\_



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182

[www.state.sd.us/denr](http://www.state.sd.us/denr)

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

August 15, 2003

Western Trust Company  
Gary Hoffman Trustee  
PO Box 1052  
Watertown SD 57201

Dear Mr. Hoffman:

Water Permit Application No. 2211A-3 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Brookings Register printed at Brookings, SD (Ph # 605-692-6271). ~~You will need to contact the newspaper and~~ authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

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

Sincerely,

Eric Gronlund  
Natural Resources Engineer  
(605) 773-3352

enclosures

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

# Affidavit of Publication

State of South Dakota

SS

County of Brookings

Jessica Johnson of said county, first duly sworn, on oath, says: That she is the office clerk of THE BROOKINGS REGISTER, a daily newspaper, printed and published in the City of Brookings, in said County of Brookings, and State of South Dakota; that she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper and has a bona fide circulation of at least two hundred copies of each issue daily; that said newspaper has been published within the said County of Brookings and State of South Dakota, for more than one year prior to the first publication of Exhibit "A," hereto attached and herein mentioned, and was and is printed in the office maintained at said place of publication; and that the

Legal # 450: " Application # 2211A-3 "

Brookings and State of South Dakota, for more than one a printed copy of which, taken from the paper in which the same was published, is hereto attached marked Exhibit "A," and is made a part of this affidavit, was published in said newspaper for \_\_\_\_\_ 2 times, to-wit:

August 22, 2003

August 29, 2003

said Exhibit "A" inures to the sole benefit fo the publishers of said newspaper; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are:

Forty seven dollars and thirty-four cents \$ 47.34

Subscribed and sworn to before me this  
September \_\_\_\_\_

2nd day of  
2003.

Christina Nelson

Notary Public in and for the County of Brookings, South Dakota.  
My Commission expires April 27, 2006

Legal 450, 2x, 8/22, 29  
PUBLIC NOTICE  
NOTICE OF APPLICA-  
TION NO. 2211A-3  
And Amend Water Permit  
No. 2211-3

Notice is given that Western Trust Company, Gary Hoffman, Trustee, PO Box 1052, Watertown SD 57201 has filed an application for a water permit for an additional point of diversion. Water Right No. 2211-3 authorizes 2.23 cubic feet of water per second from a gravel pit to irrigate 164 acres located in the SE 1/4, S 1/2 NE 1/4, SE 1/4 NW 1/4, NE 1/4 SW 1/4 Section 26-T109N-R50W. This application proposes to construct a dugout located in the SW 1/4 SE 1/4 Section 26-T109N-R50W to supplement irrigation from the gravel pit. The dugout (approximate storage capacity of 4.0 acre feet) will be constructed to a depth to intercept ground water from the Big Sioux: Brookings Aquifer. The dugout will also receive incidental surface run-off. No increase in the amount of water appropriated or acres irrigated are authorized by this application.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2211A-3 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by September 8, 2003.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

RECEIVED  
SEP - 5 2003  
WATER RIGHTS  
PROGRAM

Instruction to Newspaper - Publish first Notice on August 22, 2003 with the second publication 7 days later. The applicant is responsible for payment.

---

NOTICE OF APPLICATION NO. 2211A-3  
And Amend Water Permit No. 2211-3

Notice is given that Western Trust Company, Gary Hoffman, Trustee, PO Box 1052, Watertown SD 57201 has filed an application for a water permit for an additional point of diversion. Water Right No. 2211-3 authorizes 2.23 cubic feet of water per second from a gravel pit to irrigate 164 acres located in the SE  $\frac{1}{4}$ , S  $\frac{1}{2}$  NE  $\frac{1}{4}$ , SE  $\frac{1}{4}$  NW  $\frac{1}{4}$ , NE  $\frac{1}{4}$  SW  $\frac{1}{4}$  Section 26-T109N-R50W. This application proposes to construct a dugout located in the SW  $\frac{1}{4}$  SE  $\frac{1}{4}$  Section 26-T109N-R50W to supplement irrigation from the gravel pit. The dugout (approximate storage capacity of 4.0 acre feet) will be constructed to a depth to intercept ground water from the Big Sioux:Brookings Aquifer. The dugout will also receive incidental surface run-off. No increase in the amount of water appropriated or acres irrigated are authorized by this application.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2211A-3 because 1) existing rights will not be unlawfully impaired, 2) it is a beneficial use of water, and 3) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605-773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by September 8, 2003.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.

