

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 2323-3
Date: August 21, 2007

I/We request that Water Right No. 2323-3

formerly owned by: Dale Meyer

be transferred to: (name & address) Richard E Werner, 1505 McDonald Dr., Huron SD 57350

Telephone No. 605 350-1371

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

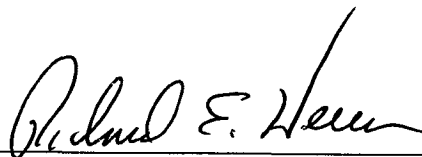
204 acres – NE ¼ and E ½ NW ¼ Section 35, T96N, R63W

I/We understand that the validity of Water Right No. 2323-3 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 Richard E. Werner, 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 August 21, 2007, 20__

RECEIVED OF Richard Werner, 1505 McDonald Dr, Huron SD 57350

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>2323-3</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. _____

03138

By

Garland Erbele

Chief Engineer **Garland Erbele**

[Signature]



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 22, 2007

2323-3

Richard E Werner
1505 McDonald Dr
Huron SD 57350

Dear Mr. Werner:

Thank you for stopping by the office to take care of the ownership change for Water Right No. 2323-3. Enclosed is your Receipt No. 03138 in the amount of \$2.50. You may keep this for your records.

As you requested, the annual irrigation questionnaire will be sent to Dale Glanzer, Setting Sun Colony, 40248 293rd St., Delmont, SD. You may want to touch base with him to let him know that if he has any questions with the form when he receives it in October, he can give us a call.

Soon, I will be sending you an updated water license that will reflect ownership as it was transferred. Once you receive it, if you have any questions, please get in touch with me.

Sincerely,

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

enclosure

STATE OF SOUTH DAKOTA
REISSUED WATER LICENSE NO. 2323A-3
DIVISION OF NO. 2323-3 INTO NOS. 2323A-3 AND 2323B-3

(1) Dale Meyer was issued Water License No. 2323-3, September 6, 1995 for a water right to divert 2.44 cubic feet of water per second (cfs) from ground water (one well – Choteau West Aquifer), Charles Mix County, South Dakota for irrigation purposes. Water License No. 2323-3, with a priority date of June 26, 1975 was issued to the permit holder for diversion of water with construction of the water supply system completed and the application to beneficial use of water completed.

Water Right No. 2323-3 authorizes irrigation of 243 acres in the N ½ of Section 35, T96N, R63W. Land described under the water right has changed ownership. The water right is being divided and reissued to reflect separate ownership as follows:

- **2323A-3: Richard E Werner, 1505 McDonald Dr., Huron SD 57350** authorizing irrigation of 204 acres located in the E ½ NW ¼ and the NE ¼ Section 35, T96N, R63W from a well located in the center of the NE ¼ of Section 35, T96N, R63W.
- **2323B-3: Dale Meyer, Box 548, Wagner SD 57380** authorizing irrigation of 39 acres located in the W ½ NW ¼ Section 35, T96N, R63W from a well located in the center of the NE ¼ of Section 35, T96N, R63W. Issuance of No. 2323B-3 will be withheld pending cancellation consideration by the Water Management Board.

The original water right authorized diversion of 2.44 cfs (1100 gpm) to irrigate the entire acreage. Combinations of diversions under Nos. 2323A-3 and 2323B-3 can not exceed 2.44 cfs.

(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, Richard E Werner, 1505 McDonald Dr., Huron SD 57350 the holder and/or owner of Water Right No. 2323A-3 is issued a license, bearing a priority date of June 26, 1975 to appropriate 2.44 cubic feet of water per second from ground water (one well – Choteau West Aquifer) to irrigate 204 acres.

The diversion point is located 1880'N 45°W of the E ¼ corner of Section 35, T96N, R63W (center of the NE ¼)*

** The original location of the well was to be in the SW ¼ NW ¼; however, it was developed in the center of the NE ¼. On July 27, 1995, the Chief Engineer of the Water Rights Program made a finding pursuant to SDCL 46-5-13.1 that the change in location of the diversion point did not interfere with existing diversions.*

The acres authorized for irrigation are as follows:

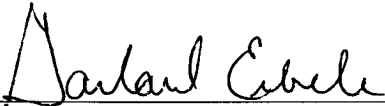
Section 35, T96N, R63W			
NE ¼ NW ¼	34 acres	NW ¼ NE ¼	34 acres
SE ¼ NW ¼	34 acres	NE ¼ NE ¼	34 acres
		SW ¼ NE ¼	34 acres
		SE ¼ NE ¼	34 acres
Total: 204 acres			

Water License No. 2323A-3

Page 2

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 2323-3 including the following qualification:

- The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.



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

OCT 09 2007

date





OCT 09 2007

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

2323A-3

Richard E Werner
1505 McDonald Dr
Huron SD 57350

Dear Mr. Werner:

Enclosed is your Water License No. 2323A-3. Based on the ownership change you filed with Water Right No. 2323-3 (Dale Meyer) in August, 2007, the water right was divided and the license reissued to reflect separate ownership.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the wells authorized by Water Right No. 2323A-3, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

As long as you use the water beneficially, as stated in the Water License, the State Water Laws provide that you have a continuing right to use the water. If you have any questions concerning the enclosed license, please contact Genny McMath with our program at (605) 773-3352.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program

enclosure



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 15, 2011

2323A-3

Kevin Wieman
PO Box 148
Marion SD 57043 0148

Dear Mr. Wieman:

Thank you for contacting us regarding the pending sale of land described in Water Right No. 2323A-3. I have included a copy of the water right and also a copy of the inspection report and map contained in the originating water right – No. 2323-3.

Enclosed is a partially completed Notice of Transfer of Ownership form for filing an ownership change. Once the land is sold, the new owner will need to complete the form and return it to our office with a required filing fee of \$50.00. The check or money order for the fee can be made payable to the Water Rights Program.

To assist the new owner in returning the transfer form and filing fee, I am also including a postage paid envelope. 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.

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

enclosures

2323A-3

RECEIVED

FEB 16 2012

WATER RIGHTS
PROGRAM



Wipf & Cotton, L.L.C.

A Professional Limited Liability Company
Attorneys at Law
107 South Main Avenue
Wagner, South Dakota 57380-0370

February 7, 2012

Kenneth W. Cotton

ASSOCIATE:
Scott J. Podhradsky

Owen R. Wipf (1927-2004)

Telephone (605) 384-5471
Fax (605) 384-5472

ATTN: Genny McMath
Environmental Scientist
Water Rights Program
Joe Foss Building
523 E Capitol Ave.
Pierre, SD 57501-9970

Re: Notice of Transfer of Ownership – Water Right No. 2323A-3

Dear Ms. McMath:

We are enclosing herewith the Notice of Transfer of Ownership of Water Right No. 2323A-3 from Richard E Werner to Samuel D. Fousek and Angela M. Fousek. Also enclosed is my trust account check in the amount of \$50 to cover the transfer fee.

Thank you.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Kenneth W. Cotton", with a stylized flourish at the end.

Kenneth W. Cotton

KWC:gh
Enclosures

RECEIVED

FEB 16 2012

WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

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

No. 2323A-3

Date: January 14, 2012

I/We request that Water Right No. 2323A-3

formerly owned by: Richard E Werner

be transferred to: (name & address) Samuel D. Fousek and Angela M. Fousek, husband and wife,

as joint tenants with right of survivorship and not as tenants in common, of 29972 396th Ave

Wagner, SD 57380

Telephone No. 605-384-5258

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

204 acres - E 1/2 NW 1/4 and NE 1/4 Section 35, T96N, R63W

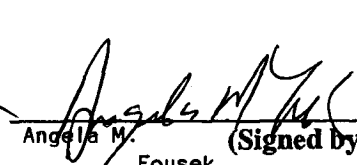
I/We understand that the validity of Water Right No. 2323A-3 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

I/We Samuel D. Fousek and Angela M. Fousek, the new owner, certify that the above information is true and correct.


Samuel D. Fousek


Angela M. Fousek (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 2/16, 20 12

RECEIVED OF Wipf & Cotton LLC PO Box 370 Wagner SD 57380

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form <u>2323A-3</u>		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____	50	00
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No. **05357**

By *Michael Erbe*
Chief Engineer



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 23, 2012

2323A-3

Samuel D & Angela M Fousek
29972 396th Ave
Wagner SD 57380

Dear Mr. & Mrs. Fousek:

I am writing to acknowledge receipt of the transfer form and filing fee submitted for changing ownership on Water Right No. 2323A-3. The ownership change has been completed.

The water right formerly held by Richard E Werner is now listed in your names. The receipt for the filing fee is being forwarded by copy of this letter to Kenneth Cotton with Wipf & Cotton LLC.

For informational purposes, I am sending you a copy of the water right and also copies of irrigation questionnaires from 2009, 2010 and 2011. Irrigation questionnaires are sent to irrigators each October and are due back in our office by the first week in December. The enclosed copies will give you an idea of what type of information to keep track of during the growing season.