**Water Rights Division - DENR**

Conversation or File Documentation

**Name of Person:** Gary Hoffman, Western Trust Co.

**File No. 2211A-3**

**Address:** PO Box 1052, Watertown SD 57201 **County:** Brookings

**Date:** September 2, 2003

**Telephone:** (605) 880-9246 (Cell phone)

**RE:** About Water Permit No. 2211A-3

**Comments:** Gary wanted to know about the status of the Western Trust Co. Water Permit. I told him that it is being advertised. People can intervene on this permit until September 8. I told him that the chief engineer is recommending approval of this permit. I also told him that he will get a letter from the chief engineer after September 8 about this permit. I told him that if the permit is approved that he has five years to construct the dugout. After that he has another four years to put the water to beneficial use. I told him if he completes everything before this nine year period to let the office know.



Stacy J. Johnson

Natural Resources Project Engineer



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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SEP 26 2003

Western Trust Company  
Gary Hoffman Trustee  
PO Box 1052  
Watertown SD 57201

Dear Mr. Hoffman:

Enclosed is Water Permit No. 2211A-3 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

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

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

Sincerely,

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

enclosures



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[www.state.sd.us/denr](http://www.state.sd.us/denr)

May 4, 2004

2211-3  
2211A-3

Jim Peterson  
Burlage – Peterson Realty  
317 4<sup>th</sup> St  
Brookings SD 57006

Dear Mr. Peterson:

It is our understanding that the land described in Water Right No. 2211-3 and Water Permit No. 2211A-3 has been sold. Enclosed is a copy of Nos. 2211-3 and 2211A-3.

Also enclosed are partially completed Notice of Transfer of Ownership forms for filing an ownership change. Please review the forms and complete as needed. Upon completion, the forms should be signed by the new owner and returned to our office with a required filing fee of \$2.50 each (total of \$5.00). The check or money order for the fee can be made payable to the Water Rights Program.

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](mailto:genny.mcmath@state.sd.us)

enclosures

# NOTICE OF TRANSFER OF OWNERSHIP

RECEIVED

MAY 17 2004

WATER RIGHTS  
PROGRAM

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

No. 2211A-3

Date: May 6, 2004

I/We request that Water Permit No. 2211A-3

formerly owned by: Western Trust Company - Gary G Hoffman, Trustee, PO Box 1052, Watertown, SD 57201

be transferred to: (name & address) Reuben Nicolai

4800 So. 33rd St

4329 ~~Mormon Coulee Rd~~ #7

LaCrosse, WI 54601 Telephone No. 608-787-5685

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

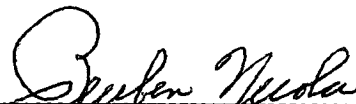
164 acres in the SE 1/4 NW 1/4, S 1/2 NE 1/4, NE 1/4 SW 1/4 and SE 1/4 Section 26, T109N, R50W

I/We understand that the validity of Water Permit No. 2211A-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 Reuben Nicolai, 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.

# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date May 17, 20 04

RECEIVED OF Ruben Nicolai, 4800 S 33rd St., LaCrosse WI 54601

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 | 2     | 50   |
| 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>2211A-3</u>                                                                    |       |      |
| Fee for _____                                                                                                  |       |      |
| Fee for Issuing New Well Driller's License No. _____ for C.Y. _____                                            |       |      |
| Fee for Renewal of Well Driller's License No. _____ for C.Y. _____                                             |       |      |
| Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____                                         |       |      |
| Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____                                      |       |      |
| (Any Other Work Provided by Law)                                                                               | TOTAL | 2.50 |

No.

001371

By

Darlan S. Elnick  
Chief Engineer



2211A-3

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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PIERRE, SOUTH DAKOTA 57501-3182  
[www.state.sd.us/denr](http://www.state.sd.us/denr)

May 18, 2004

2211-3  
2211A-3

Reuben Nicolai  
4800 S 33<sup>rd</sup> St  
LaCrosse WI 54601

Dear Mr. Nicolai:

I am writing to acknowledge receipt of the transfer of ownership forms and filing fees for Water Right No. 2211-3 and Water Permit No. 2211A-3. The transfers have been completed. The water right and permit formerly listed in the name of Western Trust Company are now listed in your name.

Enclosed are copies of Nos. 2211-3 and 2211A-3. I am also including the 2002 and 2003 irrigation questionnaires for No. 2211-3. We do not have questionnaires yet for 2211A-3. Water Permit No. 2211A-3 was issued late in the season last year and a questionnaire was not required for 2003.

The 2004 irrigation questionnaires will be mailed from our office in October. The enclosed questionnaires will give you an idea of what type of irrigation information is needed and what to keep track of during the growing season.

Enclosed are Receipt Nos. 001321 and 001322 in the amount of \$2.50 each, which you paid for filing the ownership changes. You may keep the receipts along with the other material I have enclosed for your records. 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](mailto:genny.mcmath@state.sd.us)

enclosures



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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[www.denr.sd.gov](http://www.denr.sd.gov)

October 29, 2013

Reuben Nicolai  
4800 S 33<sup>rd</sup> St  
LaCrosse WI 54601

Dear Mr. Nicolai:

Enclosed are the 2013 irrigation questionnaires you submitted for Water Permit or Right Nos. 2211-3, 2211A-3, 3386-3 and 4648-3.

In order for the questionnaires to be considered complete you will need to fill out the back side of all the forms. Please include the crop, number of acres irrigated, the pump rate, days per month and hours per day the systems were in operation.

The forms will need to be completed and returned to us before **December 2, 2013**. If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Genny McMath". The signature is fluid and cursive, with the first name "Genny" and last name "McMath" clearly distinguishable.

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

enclosures

## Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 2211-3 & 2211A-3

I have this day, July 15, 2015, made a thorough examination of the water use system owned by Reuben Nicolai, 4800 South 33<sup>rd</sup> Street, LaCrosse WI 54601 holder of Permit No. 2211-3 and 2211A-3, bearing the priority of February 18, 1975 authorizing the diversion of 2.23 cu. ft. per second of the waters of Big Sioux Brookings aquifer for irrigation purposes, in Brookings County.

Inspection contact & relationship to permit holder, if applicable: **David Ahlers, Operator**

### A. Works used to divert the water:

#### Pump:

- 1) Make PTO drive
- 2) Model Berkley B3ZRM
- 3) Ser. No. 706-5815
- 4) Size 4 inch

**Comments:** PTO drive pump used to divert water from "gravel pit" (Froning Pond – see No. 2211-3) located in NE1/4 NE1/4 section 35 to dugout (see 2211A-3) located in SW1/4 SE1/4 section 26: all in T109N-R50W. Following electric motor/pump divert water from dugout to center pivot in section 26.

#### Motor:

- 1) Make Marathon Electric
- 2) Frame No. 326 JD
- 3) Horsepower rating 50 hp

#### Pump:

- 1) Make Berkley
- 2) Model B4JPBH
- 3) S.N. G230797
- 4) Capacity 800 GPM

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

- 1) Type PVC
- 2) Size 10 inches
- 3) Length 3,560 feet

**Comments:** A change in the pipeline route was made in 2012 to redirect water from the Froning Pond to a dugout constructed in section 26 rather than directly to the pivot developed under No. 2211-3.

### C. Works used to apply water to beneficial use:

#### Center pivot:

- 1) Make Valley
- 2) Low pressure Yes
- 3) Number of towers 9
- 4) End gun Yes
- 5) Capacity 800 GPM

**Comments:** Following licensing of No. 2211-3, the center pivot was converted from a high pressure to a low pressure system and the gallons per minute reduced from 1,000 gpm to 800 gpm.

**Chemigation Equipment:**

- 1) Does chemigate No

**D. Compliance with Permit Requirements:**

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

**E. Condition and Location:**

1. The system is in good condition with the points of diversion located as follows: **All in T109N-R50W**
- No. 2211-3 – “Gravel Pit” (Froning Pond ) located 540 feet south and 630 feet west from NE corner section 35 (NE1/4 NE1/4 section 35 -- latitude 44.20862, longitude -96.78956)**
- No. 2211A-3 – Dugout (about 4 acre-feet capacity) located 1,040 feet north and 1,860 feet west from SE corner section 26 (SW1/4 SE1/4 section 26 – latitude 44.21294, longitude -96.7944).**
2. The works are capable of diverting and conveying to the place of use 1.78 cu. ft. per second of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

**All in Section 26-T109N-R50W**

|             |           |             |            |
|-------------|-----------|-------------|------------|
| SE1/4 NE1/4 | 32 acres  | NE1/4 SE1/4 | 37 acres   |
| SW1/4 NE1/4 | 37 acres  | NW1/4 SE1/4 | 39.5 acres |
| SE1/4 NW1/4 | 3 acres   | SW1/4 SE1/4 | 6.2 acres  |
| NE1/4 SW1/4 | 6.3 acres | SE1/4 SE1/4 | 3 acres    |

comprising a total of 164 acres of land and the license should be issued for 1.78 cfs.