If you have any questions, please contact me.

Sincerely,

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

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

cc: Kenneth W Cotton



2323A-3

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

January 18, 2013

NOTICE

TO: SAMUEL D & ANGELA M FOUSEK, 29972 396TH AVE, WAGNER, SD 57380

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

SUBJECT: Reporting Requirement for 2012 Irrigation Questionnaire(s)

Our records indicate that the 2012 Irrigation Questionnaire has not been submitted for Permit No(s) 2323A-3 as required by administrative rule 74:02:01:14.02. The request for the Questionnaire was dated October 12, 2012. The Water Management Board has directed that owners of water permits who have not submitted the 2012 Irrigation Questionnaire be given notice of hearing to determine if any Board action is to be taken concerning this issue.

The hearing will be held at **8:30 am, March 7, 2013**, 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. Following the hearing, the Water Management Board can:

1. Amend Permit No(s) 2323A-3 to require the Irrigation Water Use Questionnaire to be submitted each year;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office on/or before **March 4, 2013**, you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. If you prefer, you can complete the questionnaire online at the following link: <http://denr.sd.gov/iq.aspx>

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.

English

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You entered: 2303216000008021871

Status: Delivered

Your item was delivered at 2:42 pm on January 19, 2013 in WAGNER, SD 57380. The item was signed for by S FOUSEK. Additional information for this item is stored in files offline.

You may request that the additional information be retrieved from the archives, and that we send you an e-mail when this retrieval is complete. Requests to retrieve additional information are generally processed momentarily.

I would like to receive notification on this request

Restore

Find Another Item

What's your label (or receipt) number?

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SIGNATURE CONFIRMATION
2303216000008021871

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SAMUEL D & ANGELA M FOUSEK
29972 396TH AVE
WAGNER SD 57380

Waiver of Signature ☐ YES ☐ NOPostmark
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Delivered

1-19-13

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DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

March 8, 2013

NOTICE OF AMENDMENT OF WATER RIGHT

TO: SAMUEL D & ANGELA M FOUSEK, 29972 396TH AVE, WAGNER, SD
57380

FROM: Garland Erbele, Chief Engineer
Water Rights Program *Garland Erbele*

SUBJECT: Amendment to Water Right No. 2323A-3

On March 7, 2013, the Water Management Board amended Water Right No. 2323A-3 to add the following qualification:

"This water right is subject to the Irrigation Water Use Questionnaire being submitted each year."

This action was taken for failure to return the 2012 irrigation questionnaire. The addition of this qualification to your water right means that failure to submit the required irrigation questionnaire in the future could result in suspension of the water right with no use of water for up to one year for the first violation.

Please contact Genny McMath (605) 773-3352, if you have any questions.

CERTIFICATION

I hereby certify that on March 8, 2013, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelope(s) containing a Notice dated March 8, 2013 regarding cancellations addressed as stated below:

Edward Patrick Henry, PO Box 11, White Clay NE 69365 #672-2
Richard Will, 1104 Vista Dr, Milbank SD 57252 #4084A-3
Lane Tekrony, 47840 180th St, Clear Lake SD 57226 #2954-3
Jeff & Jeril Kessel, 2114 Mustang Lane, Spearfish SD 57783 # 508A-1
Robert Hattum, 21744 W Bend Rd, Harrold SD 57536 #6168-3
Cabbage Patch Ranch, Pete Reinert, 19153 Vista Pl, Howes SD 57748 #'s 1921-1 & 1922-1
Wendell Schubloom, 20608 Hwy 25, DeSmet SD 57231 # 3937-3
Duane Rogers, 13575 383rd Ave, Aberdeen SD 57401 #2943-3
Donald Schmidt, 19053 427th Ave, Willow Lake SD 57278 #'s 2696-3A & 4414-3
Bruce Weyrich, 20080 145th Ave, Sturgis SD 57785 #996-1
Burnell & Helen Gaskins, 821 Fox Run Rd, #124, Rapid City SD 57701 #953-1
Samuel & Angela Fousek, 29972 396th Ave, Wagner SD 57380 #2323A-3
Brink Bros, Todd Brink, 5825 7th Ave SW, Watertown SD 57201 #2717-3A

Paul Jacobson

Gail Jacobson
Secretary/Water Rights

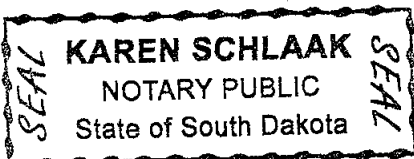
[illegible]

Sworn to, before me, this 8th day of March, 2013.