3. All structures, wells and lands on map Yes

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

Water Right No. 2211-3 is to be incorporated into Water Permit No. 2211A-3 and the authorized diversion rate reduced from 1,000 gpm to 800 gpm (1.78 cfs) for irrigation of the same acres permitted under No. 2211-3. Permit No. 2211A-3 authorized an additional diversion point with no additional water appropriated or additional acres irrigated. Since no additional water or acres was authorized by No. 2211A-3, the permit should have been issued with the same priority date assigned to No. 2211-3. However, a new priority date was assigned in error so Permit No. 2211A-3 should be reissued with the correct priority date which is February 18, 1975, as assigned to No. 2211-3.



Ron Duvall  
Water Rights Permitting Administrator  
DENR, Water Rights Program

Date report completed: August 6, 2015

Scale: 1 inch = 579 feet

810

Feet



**South Dakota**  
Department of Environment  
& Natural Resources  
Water Rights

Completed by:

*Ron Duvall*  
Ron Duvall, WR Permitting Administrator  
Water Rights Program

Diversion point(s) located using a Garmin eTrex 10 GPS

Date: August 6, 2015

**Water Right No. 2211A-3**



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

denr.sd.gov

August 12, 2015

2211-3  
2211A-3

Reuben Nicolai  
4800 S 33<sup>rd</sup> St  
LaCrosse WI 54601

Dear Mr. Nicolai:

On July 15, 2015, Ron Duvall met with David Ahlers as part of a field investigation to look at the water use system authorized under your Water Right No. 2211-3 and Water Permit No. 2211A-3.

Water Right No. 2211-3 was originally licensed back in January, 1979. The license authorized diversion of 2.23 cubic feet of water per second (approximately 1,000 gallons per minute) from a gravel pit (known as the Froning Pond) to irrigate 164 acres. Water Permit No. 2211A-3 was obtained to add a point of diversion (dugout) to the irrigation system with no increase in the amount of water appropriated or the number of acres irrigated.

With the investigation complete, a water license will be issued for the system as it now operates. The investigation found the center pivot system had been converted from a high pressure system operating at 1,000 gpm to a low pressure system operating at 800 gpm. The total number of acres irrigated remained the same.

It is our intent to issue a water license, incorporating the applicable portions of No. 2211-3 into No. 2211A-3. Based on the investigation findings, the license will authorize a combined diversion of 1.78 cubic feet of water per second (800 gpm) from either the gravel pit (Froning Pond) or the dugout to irrigate 164 acres located in portions of the S  $\frac{1}{2}$  NE  $\frac{1}{4}$ , SE  $\frac{1}{4}$  NW  $\frac{1}{4}$ , NE  $\frac{1}{4}$  SW  $\frac{1}{4}$  and the SE  $\frac{1}{4}$  Section 26, T109N, R50W. The license would allow diversion from the gravel pit to the dugout prior to irrigation.

Please contact our office by August 30, 2015 as to whether or not you concur or disagree with the investigation findings. We will wait to issue the water license until that time. Thank you in advance for your reply.

Sincerely,

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

c: Jay Leibel, Issenhuth & Leibel LLP, PO Box 28, Madison SD 57042



August 12, 2015

Reuben Nicolai  
4800 S 33<sup>rd</sup> St  
LaCrosse WI 54601

Dear Mr. Nicolai:

On July 15, 2015, Ron Duvall met with David Ahlers as part of a field investigation to look at the water use system authorized under your Water Right No. 2211-3 and Water Permit No. 2211A-3.

Water Right No. 2211-3 was originally licensed back in January, 1979. The license authorized diversion of 2.23 cubic feet of water per second (approximately 1,000 gallons per minute) from a gravel pit (known as the Froning Pond) to irrigate 164 acres. Water Permit No. 2211A-3 was obtained to add a point of diversion (dugout) to the irrigation system with no increase in the amount of water appropriated or the number of acres irrigated.