Kares, Anlaak

Karen Schlaak
Notary Public

My Commission expires April 1, 2013



File No. 2323A-3
7385-3

WATER RIGHTS PROGRAM -- FILE DOCUMENTATION

NAME & ADDRESS: Sam Fousek, 29972 396th Ave, Wagner SD 57380

DATE: May 20, 2014 **TELEPHONE:** 605 491-5474

RE: irrigation questionnaires for 2013

On the 2013 irrigation questionnaires, Mr. Fousek wrote in irrigation starting in March and going thru October for corn and beans (20 days each month per pivot)

I called to ask him if he truly irrigated that much. He said no, he was just filling out all the blanks on the form. He indicated he started irrigating about mid June on the corn and then mid July on the beans. Sounded like he did not irrigate in October either.

For data entry for 2013, I put down part of June, July, August and September for the corn and part of July, August and September for the beans.

I reminded him of what the information on the forms is used for and that more accurate information needs to be reported. I also reminded him that irrigation under No. 7385-3 was limited to use from April 1 – Sept 30th. Irrigation under No. 2323A-3 is authorized between April 1st and October 31st.



Genny McMath
Water Rights Program



DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES
JOE FOSS BUILDING
523 E. CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

January 20, 2023

NOTICE

TO: SAMUEL D & ANGELA M FOUSEK, 29972 396TH AVE, WAGNER, SD 57380

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

SUBJECT: Reporting Requirement for 2022 Irrigation Questionnaire(s)

Our records indicate your 2022 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 2323A-3, 7385-3 & 7451-3. The request for the Questionnaire was dated October 21, 2022. The Water Management Board has directed owners of water permits who have not submitted the 2022 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 2323A-3, 7385-3 & 7451-3 qualification:

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

The hearing will be held at **Wednesday, March 8, 2023 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) 2323A-3, 7385-3 & 7451-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 8, 2023** hearing you will no longer be in violation of your permit and your name will be removed from the Board agenda. Enclosed are additional questionnaire(s) for your use. If you have questions or need assistance, please contact Genny McMath at (605) 773-3352 or email at genny.mcmath@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: ILEASJ**

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 31, 2023

2323A-3
7385-3
7451-3

Samuel & Angela Fousek
29972 396th Ave
Wagner SD 57380

Dear Mr. & Ms. Fousek:

I am writing to acknowledge receipt of your 2022 irrigation questionnaires.

You may disregard the January 20, 2023, "Notice" concerning reporting requirements for Water Right or Permit Nos. 2323A-3, 7385-3 & 7451-3. The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Water Rights Program
605 773-3352
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 14, 2025

NOTICE

TO: SAM & ANGIE FOUSEK, 29972 396TH AVE, WAGNER, SD 57380

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

SUBJECT: Reporting Requirement for 2024 Irrigation Questionnaire(s)

Our records indicate your 2024 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 2323A-3, 7385-3, 7451-3 & 7952-3. The request for the Questionnaire was dated October 23, 2024. The Water Management Board has directed owners of water permits who have not submitted the 2024 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 2323A-3, 7385-3, 7451-3 & 7952-3 qualification:

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

The hearing will be held on **Wednesday, March 5, 2025, 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) 2323A-3, 7385-3, 7451-3 & 7952-3 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

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

If the questionnaire(s) is (are) received in this office before the **March 5, 2025**, 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 Amanda Dewell at (605) 773-3352 or email at amanda.dewell@state.sd.us. **If you prefer, you can complete the questionnaire online at the following link: <https://danr.sd.gov/iq> using this password: LFOJPG or QFWVIF**

cc: ALLISON FISCHER, 9797 N SHORE DR, SPICER MN 56288

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



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

January 30, 2025

2323A-3, 7385-3, 7450A-3
7451-3 & 7952-3

Sam & Angie Fousek
29972 396th Ave
Wagner SD 57380

Dear Mr. & Mrs. Fousek:

I am writing to acknowledge the receipt of your 2024 irrigation questionnaire(s).

You may disregard the January 14, 2025, "Notice" concerning the reporting requirements for Water Permit No(s). 2323A-3, 7385-3, 7450A-3, 7451-3 & 7952-3. The information was received prior to the March 5, 2025, Water Management Board meeting and the above listed permit number(s) have been removed from the agenda.

If you have any questions or concerns, please contact me.

Sincerely,

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