With the investigation complete, a water license will be issued for the system as it now operates. The investigation found the center pivot system had been converted from a high pressure system operating at 1,000 gpm to a low pressure system operating at 800 gpm. The total number of acres irrigated remained the same.

It is our intent to issue a water license, incorporating the applicable portions of No. 2211-3 into No. 2211A-3. Based on the investigation findings, the license will authorize a combined diversion of 1.78 cubic feet of water per second (800 gpm) from either the gravel pit (Froning Pond) or the dugout to irrigate 164 acres located in portions of the S ½ NE ¼, SE ¼ NW ¼, NE ¼ SW ¼ and the SE ¼ Section 26, T109N, R50W. The license would allow diversion from the gravel pit to the dugout prior to irrigation.

Please contact our office by August 30, 2015 as to whether or not you concur or disagree with the investigation findings. We will wait to issue the water license until that time. Thank you in advance for your reply.

Sincerely,

*Genny McMath*

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

*I concur with the investigation findings. Thanks for your cooperation.*  
*Reuben Nicolai 8/21/15 608 7875685*

RECEIVED

AUG 25 2015

WATER RIGHTS  
PROGRAM

DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

denr.sd.gov

RECEIVED  
AUG 14 2015  
BY: \_\_\_\_\_

2211-3  
2211A-3



2211A-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](http://www.state.sd.us/denr)

January 15, 2016

NOTICE

TO: REUBEN NICOLAI, 4800 S 33RD ST, LACROSSE, WI 54601

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) 3386-3 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) 4648-3 & 2211A-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) 4648-3 & 2211A-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 3386-3 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](mailto:genny.mcmath@state.sd.us). If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

denr.sd.gov

February 29, 2016

2211A-3  
3386-3  
4648-3

Reuben Nicolai  
4800 S 33<sup>rd</sup> St  
LaCrosse WI 54601

Dear Mr. Nicolai:

I am writing to acknowledge receipt of the information for your 2015 irrigation questionnaires for Water Right Nos. 2211A-3, 3386-3 and 4648-3. The information was submitted by Troy Rasmussen.

You may disregard the January 15, 2016, "Notice" concerning reporting requirements for these 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: Troy Rasmussen (email)



2211A-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](http://www.state.sd.us/denr)

January 25, 2019

NOTICE

TO: REUBEN NICOLAI, 4800 S 33RD ST, LACROSSE, WI 54601

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) 3386-3 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) 2211A-3, 4295-3A, 4648-3, 8189-3 & 8190-3 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) 2211A-3, 4295-3A, 4648-3, 8189-3 & 8190-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 3386-3 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](mailto:genny.mcmath@state.sd.us). If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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

2211A-3



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182  
[www.denr.sd.gov](http://www.denr.sd.gov)

February 27, 2019

Reuben Nicolai  
4800 S 33<sup>rd</sup> St  
Lacrosse WI 54601

RE: Water Permit/Right Nos. 2211A-3, 3386-3, 4295-3A, 4648-3, 8189-3 & 8190-3

Dear Mr. Nicolai:

I am writing to acknowledge receipt of your 2018 irrigation questionnaires. Troy Rasmussen returned the forms to our office on February 26<sup>th</sup>.

You may disregard the January 25, 2019, "Notice" concerning reporting requirements for Water Permit/Right Nos. 2211A-3, 3386-3, 4295-3A, 4648-3, 8189-3 & 8190-3. 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, with the first and last names being clearly legible.

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



**DENR**  
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

January 22, 2021

**NOTICE**

TO: REUBEN NICOLAI, 4535 MORMAN COULEE RD, LACROSSE, WI 54601

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

SUBJECT: Reporting Requirement for 2020 Irrigation Questionnaires

Our records indicate your 2020 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 23, 2020. The Water Management Board has directed that owners of water permits who have not submitted the 2020 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 3386-3 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) 2211A-3, 4295-3A, 4648-3, 8189-3 & 8190-3 qualification:

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

The hearing will be held at **Wednesday, March 3, 2021 at 10:00 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

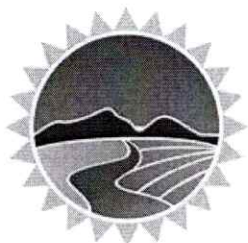
1. Suspend or cancel Permit No(s) 2211A-3, 4295-3A, 4648-3, 8189-3 & 8190-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 3386-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaires are received in this office before the **March 3, 2021** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at [genny.mcmath@state.sd.us](mailto: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: RRWSUL**

**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.

2211A-3



**DENR**  
SOUTH DAKOTA

**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

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

February 3, 2021

Reuben Nicolai  
RHN LLC  
4535 Morman Coulee Rd  
LaCrosse WI 54601

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

Dear Mr. Nicolai:

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

You may disregard the January 22, 2021, "Notice" concerning reporting requirements for the above listed water permits and rights. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Genny McMath".

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



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

January 20, 2022

**NOTICE**

TO: REUBEN NICOLAI, 4535 MORMAN COULEE RD, LACROSSE, WI 54601

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

SUBJECT: Reporting Requirement for 2021 Irrigation Questionnaires

Our records indicate your 2021 Irrigation Questionnaires have not been submitted. The request for the Questionnaires was dated October 22, 2021. The Water Management Board has directed that owners of water permits who have not submitted the 2021 Irrigation Questionnaires be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine if Permit No(s) 3386-3 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) 2211A-3, 4295-3A, 4648-3, 8189-3 & 8190-3 qualification:

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

The hearing will be held at **Wednesday, March 2, 2022 at 9:30 am (Central Time)** in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Avenue, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 2211A-3, 4295-3A, 4648-3, 8189-3 & 8190-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Amend Permit No(s) 3386-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
3. Postpone any action or take no action.

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

If the questionnaires are received in this office before the **March 2, 2022** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaires for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at [genny.mcmath@state.sd.us](mailto:genny.mcmath@state.sd.us). **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: BVDYUP**

**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.

2211A-3



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

February 9, 2022

RHN LLC  
4535 Mormon Coulee Rd  
LaCrosse WI 54601

Dear Audra:

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

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

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

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

If you have any questions, please contact me.

Sincerely,

Genny McMath  
Water Rights Program  
605 773-3352  
[Genny.mcmath@state.sd.us](mailto:Genny.mcmath@state.sd.us)

c: Troy Rasmussen (email)

2211A-3

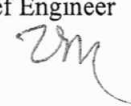
**RECEIPT****WATER RIGHTS PROGRAM**

South Dakota Department of Agriculture and Natural Resources

Date November 30, 2022RECEIVED OF Jesse Van De Stroet 1524 290<sup>th</sup> St., Inwood IA 51240

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>2211A-3</u>                                                                    | <u>\$50.00</u> |
| 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          |
|                                                                                                                | <u>\$50.00</u> |

By Eric Gronlund  
Chief Engineer  


## NOTICE OF TRANSFER OF OWNERSHIP

For assistance call (605) 773-3352

Mail to: SD DANR, Water Rights Program  
523 E Capitol Ave  
Pierre, SD 57501-3182

Water Right/Permit No. 2211A-3

Date: 10/31/2022

I/We request that Water Right/Permit No. 2211A-3 formerly owned by:  
Gary Hoffman. Trustee Western Trust Co. be transferred to:

New Owner Name: Jesse Van De Stroet

Address: 1524 290th St mobile: 605-310-6292

City, State, Zip Inwood, IA 51240 email: inwoodfeeders@gmail.com

*New address: PO Box 107, Fairview SD*

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

Diversion point: SW 1/4, SE 1/4, Sec 26- T109N-R50W

Land to be irrigated: SE 1/4, S 1/2, NE 1/4, SE 1/4, NW 1/4, NE 1/4, SW 1/4, Sec 26-T109N-R50W

☒ I understand that the validity of Water Right/Permit No. 2211A-3 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below).

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 included to cover the filing fee as required by SDCL 46-2-13.**

I, Jesse Van De Stroet, the new owner, certify that the above information is true and correct.

  
Jesse T VanDeStroet (Oct 31, 2022 17:12 CDT)

(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, an inspection is conducted to issue a water right license for the project as developed. A water permit/right may be cancelled for one or more of the following 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.



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

December 8, 2022

2211A-3

Jesse Vandestroet  
PO Box 107  
Fairview SD 57027

Dear Mr. Vandestroet:

I am writing to acknowledge receipt of the transfer form and filing fee for changing ownership on Water Right No. 2211A-3.

The ownership change has been completed. The water right formerly held by Reuben Nicolai is now listed in your name.

Enclosed for your records is a receipt for the filing fee you paid. If I can answer any questions for you, please let me know.

Sincerely,

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

encl

## Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 2211-3 & 2211A-3

I have this day, July 15, 2015, made a thorough examination of the water use system owned by Reuben Nicolai, 4800 South 33<sup>rd</sup> Street, LaCrosse WI 54601 holder of Permit No. 2211-3 and 2211A-3, bearing the priority of February 18, 1975 authorizing the diversion of 2.23 cu. ft. per second of the waters of Big Sioux Brookings aquifer for irrigation purposes, in Brookings County.

Inspection contact & relationship to permit holder, if applicable: **David Ahlers, Operator**

### A. Works used to divert the water:

#### Pump:

- 1) Make PTO drive
- 2) Model Berkley B3ZRM
- 3) Ser. No. 706-5815
- 4) Size 4 inch

**Comments:** PTO drive pump used to divert water from "gravel pit" (Froning Pond – see No. 2211-3) located in NE1/4 NE1/4 section 35 to dugout (see 2211A-3) located in SW1/4 SE1/4 section 26: all in T109N-R50W. Following electric motor/pump divert water from dugout to center pivot in section 26.

#### Motor:

- 1) Make Marathon Electric
- 2) Frame No. 326 JD
- 3) Horsepower rating 50 hp

#### Pump:

- 1) Make Berkley
- 2) Model B4JPBH
- 3) S.N. G230797
- 4) Capacity 800 GPM

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

- 1) Type PVC
- 2) Size 10 inches
- 3) Length 3,560 feet

**Comments:** A change in the pipeline route was made in 2012 to redirect water from the Froning Pond to a dugout constructed in section 26 rather than directly to the pivot developed under No. 2211-3.

### C. Works used to apply water to beneficial use:

#### Center pivot:

- 1) Make Valley
- 2) Low pressure Yes
- 3) Number of towers 9
- 4) End gun Yes
- 5) Capacity 800 GPM

**Comments:** Following licensing of No. 2211-3, the center pivot was converted from a high pressure to a low pressure system and the gallons per minute reduced from 1,000 gpm to 800 gpm.

**Chemigation Equipment:**

- 1) Does chemigate No

**D. Compliance with Permit Requirements:**

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

**E. Condition and Location:**

1. The system is in good condition with the points of diversion located as follows: **All in T109N-R50W**  
**No. 2211-3 – “Gravel Pit” (Froning Pond ) located 540 feet south and 630 feet west from NE corner section 35 (NE1/4 NE1/4 section 35 -- latitude 44.20862, longitude -96.78956)**  
**No. 2211A-3 – Dugout (about 4 acre-feet capacity) located 1,040 feet north and 1,860 feet west from SE corner section 26 (SW1/4 SE1/4 section 26 – latitude 44.21294, longitude -96.7944).**
2. The works are capable of diverting and conveying to the place of use 1.78 cu. ft. per second of water which is to be used for irrigation. Water has been put to beneficial use to the maximum extent as follows:

**All in Section 26-T109N-R50W**

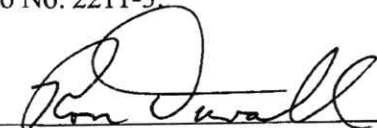
|             |           |             |            |
|-------------|-----------|-------------|------------|
| SE1/4 NE1/4 | 32 acres  | NE1/4 SE1/4 | 37 acres   |
| SW1/4 NE1/4 | 37 acres  | NW1/4 SE1/4 | 39.5 acres |
| SE1/4 NW1/4 | 3 acres   | SW1/4 SE1/4 | 6.2 acres  |
| NE1/4 SW1/4 | 6.3 acres | SE1/4 SE1/4 | 3 acres    |

comprising a total of 164 acres of land and the license should be issued for 1.78 cfs.

3. All structures, wells and lands on map Yes

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

Water Right No. 2211-3 is to be incorporated into Water Permit No. 2211A-3 and the authorized diversion rate reduced from 1,000 gpm to 800 gpm (1.78 cfs) for irrigation of the same acres permitted under No. 2211-3. Permit No. 2211A-3 authorized an additional diversion point with no additional water appropriated or additional acres irrigated. Since no additional water or acres was authorized by No. 2211A-3, the permit should have been issued with the same priority date assigned to No. 2211-3. However, a new priority date was assigned in error so Permit No. 2211A-3 should be reissued with the correct priority date which is February 18, 1975, as assigned to No. 2211-3.



Ron Duvall  
Water Rights Permitting Administrator  
DENR, Water Rights Program

Date report completed: August 6, 2015



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

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

JUN 02 2025

Jesse Van De Stroet  
PO Box 107  
Fairview, SD 57027

No. 2211A-3

Dear Mr. Van De Stroet:

Enclosed is Water License No. 2211A-3. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

So 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,

Mark Mayer, PE  
Director of Office of Water  
(605) 773-3352

**Note:** Permit No. 2211A-3 was incorrectly issued with a priority date of June 19, 2003. With issuance of Water Right No. 2211A-3, the priority date has been corrected to February 18, 1975.\*

*enclosures*

**STATE OF SOUTH DAKOTA**  
**WATER LICENSE NO. 2211A-3**

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(1) Water Right No. 2211-3, held by Reuben Nicolai, with a priority date of February 18, 1975, authorizes the diversion of 2.23 cubic feet of water per second from a gravel pit, Brookings County, South Dakota for irrigation of 164 acres. The applicable portions of Water Right No. 2211-3 are incorporated into this license and previously established priority dates will be retained.

Western Trust Company, Gary Hoffman, Trustee, made Application No. 2211A-3, June 19, 2003, for a water permit to authorize the construction of a dugout, constructed to a depth intercepting the Big Sioux: Brookings Aquifer, as an additional diversion point to supplement the irrigation authorized by Water Right No. 2211-3, with no increase in the diversion rate or the number of acres authorized for irrigation. Permit No. 2211A-3, with a priority date of February 18, 1975\*, was approved September 8, 2003, and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before September 8, 2008, and for the application to beneficial use of water on or before September 8, 2012.

Ownership of Permit No. 2211A-3 was transferred to Jesse Van De Stroet, PO Box 107, Fairview, SD 57027 on November 30, 2022.

(2) It is certified that the permit 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 1.78 cubic feet of water per second for beneficial use. The location of the diversion points are:

- **Gravel Pit:** 540 feet S and 630 feet W from the NE corner of Section 35, T109N, R50W (NE  $\frac{1}{4}$  NE  $\frac{1}{4}$ ) (Latitude 44.20862 and Longitude -96.78956)
- **Dugout:** 1,040 feet N and 1,860 feet W from the SE corner of Section 26, T109N, R50W (SW  $\frac{1}{4}$  SE  $\frac{1}{4}$ ) (Latitude 44.21294 and Longitude -96.7944)

(3) The amount of appropriation may not exceed 2 acre-feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: May 1 – October 31.

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

|                                               |                                                |
|-----------------------------------------------|------------------------------------------------|
| Section 26, T109N, R50W                       |                                                |
| SW $\frac{1}{4}$ NE $\frac{1}{4}$ - 37 acres  | NE $\frac{1}{4}$ SE $\frac{1}{4}$ - 37 acres   |
| SE $\frac{1}{4}$ NE $\frac{1}{4}$ - 32 acres  | NW $\frac{1}{4}$ SE $\frac{1}{4}$ - 39.5 acres |
| SE $\frac{1}{4}$ NW $\frac{1}{4}$ - 3 acres   | SW $\frac{1}{4}$ SE $\frac{1}{4}$ - 6.2 acres  |
| NE $\frac{1}{4}$ SW $\frac{1}{4}$ - 6.3 acres | SE $\frac{1}{4}$ SE $\frac{1}{4}$ - 3 acres    |
| Total – 164 acres                             |                                                |

continued

(5) Pursuant to South Dakota Water Law 46-5-30.1 Jesse Van De Stroet, the holder and/or owner of Water Right No. 2211A-3 is issued a license to appropriate water, the right to use 1.78 cubic feet of water per second from groundwater, gravel pit and dugout (Big Sioux Brookings Aquifer), with a priority date of February 18, 1975, from the location specified in (2) of this license for irrigation purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 2211A-3 and subject to the following qualifications:

1. The dugout approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The owner of this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
2. Water Permit No. 2211A-3 authorizes a dugout with an approximate storage capacity of 4.0 acre-feet of water.
3. The diversion rate from the Water Right No. 2211-3 and Permit No. 2211A-3, combined, may not exceed 2.23 cfs for the irrigation of 164 acres authorized under Water Right No. 2211-3. *(The diversion rate was reduced from 2.23 cfs to 1.78 cfs, based on the system as constructed.)*
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

  
\_\_\_\_\_  
Mark Mayer, PE  
Director of Office of Water

6/2/25  
\_\_\_\_\_  
date

